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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS
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PROCEEDINGS AND DEBATES OF THE $108^{th}$ CONGRESS, SECOND SESSION

## HOUSE OF REPRESENTATIVES—*Saturday, October 9, 2004*

The House met at noon.

The Reverend Stephen J. Rossetti, President, St. Luke Institute, Silver Spring, Maryland, offered the following prayer:

Good and gracious God, we gather in a time of challenge. We labor long and hard for peace, but continue to be visited by war. We work hard for unity, but continue to be plagued with conflict and division. We strive for charity among sisters and brothers, but experience so much hatred in our world.

Give us the grace to know that it is You who are the source of our unity and our peace. You who are the one God, living and true. It is You who unites us.

Bring peace to our world, peace to our families, and peace to our hearts. Bind us together in harmony across the divisions and aisles of life. Make us one in unity and love.

And when we have finally looked upon the face of unity, the face of charity, and the face of peace, it will be Your beautiful face we have gazed upon.

We make this prayer in God's name. Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Michigan (Mr. KILDEE) come forward and lead the House in the Pledge of Allegiance.

Mr. KILDEE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 5 1-minute speeches on each side.

### PRESIDENT BUSH PROMOTES JOB GROWTH

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, today The New York Times reported that employment had grown for 13 consecutive months. This reflects the impact of President Bush's economic plan for tax cuts to revive the economy by people investing their own money.

President Bush came to office in a recession, and the economy lost 1 million jobs due to the terrorist attacks of September 11. Despite this, the President helped create nearly 2 million new jobs.

The gross domestic product has been growing faster than in 20 years. Productivity has grown faster than in 20 years.

As a former real estate attorney, I am happy to see construction spending the highest ever, over $1 trillion, creating wonderful job opportunities.

In contrast, JOHN KERRY last night proposed tax increases, which sounded like an exclusive group, but in fact, over 80 percent of the Kerry tax increases would be on small businesses which create the most jobs.

All Americans can take pride in our economy that is improving under the leadership of President Bush.

In conclusion, God bless our troops, and we will always remember September 11.

### NEW ECONOMIC POLICY FOR AMERICA

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, it is official. President Bush will be the first President since Herbert Hoover to face reelection with fewer people working than when he started.

Yesterday, the Labor Department issued its last update on job creation before the elections. The stock market dropped sharply, reacting to the job report that raised significant doubts about the economy's strength under President Bush.

Most economists agree that Bush's tax cuts failed to stimulate the economy because they overwhelmingly favored very wealthy households. Mr. Speaker, 1.6 million private sector jobs have been lost since President Bush entered office. Economists estimate that the Nation needs to add roughly 150,000 jobs a month to keep pace with the growth in the workforce, and we need to add many more than that to make up for the ground that has been lost under President Bush. Since July, the economy has added only, on the average, 103,000 jobs a month.

Mr. Speaker, clearly, there is a need for a change in economic policy here in Washington, which can only occur with a new President, JOHN KERRY.

### PRESIDENT FATED TO STRIKE OUT

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, the President stepped up to the plate last night and, Strike 2, the President swung right through on an easy pitch. It was not a fast ball or a curve or a slider or a sinker. It was ordinary Americans pitching the truth to the President of the United States, and he could not even foul it off. He flat out missed it again.

He has not kept his eye on the ball on the war on terror; he has not kept his eye on the ball on the faltering economy. Everyone saw the pitch last night and everyone saw what the President did with it.

The truth is, a home run pitch right down the middle, and the self-proclaimed steward of the land missed it

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

again. For the third and last night, next week the President steps up to the plate. On November 2, 24 days from now, it will be Strike 3, and the American people will say, "You're out, Mr. President."

## MANY DISAPPOINTED WITH PRESIDENT'S USE OF POWER

(Mr. SHERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHERMAN. Mr. Speaker, now Bremer has told us what went wrong in Iraq and why. He said we did not have enough troops and, specifically, we did not have enough troops in the days immediately following the fall of Saddam. This led to violence and looting immediately after that fall and created the sense of lawlessness which is killing our troops today.

The question is, why did we not have enough troops?

We had a plan worked out by our superb military not only to bring 200,000 troops from the south, but to bring 60,000 from the north, the Fourth Infantry Division, et cetera. When the Turkish parliament refused to let those 60,000 troops through Turkey, the President could have gone to the U.N. and got the U.N. resolution the Turkish parliament required. He could have delayed the invasion until those troops could be positioned in the south. He did neither. He was too impatient, too foolhardy with the lives of the Americans. He threw away the plan, threw away the northern half of the plan and moved on with the southern half of the plan.

Mr. Speaker, no wonder so many of us who voted to empower the President are so disappointed in how he used that power.

## REPUBLICANS STRIP HATE CRIME PREVENTION PROVISIONS FROM DEFENSE AUTHORIZATION BILL

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, later this afternoon we will be voting on the Defense authorization bill, which I strongly support, and I commend the committee for bringing it to the floor. I want to especially acknowledge the great work of our ranking member, the gentleman from Missouri (Mr. SKELTON) for his leadership on the legislation.

I want to particularly acknowledge two things. One is, under the leadership of the gentleman from Texas (Mr. EDWARDS), we had the phased-in elimination of the 2-tier survivor benefit over a period of 3½ years. The gentleman from Texas (Mr. EDWARDS) and the gentleman from Missouri (Mr. SKELTON) took the lead on that initiative with the Edwards discharge petition. They made it possible for the survivors.

I want to acknowledge the work of the gentleman from Georgia (Mr. MARSHALL), working with the gentleman from Missouri (Mr. SKELTON) to eliminate the 10-year phase-in of the disabled veterans tax for those with 100 percent VA disability ratings.

However, one area where I was very disappointed, and I condemn the action of the conference committee, for the second time in 4 years, the Republican leadership has unconscionably ignored the will of the House and the Senate and stripped the hate crimes prevention provisions from the bill. The needs of law enforcement, which has repeatedly requested Federal assistance in solving and preventing a wide range of violent hate crimes, have been ignored. The measure enjoyed strong bipartisan support, was endorsed by over 175 law enforcement, civil rights, civic and religious organizations, including the National Sheriffs Association, the International Association of Chiefs of Police, and many others.

That list would have added sexual orientation, gender, and disability to the Federal hate crimes laws, allowing the Federal Government the ability to provide critical assistance to the States. It is very, very unfortunate that it has happened. I want the RECORD to show that this is the second time that this has happened.

Four years ago, there was strong bipartisan support in both Houses supporting adding this to the Defense authorization bill. It was rejected 4 years ago. Once again, the Republican leadership of the House has decided that we will continue to discriminate against those on the basis of their sexual orientation.

Having said that, I plan to support the Defense authorization and, once again, commend our colleagues for bringing it to the floor.

## SENATOR KERRY STUMBLES BADLY ON STEM CELLS RESEARCH

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, in the debate last night, Senator KERRY stumbled badly when asked a question on the stem cell research debate. He suggested that the only choice was between continuing cryogenically freezing those embryos or their destruction. That is not the only option. Those embryos can be and are being adopted.

A couple of weeks ago, right nearby, in the Capitol here, I met with more than a dozen little children who were once cryogenically frozen embryos who were adopted. Their parents, in their love and compassion, those who had made the contribution and had created these new embryos, allowed those individuals to be adopted; and those kids had names like Michael and Katie. They are not throwaways. No human being is a throwaway.

I hope we will disabuse ourselves, Mr. Speaker, of this false idea that there is such a thing as a "spare" embryo. Every embryo that is not wanted, that is not going to be implanted in the donor mother—these mothers, ought to allow that embyro to be adopted.

□ 1215

## PRETTY PATHETIC

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, the Republican-controlled Congress is shambling to the end of one of the lightest workloads in decades without a hint of embarrassment, New York Times, 9/24/04. No budget, no budget enforcement plan. No energy bill. No highway bill. No intelligence reform. No export tax relief. No welfare reform. Eleven of 13 appropriations bills still on the desk. Lost jobs.

The 108th Congress is a do-nothing Congress, contemptuously arrogant and disdainful of long-established political and parliamentary procedures. So said Al Hunt in the New York Times.

Norman Ornstein's much simpler, much more pointed observation about the 108th Congress. "Pretty pathetic," said Norm Ornstein. And the last 24 hours have been a stunning testament to the pathetic product of this 108th do-nothing, do-bad Congress.

## CONFERENCE REPORT ON H.R. 4837, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

Mr. KNOLLENBERG submitted the following conference report and statement on the bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes:

CONFERENCE REPORT (H. REPT. 108-773)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4837) "making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005".*

***SEC. 2. REFERENCES.***

*Except as expressly provided otherwise, any reference to "this Act" contained in any division of this Act shall be treated as referring only to the provisions of that division.*

## *DIVISION A—MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005*

*That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, for the fiscal year ending September 30, 2005, and for other purposes, namely:*

### *MILITARY CONSTRUCTION, ARMY*

*(INCLUDING RESCISSIONS)*

*For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $1,981,084,000, to remain available until September 30, 2009: Provided, That of this amount, not to exceed $156,999,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: Provided further, That of the funds appropriated for "Military Construction, Army" under Public Law 107–249, $7,276,000 are rescinded: Provided further, That of the funds appropriated for "Military Construction, Army" under Public Law 107–64; $3,924,000 are rescinded: Provided further, That of the funds appropriated for "Military Construction, Army" under Public Law 106–246, $7,776,000 are rescinded.*

### *MILITARY CONSTRUCTION, NAVY AND MARINE CORPS*

*(INCLUDING RESCISSION)*

*For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy and Marine Corps as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,069,947,000, to remain available until September 30, 2009: Provided, That of this amount, not to exceed $90,830,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: Provided further, That of the funds appropriated for "Military Construction, Navy" under Public Law 108–132, $24,000,000 are rescinded.*

### *MILITARY CONSTRUCTION, AIR FORCE*

*(INCLUDING RESCISSION)*

*For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $866,331,000, to remain available until September 30, 2009: Provided, That of this amount, not to exceed $130,711,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: Provided further, That of the funds appropriated for "Military Construction, Air Force" under Public Law 108–106, $21,800,000 are rescinded.*

### *MILITARY CONSTRUCTION, DEFENSE-WIDE*

*(INCLUDING TRANSFER OF FUNDS AND RESCISSIONS)*

*For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $686,055,000, to remain available until September 30, 2009: Provided, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided further, That of the amount appropriated, not to exceed $62,800,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: Provided further, That of the funds appropriated for "Military Construction, Defense-Wide" under Public Law 107–249, $16,737,000 are rescinded: Provided further, That of the funds appropriated for "Military Construction, Defense-Wide" under Public Law 107–64, $6,000,000 are rescinded.*

### *MILITARY CONSTRUCTION, ARMY NATIONAL GUARD*

*For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $446,748,000, to remain available until September 30, 2009.*

### *MILITARY CONSTRUCTION, AIR NATIONAL GUARD*

*(INCLUDING RESCISSION)*

*For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $243,043,000, to remain available until September 30, 2009: Provided, That of the funds appropriated for "Military Construction, Air National Guard" under Public Law 108–132, $5,000,000 are rescinded.*

### *MILITARY CONSTRUCTION, ARMY RESERVE*

*For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $92,377,000, to remain available until September 30, 2009.*

### *MILITARY CONSTRUCTION, NAVAL RESERVE*

*For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $44,246,000, to remain available until September 30, 2009.*

### *MILITARY CONSTRUCTION, AIR FORCE RESERVE*

*For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $123,977,000, to remain available until September 30, 2009.*

### *NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM*

*(INCLUDING RESCISSION)*

*For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized by section 2806 of title 10, United States Code, and Military Construction Authorization Acts, $165,800,000, to remain available until expended: Provided, That of the funds appropriated for "North Atlantic Treaty Organization Security Investment Program" under Public Law 108–132, $5,000,000 are rescinded.*

### *FAMILY HOUSING CONSTRUCTION, ARMY*

*(INCLUDING RESCISSION)*

*For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $636,099,000, to remain available until September 30, 2009: Provided, That of the funds appropriated for "Family Housing Construction, Army" under Public Law 107–249, $21,000,000 are rescinded.*

### *FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY*

*For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $926,507,000.*

### *FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS*

*(INCLUDING RESCISSIONS)*

*For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $139,107,000, to remain available until September 30, 2009: Provided, That of the funds appropriated for "Family Housing Construction, Navy and Marine Corps" under Public Law 108–132, $6,737,000 are rescinded: Provided further, That of the funds appropriated for "Family Housing Construction, Navy and Marine Corps" under Public Law 107–64, $5,564,000 are rescinded.*

### *FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS*

*For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $696,304,000.*

### *FAMILY HOUSING CONSTRUCTION, AIR FORCE*

*(INCLUDING RESCISSIONS)*

*For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $846,959,000, to remain available until September 30, 2009: Provided, That of the funds appropriated for "Family Housing Construction, Air Force" under Public Law 108–132, $6,000,000 are* *rescinded: Provided further, That of the funds appropriated for "Family Housing Construction, Air Force" under Public Law 107–64, $25,720,000 are rescinded: Provided further, That of the funds appropriated for "Family Housing Construction, Air Force" under Public Law 106–246, $13,451,000 are rescinded.*

### Family Housing Operation and Maintenance, Air Force

*For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $853,384,000.*

### Family Housing Construction, Defense-Wide

*For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $49,000, to remain available until September 30, 2009.*

### Family Housing Operation and Maintenance, Defense-Wide

*For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, $49,575,000.*

### Department of Defense Family Housing Improvement Fund

(INCLUDING RESCISSIONS)

*For the Department of Defense Family Housing Improvement Fund, $2,500,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing and supporting facilities: Provided, That of the funds appropriated for "Department of Defense Family Housing Improvement Fund" under Public Law 108–132, $8,301,000 are rescinded: Provided further, That of the funds appropriated for "Department of Defense Family Housing Improvement Fund" under Public Law 107–249, $10,808,000 are rescinded.*

### Chemical Demilitarization Construction, Defense-Wide

(INCLUDING TRANSFER OF FUNDS)

*For expenses of construction, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, as currently authorized by law, $81,886,000, to remain available until September 30, 2009: Provided, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred.*

### Base Realignment and Closure Account

*For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $246,116,000, to remain available until expended.*

### GENERAL PROVISIONS

*SEC. 101. None of the funds made available in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.*

*SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.*

*SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.*

*SEC. 104. None of the funds made available in this Act may be used to begin construction of new bases in the United States for which specific appropriations have not been made.*

*SEC. 105. None of the funds made available in this Act shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or his designee; (3) where the estimated value is less than $25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.*

*SEC. 106. None of the funds made available in this Act shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.*

*SEC. 107. None of the funds made available in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations of both Houses of Congress.*

*SEC. 108. None of the funds made available in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.*

*SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.*

*SEC. 110. None of the funds made available in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations of both Houses of Congress.*

*SEC. 111. None of the funds made available in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.*

*SEC. 112. None of the funds made available in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: Provided, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: Provided further, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.*

*SEC. 113. The Secretary of Defense is to inform the appropriate committees of both Houses of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.*

*SEC. 114. Not more than 20 percent of the funds made available in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year.*

(TRANSFER OF FUNDS)

*SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.*

*SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.*

*SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.*

*SEC. 118. The Secretary of Defense is to provide the Committees on Appropriations of both Houses of Congress with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Sea to assume a greater share of the common defense burden of such nations and the United States.*

(TRANSFER OF FUNDS)

*SEC. 119. In addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to be merged with, and to be available for the same purposes and the same time period as that account.*

(TRANSFER OF FUNDS)

*SEC. 120. Subject to 30 days prior notification to the Committees on Appropriations of both Houses of Congress, such additional amounts as may be determined by the Secretary of Defense may be transferred to (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund, or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in "Military Construction" accounts, to be merged with and to be available for the same* *purposes and for the same period of time as amounts appropriated directly to the Fund: Provided, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.*

*SEC. 121. None of the funds made available in this Act may be obligated for Partnership for Peace Programs in the New Independent States of the former Soviet Union.*

*SEC. 122. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the Committees on Appropriations of both Houses of Congress the notice described in subsection (b).*

*(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—*

*(A) the closure or realignment of the installation for which housing is provided under the contract;*

*(B) a reduction in force of units stationed at such installation; or*

*(C) the extended deployment overseas of units stationed at such installation.*

*(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.*

*(TRANSFER OF FUNDS)*

*SEC. 123. In addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.*

*SEC. 124. Notwithstanding this or any other provision of law, funds made available in this Act for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: Provided, That not more than $35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification to the appropriate Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: Provided further, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.*

*SEC. 125. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.*

*SEC. 126. None of the funds made available in this Act under the heading "North Atlantic Treaty Organization Security Investment Program", and no funds appropriated for any fiscal year before fiscal year 2005 for that program that remain available for obligation, may be obligated or expended for the conduct of studies of missile defense.*

*SEC. 127. Section 128(b)3(A) of Public Law 108–132 is amended by striking the words "December 31, 2004" and replacing with "August 15, 2005".*

*SEC. 128. Whenever the Secretary of Defense or any other official of the Department of Defense is requested by the Subcommittee on Military Construction of the Committee on Appropriations of either House of Congress to respond to a question or inquiry submitted by the chairman or another member of that subcommittee pursuant to a subcommittee hearing or other activity, the Secretary (or other official) shall respond to the request, in writing, within 21 days of the date on which the request is transmitted to the Secretary (or other official).*

*SEC. 129. Amounts contained in the Ford Island Improvement Account established under 10 U.S.C. 2814(h) are appropriated and shall be available until expended for the purposes specified in 10 U.S.C. 2814(i)(1) or until transferred pursuant to the provisions of 10 U.S.C. 2814(i)(3).*

*SEC. 130. The fitness center at Homestead Air Reserve Base, Florida, shall be known and designated as the "Sam Johnson Fitness Center". Any reference to such facility in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Sam Johnson Fitness Center.*

*SEC. 131. (a) TRANSFER OF CERTAIN EXCESS PROPERTY AT FORT HUNTER LIGGETT, CALIFORNIA.—*

*(1) Notwithstanding any other provision of law, whenever the Secretary of the Army determines that any portion of real property consisting of approximately 165,000 acres at Fort Hunter Liggett, California, is excess to the military needs of the Army, and the Secretary of Defense concurs that the property is not needed to meet other Department of Defense requirements, the Secretary of the Army shall first offer the property to the Secretary of Agriculture.*

*(2) If the Secretary of Agriculture determines, pursuant to negotiations with the Secretary of the Army, to accept the property offered under paragraph (1), the Secretary of the Army shall transfer administrative jurisdiction of such property to the Secretary of Agriculture.*

*(b) MANAGEMENT OF TRANSFERRED PROPERTY.—*

*(1) The Secretary of Agriculture shall manage any property transferred under subsection (a) as part of the National Forest System under the Act of March 1, 1911 (commonly known as "Weeks Law") (16 U.S.C. 480 et seq.), and other laws relating to the National Forest System.*

*(2) Any property managed under paragraph (1) shall be subject to the concurrent jurisdiction of the State of California.*

*(c) ADJUSTMENT OF BOUNDARIES.—*

*(1) Effective upon the transfer of property under subsection (a), the boundaries of Los Padres National Forest shall be modified to incorporate such property. The Chief of the United States Forest Service shall file and make available for public inspection in the Office of the Chief of the United States Forest Service in Washington, District of Columbia, a map reflecting any modification of the boundaries of Los Padres National Forest pursuant to the preceding sentence.*

*(2) Any property incorporated within the boundaries of Los Padres National Forest under this section shall be deemed to have been within the boundaries of Los Padres National Forest as of January 1, 1965, for purposes of section 7(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9(a)).*

*(d) ENVIRONMENTAL MATTERS.—As part of the transfer of property under subsection (a), the Secretary of the Army shall perform, in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), all environmental remediation actions necessary to respond to environmental contamination or injury to natural resources attributable to former military activities on the property.*

*SEC. 132. Unless stated otherwise, all reports and notifications required by division A shall be submitted to the Subcommittee on Military Construction of the Committee on Appropriations of each House of Congress.*

*This division may be cited as the "Military Construction Appropriations Act, 2005".*

## *DIVISION B—EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR HURRICANE DISASTERS ASSISTANCE ACT, 2005*

### *AN ACT*

*MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2004, FOR ADDITIONAL DISASTER ASSISTANCE RELATING TO NATURAL DISASTERS, AND FOR OTHER PURPOSES.*

*That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, to provide emergency supplemental appropriations for additional disaster assistance relating to natural disasters, and for other purposes, namely:*

### *CHAPTER 1*

### *DEPARTMENT OF AGRICULTURE*

#### *FARM SERVICE AGENCY*

#### *EMERGENCY CONSERVATION PROGRAM*

*For an additional amount for "Emergency Conservation Program", for expenses resulting from natural disasters, $100,000,000, to remain available until expended: Provided, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

#### *NATURAL RESOURCES CONSERVATION SERVICE*

#### *EMERGENCY WATERSHED PROTECTION PROGRAM*

*For an additional amount for "Emergency Watershed Protection Program" to repair damages to the waterways and watersheds resulting from natural disasters, $250,000,000, to remain available until expended: Provided, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

#### *RURAL DEVELOPMENT*

#### *RURAL COMMUNITY ADVANCEMENT PROGRAM*

*For an additional amount for the "Rural Community Advancement Program", $68,000,000, to remain available until expended: Provided, That $50,000,000 shall be available for water and waste disposal grants as authorized by 7 U.S.C. 1926(a): Provided further, That $18,000,000 shall be for the cost of community facility direct loans and grants as authorized by 7 U.S.C. 1926(a): Provided further, That loans and grants under this heading shall be available for projects in communities affected by hurricanes and tropical storms in calendar year 2003 or 2004: Provider further, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649*

*(108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### *RURAL HOUSING SERVICE*

### *RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT*

*For additional gross obligations for the principal amount of direct loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, $17,000,000 for section 504 housing repair loans: Provided, That this loan level shall be considered an estimate and not a limitation.*

*For the additional cost of direct loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974: section 504 housing repair loans, $5,000,000, to remain available until expended: Provided, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### *RURAL HOUSING ASSISTANCE GRANTS*

*For an additional amount for "Rural Housing Assistance Grants", $13,000,000, to remain available until expended, of which $8,000,000 shall be for grants and contracts for very low-income housing repair, made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, and of which $5,000,000 shall be for domestic farm labor housing grants and contracts, as authorized by 42 U.S.C. 1486: Provided, That of the funds made available for domestic farm labor housing grants, the Secretary may use up to $3,000,000 to provide grants authorized under 42 U.S.C. 5 177a(a): Provided further, That such grants and contracts under this heading shall only be available for projects in communities affected by hurricanes and tropical storms in calendar year 2003 or 2004: Provided further, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

## *GENERAL PROVISIONS—THIS CHAPTER*

### *SEC. 101. AGRICULTURAL DISASTER ASSISTANCE.*

*(a) CROP DISASTER ASSISTANCE.—*

*(1) DEFINITIONS.—In this subsection:*

*(A) ADDITIONAL COVERAGE.—The term "additional coverage" has the meaning given the term in section 502(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)(1)).*

*(B) INSURABLE COMMODITY.—The term "insurable commodity" means an agricultural commodity (excluding livestock) for which the producers on a farm are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).*

*(C) NONINSURABLE COMMODITY.—The term "noninsurable commodity" means an eligible crop for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).*

*(2) EMERGENCY FINANCIAL ASSISTANCE.—Notwithstanding section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)), the Secretary of Agriculture shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this subsection available to producers on a farm other than producers of cottonseed or sugar cane that have incurred qualifying crop or quality losses for the 2003, 2004, or 2005 crop (as elected by a producer), but limited to only one of the crop years listed, due to damaging weather or related condition, as determined by the Secretary: Provided, That qualifying crop losses for the 2005 crop are limited to only those losses caused by a hurricane or tropical storm of the 2004 hurricane season in counties declared disaster areas by the President of the United States: Provided further, That notwithstanding the crop year election limitation in this paragraph, $53,000,000 shall be provided to the Secretary of Agriculture, of which $50,000,000 shall be for crop losses in the Commonwealth of Virginia, and of which $3,000,000 shall be for fruit and vegetable losses in the State of North Carolina: Provided further, That these losses resulted from hurricanes, tropical storms, and other weather related disasters that occurred during calendar year 2003, to remain available until expended.*

*(3) ADMINISTRATION.—The Secretary shall make assistance available under this subsection in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–55), including using the same loss thresholds for the quantity and quality losses as were used in administering that section.*

*(4) INELIGIBILITY FOR ASSISTANCE.—Except as provided in paragraph (5), the producers on a farm shall not be eligible for assistance under this subsection with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm—*

*(A) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the crop incurring the losses;*

*(B) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for the crop incurring the losses;*

*(C) had adjusted gross incomes, as defined by section 1001D of the Food Security Act of 1985, of greater than $2,500,000 in 2003; or*

*(D) were not in compliance with highly erodible land conservation and wetland conservation provisions.*

*(5) CONTRACT WAIVER.—The Secretary may waive paragraph (4) with respect to the producers on a farm if the producers enter into a contract with the Secretary under which the producers agree—*

*(A) in the case of an insurable commodity, to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) providing additional coverage for the insurable commodity for each of the next 2 crops; and*

*(B) in the case of a noninsurable commodity, to file the required paperwork and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity for each of the next 2 crops under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).*

*(6) EFFECT OF VIOLATION.—In the event of the violation of a contract under paragraph (5) by a producer, the producer shall reimburse the Secretary for the full amount of the assistance provided to the producer under this subsection.*

*(7) PAYMENT LIMITATIONS.—*

*(A) LIMIT ON AMOUNT OF ASSISTANCE.—Assistance provided under this subsection to a producer for losses to a crop, together with the amounts specified in subparagraph (B) applicable to the same crop, may not exceed 95 percent of what the value of the crop would have been in the absence of the losses, as estimated by the Secretary.*

*(B) OTHER PAYMENTS.—In applying the limitation in subparagraph (A), the Secretary shall include the following:*

*(i) Any crop insurance payment made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or payment under section 196 of the Federal Agricultural Improvement and Reform Act of 1996 (7 U.S.C. 7333) that the producer receives for losses to the same crop.*

*(ii) The value of the crop that was not lost (if any), as estimated by the Secretary.*

*(C) EFFECT OF FLORIDA DISASTER PROGRAMS.—Persons that received payments from section 32 of the Act of August 24, 1935 with respect to 2004 hurricane crop losses are not eligible for payments under this subsection.*

*(b) LIVESTOCK ASSISTANCE PROGRAM.—*

*(1) EMERGENCY FINANCIAL ASSISTANCE.—The Secretary of Agriculture shall use such sums as are necessary of funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2003 or 2004 losses (as elected by a producer), but not both, in a county that has received an emergency designation by the President or the Secretary after January 1, 2003, of which an amount determined by the Secretary shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).*

*(2) ADMINISTRATION.—The Secretary shall make assistance available under this subsection in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).*

*(3) MITIGATION.—In determining the eligibility for or amount of payments for which a producer is eligible under the livestock assistance program, the Secretary shall not penalize a producer that takes actions (recognizing disaster conditions) that reduce the average number of livestock the producer owned for grazing during the production year for which assistance is being provided.*

*(c) TREE ASSISTANCE PROGRAM.—*

*(1) EMERGENCY ASSISTANCE.—The Secretary of Agriculture shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide assistance under the tree assistance program established under sections 10201 through 10204 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8201 et seq.) to producers who suffered tree losses during the period beginning on December 1, 2003, and ending on December 31, 2004.*

*(2) ADDITIONAL ASSISTANCE.—In addition to providing assistance to eligible orchardists under the tree assistance program, the Secretary shall use an additional $15,000,000 of the funds of the Commodity Credit Corporation to provide reimbursement under sections 10203 and 10204 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8203, 8204) to eligible forest land owners who produce periodic crops of timber from trees for commercial purposes and who have suffered tree losses during the period specified in paragraph (1).*

*(3) EFFECT OF FLORIDA DISASTER PROGRAMS.—Persons that received payments from section 32 of the Act of August 24, 1935 with respect to 2004 hurricane crop losses are not eligible for payments under this section.*

*(d) EMERGENCY CONSERVATION PROGRAM.—The Secretary of Agriculture shall use an additional $50,000,000 of the funds of the Commodity Credit Corporation to provide assistance under the Emergency Conservation Program under title IV of the Agriculture Credit Act of 1978 (16 U.S.C. 2201 et seq.).*

*(e) OFFSET.—Section 1241(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(3)) is amended by inserting before the period at the end the following: ", using not more than*

*$6,037,000,000 for the period of fiscal years 2005 through 2014''.*

*(f) That for purposes of the budget scoring guidance in effect for the Congress and the Executive branch respectively, and notwithstanding the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, any savings from subsection (e) shall not be scored until fiscal year 2008.*

*(g) The issuance of regulations shall be made without regard to: (1) the notice and comment provisions of section 553 of title 5, United States Code; (2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act"): Provided, That in carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.*

*SEC. 102. The Secretary of Agriculture shall use $40,000,000, of which, $7,200,000 shall be provided to the State of Hawaii for assistance to an agricultural transportation cooperative in Hawaii, the members of which are eligible to participate in the Farm Service Agency administered Commodity Loan Program, and of which $32,800,000 shall be to make payments to processors in Florida that are eligible to obtain a loan under section 156(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(a)) to compensate first processors and producers for crop and other losses that are related to hurricanes, tropical storms, excessive rains, and floods in Florida during calendar year 2004, to be calculated and paid on the basis of losses on 40 acre harvesting units, in counties declared a disaster by the President of the United States in 2004 due to hurricanes, on the same terms and conditions, to the extent practicable, as the payments made under section 207 of the Agricultural Assistance Act of 2003 (Public Law 108–7).*

*SEC. 103. The Secretary of Agriculture shall use $10,000,000 to make payments to dairy producers for dairy production losses, and dairy spoilage losses in counties declared a disaster by the President of the United States in 2004 due to hurricanes.*

*SEC. 104. The Secretary of Agriculture shall use $10,000,000 to provide assistance to producers and first handlers of the 2004 crop of cottonseed located in counties declared a disaster by the President of the United States in 2004 due to hurricanes.*

*SEC. 105. (a) The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out section 101, 102, 103, 104, 108, 109, 110, and 111 of this chapter, to remain available until expended.*

*(b) The amounts provided under sections 101, 102, 103, 104, 108, 109, 110, and 111 in this chapter are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

*SEC. 106. (a) RURAL COMMUNITY ADVANCEMENT PROGRAM.—The communities in Burlington and Camden Counties in New Jersey, affected by the flood which occurred on July 12, 2004, are deemed to be rural areas during fiscal year 2005 for purposes of subtitle E of the Consolidated Farm and Rural Development Act. Any limitations under subtitle E of the Consolidated Farm and Rural Development Act that are based on the income of families shall not apply during fiscal year 2005 with respect to such communities, or to businesses or families residing in such communities.*

*(b) RURAL HOUSING INSURANCE FUND AND RURAL HOUSING ASSISTANCE GRANTS.—The communities referred to in subsection (a) are deemed to be rural areas during fiscal year 2005 for purposes of the direct and guaranteed loan programs under title V of the Housing Act of 1949 and the grant programs under sections 504, 509(c), 525, and 533 of such title V. Any limitations under title V of the Housing Act of 1949 that are based on the income of families shall not apply during fiscal year 2005 with respect to such communities or to families residing in such communities.*

*SEC. 107. The Secretary of Agriculture shall provide financial and technical assistance to repair, and if necessary, replace Hope Mills Dam, Cumberland County, North Carolina, in accordance with the dam safety standards of the state of North Carolina: Provided, That from within the funds provided in this chapter for the Emergency Watershed Protection program of the Natural Resources Conservation Service $1,600,000 is provided for this purpose.*

*SEC. 108. The Secretary shall provide $90,000,000 to the fund established by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to make payments with respect to 2004 hurricane losses.*

*SEC. 109. The Secretary, acting through the Farm Service Agency, may use not more than $4,000,000 to cover administrative expenses associated with the implementation of sections 101 and 102 of this chapter.*

*SEC. 110. In addition to amounts provided in this Act for the tree assistance program, $10,000,000 shall be made available to the Secretary of Agriculture, to remain available until expended, to provide assistance to eligible private forest landowners owning not more than 5,000 acres of forest crop in counties declared Presidential disaster areas as a result of hurricane, tropical storm, or related events for the purposes of debris removal, replanting of timber, and other such purposes.*

*SEC. 111. In addition to amounts provided in this Act for the tree assistance program, $8,500,000 shall be made available to the Secretary of Agriculture, to remain available until expended, to provide assistance under the tree assistance program established under subtitle C of title X of the Farm Security and Rural Investment Act of 2002 to pecan producers in counties declared a disaster by the President of the United States who suffered tree loss or damage due to damaging weather related to any hurricane or tropical storm of the 2004 hurricane season: Provided, That the funds made, available under this section shall also be made available to cover costs associated with pruning, rehabilitating, and other appropriate activities as determined by the Secretary.*

## *CHAPTER 2*

## *DEPARTMENT OF JUSTICE*

### *FEDERAL PRISON SYSTEM*

### *SALARIES AND EXPENSES*

*For an additional amount for "Salaries and Expenses", $5,500,000, to remain available until September 30, 2005, for emergency hurricane-related expenses: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### *BUILDINGS AND FACILITIES*

*For an additional amount for "Buildings and Facilities", $18,600,000, to remain available until expended for emergency hurricane-related expenses: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

## *DEPARTMENT OF COMMERCE*

### *NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION*

### *OPERATIONS, RESEARCH AND FACILITIES*

*For an additional amount for "Operations, Research, and Facilities", $16,900,000, to remain available until September 30, 2006, of which $9,000,000 shall be for reseeding, rehabilitation and restoration of oyster reefs in Alabama, Florida, Louisiana, and Mississippi: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### *PROCUREMENT, ACQUISITION AND CONSTRUCTION*

*For an additional amount for "Procurement, Acquisition and Construction", $3,800,000, to remain available until September 30, 2007: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

## *SMALL BUSINESS ADMINISTRATION*

### *DISASTER LOANS PROGRAM ACCOUNT*

*For an additional amount for "Disaster Loans Program Account" for the cost of direct loans, $501,000,000, to remain available until expended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in Section 502 of the Congressional Budget Act of 1974.*

*In addition, for an additional amount for "Disaster Loans Program Account" for administrative expenses to carry out the disaster loan program, $428,000,000, to remain available until expended, which may be transferred to the appropriations for "Salaries and Expenses": Provided, That no funds shall be transferred to the appropriations for "Salaries and Expenses" for indirect administrative expenses: Provided further, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

## *CHAPTER 3*

## *DEPARTMENT OF DEFENSE*

## *DEPARTMENT OF DEFENSE—MILITARY OPERATION AND MAINTENANCE*

### *OPERATION AND MAINTENANCE, ARMY*

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "Operation and Maintenance, Army", $8,600,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### *OPERATION AND MAINTENANCE, NAVY*

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "Operation and Maintenance, Navy", $458,000,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and* *applicable to the Senate by section 14007 of Public Law 108–287.*

### OPERATION AND MAINTENANCE, MARINE CORPS

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "Operation and Maintenance, Marine Corps", $1,300,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### OPERATION AND MAINTENANCE, AIR FORCE

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "Operation and Maintenance, Air Force", $165,400,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### OPERATION AND MAINTENANCE, DEFENSE-WIDE

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "Operation and Maintenance, Defense-Wide", $100,000,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: Provided, That the Secretary of Defense may transfer these funds to appropriations for military personnel; operation and maintenance; the Defense Health Program; and working capital funds: Provided further, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: Provided further, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: Provided further, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### OPERATION AND MAINTENANCE, ARMY RESERVE

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "Operation and Maintenance, Army Reserve", $1,400,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### OPERATION AND MAINTENANCE, NAVY RESERVE

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "Operation and Maintenance, Navy Reserve", $1,000,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### OPERATION AND MAINTENANCE, AIR FORCE RESERVE

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "Operation and Maintenance, Air Force Reserve", $2,400,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "Operation and Maintenance, Army National Guard", $10,500,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "Operation and Maintenance, Air National Guard", $2,200,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

## PROCUREMENT

### OTHER PROCUREMENT, AIR FORCE

*For an additional amount for "Other Procurement, Air Force", $2,500,000, to remain available until September 30, 2007, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### PROCUREMENT, DEFENSE-WIDE

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "Procurement, Defense-Wide", $140,000,000, to remain available until September 30, 2007, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004, for the costs of repairs to structures and facilities, replacement of destroyed or damaged equipment, and preparation and recovery of naval vessels under construction: Provided, That the Secretary of Defense may transfer these funds to appropriations for operation and maintenance; procurement; and research, development, test and evaluation: Provided further, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: Provided further, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: Provided further, That not less than $10,500,000 shall be transferred to "Aircraft Procurement, Air Force" for the procurement of WC–130 Hurricane Tracking Equipment: Provided further, That not less than $10,000,000 shall be transferred to "Missile Procurement, Air Force", and not less than $10,000,000 shall be transferred to "Other Procurement, Air Force" for costs associated with delayed satellite launches: Provided further, That not less than $18,700,000 shall be transferred to "Other Procurement, Air Force" for Continuity of Operations equipment procurement at Headquarters United States Central Command: Provided further, That not less than $20,000,000 shall be available only for replacement of laboratory and test range equipment at Eglin Air Force Base: Provided further, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

## REVOLVING AND MANAGEMENT FUNDS

### DEFENSE WORKING CAPITAL FUNDS

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "Defense Working Capital Funds", $4,100,000, for emergency hurricane and other natural disaster-related expenses, and which shall be available for transfer to reimburse costs incurred in fiscal year 2004: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

## OTHER DEPARTMENT OF DEFENSE PROGRAMS

### DEFENSE HEALTH PROGRAM

*(INCLUDING TRANSFER OF FUNDS)*

*For an additional amount for "Defense Health Program", $12,000,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### GENERAL PROVISIONS—THIS CHAPTER

SEC. 301. Appropriations provided in this chapter are available for obligation until September 30, 2005, unless otherwise so provided in this chapter.

SEC. 302. Funds appropriated in this Act, or made available by the transfer of funds in or pursuant to this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 303. Unless specifically enumerated elsewhere in this chapter, none of the funds provided in this chapter may be used to finance programs or activities denied by Congress in fiscal years 2004 and 2005 defense appropriations, or to initiate a procurement or research, development, test and evaluation new start program without prior notification to the congressional defense committees.

SEC. 304. Section 8007 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287); 118 Stat. 970), is amended by striking the words "in session".

### (TRANSFER OF FUNDS)

SEC. 305. Upon his determination that such action is necessary in the national interest to address emergency hurricane and other natural disaster-related expenses, the Secretary of Defense may transfer between appropriations up to $200,000,000 of the funds made available to the Department of Defense in this chapter: Provided, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: Provided further, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287): Provided further, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

SEC. 306. Section 9010(b) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1008; 10 U.S.C. 113 note), is amended by striking "section 12304" in paragraphs (7) and (8) and inserting "section 12302".

### (INCLUDING TRANSFER OF FUNDS)

SEC. 307. TECHNICAL ADJUSTMENTS TO PUBLIC LAW 108–287. Notwithstanding any other provision in law, the following adjustments and transfers shall apply to funds previously made available and to restrictions in the Department of Defense Appropriations Act, 2005 (Public Law 108–287):

(1) ARMORED PASSENGER VEHICLES.—Under the heading, "Other Procurement, Army", strike "purchase of 1 vehicle" and insert "purchase of 21 vehicles", and under the heading, "Other Procurement, Army", strike "not to exceed $200,000" and insert "not to exceed $275,000": Provided, That any purchases under the authority of this section in excess of one vehicle may only be in direct support of force protection requirements.

(2) TRANSFER OF FUNDS.—Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: Provided, That the amounts transferred shall be made available for the same purpose and the same time period as the appropriation to which transferred: Provided further, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense: Provided further, That all such amounts in this section are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287: Provided further, That the amounts shall be transferred between the following appropriations, in the amounts specified:

To:

Under the heading, "Research, Development, Test and Evaluation, Defense-Wide, 2005/2006", $5,950,000;

From:

Under the heading, "Operation and Maintenance, Army", $5,950,000.

To:

Under the heading, "Procurement, Marine Corps, 2005/2007", as provided in title IX of Public Law 108–287, $7,000,000;

From:

Under the heading, "Operation and Maintenance, Marine Corps", as provided in title IX of Public Law 108–287, $7,000,000.

To:

The Department of Veterans Affairs, under the heading, "Medical Services", $500,000;

From:

Under the heading, "Defense Health Program", Operation and Maintenance, $500,000.

To:

Under the heading, "Operation and Maintenance, Army National Guard", $1,400,000;

From:

Under the heading, "Operation and Maintenance, Army", $1,400,000.

(3) SECTION 9014 AUTHORITIES.—The authority provided in section 9014 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1009), shall apply with respect to the period beginning on June 29, 2003, and ending on August 4, 2004, in addition to the period of applicability provided pursuant to section 9001 of that Act.

SEC. 308. Section 9007 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287), is amended by striking "$300,000,000", and inserting "$500,000,000".

SEC. 309. Section 9006 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287), is amended by striking "New Iraqi Army", and inserting "Iraqi Armed Forces, to include the Iraqi National Guard".

## CHAPTER 4

## DEPARTMENT OF DEFENSE—CIVIL

## DEPARTMENT OF THE ARMY

### CORPS OF ENGINEERS—CIVIL

### GENERAL INVESTIGATIONS

For an additional amount for "General Investigations" for emergency expenses for the update of studies necessitated by storm damage to shore protection projects, $400,000, to remain available until expended: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

### CONSTRUCTION, GENERAL

For an additional amount for "Construction, General" for emergency expenses for repair of storm damage for authorized shore protection projects and assessment of project performance of such projects; $62,600,000, to remain available until expended: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

### FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI AND TENNESSEE

For an additional amount for "Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri and Tennessee" for emergency expenses for levee and revetment repair and for emergency dredging, $6,000,000, to remain available until expended: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

### OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General" for emergency expenses for repair of storm damage to authorized projects, $145,400,000, to remain available until expended: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

### FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies" for emergency expenses for repair of damage to flood control and hurricane shore protection projects by storms and other natural disasters, $148,000,000, to remain available until expended: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

SEC. 401. For an additional amount to address drought conditions in the State of Nevada, $5,000,000 is provided to the Secretary of Interior, acting through the Commissioner of the Bureau of Reclamation, for the Southern Nevada Water Authority for modification of the water intake at Lake Mead, to remain available until expended: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108' Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

SEC. 402. For an additional amount to address storm damage, $10,000,000 is provided for the Secretary of the Army, acting through the Chief of Engineers, to repair, restore, and clean-up Corps projects and facilities; dredge navigation channels; restore and clean out area streams; provide emergency streambank protection; restore other crucial public infrastructure (including sewer and water facilities); document flood impacts; and undertake other flood recovery efforts deemed necessary and advisable by the Chief of Engineers for Federally declared disaster areas in West Virginia, to remain available until expended: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

## CHAPTER 5

## BILATERAL ECONOMIC ASSISTANCE

## FUNDS APPROPRIATED TO THE PRESIDENT

### UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

### INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for "International Disaster and Famine Assistance", $100,000,000, to remain available until September 30, 2005: Provided, That funds appropriated by this paragraph shall be available to respond to the disasters caused by hurricanes and tropical storms in *the Caribbean region: Provided further, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287: Provided further, That funds appropriated by this paragraph shall be available notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.*

## *CHAPTER 6*

## *DEPARTMENT OF HOMELAND SECURITY*

### *UNITED STATES COAST GUARD*

#### *OPERATING EXPENSES*

*For an additional amount for "Operating Expenses" for expenses resulting from the recent natural disasters in the southeastern United States, $33,367,310, to remain available until expended: Provided, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### *EMERGENCY PREPAREDNESS AND RESPONSE*

#### *DISASTER RELIEF*

*For an additional amount for "Disaster Relief", $6,500,000,000, to remain available until expended: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

## *CHAPTER 7*

## *DEPARTMENT OF THE INTERIOR*

### *UNITED STATES FISH AND WILDLIFE SERVICE*

#### *CONSTRUCTION*

*For an additional amount for "Construction", $40,552,000, to remain available until expended, to address damages from natural disasters: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### *NATIONAL PARK SERVICE*

#### *CONSTRUCTION*

*For an additional amount for "Construction", $50,802,000, to remain available until expended, to address damages from natural disasters: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### *UNITED STATES GEOLOGICAL SURVEY*

#### *SURVEYS, INVESTIGATIONS, AND RESEARCH*

*For an additional amount for "Surveys, Investigations, and Research", $1,000,000, to remain available until expended: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

## *RELATED AGENCY*

## *DEPARTMENT OF AGRICULTURE*

### *FOREST SERVICE*

#### *STATE AND PRIVATE FORESTRY*

*For an additional amount for "State and Private Forestry", $49,100,000, to remain available until expended, to address damages from natural disasters: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

#### *NATIONAL FOREST SYSTEM*

*For an additional amount for "National Forest System", $12,153,000, to remain available until expended, to address damages from natural disasters: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

#### *WILDLAND FIRE MANAGEMENT*

*For an additional amount for "Wildland Fire Management", $1,028,000, to remain available until expended, to address damages from natural disasters: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

#### *CAPITAL IMPROVEMENT AND MAINTENANCE*

*For an additional amount for "Capital Improvement and Maintenance", $50,815,000, to remain available until expended, to address damages from natural disasters: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

## *CHAPTER 8*

## *DEPARTMENT OF HEALTH AND HUMAN SERVICES*

### *DEPARTMENTAL MANAGEMENT*

#### *PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND*

*For an additional amount for "Public Health and Social Services Emergency Fund" to support aging services, social services and health services associated with natural disaster recovery and response efforts, $50,000,000, to remain available until expended: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

## *CHAPTER 9*

## *DEPARTMENT OF DEFENSE*

## *MILITARY CONSTRUCTION*

### *MILITARY CONSTRUCTION, NAVY AND MARINE CORPS*

*For an additional amount for "Military Construction, Navy and Marine Corps", $138,800,000, to remain available until September 30, 2007, for emergency expenses resulting from natural disasters: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287: Provided further, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That none of these funds may be obligated for new construction projects until fourteen days after the Secretary of the Navy provides a notification that describes the project, including the form 1391, to the Subcommittee on Military Construction of the Committee on Appropriations and the Committee on Armed Services of both Houses of Congress.*

### *MILITARY CONSTRUCTION, ARMY RESERVE*

*For an additional amount for "Military Construction, Army Reserve", $8,700,000, to remain available until September 30, 2007, for emergency expenses resulting from natural disasters: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287: Provided further, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.*

### *FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY*

*For an additional amount for "Family Housing Operation and Maintenance, Army", $1,200,000, to remain available until September 30, 2005, for emergency expenses resulting from natural disasters: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### *FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS*

*For an additional amount for "Family Housing Operation and Maintenance, Navy and Marine Corps", $9,100,000, to remain available until September 30, 2005, for emergency expenses resulting from natural disasters: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### *FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE*

*For an additional amount for "Family Housing Operation and Maintenance, Air Force", $11,400,000, to remain available until September 30, 2005, for emergency expenses resulting from natural disasters: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.*

### *BASE REALIGNMENT AND CLOSURE ACCOUNT*

*For an additional amount to be deposited into the Department of Defense Base Closure Account 1990, $50,000, to remain available until September 30, 2005, for emergency expenses resulting from natural disasters: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.*

## *CHAPTER 10*

## *DEPARTMENT OF TRANSPORTATION*

### *FEDERAL AVIATION ADMINISTRATION*

#### *FACILITIES AND EQUIPMENT*

#### *(AIRPORT AND AIRWAY TRUST FUND)*

*For an additional amount for "Facilities and Equipment", for expenses resulting from the recent natural disasters in the southeastern*

United States, $5,100,000, to be derived from the airport and airway trust fund and to remain available until expended: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

### EMERGENCY ASSISTANCE TO AIRPORTS

### (AIRPORT AND AIRWAY TRUST FUND)

For emergency capital costs to repair or replace public use facilities at public use airports listed in the Federal Aviation Administration's National Plan of Integrated Airport Systems resulting from damage from hurricanes Charley, Frances, Ivan, and Jeanne, to enable the Federal Aviation Administrator to compensate airports for such costs, $25,000,000, to be derived from the airport and airway trust fund and to remain available until expended: Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

### FEDERAL HIGHWAY ADMINISTRATION

### FEDERAL-AID HIGHWAYS

### EMERGENCY RELIEF PROGRAM

### (HIGHWAY TRUST FUND)

For an additional amount for "Emergency Relief Program", emergency expenses resulting from 2004 Hurricanes Charley, Frances, Gaston, Ivan, and Jeanne, as authorized by 23 U.S.C. 125, $1,202,000,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account) and to remain available until expended: Provided, That notwithstanding 23 U.S.C. 125(d)(1), the Secretary of Transportation may obligate more than $100,000,000 for projects arising from hurricanes Charley, Frances, Ivan, and Jeanne: Provided further, That any amounts in excess of those necessary for emergency expenses relating to the above hurricanes may be used for other projects authorized under 23 U.S.C. 125: Provided further, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H.Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

## EXECUTIVE OFFICE OF THE PRESIDENT

### UNANTICIPATED NEEDS

For an additional amount for "Unanticipated Needs", not to exceed $70,000,000, to remain available until September 30, 2005, for the American Red Cross for reimbursement of disaster relief and recovery expenditures and emergency services associated with Hurricanes Charley, Frances, Ivan, and Jeanne, and only to the extent funds are not made available for those activities by other federal sources: Provided, That these funds may be administered by any authorized federal government agency to meet the purposes of this provision and that total administrative costs shall not exceed three percent of the total appropriation: Provided further, That the Comptroller General shall audit the use of these funds by the American Red Cross: Provided further, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

## CHAPTER 11

## DEPARTMENT OF VETERANS AFFAIRS

### VETERANS HEALTH ADMINISTRATION

### MEDICAL SERVICES

For an additional amount for "Medical services" for expenses related to recent natural disasters in the Southeast, $38,283,000, to remain available until September 30, 2005: Provided, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

### MEDICAL ADMINISTRATION

For an additional amount for "Medical administration" for expenses related to recent natural disasters in the Southeast, $1,940,000, to remain available until September 30, 2005: Provided, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

### MEDICAL FACILITIES

For an additional amount for "Medical facilities" for expenses related to recent natural disasters, $46,909,000, to remain available until September 30, 2006: Provided, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

### DEPARTMENTAL ADMINISTRATION

### GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses", for expenses related to recent natural disasters, $545,000, to remain available until September 30, 2005: Provided, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

### NATIONAL CEMETERY ADMINISTRATION

For an additional amount for "National Cemetery Administration", for expenses related to recent natural disasters in the Southeast, $50,000, to remain available until September 30, 2005: Provided, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

### CONSTRUCTION, MINOR PROJECTS

For an additional amount for "Construction, minor projects", for expenses related to recent natural disasters, $36,343,000, to remain available until expended: Provided, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### COMMUNITY PLANNING AND DEVELOPMENT

### COMMUNITY DEVELOPMENT FUND

For an additional amount for "Community development fund", for activities authorized under title I of the Housing and Community Development Act of 1974, for use only for disaster relief, long-term recovery, and mitigation in communities affected by disasters designated by the President between August 31, 2003 and October 1, 2004, except those activities reimbursable by the Federal Emergency Management Agency or available through the Small Business Administration, and for reimbursement for expenditures incurred from the regular Community Development Block Grant formula allocation used to achieve these same purposes, $150,000,000, to remain available until September 30, 2007: Provided, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287: Provided further, That all funds under this heading shall be awarded by the Secretary to states (including Indian tribes for all purposes under this heading) to be administered by each state in conjunction with its community development block grants program: Provided further, That notwithstanding 42 U.S.C. 5306(d)(2), states are authorized to provide such assistance to entitlement communities: Provided further, That in administering these funds, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such waiver is required to facilitate the use of such funds, and would not be inconsistent with the overall purpose of the statute: Provided further, That the Secretary may waive the requirements that activities benefit persons of low and moderate income, except that at least 50 percent of the funds under this heading must benefit primarily persons of low and moderate income unless the Secretary makes a finding of compelling need: Provided further, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation authorized under this heading no later than 5 days before the effective date of such waiver: Provided further, That any project or activity underway prior to a Presidential disaster declaration may not receive funds under this heading unless the disaster directly impacted the project: Provided further, That each state shall provide not less than 10 percent in non-Federal public matching funds or its equivalent value (other than administrative costs) for any funds allocated to the state under this heading.

## INDEPENDENT AGENCIES

### ENVIRONMENTAL PROTECTION AGENCY

### BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities" for expenses related to recent natural disasters, $3,000,000, to remain available until September 30, 2006: Provided, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### SPACE FLIGHT CAPABILITIES

For an additional amount for "Space flight capabilities", to repair assets damaged and take other emergency measures due to the effects of hurricanes and other disasters declared by the President, $126,000,000, to remain available until expended: Provided, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the

House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

### GENERAL PROVISION—THIS CHAPTER

(TRANSFER OF FUNDS)

SEC. 1101. From funds that are available in the unobligated balances of any funds appropriated under "Medical services", for fiscal year 2004, the Secretary of Veterans Affairs may transfer up to $125,000,000 to "General operating expenses", for costs associated with processing claims where the basis of the entitlement is claimed disability incurred as a result of a veteran's service, subject to a determination by the Secretary of Veterans Affairs that such additional funds are necessary.

### CHAPTER 12

### GENERAL PROVISION—THIS ACT

SEC. 1201. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This division may be cited as the "Emergency Supplemental Appropriations for Hurricane Disasters Assistance Act, 2005".

## DIVISION C—ALASKA NATURAL GAS PIPELINE

**SEC. 101. SHORT TITLE.**

This division may be cited as the "Alaska Natural Gas Pipeline Act".

**SEC. 102. DEFINITIONS.**

In this division:

(1) ALASKA NATURAL GAS.—The term "Alaska natural gas" means natural gas derived from the area of the State of Alaska lying north of 64 degrees north latitude.

(2) ALASKA NATURAL GAS TRANSPORTATION PROJECT.—The term "Alaska natural gas transportation project" means any natural gas pipeline system that carries Alaska natural gas to the border between Alaska and Canada (including related facilities subject to the jurisdiction of the Commission) that is authorized under—

(A) the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.); or

(B) section 103.

(3) ALASKA NATURAL GAS TRANSPORTATION SYSTEM.—The term "Alaska natural gas transportation system" means the Alaska natural gas transportation project authorized under the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.) and designated and described in section 2 of the President's decision.

(4) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(5) FEDERAL COORDINATOR.—The term "Federal Coordinator" means the head of the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects established by section 106(a).

(6) PRESIDENT'S DECISION.—The term "President's decision" means the decision and report to Congress on the Alaska natural gas transportation system—

(A) issued by the President on September 22, 1977, in accordance with section 7 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719e); and

(B) approved by Public Law 95–158 (15 U.S.C. 719f note; 91 Stat. 1268).

(7) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(8) STATE.—The term "State" means the State of Alaska.

**SEC. 103. ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.**

(a) AUTHORITY OF THE COMMISSION.—Notwithstanding the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), the Commission may, in accordance with section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)), consider and act on an application for the issuance of a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project other than the Alaska natural gas transportation system.

(b) ISSUANCE OF CERTIFICATE.—

(1) IN GENERAL.—The Commission shall issue a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project under this section if the applicant has satisfied the requirements of section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)).

(2) CONSIDERATIONS.—In considering an application under this section, the Commission shall presume that—

(A) a public need exists to construct and operate the proposed Alaska natural gas transportation project; and

(B) sufficient downstream capacity will exist to transport the Alaska natural gas moving through the project to markets in the contiguous United States.

(c) EXPEDITED APPROVAL PROCESS.—Not later than 60 days after the date of issuance of the final environmental impact statement under section 104 for an Alaska natural gas transportation project, the Commission shall issue a final order granting or denying any application for a certificate of public convenience and necessity for the project under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) and this section.

(d) PROHIBITION OF CERTAIN PIPELINE ROUTE.—No license, permit, lease, right-of-way, authorization, or other approval required under Federal law for the construction of any pipeline to transport natural gas from land within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that—

(1) traverses land beneath navigable waters (as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301)) beneath, or the adjacent shoreline of, the Beaufort Sea; and

(2) enters Canada at any point north of 68 degrees north latitude.

(e) OPEN SEASON.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Commission shall issue regulations governing the conduct of open seasons for Alaska natural gas transportation projects (including procedures for the allocation of capacity).

(2) REGULATIONS.—The regulations referred to in paragraph (1) shall—

(A) include the criteria for and timing of any open seasons;

(B) promote competition in the exploration, development, and production of Alaska natural gas; and

(C) for any open season for capacity exceeding the initial capacity, provide the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thomson units.

(3) APPLICABILITY.—Except in a case in which an expansion is ordered in accordance with section 105, initial or expansion capacity on any Alaska natural gas transportation project shall be allocated in accordance with procedures to be established by the Commission in regulations issued under paragraph (1).

(f) PROJECTS IN THE CONTIGUOUS UNITED STATES.—

(1) IN GENERAL.—An application for additional or expanded pipeline facilities that may be required to transport Alaska natural gas from Canada to markets in the contiguous United States may be made in accordance with the Natural Gas Act (15 U.S.C. 717a et seq.).

(2) EXPANSION.—To the extent that a pipeline facility described in paragraph (1) includes the expansion of any facility constructed in accordance with the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), that Act shall continue to apply.

(g) STUDY OF IN-STATE NEEDS.—The holder of the certificate of public convenience and necessity issued, modified, or amended by the Commission for an Alaska natural gas transportation project shall demonstrate that the holder has conducted a study of Alaska in-State needs, including tie-in points along the Alaska natural gas transportation project for in-State access.

(h) ALASKA ROYALTY GAS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Commission, on a request by the State and after a hearing, may provide for reasonable access to the Alaska natural gas transportation project by the State (or State designee) for the transportation of royalty gas of the State for the purpose of meeting local consumption needs within the State.

(2) EXCEPTION.—The rates of shippers of subscribed capacity on an Alaska natural gas transportation project described in paragraph (1), as in effect as of the date on which access under that paragraph is granted, shall not be increased as a result of such access.

(i) REGULATIONS.—The Commission may issue such regulations as are necessary to carry out this section.

**SEC. 104. ENVIRONMENTAL REVIEWS.**

(a) COMPLIANCE WITH NEPA.—The issuance of a certificate of public convenience and necessity authorizing the construction and operation of any Alaska natural gas transportation project under section 103 shall be treated as a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) DESIGNATION OF LEAD AGENCY.—

(1) IN GENERAL.—The Commission—

(A) shall be the lead agency for purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) shall be responsible for preparing the environmental impact statement required by section 102(2)(c) of that Act (42 U.S.C. 4332(2)(c)) with respect to an Alaska natural gas transportation project under section 103.

(2) CONSOLIDATION OF STATEMENTS.—In carrying out paragraph (1), the Commission shall prepare a single environmental impact statement, which shall consolidate the environmental reviews of all Federal agencies considering any aspect of the Alaska natural gas transportation project covered by the environmental impact statement.

(c) OTHER AGENCIES.—

(1) IN GENERAL.—Each Federal agency considering an aspect of the construction and operation of an Alaska natural gas transportation project under section 103 shall—

(A) cooperate with the Commission; and

(B) comply with deadlines established by the Commission in the preparation of the environmental impact statement under this section.

(2) SATISFACTION OF NEPA REQUIREMENTS.—The environmental impact statement prepared under this section shall be adopted by each Federal agency described in paragraph (1) in satisfaction of the responsibilities of the Federal agency under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) with respect to the Alaska natural gas transportation project covered by the environmental impact statement.

(d) EXPEDITED PROCESS.—The Commission shall—

(1) not later than 1 year after the Commission determines that the application under section 103 with respect to an Alaska natural gas transportation project is complete, issue a draft environmental impact statement under this section; and

*(2) not later than 180 days after the date of issuance of the draft environmental impact statement, issue a final environmental impact statement, unless the Commission for good cause determines that additional time is needed.*

### SEC. 105. PIPELINE EXPANSION.

*(a) AUTHORITY.—With respect to any Alaska natural gas transportation project, on a request by 1 or more persons and after giving notice and an opportunity for a hearing, the Commission may order the expansion of the Alaska natural gas project if the Commission determines that such an expansion is required by the present and future public convenience and necessity.*

*(b) RESPONSIBILITIES OF COMMISSION.—Before ordering an expansion under subsection (a), the Commission shall—*

*(1) approve or establish rates for the expansion service that are designed to ensure the recovery, on an incremental or rolled-in basis, of the cost associated with the expansion (including a reasonable rate of return on investment);*

*(2) ensure that the rates do not require existing shippers on the Alaska natural gas transportation project to subsidize expansion shippers;*

*(3) find that a proposed shipper will comply with, and the proposed expansion and the expansion of service will be undertaken and implemented based on, terms and conditions consistent with the tariff of the Alaska natural gas transportation project in effect as of the date of the expansion;*

*(4) find that the proposed facilities will not adversely affect the financial or economic viability of the Alaska natural gas transportation project;*

*(5) find that the proposed facilities will not adversely affect the overall operations of the Alaska natural gas transportation project;*

*(6) find that the proposed facilities will not diminish the contract rights of existing shippers to previously subscribed certificated capacity;*

*(7) ensure that all necessary environmental reviews have been completed; and*

*(8) find that adequate downstream facilities exist or are expected to exist to deliver incremental Alaska natural gas to market.*

*(c) REQUIREMENT FOR A FIRM TRANSPORTATION AGREEMENT.—Any order of the Commission issued in accordance with this section shall be void unless the person requesting the order executes a firm transportation agreement with the Alaska natural gas transportation project within such reasonable period of time as the order may specify.*

*(d) LIMITATION.—Nothing in this section expands or otherwise affects any authority of the Commission with respect to any natural gas pipeline located outside the State.*

*(e) REGULATIONS.—The Commission may issue such regulations as are necessary to carry out this section.*

### SEC. 106. FEDERAL COORDINATOR.

*(a) ESTABLISHMENT.—There is established, as an independent office in the executive branch, the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects.*

*(b) FEDERAL COORDINATOR.—*

*(1) APPOINTMENT.—The Office shall be headed by a Federal Coordinator for Alaska Natural Gas Transportation Projects, who shall be appointed by the President, by and with the advice and consent of the Senate, to serve a term to last until 1 year following the completion of the project referred to in section 103.*

*(2) COMPENSATION.—The Federal Coordinator shall be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5314).*

*(c) DUTIES.—The Federal Coordinator shall be responsible for—*

*(1) coordinating the expeditious discharge of all activities by Federal agencies with respect to an Alaska natural gas transportation project; and*

*(2) ensuring the compliance of Federal agencies with the provisions of this division.*

*(d) REVIEWS AND ACTIONS OF OTHER FEDERAL AGENCIES.—*

*(1) EXPEDITED REVIEWS AND ACTIONS.—All reviews conducted and actions taken by any Federal agency relating to an Alaska natural gas transportation project authorized under this section shall be expedited, in a manner consistent with completion of the necessary reviews and approvals by the deadlines under this division.*

*(2) PROHIBITION OF CERTAIN TERMS AND CONDITIONS.—No Federal agency may include in any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project any term or condition that may be permitted, but is not required, by any applicable law if the Federal Coordinator determines that the term or condition would prevent or impair in any significant respect the expeditious construction and operation, or an expansion, of the Alaska natural gas transportation project.*

*(3) PROHIBITION OF CERTAIN ACTIONS.—Unless required by law, no Federal agency shall add to, amend, or abrogate any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that the action would prevent or impair in any significant respect the expeditious construction and operation, or an expansion, of the Alaska natural gas transportation project.*

*(4) LIMITATION.—The Federal Coordinator shall not have authority to—*

*(A) override—*

*(i) the implementation or enforcement of regulations issued by the Commission under section 103; or*

*(ii) an order by the Commission to expand the project under section 105; or*

*(B) impose any terms, conditions, or requirements in addition to those imposed by the Commission or any agency with respect to construction and operation, or an expansion of, the project.*

*(e) STATE COORDINATION.—*

*(1) IN GENERAL.—The Federal Coordinator and the State shall enter into a joint surveillance and monitoring agreement similar to the agreement in effect during construction of the Trans-Alaska Pipeline, to be approved by the President and the Governor of the State, for the purpose of monitoring the construction of the Alaska natural gas transportation project.*

*(2) PRIMARY RESPONSIBILITY.—With respect to an Alaska natural gas transportation project—*

*(A) the Federal Government shall have primary surveillance and monitoring responsibility in areas where the Alaska natural gas transportation project crosses Federal land or private land; and*

*(B) the State government shall have primary surveillance and monitoring responsibility in areas where the Alaska natural gas transportation project crosses State land.*

*(f) TRANSFER OF FEDERAL INSPECTOR FUNCTIONS AND AUTHORITY.—On appointment of the Federal Coordinator by the President, all of the functions and authority of the Office of Federal Inspector of Construction for the Alaska Natural Gas Transportation System vested in the Secretary under section 3012(b) of the Energy Policy Act of 1992 (15 U.S.C. 719e note; Public Law 102–486), including all functions and authority described and enumerated in the Reorganization Plan No. 1 of 1979 (44 Fed. Reg. 33663), Executive Order No. 12142 of June 21, 1979 (44 Fed. Reg. 36927), and section 5 of the President's decision, shall be transferred to the Federal Coordinator.*

*(g) TEMPORARY AUTHORITY.—The functions, authorities, duties, and responsibilities of the Federal Coordinator shall be vested in the Secretary until the later of the appointment of the Federal Coordinator by the President, or 18 months after the date of enactment of this Act.*

### SEC. 107. JUDICIAL REVIEW.

*(a) EXCLUSIVE JURISDICTION.—Except for review by the Supreme Court on writ of certiorari, the United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction to determine—*

*(1) the validity of any final order or action (including a failure to act) of any Federal agency or officer under this division;*

*(2) the constitutionality of any provision of this title, or any decision made or action taken under this division; or*

*(3) the adequacy of any environmental impact statement prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this division.*

*(b) DEADLINE FOR FILING CLAIM.—A claim arising under this division may be brought not later than 60 days after the date of the decision or action giving rise to the claim.*

*(c) EXPEDITED CONSIDERATION.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) for expedited consideration, taking into account the national interest of enhancing national energy security by providing access to the significant gas reserves in Alaska needed to meet the anticipated demand for natural gas.*

*(d) AMENDMENT OF THE ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976.—Section 10(c) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719h) is amended—*

*(1) by striking "(c)(1) A claim" and inserting the following:*

*"(c) JURISDICTION.—*

*"(1) SPECIAL COURTS.—*

*"(A) IN GENERAL.—A claim";*

*(2) by striking "Such court shall have" and inserting the following:*

*"(B) EXCLUSIVE JURISDICTION.—The Special Court shall have";*

*(3) by inserting after paragraph (1) the following:*

*"(2) EXPEDITED CONSIDERATION.—The Special Court shall set any action brought under this section for expedited consideration, taking into account the national interest described in section 2."; and*

*(4) in paragraph (3), by striking "(3) The enactment" and inserting the following:*

*"(3) ENVIRONMENTAL IMPACT STATEMENTS.—The enactment".*

### SEC. 108. STATE JURISDICTION OVER IN-STATE DELIVERY OF NATURAL GAS.

*(a) LOCAL DISTRIBUTION.—Any facility receiving natural gas from an Alaska natural gas transportation project for delivery to consumers within the State—*

*(1) shall be deemed to be a local distribution facility within the meaning of section 1(b) of the Natural Gas Act (15 U.S.C. 717(b)); and*

*(2) shall not be subject to the jurisdiction of the Commission.*

*(b) ADDITIONAL PIPELINES.—Except as provided in section 103(d), nothing in this division shall preclude or otherwise affect a future natural gas pipeline that may be constructed to deliver natural gas to Fairbanks, Anchorage, Matanuska-Susitna Valley, or the Kenai peninsula or Valdez or any other site in the State for consumption within or distribution outside the State.*

*(c) RATE COORDINATION.—*

*(1) IN GENERAL.—In accordance with the Natural Gas Act (15 U.S.C. 717a et seq.), the Commission shall establish rates for the transportation of natural gas on any Alaska natural gas transportation project.*

(2) CONSULTATION.—In carrying out paragraph (1), the Commission, in accordance with section 17(b) of the Natural Gas Act (15 U.S.C. 717p(b)), shall consult with the State regarding rates (including rate settlements) applicable to natural gas transported on and delivered from the Alaska natural gas transportation project for use within the State.

### SEC. 109. STUDY OF ALTERNATIVE MEANS OF CONSTRUCTION.

(a) REQUIREMENT OF STUDY.—If no application for the issuance of a certificate or amended certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project has been filed with the Commission by the date that is 18 months after the date of enactment of this Act, the Secretary shall conduct a study of alternative approaches to the construction and operation of such an Alaska natural gas transportation project.

(b) SCOPE OF STUDY.—The study under subsection (a) shall take into consideration the feasibility of—

(1) establishing a Federal Government corporation to construct an Alaska natural gas transportation project; and

(2) securing alternative means of providing Federal financing and ownership (including alternative combinations of Government and private corporate ownership) of the Alaska natural gas transportation project.

(c) CONSULTATION.—In conducting the study under subsection (a), the Secretary shall consult with the Secretary of the Treasury and the Secretary of the Army (acting through the Chief of Engineers).

(d) REPORT.—On completion of any study under subsection (a), the Secretary shall submit to Congress a report that describes—

(1) the results of the study; and

(2) any recommendations of the Secretary (including proposals for legislation to implement the recommendations).

### SEC. 110. CLARIFICATION OF ANGTA STATUS AND AUTHORITIES.

(a) SAVINGS CLAUSE.—Nothing in this division affects—

(1) any decision, certificate, permit, right-of-way, lease, or other authorization issued under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g); or

(2) any Presidential finding or waiver issued in accordance with that Act.

(b) CLARIFICATION OF AUTHORITY TO AMEND TERMS AND CONDITIONS TO MEET CURRENT PROJECT REQUIREMENTS.—Any Federal agency responsible for granting or issuing any certificate, permit, right-of-way, lease, or other authorization under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) may add to, amend, or rescind any term or condition included in the certificate, permit, right-of-way, lease, or other authorization to meet current project requirements (including the physical design, facilities, and tariff specifications), if the addition, amendment, or rescission—

(1) would not compel any change in the basic nature and general route of the Alaska natural gas transportation system as designated and described in section 2 of the President's decision; or

(2) would not otherwise prevent or impair in any significant respect the expeditious construction and initial operation of the Alaska natural gas transportation system.

(c) UPDATED ENVIRONMENTAL REVIEWS.—The Secretary shall require the sponsor of the Alaska natural gas transportation system to submit such updated environmental data, reports, permits, and impact analyses as the Secretary determines are necessary to develop detailed terms, conditions, and compliance plans required by section 5 of the President's decision.

### SEC. 111. SENSE OF CONGRESS CONCERNING USE OF STEEL MANUFACTURED IN NORTH AMERICA NEGOTIATION OF A PROJECT LABOR AGREEMENT.

It is the sense of Congress that—

(1) an Alaska natural gas transportation project would provide significant economic benefits to the United States and Canada; and

(2) to maximize those benefits, the sponsors of the Alaska natural gas transportation project should make every effort to—

(A) use steel that is manufactured in North America; and

(B) negotiate a project labor agreement to expedite construction of the pipeline.

### SEC. 112. SENSE OF CONGRESS AND STUDY CONCERNING PARTICIPATION BY SMALL BUSINESS CONCERNS.

(a) DEFINITION OF SMALL BUSINESS CONCERN.—In this section, the term "small business concern" has the meaning given the term in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) an Alaska natural gas transportation project would provide significant economic benefits to the United States and Canada; and

(2) to maximize those benefits, the sponsors of the Alaska natural gas transportation project should maximize the participation of small business concerns in contracts and subcontracts awarded in carrying out the project.

(c) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study to determine the extent to which small business concerns participate in the construction of oil and gas pipelines in the United States.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report that describes results of the study under paragraph (1).

(3) UPDATES.—The Comptroller General shall—

(A) update the study at least once every 5 years until construction of an Alaska natural gas transportation project is completed; and

(B) on completion of each update, submit to Congress a report containing the results of the update.

### SEC. 113. ALASKA PIPELINE CONSTRUCTION TRAINING PROGRAM.

(a) PROGRAM.—

(1) ESTABLISHMENT.—The Secretary of Labor (in this section referred to as the "Secretary") shall make grants to the Alaska Workforce Investment Board—

(A) to recruit and train adult and dislocated workers in Alaska, including Alaska Natives, in the skills required to construct and operate an Alaska gas pipeline system; and

(B) for the design and construction of a training facility to be located in Fairbanks, Alaska, to support an Alaska gas pipeline training program.

(2) COORDINATION WITH EXISTING PROGRAMS.—The training program established with the grants authorized under paragraph (1) shall be consistent with the vision and goals set forth in the State of Alaska Unified Plan, as developed pursuant to the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

(b) REQUIREMENTS FOR GRANTS.—The Secretary shall make a grant under subsection (a) only if—

(1) the Governor of the State of Alaska requests the grant funds and certifies in writing to the Secretary that there is a reasonable expectation that the construction of the Alaska natural gas pipeline system will commence by the date that is 2 years after the date of the certification; and

(2) the Secretary of Energy concurs in writing to the Secretary with the certification made under paragraph (1) after considering—

(A) the status of necessary Federal and State permits;

(B) the availability of financing for the Alaska natural gas pipeline project; and

(C) other relevant factors.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $20,000,000. Not more than 15 percent of the funds may be used for the facility described in subsection (a)(1)(B).

### SEC. 114. SENSE OF CONGRESS CONCERNING NATURAL GAS DEMAND.

It is the sense of Congress that—

(1) North American demand for natural gas will increase dramatically over the course of the next several decades;

(2) both the Alaska Natural Gas Pipeline and the Mackenzie Delta Natural Gas project in Canada will be necessary to help meet the increased demand for natural gas in North America;

(3) Federal and State officials should work together with officials in Canada to ensure both projects can move forward in a mutually beneficial fashion;

(4) Federal and State officials should acknowledge that the smaller scope, fewer permitting requirements, and lower cost of the Mackenzie Delta project means it will most likely be completed before the Alaska Natural Gas Pipeline;

(5) natural gas production in the 18 contiguous States and Canada will not be able to meet all domestic demand in the coming decades; and

(6) as a result, natural gas delivered from Alaskan North Slope will not displace or reduce the commercial viability of Canadian natural gas produced from the Mackenzie Delta or production from the 48 contiguous States.

### SEC. 115. SENSE OF CONGRESS CONCERNING ALASKAN OWNERSHIP.

It is the sense of Congress that—

(1) Alaska Native Regional Corporations, companies owned and operated by Alaskans, and individual Alaskans should have the opportunity to own shares of the Alaska natural gas pipeline in a way that promotes economic development for the State; and

(2) to facilitate economic development in the State, all project sponsors should negotiate in good faith with any willing Alaskan person that desires to be involved in the project.

### SEC. 116. LOAN GUARANTEES.

(a) AUTHORITY.—(1) The Secretary may enter into agreements with 1 or more holders of a certificate of public convenience and necessity issued under section 103(b) of this division or section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project.

(2) Subject to the requirements of this section, the Secretary may also enter into agreements with 1 or more owners of the Canadian portion of a qualified infrastructure project to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project as though such owner were a holder described in paragraph (1).

(3) The authority of the Secretary to issue Federal guarantee instruments under this section for a qualified infrastructure project shall expire on the date that is 2 years after the date on which the final certificate of public convenience and necessity (including any Canadian certificates of public convenience and necessity) is issued for the project. A final certificate shall be considered to have been issued when all certificates of public convenience and necessity have been issued that are required for the initial transportation of commercially economic quantities of natural gas from Alaska to the continental United States.

*(b) Conditions.—(1) The Secretary may issue a Federal guarantee instrument for a qualified infrastructure project only after a certificate of public convenience and necessity under section 103(b) of this division or an amended certificate under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) has been issued for the project.*

*(2) The Secretary may issue a Federal guarantee instrument under this section for a qualified infrastructure project only if the loan or other debt obligation guaranteed by the instrument has been issued by an eligible lender.*

*(3) The Secretary shall not require as a condition of issuing a Federal guarantee instrument under this section any contractual commitment or other form of credit support of the sponsors (other than equity contribution commitments and completion guarantees), or any throughput or other guarantee from prospective shippers greater than such guarantees as shall be required by the project owners.*

*(c) Limitations on Amounts.—(1) The amount of loans and other debt obligations guaranteed under this section for a qualified infrastructure project shall not exceed 80 percent of the total capital costs of the project, including interest during construction.*

*(2) The principal amount of loans and other debt obligations guaranteed under this section shall not exceed, in the aggregate, $18,000,000,000, which amount shall be indexed for United States dollar inflation from the date of enactment of this Act, as measured by the Consumer Price Index.*

*(d) Loan Terms and Fees.—(1) The Secretary may issue Federal guarantee instruments under this section that take into account repayment profiles and grace periods justified by project cash flows and project-specific considerations. The term of any loan guaranteed under this section shall not exceed 30 years.*

*(2) An eligible lender may assess and collect from the borrower such other fees and costs associated with the application and origination of the loan or other debt obligation as are reasonable and customary for a project finance transaction in the oil and gas sector.*

*(e) Regulations.—The Secretary may issue regulations to carry out this section.*

*(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to cover the cost of loan guarantees under this section, as defined by section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)). Such sums shall remain available until expended.*

*(g) Definitions.—In this section:*

*(1) Consumer price index.—The term "Consumer Price Index" means the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics, or if such index shall cease to be published, any successor index or reasonable substitute thereof.*

*(2) Eligible lender.—The term "eligible lender" means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933), including—*

*(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986 (26 U.S.C. 4974(c)) that is a qualified institutional buyer; and*

*(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986 (26 U.S.C. 414(d)) that is a qualified institutional buyer.*

*(3) Federal guarantee instrument.—The term "Federal guarantee instrument" means any guarantee or other pledge by the Secretary to pledge the full faith and credit of the United States to pay all of the principal and interest on any loan or other debt obligation entered into by a holder of a certificate of public convenience and necessity.*

*(4) Qualified infrastructure project.—The term "qualified infrastructure project" means an Alaskan natural gas transportation project consisting of the design, engineering, finance, construction, and completion of pipelines and related transportation and production systems (including gas treatment plants), and appurtenances thereto, that are used to transport natural gas from the Alaska North Slope to the continental United States.*

And the Senate agree to the same.

Joe Knollenberg,
James T. Walsh,
Robert B. Aderholt,
Kay Granger,
Virgil Goode,
David Vitter,
Jack Kingston,
Ander Crenshaw,
Bill Young,
Chet Edwards,
Sam Farr,
Allen Boyd,
Sanford D. Bishop, Jr.,
Norman D. Dicks,
*Managers on the Part of the House.*

Kay Bailey Hutchison,
Conrad Burns,
Larry E. Craig,
Mike DeWine,
Sam Brownback,
Ted Stevens,
Dianne Feinstein,
Daniel K. Inouye,
Tim Johnson,
Mary L. Landrieu,
Robert C. Byrd,
*Managers on the Part of the Senate.*

## Joint Explanatory Statement of The Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4837) making appropriations for Military Construction, Family Housing, and Base Realignment and Closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, submit the following joint statement to the House of Representatives and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

This conference report includes, in addition to the Military Construction Appropriations Act, 2005, Division B—Emergency Supplemental Appropriations for Hurricane Disaster Assistance Act, 2005, and Division C—Alaska Natural Gas Pipeline.

## DIVISION A—MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

### Items of General Interest

*Matters Addressed by Only One Committee.*—The language and allocations set forth in House Report 108-607 and Senate Report 108-309 should be complied with unless specifically addressed to the contrary in the conference report and statement of the managers. Report language included by the House which is not changed by the report of the Senate or the conference, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases where the House or the Senate have directed the submission of a report from the Department of Defense, such report is to be submitted to both the House and the Senate Committees on Appropriations.

*Audit Trail Documents.*—The conferees direct the Department of Defense to continue the semi-annual submission of audit trail documents, a practice reinstated by the fiscal year 2004 Military Construction Appropriations conference report. The conferees emphasize that the documents shall describe the following: the appropriated amount, the amount formally reprogrammed, the amount of below threshold reprogramming, the current funded level, the contract award date, the contract amount, and the current working estimate, along with explanatory notes as necessary, for each project as budgeted in the Construction Annex, as well as projects funded under Minor Construction and Family Housing Improvements. All of this information shall be described in no more than one line item for each project. The audit trail documents shall reflect projects from the current fiscal year plus the previous four fiscal years.

*Notification Requirements for Changes in Scope.*—Title 10, Section 2853 of U.S. Code states that "the scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be reduced by not more than 25 percent from the amount approved for that project, construction, improvement, or acquisition by Congress" subject to certain limitations, one of which is notification of Congressional Committees. It is the understanding of the conferees that the services have interpreted this provision to mean that scope reduction notification is required only when a reduction is made to engineering based attributes such as square footage. The conferees emphasize that scope reduction notification also applies when a reduction of 25 percent or more is taken from the amount appropriated for a project. The conferees also emphasize that scope reductions in excess of 25 percent may not be made until the appropriate Congressional Committees have been notified and a 21-day period has elapsed. The notification is a statutory requirement independent of any reprogramming request and must precede by at least 21 days any request to reprogram funds that are excess to a project due to a scope reduction.

This corrected understanding of the requirement is necessary to ensure transparency in the military construction program and to restore the ability of Congress to exercise proper oversight of appropriated funds for military construction. For example, the Army reduced a barracks project at Camp Hovey, Korea, from $26,000,000 to $17,000,000, a 35 percent reduction and well above the 25 percent threshold. Congress often learns of these scope reductions only when the services submit reprogramming requests to use the savings for other projects. The conferees therefore agree that it is highly necessary to clarify the scope reduction requirement.

### Military Construction, Army

(INCLUDING RESCISSIONS)

The conference agreement appropriates $1,981,084,000 for Military Construction, Army, instead of $1,862,854,000 as proposed by the House and $1,977,166,000 as proposed by the Senate. Within this amount, the conference agreement provides $156,999,000 for study, planning, design, architect and engineer services, and host nation support instead of $140,554,000 as proposed by the House and $166,216,000 as proposed by the Senate. The conference agreement also rescinds $18,976,000 from funds previously provided to this account as follows:

| Public Law / location | Project title | House | Senate | Conference |
|---|---|---|---|---|
| PL 106-246 (FY 2001): | | | | |
| Korea: Camp Hovey | Whole Barracks Complex Renewal | 0 | 0 | -7,776,000 |
| Subtotal | | 0 | 0 | -7,776,000 |
| PL 107-64 (FY 2002): | | | | |
| New York: Fort Drum | Battle Simulation Center, Phase II | 0 | 0 | -2,751,000 |
| Korea: Camp Carroll | Physical Fitness Training Center | 0 | 0 | -1,173,000 |
| Subtotal | | 0 | 0 | -3,924,000 |
| PL 107-249 (FY 2003): | | | | |
| DC: Walter Reed AMC | Electrical Switch Station | 0 | 0 | -670,000 |
| Kansas: Fort Riley | Cantonment Fence (DERF) | 0 | 0 | -1,275,000 |
| North Carolina: Fort Bragg | Force Protection Plan Phase 2 (DERF) | 0 | 0 | -2,975,000 |
| Washington: Fort Lewis | Barracks Complex-17th & B St, PH2 | 0 | 0 | -2,356,000 |
| Subtotal | | 0 | 0 | -7,276,000 |
| Total | | 0 | 0 | -18,976,000 |

### MILITARY CONSTRUCTION, NAVY, AND MARINE CORPS

(INCLUDING RESCISSION)

The conference agreement appropriates $1,069,947,000 for Military Construction, Navy and Marine Corps, instead of $1,081,042,000 as proposed by the House and $1,016,315,000 as proposed by the Senate. Within this amount, the conference agreement provides $90,830,000 for study, planning, design, architect and engineer services instead of $93,284,000 as proposed by the House and $110,277,000 as proposed by the Senate. The conference agreement also rescinds $24,000,000 from funds previously provided to this account as follows:

| Public Law / location | Project title | House | Senate | Conference |
|---|---|---|---|---|
| PL 108-132 (FY 2004): | | | | |
| Unspecified Worldwide | Outlying Landing Field Facilities (PH I) | 0 | 0 | -24,000,000 |
| Total | | 0 | 0 | -24,000,000 |

The conferees direct the Secretary of the Navy to report by February 15, 2005 on efforts to incorporate reserve component requirements into land disposal agreements resulting from the closure of Naval Air Station Roosevelt Roads, Puerto Rico.

*California-North Island Special Operations Forces Ground Mobility Support Building.*—The conferees are aware of the City of Coronado's goal to expedite military personnel traffic to and from the base through the construction of the State Route 75 Corridor Tunnel from the western terminus of the San Diego-Coronado Bridge directly into the Naval Air Station, North Island. The conferees urge the Navy to ensure that the Base Main Gate and Entrance Street project is fully compatible with the design for the State Route 75 Corridor Tunnel.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION)

The conference agreement appropriates $866,331,000 for Military Construction, Air Force, instead of $797,865,000 as proposed by the House and $841,131,000 as proposed by the Senate. Within this amount, the conference agreement provides $130,711,000 for study, planning, design, architect and engineer services instead of $165,367,000 as proposed by the House and $180,507,000 as proposed by the Senate. The conference agreement also rescinds $21,800,000 from funds previously provided to this account as follows:

| Public Law / location | Project title | House | Senate | Conference |
|---|---|---|---|---|
| PL 108-106 (FY 2004): | | | | |
| Qatar: Al Udeid AB | Refueler Ramp | 0 | 0 | -21,800,000 |
| Total | | 0 | 0 | -21,800,000 |

### MILITARY CONSTRUCTION, DEFENSE-WIDE
### (INCLUDING TRANSFER OF FUNDS AND RESCISSIONS)

The conference agreement appropriates $686,055,000 for Military Construction, Defense-wide, instead of $718,837,000 as proposed by the House and $696,491,000 as proposed by the Senate. Within this amount, the conference agreement provides $62,800,000 for study, planning, design, architect and engineer services instead of $63,482,000 as proposed by the House and $66,336,000 as proposed by the Senate. The conference agreement also rescinds $22,737,000 from funds previously provided to this account as follows:

| Public Law / location | Project title | House | Senate | Conference |
|---|---|---|---|---|
| PL 107-64 (FY 2002): | | | | |
| Germany: Heidelberg | Hospital Addition/Clinic Alteration | 0 | 0 | -6,000,000 |
| PL 107-249 (FY 2003): | | | | |
| Arkansas: Pine Bluff | Non-stockpile Ammunition Demoliton | 0 | 0 | -8,737,000 |
| Maryland: Aberdeen PG | Ammunition Demilitarization Phase V | 0 | 0 | -8,000,000 |
| Subtotal | | 0 | 0 | -16,737,000 |
| Total | | 0 | 0 | -22,737,000 |

The conference agreement provides $50,000,000 for the Energy Conservation Improvement Program as proposed by the House instead of $60,000,000 as proposed by the Senate.

### MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

The conference agreement appropriates $446,748,000 for Military Construction, Army National Guard, instead of $394,100,000 as proposed by the House and $381,765,000 as proposed by the Senate. The conference agreement does not include a provision proposed by the House to earmark funds for planning and design activities. The Senate bill contained no similar provision.

*Georgia-Army National Guard Armory, Fulton County Airport-Brown Field.*—The conferees agree that within funds provided for planning and design in this account, $100,000 shall be made available to conduct a feasibility study on the relocation of this armory to Dobbins Air Reserve Base, Georgia.

### MILITARY CONSTRUCTION, AIR NATIONAL GUARD

(INCLUDING RESCISSION)

The conference agreement appropriates $243,043,000 for Military Construction, Air National Guard, instead of $180,533,000 as proposed by the House and $231,083,000 as proposed by the Senate. The conference agreement does not include a provision proposed by the House to earmark funds for planning and design activities. The Senate bill contained no similar provision. The conference agreement also rescinds $5,000,000 from funds previously provided to this account as follows:

| Public Law / location | Project title | House | Senate | Conference |
|---|---|---|---|---|
| PL 108-132 (FY 2004): | | | | |
| Tennessee: Memphis | C-5 Upgrade Shops | 0 | 0 | -5,000,000 |
| Total | | 0 | 0 | -5,000,000 |

### MILTIARY CONSTRUCTION, ARMY RESERVE

The conference agreement appropriates $92,377,000 for Military Construction, Army Reserve, instead of $116,521,000 as proposed by the House and $66,325,000 as proposed by the Senate. The conference agreement does not include a provision proposed by the House to earmark funds for planning and design activities. The Senate bill contained no similar provision.

### MILITARY CONSTRUCTION, NAVAL RESERVE

The conference agreement appropriates $44,246,000 for Military Construction, Naval Reserve, instead of $30,955,000 as proposed by the House and $33,735,000 as proposed by the Senate. The conference agreement does not include a provision proposed by the House to earmark funds for planning and design activities. The Senate bill contained no similar provision.

### MILITARY CONSTRUCTION, AIR FORCE RESERVE

The conference agreement appropriates $123,977,000 for Military Construction, Air Force Reserve, instead of $111,725,000 as proposed by the House and $101,373,000 as proposed by the Senate. The conference agreement does not include a provision proposed by the House to earmark funds for planning and design activities. The Senate bill contained no similar provision.

### NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

(INCLUDING RESCISSION)

The conference agreement appropriates $165,800,000 for the North Atlantic Treaty Organization Security Investment Program as proposed by both the House and Senate. The conference agreement also includes a rescission of $5,000,000 from prior appropriations due to the slow spend out rate of the program and the recurrence of carryover amounts.

### FAMILY HOUSING CONSTRUCTION, ARMY

(INCLUDING RESCISSION)

The conference agreement appropriates $636,099,000 for Family Housing Construction, Army, as proposed by both the House and the Senate. The conference agreement also rescinds $21,000,000 from funds previously provided to this account.

### FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

The conference agreement appropriates $926,507,000 for Family Housing Operation and Maintenance, Army as proposed by the House instead of $928,907,000 as proposed by the Senate. The reduction from the President's request shall not be construed as prohibiting any routine or emergency repair and maintenance work for general officer quarters.

### FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

(INCLUDING RESCISSIONS)

The conference agreement appropriates $139,107,000. for Family Housing Construction, Navy and Marine Corps as proposed by both the House and the Senate. The conference agreement also rescinds $12,301,000 from funds previously provided to this account. The Navy has identified these funds as no longer being necessary to complete the projects in the following table. It is the understanding of the conferees that the rescissions will not affect the projects for which they were appropriated.

| Public Law / location | Project title | House | Senate | Conference |
|---|---|---|---|---|
| PL 107-64 (FY 2002): | | | | |
| Maryland: USNA Annapolis | Family Housing Improvements (42 Units) North Severn Village | 0 | 0 | -3,955,000 |
| Maryland: Patuxent River | Improvements (28 Units) Chaffee Court | 0 | 0 | -1,609,000 |
| Subtotal | | 0 | 0 | -5,564,000 |
| PL 108-132 (FY 2004): | | | | |
| Maryland: Annapolis | Family Housing Improvements (51 Units | 0 | 0 | -6,737,000 |
| Subtotal | | 0 | 0 | -6,737,000 |
| Total | | 0 | 0 | -12,301,000 |

### FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

The conference agreement appropriates $696,304,000 for Family Housing Operation and Maintenance, Navy and Marine Corps as proposed by the House instead of $704,504,000 as proposed by the Senate. The reduction from the President's request shall not be construed as prohibiting any routine or emergency repair and maintenance work for general and flag officer quarters.

### FAMILY HOUSING CONSTRUCTION, AIR FORCE

### (INCLUDING RESCISSIONS)

The conference agreement appropriates $846,959,000 for Family Housing Construction, Air Force, as proposed by both the House and the Senate. The conference agreement rescinds $45,171,000 from funds previously provided to this account. The Air Force has identified these funds as no longer being necessary to complete the projects in the following table. It is the understanding of the conferees that the rescissions will not affect the projects for which they were appropriated.

| Public Law / location | Project title | House | Senate | Conference |
|---|---|---|---|---|
| PL 106-246 (FY 2001): | | | | |
| Utah: Hill AFB | Privatize Family Housing (1,116 Units) | 0 | 0 | -5,471,000 |
| Nebraska: Offutt AFB | Privatize Family Housing (2,580 Units) | 0 | 0 | -2,980,000 |
| Nevada: Nellis AFB | Replace Family Housing (26 Units) | 0 | 0 | -5,000,000 |
| Subtotal | | 0 | 0 | -13,451,000 |
| PL 107-64 (FY 2002): | | | | |
| Hawaii: Hickam AFB | Privatization | 0 | 0 | -11,220,000 |
| California: Beale AFB | Privatization | 0 | 0 | -14,500,000 |
| Subtotal | | 0 | 0 | -25,720,000 |
| PL 108-132 (FY 2004): | | | | |
| Oklahoma: Tinker AFB | Replace Family Housing | 0 | 0 | -6,000,000 |
| Subtotal | | 0 | 0 | -6,000,000 |
| Total | | 0 | 0 | -45,171,000 |

### Family Housing Operation and Maintenance, Air Force

The conference agreement appropriates $853,384,000 for Family Housing Operation and Maintenance, Air Force, instead of $854,666,000 as proposed by the House and $856,114,000 as proposed by the Senate. The reduction from the President's request shall not be construed as prohibiting any routine or emergency repair and maintenance work for general officer quarters.

### Family Housing Construction, Defense-Wide

The conference agreement appropriates $49,000 for Family Housing Construction, Defense-Wide as proposed by both the House and the Senate.

### Family Housing Operation and Maintenance, Defense-Wide

The conference agreement appropriates $49,575,000 for Family Housing Operation and Maintenance, Defense-Wide as proposed by both the House and the Senate.

### Department of Defense Family Housing Improvement Fund

(INCLUDING RESCISSIONS)

The conference agreement appropriates $2,500,000 for the Department of Defense Family Housing Improvement Fund as proposed by both the House and the Senate. The conference agreement also rescinds $19,109,000 from funds previously provided to this account. The Department of Defense has identified these funds as no longer being necessary to complete the projects in the following table. It is the understanding of the conferees that the rescissions will not affect the projects for which they were appropriated.

| Public Law / location | Project title | House | Senate | Conference |
|---|---|---|---|---|
| PL 107-249 (FY 2003): | | | | |
| Eglin AFB | Family Housing Construction (134 Units) | 0 | 0 | -9,272,000 |
| Ohio: Wright-Patterson AFB | Family Housing Construction (134 Improvement (222 Units) | 0 | 0 | -1,536,000 |
| Subtotal | | 0 | 0 | -10,808,000 |
| PL 108-132 (FY 2004): | | | | |
| Delaware: Dover AFB | Family Housing Construction | 0 | 0 | -8,301,000 |
| Subtotal | | 0 | 0 | -8,301,000 |
| Total | | 0 | 0 | -19,109,000 |

### Chemical Demilitarization Construction, Defense-Wide

The conference agreement appropriates $81,886,000 for Chemical Demilitarization Construction, Defense-Wide as proposed by both the House and the Senate.

### Base Realignment and Closure Account

The conference agreement appropriates $246,116,000 for the Base Realignment and Closure Account as proposed by both the House and Senate.

### General Provisions

The conference agreement includes general provisions (sections 101–103, 105–119, 121–123, 125, and 126) that were not amended by either the House or Senate.

The conference agreement includes section 104 as proposed by the House to prohibit construction of new bases in the United States without a specific appropriation. The Senate bill contained a similar provision, but limited the prohibition to the continental United States.

The conference agreement includes section 120 as proposed by the Senate to allow the transfer of funds only from the Family Housing, Construction accounts to the Family Housing Improvement Fund and to allow the transfer of funds from the construction of military unaccompanied housing to the Military Unaccompanied Housing Improvement Fund. The House bill contained a similar provision, but only for the transfer of funds from the Family Housing, Construction accounts to the Family Housing Improvement Fund.

The conference agreement includes section 124 as proposed by the Senate to limit the maintenance and repair of any general or flag officer quarters to $35,000 per year without 30 days advance notification. The House bill contained a similar provision, but limited such maintenance and repairs to $20,000.

The conference agreement includes a provision (section 127) as proposed by the Senate to change the due date of a report by the Overseas Basing Commission. The House bill contained no similar provision.

The conference agreement includes a provision (section 128) as proposed by the House to require the Department of Defense to respond to a question or inquiry, in writing, within 21 days of the request. The Senate bill contained no similar provision.

The conference agreement includes a provision (section 129) as proposed by the Senate to make funds in the Ford Island Improvement Fund available until expended. The House bill contained no similar provision.

The conference agreement includes a provision (section 130) as proposed by the House to name a fitness center at Homestead Air Reserve Base, Florida. The Senate bill contained no similar provision.

The conference agreement includes a modified Senate provision (section 131) to give the Secretary of Agriculture the right of first refusal to negotiate over the disposal of land at Fort Hunter Liggett, California, determined to be in excess of military needs. If and when the property is transferred into the National Forest System, the conferees expect the Department of the Army to comply with all pertinent environmental regulations pertaining to the remediation of the land. The House bill contained no similar provision.

The conference agreement includes a new provision (section 132) to identify the Congressional Committees that are to receive all reports and notifications required by this division.

The conference agreement does not include a provision proposed by the House to allow the transfer of expired funds to the Foreign Currency Fluctuation, Construction, Defense account. The Senate bill contained no similar provision.

The conference agreement does not include a provision proposed by the Senate to require a report on the impacts on the military family housing program under the current Military Housing Privatization Initiative. The House bill contained no similar provision.

The conference agreement does not include a provision proposed by the Senate to provide funding to the Overseas Basing Commission. The House bill contained no similar provision.

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| ALABAMA | | |
| ARMY | | |
| ANNISTON ARMY DEPOT | | |
| POWERTRAIN COMPONENT REBUILDING FACILITY | 23,690 | 23,690 |
| FORT RUCKER | | |
| AIRCRAFT MAINTENANCE HANGAR | --- | 16,000 |
| DEFENSE-WIDE | | |
| HUNTSVILLE | | |
| MISSILE DEFENSE AGENCY CENTER, VON BRAUN COMPLEX (PHASE II) | 19,560 | 19,560 |
| ARMY NATIONAL GUARD | | |
| CENTREVILLE | | |
| ADDITION/ALTERATION READINESS CENTER (ADRS) | 5,537 | 5,537 |
| CLANTON | | |
| ADDITION/ALTERATION READINESS CENTER (ADRS) | 3,649 | 3,649 |
| HALEYVILLE | | |
| JOINT ARMED FORCES RESERVE CENTER | --- | 13,849 |
| ONEONTA | | |
| ADDITION/ALTERATION READINESS CENTER (ADRS) | 4,527 | 4,527 |
| TOTAL, ALABAMA | 56,963 | 86,812 |
| ALASKA | | |
| ARMY | | |
| FORT RICHARDSON | | |
| BARRACKS COMPLEX | 7,600 | 7,600 |
| DIGITAL MULTIPURPOSE TRAINING RANGE | 13,600 | 13,600 |
| SNIPER FIELD FIRE RANGE | 3,100 | 3,100 |
| FORT WAINWRIGHT | | |
| BARRACKS COMPLEX - LORRAINE ROAD | 39,815 | 39,815 |
| BARRACKS COMPLEX RENEWAL - SANTIAGO ROAD | 30,912 | 30,912 |
| COMBINED ARMS COLLECTIVE TRAINING FACILITY | 21,732 | 21,732 |
| AIR FORCE | | |
| ELMENDORF AIR FORCE BASE | | |
| C-17 SUPPORT UTILITIES | 6,400 | 6,400 |
| ELMENDORF C-17 FLIGHT SIMULATOR FACILITY | 7,700 | 7,700 |
| FITNESS CENTER | 11,957 | 11,957 |
| LARGE AIRFRAME MAINTENANCE HANGAR | --- | 26,000 |
| DEFENSE-WIDE | | |
| FORT WAINWRIGHT | | |
| HOSPITAL REPLACEMENT (PHASE VI) | 9,900 | 9,900 |
| TOTAL, ALASKA | 152,716 | 178,716 |
| ARIZONA | | |
| ARMY | | |
| FORT HUACHUCA | | |
| ARMY GLOBAL INFORMATION FACILITY | --- | 18,000 |
| NAVY | | |
| YUMA | | |
| BACHELOR ENLISTED QUARTERS | 18,740 | 18,740 |
| STATION ORDNANCE AREA | 7,930 | 7,930 |
| AIR FORCE | | |
| DAVIS-MONTHAN AIR FORCE BASE | | |
| AIRFIELD OBSTRUCTION-HAZARDOUS CARGO PAD | 4,243 | 4,243 |
| COMBAT SEARCH AND RESCUE C-130 SQUADRON OPERATIONS | 5,786 | 5,786 |
| EC-130 SQUAD OPERATIONS FACILITY | --- | 7,000 |
| LUKE AIR FORCE BASE | | |
| ATFP LITCHFIELD ROAD UNDERPASS AND ENTRY POINT REPLACEMENT | --- | 7,900 |
| DORMITORY (120 ROOM) | 10,000 | 10,000 |
| ARMY NATIONAL GUARD | | |
| CAMP NAVAJO | | |
| QUALIFICATION TRAINING RANGE | 3,000 | 3,000 |
| TOTAL, ARIZONA | 49,699 | 82,599 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| ARKANSAS | | |
| AIR FORCE | | |
| LITTLE ROCK AIR FORCE BASE | | |
| C-130J ADDITION/ALTERATION SIMULATOR FACILITY | 5,031 | 5,031 |
| CHILD DEVELOPMENT CENTER | --- | 3,900 |
| ARMY NATIONAL GUARD | | |
| CAMP ROBINSON | | |
| ARMY AVIATION SUPPORT FACILITY | 33,020 | 33,020 |
| FORT CHAFFEE | | |
| AMMUNITION SUPPLY POINT | 13,798 | 13,798 |
| AIR NATIONAL GUARD | | |
| FORT SMITH | | |
| VEHICLE MAINTENANCE AND AEROSPACE COMPLEX | --- | 6,000 |
| TOTAL, ARKANSAS | 51,849 | 61,749 |
| CALIFORNIA | | |
| ARMY | | |
| FORT IRWIN | | |
| CRIMINAL INVESTIGATION COMMAND FIELD OPERATIONS BUILDING | 2,600 | 2,600 |
| COMMAND AND CONTROL FACILITY | 21,000 | 21,000 |
| LAND ACQUISITION (PHASE II) | 14,500 | 14,500 |
| SIERRA ARMY DEPOT | | |
| RUNWAY EXTENSION | --- | 12,600 |
| NAVY | | |
| BARSTOW | | |
| BLASTING FACILITY | --- | 4,930 |
| CAMP PENDLETON | | |
| BACHELOR ENLISTED QUARTERS | 19,975 | 19,975 |
| CLOSE COMBAT PISTOL COURSE | 6,940 | 6,940 |
| CONSOLIDATED OPERATIONS CENTER | 4,910 | 4,910 |
| TERTIARY SEWAGE TREATMENT (PHASE II) | 25,690 | 25,690 |
| WEIGHT HANDLING SHOP | 6,630 | 6,630 |
| CORONA | | |
| WARFARE ASSESSMENT LABORATORY ADDITION | --- | 9,850 |
| EL CENTRO | | |
| APRON AND HANGAR RECAPITALIZATION (PHASE I) | 33,331 | 33,331 |
| MARINE CORPS RECRUIT DEPOT | | |
| INITIAL ISSUE SUPPLY WAREHOUSE | --- | 8,110 |
| NORTH ISLAND | | |
| BASE MAIN GATE AND ENTRANCE STREET | --- | 10,180 |
| TWENTYNINE PALMS | | |
| OPERATIONAL TRAINING CENTER | --- | 15,700 |
| AIR FORCE | | |
| BEALE AIR FORCE BASE | | |
| GLOBAL HAWK ADDITION TO AEROSPACE GROUND EQUIPMENT FACILITY | 1,866 | 1,866 |
| GLOBAL HAWK UPGRADE DOCK 2 | 8,320 | 8,320 |
| EDWARDS AIR FORCE BASE | | |
| ADDITION/RENOVATE JOINT STRIKE FIGHTER COMPLEX (PHASE II) | 9,965 | 9,965 |
| TRAVIS AIR FORCE BASE | | |
| C-17 ADDITION ENGINE STORAGE FACILITY | 2,400 | 2,400 |
| C-17 UTILITIES/ROAD | 12,844 | 12,844 |
| SECURITY FORCES ARMORY/COMBAT ARMS CAMPUS | --- | 3,650 |
| DEFENSE-WIDE | | |
| CORONA | | |
| SPECIAL OPERATIONS FORCES MILITARY OPERATIONS IN URBAN TERRAIN TRAINING COMPLEX | 13,600 | 13,600 |
| NILAND | | |
| SPECIAL OPERATIONS FORCES GROUND MOBILITY SUPPORT BUILDING | 1,000 | 1,000 |
| PRESIDIO | | |
| DENTAL CLINIC | --- | 6,700 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| TRAVIS AIR FORCE BASE | | |
| REPLACE HYDRANT FUEL SYSTEM | 15,100 | 15,100 |
| ARMY NATIONAL GUARD | | |
| CAMP PARKS | | |
| READINESS CENTER (ARMY NATIONAL GUARD DIVISION REDESIGN STUDY) | 11,318 | 11,318 |
| AIR FORCE RESERVE | | |
| MARCH AIR FORCE BASE | | |
| C-17 ALTER HANGAR TOWER | 2,089 | 2,089 |
| C-17 MAINTENANCE HANGAR (PHASE II) | 7,400 | 7,400 |
| TOTAL, CALIFORNIA | 221,478 | 293,198 |
| COLORADO | | |
| ARMY | | |
| FORT CARSON | | |
| ARRIVAL DEPARTURE AREA GROUP COMPLEX (PHASE IA) | --- | 12,400 |
| BARRACKS COMPLEX - HOSPITAL AREA | 14,108 | 14,108 |
| DIGITAL MULTIPURPOSE TRAINING RANGE | 33,000 | 33,000 |
| AIR FORCE | | |
| BUCKLEY AIR FORCE BASE | | |
| CHAPEL CENTER | 6,147 | 6,147 |
| CHILD DEVELOPMENT CENTER | 6,100 | 6,100 |
| DEFENSE-WIDE | | |
| BUCKLEY AIR FORCE BASE | | |
| ADDITION/ALTERATION AEROMEDICAL CLINIC | 2,100 | 2,100 |
| ARMY NATIONAL GUARD | | |
| BUCKLEY AIR FORCE BASE | | |
| ARMY AVIATION SUPPORT FACILITY | 34,000 | 34,000 |
| FORT CARSON | | |
| AUTOMATED QUALIFICATION/TRAINING RANGE | 3,205 | 3,205 |
| ARMY RESERVE | | |
| AURORA | | |
| ADDITION/ALTERATION MILITARY EQUIPMENT PARKING | 1,758 | 1,758 |
| TOTAL, COLORADO | 100,418 | 112,818 |
| CONNECTICUT | | |
| NAVY | | |
| NEW LONDON | | |
| GATES 3 AND 5 SECURITY IMPROVEMENTS | --- | 4,420 |
| MK-10 SUBMARINE ESCAPE TRAINER | 17,100 | 17,100 |
| REPLACE PIER 6 | 28,782 | 28,782 |
| ARMY NATIONAL GUARD | | |
| SOUTHINGTON | | |
| READINESS CENTER | --- | 4,087 |
| TOTAL, CONNECTICUT | 45,882 | 54,389 |
| DELAWARE | | |
| AIR FORCE | | |
| DOVER AIR FORCE BASE | | |
| CONTROL TOWER | --- | 9,500 |
| DISTRICT OF COLUMBIA | | |
| NAVY | | |
| ANACOSTIA | | |
| ATOMIC CLOCK VAULT | 3,239 | 3,239 |
| DEFENSE-WIDE | | |
| BOLLING AIR FORCE BASE | | |
| HEATING, VENTILATION, AND AIR CONDITIONING UPGRADE TO DEFENSE INTELLIGENCE ANALYSIS CENTER | 6,000 | 6,000 |
| TOTAL, DISTRICT OF COLUMBIA | 9,239 | 9,239 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| FLORIDA | | |
| ARMY | | |
| CAMP RUDDER (FORT BENNING) | | |
| REVITALIZE RANGER BARRACKS 6012 | --- | 1,850 |
| NAVY | | |
| EGLIN AIR FORCE BASE | | |
| EGLIN AIR FORCE BASE ROAD CONSTRUCTION | 2,060 | 2,060 |
| MAYPORT | | |
| AIRFIELD CONTROL TOWER | 6,200 | 6,200 |
| AIR FORCE | | |
| PATRICK AIR FORCE BASE | | |
| SECURITY FORCES OPERATIONS FACILITY | --- | 8,800 |
| TYNDALL AIR FORCE BASE | | |
| 1 AF HEADQUARTERS/AFFOR CENTER (PHASE I) | --- | 10,200 |
| F-22 OPERATIONS FACILITY ADDITION | 1,548 | --- |
| F-22 SQUADRON OPERATIONS/AIRCRAFT MAINTENANCE UNIT/HANGAR | 17,414 | 7,414 |
| DEFENSE-WIDE | | |
| HURLBURT FIELD | | |
| SOF OPERATIONS TRAINING FACILITY | --- | 2,500 |
| JACKSONVILLE | | |
| HOSPITAL ADDITION/ALTERATION | 28,438 | 28,438 |
| ARMY NATIONAL GUARD | | |
| CAMP BLANDING | | |
| REGIONAL TRAINING INSTITUTE (PHASE I) | --- | 12,000 |
| AIR NATIONAL GUARD | | |
| JACKSONVILLE | | |
| F-15 CORROSION CONTROL FACILITY | --- | 4,000 |
| NAVY RESERVE | | |
| JACKSONVILLE | | |
| RESERVE TRAINING CENTER | 9,300 | 9,300 |
| TOTAL, FLORIDA | 64,960 | 92,762 |
| GEORGIA | | |
| ARMY | | |
| FORT BENNING | | |
| BARRACKS COMPLEX - KELLEY HILL/MAIN POST | 49,565 | 49,565 |
| HAZARDOUS CARGO LOADING APRON | 3,850 | 3,850 |
| PHYSICAL FITNESS TRAINING CENTER | 18,362 | 18,362 |
| FORT GILLEM | | |
| RECRUITING BRIGADE OPERATIONS BUILDING | 5,800 | 5,800 |
| FORT MCPHERSON | | |
| CHILD DEVELOPMENT CENTER | 4,900 | 4,900 |
| FORT STEWART | | |
| AIRCRAFT MAINTENANCE HANGAR (SPECIAL OPERATIONS FORCES) | 21,100 | 21,100 |
| BARRACKS COMPLEX-5TH & 16TH ST (PHASE II) | 32,950 | 32,950 |
| CHAPEL | 9,500 | 9,500 |
| COMMAND AND CONTROL FACILITY | 24,695 | 24,695 |
| TACTICAL EQUIPMENT COMPLEX | 10,200 | 10,200 |
| NAVY | | |
| KINGS BAY | | |
| ENCLAVE FENCING AND PARKING | 16,000 | 16,000 |
| AIR FORCE | | |
| MOODY AIR FORCE BASE | | |
| CONSOLIDATED BASE SUPPORT CENTER | --- | 9,600 |
| ROBINS AIR FORCE BASE | | |
| AIRCRAFT RAMP | 15,000 | 15,000 |
| FIRE/CRASH RESCUE STATION | --- | 6,900 |
| DEFENSE-WIDE | | |
| FORT BENNING | | |
| CONSOLIDATED HEALTH CLINIC | 7,100 | 7,100 |
| FORT STEWART | | |
| SPECIAL OPERATIONS FORCES BATTALION OPERATIONS COMPLEX | 17,600 | 17,600 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| ARMY NATIONAL GUARD | | |
| SAVANNAH | | |
| ARMY AVIATION SUPPORT FACILITY | 16,554 | 16,554 |
| AIR FORCE RESERVE | | |
| DOBBINS | | |
| UPGRADE MAINTENANCE BAYS | --- | 10,000 |
| TOTAL, GEORGIA | 253,176 | 279,676 |
| HAWAII | | |
| ARMY | | |
| HELEMANO | | |
| DRUM ROAD UPGRADE (PHASE I) | 27,000 | 27,000 |
| TANK TRAILS - HELEMANO | 7,300 | 7,300 |
| HICKAM AIR FORCE BASE | | |
| HOT CARGO PAD EXPANSION | 11,200 | 11,200 |
| POHAKULOA TRAINING AREA (PTA) | | |
| SADDLE ROAD (PHASE IIB) | --- | 8,000 |
| WEST PTA MODIFICATIONS | 30,000 | 30,000 |
| SCHOFIELD BARRACKS | | |
| BARRACKS COMPLEX RENEWAL - CAPRON AVE (PHASE III) | 48,000 | 48,000 |
| BARRACKS COMPLEX - QUAD E (PHASE II) | 36,000 | 36,000 |
| BATTLE AREA LIVE FIRE COMPLEX | 32,000 | 32,000 |
| COMBINED ARMS COLLECTIVE TRAINING FACILITY | 32,542 | 32,542 |
| FIRE STATION | 4,800 | 4,800 |
| QUALIFICATION TRAINING RANGE | 4,950 | 4,950 |
| TACTICAL VEHICLE WASH FACILITY | 3,500 | 3,500 |
| VEHICLE MAINTENANCE FACILITY (PHASE I) | 49,000 | 49,000 |
| WHEELER AIR FORCE BASE | | |
| DEPLOYMENT FACILITY | 24,000 | 24,000 |
| NAVY | | |
| PEARL HARBOR | | |
| DRYDOCK 4 SHOREPOWER IMPROVEMENTS | --- | 5,100 |
| AIR FORCE | | |
| HICKAM AIR FORCE BASE | | |
| C-17 ALTER MAINTENANCE/SUPPLY AREAS | 9,000 | 9,000 |
| C-17 CLEAR WATER RINSE | 4,300 | 4,300 |
| C-17 MAINTENANCE SHOP FACILITY | 8,200 | 8,200 |
| C-17 MUNITIONS STORAGE | 1,950 | 1,950 |
| C-17 SUPPORT UTILITIES (PHASE II) | 2,450 | 2,450 |
| ELECTRICAL UPGRADE | --- | 5,000 |
| MAUI | | |
| AEOS PRIMARY MIRROR COATING FACILITY | --- | 7,500 |
| DEFENSE-WIDE | | |
| PEARL HARBOR | | |
| MULTI-PRODUCT INTERFACE TANK | 3,500 | 3,500 |
| TOTAL, HAWAII | 339,692 | 365,292 |
| IDAHO | | |
| AIR NATIONAL GUARD | | |
| GOWEN FIELD | | |
| ADD/ALTER BASE SUPPLY COMPLEX | --- | 3,500 |
| ILLINOIS | | |
| NAVY | | |
| GREAT LAKES | | |
| BATTLE STATION TRAINING FACILITY (PHASE II) | 58,200 | 58,200 |
| RTC BARRACKS | 35,920 | 35,920 |
| RTC BARRACKS | 38,851 | 38,851 |
| ARMY NATIONAL GUARD | | |
| GALESBURG | | |
| READINESS CENTER (PHASE II) (ADRS) | --- | 4,400 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| SPRINGFIELD | | |
| THE ARMY SCHOOL SYSTEM (MULTIFUNCTIONAL FACILITY) | 13,596 | 13,596 |
| TOTAL, ILLINOIS | 146,567 | 150,967 |
| INDIANA | | |
| NAVY | | |
| CRANE | | |
| COTS PRODUCT ASSURANCE & TEST MANAGEMENT FACILITY | --- | 12,600 |
| ARMY NATIONAL GUARD | | |
| GARY-CHICAGO REGIONAL AIRPORT | | |
| ARMED FORCES RESERVE CENTER | --- | 9,380 |
| REMINGTON | | |
| ADDITION/ALTERATION READINESS CENTER (ADRS) | 1,458 | 1,458 |
| TOTAL, INDIANA | 1,458 | 23,438 |
| IOWA | | |
| ARMY NATIONAL GUARD | | |
| CAMP DODGE | | |
| COMPANY GRADE BOQ | --- | 3,485 |
| KANSAS | | |
| ARMY | | |
| FORT LEAVENWORTH | | |
| LEWIS & CLARK INSTRUCTIONAL FACILITY (PHASE II) | 44,000 | 44,000 |
| FORT RILEY | | |
| BARRACKS COMPLEX RENEWAL | 41,000 | 41,000 |
| COMMUNICATIONS CENTER | 3,050 | 3,050 |
| MAINTENANCE FACILITY REVITALIZATION | --- | 15,500 |
| ARMY NATIONAL GUARD | | |
| TOPEKA | | |
| ADDITION/ALTERATION READINESS CENTER (ADRS) | 3,086 | 3,086 |
| AIR NATIONAL GUARD | | |
| FORBES FIELD | | |
| REPLACE OPERATIONS AND TRAINING COMPLEX | --- | 9,800 |
| ARMY RESERVE | | |
| HAYS | | |
| ARMY RESERVE CENTER/ORGANIZATIONAL MAINTENANCE SHOP | 7,451 | 7,451 |
| NEW CENTURY | | |
| AR CENTER/OMS/AMSA/UNH STORAGE | --- | 8,723 |
| TOTAL, KANSAS | 98,587 | 132,610 |
| KENTUCKY | | |
| ARMY | | |
| FORT CAMPBELL | | |
| BARRACKS COMPLEX - 42ND ST/INDIANA AVE (PHASE I) | 30,000 | 30,000 |
| COMMAND AND CONTROL FACILITY | 33,000 | 33,000 |
| SHOOT HOUSE | 1,600 | 1,600 |
| FORT KNOX | | |
| BASIC COMBAT TRAINING COMPLEX 1 (PHASE I) | 50,000 | 50,000 |
| SHOOT HOUSE | --- | 1,850 |
| URBAN ASSAULT COURSE | --- | 1,900 |
| DEFENSE-WIDE | | |
| FORT CAMPBELL | | |
| AQUATIC TRAINING FACILITY | --- | 3,500 |
| TOTAL, KENTUCKY | 114,600 | 121,850 |
| LOUISIANA | | |
| ARMY | | |
| FORT POLK | | |
| AMMUNITION SUPPLY POINT UPGRADE | 7,500 | 7,500 |
| FIXED WING AIRCRAFT PARKING APRON | 25,000 | 25,000 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| HAZARDOUS CARGO LOADING APRON | 14,503 | 14,503 |
| PALLET PROCESSING FACILITY | 8,800 | 8,800 |
| PASSENGER PROCESSING FACILITY | 11,700 | 11,700 |
| URBAN ASSAULT COURSE | 3,450 | 3,450 |
| AIR FORCE | | |
| BARKSDALE AIR FORCE BASE | | |
| DORMITORY (168 ROOM) | 13,800 | 13,800 |
| ARMY NATIONAL GUARD | | |
| CAMP BEAUREGARD | | |
| ARMY AVIATION SUPPORT FACILITY | 15,738 | 15,738 |
| NAVY RESERVE | | |
| NEW ORLEANS | | |
| CHILD DEVELOPMENT CENTER | --- | 3,450 |
| INDOOR SMALL ARMS RANGE | --- | 2,580 |
| AIR FORCE RESERVE | | |
| BARKSDALE AIR FORCE BASE | | |
| SQUADRON OPERATIONS FACILITY | --- | 4,800 |
| TOTAL, LOUISIANA | 100,491 | 111,321 |
| MAINE | | |
| NAVY | | |
| NAVAL AIR STATION BRUNSWICK | | |
| WEAPONS MAGAZINE REPLACEMENT | --- | 6,220 |
| MARYLAND | | |
| ARMY | | |
| ABERDEEN PROVING GROUND | | |
| CHEMICAL AND BIOLOGICAL SAMPLE RECEPTION FACILITY | --- | 13,000 |
| FORT DETRICK | | |
| REMOTE TRUCK INSPECTION STATION | --- | 4,000 |
| NAVY | | |
| INDIAN HEAD | | |
| AGILE CHEMICAL FACILITY | 13,900 | 13,900 |
| JOINT AIRCREW ESCAPE COMPONENT CENTER | --- | 9,100 |
| AIR FORCE | | |
| ANDREWS AIR FORCE BASE | | |
| ASA - ALTER AIRCRAFT SUPPORT FACILITIES | 5,000 | 5,000 |
| ASA - FIGHTER AIRCRAFT ALERT COMPLEX | 11,000 | 11,000 |
| ASA - MUNITIONS STORAGE IGLOO | 1,100 | 1,100 |
| DEFENSE-WIDE | | |
| FORT MEADE | | |
| CRITICAL COMMUNICATIONS PATH | 3,450 | 3,450 |
| NATIONAL SECURITY AGENCY DEEP WELLS | 8,140 | 8,140 |
| RECONFIGURED CHILLED WATER (PHASE II) | 3,417 | 3,417 |
| ARMY RESERVE | | |
| FORT MEADE | | |
| ARMY RESERVE CENTER/ORGANIZATIONAL MAINTENANCE SHOP/WAREHOUSE (PHASE II) | 14,642 | 14,642 |
| TOTAL, MARYLAND | 60,649 | 86,749 |
| MASSACHUSETTS | | |
| AIR NATIONAL GUARD | | |
| OTIS AIR NATIONAL GUARD BASE | | |
| ELIMINATE AIRFIELD OBSTRUCTIONS | 4,000 | 4,000 |
| REPLACE CONTROL TOWER | --- | 7,000 |
| AIR FORCE RESERVE | | |
| WESTOVER AIR RESERVE BASE | | |
| OPERATIONS FACILITY | --- | 4,400 |
| TOTAL, MASSACHUSETTS | 4,000 | 15,400 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| MICHIGAN | | |
| ARMY NATIONAL GUARD | | |
| GRAND LEDGE | | |
| ARMY AVIATION SUPPORT FACILITY | 27,600 | 27,600 |
| AIR NATIONAL GUARD | | |
| SELFRIDGE | | |
| JOINT SECURITY FORCES OPERATIONS CENTER | --- | 9,700 |
| VISITORS CENTER AND ID COMPLEX | --- | 4,000 |
| W.K. KELLOGG | | |
| FIRE AND CRASH RESCUE STATION | --- | 5,100 |
| TOTAL, MICHIGAN | 27,600 | 46,400 |
| MINNESOTA | | |
| AIR NATIONAL GUARD | | |
| DULUTH INTERNATIONAL AIRPORT | | |
| ASA - CREW QUARTERS | 3,000 | 3,000 |
| ASA - ARM, DEARM APRON AND TAXIWAY | 4,000 | 4,000 |
| ASA - RELOCATE BASE ENTRANCE ROAD | 3,500 | 3,500 |
| AIR FORCE RESERVE | | |
| MINNEAPOLIS-ST. PAUL INTERNATIONAL AIRPORT | | |
| AIR RESERVE STATION OPERATIONS FACILITY | --- | 4,950 |
| ADD/ALTER JOINT USE PHYSICAL FITNESS CENTER | --- | 4,400 |
| TOTAL, MINNESOTA | 10,500 | 19,850 |
| MISSISSIPPI | | |
| NAVY | | |
| GULFPORT | | |
| VEHICLE MAINTENANCE FACILITY | --- | 4,350 |
| AIR FORCE | | |
| COLUMBUS AIR FORCE BASE | | |
| FIRE AND CRASH RESCUE STATION | --- | 7,700 |
| ARMY NATIONAL GUARD | | |
| CAMP SHELBY | | |
| MOUT COLLECTIVE TRAINING FACILITY (SMALL) | --- | 5,300 |
| WASTEWATER TREATMENT FACILITY | --- | 2,700 |
| GULFPORT | | |
| ORGANIZATIONAL MAINTENANCE SHOP | --- | 4,650 |
| TOTAL, MISSISSIPPI | --- | 24,700 |
| MISSOURI | | |
| ARMY | | |
| FORT LEONARD WOOD | | |
| MINE DETECTION DOG KENNEL | --- | 3,700 |
| COUNTERMINE TRAINING COMPLEX | --- | 10,400 |
| RANGE | 2,750 | 2,750 |
| WEAPONS OF MASS DESTRUCTION RESPONDER TRAINING FACILITY | 15,000 | 15,000 |
| AIR FORCE | | |
| WHITEMAN AIR FORCE BASE | | |
| CHILD DEVELOPMENT CENTER | --- | 7,600 |
| TOTAL, MISSOURI | 17,750 | 39,450 |
| MONTANA | | |
| AIR FORCE | | |
| MALMSTROM AIR FORCE BASE | | |
| CORROSION CONTROL FACILITY | --- | 5,600 |
| ARMY NATIONAL GUARD | | |
| DILLON | | |
| READINESS CENTER | --- | 4,786 |
| HAVRE AIR FORCE STATION | | |
| READINESS CENTER, ADDITION/ALTERATION (ARMY NATIONAL GUARD DIVISION REDESIGN STUDY) | 2,398 | 2,398 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| HELENA | | |
| ARMY AVIATION SUPPORT FACILITY ADDITION/ALTERATION (PHASE I) | 7,600 | 7,600 |
| TOTAL, MONTANA | 9,998 | 20,384 |
| NEBRASKA | | |
| AIR FORCE | | |
| OFFUTT AIR FORCE BASE | | |
| CONTROL TOWER | --- | 6,221 |
| ARMY NATIONAL GUARD | | |
| HASTINGS | | |
| MODIFIED RECORD FIRE RANGE (REMOTE TARGET SYSTEMS) | 1,487 | 1,487 |
| TOTAL, NEBRASKA | 1,487 | 7,708 |
| NEVADA | | |
| NAVY | | |
| FALLON | | |
| HIGH EXPLOSIVES MAGAZINE | --- | 4,980 |
| ARMY NATIONAL GUARD | | |
| HENDERSON | | |
| READINESS CENTER | --- | 12,853 |
| TOTAL, NEVADA | --- | 17,833 |
| NEW HAMPSHIRE | | |
| AIR NATIONAL GUARD | | |
| PEASE INTERNATIONAL TRADEPORT | | |
| UPGRADE AIRCRAFT PARKING APRON (PHASE II) | --- | 4,900 |
| NEW JERSEY | | |
| ARMY | | |
| PICATINNY ARSENAL | | |
| PYROTECHNICS FACILITY | --- | 9,900 |
| NAVY | | |
| EARLE | | |
| GENERAL PURPOSE/BERTHING PIER (PHASE II) | 49,200 | 49,200 |
| AIR NATIONAL GUARD | | |
| ATLANTIC CITY INTERNATIONAL AIRPORT | | |
| ASA - REPLACE ALERT COMPLEX | 10,400 | 10,400 |
| REPLACE ALERT 2 SHELTERS | --- | 2,300 |
| ARMY RESERVE | | |
| FORT DIX | | |
| CONTROLLED HUMIDITY STORAGE (PHASE I) | --- | 9,502 |
| TOTAL, NEW JERSEY | 59,600 | 81,302 |
| NEW MEXICO | | |
| ARMY | | |
| WHITE SANDS | | |
| ELECTROMAGNETIC VULNERABILITY ASSESSMENT | 33,000 | 33,000 |
| AIR FORCE | | |
| CANNON AIR FORCE BASE | | |
| DINING HALL/AIRMEN'S CENTER | --- | 9,500 |
| KIRTLAND AIR FORCE BASE | | |
| CORROSION CONTROL FACILITY | --- | 9,200 |
| TOTAL, NEW MEXICO | 33,000 | 51,700 |
| NEW YORK | | |
| ARMY | | |
| BUFFALO | | |
| MILITARY ENTRANCE PROCESSING STATION | 6,200 | 6,200 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| FORT DRUM | | |
| AIRFIELD ARRIVAL/DEPARTURE FACILITY | 4,950 | 4,950 |
| BARRACKS COMPLEX - WHEELER SACK ARMY AIRFIELD (PHASE II) | 48,000 | 48,000 |
| DEFENSIVE LIVE FIRE RANGE | --- | 3,000 |
| UPGRADE EDUCATIONAL TRANSITIONAL FACILITIES | --- | 5,700 |
| FORT HAMILTON | | |
| MILITARY POLICE STATION | 7,600 | 7,600 |
| HANCOCK FIELD | | |
| MILITARY ENTRANCE PROCESSING STATION | --- | 6,000 |
| U.S. MILITARY ACADEMY | | |
| LIBRARY AND LEARNING CENTER (PHASE I) | 34,500 | 34,500 |
| ARMY NATIONAL GUARD | | |
| AUBURN | | |
| ORGANIZATIONAL MAINTENANCE SHOP (ARMY NATIONAL GUARD DIVISION REDESIGN STUDY (ADRS)) | 2,472 | 2,472 |
| ADDITION/ALTERATION READINESS CENTER (ADRS) | 4,406 | 4,406 |
| FORT DRUM | | |
| READINESS CENTER (ADRS) | 6,489 | 6,489 |
| KINGSTON | | |
| ORGANIZATIONAL MAINTENANCE SHOP ADDITION/ ALTERATION (ADRS) | 3,827 | 3,827 |
| UTICA | | |
| ADDITION/ALTERATION READINESS CENTER (ADRS) | 5,704 | 5,704 |
| AIR NATIONAL GUARD | | |
| HANCOCK FIELD | | |
| REPLACE MOBILITY PROCESSING CENTER | --- | 2,300 |
| AIR FORCE RESERVE | | |
| NIAGARA | | |
| FIRE AND CRASH RESCUE STATION | --- | 7,800 |
| TOTAL, NEW YORK | 124,148 | 148,948 |
| NORTH CAROLINA | | |
| ARMY | | |
| FORT BRAGG | | |
| AIR TRAFFIC CONTROL TOWER | 2,500 | 2,500 |
| BARRACKS COMPLEX - ARMISTEAD ST (PHASE II) | --- | 10,000 |
| BARRACKS COMPLEX RENEWAL BLACKJACK ST (PHASE I) | 49,000 | 49,000 |
| BARRACKS COMPLEX - BASTOGNE DR (PHASE II) | 48,000 | 48,000 |
| BARRACKS COMPLEX - DONOVAN STREET (PHASE V) | 15,500 | 15,500 |
| SHOOT HOUSE | 2,037 | 2,037 |
| SHOOT HOUSE | 1,650 | 1,650 |
| NAVY | | |
| CAMP LEJEUNE | | |
| ARMORY - CAMP GEIGER | 4,010 | 4,010 |
| COMBAT TRAINING POOL | 2,410 | 2,410 |
| EXPLOSIVE ORDANCE DISPOSAL OPERATIONS FACILITY | --- | 4,610 |
| NEW RIVER | | |
| ADD TO SIMULATOR BUILDING | 2,270 | 2,270 |
| AIRCRAFT MAINTENANCE TRAINING FACILITY | 12,090 | 12,090 |
| BACHELOR ENLISTED QUARTERS | 20,780 | 20,780 |
| NAVAL OUTLYING LANDING FIELD WASHINGTON COUNTY | | |
| OUTLYING LANDING FIELD FACILITIES (PHASE II) | 33,900 | 15,000 |
| OUTLYING LANDING FIELD LAND ACQUISITION (PHASE I) | 61,750 | 15,000 |
| AIR FORCE | | |
| POPE AIR FORCE BASE | | |
| COMBAT CONTROLLER SCHOOL EXPANSION | 12,950 | 12,950 |
| INDOOR FIRING RANGE FOR COMBAT CONTROL SCHOOL | 2,200 | 2,200 |
| DEFENSE-WIDE | | |
| CHERRY POINT MARINE CORPS AIR STATION | | |
| REPLACE HYDRANT FUEL SYSTEM | 22,700 | 22,700 |
| FORT BRAGG | | |
| KENNEDY HALL RENOVATION | 11,988 | 11,988 |
| SPECIAL OPERATIONS FORCES COMPANY OPERATIONS BUILDING | 4,600 | 4,600 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| SPECIAL OPERATIONS FORCES COMPANY OPERATIONS COMPLEX | 12,000 | 12,000 |
| SPECIAL OPERATIONS FORCES COMPANY OPERATIONS FACILITY | 4,500 | 4,500 |
| SPECIAL OPERATIONS FORCES ISOLATION UNIT TRAINING FACILITY | 8,300 | 8,300 |
| SPECIAL OPERATIONS FORCES RESISTANCE TRAINING FACILITY | 1,500 | 1,500 |
| ARMY NATIONAL GUARD | | |
| BURLINGTON | | |
| ADDITION/ALTERATION READINESS CENTER (ADRS) | 1,360 | 1,360 |
| FORT BRAGG | | |
| REGIONAL TRAINING INSTITUTE (PHASE III) | 6,319 | 6,319 |
| WINDSOR | | |
| ORGANIZATIONAL MAINTENANCE SHOP (ARMY NATIONAL GUARD DIVISION REDESIGN STUDY) | 2,409 | 2,409 |
| NAVY RESERVE | | |
| ASHEVILLE | | |
| RESERVE CENTER | 3,492 | 3,492 |
| WILMINGTON | | |
| RESERVE TRAINING CENTER | --- | 7,000 |
| AIR FORCE RESERVE | | |
| SEYMOUR JOHNSON AIR FORCE BASE | | |
| RESERVE SECURITY FORCES OPERATIONS | 2,300 | 2,300 |
| TOTAL, NORTH CAROLINA | 352,515 | 308,475 |
| NORTH DAKOTA | | |
| AIR FORCE | | |
| MINOT AIR FORCE BASE | | |
| ADD/ALTER DOCK 1 TO MULTI-PURPOSE HANGAR | --- | 8,900 |
| OHIO | | |
| AIR FORCE | | |
| WRIGHT-PATTERSON AIR FORCE BASE | | |
| REPLACE STEAM LINES/TUNNELS, AREA B (PHASE IA) | --- | 9,200 |
| DEFENSE-WIDE | | |
| COLUMBUS | | |
| REPLACE PHYSICAL FITNESS FACILITY | 5,500 | --- |
| ARMY NATIONAL GUARD | | |
| COLUMBUS | | |
| COMBINED SUPPORT MAINTENANCE SHOP (PHASE I) | --- | 9,980 |
| ORGANIZATIONAL MAINTENANCE SHOP (ARMY NATIONAL GUARD DIVISION REDESIGN STUDY) | 2,225 | 2,225 |
| AIR NATIONAL GUARD | | |
| TOLEDO EXPRESS AIRPORT | | |
| REPLACE LOGISTICS COMPLEX | --- | 6,900 |
| AIR FORCE RESERVE | | |
| WRIGHT-PATTERSON AIR FORCE BASE | | |
| C-5 AIRFIELD PAVEMENTS (PHASE I) | 4,300 | 4,300 |
| C-5 MULTI-PURPOSE HANGAR | 16,821 | 16,821 |
| TOTAL, OHIO | 28,846 | 49,426 |
| OKLAHOMA | | |
| ARMY | | |
| FORT SILL | | |
| CIDC FIELD OPERATIONS BUILDING | --- | 3,400 |
| CONSOLIDATED MAINTENANCE COMPLEX (PHASE III) | 13,100 | 13,100 |
| VEHICLE MAINTENANCE FACILITY | 14,400 | 14,400 |
| AIR FORCE | | |
| ALTUS AIR FORCE BASE | | |
| BASE CIVIL ENGINEERING COMPLEX (PHASE II) | --- | 7,000 |
| TINKER AIR FORCE BASE | | |
| ADDITION TO INTEGRATED SUPPORT FACILITY | --- | 8,000 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| DEFENSE-WIDE | | |
| TINKER AIR FORCE BASE | | |
| ADDITION/ALTERATION HYDRANT FUEL SYSTEM.......... | 5,400 | 5,400 |
| ARMY NATIONAL GUARD | | |
| CAMP GRUBER TRAINING CENTER | | |
| MULTI-PURPOSE MACHINE GUN RANGE.................... | --- | 3,201 |
| TOTAL, OKLAHOMA................................ | 32,900 | 54,501 |
| OREGON | | |
| ARMY NATIONAL GUARD | | |
| EUGENE | | |
| ARMED FORCES RESERVE CENTER (PHASE II)........... | 12,635 | 12,635 |
| SALEM | | |
| ARMY AVIATION SUPPORT FACILITY................... | --- | 4,917 |
| AIR FORCE RESERVE | | |
| PORTLAND | | |
| ADDITION/ALTERATION BUILDING 315 FOR PJ SQUADRON OPERATIONS.................................... | 1,640 | 1,640 |
| CONSOLIDATED TRAINING BUILDING (PHASE II)......... | 3,800 | 3,800 |
| MAINTENANCE HANGAR AND PAVEMENTS................. | 12,400 | 12,400 |
| TOTAL, OREGON.................................. | 30,475 | 35,392 |
| PENNSYLVANIA | | |
| ARMY | | |
| LETTERKENNY ARMY DEPOT | | |
| IGLOO UPGRADE.................................... | --- | 5,400 |
| DEFENSE-WIDE | | |
| DEFENSE DISTRIBUTION DEPOT NEW CUMBERLAND | | |
| CONSOLIDATED MAINTENANCE FACILITY................ | 22,300 | 22,300 |
| ARMY NATIONAL GUARD | | |
| FORT INDIANTOWN GAP | | |
| UNIT TRAINING EQUIPMENT SITE..................... | --- | 20,387 |
| ARMY RESERVE | | |
| FORT INDIANTOWN GAP | | |
| ARMY RESERVE CENTER/ORGANIZATIONAL MAINTENANCE SHOP........................................ | 13,156 | 13,156 |
| NAVY RESERVE | | |
| WILLOW GROVE | | |
| FITNESS CENTER................................... | 7,700 | 7,700 |
| TOTAL, PENNSYLVANIA............................ | 43,156 | 68,943 |
| RHODE ISLAND | | |
| NAVY | | |
| NAVAL STATION NEWPORT | | |
| BULK FUEL STORAGE TANK........................... | --- | 5,490 |
| SOUTH CAROLINA | | |
| NAVY | | |
| BEAUFORT | | |
| AIRCRAFT FIRE AND RESCUE FACILITY................ | --- | 5,480 |
| NAVAL WEAPONS STATION CHARLESTON | | |
| ELECTRONIC INTEGRATION AND SUPPORT FACILITY....... | --- | 12,209 |
| AIR FORCE | | |
| SHAW AIR FORCE BASE | | |
| BASE LIBRARY..................................... | --- | 3,700 |
| SEWER OUTFALL LINE TO WATEREE RIVER.............. | 3,300 | 3,300 |
| DEFENSE-WIDE | | |
| PARRIS ISLAND | | |
| MEDICAL/DENTAL CLINIC REPLACEMENT................ | 25,000 | 25,000 |
| TOTAL, SOUTH CAROLINA.......................... | 28,300 | 49,889 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| SOUTH DAKOTA | | |
| AIR FORCE | | |
| ELLSWORTH AIR FORCE BASE | | |
| BASE OPERATIONS CENTER | --- | 9,867 |
| ARMY NATIONAL GUARD | | |
| MOBRIDGE | | |
| READINESS CENTER | 2,944 | 2,944 |
| AIR NATIONAL GUARD | | |
| JOE FOSS FIELD | | |
| SQUADRON OPERATIONS FACILITY | --- | 7,000 |
| TOTAL, SOUTH DAKOTA | 2,944 | 19,811 |
| TENNESSEE | | |
| AIR FORCE | | |
| ARNOLD AIR FORCE BASE | | |
| ADD/ALTER WINGO INN VISITING QUARTERS | --- | 2,500 |
| UPGRADE JET ENGINE AIR INDUCTION SYSTEM (PHASE V) | 22,000 | 22,000 |
| ARMY NATIONAL GUARD | | |
| NASHVILLE | | |
| READINESS CENTER (PHASE I) | --- | 9,142 |
| SMYRNA | | |
| JOINT ARMED FORCES RESERVE CENTER | --- | 13,589 |
| AIR NATIONAL GUARD | | |
| MEMPHIS INTERNATIONAL AIRPORT | | |
| C-5 AIRCRAFT PARKING APRON AND HYDRANT REFUEL | 15,500 | 15,500 |
| C-5 CORROSION CONTROL HANGAR | 26,000 | 26,000 |
| C-5 SITE PREPARATION | --- | 5,000 |
| TOTAL, TENNESSEE | 63,500 | 93,731 |
| TEXAS | | |
| ARMY | | |
| FORT BLISS | | |
| MISSILE DEFENSE INSTRUCTION FACILITY | 16,500 | 16,500 |
| TACTICAL EQUIPMENT SHOP - AAMDC | --- | 2,900 |
| FORT HOOD | | |
| BARRACKS COMPLEX | 49,888 | 49,888 |
| COMMAND AND CONTROL FACILITY (PHASE II) | --- | 7,100 |
| DIGITAL MULTIPURPOSE RANGE | 28,200 | 28,200 |
| FORT SAM HOUSTON | | |
| GENERAL INSTRUCTION BUILDING | --- | 11,400 |
| AIR FORCE | | |
| DYESS AIR FORCE BASE | | |
| FIRE CRASH RESCUE STATION | --- | 11,000 |
| REFUELING VEHICLE MAINTENANCE SHOP | --- | 3,300 |
| LACKLAND AIR FORCE BASE | | |
| SECURITY FORCES TRAINING EXPANSION | 2,596 | 2,596 |
| LAUGHLIN AIR FORCE BASE | | |
| T-1 SQUADRON OPERATIONS FACILITY | --- | 6,900 |
| SHEPPARD AIR FORCE BASE | | |
| F-22 TECHNICAL TRAINING FACILITY | 21,284 | 21,284 |
| STUDENT DORMITORY (300 ROOM) | 29,000 | 29,000 |
| DEFENSE-WIDE | | |
| KINGSVILLE | | |
| REPLACE JET FUEL STORAGE TANK | 3,900 | 3,900 |
| ARMY RESERVE | | |
| CORPUS CHRISTI STORAGE COMPLEX | | |
| CONTROLLED HUMIDITY STORAGE (PHASE I) | --- | 9,038 |
| NAVY RESERVE | | |
| FORT WORTH | | |
| COMBINED RESERVE TRAINING ADMINISTRATIVE BUILDING | --- | 5,520 |
| AIR FORCE RESERVE | | |
| FORT WORTH | | |
| AIRCRAFT PARTS STORE | --- | 1,850 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| LACKLAND AIR FORCE BASE | | |
| ADDITION/ALTERATION C-5 AIRCRAFT GENERATION FACILITY | 1,200 | 1,200 |
| C-5 TRAINING LOAD ASSEMBLY FACILITY | 1,850 | 1,850 |
| C-5 TRAINING SCHOOLHOUSE COMPLEX | 20,000 | 20,000 |
| TOTAL, TEXAS | 174,418 | 233,426 |
| UTAH | | |
| AIR FORCE | | |
| HILL AIR FORCE BASE | | |
| 729TH ACS OPERATOINS/MAINTENANCE FACILITY | --- | 4,900 |
| FITNESS CENTER | 13,113 | 13,113 |
| ICBM PROPELLANT ANALYSIS COMPLEX | --- | 7,700 |
| ARMY RESERVE | | |
| OGDEN | | |
| ADDITION/ALTERATION ARMY RESERVE CENTER | 7,932 | 7,932 |
| TOTAL, UTAH | 21,045 | 33,645 |
| VERMONT | | |
| AIR NATIONAL GUARD | | |
| BURLINGTON INTERNATIONAL AIRPORT | | |
| AIR MOBILIZATION FACILITY | --- | 6,000 |
| VIRGINIA | | |
| ARMY | | |
| FORT A.P. HILL | | |
| MOUT FACILITY (PHASE I) | --- | 6,800 |
| SHOOT HOUSE | 3,975 | 3,975 |
| FORT LEE | | |
| FIRE AND EMERGENCY SERVICES CENTER (PHASE III) | --- | 4,250 |
| FORT MYER | | |
| BARRACKS COMPLEX - SHERIDAN AVE (PHASE I) | 49,526 | 49,526 |
| NAVY | | |
| CAMP ELMORE MARINE CORPS DETACHMENT | | |
| COMMAND OPERATIONS FACILITY | 13,500 | 13,500 |
| LITTLE CREEK | | |
| GATE 5 SECURITY IMPROVEMENTS | 2,850 | 2,850 |
| POLICE AND SECURITY OPERATIONS FACILITY | --- | 6,370 |
| NORFOLK | | |
| GATE 5 SECURITY IMPROVEMENTS | 4,330 | 4,330 |
| PIER 11 REPLACEMENT (PHASE II) | 40,000 | 40,000 |
| OCEANA NAVAL AIR STATION | | |
| POST 2 SECURITY IMPROVEMENTS | 2,770 | 2,770 |
| QUANTICO | | |
| BACHELOR ENLISTED QUARTERS | 15,090 | 15,090 |
| GREEN SIDE HANGAR COMPLEX | 21,180 | 21,180 |
| HQ AND SERVICE BN/TBS | --- | 4,470 |
| HERITAGE CENTER ROAD IMPROVEMENTS | 950 | 950 |
| THE BASIC SCHOOL ARMORY | 4,580 | 4,580 |
| YORKTOWN | | |
| ORDNANCE HANDLING VEHICLE MAINTENANCE SHOP | 9,870 | 9,870 |
| DEFENSE-WIDE | | |
| DAM NECK | | |
| SPECIAL OPERATIONS FORCES HIGH EXPLOSIVE MAGAZINE | 1,400 | 1,400 |
| SPECIAL OPERATIONS FORCES OPERATIONAL TRAINER SUPPORT FACILITY ADDITION | 4,300 | 4,300 |
| DEFENSE DISTRIBUTION DEPOT RICHMOND | | |
| CONFERENCE CENTER | 3,600 | 3,600 |
| SECURITY ENHANCEMENTS | 6,500 | 6,500 |
| FORT A.P. HILL | | |
| SPECIAL OPERATIONS FORCES GROUND MOBILITY SUPPORT BUILDING | 1,500 | 1,500 |
| FORT BELVOIR | | |
| HOSPITAL REPLACEMENT (PHASE I) | 43,000 | 43,000 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| LANGLEY AIR FORCE BASE | | |
| ADDITION/ALTERATION HOSPITAL | 50,800 | 50,800 |
| LITTLE CREEK | | |
| BOAT SUPPORT FACILITY | 10,500 | 10,500 |
| SEAL TEAM OPERATIONS FACILITY | --- | 9,000 |
| SPECIAL OPERATIONS FORCES COMBAT SKILLS COMPOUND | 12,700 | 12,700 |
| SPECIAL OPERATIONS FORCES GROUND MOBILITY MAINTENANCE FACILITY | 1,000 | 1,000 |
| OCEANA NAVAL AIR STATION | | |
| BULK FUEL STORAGE TANK | 3,589 | 3,589 |
| ARMY NATIONAL GUARD | | |
| FORT PICKETT | | |
| INFANTRY PLATOON BATTLE COURSE | 5,170 | 5,170 |
| MILITARY OPERATIONS ON URBAN TERRAIN ASSAULT COURSE | 1,409 | 1,409 |
| NAVY RESERVE | | |
| NORFOLK | | |
| VEHICLE MAINTENANCE FACILITY | 3,290 | 3,290 |
| TOTAL, VIRGINIA | 317,379 | 348,269 |
| WASHINGTON | | |
| ARMY | | |
| FORT LEWIS | | |
| BARRACKS COMPLEX - 41ST DIVISION DR/B ST (PHASE II) | 48,000 | 48,000 |
| CHAPEL | --- | 8,200 |
| NAVY | | |
| BANGOR | | |
| LIMITED AREA PRODUCTION AND STAGING COMPLEX | 35,770 | 35,770 |
| NSWCCD DET BANGOR LAB CONSOLIDATION (PHASE I) | --- | 6,970 |
| BREMERTON | | |
| BACHELOR ENLISTED QUARTERS - SHIPBOARD ASHORE | 34,125 | 34,125 |
| PUGET SOUND | | |
| AIRCRAFT CARRIER MAINTENANCE COMPLEX | 20,305 | 20,305 |
| WHIDBEY ISLAND | | |
| HAZARDOUS MATERIALS STOREHOUSE | --- | 1,990 |
| ARMY NATIONAL GUARD | | |
| CAMP MURRAY | | |
| ADDITION/ALTERATION READINESS CENTER (ADRS) | 1,400 | 1,400 |
| ARMY RESERVE | | |
| VANCOUVER | | |
| LAND ACQUISITION | 2,500 | --- |
| TOTAL, WASHINGTON | 142,100 | 156,760 |
| WEST VIRGINIA | | |
| AIR NATIONAL GUARD | | |
| EASTERN WEST VIRGINIA REGIONAL AIRPORT (MARTINSBURG) | | |
| C-5 MAINTENANCE HANGAR AND SHOPS | 36,000 | 36,000 |
| C-5 AIRCRAFT PARKING APRON/HYDRANT SYSTEM | --- | 13,000 |
| C-5 FLIGHT SIMULATOR | --- | 4,150 |
| YEAGER AIR BASE | | |
| FIRE CRASH RESCUE STATION | --- | 6,000 |
| TOTAL, WEST VIRGINIA | 36,000 | 59,150 |
| WISCONSIN | | |
| AIR NATIONAL GUARD | | |
| TRUAX FIELD | | |
| ASA - MUNITIONS MAINTENANCE AND STORAGE COMPLEX | 5,900 | 5,900 |
| VOLK FIELD | | |
| SQUADRON OPERATIONS FACILITY | --- | 4,500 |
| ARMY RESERVE | | |
| FORT MCCOY | | |
| INFANTRY PLATOON BATTLE COURSE | 2,712 | 2,712 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| SQUAD DEFENSE RANGE | 1,248 | 1,248 |
| TOTAL, WISCONSIN | 9,860 | 14,360 |
| WYOMING | | |
| AIR FORCE | | |
| F.E. WARREN AIR FORCE BASE | | |
| UPGRADE STORM WATER DRAINAGE SYSTEM (PHASE I) | --- | 5,500 |
| BAHAMAS | | |
| NAVY | | |
| ANDROS ISLAND | | |
| BACHELOR QUARTERS | 20,750 | --- |
| DIEGO GARCIA | | |
| NAVY | | |
| DIEGO GARCIA | | |
| SOLID WASTE MANAGEMENT CENTER | 17,500 | 17,500 |
| DEFENSE-WIDE | | |
| DIEGO GARCIA | | |
| DENTAL CLINIC REPLACEMENT | 3,800 | 3,800 |
| TOTAL, DIEGO GARCIA | 21,300 | 21,300 |
| GERMANY | | |
| ARMY | | |
| GRAFENWOEHR | | |
| BARRACKS COMPLEX | 28,500 | 28,500 |
| BARRACKS COMPLEX - BRIGADE | 34,000 | 34,000 |
| BRIGADE SUPPORT COMPLEX | 14,700 | 14,700 |
| AIR FORCE | | |
| RAMSTEIN AIR BASE | | |
| SMALL DIAMETER BOMB FACILITIES | 1,200 | 1,200 |
| US AIR FORCE THEATER AEROSPACE OPERATIONS SUPPORT CENTER | 24,204 | 24,204 |
| DEFENSE-WIDE | | |
| GRAFENWOEHR | | |
| ADDITION/ALTERATION DISPENSARY/DENTAL CLINIC | 13,000 | 13,000 |
| NEW ELEMENTARY/MIDDLE SCHOOL | 36,247 | 36,247 |
| VILSECK | | |
| VILSECK HIGH SCHOOL RENOVATION/ADDITION | 9,011 | 9,011 |
| TOTAL, GERMANY | 160,862 | 160,862 |
| GREENLAND | | |
| AIR FORCE | | |
| THULE AIR BASE | | |
| DORMITORY (72 ROOM) | 19,800 | 19,800 |
| GUAM | | |
| AIR FORCE | | |
| ANDERSEN AIR FORCE BASE | | |
| WAR RESERVE STORAGE FACILITY | 19,593 | 19,593 |
| DEFENSE-WIDE | | |
| AGANA NAVAL AIR STATION | | |
| GUAM HIGH SCHOOL REPLACEMENT | 26,964 | 26,964 |
| TOTAL, GUAM | 46,557 | 46,557 |
| ITALY | | |
| ARMY | | |
| LIVORNO | | |
| WAREHOUSE OPERATIONS FACILITY | 26,000 | 26,000 |
| NAVY | | |
| SIGONELLA | | |
| ACCESS IMPROVEMENTS | 7,430 | 7,430 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| BASE OPERATIONS SUPPORT (PHASE II)............... | 15,120 | 15,120 |
| AIR FORCE | | |
| AVIANO AIR BASE | | |
| ADDITION/ALTERATION WEAPONS LOAD/MAINTENANCE TRAINING FACILITY.............................. | 2,300 | 2,300 |
| AIRFIELD OBSTRUCTION - EXPAND NORTH RAMP (PHASE I) | 1,626 | 1,626 |
| FLIGHT SIMULATOR................................. | 2,834 | 2,834 |
| TOTAL, ITALY.................................. | 55,310 | 55,310 |
| JAPAN | | |
| AIR FORCE | | |
| MISAWA AIR BASE | | |
| EXPAND STRATEGIC AIRLIFT RAMP.................... | 6,700 | --- |
| DEFENSE-WIDE | | |
| MISAWA AIR BASE | | |
| HYDRANT FUEL SYSTEM.............................. | 19,900 | --- |
| TOTAL, JAPAN.................................. | 26,600 | --- |
| KOREA | | |
| ARMY | | |
| CAMP HUMPHREYS | | |
| SANITARY SEWER SYSTEM............................ | 12,000 | 12,000 |
| AIR FORCE | | |
| KUNSAN AIR BASE | | |
| DORMITORY (144 ROOM)............................. | 18,550 | 18,550 |
| DORMITORY (144 ROOM)............................. | 18,550 | 18,550 |
| OSAN AIR BASE | | |
| DORMITORY (156 ROOM)............................. | 18,600 | 18,600 |
| TOTAL, KOREA.................................. | 67,700 | 67,700 |
| MARIANA ISLANDS | | |
| NAVY | | |
| GUAM | | |
| KILO WHARF IMPROVEMENTS.......................... | 12,500 | 12,500 |
| WATER TREATMENT PLANT UPGRADE.................... | 20,700 | 20,700 |
| DEFENSE-WIDE | | |
| GUAM | | |
| SPECIAL OPERATIONS FORCES GROUND MOBILITY SUPPORT BUILDING......................................... | 2,200 | 2,200 |
| TOTAL, MARIANA ISLANDS........................ | 35,400 | 35,400 |
| PORTUGAL | | |
| AIR FORCE | | |
| LAJES FIELD | | |
| ADDITION/ALTERATION FITNESS CENTER (PHASE II)..... | 5,689 | 5,689 |
| DEFENSE-WIDE | | |
| LAJES FIELD | | |
| REPLACE HYDRANT FUEL SYSTEM...................... | 19,113 | 19,113 |
| TOTAL, PORTUGAL............................... | 24,802 | 24,802 |
| PUERTO RICO | | |
| ARMY RESERVE | | |
| AGUADILLA | | |
| ARMY RESERVE CENTER.............................. | 21,523 | --- |
| SPAIN | | |
| NAVY | | |
| ROTA | | |
| COMMAND OPERATIONS CONSOLIDATION................. | 32,700 | 21,700 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| AIR FORCE | | |
| ROTA | | |
| AIRCRAFT PARKING APRON (PHASE II) | 14,153 | 4,325 |
| TOTAL, SPAIN | 46,853 | 26,025 |
| UNITED KINGDOM | | |
| AIR FORCE | | |
| ROYAL AIR FORCE LAKENHEATH | | |
| 4-BAY MISSION TRAINING CENTER | 5,500 | 5,500 |
| DEFENSE-WIDE | | |
| ROYAL AIR FORCE STATION MILDENHALL | | |
| SPECIAL OPERATIONS FORCES OPERATIONS/INTELLIGENCE FACILITY | 10,200 | --- |
| TOTAL, UNITED KINGDOM | 15,700 | 5,500 |
| NORTH ATLANTIC TREATY ORGANIZATION (NATO) | | |
| NATO SECURITY INVESTMENT PROGRAM | 165,800 | 165,800 |
| RESCISSION (P.L. 108-132) | --- | -5,000 |
| TOTAL, NATO | 165,800 | 160,800 |
| WORLDWIDE CLASSIFIED | | |
| AIR FORCE | | |
| CLASSIFIED LOCATION | | |
| CLASSIFIED | 28,090 | 28,090 |
| SPECIAL TACTICAL UNIT DETACHMENT FACILITY | 704 | 704 |
| DEFENSE-WIDE | | |
| CLASSIFIED LOCATION | | |
| SPECIAL OPERATIONS FORCES BUILDING ADDITION | 2,600 | 2,600 |
| SPECIAL OPERATIONS FORCES INFORMATION OPERATIONS FACILITY ADDITION | 4,800 | 4,800 |
| TOTAL, WORLDWIDE CLASSIFIED | 36,194 | 36,194 |
| WORLDWIDE UNSPECIFIED | | |
| ARMY | | |
| UNSPECIFIED WORLDWIDE LOCATIONS | | |
| HOST NATION SUPPORT | 21,000 | 21,000 |
| PLANNING AND DESIGN | 130,335 | 135,999 |
| UNSPECIFIED MINOR CONSTRUCTION | 20,000 | 20,885 |
| RESCISSION (P.L. 106-246) | --- | -7,776 |
| RESCISSION (P.L. 107-64) | --- | -3,924 |
| RESCISSION (P.L. 107-249) | --- | -7,276 |
| NAVY | | |
| UNSPECIFIED WORLDWIDE LOCATIONS | | |
| PLANNING AND DESIGN | 87,067 | 90,830 |
| UNSPECIFIED MINOR CONSTRUCTION | 12,000 | 12,000 |
| PRESIDENTIAL HELICOPTER PROGRAMS SUPPORT FACILITY | 80,000 | 40,000 |
| WHITE SIDE COMPLEX | 18,560 | 18,560 |
| RESCISSION (P.L. 108-132) | --- | -24,000 |
| AIR FORCE | | |
| UNSPECIFIED WORLDWIDE LOCATIONS | | |
| PLANNING AND DESIGN | 140,786 | 130,711 |
| UNSPECIFIED MINOR CONSTRUCTION | 13,000 | 13,280 |
| PREDATOR B BEDDOWN | 26,121 | 26,121 |
| RESCISSION (P.L. 108-106) | --- | -21,800 |
| DEFENSE-WIDE | | |
| UNSPECIFIED WORLDWIDE LOCATIONS | | |
| CONTINGENCY CONSTRUCTION | 10,000 | 10,000 |
| ENERGY CONSERVATION IMPROVEMENT PROGRAM | 60,000 | 50,000 |
| SPECIAL OPERATIONS COMMAND | 2,900 | 2,900 |
| RESCISSION (P.L. 107-64) | --- | -6,000 |
| RESCISSION (P.L. 107-249) | --- | -16,737 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| PLANNING AND DESIGN | | |
| SPECIAL OPERATIONS COMMAND | 10,566 | 11,184 |
| PLANNING AND DESIGN | 22,216 | 22,216 |
| TRICARE MANAGEMENT ACTIVITY | 29,400 | 29,400 |
| SUBTOTAL, PLANNING AND DESIGN | 62,182 | 62,800 |
| UNSPECIFIED MINOR CONSTRUCTION | | |
| TRICARE MANAGEMENT ACTIVITY | 3,002 | 3,002 |
| SPECIAL OPERATIONS COMMAND | 2,710 | 2,710 |
| MISSILE DEFENSE AGENCY | 2,769 | 2,769 |
| DEFENSE FINANCE AND ACCOUNTING SERVICE | 1,497 | 1,497 |
| UNDISTRIBUTED | 3,000 | 3,000 |
| DEPARTMENT OF DEFENSE DEPENDENT EDUCATION | 746 | 746 |
| THE JOINT STAFF | 7,214 | 7,214 |
| SUBTOTAL, UNSPECIFIED MINOR CONSTRUCTION | 20,938 | 20,938 |
| ARMY NATIONAL GUARD | | |
| UNSPECIFIED WORLDWIDE LOCATIONS | | |
| PLANNING AND DESIGN | 30,845 | 38,502 |
| UNSPECIFIED MINOR CONSTRUCTION | 4,472 | 9,200 |
| AIR NATIONAL GUARD | | |
| UNSPECIFIED WORLDWIDE LOCATIONS | | |
| PLANNING AND DESIGN | 13,568 | 17,753 |
| UNSPECIFIED MINOR CONSTRUCTION | 5,500 | 5,840 |
| RESCISSION (P.L. 108-132) | --- | -5,000 |
| ARMY RESERVE | | |
| UNSPECIFIED WORLDWIDE LOCATIONS | | |
| PLANNING AND DESIGN | 11,225 | 13,292 |
| UNSPECIFIED MINOR CONSTRUCTION | 2,923 | 2,923 |
| NAVY RESERVE | | |
| UNSPECIFIED WORLDWIDE LOCATIONS | | |
| PLANNING AND DESIGN | 1,503 | 1,914 |
| AIR FORCE RESERVE | | |
| VARIOUS WORLDWIDE LOCATIONS | | |
| PLANNING AND DESIGN | 5,493 | 6,714 |
| UNSPECIFIED MINOR CONSTRUCTION | 5,263 | 5,263 |
| TOTAL, WORLDWIDE UNSPECIFIED | 785,681 | 664,912 |
| FAMILY HOUSING, ARMY | | |
| ALASKA | | |
| FORT RICHARDSON (92 UNITS | 42,000 | 42,000 |
| FORT WAINWRIGHT (100 UNITS) | 41,000 | 41,000 |
| FORT WAINWRIGHT (60 UNITS) | 37,000 | 37,000 |
| FORT WAINWRIGHT (86 UNITS) | 46,000 | 46,000 |
| ARIZONA | | |
| FORT HUACHUCA (205 UNITS) | 41,000 | 41,000 |
| YUMA (55 UNITS) | 14,900 | 14,900 |
| KANSAS | | |
| FORT RILEY (126 UNITS) | 33,000 | 33,000 |
| NEW MEXICO | | |
| WHITE SANDS (156 UNITS) | 31,000 | 31,000 |
| OKLAHOMA | | |
| FORT SILL (247 UNITS) | 47,000 | 47,000 |
| VIRGINIA | | |
| FORT LEE (218 UNITS) | 46,000 | 46,000 |
| FORT MONROE (68 UNITS) | 16,000 | 16,000 |
| CONSTRUCTION IMPROVEMENTS | 211,990 | 211,990 |
| PLANNING AND DESIGN | 29,209 | 29,209 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| RESCISSION (P.L. 107-249) | --- | -21,000 |
| SUBTOTAL, CONSTRUCTION | 636,099 | 615,099 |
| OPERATION AND MAINTENANCE | | |
| UTILITIES ACCOUNT | 132,356 | 132,356 |
| SERVICES ACCOUNT | 36,174 | 36,174 |
| MANAGEMENT ACCOUNT | 74,895 | 74,895 |
| MISCELLANEOUS ACCOUNT | 1,333 | 1,333 |
| FURNISHINGS ACCOUNT | 37,411 | 37,411 |
| LEASING | 218,033 | 218,033 |
| MAINTENANCE OF REAL PROPERTY | 402,060 | 399,660 |
| MORTGAGE INSURANCE PREMIUM | 1 | 1 |
| PRIVATIZATION SUPPORT COSTS | 26,644 | 26,644 |
| SUBTOTAL, OPERATION AND MAINTENANCE | 928,907 | 926,507 |
| TOTAL, FAMILY HOUSING, ARMY | 1,565,006 | 1,541,606 |
| FAMILY HOUSING, NAVY AND MARINE CORPS | | |
| NORTH CAROLINA | | |
| CHERRY POINT MARINE CORPS AIR STATION (198 UNITS) | 27,002 | 27,002 |
| CONSTRUCTION IMPROVEMENTS | 112,105 | 112,105 |
| RESCISSION (P.L. 107-64) | --- | -5,564 |
| RESCISSION (P.L. 108-132) | --- | -6,737 |
| SUBTOTAL, CONSTRUCTION | 139,107 | 126,806 |
| OPERATION AND MAINTENANCE | | |
| UTILITIES ACCOUNT | 137,226 | 137,226 |
| FURNISHINGS ACCOUNT | 20,756 | 20,756 |
| MANAGEMENT ACCOUNT | 81,859 | 81,859 |
| MISCELLANEOUS ACCOUNT | 654 | 654 |
| SERVICES ACCOUNT | 57,691 | 57,691 |
| LEASING | 136,883 | 136,883 |
| MAINTENANCE OF REAL PROPERTY | 252,383 | 244,183 |
| MORTGAGE INSURANCE PREMIUM | 61 | 61 |
| PRIVATIZATION SUPPORT COSTS | 16,991 | 16,991 |
| SUBTOTAL, OPERATION AND MAINTENANCE | 704,504 | 696,304 |
| TOTAL, FAMILY HOUSING, NAVY AND MARINE CORPS | 843,611 | 823,110 |
| FAMILY HOUSING, AIR FORCE | | |
| ARIZONA | | |
| DAVIS-MONTHAN AIR FORCE BASE (250 UNITS) | 48,500 | 48,500 |
| CALIFORNIA | | |
| EDWARDS AIR FORCE BASE (218 UNITS) | 41,202 | 41,202 |
| VANDENBERG AIR FORCE BASE (120 UNITS) | 30,906 | 30,906 |
| FLORIDA | | |
| MACDILL AIR FORCE BASE | 1,250 | 1,250 |
| MACDILL AIR FORCE BASE (61 UNITS) | 21,723 | 21,723 |
| IDAHO | | |
| MOUNTAIN HOME AIR FORCE BASE (147 UNITS) | 39,333 | 39,333 |
| MISSISSIPPI | | |
| COLUMBUS AIR FORCE BASE | 711 | 711 |
| MISSOURI | | |
| WHITEMAN AIR FORCE BASE (160 UNITS) | 37,087 | 37,087 |
| MONTANA | | |
| MALMSTROM AIR FORCE BASE (115 UNITS) | 29,910 | 29,910 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| NORTH CAROLINA | | |
| SEYMOUR JOHNSON AIR FORCE BASE (167 UNITS) | 32,693 | 32,693 |
| NORTH DAKOTA | | |
| GRAND FORKS AIR FORCE BASE (90 UNITS) | 26,169 | 26,169 |
| MINOT AIR FORCE BASE (142 UNITS) | 37,087 | 37,087 |
| SOUTH CAROLINA | | |
| CHARLESTON AIR FORCE BASE | 1,976 | 1,976 |
| SOUTH DAKOTA | | |
| ELLSWORTH AIR FORCE BASE (75 UNITS) | 21,482 | 21,482 |
| TEXAS | | |
| DYESS AIR FORCE BASE (127 UNITS) | 28,664 | 28,664 |
| GOODFELLOW AIR FORCE BASE (127 UNITS) | 20,604 | 20,604 |
| GERMANY | | |
| RAMSTEIN AIR BASE (144 UNITS) | 57,691 | 57,691 |
| ITALY | | |
| AVIANO AIR BASE | 2,542 | 2,542 |
| KOREA | | |
| OSAN AIR BASE (117 UNITS) | 46,834 | 46,834 |
| UNITED KINGDOM | | |
| ROYAL AIR FORCE LAKENHEATH (154 UNITS) | 43,976 | 43,976 |
| CONSTRUCTION IMPROVEMENTS | 238,353 | 238,353 |
| PLANNING AND DESIGN | 38,266 | 38,266 |
| RESCISSION (P.L. 106-246) | --- | -13,451 |
| RESCISSION (P.L. 107-64) | --- | -25,720 |
| RESCISSION (P.L. 108-132) | --- | -6,000 |
| SUBTOTAL, CONSTRUCTION | 846,959 | 801,788 |
| OPERATION AND MAINTENANCE | | |
| UTILITIES ACCOUNT | 125,459 | 125,459 |
| MANAGEMENT ACCOUNT | 70,680 | 62,898 |
| SERVICES ACCOUNT | 26,070 | 26,070 |
| FURNISHINGS ACCOUNT | 44,459 | 41,959 |
| MISCELLANEOUS ACCOUNT | 2,396 | 2,396 |
| LEASING | 119,908 | 119,908 |
| MAINTENANCE OF REAL PROPERTY | 435,782 | 435,552 |
| MORTGAGE INSURANCE PREMIUM | 38 | 38 |
| PRIVATIZATION SUPPORT COSTS | 39,104 | 39,104 |
| SUBTOTAL, OPERATION AND MAINTENANCE | 863,896 | 853,384 |
| TOTAL, FAMILY HOUSING, AIR FORCE | 1,710,855 | 1,655,172 |
| FAMILY HOUSING, DEFENSE-WIDE | | |
| CONSTRUCTION IMPROVEMENTS (NATIONAL SECURITY AGENCY) | 49 | 49 |
| OPERATION AND MAINTENANCE | | |
| UTILITIES ACCOUNT (NATIONAL SECURITY AGENCY (NSA)) | 471 | 471 |
| FURNISHINGS ACCOUNT (NSA) | 116 | 116 |
| MANAGEMENT ACCOUNT (NSA) | 13 | 13 |
| MISCELLANEOUS ACCOUNT (NSA) | 53 | 53 |
| SERVICES ACCOUNT (NSA) | 381 | 381 |
| LEASING (NSA) | 11,257 | 11,257 |
| MAINTENANCE OF REAL PROPERTY (NSA) | 1,939 | 1,939 |
| FURNISHINGS ACCOUNT (DEFENSE INTELLIGENCE AGENCY) | 3,925 | 3,925 |
| LEASING (DEFENSE INTELLIGENCE AGENCY) | 30,199 | 30,199 |
| UTILITIES ACCOUNT (DEFENSE LOGISTICS AGENCY (DLA)) | 419 | 419 |
| FURNISHINGS ACCOUNT (DLA) | 36 | 36 |
| SERVICES ACCOUNT (DLA) | 76 | 76 |
| MANAGEMENT ACCOUNT (DLA) | 293 | 293 |

MILITARY CONSTRUCTION
(AMOUNTS IN THOUSANDS)

| | BUDGET REQUEST | CONFERENCE AGREEMENT |
|---|---|---|
| MAINTENANCE OF REAL PROPERTY (DLA) | 397 | 397 |
| SUBTOTAL, OPERATION AND MAINTENANCE | 49,575 | 49,575 |
| TOTAL, FAMILY HOUSING, DEFENSE-WIDE | 49,624 | 49,624 |
| CHEMICAL DEMILITARIZATION CONSTRUCTION, DEFENSE-WIDE | | |
| CHEMICAL DEMILITARIZATION CONSTRUCTION, DEFENSE-WIDE | 81,886 | 81,886 |
| DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND | | |
| DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND | 2,500 | 2,500 |
| RESCISSION (P.L. 107-249) | --- | -10,808 |
| RESCISSION (P.L. 108-132) | --- | -8,301 |
| TOTAL, DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND | 2,500 | -16,609 |
| BASE REALIGNMENT AND CLOSURE ACCOUNT | | |
| BASE REALIGNMENT AND CLOSURE ACCOUNT | 246,116 | 246,116 |
| GENERAL PROVISION | | |
| GENERAL PROVISION (SEC. 118) | 63,000 | --- |
| GRAND TOTAL | 9,553,375 | 10,003,000 |

## CONFERENCE TOTAL--WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2005 recommended by the Committee of Conference, with comparisons to the fiscal year 2004 amount, the 2005 budget estimates, and the House and Senate bills for 2005 follow:

(In thousands of dollars)

| | | |
|---|---|---|
| New budget (obligational) authority, fiscal year 2004 | $ | 9,840,861 |
| Budget estimates of new (obligational) authority, fiscal year 2005 | | 9,553,375 |
| House bill, fiscal year 2005 | | 10,003,000 |
| Senate bill, fiscal year 2005 | | 10,003,000 |
| Conference agreement, fiscal year 2005 | | 10,003,000 |
| Conference agreement compared with: | | |
| New budget (obligational) authority, fiscal year 2004 | | +162,139 |
| Budget estimates of new (obligational) authority, fiscal year 2005 | | +449,625 |
| House bill, fiscal year 2005 | | +0 |
| Senate bill, fiscal year 2005 | | +0 |

# DIVISION B—EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR HURRICANE DISASTERS ASSISTANCE ACT, 2005

## CHAPTER 1

## DEPARTMENT OF AGRICULTURE

### FARM SERVICE AGENCY

### EMERGENCY CONSERVATION PROGRAM

The conference agreement provides an additional **$100,000,000** for "Emergency Conservation Program," for expenses resulting from natural disasters, to remain available until expended.

### NATURAL RESOURCES CONSERVATION SERVICE

### EMERGENCY WATERSHED PROTECTION PROGRAM

The conference agreement provides an additional **$250,000,000** for "Emergency Watershed Protection Program" to repair damages to the waterways and watersheds resulting from natural disasters, to remain available until expended.

### RURAL DEVELOPMENT

### RURAL COMMUNITY ADVANCEMENT PROGRAM

The conference agreement provides an additional **$68,000,000** for the "Rural Community Advancement Program", to repair damages to water and waste disposal systems and community facilities resulting from natural disasters, to remain available until expended. The conference agreement provides that **$50,000,000** shall be available for water and waste disposal grants, and **$18,000,000** shall be available for community facility direct loans and grants. Funds provided under this heading shall be in addition to a state's regular program allocation.

### RURAL HOUSING SERVICE

### RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

The conference agreement provides an additional **$5,000,000** in budget authority, which supports an estimated loan level of **$17,000,000** for the section 504 direct housing repair and rehabilitation program as authorized by title V of the Housing Act of 1949, for damages resulting from natural disasters, to be available from funds in the rural housing insurance fund, for direct loans to section 504 borrowers. Funds provided under this heading shall be in addition to a state's regular program allocation.

### RURAL HOUSING ASSISTANCE GRANTS

The conference agreement provides an additional **$13,000,000** for "Rural

Housing Assistance Grants", to remain available until expended, for damages resulting from natural disasters, of which **$8,000,000** shall be for grants and contracts for very low-income housing repair, made by the Rural Housing Service, and of which **$5,000,000** shall be for domestic farm labor housing grants and contracts. Funds provided under this heading shall be in addition to a state's regular program allocation.

### GENERAL PROVISIONS

Sec. 101. The conference agreement provides supplemental disaster assistance for losses due to hurricanes and tropical storms, including related conditions such as flooding. The conference agreement provides funding for losses under current law including, but are not limited to: cotton, peanuts, tobacco, clams, oysters and other shellfish, hay and forage, sod, tropical aquaculture, shrimp, lobster and other fish. The conference agreement includes a provision to offset the cost of this program.

Sec. 102. The conference agreement provides supplemental disaster assistance to compensate first processors and producers for losses due to hurricanes and tropical storms.

Sec. 103. The conference agreement provides that the Secretary of Agriculture shall carry out a dairy loss program.

Sec. 104. The conference agreement provides that the Secretary of Agriculture shall carry out a cottonseed assistance program. The conferees expect the Secretary to distribute the funds in a similar manner to that utilized previously to deliver the cottonseed assistance.

Sec. 105. The conference agreement provides that certain sections are to remain available until expended and are designated as an emergency requirement.

Sec. 106. The conference agreement provides that certain communities in Burlington and Camden Counties (NJ), affected by the 1,000-year flood which occurred on July 12, 2004, are deemed to be rural areas during fiscal year 2005 for certain rural development programs.

Sec. 107. The conference agreement authorizes financial and technical assistance to the Hope Mills Dam (NC) project.

Sec. 108. The conference agreement provides **$90,000,000** to the fund established by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to make payments with respect to 2004 hurricane losses.

Sec. 109. The conference agreement provides not more than **$4,000,000** for the Farm Service Agency to cover administrative expenses associated with the implementation of sections 101 and 102 of this chapter.

Sec. 110. The conference agreement provides **$10,000,000** to provide assistance for timber losses.

Sec. 111. The conference agreement provides **$8,500,000** for assistance to pecan producers.

## CHAPTER 2

## DEPARTMENT OF JUSTICE

### FEDERAL PRISON SYSTEM

### SALARIES AND EXPENSES

The conference agreement includes **$5,500,000** for the Salaries and Expenses account of the Federal Prison System. The conferees understand that the amounts provided will fund salaries and other expenses related to repairing and replacing roofs and fences, cleaning up prison facilities, detailing medical staff to assist disaster victims, and transporting and relocating almost 5,000 Federal inmates from institutions affected by Hurricane Ivan and related storms.

### FEDERAL PRISON SYSTEM

### BUILDINGS AND FACILITIES

The conference agreement includes **$18,600,000** for the Buildings and Facilities account of the Federal Prison System. The conferees understand that the amounts provided will fund roof repair, building and perimeter fence repair and replacement, and clean-up activities at numerous Federal prison facilities in Florida, Alabama, and Georgia that sustained damage in Hurricane Ivan and related severe storms.

## DEPARTMENT OF COMMERCE

### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

### OPERATIONS, RESEARCH, AND FACILITIES

The conference agreement includes **$16,900,000** for the Operations, Research and Facilities account of the National Oceanic and Atmospheric Administration. The conference agreement supports **$1,200,000** to address damage to National Oceanic and Atmospheric Administration facilities and assets, including repairs for laboratory facilities, weather radio towers, and marine buoys, as well as costs associated with hurricane preparations; **$2,900,000** to address impacts to endangered species, including assessment and restoration efforts for impaired habitat and Endangered Species Act responsibilities associated with disaster cleanup; **$9,000,000** for reseeding, rehabilitation and restoration of oyster reefs in Alabama, Florida, Louisiana, and Mississippi due to damage from Hurricane Ivan; and **$3,800,000** to address hurricane forecasting needs.

## DEPARTMENT OF COMMERCE

### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

### PROCUREMENT, ACQUISITION AND CONSTRUCTION

The conference agreement includes **$3,800,000** for the Procurement, Acquisition and Construction account of the National Oceanic and Atmospheric Administration. The conference agreement provides **$300,000** for hurricane prediction technology requirements and **$3,500,000** for airborne Doppler radar used for hurricane precipitation and wind field forecasting.

### SMALL BUSINESS ADMINISTRATION

### DISASTER LOANS PROGRAM ACCOUNT

The conference agreement includes **$929,000,000** for the Disaster Loans Program Account for loan subsidy costs and associated administrative expenses. The amounts provided will allow the Small Business Administration (SBA) to make disaster loans to individuals and businesses in the wake of Hurricanes Charley, Frances, Ivan, Jeanne, and other natural disasters. The conferees understand that the funding requirements for these storms will far exceed the five-year average of disaster loan-making activity resulting in the necessity for emergency appropriations. The amounts provided will allow the SBA to make approximately **$5,500,000,000** of loans to individuals and businesses.

## CHAPTER 3

## DEPARTMENT OF DEFENSE

### DEPARTMENT OF DEFENSE—MILITARY

Chapter 3 of the conference agreement recommends **$909,400,000** for the Department of Defense in support of specific security, temporary relocation, cleanup, repair, and other related activities taken by the military services and defense activities in preparation for and recovery from Hurricanes Charley, Frances, Ivan, and Jeanne, Tropical Storm Bonnie, and other natural disasters.

Within the total amount provided, **$762,800,000** is provided to the operation and maintenance appropriations for cleanup and repair of storm damage. Of this amount, the conferees have provided **$662,800,000** directly to the military services and the Defense Health Program to meet the most immediate and urgent needs.

The conferees recommend **$100,000,000** for the Operation and Maintenance, Defense-Wide account, with transfer authority available to the Secretary of Defense to maximize the Department of Defense's capability to allocate funds in the proper amounts and accounts. The Secretary of Defense may transfer these funds to appropriations for military personnel; operation and maintenance; the Defense Health Program; and working capital funds. Fifteen days prior written notification to the congressional defense committees is required before making transfers.

The conferees have provided **$140,000,000** in the Procurement, Defense-Wide account with the authority to transfer funds to other accounts. These funds may be transferred to appropriations for operation and maintenance; procurement; and research, development, test and evaluation. Fifteen days prior written notification to the congressional defense committees is required. The conferees have directed five transfers of funds from the Procurement, Defense-Wide account, to other procurement and research and development accounts, to support specific purposes related to recovery from hurricanes, tropical storms and other natural disasters.

The following table provides details of the supplemental appropriations in this chapter.

[In thousands of dollars]

| Account | Request | Recommended |
|---|---|---|
| Military Personnel: | | |
| Military Personnel, Navy | 1,000 | 0 |
| Military Personnel, Air Force | 13,225 | 0 |
| Reserve Personnel, Air Force | 0 | 0 |
| Total Military Personnel | 14,225 | 0 |
| Operation and Maintenance: | | |
| O&M, Army | 2,844 | 8,600 |
| [1][Ft. Bragg: COSCOM Barracks repair and renovation, $5,600] | | |
| O&M, Navy | 404,591 | 458,000 |
| O&M, Marine Corps | | 1,300 |
| O&M, Air Force | 128,672 | 165,400 |
| [1][CENTCOM Facilities Repair and Modification, $6,000] | | |
| [1][CENTCOM Communications Repairs and Modification, $1,300] | | |
| [1][MacDill AFB Storm Damage Recovery and Repair, $8,500] | | |
| [1][Avon Park Range Storm Damage Recovery and Repair, $1,100] | | |
| O&M, Defense-Wide | 172,506 | 100,000 |
| O&M, Army Reserve | 1,442 | 1,400 |
| O&M, Navy Reserve | 399 | 1,000 |
| O&M, Air Force Reserve | | 2,400 |
| O&M, Army National Guard | 3,350 | 10,500 |
| [1][Florida Army National Guard facilities repair, $7,000] | | |
| O&M, Air National Guard | 1,085 | 2,200 |
| Total Operation and Maintenance | 714,889 | 750,800 |
| Procurement: | | |
| Other Procurement, Air Force | 2,500 | 2,500 |
| Procurement, Defense-Wide | 102,500 | 140,000 |
| [1][Transfer: APAF - Hurricane Tracking Equipment, $10,500] | | |
| [1][Transfer: MPAF - Satellite Launch Delays, $10,000] | | |
| [1][Transfer: OPAF - Satellite Launch Delays, $10,000] | | |
| [1][Transfer: OPAF - CENTCOM COOP, $18,700] | | |
| [1][Transfer: Eglin AFB Laboratory and Test Range Equipment, $20,000] | | |
| Total Procurement | 105,000 | 142,500 |

[In thousands of dollars]

| Account | Request | Recommended |
|---|---|---|
| Revolving and Management Funds: | | |
| Defense Working Capital Fund | 77,000 | 4,100 |
| [1][Working Capital Fund, Defense-Wide, $2,000] | | |
| [1][Navy Working Capital Fund, $2,100] | | |
| Total Revolving and Management Funds | 77,000 | 4,100 |
| Other Department of Defense Programs: | | |
| Defense Health Program | 10,286 | 12,000 |
| Total Other DoD Programs | 10,286 | 12,000 |
| Grand Total, Emergency Appropriations, Chapter 3 | 921,400 | 909,400 |
| Transfer Authority, New Appropriations, This Chapter, Section 305 | | 200,000 |
| Additional Transfers: | | |
| Section 307: | | |
| Procurement, Marine Corps | | 7,000 |
| O&M, Marine Corps | | -7,000 |
| RDT&E, Defense-Wide | | 5,950 |
| O&M, Army | | -5,950 |
| Department of Veterans Affairs, Medical Services | | 500 |
| DHP | | -500 |
| O&M, Army National Guard | | 1,400 |
| O&M, Army | | -1,400 |

[In thousands of dollars]

| Account | Request | Recommended |
|---|---|---|
| Summary of Appropriations, Chapter 3, By Component | | |
| Total Army | 7,636 | 20,500 |
| Total Navy | 405,990 | 459,000 |
| Total Marine Corps | 0 | 1,300 |
| Total Air Force | 145,482 | 172,500 |
| Total Other Defense and O&M, D-W | 362,292 | 256,100 |
| | 921,400 | 909,400 |

Notes:

[1] Congressional Interest Items for the purpose of the Base for Reprogramming (DD 1414). Items must be carried on the DD 1414 at the stated amount.

### CHAPTER 3 REPORTING REQUIREMENTS

The conferees direct the Secretary of Defense during fiscal year 2005 to submit to the congressional defense committees no later than December 1, 2004, a quarterly comprehensive report on the distribution of funds by account and the purposes for which the funds have been used. This report shall detail both actual and projected obligations of appropriations provided in this chapter.

### PERSONNEL EVACUATION COSTS

The President requested $12,125,000 to cover costs associated with the evacuation of military dependents during the recent hurricanes. The conferees provide the flexibility to reimburse the Services for fiscal year 2004 military personnel costs from funds provided in Operation and Maintenance, Defense-Wide, in order to preclude an Anti-deficiency Act violation in the Military Personnel accounts.

### DELAWARE AIR NATIONAL GUARD

The conferees are aware of recent storm damage to facilities and equipment at the Air National Guard Headquarters in New Castle, Delaware. The conferees are aware that estimates of damages are still being assessed, and have provided the flexibility from funds made available in Operation and Maintenance, Defense-Wide and Procurement, Defense-Wide to repair facilities and repair or replace aircraft damaged in the tornado.

### M-4 RIFLE REQUIREMENTS FOR OIF AND OEF

The conferees strongly encourage the Department of Defense to address current wartime needs for M-4 rifles and direct the Army to provide a report to the congressional defense committees outlining the requirements for M-4 rifles with respect to future Operation Iraqi Freedom and Operation Enduring Freedom deployments. This report should be submitted no later than November 15, 2004.

### XM-8 FAMILY OF WEAPONS

The conferees support the Army's plans to begin fielding the XM-8 as the eventual replacement for the M-16 and M-4 families of weapons. Accordingly, the conferees strongly encourage the Department of Defense to accelerate the fielding of the XM-8 family of weapons from funds provided in the Department of Defense Appropriations Act for fiscal year 2005 (Public Law 180–287). The conferees direct the Army to provide a report to the congressional defense committees, not later than November 15, 2004, on plans to begin fielding the XM-8 family of weapons.

### FORCE PROTECTION UPGRADES FOR EUROPEAN HOSPITALS

The conferees are aware of significant force protection and facility code requirements at Landstuhl Army Medical Center, Naval Hospital Sigonella and Naval Hospital Rota. The conferees recommend and encourage the Department of Defense to fund these urgent upgrades needed to continue providing quality patient protection.

### GENERAL PROVISIONS—THIS CHAPTER

The conferees include a new general provision which provides that appropriations provided in this chapter are available for obligation until September 30, 2005, unless otherwise so provided.

The conferees include a new general provision which provides that funds appropriated in this chapter, or made available by the transfer of funds in or pursuant to this chapter, for intelligence activities are deemed to be authorized for purposes of section 504 of the National Security Act of 1947.

The conferees include a new general provision which prohibits the use of funds provided in this chapter to finance programs or activities denied by Congress for fiscal years 2004 or 2005 and requires written notification prior to initiating new start programs.

The conferees include a new general provision which amends Section 8007 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287), by striking the words "in session".

In the classified annex accompanying Public Law 108–287, the conferees provided certain guidance regarding Section 8090(b) of said Act. The conferees express their intent to further address the issues raised in that annex in subsequent fiscal year 2005 appropriations legislation.

The conferees include a new general provision which provides the Secretary of Defense with $200,000,000 in additional transfer authority, only for funds in this chapter, and only to meet hurricane and other natural disaster-related expenses.

The conferees include a new general provision which amends action 9010(b) of the Department of Defense Appropriations Act for a citation change.

The conferees include a new general provision which makes certain technical adjustments, transfers funds, and adjusts restrictions in the Department of Defense Appropriations Act, 2005 (Public Law 108–287). The general provision increases the number of armored passenger vehicles that may be purchased under Other Procurement, Army from 1 to 21; increases the maximum allowable cost from $200,000 to $275,000; and provides that vehicles purchased in excess of one may only be in direct support of force protection requirements. Additionally, it directs the following transfers of funds.

To: "Research, Development, Test and Evaluation, Defense-Wide, 2005/2006", $5,950,000, only for the National Media Exploitation Center for improved data and media capture, transformation and categorization activities;

From: "Operation and Maintenance, Army", $5,950,000.

To: "Procurement, Marine Corps, 2005/2007", $7,000,000, only for purchasing additional force protection x-ray imaging units for deployment to the Iraqi theater of operations.

From: "Operation and Maintenance, Marine Corps", as provided in title IX of Public law 108–287, $7,000,000.

To: The Department of Veterans Affairs, under the heading, "Medical Services", $500,000 only to allow White River Junction-Fort Ethan Allen Community Based Outpatient Clinic and the Vermont National Guard to purchase Veterans Administration health care services that provide Guardsmen and their family members the utmost in-patient care.

From: "Defense Health Program", Operation and Maintenance, $500,000, from an appropriation in House Report 108–622 for the same purposes.

To: "Operation and Maintenance, Army National Guard", $1,400,000, only for the Construction Transition Program, as described in House Report 108–283.

From: "Operation and Maintenance, Army", $1,400,000.

In addition, this provision amends Section 9014 of Public Law 108–287 to make clear the intent of the conferees this section's authority providing the Secretary of Defense with discretionary authority to present patriotic materials, including a United States flag, to military personnel who participate in Operation Enduring Freedom or Operation Iraqi Freedom.

The conferees include a new general provision which increases the authority provided in section 9007 of Public Law 108–287 for the Commanders' Emergency Response Program (CERP) from $300,000,000 to $500,000,000.

The conferees include a new general provision to make a technical adjustment to section 9006 of Public Law 108–287 to clarify a definition to include the Iraqi Armed Forces.

## CHAPTER 4

## DEPARTMENT OF DEFENSE—CIVIL

## DEPARTMENT OF THE ARMY

### CORPS OF ENGINEERS—CIVIL

### GENERAL INVESTIGATIONS

The conference agreement provides for an additional $400,000 for General Investigations to update studies where necessitated by storm damage to shore protection projects, including the feasibility study for Walton County, Florida.

### CONSTRUCTION, GENERAL

The conference agreement provides an additional $62,600,000 for Construction, General to provide for the repair of storm damage to authorized shore protection projects, and for time-sensitive data collection and analysis of the performance of shore protection projects, including the development of a three-dimensional physics-based analytical model.

### FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI AND TENNESSEE

The conference agreement provides for an additional $6,000,000 for Flood Control, Mississippi River and Tributaries, for levee and revetment repair and for emergency dredging.

### OPERATION AND MAINTENANCE, GENERAL

The conference agreement provides for an additional $145,400,000 for Operation and Maintenance, General for repair of storm damage to authorized projects.

### FLOOD CONTROL AND COASTAL EMERGENCIES

The conference agreement provides for an additional $148,000,000 for Flood Control and Coastal Emergencies for emergency expenses for repair of damage to flood control and hurricane shore protection projects by storms and other natural disasters. Funding for the Flood Control and Coastal Emergencies appropriation account includes funds to restore flood control and hurricane and shore protection pre-storm condition.

## CHAPTER 5

## BILATERAL ECONOMIC ASSISTANCE

### FUNDS APPROPRIATED TO THE PRESIDENT

### UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

### INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

The conference agreement appropriates $100,000,000 for necessary expenses to respond to the disasters caused by hurricanes and tropical storms in the Caribbean region. Language is included designating funding for emergency and overseas contingency operations.

The funds appropriated by this paragraph are made available notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

## CHAPTER 6

## DEPARTMENT OF HOMELAND SECURITY

## UNITED STATES COAST GUARD

### OPERATING EXPENSES

The conferees agree to provide $33,367,310 for expenses resulting from the recent natural disasters in the southeastern United States, such as Hurricanes Charley, Frances, Ivan, and Jeanne. Funds are available until expended.

### EMERGENCY PREPAREDNESS AND RESPONSE

### DISASTER RELIEF

The conferees agree to provide an additional $6,500,000,000 for disaster relief activities associated with declared disasters, such as Hurricanes Frances, Ivan, and Jeanne. Funds are available until expended.

The conferees direct the Emergency Preparedness and Response (EP&R) Directorate to work with Putnam County, Illinois, to ensure the costs for damage caused by the tornado of April

*2004, which are not covered by insurance and eligible under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), are promptly paid; to work with the City of Asheville, North Carolina, to ensure that the costs for damage caused by Hurricane Frances, which are eligible under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), are promptly paid; and to provide the City of Paso Robles, California, with compensation sufficient to conduct the repairs and retrofitting necessary, as a result of the damage sustained in the 2003 San Simeon earthquake, to bring the Carnegie Library into compliance with current, rather than 1907, state and local building codes and access laws. Furthermore, the conferees agree with the cost estimates and findings in the June 28, 2004 report done by Lotus General Contractors, Inc., with regard to the damages sustained to the main building at Flamson Middle School in the City of Paso Robles, California, as a direct result of the 2003 San Simeon earthquake, and direct EP&R to use that information to calculate the compensation to be provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) to the Paso Robles Joint Unified School District. The conferees also encourage EP&R to work to ensure that the counties of West Virginia receive such assistance as necessary and appropriate to compensate those homeowners and businesses in the federally declared disaster area impacted by the remnants of Hurricane Ivan.*

*The conferees note the availability of section 404 hazard mitigation grant funding for mitigation projects, including buy-outs of flood-damaged properties, for the states of Nebraska, North Carolina, Maryland, Delaware, and Indiana. The conferees direct EP&R to work with these states to ensure that the counties in those states, which are eligible under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), receive such assistance as necessary and appropriate to compensate homeowners and businesses in the federally declared disaster area. The conferees are also aware that specific communities in Florida have significant amounts of debris as a result of hurricanes Charley, Frances, Ivan and Jeanne. The Department of Homeland Security's Federal Emergency Management Agency (FEMA) has authority under sections 206.223 and 206.224 of title 44, Code of Federal Regulations and internal guidance to make determinations as to the eligibility of removal of debris from private property. The conferees direct FEMA to use its authority to reimburse local governments for debris removal on privately-owned lands upon finding it is necessary to eliminate an immediate threat to life, public health and safety.*

*The conferees are aware that funding of activities related to previous federally declared disasters in fiscal years 2003 and 2004 has been temporarily suspended due to the high volume of new federal disasters declared in August and September. This includes disasters outside of the hurricane area and areas where there is a lack of rain. The supplemental appropriations provided are sufficient to not only meet recent disaster needs but also to fully restore funding for ongoing and new projects. The conferees direct EP&R to proceed as quickly as possible to fund all halted or postponed projects, within funds available, and to submit a comprehensive report on the status of any unfunded disaster relief project to the House and Senate Committees on Appropriations no later than February 15, 2005.*

## CHAPTER 7

## DEPARTMENT OF THE INTERIOR

### UNITED STATES FISH AND WILDLIFE SERVICE

#### CONSTRUCTION

The conference agreement provides an additional $40,552,000 for Construction, to address damages related to hurricanes and flooding events. While much of the funding is for damages in Florida, several States and Puerto Rico are covered by this appropriation.

### NATIONAL PARK SERVICE

#### CONSTRUCTION

The conference agreement provides an additional $50,802,000 for Construction, to address damages related to hurricanes and flooding events, primarily in Florida, North Carolina, and Tennessee.

### UNITED STATES GEOLOGICAL SURVEY

#### SURVEYS, INVESTIGATIONS, AND RESEARCH

The conference agreement provides an additional $1,000,000 for Surveys, Investigations, and Research, to address damages related to hurricanes and flooding events.

## RELATED AGENCY

## DEPARTMENT OF AGRICULTURE

### FOREST SERVICE

#### STATE AND PRIVATE FORESTRY

The conference agreement provides an additional $49,100,000 for State and Private Forestry, to address damages related to hurricanes and flooding events, primarily in Florida. Based on current estimates, the conference agreement assumes that this funding includes $2,100,000 for forest health management, $10,000,000 for forest stewardship, $16,000,000 for State fire assistance, $4,000,000 for volunteer fire assistance, and $17,000,000 for urban and community forestry assistance. The Forest Service should notify the House and Senate Committees on Appropriations if the final storm assessments indicate that these funding levels need to be adjusted by more than twenty percent.

#### NATIONAL FOREST SYSTEM

The conference agreement provides an additional $12,153,000 for National Forest System, to address damages related to hurricanes and flooding events in Florida, North Carolina, South Carolina, Tennessee, Georgia, Alabama, Puerto Rico, Mississippi, and Virginia. Based on current estimates, the conference agreement assumes that this funding includes the following funding by activity: $1,842,000 for forest products; $1,073,000 for wildlife and fish management; $1,686,000 for recreation; $200,000 for inventory and monitoring; $5,909,000 for vegetation and watershed management; and $1,443,000 for lands management. The Forest Service should notify the House and Senate Committees on Appropriations if the final storm assessments indicate that these funding levels need to be adjusted by more than twenty percent.

#### WILDLAND FIRE MANAGEMENT

The conference agreement provides an additional $1,028,000 for Wildland Fire Management, to address damages related to hurricanes and flooding events.

#### CAPITAL IMPROVEMENT AND MAINTENANCE

The conference agreement provides an additional $50,815,000 for Capital Improvement and Maintenance, to address damages related to hurricanes and flooding events in Florida, North Carolina, South Carolina, Tennessee, Georgia, Alabama, Puerto Rico, Mississippi, and Virginia. Based on current estimates, the conference agreement assumes that this funding includes the following funding by activity: $34,118,000 for roads; $8,036,000 for trails; and $8,661,000 facilities. The Forest Service should notify the House and Senate Committees on Appropriations if the final storm assessments indicate that these funding levels need to be adjusted by more than twenty percent.

## CHAPTER 8

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### DEPARTMENTAL MANAGEMENT

#### PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

The conference agreement includes a supplemental appropriation of $50,000,000 for the Public Health and Social Services Emergency Fund. This additional amount is for hurricane response and relief to aging Americans, children, families, persons with disabilities, low-income individuals, and the communities in which they live. The conferees understand that uses include, but are not limited to, helping provide nutritional, medical, and social services to affected elderly individuals; providing social services support to communities most affected by Hurricanes Charley, Frances, Ivan, and Jeanne; making available counseling services; helping offset the increase in un-reimbursed health care in affected communities; and addressing storm damage at community health centers in impacted areas.

The conferees request that the Secretary report to the Committees on Appropriations of the House of Representatives and the Senate on disbursement of these funds within 90 days of enactment of this Act. The report should include a table listing the governments and organizations that received grants or other direct assistance from these funds, showing the amount and purpose of each grant or other form of assistance. It should also include a description of any other uses of these funds, such as activities undertaken directly by the Department.

## CHAPTER 9

## DEPARTMENT OF DEFENSE

### MILITARY CONSTRUCTION

#### MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

The conference agreement provides $138,800,000 for Military Construction, Navy and Marine Corps. These funds are for costs associated with the repair, restoration, or replacement of several facilities damaged or destroyed by Hurricane Ivan at the Pensacola Naval Air Station, Florida. The conference agreement recognizes that replacement of certain facilities may be more advantageous than repair or restoration, but the emergency funds provided are intended to meet capacity that existed before the hurricane, not to meet new requirements. In the event the Secretary of the Navy determines that replacement, rather than repair or restoration, of damaged facilities is warranted, the Secretary is required to provide notification to Congress fourteen days before funds are obligated for the replacement construction project.

#### MILITARY CONSTRUCTION, ARMY RESERVE

The conference agreement provides $8,700,000 for Military Construction, Army Reserve. These funds are for costs associated with rebuilding a reserve center damaged by Hurricane Ivan in Pensacola, Florida.

#### FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

The conference agreement provides $1,200,000 for Family Housing Operation and Maintenance, Army. These funds are for costs associated with housing repairs at facilities damaged by natural disasters.

#### FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

The conference agreement provides $9,100,000 for Family Housing Operation and Maintenance, Navy and Marine Corps. These funds are for costs associated with housing repairs at facilities damaged by natural disasters.

#### FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

The conference agreement provides $11,400,000 for Family Housing Operation and Maintenance, Air Force. These funds are for costs associated with housing repairs at facilities damaged by natural disasters.

#### BASE REALIGNMENT AND CLOSURE ACCOUNT

The conference agreement provides $50,000 to be deposited into the Department of Defense Base Closure Account 1990. These funds are for costs associated with the repair of a perimeter fence destroyed by Hurricane Ivan at Naval Activity Puerto Rico.

## CHAPTER 10

## DEPARTMENT OF TRANSPORTATION

### FEDERAL AVIATION ADMINISTRATION

#### FACILITIES AND EQUIPMENT

#### (AIRPORT AND AIRWAY TRUST FUND)

The conferees provide $5,100,000 for FAA "Facilities and equipment", to address expenses resulting from hurricanes Charley, Frances, Ivan, and Jeanne in the southeastern United States. The Administration requested the same amount under FAA "Operations". This funding is consistent with FAA's initial estimates of damage to radars, navigation and communications equipment, air traffic control towers, and other facilities. Funds are designated as an emergency requirement, to be derived from the airport and airway trust fund, and made available until expended.

#### EMERGENCY ASSISTANCE TO AIRPORTS

#### (AIRPORT AND AIRWAY TRUST FUND)

The conferees provide $25,000,000 for FAA "Emergency assistance to airports", to reimburse public use airports for unanticipated capital expenses resulting from hurricanes Charley, Frances, Ivan, and Jeanne in the southeastern United States. Funds are designated as an emergency requirement, to be derived from the airport and airway trust fund, and made available until expended. The distribution of these funds is at the discretion of the Administrator of the Federal Aviation Administration.

### FEDERAL HIGHWAY ADMINISTRATION

#### FEDERAL AID HIGHWAYS EMERGENCY RELIEF PROGRAM

#### (HIGHWAY TRUST FUND)

The conferees provide $1,202,000,000 to fund emergency expenses resulting from hurricanes Charley, Frances, Gaston, Ivan, and Jeanne, and other eligible activities authorized by 23 U.S.C. 125. Funds are to be derived from the highway trust fund and made available until expended.

The bill provides funding to respond to the backlog of emergency needs arising largely from natural disasters in 2004 and prior years. As requested, the conference agreement exempts expenses for projects related to hurricanes Charley, Frances, Ivan, and Jeanne from the statutory cap of $100,000,000 per disaster, per state, because current estimates indicate that valid needs may exceed that cap. Consistent with the purpose of these funds, the entire amount has been designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95.

### EXECUTIVE OFFICE OF THE PRESIDENT

#### UNANTICIPATED NEEDS

The conferees provide $70,000,000, as requested, for "Unanticipated Needs", to reimburse the American Red Cross for reimbursement of disaster relief and recovery expenses and emergency services associated with hurricanes Charley, Frances, Ivan, and Jeanne. The appropriation designates such expenses as an emergency requirement; stipulates that funds may be disbursed to any authorized federal agency; limits agency administrative costs to 3 percent; and requires the head of the U.S. Government Accountability Office to audit the use of such funds.

## CHAPTER II

## DEPARTMENT OF VETERANS AFFAIRS

### VETERANS HEALTH ADMINISTRATION

#### MEDICAL SERVICES

The conferees have provided $38,283,000 for medical services for hurricane and tropical storm related expenses. The amount provided is the same as the amount requested President.

#### MEDICAL ADMINISTRATION

The conferees have provided $1,940,000 for medical administration for expenses incurred in response to hurricane relief efforts and other expenses. The amount provided is the same as the amount requested by the President.

#### MEDICAL FACILITIES

The conferees have provided $46,909,000 for medical facilities for hurricane and tropical storm related expenses at VA facilities. The amount provided is the same as the amount requested by the President.

### DEPARTMENTAL ADMINISTRATION

#### GENERAL OPERATING EXPENSES

The conferees have provided $545,000 for general operating expenses. The amount provided is the same as requested by the President.

#### NATIONAL CEMETERY ADMINISTRATION

The conferees have provided $50,000 for the National Cemetery Administration for cleanup and repairs at national cemeteries damaged during hurricanes and related tropical storms. The amount provided is the same as requested by the President.

#### CONSTRUCTION, MINOR PROJECTS

The conferees have provided $36,343,000 for construction, minor projects to support repairs to VA facilities damaged during hurricanes and related tropical storms. The amount provided is the same as requested by the President.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### COMMUNITY PLANNING AND DEVELOPMENT

#### COMMUNITY DEVELOPMENT FUND

The agreement provides $150,000,000 for disaster relief, long-term recovery, and mitigation in communities affected by disasters designated by the President between August 31, 2003 and October 1, 2004. The amount has been designated by the President as an emergency requirement.

In allocating these funds, the Department of Housing and Urban Development should work closely with the Federal Emergency Management Agency to ensure that these funds are used solely for disaster relief and are provided to areas facing the greatest need. The conferees direct HUD, prior to the allocation of funds, to provide the Committees on Appropriations with an explanation of the purpose for which funds are requested and how the activity or program was affected by the disaster. In addition, HUD is to continue to provide the Committees with quarterly reports on the use of CDBG funds provided for disaster relief.

## INDEPENDENT AGENCIES

### ENVIRONMENTAL PROTECTION AGENCY

#### BUILDINGS AND FACILITIES

The conferees have included $3,000,000 for the repair of the Environmental Protection Agency's Gulf Ecology Division Facilities in Gulf Breeze, Florida.

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### SPACE FLIGHT CAPABILITIES

The conferees have provided a total of $126,000,000 for repair of NASA facilities damaged during recent hurricanes and related events. The amount provided is the same as the budget request.

### GENERAL PROVISION—THIS CHAPTER

#### (TRANSFER OF FUNDS)

The conferees have included a general provision which provides authority for the Secretary of Veterans Affairs to transfer funds from "Medical services" to "General operating expenses" for the purpose of expediting the processing of benefits claims.

## CHAPTER 12

### General Provision—This Act

The conference agreement includes section 1201, regarding the availability of funds.

### Emergency Designations

For purposes of section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287, funds appropriated in this Division are provided in response to a situation which poses a direct threat to life and property, is sudden, is an urgent and compelling need, is unpredictable, and is not permanent in nature.

JOE KNOLLENBERG,
JAMES T. WALSH,
ROBERT B. ADERHOLT,
KAY GRANGER,
VIRGIL GOODE,
DAVID VITTER,
JACK KINGSTON,
ANDER CRENSHAW,
BILL YOUNG,
CHET EDWARDS,
SAM FARR,
ALLEN BOYD,
SANFORD D. BISHOP, JR.,
NORMAN D. DICKS,
*Managers on the Part of the House.*

KAY BAILEY HUTCHISON,
CONRAD BURNS,
LARRY E. CRAIG,
MIKE DEWINE,
SAM BROWNBACK,
TED STEVENS,
DIANNE FEINSTEIN,
DANIEL K. INOUYE,
TIM JOHNSON,
MARY L. LANDRIEU,
ROBERT C. BYRD,
*Managers on the Part of the Senate.*

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## CONFERENCE REPORT ON H.R. 4837, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider the conference report to accompany the bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes; that all points of order against the conference report and against its consideration be waived, and that the conference report be considered as read.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KNOLLENBERG. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the bill (H.R. 4837) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered read.

(For conference report and statement, see immediately prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from Texas (Mr. EDWARDS) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. KNOLLENBERG).

### GENERAL LEAVE

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material and that I may include tabular material on H.R. 4837.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KNOLLENBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I consider it a distinct honor to be here today to present H.R. 4837, the fiscal year 2005 Military Construction appropriations bill.

I am grateful to the conferees in both parties in both Houses for acting together in unison to produce an effective piece of legislation that I think we can all be proud of.

It is important to understand that this bill is not about lawmakers in Washington. H.R. 4837 is about people, specifically the soldiers, sailors, Marines, airmen and their families who serve this great country. We must never forget their selfless service. I firmly believe this bill reflects our commitment to their continued sacrifice.

First, I would like to thank the gentleman from Florida (Mr. YOUNG) for his continued unwavering support. The gentleman truly understands the importance of this bill and has laid a solid foundation on how to construct this successful legislation. The gentleman from Florida (Mr. YOUNG) is a great advocate for our men and women in uniform, and his position is reflected in our final product.

I would also like to commend the ranking member, the gentleman from Texas (Mr. EDWARDS), on the subcommittee who has been doing great work. We have worked together for some time now, and it is a pleasure to have an association with him. Both he and the gentleman from Wisconsin (Mr. OBEY), whom I also salute, give the committee, I think, some real leadership and some dedicated advice and counsel, and I sincerely value the advice and wisdom they have given me. They lend a great deal to military construction matters.

The 2005 Military Construction appropriations bill totals $10 billion and is in full compliance with the subcommittee's 302(b) allocation for both budget authority and outlays. It is both fiscally responsive and responsible, and it is focused on the quality-of-life needs of servicemembers and their families.

Some key funding highlights in this bill include $5.5 billion for military construction; $4.1 billion for family housing; $82 million for chemical demilitarization construction; $246 million for the base realignment and closures account. H.R. 4837 also includes funding for family housing privatization projects. Housing privatization is one of the most critical and successful programs to support military families in years. Few programs rival the effectiveness that privatization has demonstrated; yet Congress instituted a spending cap that placed this program in jeopardy.

Although we worked closely with the authorizers to address this issue earlier this year, the subcommittee was not able to remove the cap through the appropriations process. However, I am proud to say because of the work of so many people that we now have authorization language to eliminate the cap altogether, paving the way to quality housing for military families for years to come. This was the right decision, and it was made for the right reasons; and I believe I can speak for all conferees when I say that we will continue to support family housing privatization initiatives in the future.

In conclusion, this year's Military Construction appropriations bill continues to focus on our country's greatest treasure, that is, the servicemembers and their families who serve our Nation.

By supporting this bill today, you are supporting our men and women in uniform.

MILITARY CONSTRUCTION APPROPRIATIONS BILL - FY 2005 (H.R. 4837)
(Amounts in thousands)

| | FY 2004 Enacted | FY 2005 Request | House | Senate | Conference | Conference vs. Enacted |
|---|---|---|---|---|---|---|
| Military construction, Army | 1,448,239 | 1,771,285 | 1,862,854 | 1,977,166 | 1,981,084 | +532,845 |
| Rescissions | -183,615 | --- | --- | --- | -18,976 | +164,639 |
| Emergency appropriations (P.L. 108-106) | 162,100 | --- | --- | --- | --- | -162,100 |
| Total | 1,426,724 | 1,771,285 | 1,862,854 | 1,977,166 | 1,962,108 | +535,384 |
| Military construction, Navy | 1,238,458 | 1,060,455 | 1,081,042 | 1,016,315 | 1,069,947 | -168,511 |
| Rescissions | -45,622 | --- | --- | --- | -24,000 | +21,622 |
| Emergency appropriations (P.L. 108-106) | 45,530 | --- | --- | --- | --- | -45,530 |
| Total | 1,238,366 | 1,060,455 | 1,081,042 | 1,016,315 | 1,045,947 | -192,419 |
| Military construction, Air Force | 1,067,751 | 663,964 | 797,865 | 841,131 | 866,331 | 201,420 |
| Rescission | -23,000 | --- | --- | --- | -21,800 | +1,200 |
| Emergency appropriations (P.L. 108-106) | 292,550 | --- | --- | --- | --- | -292,550 |
| Total | 1,337,301 | 663,964 | 797,865 | 841,131 | 844,531 | -492,770 |
| Military construction, Defense-wide | 653,656 | 709,337 | 718,837 | 696,491 | 686,055 | +32,399 |
| Rescission | -72,309 | --- | --- | --- | -22,737 | +49,572 |
| Total | 581,347 | 709,337 | 718,837 | 696,491 | 663,318 | +81,971 |
| Total, Active components | 4,583,736 | 4,205,041 | 4,460,598 | 4,531,103 | 4,515,904 | -67,834 |
| Military construction, Army National Guard | 311,592 | 295,657 | 394,100 | 381,765 | 446,748 | +135,156 |
| Military construction, Air National Guard | 222,908 | 127,368 | 180,533 | 231,083 | 243,043 | +20,135 |
| Rescission | --- | --- | --- | --- | -5,000 | -5,000 |
| Total | 222,908 | 127,368 | 180,533 | 231,083 | 238,043 | +15,135 |
| Military construction, Army Reserve | 88,451 | 87,070 | 116,521 | 66,325 | 92,377 | +3,926 |
| Military construction, Naval Reserve | 45,498 | 25,285 | 30,955 | 33,735 | 44,246 | -1,252 |
| Military construction, Air Force Reserve | 62,032 | 84,556 | 111,725 | 101,373 | 123,977 | +61,945 |
| Total, Reserve components | 730,481 | 619,936 | 833,834 | 814,281 | 945,391 | +214,910 |
| Total, Military construction | 5,314,219 | 4,824,977 | 5,294,432 | 5,345,384 | 5,461,295 | +147,076 |
| Appropriations | (5,138,585) | (4,824,977) | (5,294,432) | (5,345,384) | (5,553,808) | (+415,223) |
| Rescissions | (-324,546) | --- | --- | --- | (-92,513) | (+232,033) |
| North Atlantic Treaty Organization Security Investment Program | 169,300 | 165,800 | 165,800 | 165,800 | 165,800 | -3,500 |
| Rescission | -8,000 | --- | --- | --- | -5,000 | +3,000 |
| Total | 161,300 | 165,800 | 165,800 | 165,800 | 160,800 | -500 |
| Family housing construction, Army | 383,591 | 636,099 | 636,099 | 636,099 | 636,099 | +252,508 |
| Rescission | -94,151 | --- | --- | --- | -21,000 | +73,151 |
| Total | 289,440 | 636,099 | 636,099 | 636,099 | 615,099 | +325,659 |
| Family housing operation and maintenance, Army | 1,033,026 | 928,907 | 926,507 | 928,907 | 926,507 | -106,519 |
| Emergency appropriations (P.L. 108-106) | 11,420 | --- | --- | --- | --- | -11,420 |
| Total | 1,044,446 | 928,907 | 926,507 | 928,907 | 926,507 | -117,939 |
| Family housing construction, Navy and Marine Corps | 184,193 | 139,107 | 139,107 | 139,107 | 139,107 | -45,086 |
| Rescission | -40,508 | --- | --- | --- | -12,301 | +28,207 |
| Total | 143,685 | 139,107 | 139,107 | 139,107 | 126,806 | -16,879 |
| Family housing operation and maintenance, Navy and Marine Corps | 835,078 | 704,504 | 696,304 | 704,504 | 696,304 | -138,774 |
| Emergency appropriations (P.L. 108-106) | 6,280 | --- | --- | --- | --- | -6,280 |
| Total | 841,358 | 704,504 | 696,304 | 704,504 | 696,304 | 145,054 |
| Family housing construction, Air Force | 657,065 | 846,959 | 846,959 | 846,959 | 846,959 | +189,894 |
| Rescission | -19,347 | --- | --- | --- | -45,171 | -25,824 |
| Total | 637,718 | 846,959 | 846,959 | 846,959 | 801,788 | +164,070 |
| Family housing operation and maintenance, Air Force | 816,074 | 863,896 | 854,666 | 856,114 | 853,384 | +37,310 |
| Emergency appropriations (P.L. 108-106) | 6,981 | --- | --- | --- | --- | -6,981 |
| Total | 823,055 | 863,896 | 854,666 | 856,114 | 853,384 | +30,329 |

MILITARY CONSTRUCTION APPROPRIATIONS BILL - FY 2005 (H.R. 4837)
(Amounts in thousands)

| | FY 2004 Enacted | FY 2005 Request | House | Senate | Conference | Conference vs. Enacted |
|---|---|---|---|---|---|---|
| Family housing construction, Defense-wide | 350 | 49 | 49 | 49 | 49 | -301 |
| Family housing operation and maintenance, Defense-wide | 49,440 | 49,575 | 49,575 | 49,575 | 49,575 | +135 |
| Department of Defense Family Housing Improvement Fund | 300 | 2,500 | 2,500 | 2,500 | 2,500 | +2,200 |
| Rescission | -9,692 | --- | --- | --- | -19,109 | -9,417 |
| Total | -9,392 | 2,500 | 2,500 | 2,500 | -16,609 | -7,217 |
| Total, Family housing | 3,820,100 | 4,171,596 | 4,151,766 | 4,163,814 | 4,052,903 | +232,803 |
| Chemical demilitarization construction, Defense | 119,815 | 81,886 | 81,886 | 81,886 | 81,886 | -37,929 |
| Base realignment and closure account | 370,427 | 246,116 | 246,116 | 246,116 | 246,116 | -124,311 |
| General provision (sec 118) | 55,000 | 63,000 | 63,000 | --- | --- | -55,000 |
| Grand total: | | | | | | |
| New budget (obligational) authority | 9,840,861 | 9,553,375 | 10,003,000 | 10,003,000 | 10,003,000 | +162,139 |
| Appropriations | (9,812,244) | (9,553,375) | (10,003,000) | (10,003,000) | (10,198,094) | (+385,850) |
| Emergency appropriations | (524,861) | --- | --- | --- | --- | (-524,861) |
| Rescissions | (-496,244) | --- | --- | --- | (-195,094) | (+301,150) |

MILITARY CONSTRUCTION APPROPRIATIONS BILL - FY 2005 (H.R. 4837)
(Amounts in thousands)

| | FY 2004 Enacted | FY 2005 Request | House | Senate | Conference | Conference vs. Enacted |
|---|---|---|---|---|---|---|
| SUMMARY OF APPROPRIATIONS ACCOUNTS | | | | | | |
| Military Construction, Army | 1,426,724 | 1,771,285 | 1,862,854 | 1,977,166 | 1,962,108 | +535,384 |
| Military Construction, Navy | 1,238,366 | 1,060,455 | 1,081,042 | 1,016,315 | 1,045,947 | -192,419 |
| Military Construction, Air Force | 1,337,301 | 663,964 | 797,865 | 841,131 | 844,531 | -492,770 |
| Military Construction, Defense-wide | 581,347 | 709,337 | 718,837 | 696,491 | 663,318 | +81,971 |
| Total, Active components | 4,583,738 | 4,205,041 | 4,460,598 | 4,531,103 | 4,515,904 | -67,834 |
| Military Construction, Army National Guard | 311,592 | 295,657 | 394,100 | 381,765 | 446,748 | +135,156 |
| Military Construction, Air National Guard | 222,908 | 127,368 | 180,533 | 231,083 | 238,043 | +15,135 |
| Military Construction, Army Reserve | 88,451 | 87,070 | 116,521 | 66,325 | 92,377 | +3,926 |
| Military Construction, Naval Reserve | 45,498 | 25,285 | 30,955 | 33,735 | 44,246 | -1,252 |
| Military Construction, Air Force Reserve | 62,032 | 84,556 | 111,725 | 101,373 | 123,977 | +61,945 |
| Total, Reserve components | 730,481 | 619,936 | 833,834 | 814,281 | 945,391 | +214,910 |
| Total, Military Construction | 5,314,219 | 4,824,977 | 5,294,432 | 5,345,384 | 5,461,295 | +147,076 |
| North Atlantic Treaty Organization Security Investment Program | 161,300 | 165,800 | 165,800 | 165,800 | 160,800 | -500 |
| Family Housing, Army: | | | | | | |
| Construction | 289,440 | 636,099 | 636,099 | 636,099 | 615,099 | +325,659 |
| Operation and Maintenance | 1,044,446 | 928,907 | 926,507 | 928,907 | 926,507 | -117,939 |
| Family Housing, Navy and Marine Corps: | | | | | | |
| Construction | 143,685 | 139,107 | 139,107 | 139,107 | 126,806 | -16,879 |
| Operation and Maintenance | 841,358 | 704,504 | 696,304 | 704,504 | 696,304 | -145,054 |
| Family Housing, Air Force: | | | | | | |
| Construction | 637,718 | 846,959 | 846,959 | 846,959 | 801,788 | +164,070 |
| Operation and Maintenance | 823,055 | 863,898 | 854,666 | 856,114 | 853,384 | +30,329 |
| Family Housing, Defense-wide: | | | | | | |
| Construction | 350 | 49 | 49 | 49 | 49 | -301 |
| Operation and Maintenance | 49,440 | 49,575 | 49,575 | 49,575 | 49,575 | +135 |
| Department of Defense Family Housing Improvement Fund | -9,392 | 2,500 | 2,500 | 2,500 | -16,609 | -7,217 |
| Total, Family Housing | 3,820,100 | 4,171,596 | 4,151,766 | 4,163,814 | 4,052,903 | +232,803 |
| Chemical demilitarization construction, Defense | 119,815 | 81,886 | 81,886 | 81,886 | 81,886 | -37,929 |
| Base Realignment and Closure Account | 370,427 | 246,116 | 246,116 | 246,116 | 246,116 | -124,311 |
| General provision (sec. 118) | 55,000 | 63,000 | 63,000 | --- | --- | -55,000 |
| Grand Total | 9,840,861 | 9,553,375 | 10,003,000 | 10,003,000 | 10,003,000 | +162,139 |

MILITARY CONSTRUCTION APPROPRIATIONS BILL - FY 2005 (H.R. 4837)
(Amounts in thousands)

| | FY 2004 Enacted | FY 2005 Request | House | Senate | Conference | Conference vs. Enacted |
|---|---|---|---|---|---|---|
| CONGRESSIONAL BUDGET RECAP | | | | | | |
| Scorekeeping adjustments: | | | | | | |
| Emergency appropriations | -524,861 | --- | --- | --- | --- | +524,861 |
| Total, adjustments | -524,861 | --- | --- | --- | --- | +524,861 |
| Total (including adjustments) | 9,316,000 | 9,553,375 | 10,003,000 | 10,003,000 | 10,003,000 | +687,000 |
| Amounts in this bill | (9,840,861) | (9,553,375) | (10,003,000) | (10,003,000) | (10,003,000) | (+162,139) |
| Scorekeeping adjustments | (-524,861) | --- | --- | --- | --- | (+524,861) |
| Prior year outlays | --- | --- | --- | --- | --- | --- |
| Total mandatory and discretionary | 9,316,000 | 9,553,375 | 10,003,000 | 10,003,000 | 10,003,000 | +687,000 |
| Mandatory | --- | --- | --- | --- | --- | --- |
| Mandatory (prior year) | --- | --- | --- | --- | --- | --- |
| Mandatory (total) | --- | --- | --- | --- | --- | --- |
| Discretionary | (9,316,000) | (9,553,375) | (10,003,000) | (10,003,000) | (10,003,000) | (+687,000) |
| Discretionary (prior year) | --- | --- | --- | --- | --- | --- |
| Discretionary Defense (total) | (9,316,000) | (9,553,375) | (10,003,000) | (10,003,000) | (10,003,000) | (+687,000) |
| DISCRETIONARY 302B ALLOCATION | | | | | | |
| GENERAL PURPOSE | 9,316,000 | 9,553,375 | 10,003,000 | 10,003,000 | 10,003,000 | +687,000 |
| 302B ALLOCATION | --- | --- | 10,003,000 | --- | --- | --- |
| OVER/UNDER | 9,316,000 | 9,553,375 | --- | 10,003,000 | 10,003,000 | +687,000 |

Mr. Speaker, I reserve the balance of my time.

Mr. EDWARDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Military Construction appropriations bill because it provides vital funding for military housing and training facilities. Also in this bill is much-needed $11 billion in emergency funding for hurricane relief for hard hit families, businesses, farmers, and military installations in the southeastern United States and $2.8 billion in drought relief for farmers throughout the country.

Since others will speak on the hurricane and agriculture relief portions of this bill, I would like, Mr. Speaker, to focus my comments on the underlying Military Construction appropriations. First, I want to commend the gentleman from Michigan (Mr. KNOLLENBERG) for his dedicated leadership on behalf of our military troops and families. He always puts the interests of our military above all other interests, and for that he has my deepest personal respect.

I also want to commend the outstanding committee staff led by Carol Murphy, Rob Nabors, Tom Forhan, and my legislative director John Conger. Their work was professional, thorough and fair. And while these dedicated staff seldom receive public recognition, which they deserve, the truth is they have made a positive difference in the lives of our servicemen and -women and their families.

Our bests wishes go out to our Democratic committee staffer Tom Forhan who is recuperating from shoulder surgery. We wish him well and thank him for his many years of service to our military.

I am especially proud of the leadership efforts made by members of this committee to pressure this Congress into not leaving home until we had lifted the cap on the public/private military housing program. This innovative program, started during the previous administration and moved forward under this administration, it is providing better housing to tens of thousands of military families while saving American taxpayers billions of dollars. New housing that would have taken 50 years to build under the old system is now being built in 5 years, leveraging the strength and resources of the public and private sectors.

I will never forget at Fort Hood several years ago visiting one of the newest homes under this program and meeting the sergeant and his wife who served our country so nobly for so many years. In talking to the wife she said, it is not only that this is a home I can be so very proud of to raise our children in, but this home is, as my husband is serving his country around the world, this home says to me and my children that our country has not forgotten the sacrifices we too have made on behalf of our Nation.

That is the importance of this program. It is not only about new housing, better housing that is so well deserved by our military families. It is about respect for those families. Unfortunately, this program would have come to a halt this month or next had Congress not lifted the arbitrary and unnecessary cap on it.

This committee made it clear that we would leave no stone unturned until the cap was lifted because it would have been a terrible disservice to our military families to freeze this vital military housing improvement program during a time of war. With the cap being lifted in the Defense authorization bill as a result of pressure placed by this committees, tens of thousands of military families will now have modern housing they can also be proud to call their home. And that happened because of the special efforts of the gentleman from Michigan (Mr. KNOLLENBERG); the gentleman from Florida (Mr. YOUNG), the chairman of the full Committee on Appropriations; the ranking member of the full committee, the gentleman from Wisconsin (Mr. OBEY); the gentleman from California (Mr. HUNTER); the gentleman from Missouri (Mr. SKELTON); and the gentleman from Washington (Mr. DICKS). They all deserve our thanks and gratitude for not letting military families be forgotten.

Mr. Speaker, there are numerous high-priority projects in this bill at U.S. military installations here, at home, and throughout the world. I think this committee did an outstanding job on a bipartisan basis of taking limited resources and placing them in the highest priority areas.

I would be remiss, though, if I did not mention one major disappointment about this bill. I think it is sad that a year and a half after the beginning of the Iraqi war, with all the sacrifices being made for our servicemen and -women and their families, this Military Construction bill funds these vital housing and training facilities and day care facilities at a level that is $500 million below what we funded 2 years ago before the Iraqi war began. I simply do not understand a Congress that 2 days ago could find offsets to pay for over $130 billion in tax cuts for corporations and for fishing tackle box manufacturers, a tax cut bill that had a lot of good in it and one that I supported, but I do not understand a Congress that can so easily find offsets to pay for that kind of tax cut for corporations and fishing tackle box manufacturers, cannot find offsets to see that we do not cut real funding for military construction projects during a time of war.

This Congress, the next Congress needs to set its priorities straight; and especially as we fight the war on terrorism, we should not be shortchanging the total funding budget for quality-of-life programs for our military while we can easily pass 100, 200, $300 billion tax cuts for corporations and others that are not making nearly the sacrifices that are being made by our servicemen and -women.

Nevertheless, that funding level was not decided by this subcommittee. That was made at a different pay grade in this Congress. Given the limited resources in this subcommittee's jurisdiction, I think it did the best job it could. It did an excellent job of seeing that high-priority programs were funded, and for that reason I support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. KNOLLENBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to make sure that we did not omit thanks to the staff on both sides who have done tremendous work over the past several months, and I want to list those now. Obviously, Carol Murphy on the majority side and Tom Forhan on the minority side. Tom was in the hospital this week, so he could not be here, but they have been great to work with all year. In addition, let me salute Walter Hearne, Mary Arnold, Eric Elsmo, Jeff Onizuk on my staff, Bernard Chau on my staff, and of course I thank John Conger who has also been a part of this process. So to all of them, thank you very, very much.

□ 1230

Mr. Speaker, I yield 1 minute to the gentleman from Kentucky (Mr. ROGERS), who obviously has some comments to make.

Mr. ROGERS of Kentucky. Mr. Speaker, I thank the gentleman for yielding me time, and congratulate him on a wonderful performance on this bill, as well as the ranking member.

I wanted to take just a few seconds here to praise the gentleman from Florida (Mr. YOUNG), the full committee chairman, for the grueling work that he has done to bring to this floor aid for Florida but also the other States who suffered damage from the recent hurricanes.

As late as at least two o'clock this morning, the gentleman from Florida (Chairman YOUNG) was on the telephone, in the office, with the staff, running from room to room, to make this happen. This was a grueling experience, and the gentleman from Wisconsin (Mr. OBEY) was a part of that effort, as well as many others, but I just wanted to say thank you to the gentleman from Florida (Mr. YOUNG) for caring for his people.

Now, he legislates for the Nation, and he is the chairman for the full Committee on Appropriations for the whole Nation, but his State was ravaged by these four unprecedented hurricanes, with people living in tents, without electricity and in dire straits, and he cared for his people enough to work around the clock to make this happen. I just wanted to take a second to say thank you to the gentleman from Florida (Mr. YOUNG).

Mr. KNOLLENBERG. Mr. Speaker, I think that it is very appropriate that we do pay tribute to the gentleman from Florida (Chairman YOUNG).

Mr. Speaker, I yield the balance of my time to the gentleman from Florida (Chairman YOUNG) and ask unanimous consent that he be allowed to yield time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I might consume.

I certainly would have had liked to have had more time to yield to the gentleman from Kentucky (Chairman ROGERS). I sort of like what he was saying, but I think there are many people who deserve more credit than I on this issue of getting our job done. I appreciate the comments of the gentleman from Kentucky (Mr. ROGERS) and also the gentleman from Texas (Mr. EDWARDS) and the gentleman from Michigan (Mr. KNOLLENBERG), the chairman of the subcommittee.

They have done an outstanding job. They have produced a Military Construction bill that is really good, especially for the people who serve in our military, and for their quality of life and housing. They have just done an outstanding job, and I cannot say enough good words about the work that they have done.

But I am going to talk about the other part of this bill, and I thank them for allowing the full committee to piggyback on their subcommittee work to include the Hurricane Supplemental Relief Act. I am not going to take a lot of our time. We have discussed this supplemental bill so many times, not only here on the floor and in committee, but in person, in meetings, and on telephone calls.

Just briefly, let me say that last Wednesday when we passed the hurricane supplemental, I had two bills introduced in the House, H.R. 5212, which is the one that we passed, and H.R. 5227, which I had stated was a much better bill. H.R. 5212, as I also said, was a very good bill as far as it went, but it did not go far enough. H.R. 5227 was better. Well, what we are considering today is very, very close to H.R. 5227, which is the better bill, and we are excited about the quality of the legislation and what it does for the people of the State of Florida.

Again, as I have done in the past, I want to compliment all of our leadership who have worked hard to help us make this happen. There were a lot of obstacles to get to where we are today. I have to tell my colleagues, for those that have been to conference and had difficulties, they know what I mean, but for those who have not, just let me say that was not easy. It was a big challenge.

The gentleman from Wisconsin (Mr. OBEY), who oftentimes we have disagreements on the floor on issues procedurally, has been totally cooperative. He has helped us move these bills along, and I want to thank the gentleman from Wisconsin (Mr. OBEY) considerably for everything that he has had to endure as we were preparing this legislation.

I want to thank our leadership on both sides of the aisle and in the other body for trying to help smooth the way to get this bill to where it is today, and they have all helped. There were a lot of obstacles as I have said. They all helped.

I want to recognize the Members of the committee, especially the ones from Florida, many of whose districts suffered many of the damages. This delegation of ours, and we have a split delegation, Republican and Democrat, came together to help the people of our State who experienced such tragedy from these four major hurricanes.

I mentioned the gentleman from Florida (Mr. BOYD), he and I went to Florida together and looked at some of the damage from Hurricane Ivan. I went to Florida with the President to view some of the damages with him, and I live in Florida, so I was in Florida during several of these hurricanes. I had to evacuate at one point, which I did, and evacuated almost into the path of the storm. It has been quite an experience.

The President of the United States made a firm commitment to those of us in Florida and neighboring States that were affected seriously by the hurricanes. We negotiated for a week to get the bill we are presenting today. The President of the United States made a promise to the people of Florida. He has kept that promise. He has kept his commitment. This legislation is proof positive that what President Bush promised, he delivered.

I want to say also that the Governor of Florida, Jeb Bush, is almost a Superman in the way that he managed the response to these hurricanes, working not only with Federal officials, but also working with State officials, county officials, city officials, voluntary organizations like the Red Cross, the Salvation Army and so many others; Governor Bush managed this effort and did such a tremendous job.

I want to thank the Florida National Guard under the leadership of General Barnett. The Florida National Guard responded with a fantastic response, and I visited with many of the Guardsmen, as did the gentleman from Florida (Mr. BOYD) and the gentleman from Florida (Mr. MILLER). We visited quite a few of the Guardsmen that were working on the recovery and protecting property, and stopping looters. Florida National Guard did an outstanding job.

Our first responders, our police, our firefighters, all did such a tremendous job, and I wish we had a lot more time to pay tribute to all of the people who helped, but especially my delegation, the people that I work with on a daily basis. Both sides of the aisle worked hard. They were committed. They were dedicated, and together, we made sure that this relief package came together today.

Mr. Speaker, I reserve the balance of my time at this point if there are other speakers on the other side.

Mr. EDWARDS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. BOYD), who is a member of the Subcommittee on Military Construction of the Committee on Appropriations, and played a key role not only on the military provisions of this bill but as a representative of the people from Florida and worked very hard on a bipartisan basis on the Florida hurricane relief.

Mr. BOYD. Mr. Speaker, I want to thank my friend, the gentleman from Texas (Mr. EDWARDS), for yielding me the time.

I want to start by thanking the gentleman from Michigan (Mr. KNOLLENBERG), our chairman, and the gentleman from Texas (Mr. EDWARDS), our ranking member, for their work to get to this point. They truly worked in a bipartisan way. There are two components to this bill that we have before us on the floor, Mr. Speaker, and that is, the MILCON portion and also the hurricane supplemental portion. We have heard about both of them, but I just want to make a few brief comments.

First of all, on the MILCON side, the gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from Texas (Mr. EDWARDS) did the very best they could with the dollars given them, but my colleagues must know that the dollars are short. Many of the items that the President sent down for the MILCON request are not included in this bill simply because the House leadership did not set aside enough money to fulfill those requests made by the President to prosecute the war.

I must tell my colleagues that there is one item in here, though, that the gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from Texas (Mr. EDWARDS) did bring in for a landing, and that is, the housing issue, to privatize the housing cap. I think all of this Nation, and particularly the troops and their families, owe a debt of gratitude to the gentleman from Michigan (Mr. KNOLLENBERG) and especially the gentleman from Texas (Mr.

EDWARDS) who has bulldogged this issue for so many years now. He has done an absolutely fantastic job.

We heard our chairman, the gentleman from Florida (Chairman YOUNG) speak on the hurricane side, the hurricane relief. I want to thank the gentleman from Florida (Chairman YOUNG), Mr. Speaker, if I could, for the work that he has done. As everybody knows, the request that came down from the White House was insufficient. The gentleman from Florida (Mr. YOUNG) made a commitment to his people that he would get the money, and President Bush has provided it, but he has only provided it at the insistence of the gentleman from Florida (Mr. YOUNG) who would not quit until he got what he needed.

We needed that money because our beaches were destroyed. The gentleman from Florida (Mr. MILLER) and I and our people lived through those hurricanes. Most of our people lived through them. We had some people who did not live through them. I had six constituents that died in Hurricane Ivan, Mr. Speaker, and this money was much needed to repair our beaches, to repair the transportation systems that were busted.

We have all seen the pictures of I-10, to repair the military facilities. The naval air station in Pensacola had significant damage. So it is imperative that we did this, and we owe a debt of gratitude to the gentleman from Florida (Mr. YOUNG) for getting it here.

I must tell my colleagues, Mr. Speaker, though, that it has been held up because of several issues, but one of those issues was the offset which was going to be required for some of the agricultural funding. Mr. Speaker, that issue has been resolved with a smoke-and-mirrors game as the public will begin to understand as we go on. It is offset by directed scoring, and it is also offset sometime in the future, as many as 10 years out into the future, and it is offset in the farm bill, and we will write a new farm bill before we even get the full offset.

Again, let me close, Mr. Speaker, by thanking again the gentleman from Texas (Mr. EDWARDS) and the gentleman from Michigan (Mr. KNOLLENBERG) but also the gentleman from Florida (Chairman YOUNG) for bringing this in for a landing.

Mr. YOUNG of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. WELDON), from Florida's space center.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me time, and I want to commend the gentleman from Florida (Chairman YOUNG) for the outstanding work he did on this bill.

I also want to commend the President. The initial submission the President had, there was not enough funds in there to take care of all the beaches that had been damaged in the State, and I forwarded the data to them, and I showed them the extent of the damage. The President's staff recognized that we obviously had a greater need, and they were willing to come along with the chairman.

I think the system worked very, very well. I think the President and his people were very eager to make sure the people in Florida got what they needed, and it is going to take a while for us to recover from this hurricane, but these funds that the chairman has secured and everybody in this body and the other body and the President worked hard on is going to help get Florida back on track and all the other States that were damaged.

Mr. EDWARDS. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. STENHOLM) who is so widely respected on a bipartisan basis in this Congress on agriculture.

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, first, I want to commend the gentleman from Michigan (Chairman KNOLLENBERG) and the gentleman from Texas (Ranking Member EDWARDS) for the work they did on the base bill that we are talking about today, from the standpoint of Dyess Air Force Base in my district, and fire crash station being funded, a refueling vehicle maintenance shop, and then in Goodfellow and at Dyess, the 127 housing units which are extremely important to the troops back home. We appreciate taking care of those needs.

I want to concentrate the remainder of my remarks, though, on the disappointment that I share in the manner in which the leadership of this House has chosen to deal with the emergency funding.

☐ 1245

Again, I point out I am for everything that Florida is receiving. They deserve every penny of it. I share the frustrations of the gentleman from Florida (Mr. BOYD) in that, seemingly, the leadership of this body, not the chairman of the committee, but the leadership of this body has chosen to do things a little bit differently.

I particularly am sorry to see that the bipartisan legislative process that worked so well between Larry Combest and I on the Committee on Agriculture has been sacrificed for craven political considerations. I think it is highly regrettable the President chose to help Florida producers only, and then the leadership of this body made sure that that was to be the way that we would proceed with this legislation.

We are reopening the farm bill. And I understand the gimmicks that are being used and all today, but those of us that have been around a little while know that when you do some of the things that have been done in this body over the last few days, there will be another year and it will not be good for agriculture in America. Just a reminder. In the early morning hours of this past Wednesday, the leadership of this House told our Nation's producers to forget about assistance for drought. They made it clear there would be no assistance for crops lost to devastating weather. By 10 a.m., however, they finally understood the message that should have been evident long before. As a result, we have a drought assistance package today and we are extending a helping hand to farmers and ranchers outside of Florida.

But make no mistake about it, we are also cutting the farm bill. If the 17 Members on the other side of the aisle, who had been original cosponsors of the good policy, had stayed with their conscience and not bent to the political will of their leadership, we would have had a victory for American agriculture, a victory for the process that is so important to this House that the chairman of the full committee has expressed his own frustrations about. But the leadership of this House had another agenda, and it turned the screws and singled out agriculture.

There are no offsets in this bill for the aid that will go to Florida, but there are offsets of aid that will go to farmers and ranchers in other parts of the country. The message to this House is clear: the folks who provide the Nation's food and fiber who happen to live outside of politically important Florida are in a separate and lower class.

Mr. Speaker, those of us who worked on the 2002 farm bill and those in the agriculture communities know how important it was to build a consensus. We developed a consensus policy that meets the needs of farmers and ranchers, that preserves natural resources and ensures the provision of food for those in need. While we need the drought aid in this package, and I support this package, the cut that will ultimately be made in farm conservation will have dire consequences for the future of this consensus.

Mr. Speaker, it did not have to be this way. We did not have to be here on Saturday afternoon doing what the chairman and the ranking member and this committee have had to do. We did not have to do it this way. But this is another perfectly live, living example of the lack of leadership in this body to allow this House to work its will based on what the Members of this House want done, and not what a small group in a leadership room somewhere in the House determine should be done, and usually for political purposes, not in the best interest of our country.

Mr. YOUNG of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. FOLEY), a gentleman who played host to at least three hurricanes in his district, and he might have had all four of them. His district suffered a lot of the damage.

Mr. FOLEY. Mr. Speaker, I thank the chairman very much for yielding me this time, and Florida cannot thank him enough for his hard work and dedication to our State. On military issues, or just name the range of issues that are covered for this country, and the gentleman from Florida (Mr. YOUNG) has been and is such a great patriot and a wonderful man and we thank him.

There has been a lot of conversation on the floor that they did not do enough, they did not add enough, they did not provide enough, whatever. You know what, people lost their lives in Florida. Some have lost everything they own. So what I would like to do is be thankful, thankful to all the people in this process that have done so much for our State.

My colleague, the gentleman from Florida (Mr. BOYD), and others have worked so hard. It is not about politics. The storms are not political. Neither Republicans or Democrats ordered storms to hit Florida. People are suffering now; yet we still get a little backbiting in the room. So I would just like to thank so many people. The President, the Governor, Senator GRAHAM, Senator NELSON. And I know I am not supposed to mention the other body by name, so I retreat from that; but I would at least like to say in a bipartisan fashion that we have worked hard for the people of Florida taking care of our agricultural interests, taking care of our beaches and FEMA, the Red Cross.

Mr. Speaker, I can go on and on with the litany of people that have worked hard. The National Guard was mentioned. They have been down there in 95 and almost 100 degree heat and humidity handing out water and ice and providing MREs and things so people could just have a decent meal.

Storms have a way of bringing people together. Crises have a way of bringing people together. My proudest moment in this House, having served here for 10 years, was after September 11, when both sides of the aisle decided America needed to come first. And in these storms we find oftentimes that is the same integrity that is brought to this magnificent body.

So I want to thank all the people in both Chambers, both sides of the aisle, and recognize, on behalf of Floridians, who are watching us today, who are more interested in putting their lives back together and not necessarily who gets credit. There will be plenty of credit to go around. There will be plenty of opportunities to hand out the laurels and to receive the hardy handshakes to each and every one of us. But for the moment, the people working the hardest are in this room, the two Members who have allowed MilCon to proceed in order with this hurricane relief: the gentleman from Wisconsin (Mr. OBEY) and the gentleman from Florida (Mr. YOUNG).

So while I want to once again thank everyone involved, I especially want to thank these two gentlemen again for their splendid cooperation and integrity. And though we do have fights on policy from time to time, when it is important for the Nation, when it is important for our families, when it is important for our fighting forces, uniquely we come together behind this Flag recognizing our responsibilities are not to our political parties or to our leaders, but they are to our constituents who sent us here.

Mr. EDWARDS. Mr. Speaker, I yield 2 minutes to the gentleman from Washington State (Mr. DICKS), who is a member of the subcommittee and who fought so hard for military family housing.

Mr. DICKS. Mr. Speaker, I thank our ranking Democrat member on the Subcommittee on Military Construction for yielding me this time. I want to congratulate him and the gentleman from Michigan (Mr. KNOLLENBERG) for working together in a very spirited effort here to protect and take the cap off the residential construction initiative.

Mr. Speaker, I enjoyed working with the gentleman from Texas a few years ago when we both were working to help our areas at Fort Hood in Texas and Fort Lewis at Tacoma, Washington, start these projects, these residential construction initiatives. I think both of us saw in our own areas just how important these projects could be, how much faster we could get new housing and restore old housing.

To me, this is one of the finest programs that we have ever worked on. It has been worked on in a very bipartisan basis. When the gentleman from Ohio (Mr. HOBSON) was the chairman of the subcommittee, he had great experience and looked into these projects in great detail. So I want to commend everyone here.

I also would like to say regarding my friend, the gentleman from Florida, (Mr. YOUNG), our chairman, what a great job he has done for the people of Florida in this bill. He has worked effectively with everyone. I know how difficult it is to put these things together.

I can remember back in 1980, when we lost 57 people in Washington State when Mt. St. Helens blew up and my former mentor, Senator Magnuson, was chairman of the Committee on Appropriations, we had to get help for our constituents in our State; and I am glad we all came together in support of this effort.

The gentleman from Florida (Mr. YOUNG) has been a great chairman of our Committee on Appropriations. I have enjoyed working with him over the years he has been the chairman. I know he is proud of being able to put this bill together in the final days of this Congress and the final days of his chairmanship. So congratulation to him.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I had mentioned the names of the gentleman from Michigan (Mr. KNOLLENBERG), chairman of our subcommittee and his ranking member, the gentleman from Texas (Mr. EDWARDS), and I mentioned my friend, the gentleman from Wisconsin (Mr. OBEY), ranking member on the full Committee on Appropriations. But the gentleman who just left the well, I would like our colleagues to know, there have been many critical points as we have tried to get this legislation to closure. Last night, we had a number of those critical points and the gentleman from Washington (Mr. DICKS), who just left the well, at one point offered very important help, and I just appreciate the fact that he did. He can claim a lot of responsibility for the fact we are here today.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LEWIS), chairman of the Subcommittee on Defense on our Committee on Appropriations.

And when I talk about having critical moments last night, it was early this morning, at around 2 a.m., that JERRY and I talked, because we had another very critical problem, an obstacle that had to be overcome. I told him the problem, and he offered a solution. He provided very important help this morning in the conference, and that help was very obvious.

Mr. LEWIS of California. Mr. Speaker, I have little doubt that the people of Florida know just how significant the work that the gentleman from Florida (Mr. YOUNG) has been about all this night on behalf of all of them. To have the chairman of this committee be that responsive at such a critical moment is evidence of the lifelong work of this wonderful man on behalf of his State in this House.

The gentleman from Michigan (Mr. KNOLLENBERG) and I have had a chance to work with him for all these years on the Committee on Appropriations. It has indeed been a pleasure. I have told anybody who would but listen that the one quality of the gentleman from Florida (Mr. YOUNG) that I would hope one day to acquire involves his almost incredible patience, his patience in dealing with us especially in times of crises.

At a moment like this, as this very important base measure goes forward, to have him effectively put together the sort of response that we need to have in times of crises for the people of our country is reflective of his leadership. I know that most who have watched his work know just how effective he can be. But at this moment all the people of Florida are aware of that, and he will be here for as long as he wants to be here to continue with that service.

It is our privilege to work with him, and it was my great pleasure to spend a little time with him early this morning trying to deal with a few little difficulties last night. I congratulate our chairman on a job well done.

Mr. EDWARDS. Mr. Speaker, I yield 10 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking Democrat on the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, in the main, I have no real objections to almost all of the provisions in this bill. I would note with respect to the drought aid for farmers and the disaster relief for States, those two items were like the tail on the dog. Originally they were attached to one appropriation bill, and now they have come back here today and the tail is attached to a different dog. I would like to make a few comments about that, because I do not think much of the process that has been followed.

This drought and disaster package was originally going to be folded into the Homeland Security appropriations bill.

□ 1300

The minority had doubts about that. We had preferred to have that package handled separately so that Homeland Security could be handled separately without any attendant baubles and bells and whistles being attached. But in the interest of time, the majority decided it would be better to fold it into another bill, and we cooperated in that process.

But then some very strange things happened. First of all, an offset was adopted. After much objection being raised by the conservative members of the majority party caucus, a "let's pretend" offset to the drought aid cost was attached to this bill, and that offset does not really offset the money in this bill until 2014. So it is a very interesting "let's pretend" operation.

The gentleman from Florida tried to handle that in a straightforward way, but people who thought they knew better insisted that they go through this Rube Goldberg approach, so we have a "let's pretend" budget savings item in this bill.

There is another problem, because when the decision was made to as the gentleman from Texas (Mr. STENHOLM) indicated, essentially amend the farm bill in dealing with these issues, then that raised other concerns on the part of other farmers around the country. Because of that, Senator KOHL from my own State had been asking that the problems of dairy farmers be dealt with by extending the milk income support program. The Senate adopted that amendment in conference and presented it to the House conferees. We had the votes for that provision on the House side of the conference, but rather than allow us to have a vote on the issue, the chairman gaveled the conference to a close.

We then saw a Kabuki dance engaged in by the President and various Members of this House. The same day that that conference was being considered, the President said in a speech in my hometown, Wausau, Wisconsin, that he was in support of the content of the Kohl amendment to extend the milk program. Given that fact, the conference had every right to expect that the White House would be supporting what we were trying to do. But when we called down to the White House to ask whether or not they would be sending a letter in support of the amendment that had been presented to us by the Senate, the White House indicated that no support would be forthcoming, no letter would be forthcoming. Nonetheless, we tried to work with the majority, and late Thursday night, I was asked to sign a conference report based on the understanding that certain items would be in the bill and certain items would not be.

One of the items that was supposed to be in that bill was this provision, since we had the votes for it on both sides of the conference. And I signed the conference report.

The next morning when I returned to the Hill, we saw that a different judgment had been reached by the House leadership, and we were told that the Speaker and the majority whip said, "No way. That provision is not going to be included in this bill."

What we have had, in my view, is the President talking one way in Wisconsin on this subject and his principal political allies are, at the same time, deepsixing our efforts to try to pass what the President said he supported. When we asked the White House for some help to deal with it, they respectfully said "no."

So now we have a situation in which agriculture, as a sector in the budget, will suffer a long-term problem, because when this program expires, it means that the entire agriculture baseline budget will be $800 million less than it would otherwise be, and that will substantially disadvantage every farm group when the next farm bill is written.

I rise today not to talk about the fact that that individual program is not in this bill, because that really is less important than what this process has done to the House.

What we have seen is this: We remember when the majority leadership held a rollcall open for 3 hours because they did not get the results they wanted on the Medicare bill. They lost the vote so they simply kept the rollcall open until the House reversed its position.

What we saw in this case is, when it was apparent that we had the votes (because we had the support of two members of the Republican Party in this House), when it was seen that we did have the votes for that provision, the conference was simply adjourned and, lo and behold, the subject was then moved to another conference committee, and there we had a situation in which we did not have the votes in that subcommittee.

What that means is, what the leadership has decided is that there is going to be a new way of operating around here. If you go into a committee and you lose a vote, it doesn't matter, you just move the subject to another committee and have the vote in another committee.

It just seems to me that this is a fundamental corruption of the democratic process. It is a fundamental corruption of the legislative process. What it means is that no committee need bother to reach any judgments on anything because if the leadership does not like it, or if the White House does not like it, they will simply reverse the decision regardless of the votes in the committees.

What has happened in my view is that this House has become a wholly owned subsidiary of the White House. What has happened is that this Capitol is really the East Wing of the White House. That is what it has become. No checks, no balances, no separate exercise of judgment or power. I would say that that is the most fundamental corruption of all that can occur in a legislative body.

Mr. Speaker, I wanted to make those points to simply point out my concerns for the way this institution is being run.

I also want to express regret that despite the President's words on the dairy problem when he was in dairy country, it is apparent that the White House had no intention of following through on those words, and I regret that, too. In spite of that, I will vote for this bill because it meets legitimate needs of the country, and I think we have no choice but to do it.

But this is a sorry way to do business. I know the gentleman from Florida is not responsible, but the leadership of this House is, and sooner or later we need to ask whether regular procedures will be returned to the floor of this House and whether or not democracy will once again be honored in this House.

We are trying to impress the people of Iraq that they should have a democratic process. At the same time we see the legislative process, which is supposed to be the defining measure of any democracy, profoundly corrupted by these procedural high jinks, and it does no great credit to the House to allow that to happen.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Chair will note that during debate on this bill there have been several improper references to the other body. The Chair must remind all Members that under the rules and precedents of the House, it is not in order to cast reflections on the Senate or its Members, individually or collectively.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Florida (Mr. SHAW). I do know that the gentleman from Florida lived through at least two hurricanes in his own home battered by the storms.

Mr. SHAW. Mr. Speaker, the gentleman from Wisconsin just delivered a speech of several minutes expressing frustration as to how the House is run. I want to stand today to express appreciation for the expeditious way in which the House, with the full cooperation of the minority and the majority, has brought help to those who are suffering in the States of Florida, Georgia, Alabama and all through the terrible path that these hurricanes have taken. Too seldom do Members in this body get up to say thank you, but on behalf of the residents of Florida and all of those who have been made homeless or have lost substantial property due to the hurricane. I want to express my appreciation for the expeditious way in which this matter has been brought through the House of Representatives.

I especially want to point out and thank my chairman, Congressman BILL YOUNG, whose hand has worked this through in such a marvelous way and the gentleman from Wisconsin, who has given his complete cooperation to the gentleman from Florida in order to see that relief is delivered. It does show the compassion of all of the Members on both sides of the aisle for those who suffer.

On behalf of the people of the State of Florida, thank you.

Mr. EDWARDS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FARR), the second ranking member of the Subcommittee on Military Construction.

Mr. FARR. I thank the gentleman from Texas for yielding me this time.

Mr. Speaker, I want to acknowledge that the underlying bill here, the Military Construction Appropriations bill, is really a tremendous improvement for the troops in America. I would like to acknowledge that if it was not for the terrific work of the gentleman from Michigan (Mr. KNOLLENBERG), the gentleman from Wisconsin (Mr. OBEY) on our side and the gentleman from Florida (Mr. YOUNG) on the other side, this bill would not be before my colleagues, doing, I think, one of the greatest things we have ever done in Congress, and that is to help the troops with housing.

We had the pleasure of interviewing before the committee, the testifying of soldiers and their spouses. When the question was asked, what is the one thing the Congress can do to help the military most of all, the unanimous response—unanimous—was provide housing. In this bill we provide housing and really quality housing.

In my district, 2,000 homes are being built by the military alongside homes that are selling for $1 million. These houses will be rented to men and women in uniform at affordable prices considerably below what the market is. We have gone on with other work of being able to create through the RCI an LLC so that we can build housing for civilian employees of the military who are mission critical. In areas where housing prices are going out of market, out of reach, this type of program is absolutely essential to maintain the military mission in the United States.

I want to thank the leaders, but especially I want to thank the gentleman from Texas (Mr. EDWARDS), because he is the one that has been championing this more than anybody. He has been dogged about being able to make sure that we can continue building this type of housing wherever it is needed in the United States. For that effort and for his single stick-to-it-iveness on this, we need to give him a great deal of accolades and appreciation from all of us on both sides of the aisle.

Lastly, I would just like to say that I do not know if this is the last appropriations bill we are going to be adopting in Congress, but I would like to thank personally the leadership of the gentleman from Florida who has provided an incredible leadership in the committee to be fair to everyone. We will greatly miss him.

Thank you for your service, Mr. YOUNG.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Florida (Ms. HARRIS), who also experienced the wrath of several hurricanes.

Ms. HARRIS. Mr. Speaker, during the last month and a half, the worst of circumstances have summoned the best of humanity. Responding to the unprecedented devastation of four hurricanes, the people of Florida have shown enormous courage, resilience and fortitude. That is why the expedited process on the conference report for disaster relief is so imperative this morning.

The agriculture industry in central Florida has been devastated. The $2.9 billion in emergency assistance for agriculture producers experiencing crop loss caused by natural disasters is desperately needed. Small businesses in our communities are being significantly impacted by physical damage, by inventory loss and by the lack of impetus to spend. The $929 million in SBA disaster relief loans will help to leverage $5.5 billion in low-interest loans to individuals and businesses.

Rural housing, farm worker housing, waterways, watersheds and community facilities have been torn apart by hurricane damage. The $608 million in agricultural and rural assistance are central components to rebuilding these wonderful communities. In my district, Venice Beach lost 15 feet of sand, threatening municipal properties as well as homes, so the $362 million for the Army Corps of Engineers to address these projects is essential. This disaster package will contribute to the promises made by President Bush to the people of Florida.

I thank the President for his immediate and consistent attention to the needs of Florida families and, in particular, Chairman YOUNG for his extraordinary and continued leadership. As well, I cannot begin to express the gratitude I feel for the professionalism, compassion and dedication of the men and women who have given of their time to help Floridians begin the arduous process of rebuilding their lives.

□ 1315

The rebuilding will take time, but together, we will rebuild a strong and more vibrant State.

Mr. EDWARDS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I know we have an omnibus appropriations bill to pass in the lame duck session after the elections, but this could possibly be the gentleman from Florida's (Chairman YOUNG's) last subcommittee bill to oversee as chairman of the full committee. And I just want to take a moment to thank the gentleman from Florida (Chairman YOUNG) for his tremendous dedicated, thorough, professional, and fair-minded leadership on all of the issues under the jurisdiction of the Committee on Appropriations. And I want to pay a special tribute to his better half. Beverly Young, the gentleman from Florida's (Chairman YOUNG) wife, is the Mother Teresa of America's military families. Day after day, week after week, month after month, year after year, she is out at our military hospitals visiting wounded soldiers and their families. And through her example, she has reminded every Member of this House the importance of always putting the interest of our military families first.

So I want to salute the gentleman from Florida (Chairman YOUNG) for his leadership in the Committee on Appropriations and overseeing the interests of our Nation and, in particular, the special needs of our servicemen and women and their families and thank Mrs. Young for the example she has set for all of us in this House.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 30 seconds.

I want to thank the gentleman from Texas (Mr. EDWARDS) for his response. And he is right. My wife is a real angel and commits a large portion of her time to helping soldiers and especially the wounded soldiers, and their families. Her commitment to the quality of life of our military is really special, and it gives me a really great feeling to know the extent that she is involved, and I appreciate the gentleman's calling that to the attention of our colleagues.

I do not want to overlook the fact, as we are talking about hurricane relief, that the underlying bill is an excellent military construction bill that the gentleman from Texas (Mr. EDWARDS) and the gentleman from Michigan (Chairman KNOLLENBERG) have presented.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. PUTNAM), another Floridian who has hosted hurricanes.

Mr. PUTNAM. Mr. Speaker, I thank the chairman for yielding me this time.

I want to just rise and join any colleagues from Florida and the rest of the Congress in expressing my profound appreciation for the assistance that is on its way to a number of States but particularly Florida. Words are inadequate to describe the deep sense of loss that people have at looking at the devastation when they have a foot of sand in their home or an entire roof missing. But words are also inadequate to describe the profound sense of relief that comes when FEMA and State and local officials are there in a proactive way to provide tarps, to provide water, to provide batteries, to provide hot food; and it is a community effort.

But at the end of the day that community effort is made possible to a great degree in terms of resources by this Federal Government. So the bipartisan effort on the part of dozens and dozens of Members to help those drought-stricken in the Midwest and far West and those Floridians and Alabamans and Georgians and Carolinians who will pass on for generations the stories about Charley, Frances, Ivan, and Jeanne, our heart goes out to them, and we just express that deep sense of appreciation to the hard-working men and women of the government who have been there making that relief happen and the appreciation to our fellow man, to our neighbors, to the American spirit that made the water and ice lines possible, that brought in truckloads of relief from churches and faith groups from all over the country to help their fellow man whom they had never met before. And it is just part of that great community spirit and that sense of what is the strength of America, Mr. Speaker.

But at the end of the day, working out the details is always difficult in a government this large, and we want to certainly tip our hat to the efforts that the gentleman from Florida (Chairman YOUNG) has put into this. It is a debt of gratitude that we owe that we can never repay and all Floridians and all Americans are certainly grateful for the service he has performed for this Nation.

Mr. EDWARDS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, again, I want to thank the gentleman from Michigan (Chairman KNOLLENBERG) for his leadership on the underlying military construction bill. He did an outstanding job along with his excellent staff. I want to salute the gentleman from Florida (Chairman YOUNG) and the gentleman from Wisconsin (Mr. OBEY) and others who worked so hard, the gentleman from Florida (Mr. BOYD), who worked so hard on a bipartisan basis to provide much-needed, deserved relief to the people of the southeastern United States, to Florida and other States.

I would like to finish with one note. I hope when we meet again next year to provide funding for military construction for our military families' housing and training ranges to help protect our troops, help them win battles and wars and come home safely to the hugs of their loved ones that we will not for the second year or third year in a row fund less for quality of life and military housing and training programs, construction programs, than we had funded before the Iraqi war began. A Congress that can afford trillion dollar tax cuts, a Congress that can pass $137 billion predominately corporate tax cut bill just 2 days ago, less than 48 hours ago, certainly can afford not to short-change the funding that we commit to what should be a top priority, and that is quality of life for our military families.

I am proud of the work this committee did to stretch limited dollars, spend them wisely, efficiently, fairly on the highest-priority programs. But next year, we should not have to say, for the third year in a row, despite all the sacrifices of our military families and the war in Afghanistan and the war in Iraq, we are committing less total funding for them to military construction, much of which goes to quality-of-life programs, than we did before the sacrifices were asked of them in fighting these wars.

So I salute the gentleman from Florida (Chairman YOUNG), the leadership of the committee, the subcommittee, everyone who worked so well together on the underlying bill, and for those reasons, I will support this bill.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of my time.

Again, I want to say this is just a great example of how our government and those of us who represent our respective constituents, can work without political involvements or political influence, and can work together for the best interests of our country. And the underlying bill, is a really great bill for military construction and to provide for quality-of-life for the men and women who serve in our military, and they deserve so much more than they get. And this Congress is going to continue to keep trying to get more for them and let them know how much we appreciate the sacrifices that they make.

The gentleman from Michigan (Chairman KNOLLENBERG) as chairman of this subcommittee, and the gentleman from Texas (Mr. EDWARDS), as the ranking member have done an outstanding job. The gentleman from California (Mr. LEWIS) as chairman of the Defense Subcommittee of the Committee on Appropriations, and the gentleman from Pennsylvania (Mr. MURTHA), ranking minority, have also done a tremendous job for our military forces. And I want to thank everybody in this House for helping us move this hurricane disaster emergency supplemental. This House came together following in the manner that the Florida delegation came together, and we really did something good for people who reside in the State of Florida.

Again, I want to thank the President of the United States for the commitment and the promises that he has made to deliver aid and assistance to Floridians and neighboring States as they recover from these disasters. And I also want to thank the Governor of the State; the Red Cross; the Salvation Army; so many other voluntary organizations; the Florida National Guard, which did an outstanding job; all of our community leaders, the State level, the county level, the city level, and many volunteers; our emergency response leaders, everybody who really came together to help people that needed help in a State where the entire State of Florida, was touched by these disasters. Seldom does a disaster strike an entire State. In this case, during this hurricane season, no section of Florida was spared. Every part of Florida, to one degree or another, was impacted by the hurricanes. And so it is difficult for me to express the gratitude as effectively as I should.

And then there is one person who I guess, people would call a bureaucrat. I want to mention Josh Bolten. Josh Bolten has worked so hard with us, as the Director of OMB, negotiating, renegotiating, solving problems, creating problems on occasion, but always working together with us. The Director of OMB, who seldom receives praise from anybody in Congress, no matter who the Director is, this OMB Director, as far as I am concerned, is a very special person who really took the time to understand the needs of people who were injured and damaged and affected by tragedies and natural disasters. So to Josh Bolten, the Director of OMB, I express my thanks for the way he represented the President to fulfill our commitments.

Mr. Speaker, I have talked long enough on this issue. Let us vote.

Mr. HEFLEY. Mr. Speaker, I rise in support of H.R. 4837, the Fiscal Year 2005 Military Construction Appropriations Act.

As is the usual practice, each project appropriated in this bill was authorized by the recently passed National Defense Authorization Act. In order to achieve this level of coordination, the appropriations and authorizations committees spent the past several weeks working hand-in-hand together to reach matching conference agreements on our respective bills. Working with Chairman KNOLLENBERG and Mr. EDWARDS during this process was a pleasure, and their efforts were essential to our success.

I thank the gentlemen from Michigan and Texas—as well as the tremendous staff at the Military Construction Appropriations Subcommittee—for their extraordinary efforts in producing the conference report before us, and look forward to joining my colleagues in voting "yes" on passage of this conference report.

Mr. YOUNG of Florida. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## CONFERENCE REPORT ON H.R. 4567, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2005

Mr. ROGERS of Kentucky submitted the following conference report and statement on the bill (H.R. 4567) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes:

### CONFERENCE REPORT (H. REPT. 108–774)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4567) "making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

*That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes, namely:*

### *TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS*

### *OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT*

*For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $85,034,000: Provided, That not to exceed $40,000 shall be for official reception and representation expenses.*

### *OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT*

*For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701–705 of the Homeland Security Act of 2002 (6 U.S.C. 341–345), $151,153,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses: Provided further, That of the total amount provided, $65,081,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations.*

### *OFFICE OF THE CHIEF FINANCIAL OFFICER*

*For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $13,000,000.*

### *OFFICE OF THE CHIEF INFORMATION OFFICER*

*For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $275,270,000; of which $67,270,000 shall be available for salaries and expenses; and of which $208,000,000 shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, to remain available until expended: Provided, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment.*

### *OFFICE OF INSPECTOR GENERAL*

*For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $82,317,000, of which not to exceed $100,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.*

### *TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS*

### *BORDER AND TRANSPORTATION SECURITY*

### *OFFICE OF THE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY*

### *SALARIES AND EXPENSES*

*For necessary expenses of the Office of the Under Secretary for Border and Transportation Security, as authorized by subtitle A of title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.), $9,617,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.*

### *UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY.*

*For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1221 note), $340,000,000, to remain available until expended: Provided, That of the funds appropriated under this heading, $254,000,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that:*

*(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;*

*(2) complies with the Department of Homeland Security enterprise information systems architecture;*

*(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;*

*(4) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and*

*(5) is reviewed by the Government Accountability Office.*

### *CUSTOMS AND BORDER PROTECTION*

### *SALARIES AND EXPENSES*

### *(INCLUDING RESCISSION OF FUNDS)*

*For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; acquisition, lease, maintenance and operation of aircraft; purchase and lease of up to 4,500 (3,935 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $4,534,119,000; of which $3,000,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $35,000 shall be for official reception and representation expenses; of which not less than $131,436,000 shall be for Air and Marine Operations; of which not to exceed $156,162,000 shall remain available until September 30, 2006, for inspection and surveillance technology, unmanned aerial vehicles, and equipment for the Container Security Initiative; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Under Secretary for Border and Transportation Security; and of which not to exceed $5,000,000 shall be available for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration: Provided, That for fiscal year 2005, the aggregate overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated in this Act may be available to compensate any employee of the Bureau of Customs and Border Protection for aggregate overtime and premium pay, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Under Secretary for Border and Transportation Security, or a designee, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies: Provided further, That of the total amount provided, $12,725,000 shall be for activities to enforce laws against forced child labor in fiscal year 2005, of which not to exceed $4,000,000 shall remain available until expended: Provided further,* *That none of the funds appropriated in this Act may be obligated to construct permanent Border Patrol checkpoints in the Bureau of Customs and Border Protection's Tucson sector: Provided further, That the Commissioner, Bureau of Customs and Border Protection, is directed to submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure that includes location, design, costs, and benefits of each proposed Tucson sector permanent checkpoint: Provided further, That the Bureau of Customs and Border Protection shall relocate its tactical checkpoints in the Tucson sector at least an average of once every 14 days in a manner designed to prevent persons subject to inspection from predicting the location of any such checkpoint.*

*In addition, of the funds appropriated under this heading in chapter 6 of title I of Public Law 108–11 (117 Stat. 583), $63,010,000 are rescinded.*

### AUTOMATION MODERNIZATION

*For expenses for customs and border protection automated systems, $449,909,000, to remain available until expended, of which not less than $321,690,000 shall be for the development of the Automated Commercial Environment: Provided, That none of the funds appropriated under this heading may be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Under Secretary for Border and Transportation Security that:*

*(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;*

*(2) complies with the Department of Homeland Security's enterprise information systems architecture;*

*(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;*

*(4) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and*

*(5) is reviewed by the Government Accountability Office.*

### AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

*For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Under Secretary for Border and Transportation Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $257,535,000, to remain available until expended: Provided, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to Bureau of Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2005 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.*

### CONSTRUCTION

*For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $91,718,000, to remain available until expended.*

## IMMIGRATION AND CUSTOMS ENFORCEMENT

### SALARIES AND EXPENSES

*For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 2,300 (2,000 for replacement only) police-type vehicles, $2,438,494,000, of which not to exceed $5,000,000 shall be available until expended for conducting special operations pursuant to section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Under Secretary for Border and Transportation Security; of which not less than $102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than $203,000 shall be for Project Alert; and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: Provided, That none of the funds appropriated shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Under Secretary for Border and Transportation Security may waive that amount as necessary for national security purposes and in cases of immigration emergencies: Provided further, That of the total amount provided, $3,045,000 shall be for activities to enforce laws against forced child labor in fiscal year 2005, of which not to exceed $2,000,000 shall remain available until expended.*

### FEDERAL AIR MARSHALS

*For necessary expenses of the Federal Air Marshals, $662,900,000.*

### FEDERAL PROTECTIVE SERVICE

*The revenues and collections of security fees credited to this account, not to exceed $478,000,000, shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service.*

### AUTOMATION MODERNIZATION

*For expenses of immigration and customs enforcement automated systems, $39,605,000, to remain available until expended: Provided, That none of the funds appropriated under this heading may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Under Secretary for Border and Transportation Security that:*

*(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;*

*(2) complies with the Department of Homeland Security enterprise information systems architecture;*

*(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;*

*(4) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and*

*(5) is reviewed by the Government Accountability Office.*

### CONSTRUCTION

*For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $26,179,000, to remain available until expended.*

## TRANSPORTATION SECURITY ADMINISTRATION

### AVIATION SECURITY

*For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597), $4,323,523,000, to remain available until expended, of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That of the total amount provided under this heading, not to exceed $2,049,173,000 shall be for passenger screening activities; not to exceed $1,452,460,000 shall be for baggage screening activities, of which $180,000,000 shall be available only for procurement of checked baggage explosive detection systems and $45,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $821,890,000 shall be for airport security direction and enforcement presence: Provided further, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections: Provided further, That, except as provided in the following proviso, the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2005, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,500,523,000: Provided further, That the Government Accountability Office shall review, using a methodology deemed appropriate by the Comptroller General, the calendar year 2000 cost information for screening passengers and property pursuant to section 44940(a)(2) of title 49, United States Code, of air carriers and foreign air carriers engaged in air transportation and intrastate air transportation and report the information within six months of enactment of the Act but no earlier than March 31, 2005, to the Committees on Appropriations of the Senate and House of Representatives; the House Transportation and Infrastructure Committee; and the Senate Committee on Commerce, Science, and Transportation: Provided further, That the Comptroller General, or any of the Comptroller General's duly authorized representatives, shall have access, for the purpose of reviewing such cost information, to the personnel and to the books; accounts; documents; papers; records (including electronic records); and automated data and files of such air carriers, airport authorities, and their contractors; that the Comptroller General deems relevant for purposes of reviewing the information sought pursuant to the provisions of the preceding proviso: Provided further, That the Comptroller General may obtain and duplicate any such records, documents, working papers, automated data and files, or other information relevant to such reviews without cost to the Comptroller General and the Comptroller General's right of access to such information shall be enforceable pursuant to section 716(c) of title 31, United States Code: Provided further, That the Comptroller General shall maintain the same level of confidentiality for information made available under the preceding provisos as that required under section 716(e) of title 31, United States Code: Provided further, That upon the request of the Comptroller General, the Secretary of the Department of Homeland Security shall transfer to the Government Accountability Office from appropriations available for administration expenses of the Transportation Security Administration, the amount requested by the Comptroller General, not to exceed $5,000,000, to cover the full costs of any review and report of the calendar year 2000 cost information conducted* *by the Comptroller General, with 15 days advance notice by the Transportation Security Administration to the Committees on Appropriations of the Senate and House of Representatives: Provided further, That the Comptroller General shall credit funds transferred under the authority of the preceding proviso to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the review and report: Provided further, That any funds transferred and credited under the authority of the preceding provisos that are not needed for the Comptroller General's performance of such review and report shall be returned to the Department of Homeland Security and credited to the appropriation from which transferred: Provided further, That beginning with amounts due in calendar year 2005, if the result of this review is that an air carrier or foreign air carrier has not paid the appropriate fee to the Transportation Security Administration pursuant to section 44940(a)(2) of title 49 United States Code, the Secretary of Homeland Security shall undertake all necessary actions to ensure that such amounts are collected: Provided further, That such collections received during fiscal year 2005 shall be credited to this appropriation as offsetting collections and shall be available only for security modifications at commercial airports: Provided further, That if the Secretary exercises his discretion to set the fee under 44940(a)(2) of title 49 United States Code, such determination shall not be subject to judicial review: Provided further, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time equivalent screeners: Provided further, That notwithstanding 49 U.S.C. 44923, the government's share of the cost for a project under any letter of intent shall be 75 percent for any medium or large hub airport.*

### *MARITIME AND LAND SECURITY*

*For necessary expenses of the Transportation Security Administration related to maritime and land transportation security grants and services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597), $48,000,000, to remain available until September 30, 2006.*

*In addition, fees authorized by section 520 of Public Law 108–90 shall be credited to this appropriation and shall be available until expended: Provided, That in fiscal year 2005, fee collections shall be used for initial administrative costs of credentialing activities.*

### *INTELLIGENCE*

*For necessary expenses for intelligence activities pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597), $14,000,000.*

### *RESEARCH AND DEVELOPMENT*

*For necessary expenses for research and development related to transportation security, $178,000,000, to remain available until expended: Provided, That of the total amount provided under this heading, $54,000,000 shall be available for the research and development of explosive detection devices.*

### *ADMINISTRATION*

*For necessary expenses for administrative activities of the Transportation Security Administration to carry out the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597), $519,852,000, to remain available until September 30, 2006.*

## *UNITED STATES COAST GUARD*

### *OPERATING EXPENSES*

*For necessary expenses for the operation and maintenance of the Coast Guard not otherwise provided for, purchase or lease of not to exceed 25 passenger motor vehicles for replacement only, payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note) and section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and recreation and welfare, $5,157,220,000, of which $1,204,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990; and of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That none of the funds appropriated by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds provided by this Act shall be available for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation: Provided further, That notwithstanding section 1116(c) of title 10, United States Code, amounts made available under this heading may be used to make payments into the Department of Defense Medicare-Eligible Retiree Health Care Fund for fiscal year 2005 under section 1116(a) of such title.*

### *ENVIRONMENTAL COMPLIANCE AND RESTORATION*

*For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $17,000,000, to remain available until expended.*

### *RESERVE TRAINING*

*For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $113,000,000.*

### *ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS*

### *(INCLUDING RESCISSION OF FUNDS)*

*For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $982,200,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990; of which $19,750,000 shall be available until September 30, 2009, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $2,500,000 shall be available until September 30, 2009, to increase aviation capability; of which $158,000,000 shall be available until September 30, 2007, for other equipment; of which $5,000,000 shall be available until September 30, 2007, for shore facilities and aids to navigation facilities; of which $73,000,000 shall be available for personnel compensation and benefits and related costs; and of which $723,950,000 shall be available until September 30, 2009, for the Integrated Deepwater Systems program: Provided, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2007, only for Rescue 21: Provided further, That the Secretary of Homeland Security shall submit to the Congress, in conjunction with the President's fiscal year 2006 budget, a new Deepwater baseline that identifies revised acquisition timelines for each asset contained in the Deepwater program; a timeline and detailed justification for each new asset that is determined to be necessary to fulfill homeland and national security functions or multi-agency procurements as identified by the Joint Requirements Council; a detailed description of the revised mission requirements and their corresponding impact on the Deepwater program's acquisition timeline; and funding levels for each asset, whether new or continuing: Provided further, That the Secretary shall annually submit to the Congress, at the time that the President's budget is submitted under section 1105(a) of title 31, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—*

*(1) the proposed appropriation included in that budget;*

*(2) the total estimated cost of completion;*

*(3) projected funding levels for each fiscal year for the next five fiscal years or until project completion, whichever is earlier;*

*(4) an estimated completion date at the projected funding levels; and*

*(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Congress:*

*Provided further, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31 for that fiscal year: Provided further, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified: Provided further, That consistent with the preceding provisos, the budget for fiscal year 2006 that is submitted under section 1105(a) of title 31, United States Code, shall include an amount for the Coast Guard that is sufficient to fund delivery of a long-term maritime patrol aircraft capability that is consistent with the original procurement plan for the CN–235 aircraft beyond the three aircraft already funded in previous fiscal years.*

*In addition, of the funds appropriated under this heading in Public Law 108–90, $16,000,000 are rescinded.*

### *ALTERATION OF BRIDGES*

*For necessary expenses for alteration or removal of obstructive bridges, $15,900,000, to remain available until expended.*

### *RESEARCH, DEVELOPMENT, TEST, AND EVALUATION*

*For necessary expenses for applied scientific research, development, test, and evaluation, and for maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $18,500,000, to remain available until expended, of which $2,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990: Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.*

### *RETIRED PAY*

*For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,085,460,000.*

## *UNITED STATES SECRET SERVICE*

### *SALARIES AND EXPENSES*

*For necessary expenses of the United States Secret Service, including purchase of not to exceed 610 vehicles for police-type use, which shall* *be for replacement only, and hire of passenger motor vehicles; purchase of American-made motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at his or her post of duty; conduct of and participation in firearms matches; presentation of awards; travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,172,125,000, of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,100,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $5,000,000 shall be a grant for activities related to the investigations of exploited children and shall remain available until expended: Provided, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2006: Provided further, That of the total amount appropriated, not less than $5,000,000 shall be available solely for the unanticipated costs related to security operations for National Special Security Events, to remain available until expended: Provided further, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.*

### OPERATING EXPENSES

### (RESCISSION OF FUNDS)

*Of the funds appropriated under this heading in chapter 6 of title I of Public Law 108–11 (117 Stat. 581), $750,279 are rescinded.*

### ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

*For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,633,000, to remain available until expended.*

## TITLE III—PREPAREDNESS AND RECOVERY

### OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS

### MANAGEMENT AND ADMINISTRATION

*For necessary expenses for the Office of State and Local Government Coordination and Preparedness, $3,546,000: Provided, That not to exceed $2,000 shall be for official reception and representation expenses.*

### STATE AND LOCAL PROGRAMS

*For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $3,086,300,000, which shall be allocated as follows:*

*(1) $1,100,000,000 for formula-based grants and $400,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): Provided, That the application for grants shall be made available to States within 45 days after enactment of this Act; that States shall submit applications within 45 days after the grant announcement; and that the Office of State and Local Government Coordination and Preparedness shall act within 15 days after receipt of an application: Provided further, That each State shall obligate not less than 80 percent of the total amount of the grant to local governments within 60 days after the grant award.*

*(2) $1,200,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—*

*(A) $885,000,000 shall be for use in high-threat, high-density urban areas, of which $25,000,000 shall be available for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax section 501(a) of such Code) as determined by the Secretary of Homeland Security to be at high-risk of international terrorist attack;*

*(B) $150,000,000 shall be for port security grants, which shall be distributed under the same terms and conditions as provided for under Public Law 107–117;*

*(C) $5,000,000 shall be for trucking industry security grants;*

*(D) $10,000,000 shall be for intercity bus security grants; and*

*(E) $150,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants:*

*Provided, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds: Provided further, That section 1014(c)(3) of the USA PATRIOT ACT (42 U.S.C. 3714(c)(3)) shall not apply to grants under this paragraph.*

*(3) $50,000,000 shall be available for the establishment of a technology transfer program: Provided, That of the amount made available under this paragraph, $10,000,000 is available to be used for commercially-available equipment testing and validation to determine appropriateness for inclusion in the technology transfer program.*

*(4) $336,300,000 for training, exercises, technical assistance, and other programs:*

*Provided, That, none of the grants provided under this heading shall be used for the construction or renovation of facilities; except for a minor perimeter security project, not to exceed $1,000,000, as determined necessary by the Secretary of Homeland Security: Provided further, That the proceeding proviso shall not apply to grants under (2)(B) and (E) of this heading: Provided further, That grantees shall provide additional reports on their use of funds, as determined necessary by the Secretary of Homeland Security: Provided further, That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) and discretionary grants under paragraph (2)(A) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with Office of State and Local Government Coordination and Preparedness certified training, as needed: Provided further, That in accordance with the Department's implementation plan for Homeland Security Presidential Directive 8, the Office of State and Local Government Coordination and Preparedness shall provide State and local jurisdictions with nationally-accepted first responder preparedness levels no later than January 31, 2005; include in the fiscal year 2005 formula-based grant guidance guidelines for State and local jurisdictions to adopt national preparedness standards in fiscal year 2006; and issue final guidance on the implementation of the National Preparedness Goal no later than March 31, 2005: Provided further, That the fiscal year 2005 formula-based and law enforcement terrorism prevention grants under paragraph (1) shall be allocated in the same manner as fiscal year 2004.*

### FIREFIGHTER ASSISTANCE GRANTS

*For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $715,000,000, of which $650,000,000 shall be available to carry out section 33 (15 U.S.C. 2229) and $65,000,000 shall be available to carry out section 34 (15 U.S.C. 2229a) of the Act, to remain available until September 30, 2006: Provided, That not to exceed 5 percent of this amount shall be available for program administration.*

### EMERGENCY MANAGEMENT PERFORMANCE GRANTS

*For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reductions Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $180,000,000: Provided, That total administrative costs shall not exceed 3 percent of the total appropriation.*

### COUNTERTERRORISM FUND

*For necessary expenses, as determined by the Secretary of Homeland Security, to reimburse any Federal agency for the costs of providing support to counter, investigate, or respond to unexpected threats or acts of terrorism, including payment of rewards in connection with these activities, $8,000,000, to remain available until expended: Provided, That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives 15 days prior to the obligation of any amount of these funds in accordance with section 503 of this Act.*

## EMERGENCY PREPAREDNESS AND RESPONSE

### OFFICE OF THE UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE

*For necessary expenses for the Office of the Under Secretary for Emergency Preparedness and Response, as authorized by section 502 of the Homeland Security Act of 2002 (6 U.S.C. 312), $4,211,000.*

### PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

*For necessary expenses for preparedness, mitigation, response, and recovery activities of the Directorate of Emergency Preparedness and Response, $239,499,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That of the total amount appropriated, $30,000,000 shall be for Urban Search and Rescue Teams, of which not to exceed 3 percent may be made available for administrative costs.*

### OPERATING EXPENSES

### (RESCISSION OF FUNDS)

*Of the funds appropriated under this heading in chapter 6 of title I of Public Law 108–11 (11 Stat. 581), $5,000,000 are rescinded.*

### ADMINISTRATIVE AND REGIONAL OPERATIONS

*For necessary expenses for administrative and regional operations of the Directorate of Emergency Preparedness and Response, $202,939,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That not to exceed $3,000 shall be for official reception and representation expenses.*

### PUBLIC HEALTH PROGRAMS

*For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, $34,000,000.*

### RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

*The aggregate charges assessed during fiscal year 2005, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: Provided, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: Provided further, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2005, and remain available until expended.*

### DISASTER RELIEF

*For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $2,042,380,000, to remain available until expended.*

### DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

*For administrative expenses to carry out the direct loan program, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $567,000: Provided, That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: Provided further, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).*

### FLOOD MAP MODERNIZATION FUND

*For necessary expenses pursuant to section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $200,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: Provided, That total administrative costs shall not exceed 3 percent of the total appropriation.*

### NATIONAL FLOOD INSURANCE FUND

### (INCLUDING TRANSFER OF FUNDS)

*For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), not to exceed $33,336,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and not to exceed $79,257,000 for flood hazard mitigation, to remain available until September 30, 2006, including up to $20,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2006, and which amount shall be derived from offsetting collections assessed and collected pursuant to section 1307 of that Act (42 U.S.C. 4014), and shall be retained and used for necessary expenses under this heading: Provided, That in fiscal year 2005, no funds in excess of: (1) $55,000,000 for operating expenses; (2) $562,881,000 for agents' commissions and taxes; and (3) $30,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund.*

### NATIONAL FLOOD MITIGATION FUND

*Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), $20,000,000, to remain available until September 30, 2006, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $20,000,000 shall be derived from the National Flood Insurance Fund.*

### NATIONAL PRE-DISASTER MITIGATION FUND

*For a pre-disaster mitigation grant program pursuant to title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $100,000,000, to remain available until expended: Provided, That grants made for pre-disaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)), and notwithstanding section 203(f) of such Act, shall be made without reference to State allocations, quotas, or other formula-based allocation of funds: Provided further, That total administrative costs shall not exceed 3 percent of the total appropriation.*

### EMERGENCY FOOD AND SHELTER

*To carry out an emergency food and shelter program pursuant to title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.), $153,000,000, to remain available until expended: Provided, That total administrative costs shall not exceed 3.5 percent of the total appropriation.*

## TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING, ASSESSMENTS, AND SERVICES

### CITIZENSHIP AND IMMIGRATION SERVICES

*For necessary expenses for citizenship and immigration services, $160,000,000.*

### FEDERAL LAW ENFORCEMENT TRAINING CENTER

### SALARIES AND EXPENSES

*For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal cell phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $177,440,000, of which up to $36,174,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2006; and of which not to exceed $12,000 shall be for official reception and representation expenses: Provided, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year.*

### ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

*For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $44,917,000, to remain available until expended: Provided, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.*

### INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

### MANAGEMENT AND ADMINISTRATION

*For salaries and expenses of the immediate Office of the Under Secretary for Information Analysis and Infrastructure Protection and for management and administration of programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $132,064,000: Provided, That not to exceed $5,000 shall be for official reception and representation expenses.*

### ASSESSMENTS AND EVALUATIONS

*For necessary expenses for information analysis and infrastructure protection as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $761,644,000, to remain available until September 30, 2006: Provided, That the Under Secretary for Information Analysis and Infrastructure Protection shall submit a report at the end of each quarter of the fiscal year to the Committees on Appropriations of the Senate and the House of Representatives on each sole-source contractual agreement entered into through the commitment of amounts available from funds appropriated under this heading by this or previous appropriations Acts, including the amount, recipient and purpose of the agreement.*

### SCIENCE AND TECHNOLOGY

### MANAGEMENT AND ADMINISTRATION

*For salaries and expenses of the immediate Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $68,586,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.*

### RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

*For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $1,046,864,000, to remain available until expended.*

## TITLE V—GENERAL PROVISIONS

*SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.*

*SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act: Provided, That balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.*

*SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2005, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation* *or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose; or (5) contracts out any functions or activities for which funds have been appropriated for Federal full-time equivalent positions; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.*

*(b) None of the funds provided by this Act, provided by previous appropriation Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2005, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.*

*(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: Provided, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.*

*(d) Notifications pursuant to subsections (a), (b) and (c) of this subsection shall not be made later than June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.*

*SEC. 504. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2005 from appropriations for salaries and expenses for fiscal year 2005 in this Act shall remain available through September 30, 2006, in the account and for the purposes for which the appropriations were provided: Provided, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.*

*SEC. 505. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2005 until the enactment of an Act authorizing intelligence activities for fiscal year 2005.*

*SEC. 506. The Federal Law Enforcement Training Center shall establish an accrediting body, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to establish standards for measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.*

*SEC. 507. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000 unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and House of Representatives at least 3 full business days in advance: Provided, That no notification shall involve funds that are not available for obligation.*

*SEC. 508. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.*

*SEC. 509. The Director of the Federal Law Enforcement Training Center (FLETC) shall schedule basic and/or advanced law enforcement training at all four training facilities under FLETC's control to ensure that these training centers are operated at the highest capacity throughout the fiscal year.*

*SEC. 510. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.*

*SEC. 511. For fiscal year 2005 and thereafter, none of the funds appropriated or otherwise made available by this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Transportation Security Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to aviation security: Provided, That the prohibition of funds in this section does not apply to—*

*(1) negotiations between the agency and airport sponsors to achieve agreement on "below-market" rates for these items, or*

*(2) space for necessary security checkpoints.*

*SEC. 512. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).*

*SEC. 513. The Secretary of Homeland Security is directed to research, develop, and procure certified systems to inspect and screen air cargo on passenger aircraft at the earliest date possible: Provided, That until such technology is procured and installed, the Secretary shall take all possible actions to enhance the known shipper program to prohibit high-risk cargo from being transported on passenger aircraft: Provided further, That the Secretary shall amend Security Directives and programs in effect on the date of enactment of this Act to, at a minimum, triple the percentage of cargo inspected on passenger aircraft.*

*SEC. 514. The Commandant of the Coast Guard shall provide to the Congress each year, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a list of approved but unfunded Coast Guard priorities and the funds needed for each such priority in the same manner and with the same contents as the unfunded priorities lists submitted by the chiefs of other Armed Services.*

*SEC. 515. (a) IN GENERAL.—Chapter 449 of title 49, United States Code, is amended by inserting after section 44944 the following new section:*

***"§44945. Disposition of unclaimed money***

*"Notwithstanding section 3302 of title 31, unclaimed money recovered at any airport security checkpoint shall be retained by the Transportation Security Administration and shall remain available until expended for the purpose of providing civil aviation security as required in this chapter.".*

*(b) ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act and annually thereafter, the Administrator of the Transportation Security Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives; the Committee on Appropriations of the House of Representatives; the Committee on Commerce, Science and Transportation of the Senate; and the Committee on Appropriations of the Senate, a report that contains a detailed description of the amount of unclaimed money recovered in total and at each individual airport, and specifically how the unclaimed money is being used to provide civil aviation security.*

*(c) CLERICAL AMENDMENT.—The analysis for chapter 449 of title 49, United States Code, is amended by adding the following new item after the item relating to section 44944:*

*"44945. Disposition of unclaimed money.".*

*SEC. 516. Notwithstanding section 3302 of title 31, United States Code, the Administrator of the Transportation Security Administration may impose a reasonable charge for the lease of real and personal property to Transportation Security Administration employees and for use by Transportation Security Administration employees and may credit amounts received to the appropriation or fund initially charged for operating and maintaining the property, which amounts shall be available, without fiscal year limitation, for expenditure for property management, operation, protection, construction, repair, alteration, and related activities.*

*SEC. 517. The acquisition management system of the Transportation Security Administration shall apply to the acquisition of services, as well as equipment, supplies, and materials.*

*SEC. 518. Notwithstanding any other provision of law, the authority of the Office of Personnel Management to conduct personnel security and suitability background investigations, update investigations, and periodic reinvestigations of applicants for, or appointees in, positions in the Office of the Secretary and Executive Management, the Office of the Under Secretary of Management, the Directorate of Science and Technology, and the Directorate of Information Analysis and Infrastructure Protection of the Department of Homeland Security is transferred to the Department of Homeland Security: Provided, That on request of the Department of Homeland Security, the Office of Personnel Management shall cooperate with and assist the Department in any investigation or reinvestigation under this section.*

*SEC. 519. Section 312(g) of the Homeland Security Act of 2002 (6 U.S.C. 192(g)) is amended to read as follows:*

*"(g) TERMINATION.—The Homeland Security Institute shall terminate 5 years after its establishment.".*

*SEC. 520. Section 311(c)(2) of the Homeland Security Act of 2002 (6 U.S.C. 191(c)(2)) is amended to read as follows:*

*"(2) ORIGINAL APPOINTMENTS.—The original members of the Advisory Committee shall be appointed to three classes. One class of six shall have a term of 1 year, one class of seven a term of 2 years, and one class of seven a term of 3 years.".*

*SEC. 521. Notwithstanding any other provision of law, funds appropriated under paragraphs (1) and (2) of the State and Local Programs heading under title III of this Act are exempt from section 6503(a) of title 31, United States Code.*

*SEC. 522. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Computer Assisted Passenger Prescreening System (CAPPS II) or Secure Flight or other follow on/successor programs, that the Transportation Security Administration (TSA), or any other Department of Homeland Security component, plans to utilize to screen aviation passengers, until the Government Accountability Office has reported to the Committees on Appropriations of the Senate and the House of Representatives that—*

*(1) a system of due process exists whereby aviation passengers determined to pose a threat are either delayed or prohibited from boarding their scheduled flights by the TSA may appeal such decision and correct erroneous information contained in CAPPS II or Secure Flight or other follow on/successor programs;*

*(2) the underlying error rate of the government and private data bases that will be used both to establish identity and assign a risk level to a passenger will not produce a large number of false positives that will result in a significant number of passengers being treated mistakenly or security resources being diverted;*

*(3) the TSA has stress-tested and demonstrated the efficacy and accuracy of all search tools in CAPPS II or Secure Flight or other follow on/successor programs and has demonstrated that CAPPS II or Secure Flight or other follow on/successor programs can make an accurate predictive assessment of those passengers who may constitute a threat to aviation;*

*(4) the Secretary of Homeland Security has established an internal oversight board to monitor the manner in which CAPPS II or Secure Flight or other follow on/successor programs are being developed and prepared;*

*(5) the TSA has built in sufficient operational safeguards to reduce the opportunities for abuse;*

*(6) substantial security measures are in place to protect CAPPS II or Secure Flight or other follow on/successor programs from unauthorized access by hackers or other intruders;*

*(7) the TSA has adopted policies establishing effective oversight of the use and operation of the system;*

*(8) there are no specific privacy concerns with the technological architecture of the system;*

*(9) the TSA has, pursuant to the requirements of section 44903 (i)(2)(A) of title 49, United States Code, modified CAPPS II or Secure Flight or other follow on/successor programs with respect to intrastate transportation to accommodate States with unique air transportation needs and passengers who might otherwise regularly trigger primary selectee status; and*

*(10) appropriate life-cycle cost estimates, and expenditure and program plans exist.*

*(b) During the testing phase permitted by paragraph (a) of this section, no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a government watch list.*

*(c) None of the funds provided in this or any previous appropriations Act may be utilized to develop or test algorithms assigning risk to passengers whose names are not on government watch lists.*

*(d) None of the funds provided in this or any previous appropriations Act may be utilized to test an identity verification system that utilizes at least one database that is obtained from or remains under the control of a non-Federal entity until TSA has developed measures to determine the impact of such verification on aviation security and the Government Accountability Office has reported on its evaluation of the measures.*

*(e) TSA shall cooperate fully with the Government Accountability Office, and provide timely responses to the Government Accountability Office requests for documentation and information.*

*(f) The Government Accountability Office shall submit the report required under paragraph (a) of this section no later than March 28, 2005.*

*SEC. 523. Section 835 of the Homeland Security Act of 2002 (Public Law 107-296; 6 U.S.C. 395) is amended—*

*(1) in subsection (a), by inserting before the period ", or any subsidiary of such an entity";*

*(2) in subsection (b)(1), by inserting "before, on, or" after the "completes";*

*(3) in subsection (c)(1)(B), by striking "which is after the date of enactment of this Act and"; and*

*(4) in subsection (d), by striking "homeland" and inserting "national".*

*SEC. 524. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).*

*SEC. 525. Notwithstanding any other provision of law, the fiscal year 2004 aggregate overtime limitation prescribed in subsection 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 261 and 267) shall be $30,000.*

*SEC. 526. Notwithstanding any other provision of law, notifications pursuant to section 503 of this Act or any other authority for reprogramming of funds shall be made solely to the Committees on Appropriations of the Senate and House of Representatives.*

*SEC. 527. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A-76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.*

*SEC. 528. None of the funds available in this Act shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.*

*This Act may be cited as the "Department of Homeland Security Appropriations Act, 2005".*

And the Senate agree to the same.

HAROLD ROGERS,
BILL YOUNG,
FRANK R. WOLF,
ZACH WAMP,
TOM LATHAM,
JO ANN EMERSON,
KAY GRANGER,
JOHN E. SWEENEY,
DON SHERWOOD,
*Managers on the Part of the House.*

THAD COCHRAN,
TED STEVENS,
ARLEN SPECTER,
PETE V. DOMENICI,
MITCH MCCONNELL,
RICHARD SHELBY,
JUDD GREGG,
BEN NIGHTHORSE CAMPBELL,
LARRY CRAIG,
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4567), making appropriations for the Department of Homeland Security (DHS) for the fiscal year ending September 30, 2005, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Senate Amendment: The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill. Throughout the accompanying explanatory statement, the managers refer to the Committee and the Committees on Appropriations. Unless otherwise noted, in both instances, the managers are referring to the House Subcommittee on Homeland Security and the Senate Subcommittee on Homeland Security.

The language and allocations contained in House Report 108–541 and Senate Report 108–280 should be complied with unless specifically addressed to the contrary in the conference report and statement of managers. The statement of managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases where both the House and Senate reports address a particular issue not specifically addressed in the conference report or joint statement of managers, the conferees have determined that the House report and Senate report are not inconsistent and are to be interpreted accordingly.

In cases where the House or Senate report directs the submission of a report, such report is to be submitted to both the House and Senate Committees on Appropriations. Further, in a number of instances, House Report 108–541 and Senate Report 108–280 direct agencies to report to the Committees by specific dates that have now passed. In those instances, and unless alternative dates are provided in the accompanying explanatory statement, agencies are directed to provide these reports to the House and Senate Committees on Appropriations no later than January 10, 2005.

## TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

### OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

The conferees agree to provide $85,034,000 instead of $80,227,000 as proposed by the House and $82,206,000 as proposed by the Senate. Funding shall be allocated as follows:

| | |
|---|---|
| Immediate Office of the Secretary | $2,141,000 |
| Immediate Office of the Deputy Secretary | 1,112,000 |
| Office of Security | 21,424,000 |
| Chief of Staff | 5,240,000 |
| Executive Secretary | 3,500,000 |
| Special Assistant to the Secretary/Private Sector | 3,781,000 |
| Office for National Capital Region Coordination | 688,000 |
| Office of International Affairs | 1,200,000 |

| | |
|---|---|
| Office of Public Affairs ...... | 8,120,000 |
| Office of Legislative Affairs ............................... | 5,400,000 |
| Office of General Counsel .. | 10,821,000 |
| Office for Civil Rights and Civil Liberties ................ | 13,000,000 |
| Citizenship and Immigration Services Ombudsman ............................... | 3,546,000 |
| Homeland Security Advisory Committee ............. | 1,287,000 |
| Privacy Office .................... | 3,774,000 |
| Total .............................. | 85,034,000 |

Reductions have been made to individual offices within the Office of the Secretary and Executive Management because of large numbers of unfilled positions. The conferees believe that full-year funding is not necessary for salaries of employees that are not yet on board.

RECEPTION AND REPRESENTATION

The conferees have provided not to exceed $40,000 for reception and representation expenses for the Office of the Secretary and Executive Management instead of not to exceed $45,000 as proposed by the House and not to exceed $50,000 as proposed by the Senate to be available for allocation within the Department. Separate reception and representation allowances have been provided directly to other departmental agencies.

BUDGET JUSTIFICATIONS

For fiscal year 2006, the conferees direct that the Congressional budget justifications for all departmental offices be submitted in the same level of detail as the detailed table contained in the back of this report. These justifications should include detailed data and explanatory statements in support of each appropriations request, including tables that detail each departmental office's programs, projects, and activities for fiscal years 2005 and 2006. All funding and staffing changes for each individual office must be highlighted and explained, including separate discussions for personnel, compensation, and benefits; travel; training; and other services. The budget justifications should also include a table identifying the last year that authorizing legislation was provided by Congress for each program, project, or activity; the amount of the authorization; and the appropriation in the last year of the authorization.

CLASSIFIED BUDGET JUSTIFICATIONS

Several components of the Department have classified programs that require preparation and submission of a separate classified budget justification document. These classified budget justification documents are to be submitted to the House and Senate Committees on Appropriations at the same time the unclassified budget justifications are transmitted.

OFFICE OF SECURITY

The conferees agree to provide $21,424,000 instead of $21,824,000 as proposed by the House and $21,044,000 as proposed by the Senate. Sufficient funding has been provided within this appropriation for the Office of Security to rapidly process and adjudicate background investigations.

CONSOLIDATION AND CO-LOCATION OF OFFICES

The conferees direct the Department to regularly update the House and Senate Committees on Appropriations on office consolidations and co-location plans as discussed in the Senate report. The Department shall notify the Committees at least 10 days prior to any public announcement of any changes to regional or field offices.

DETAILEES

The conferees direct the Department to report to the House and Senate Committees on Appropriations on January 10, 2005, and quarterly thereafter, on the number of detailees in the Department as well as those detailed to other executive and legislative agencies. These quarterly reports shall include the originating agency, salary, length of detail (including beginning and end dates), and purpose of each detail.

GENERAL AVIATION AIRPORTS

The conferees direct the Secretary, in conjunction with the Transportation Security Administration and the Secret Service, to provide a report to the House and Senate Committees on Appropriations by March 1, 2005, on restoring access to Ronald Reagan Washington National Airport (DCA) and other general aviation airports within 15 miles of DCA for security-qualified charter and general aviation operators.

COUNTER MAN-PORTABLE AIR DEFENSE SYSTEMS (MANPADS)

The conferees direct the Secretary to submit a report to the House and Senate Committees on Appropriations on the Counter MANPADS program as outlined by Section 530 of the Senate bill. The conferees do not agree to subsections (5) and (6) of the Senate bill. In lieu of these sections, the conferees expect the report to include an assessment of other technologies that have been evaluated by the Department that could be employed on commercial aircraft to address the threat posed by MANPADS.

TRANSPORTATION SECURITY PLAN

The conferees direct the Secretary of Homeland Security, in consultation with the Secretary of Transportation, to develop, maintain, and submit to the House and Senate Committees on Appropriations no later than March 31, 2005, an integrated strategic transportation security plan. The plan shall identify and evaluate the United States transportation assets that need to be protected, set risk-based priorities for defending the assets identified, select the most practical and cost-effective ways of defending the assets identified, and assign transportation security roles and missions to the relevant federal, State, regional, and local authorities, and to the private sector. The conferees expect that future budget requests will be based on this integrated strategic transportation security plan. Should any part of this plan involve information that is properly classified under criteria established by Executive Order, that information shall be submitted separately in classified form.

DATA-MINING

The conferees are concerned about the Department's possible use or development of data-mining technology. The conferees direct the DHS Privacy Officer, in consultation with the head of each Department of Homeland Security agency that is developing or using data-mining technology, to submit a report no later than 90 days after the end of fiscal year 2005 that provides: (1) a thorough description of the data-mining technology, the plans for use of such technology, the data that will be used, and the target dates for the deployment of the technology; (2) an assessment of the likely impact of the implementation of the technology on privacy and civil liberties; and (3) a thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to protect the privacy and due process rights of individuals and to ensure that only accurate information is collected and used.

BUY AMERICAN

The conferees include bill language prohibiting funds from being used in contravention of the applicable provisions of the Buy American Act. The House and Senate Committees on Appropriations expect to be notified when the Department deviates from this direction pursuant to permissible exceptions. The conferees direct the Inspector General to audit the Department's compliance with the Buy American Act and submit the report at the same time the President submits to Congress the budget for fiscal year 2006.

The conferees direct the Secretary to issue a report to the Committees on Appropriations that describes the articles, materials, and supplies acquired by the Department during fiscal year 2005 that were manufactured outside of the United States as well as an itemized list of all waivers granted with respect to such articles, materials, or supplies under the Buy American Act. The report should include a summary of the total funds spent by the Department of Homeland Security on goods manufactured within the United States compared with funds spent on goods manufactured outside of the United States.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

The conferees agree to provide $151,153,000 instead of $129,356,000 as proposed by the House and $175,579,000 as proposed by the Senate. The conferees have provided not to exceed $3,000 for reception and representation expenses instead of not to exceed $5,000 as proposed by the House. The Senate proposed no similar provision. Funding shall be allocated as follows:

| | |
|---|---|
| Under Secretary for Management ......................... | $1,434,000 |
| Business Transformation Office ............................. | 920,000 |
| Office of Procurement ....... | 7,350,000 |
| Office of Human Resources | 7,200,000 |
| Office of Administration ... | 27,270,000 |
| Immigration Statistics ..... | 5,898,000 |
| Headquarters, Renovation and Relocation Expenses | 65,081,000 |
| Human resources system ... | 36,000,000 |
| Total ........................... | 151,153,000 |

The conferees have provided funding for the Offices of the Chief Financial Officer and the Chief Information Officer under separate accounts outside of the Office of the Under Secretary for Management, as proposed by the House. The Senate funded these two offices within the Office of the Under Secretary for Management.

INVESTMENT REVIEW BOARD

Separate funding is not recommended for the Investment Review Board as proposed by the Senate. The House proposed $2,500,000. The conferees believe that the Department should continue to rely on its managers to establish, maintain, and support investment analysis and decision making, and to comply with statutory requirements.

OFFICE OF PROCUREMENT

The conferees agree to provide $7,350,000 for the Office of Procurement within the Under Secretary for Management instead of $7,734,000 as a separate appropriation as proposed by the House and $7,024,000 as proposed by the Senate. Within this funding, the conferees direct the Chief Procurement Officer to hire five additional procurement staff instead of the nine staff proposed by the House.

### DHS HEADQUARTERS

The conferees agree to include $65,081,000 for the alteration and improvement of facilities, tenant improvements and relocation costs to consolidate a headquarters operations as proposed by the House and Senate. The Department is directed to submit to the House and Senate Committees on Appropriations, no later than December 1, 2004, a facilities improvement and housing plan for the Nebraska Avenue Complex, NAC, Washington, DC, including: total cost of renovations and improvements for each Department-occupied building within NAC; by fiscal year, and including all out-year costs, the total cost for site and design, security upgrades and improvements, tenant improvements, and relocation costs; and, by building, a list of tenants including the total number of current and projected tenants. The Department is directed to notify the Committees 15 days prior to the obligation of funds. Such notification shall be consistent with the facilities improvement and housing plan.

### HUMAN RESOURCES SYSTEM

The conferees agree to provide $36,000,000 for the human resources system instead of $70,000,000 as proposed by the House and Senate. This funding shall be used for design, implementation, and program oversight of this new system in fiscal year 2005.

### CONTRACT STAFFING

The conferees direct the Department to report, no later than November 15, 2004, on the number of contract staff occupying positions budgeted to be filled by federal employees during fiscal year 2004 and projected for fiscal year 2005. This report should include the numbers of contract staff by component, and a plan, with milestones, for reducing its dependence on contract staff. The Department is directed to submit monthly updates on its progress against these milestones to the House and Senate Committees on Appropriations.

### WORKING CAPITAL FUND

The conferees direct the Department to issue a report by December 1, 2004, to the House and Senate Committees on Appropriations that identifies all centralized services, activities, and programs supported through the Working Capital Fund (WCF) in fiscal years 2004 and 2005. This report shall include a brief description of each activity, the basis for the pricing policy, the estimated cost for fiscal years 2004 and 2005, and for any multi-year project, the total cost, scope, and schedule for completion. The report should also provide the total estimated cost of the activity by fiscal year and the estimated date for completion, the number of full-time federal employees funded in each activity, a list of each departmental organization that is allocating funds to the activity, and the funding each organization is providing in fiscal years 2004 and 2005. Finally, the report should identify any cross-cutting initiatives or activities that benefit more than one organization that are not included in the WCF and explain the omission.

The conferees expect all cross-cutting initiatives funded by multiple organizations for which funding has been approved by the Committees to be included in the WCF and the Committees are to be promptly notified of any additions, deletions, or changes that are made to the WCF during the fiscal year. Taxing departmental organizations for cross-cutting initiatives outside the WCF will not be approved by the House and Senate Committees on Appropriations. The conferees expect the Department to comply with reprogramming guidelines in the management of the WCF. The WCF is not to be used to support initiatives for which funding was requested in the budget and not approved when the appropriation was made.

For fiscal year 2006, the same level of detailed information on the WCF is to be provided in the budget justification document submitted for the Departmental Operations account, with the corresponding information contained in the accounts for each organization that is funding the WCF.

### OFFICE OF THE CHIEF FINANCIAL OFFICER

The conferees agree to provide $13,000,000 as proposed by the House instead of $14,670,000 as proposed by the Senate within the Office of the Under Secretary for Management. The conferees expect the Chief Financial Officer and Chief Information Officer to work closely together on key financial information technology modernization. projects, such as the Electronically Managing Enterprise Resources for Government Efficiency and Effectiveness (eMerge 2) system.

### MONTHLY REPORTING REQUIREMENTS

The Department is directed to continue submitting to the House and Senate Committees on Appropriations a monthly budget execution report showing the status of obligations and costs for all components of the Department. The report should include the total obligational authority appropriated (new budget authority plus unobligated carryover), undistributed obligational authority, amount allotted, current year obligations, unobligated authority, beginning unexpended obligations, year-to-date costs, and ending unexpended obligations. This budget execution information is to be provided at the level of detail shown in the tables displayed at the end of this report for each departmental component and shall be submitted no later than 45 days after the close of each month.

### FINANCIAL MANAGEMENT OF THE DEPARTMENT

The conferees are concerned with the Department's execution of its financial responsibilities after numerous budgetary and management crises over the 18 months of the Department's existence, notably with the Bureau of Immigration and Customs Enforcement and the Transportation Security Administration. The Department and senior agency management are coping with major changes in the organizational environment, resources, and communication networks of new and radically expanding or changing agencies. It is, therefore, to be expected that the Department will experience direct and indirect costs and management problems as it integrates its agencies. The conferees also acknowledge that reconciling different systems and legacy accounting bureaucracies is difficult. Nonetheless, the conferees will not assent to a repeat of recent experience of shifting and multiple, last minute requests for funding relief, particularly when the Department and agencies can neither explain nor even fully understand their own financial condition. Such a level of uncertainty is inexplicable, and adversely affects the Department's ability to fulfill its missions and carry out Administration and Congressional policy.

The conferees direct the Secretary and Department agency heads to devote the resources and managerial energy required to ensure that basic financial control and transparency in accounting are achieved, and avoid the waste and disruption caused by failure to carry out this fundamental management function. The conferees expect that agencies will establish baseline budgets and reconcile their financial records and accounting systems to provide sufficient information to the Department's Chief Financial Officer (CFO) to permit a clear understanding of financial resources available as well as existing and upcoming liabilities. The conferees further direct that the CFO include in the monthly budget execution report an update on the status of steps underway to improve financial management in critical agencies. Finally, the conferees expect that the Secretary and CFO will strive to ensure that required financial audits of the Department's components are conducted in a timely fashion and with full cooperation of agency personnel.

### TRANSPORTATION SECURITY ADMINISTRATION REPROGRAMMINGS

The conferees are concerned that the Department of Homeland Security has submitted numerous reprogramming for the Transportation Security Administration (TSA) to the House and Senate Committees on Appropriations that TSA cannot fully explain and justify. In fiscal year 2004, three TSA reprogrammings were submitted. For each of these reprogrammings, TSA was unable to provide timely and consistent data to answer specific questions about the need for these actions. For instance, when the Department's reprogramming letter states that ". . . $42,200,000 will be used to fund screener professional development to increase retention, and to cover higher benefit costs and increased supervision costs", the conferees expect TSA to readily explain the dollars for each of these three items. Similarly, TSA has been unable to provide an accurate annual estimate for a variety of requirements, such as maintenance costs, and salaries and expenses, which has led to repeated reprogramming requests for additional funds to cover these activities throughout the year, at the expense of other TSA or Department programs. This causes the conferees to question the competency of TSA's estimating capabilities. Therefore, the conferees direct that the Department institute financial controls to enable TSA to live within its resource limitations to negate or minimize the need for reprogrammings. If a reprogramming is necessary for fiscal year 2005, it should provide sufficient basic information for it to be properly considered by the Committees and each specific funding increase and decrease should be fully explained and justified.

### GRANT AWARDS

The conferees are disappointed with the Department's pace for awarding homeland security grants, including grants for port security, intercity bus security, hazardous materials, pre-disaster mitigation, and funds for urban search and rescue teams. The conferees direct the Department to prepare a report by December 15, 2004, that lays out an expeditious and responsible schedule for making grants and awards for the funds made available by this Act, as well as for any prior year funds that remain available for obligation.

### OFFICE OF THE CHIEF INFORMATION OFFICER

The conferees agree to provide $275,270,000 for the Office of the Chief Information Officer (CIO) and Department-Wide Technology Investments. Of this funding, $67,270,000 shall be for salaries and expenses and $208,000,000 for Department-Wide Technology Investments. The House proposed $60,139,000 for the CIO and $211,000,000 for Department-Wide Technology Investments. The Senate proposed $68,396,000 for the CIO and $222,000,000 for Department-Wide Technology Investments. Funding shall be allocated in accordance with the funding recommendations detailed in the following table:

| | |
|---|---|
| Salaries and Expenses | $67,270,000 |
| Office of the Chief Information Officer | 64,270,000 |
| Wireless Program, Salaries and Expenses | 3,000,000 |
| Information Technology Services | 91,000,000 |
| Enterprise Architecture & Portal Technology | 13,000,000 |
| Geospatial mapping | 8,000,000 |
| Human Resources | 21,000,000 |
| EMerge2 | 49,000,000 |
| Security Activities | 31,000,000 |
| Federal terrorist watch list integration | 10,000,000 |
| Enterprise Architecture | 9,000,000 |
| HS IT evaluation program (extra & intra net) | 12,000,000 |
| Wireless Program | 86,000,000 |
| Replace legacy border components | 16,000,000 |
| New investments in radio infrastructure borders | 52,000,000 |
| Infrastructure optimization & upgrade | 18,000,000 |
| SAFECOM* | — |
| Total | 275,270,000 |

*Funded under the Science and Technology Directorate.

### FINANCIAL INFORMATION TECHNOLOGY MODERNIZATION PROJECTS

The conferees expect the CFO and CIO to work closely together on key financial information technology modernization projects, such as the eMerge 2 system.

### GEOSPATIAL INFORMATION MANAGEMENT

The conferees agree to provide $8,000,000 to create a Department-wide Geospatial Information System (E–GIS) capability under the direction of the CIO and direct the Secretary to create the Geospatial Management Office (GMO) within the CIO's office to oversee this activity. The GMO will be responsible for coordinating geospatial information needs, requirements, and other related spatial data activities that support the E–GIS capability defined by the GMO. The GMO will provide clear and concise policy direction across the Department needed for an E–GIS geospatial information capability. The conferees expect the GMO to guide the development and execution of the implementation plan for the geospatial enablement of the Department's mission systems. The CIO's office is directed to report to the House and Senate Committees on Appropriations by December 1, 2004, on a date by which the GMO will be established and operational and on the outline of the implementation plan.

### PROGRAM, PROJECT AND ACTIVITY PLANS

The conferees request the CIO to revise its report of April 20, 2004, on program, project and activity plans as directed within the Senate report. This revision should be submitted to the House and Senate Committees on Appropriations no later than February 8, 2005.

The conferees further direct the CIO to submit to the House and Senate Committees on Appropriations by February 8, 2005, a detailed program plan describing the scope, total estimated cost, cost by year, and the schedule for completion, including significant milestones, for each individual project currently underway and funded for fiscal year 2005 for information technology services, security activities, and wireless programs. This report should include the specified subject areas and associated level of detail as directed in the House report.

### WIRELESS PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS (SAFECOM)

The conferees agree to provide $11,000,000 for SAFECOM in the Science and Technology Directorate as proposed by the House. The Senate proposed funding of $11,000,000 for SAFECOM under the Department-Wide Technology Investments account.

### Department-Wide Technology Investments

The conferees have deleted a separate appropriation for Department-Wide Technology Investments and have included this funding with the Office of the Chief Information Officer.

### Office of Inspector General

The conferees agree to provide $82,317,000 as proposed by the House and the Senate. Within the amounts provided, the Inspector General should continue to fund its portion of the Department's yearly financial audit at the same level as provided in fiscal year 2004.

The conferees direct the Inspector General to forward copies of all audit reports to the House and Senate Committees on Appropriations immediately after they are released and to make the Committees aware of any significant budgetary savings. The Inspector General is directed to withhold from public distribution for 15 days any final audit or investigation requested by the Committees.

## TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

### Border and Transportation Security

### Office of the Under Secretary for Border and Transportation Security

### Salaries and Expenses

The conferees agree to provide $9,617,000, instead of $10,371,000 as proposed by the House and $8,864,000 as proposed by the Senate. The conferees also provide that not to exceed $3,000 is available for official representation and reception expenses. Neither the House nor the Senate bills contained this provision.

### DENT—IAFIS INTEROPERABILITY

The conferees are troubled by the security gap on the nation's borders caused by delays in linking the Automated Biometrics Identification System (IDENT), the fingerprint database managed by Customs and Border Protection (CBP) and US Visitor and Immigrant Status Indicator Technology (US–VISIT), with criminal history data contained in the Federal Bureau of Investigation's Integrated Automated Fingerprint Identification System (IAFIS). The conferees understand that by the end of calendar year 2004, interoperability will exist at airports, seaports, and the largest and busiest Border Patrol stations and land ports of entry. CBP and Immigration and Customs Enforcement (ICE) locations will not be completed until December 31, 2005. With implementation of a new visa tracking system and enrollment of millions of visitors into US–VISIT, it is essential that the Directorate of Border and Transportation Security collaborate with the Federal Bureau of Investigation to ensure that IDENT can retrieve, in real time, biometric information contained in the IAFIS database, and that the IAFIS database can retrieve, in real time, biometric information contained in IDENT.

The conferees direct the Department to fund the full cost to achieve real time interoperability between these systems from the US-VISIT Approriation, and direct the Under Secretary for Border and Transportation Security (BTS) to report, not later than 90 days after enactment of this Act, on the status of this effort, including steps the Department will take to integrate IAFIS into IDENT, funds needed, and a timetable for full integration. This report should address recommendations in the March, 2004 Department of Justice Inspector General report, which documented the need to integrate existing biometric databases.

### CARGO CONTAINER SECURITY

Over the past 3 years, Congress has provided over $200,000,000 for innovative programs designed to ensure safe and secure shipment of containerized goods from their initial point of loading to their final place of delivery in the United States, including Operation Safe Commerce (OSC), the Container Security Initiative (CSI), and the Customs-Trade Partnership Against Terrorism (C–TPAT). The conferees direct the Under Secretary for Border and Transportation Security to report to the House and Senate Committees on Appropriations no later than February 8, 2005, on the history, implementation, funding, and progress of the Department's cargo container security efforts. The report should identify: (1) steps the Department has taken to enhance shipping container security; (2) resources devoted to this in prior years and proposed to continue this security; (3) results of ongoing projects such as OSC, CSI, and C–TPAT; (4) the Departmental entity responsible for implementing improvements in security systems and approaches; and (5) specific steps each entity will take to implement these changes, with associated schedules for development and issuance of standards, policies, procedures, or regulations. In addition, the report should address the security of in-bond shipments as referenced within the House report.

### COORDINATION OF AVIATION AND MARINE OPERATIONS AND PLANNING

The conferees strongly support the rationalization of the air and marine assets and organizations within the Department, and anticipate that the recent decision to transfer the Office of Air and Marine Operations (AMO) from ICE to CBP will serve to improve the ability of the Department and BTS to more effectively conduct their various homeland security, law enforcement, and related missions. With the presence of three significant aviation and maritime assets, facilities, and organizations within the Department, two within BTS, it is essential that those operations be coordinated both to gain the maximum benefits for the Department and related missions and support functions, as well as achieve efficiency and reduce redundancies from shared facilities and services.

It is therefore more important than ever that BTS submit the detailed AMO modernization and recapitalization plan as directed by the conferees in fiscal year 2004, and as indicated in the report submitted to Congress in March, 2004, entitled "Role in Securing the Homeland." That report provided an overview of AMO current missions, priorities, and plans, as well as plans for future acquisitions and operational efforts. However, it did not describe resources and timetables for procurement and organizational change. Although the report said that actual spending plans would be included in the modernization plan to follow, no plan has been submitted. Similarly, the report only provided a total of on-board staff (1,017 of 1,215 positions authorized) not the detailed, multi-year staffing plan requested.

The ongoing review by the Joint Requirements Council and Aviation Management

Council of DHS missions, requirements, and opportunities for strategic sourcing appears to have been a factor in the decision to transfer AMO. The conferees direct the Department to advise the House and Senate Committees on Appropriations on the status of the Department's review, and submit the final results of the study as soon as they become available.

The conferees expect to be provided the details involved in integrating air and marine operations within BTS, and direct the Under Secretary for Border and Transportation Security, in consultation with the U.S. Interdiction Coordinator, to submit a report to the House and Senate Committees on Appropriations no later than February 15, 2005, on: (1) specific actions taken or planned to rationalize and coordinate air and marine assets and operations within CBP, including organizational structure; (2) plans for modernizing the air and marine assets of CBP, including staffing plans, in the detail specified in House Report 108-280; (3) a cost/benefit analysis of retrofitting the existing P-3 fleet to extend the useful life of these aircraft; and (4) the multiple air and marine missions of CBP, including their relation to Coast Guard operations.

### United States Visitor and Immigrant Status Indicator Technology

The conferees agree to provide $340,000,000 as proposed by both the House and the Senate. Of these funds, $86,000,000 is available for program management and operations, and $254,000,000 is subject to the requirement for a detailed expenditure plan, as proposed by the House. Funds are available until expended.

The conferees continue to require a detailed expenditure plan and expect it to display detail greater than that provided for fiscal years 2003 and 2004. Such plans must reflect clear cost/benefit analyses associated with the increments being proposed for funding.

### Customs and Border Protection

### SALARIES AND EXPENSES

### (INCLUDING RESCISSION OF FUNDS)

The conferees agree to provide $4,534,119,000 for Customs and Border Protection (CBP), instead of $4,612,441,000 as proposed by the House and $4,615,960,000 as proposed by the Senate. This includes: $145,159,000 for inspection and detection technology investments, of which $50,000,000 shall be for radiation detection technology, and up to $30,000,000 shall be available for either radiation detection or non-intrusive inspection technology; $1,000,000 for a pilot study to monitor in-bond container shipments; $2,000,000 for the Immigration Security Initiative; $5,000,000 for the CBP Advanced Training Center; $500,000 to continue steel tariff training; $10,000,000 for unmanned aerial vehicles; not less than $131,436,000 for the salaries and expenses for the Office of Air and Marine Operations; and a reduction of $23,000,000 to reflect the transfer of the Charleston training center to the Federal Law Enforcement Training Center. The conferees provide that not to exceed $35,000 shall be for official representation and reception expenses, as opposed to $40,000 proposed by both the House and Senate. The total appropriation includes a reduction of $193,308,000 in base budget shift to Immigration and Customs Enforcement.

The following table specifies funding by budget activity:

| | |
|---|---|
| Headquarters Management and Administration: | |
| Headquarters Management and Administration: | $1,172,838,000 |
| Border Security Inspections and Trade Facilitation: | |
| Inspections, Trade and Travel Facilitation at Ports of Entry | 1,242,800,000 |
| Harbor Maintenance Fee Collection (Trust Fund) | 3,000,000 |
| Container Security Initiative | 126,096,000 |
| Other International Programs | 57,300,000 |
| Customs-Trade Partnership Against Terrorism/FAST | 37,828,000 |
| Inspection and Detection Technology Investments | 145,159,000 |
| Automated Targeting Systems | 29,800,000 |
| National Targeting Center | 16,100,000 |
| Other Technology Investments, Including Information Technology | 1,000,000 |
| Training | 23,800,000 |
| Subtotal, Border Security Inspections and Trade Facilitation | $1,682,883,000 |
| Border Security and Control Between Ports of Entry: | |
| Border Security and Control | 1,413,800,000 |
| Air Program Operations | 37,300,000 |
| Unmanned Aerial Vehicles | 10,000,000 |
| Integrated Surveillance and Intelligence System Procurement | 64,162,000 |
| Training | 21,700,000 |
| Subtotal, Border Security and Control Between Ports of Entry | 1,546,962,000 |
| Air and Marine Operations, Salaries and Expenses | 131,436,000 |
| Total, Salaries and Expenses: | 4,534,119,000 |

### RESCISSION

The conferees rescind $63,010,000 of the funds provided in Public Law 108-11.

### STAFFING PLAN AND BORDER STAFFING

The conferees note that CBP has not submitted the staffing plan due December 1, 2003, as directed in the fiscal year 2004 conference agreement, House Report 108-280. The conferees support a comprehensive approach to border security, including both people and technology. The Congress has funded significant increases in hardware and systems investment in a number of areas, as well as additional border staffing, both Border Patrol and inspection personnel. The conferees strongly endorse the CBP approach to border enforcement with its "one face at the border" philosophy.

The conferees therefore direct that the Department submit the pending staffing plan immediately, and submit an updated plan not later than 90 days after enactment of this Act. The plan shall include: actual onboard personnel for fiscal year 2004; projected staffing for fiscal year 2005; positions authorized but vacant; full-time, part-time, and temporary positions funded through direct appropriations; full-time, part-time and temporary fee-funded positions; and staffing, by position, at each port of entry, Border Patrol station, or other border area location. The report should identify any new positions funded under this Act, should be consistent with staffing assumptions included in the CBP construction master plan that was due July, 2004, and should indicate how the CBP staffing allocation methodology factors in the deployment of complementary technology.

### VEHICLE MANAGEMENT

The conferees are aware that CBP is conducting a comprehensive review of its vehicle management plan. The conferees strongly support efforts to incorporate the Border Patrol vehicle fleet into this Bureau-wide fleet management plan. The conferees direct CBP to submit a detailed report, no later than February 8, 2005, as specified by the House and Senate reports.

### INTEGRATED SURVEILLANCE INFORMATION SYSTEM

The conferees strongly support the use of technology to enhance the security of our nation's borders, particularly in the vast expanses between ports of entry. The Integrated Surveillance Information System (ISIS) is intended to detect border intrusions, interpret surveillance data, and transmit such information in real-time to Border Patrol, CBP, and the Department operations and analysis centers. The conferees are aware of significant gaps in integration of sub-systems that encompass the ISIS, and direct the Under Secretary for BTS to report no later than February 8, 2005, on the status of this effort. The conferees also direct CBP to submit a master plan for nationwide deployment of ISIS and associated surveillance and sensor technology with its fiscal year 2006 budget request, including a five-year capital acquisition plan, as specified in the Senate report. In addition, the conferees direct the Government Accountability Office to undertake a study of ISIS project management, and spending plans for ISIS investment and operations for fiscal years 2006–2010, to assess how well the project management and spending plans account for the different needs and environments of the land and maritime borders, and to assess how CBP investment in ISIS is aligned with the Department's enterprise architecture and technology standards.

### ENFORCEMENT OF TRADE REMEDIES LAW

The conferees have ensured that, of the amounts provided within this account, sufficient funds are available to enforce the antidumping authority contained in section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c).

The conferees direct CBP to submit a report to the House and Senate Committees on Appropriations by January 15, 2005, on the status of its implementation of recommendations by the U.S. Treasury Department's Office of the Inspector General report on implementation of the Continued Dumping and Subsidy Offset Act (CDSOA). The report should address: (1) the proper establishment of special accounts; (2) the need to pay claimants within 60 days after the end of the fiscal year (including the need to prepare and send checks in a timely fashion, and to make certain that the addresses to which they are sent are correct); (3) the need to address CBP's failure to collect millions of dollars in unliquidated entries (including the need for CBP to conduct timely liquidations upon receipt of liquidation instructions from the Department of Commerce, and for CBP not to liquidate in situations involving tardy notice of suspension of liquidation); (4) the need to address CBP's failure to collect millions of dollars in open (unpaid) duty bills and interest (including a determination of whether required posting of cash deposits rather than bonds would result in increased collections); (5) the need to establish standard operating procedures and adequate internal controls for the proper management of the CDSOA program; and (6) the progress and achievements of the CDSOA working group in addressing systemic issues identified in the report, along with any others relevant to proper administration of CDSOA.

In addition, the conferees are aware that CBP intends to transfer administrative responsibility for the CDSOA program to its Office of Finance. The conferees expect CBP to establish an organization that is accessible and responsive and directs CBP to include in the report a detailed description of which offices have responsibility for external relations, litigation, denials, verifications, and payments.

### COUNTERDRUG SUPPORT PROGRAM

The Department of Homeland Security should work with the Department of Defense to permit the New Mexico National Guard to continue performing vehicle and cargo inspections in support of CBP and ICE missions, and CBP, in consultation with the Department of Defense, should report no later than March 1, 2005, on what actions are planned.

### CBP ADVANCED TRAINING CENTER

The conferees include an increase of $5,000,000 above the fiscal year 2004 level to operate and equip the CBP Advanced Training Center. Although the budget requested funding for the operation of this center in the Federal Law Enforcement Training Center (FLETC) "Salaries and Expenses" account, the conferees expect this to continue to be a CBP facility and that DHS will not use its reorganization authority to effectuate its transfer elsewhere. Pursuant to Public Law 106–246, the training to be conducted at the facility shall be configured in a manner so that it does not duplicate or displace any FLETC training. The conferees expect that training currently being conducted at a FLETC facility shall not be moved to the new CBP training facility.

### TEXTILE TRANSSHIPMENT ENFORCEMENT

The conferees direct CBP to maintain its efforts at the level authorized by Section 352 of the Trade Act of 2002.

### PRE-ARRIVAL PROCESSING

The conferees are aware that the Department is working with government officials and private entities at Northern Border land ports of entry to securely expedite cargo, including such pre-clearance methods as the Pre-Arrival Processing System using barcode technology, and support expansion of such programs.

### AIR AND MARINE OPERATIONS, SALARIES AND EXPENSES

The conferees agree to provide $131,436,000 for the salaries and expenses of AMO, which is to be transferred from ICE to CBP. This reflects salaries and expenses presently funded through the ICE Salaries and Expenses account, and includes an additional $3,000,000 for personnel and operations costs for the National Capital Region Air Branch and Coordination Center. The House provided $5,000,000 for this purpose.

### OFFSETTING FEE COLLECTIONS

The conferees continue to be concerned about the accuracy of estimates for fees supporting CBP operations, particularly for the Immigration User Fee. The conferees direct CBP to ensure that fee revenues are used first to fully fund base operations and adjustments, as supported by budget justification materials provided to the Congress, before undertaking any new initiatives. The conferees also direct the Department and CBP to inform the House and Senate Committees on Appropriations in a timely manner of potential short-term operational or programmatic impacts from reduced fee collections.

### AUTOMATION MODERNIZATION

The conferees agree to provide $449,909,000, as proposed by both the House and the Senate. Funds are available until expended. This includes funding as requested for the Automated Commercial Environment (ACE), the Integrated Trade Data System (ITDS), and the costs of the legacy Automated Commercial System. This funding includes not less than $321,690,000 for ACE and ITDS, of which $16,190,000 is for ITDS, all of which remains subject to approval of its expenditure plan before it may be obligated.

### CBP AUTOMATION MODERNIZATION

The conferees believe that ACE and CBP modernization should be integrated with, if not form the core of, the Department's information system and border security technology, the Container Security Initiative, and Automated Targeting Systems. The conferees direct CBP to address such issues in its quarterly reports on ACE implementation.

### AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

The conferees agree to provide $257,535,000, as proposed by the House, instead of $467,535,000 as proposed by the Senate. This had been requested as part of ICE Salaries and Expenses, but the conferees have moved this funding to CBP to reflect the decision by the Secretary of Homeland Security.

### TETHERED AEROSTAT RADAR SYSTEM

The conferees are concerned with an apparent lack of consensus about the scope and scale of the Tethered Aerostat Radar System among key stakeholders—AMO, the Department of Defense, the Office of National Drug Control Policy, and the Office of the United States Interdiction Coordinator (USIC). The conferees direct the Under Secretary for Border and Transportation Security, in consultation with USIC, to submit a joint report, no later than February 8, 2005, as specified in the House report.

### AIRWING COMMUNICATIONS

The conferees believe that interoperable communications are necessary to ensure that all airwings can communicate with local law enforcement personnel.

### CONSTRUCTION

The conferees agree to provide $91,718,000, as proposed by both the House and the Senate. Funds are available until expended.

### CONSTRUCTION MASTER PLAN AND SPENDING PLAN

The conferees are disappointed that the updated construction master plan called for in the fiscal year 2004 appropriation has not yet been submitted. The conferees direct the Department to submit that plan as soon as possible, and to submit a detailed spending plan for the fiscal year 2005 construction account no later than February 8, 2005, which includes, but should not be limited to, the following information for each tactical and facility construction project, by sector, type of construction, and facility, for fiscal years 2005–2009: (1) explanation of the purpose of work; (2) total estimated project cost; (3) amount of funding provided by fiscal year; (4) a detailed cost breakout for construction, design, planning, project management; and (5) date each phase of the project began or is scheduled to begin and is to be completed.

## IMMIGRATION AND CUSTOMS ENFORCEMENT

### SALARIES AND EXPENSES

The conferees agree to provide $2,438,494,000, instead of $2,377,006,000 as proposed by the House and $2,513,438,000 as proposed by the Senate. This includes increases of: $11,000,000 for alternatives to detention; $6,000,000 to reduce immigration court backlog; $14,000,000 for the Visa Security Unit and Overseas Operations; $30,000,000 for the Institutional Removal Program; $25,000,000 for benefit fraud enforcement; $5,000,000 for worksite enforcement; $26;500,000 for detention bedspace support; $16,000,000 for compliance teams; $50,000,000 for fugitive operations (including associated detention and removal costs); $6,216,000 for the Guantanamo Migrant Operations Center; and $4,200,000 for the Cyber Crime Center. This reflects the transfer of $131,436,000 for salaries and expenses.

The conferees provide that not to exceed $15,000 shall be for official representation and reception expenses, and that not to exceed $11,216,000 shall be available to reimburse federal agencies for their costs associated with smuggled aliens.

The conferees also include an increase of $193,308,000 to reflect a permanent realignment in base funding for investigations and overseas operations through a shift from CBP. As noted in the section below, the conferees are closely following the continuing review by ICE and the Department of administrative and other mission responsibilities, with the goal of fully mapping the costs and requirements of ICE and other agencies formed as a result of being merged into the new department. The following table specifies funding by budget activity:

| | |
|---|---|
| Headquarters Management and Administration: | |
| Personnel Compensation and Benefits, services and other costs | $96,202,000 |
| Headquarters Managed IT Investment | 120,119,000 |
| Subtotal, Headquarters Management and Administration | 216,321,000 |
| Investigations: | |
| Operations | 1,055,345,000 |
| Training | 15,671,000 |
| Subtotal, Investigations | 1,071,016,000 |
| Intelligence: | |
| Headquarters Reporting Center | 4,882,000 |
| Operations | 55,130,000 |
| Subtotal, Intelligence 60,012,000 | |
| Detention and Removal Operations: | |
| Custody Management | 504,221,000 |
| Case Management | 192,269,000 |
| Fugitive Operations | 35,242,000 |
| Institutional Removal Program | 33,719,000 |
| Alternatives to Deten- | |

| | |
|---|---|
| Transportation and Removal Program | 311,492,000 |
| Subtotal, Detention and Removal Operations | 1,091,145,000 |
| Total, Salaries and Expenses | 2,438,494,000 |

### FINANCIAL MANAGEMENT

The conferees are extremely concerned about the financial health of ICE, and whether it has the systems and management in place to support the functioning of the agency. The adverse impact of hiring and spending freezes and uncertainty on the operations of this critical agency and the morale of its personnel cannot be ignored. The Department and ICE must significantly improve management and oversight of financial and administrative systems to prevent a repeat of the dramatic and unanticipated funding difficulties in fiscal years 2004 and expected in 2005. The conferees are disappointed that ICE has been unable to provide comprehensive data for fiscal year 2005 operations prior to the consideration of the conference agreement.

The conferees also expect that structural and management problems will be dealt with immediately and emphatically, and that improved analysis and planning systems will be put in place to give the agency, Department, and Congress a clear and transparent view of ICE's financial status. The conferees direct the Department's Chief Financial Officer and the Assistant Secretary for ICE to submit a detailed report no later than February 8, 2005, to the House and Senate Committees on Appropriations on the progress of its financial management overhaul. This report should include, but not be limited to, a detailed explanation of: (1) steps ICE is taking to address shortcomings of its present financial management systems; (2) how improved financial oversight will be carried out; (3) how ICE will improve its notification of financial irregularities; and (4) how reform of ICE financial management will be coordinated with the "tri-bureau" and "shared-services" efforts ICE carries out with CBP and U.S. Citizenship and Immigration Services (CIS).

### USE OF IMMIGRATION EXAMINATIONS FEE

The conferees are aware that the Department is studying the possibility of the ICE Office of General Counsel receiving reimbursement from the examinations fee account for the costs of workload related to CIS. The conferees believe that ICE does not currently have the ability to provide a detailed accounting of this potential examinations fee account spending to CIS. It is reasonable for CIS, as the client, to expect that ICE will have in place an adequate system to track attorney time spent on CIS-related cases, and provide that information to CIS in support of the annual bill for services rendered. The Department should ensure that such a tracking system is in place prior to any future proposal to allocate examinations fee funds to ICE.

### CYBER CRIMES CENTER

The conferees agree to provide $4,200,000 for additional computer forensic infrastructure, to include content-addressable data storage, information technology services and staff, to expand the ICE Cyber Crime Center to ICE field offices.

### CROSS-TRAINING OF ICE SPECIAL AGENTS

The conferees are aware that some ICE special agents have been cross-trained to act as Federal Air Marshals (FAMs) in a "surge capacity", with plans to train more in fiscal year 2005. The conferees believe that this is not an effective use of resources or training, and that it no longer has the full support of either ICE or FAM management. The conferees believe this training program should be discontinued.

### INCREASED DETENTION BEDSPACE

The conferees agree to provide $16,500,000 in addition to the level of funding provided in the House and Senate bills, which would support an increase in detention capacity of 500 beds for fiscal year 2005, leading to over 3,300 more removals of deportable aliens than currently planned.

### TEXTILE TRANSSHIPMENT ENFORCEMENT

The conferees direct ICE to maintain its efforts at the level authorized by Section 352 of the Trade Act of 2002.

### OFFSETTING FEE COLLECTIONS

The conferees continue to be concerned about the accuracy of estimates for fees supporting ICE operations, including the collection of fees for the Student and Exchange Visitor Program and the Immigration User Fee. The conferees direct ICE to ensure that fee revenues are used first to fully fund base operations and adjustments, as supported by budget justification materials provided to Congress, before undertaking any new initiatives. The conferees also direct the Department and ICE to inform the House and Senate Committees on Appropriations in a timely manner of potential short-term operational or programmatic impacts from reduced fee collections.

### FEDERAL AIR MARSHALS

The conferees agree to provide $662,900,000, as proposed by the House instead of $712,900,000 as proposed by the Senate. Within this total, $593,552,000 is for management and administrative expenses and $69,348,000 is for travel and training. Funding is available for one year as proposed by the Senate.

### CROSS-TRAINING OF ICE SPECIAL AGENTS

The conferees are aware that a number of ICE special agents have been cross-trained to serve as FAMs and that plans are in place to continue this training in fiscal year 2005. While ICE has previously described this effort as a means of developing a "surge capacity" to respond to a heightened threat condition, the conferees believe that it has not proven to be an effective use of resources or training, and that it no longer has the full support of either ICE or FAM management. The conferees believe this training program should be discontinued.

### REPORTING REQUIREMENT

The conferees direct the Secretary to provide quarterly classified reports to the House and Senate Committees on Appropriations; the Senate Committee on Commerce, Science, and Transportation; and the House Committee on Transportation and Infrastructure on the number of individuals serving as FAMs, the number of FAMs who are women, minorities, or employees of agencies of the United States government other than the Department of Homeland Security; the percentage of domestic and international flights that have FAMs on board; and the rate at which individuals are leaving the Federal Air Marshal service. The first such report is due on January 15, 2005.

### IDENTIFICATION

The conferees are concerned about public identification of FAMs and strongly support the rapid development of procedures and policies, such as a credential, that do not expose FAMs when on official travel.

### FEDERAL PROTECTIVE SERVICE

The conferees agree to provide $478,000,000, as proposed by both the House and the Senate.

### AUTOMATION MODERNIZATION

The conferees agree to provide $39,605,000, as proposed by both the House and the Senate. Funds are available until expended. The conferees also include a provision prohibiting the obligation of funds until the House and Senate Committees on Appropriations receive and approve an expenditure plan, as proposed by the House.

### CONSTRUCTION

The conferees agree to provide $26,179,000 as proposed by the House, and as specified by project in the Senate report.

## TRANSPORTATION SECURITY ADMINISTRATION

### AVIATION SECURITY

The conferees agree to provide $4,323,523,000 instead of $4,270,564,000 as proposed by the House and $4,386,083,000 as proposed by the Senate. Within this total, not to exceed $3,000 is available for official reception and representation expenses as proposed by the House and the Senate. In addition to the amounts appropriated, a mandatory appropriation of $250,000,000 is available to support the Aviation Security Capital Fund. Bill language is also included that reflects the collection of $1,823,000,000 from aviation user fees, as authorized. Funding is provided as follows:

| | |
|---|---|
| Passenger screening: | |
| Screening pilots (PP5) | $129,654,000 |
| Passenger screeners, PC&B | 1,445,486,000 |
| Passenger screeners, training and other | 140,614,000 |
| Human resource services | 150,000,000 |
| Checkpoint support | 123,500,000 |
| Secure flight | 34,919,000 |
| Crew vetting | 10,000,000 |
| Registered traveler program | 15,000,000 |
| Subtotal, Passenger screening | 2,049,173,000 |
| Baggage screening: | |
| Baggage screeners, PC&B | 848,860,000 |
| Baggage screeners, training and other | 203,660,000 |
| Explosive detection systems purchase | 180,000,000 |
| Explosive detection systems installation | 45,000,000 |
| Maintenance | 174,940,000 |
| Subtotal, Baggage screening | 1,452,460,000 |
| Security direction and enforcement: | |
| Aviation regulation and other enforcement | 230,000,000 |
| Airport management and staff | 284,000,000 |
| Airport information technology and other support | 242,890,000 |
| Federal flight deck officer program | 25,000,000 |
| Air cargo | 40,000,000 |
| Flight school checks (non-add, transfer from DOJ) | 9,700,000 |
| Subtotal, Security Direction and Enforcement | 821,890,000 |

### STAFFING LEVELS

The conferees include bill language that caps the full-time equivalent (FTE) screener workforce to up to 45,000 as proposed by the House. The conferees expect the Transportation Security Administration (TSA) to have no more than 45,000 full-time equivalent screeners by the end of fiscal year 2005. The conferees recognize that TSA may need to realign its workforce throughout the year due to attrition or advances in detection technologies. TSA has the flexibility to hire screeners during the fiscal year at those airports where additional or replacement screeners are necessary to maintain aviation security and customer service. The 45,000 FTE level is therefore to be regarded as a cap and not a staffing mandate.

### AVIATION SECURITY COSTS AND FEES

The conferees include bill language, as proposed by the Senate, requiring the Government Accountability Office to conduct audits of air carriers' actual security costs for passenger and property screening incurred in calendar year 2000. Based on the findings of the review, the Secretary shall collect any additional fees from air carriers and make them available for airport security modifications.

### PASSENGER AND BAGGAGE SCREENERS PERSONNEL, COMPENSATION AND BENEFITS

The conferees agree to provide $1,445,486,000 for passenger screening and $848,860,000 for baggage screening activities for both Federal screeners as well as any contracts awarded under the opt-out program after November 18, 2004, for all airports other than the five current screening pilots. The conferees agree that TSA needs the flexibility to manage the opt-out program without the need for reprogramming actions for each individual contract. In addition to the report required by the House on cost savings resulting from opt-out, the conferees direct TSA to report on the following information regarding the opt-out program: (1) the number and location of each airport applying for participation under the opt-out program; (2) the decision by the Administrator on the application; (3) if an application by an airport is not accepted, the reasons why the application was not approved; and (4) the results of the competitive acquisition for contract screening services at those airports whose applications have been approved. The conferees direct that TSA provide the House and Senate Committees on Appropriations with advance notice 10 days before an announcement is made that an airport has been selected under the opt-out program. At the time the contract is awarded, TSA shall adjust its program, project, and activity line items to account for changes in third party private screening contracts and screener personnel, compensation and benefits to reflect the award of contracts under the opt-out program.

### SCREENER COMPLAINTS

The conferees understand that there have been a disproportionate number of complaints against TSA for alleged violations of equal employment opportunity and veterans preference laws as those laws apply to employment of personnel in TSA airport screener positions at the Louis Armstrong New Orleans International Airport. There also appears to be a significant backlog of unresolved complaints. The conferees direct the Administrator to submit a report to the House and Senate Committees on Appropriations no later than March 31, 2005, on the personnel policies of the Department that apply to the employment of TSA airport screeners, particularly with regard to compliance with equal employment opportunity and veterans preference laws. The report should include an assessment of the extent of TSA's compliance with these laws, a discussion of any systemic problems that could have caused the circumstances giving rise to the disproportionate number of complaints, and the efforts being taken by the Administrator to eliminate the backlog of unresolved complaints and to correct any systemic problems at the Louis Armstrong New Orleans International Airport.

### CHECKPOINT SUPPORT

The conferees agree to provide $123,500,000 instead of $86,060,000 as proposed by the House and $161,060,000 as proposed by the Senate. Funding may be used for reconfiguration of airport checkpoints to expedite the flow of travelers; purchase, installation, and maintenance of checkpoint equipment; and electronic surveillance of checkpoints.

TSA shall submit a report to the House and Senate Committees on Appropriations no later than February 10, 2005, on the agency's pilot programs to screen passengers and carry-on baggage for explosives, as discussed in the Senate report.

### SECURE FLIGHT

The conferees agree to provide $34,919,000 as proposed by the Senate instead of $40,000,000 as proposed by the House. Previous year funding remains unobligated for this program that can be applied in fiscal year 2005. In addition, $10,000,000 has been provided under a separate account for crew vetting, as proposed by the House. In the past, this funding was part of the GAPPS II/ Secure Flight account.

The conferees note that the Department appears to be moving in the right direction regarding aviation passenger prescreening by proposing to check all watch lists through the new Secure Flight program, as was recommended by the 9/11 Commission. The conferees are concerned, however, that the 90 days allotted by TSA to plan, test, and analyze this new system before it is fully implemented may be insufficient. The conferees encourage TSA to focus first on getting the watchlist checks operational, before undertaking any other efforts. The conferees expect TSA to cooperate fully with the Government Accountability Office in their review of the Secure Flight program.

### EXPLOSIVE DETECTION SYSTEMS PURCHASE

The conferees agree to provide $180,000,000 instead of $170,000,000 as proposed by the House and $210,000,000 as proposed by the Senate. The conferees continue to encourage competition among the vendors so that multiple Explosive Detection Systems (EDS) technologies are available to TSA and airports. The conferees are aware of next-generation in-line EDS machines that are currently being tested, certified, and piloted. Within the $180,000,000 provided, the conferees direct that not less than $30,000,000 be used to install these next-generation explosive detection systems, particularly at medium and small airports, to permit more efficient handling of checked bags and reduce dependence on baggage screeners. These next-generation EDS systems are far smaller and less expensive than the current generation of screening units. The conferees believe that the expeditious deployment of these systems is essential for developing in-line solutions that do not require the costly, large-scale redesign and construction of baggage conveyor systems. Furthermore, although these next-generation machines have immediate application to checked-baggage screening, they also have the potential to cost-effectively enhance security at passenger checkpoints, transit stations, and other key facilities.

### EXPLOSIVE DETECTION SYSTEMS INSTALLATION

In addition to the statutory allocation of $250,000,000 in the Aviation Security Capital Fund, the conferees agree to provide $45,000,000 to assist the eight airports that have signed Letters of Intent to install explosive detection systems in-line with their baggage systems. The installation of in-line systems to screen checked baggage at our Nation's airports is a critical step in combating the terrorist threat against aviation. The use of in-line EDS is not only more effective than explosive trace detection (ETD) and stand-alone systems, but is considerably less costly to operate. Accordingly, it has been widely recognized that a high priority should be given to the installation of in-line baggage screening systems. Most recently, the 9/11 Commission recognized this need in its recommendations, urging TSA to "expedite the installation" of such systems.

The conferees have included bill language requested by the President that permits the Aviation Security Capital Fund to be used to fund the eight Letters of Intent in fiscal year 2005 with a 75 percent Federal share. Under tight budgetary constraints the conferees do not have sufficient funding to raise these projects to a 90 percent Federal share.

The conferees direct TSA to comprehensively plan for expediting the installation of in-line EDS, including the formulation of detailed budget requirements that will provide for both equipment acquisition and the capital costs of installing such system configurations at airports. Consistent with fiscal year 2004 report language, TSA should submit quarterly reports on its plans for such in-line installations that include: (1) the universe of airports that may benefit from an in-line EDS system or other physical modifications; (2) a list of all airports where TSA has begun working on plans to move EDS machines in-line either through the Boeing contract design phases or directly with the airports; and (3) a list of airports that will be doing EDS enhancements, including moving systems in-line that are not funded via Letters of Intent. Costs associated with each airport's project and a tentative timeline for award and completion should be included. Additionally, the plan should include information reflecting the anticipated cost savings—particularly personnel savings—that will be achieved from the use of in-line checked baggage systems contrasted with reliance on ETD and stand-alone systems. The conferees expect that TSA's planning will be conducted in consultation with aviation stakeholders (including airports, airlines, and EDS manufacturers).

### AVIATION REGULATION AND OTHER ENFORCEMENT

The conferees agree to provide $230,000,000 as proposed by the House instead of $227,000,000 as proposed by the Senate. Within this funding, $3,000,000 has been provided to expand the number of canine teams deployed to inspect air cargo. Due to the increasing need for explosive detection capability in the transportation sector, the conferees encourage the Department to conduct a pilot project to assess the cost and performance effectiveness of utilizing private sector providers of explosive detection canines.

### AIR CARGO

The conferees agree to provide a total of $115,000,000 for air cargo security. Of this total, $40,000,000 is for 100 additional inspectors and enforcement activities and

$75,000,000 is for research and development of technologies to provide more effective and efficient methods of detecting air cargo threats.

Public Law 108-90, the Department of Homeland Security Appropriations Act of 2004, provided $85,000,000 to strengthen the oversight of air cargo security and for research and development of technological solutions for inspections of cargo carried on passenger aircraft. Public Law 108-90 also provided statutory language directing the Secretary to develop the best technology for the inspection and screening of air cargo on passenger aircraft at the earliest date possible and for the enhancement of the known shipper program. Given recent Department reports of low obligations for these programs, the conferees are concerned that the Department is not moving with sufficient speed to implement this direction. The conferees direct the Department to act expeditiously to fully obligate and expend the funding provided for air cargo security activities and direct TSA to provide quarterly reports to the House and Senate Committees on Appropriations beginning in December, 2004, on the use of all dollars obligated and plans for the use of unobligated balances.

The conferees direct TSA to work more aggressively to strengthen air cargo security. In particular, TSA should strengthen the known shipper program to include regular security checks on all known shippers to assure that they are not compromising security standards. Similarly, TSA is directed to work with the indirect air carriers to assure that they abide by all security directives and information circulars relating to air cargo. TSA shall also validate the indirect air carriers security measures used when they consolidate freight and transport it to passenger and all-cargo aircraft to prevent unauthorized access.

### DEPLOYABLE FLIGHT RECORDERS

The ability to rapidly determine whether a security breach caused an aviation accident is critical. Therefore, the conferees direct TSA to work with the Federal Aviation Administration to determine whether it would improve security analysis in aviation accidents if deployable flight incident recorders were required aboard commercial passenger aircraft and to report back to the House and Senate Committees on Appropriations within 180 days of enactment of this Act.

### MARITIME AND LAND SECURITY

The conferees recommend a total funding level of $75,000,000 for staffing and activities within TSA's maritime and land security program. Of this total, $48,000,000 is a direct appropriation and $27,000,000 is available through offsetting collections. The House proposed $65,000,000 in direct appropriations and $67,000,000 in offsetting collections. The Senate proposed $44,000,000 in direct appropriations and $67,000,000 in offsetting collections. Funding shall be available until September 30, 2006, as proposed by the House instead of September 30, 2005, as proposed by the Senate. The following table specifies funding levels by budget activity:

| | |
|---|---|
| Credentialing | $5,000,000 |
| Transportation worker identification credential | 15,000,000 |
| Hazardous materials truck tracking | 2,000,000 |
| Hazardous materials safety | 17,000,000 |
| Enterprise staffing | 24,000,000 |
| Rail security | 12,000,000 |
| Offsetting collections | (27,000,000) |
| Subtotal, Maritime and Land | 48,000,000 |

### MARITIME AND LAND SECURITY GRANTS

While funding has been provided for a variety of maritime and land security grants within the Office of State and Local Government Coordination and Preparedness (SLGCP), as proposed by the Senate, the conferees realize that TSA staff have the subject matter expertise on port, rail, intercity bus, and highway security. The conferees, therefore, direct TSA to work with SLGCP to review grant applications, determine eligibility, and make award determinations for these four grant areas.

The conferees are concerned about the lack of priority-setting in the intercity bus grant program. TSA and SLGCP should clearly identify priorities, including the importance of passenger screening and terminal security. It also is important to focus on the unique structure of the intercity bus industry and the importance of fixed route intercity bus service.

### TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL

The conferees agree to provide $15,000,000 instead of $65,000,000 as proposed by the House and $53,000,000 as proposed by the Senate. Funding has been decreased for this program because of delays in prototyping and evaluating this credential. The conferees direct TSA to report back to the House and Senate Committees on Appropriations about the results of prototype testing before moving into the next phase. Of the total funding, $5,000,000 is a direct appropriation that will be used to develop and install necessary hardware and software at those sites producing and personalizing the transportation worker identification credentials. The additional $10,000,000 appropriation will be offset throughout the fiscal year from application fees.

### RAIL SECURITY

The conferees agree to provide $12,000,000 instead of $11,000,000 as proposed by the House and $15,000,000 as proposed by the Senate. This level will support the deployment of up to 100 federal rail compliance inspectors and includes $2,000,000 for the deployment of canine explosive detection teams. In addition to funds provided under TSA, the conferees include $150,000,000 for rail security grants under the Office of State and Local Government Coordination and Preparedness, funding within the Science and Technology Directorate to research and design rail security requirements that could strengthen rail security nationwide, and funding within the Information Analysis and Infrastructure Protection Directorate to improve the security of rail corridors that carry hazardous materials.

The conferees are aware of promising advances in train control technology that would allow a central operator the ability to remotely control the operation of a freight or passenger train in times of distress. The conferees believe development of such a system would enhance the security of the rail system, and direct TSA to implement projects that demonstrate and advance this technology.

### HAZARDOUS MATERIALS TRUCK TRACKING

The conferees have provided $2,000,000 to continue the previously funded program to coordinate tracking and monitoring truck shipments of hazardous materials.

### INTELLIGENCE

The conferees agree to provide $14,000,000 as proposed by both the House and the Senate.

### RESEARCH AND DEVELOPMENT

The conferees agree to provide $178,000,000 instead of $174,000,000 as proposed by the House and $181,000,000 as proposed by the Senate. Funding shall be allocated as follows:

| | |
|---|---|
| Research and development, including Tech Center | $49,000,000 |
| Next-generation explosive detection systems | 54,000,000 |
| Air cargo | 75,000,000 |
| Subtotal, Research and Development | 178,000,000 |

### NEXT-GENERATION EXPLOSIVE DETECTION SYSTEMS

The conferees agree to provide $54,000,000 instead of $50,000,000 as proposed by the House and $57,000,000 as proposed by the Senate. Of this total, $10,000,000 is for the Manhattan II project as proposed by the House.

### AIR CARGO

The conferees agree to provide $75,000,000 for air cargo research and development as proposed by both the House and the Senate. Of this total, $20,000,000 shall be used to accelerate the research and development of new technologies to detect explosives in air cargo bound for passenger and all-cargo aircraft, and for the acceleration of the air cargo inspection pilot program to additional locations, including airports experiencing extreme environmental conditions, to ensure equipment durability.

### ADMINISTRATION

The conferees agree to provide $519,852,000 instead of $524,852,000 as proposed by the House and $534,852,000 as proposed by the Senate. Funding shall be available until September 30, 2006, as proposed by the House. The following table specifies funding levels by budget activity:

| | |
|---|---|
| Headquarters support | $267,382,000 |
| Mission support centers | 5,000,000 |
| Information technology applications | 240,470,000 |
| Corporate training | 7,000,000 |
| Subtotal, Administration | 519,852,000 |

## UNITED STATES COAST GUARD

### OPERATING EXPENSES

The conferees agree to provide $5,157,220,000 instead of $5,171,220,000 as proposed by the House and $5,153,220,000 as proposed by the Senate. Within this total, $1,204,000,000 shall be available for defense-related activities, as proposed by the House instead of $1,090,000,000 as proposed by the Senate. Funding for operating expenses shall be allocated as follows:

| | |
|---|---|
| Military Pay and Allowance: | |
| Military pay and allowances | $2,161,114,000 |
| Military health care | 544,785,000 |
| Permanent change of station | 101,928,000 |
| Subtotal, military pay and allowance | 2,807,827,000 |
| Civilian Pay and Benefits: | |
| Civilian pay and benefits | 456,110,000 |
| Pay for performance demonstration | — |
| Subtotal, civilian pay and benefits | 456,110,000 |
| Training and Recruiting: | |
| Training and education | 81,407,000 |

| | |
|---|---|
| Recruitment | 80,034,000 |
| Subtotal, training and recruiting | 161,441,000 |
| Operating Funds and Unit Level Maintenance: | |
| Atlantic Command | 153,427,000 |
| Pacific Command | 175,377,000 |
| 1st District | 43,367,000 |
| 7th District | 52,004,000 |
| 8th District | 36,302,000 |
| 9th District | 23,265,000 |
| 13th District | 18,050,000 |
| 14th District | 12,512,000 |
| 17th District | 22,557,000 |
| Headquarters directorates | 312,322,000 |
| Headquarters managed units | 74,175,000 |
| Other activities | 767,000 |
| Subtotal, operating funds and unit level maintenance | 924,125,000 |
| Centrally Managed Accounts: | 175,438,000 |
| Immediate and Depot Level Maintenance: | |
| Aeronautical maintenance | 222,384,000 |
| Electronic maintenance | 95,460,000 |
| Civil/Ocean engineering & shore facilities maintenance | 151,035,000 |
| Vessel maintenance | 154,400,000 |
| Subtotal, immediate and depot level maintenance | 623,279,000 |
| Watch Standards: | 9,000,000 |
| Total | 5,157,220,000 |

For the fiscal year 2006 budget justification and for reprogrammings pursuant to Section 503 of this Act, the Coast Guard shall use the six budget categories listed above (military pay and allowances, civilian pay and benefits, training and recruiting, operating funds and unit level maintenance, centrally managed accounts, and intermediate and depot level maintenance). However, notwithstanding reprogramming thresholds, the Coast Guard shall notify the House and Senate Committees on Appropriations of changes within program, projects, and activities of the 23 line items listed above as they occur.

BALLAST WATER MANAGEMENT PROGRAM

The conferees agree to provide $4,000,000 as proposed by the Senate instead of $4,662,000 as proposed by the House.

AERONAUTICAL MAINTENANCE

The conferees do not agree to language contained in the House report related to fluid outflow collection devices. The Senate had no comparable report language.

WATCH STANDARDS

The conferees agree to provide $9,000,000 for the Coast Guard to come into compliance with its watch standards, which specify that an individual on duty or watch in a Coast Guard Search and Rescue Command Center facility should not work more than 12 hours in a 24-hour period, except in an emergency or unforeseen circumstance. The House provided $13,000,000 for this activity.

FOREIGN VESSEL SECURITY PLANS

The conferees are concerned that the Coast Guard intends to rely on foreign governments to review foreign vessel security plans. The conferees expect the Coast Guard to use its Port State Control Program, a risk-based independent verification process, to ensure that foreign vessel security plans are adhered to and in place. The conferees also expect the Coast Guard to randomly assess the vessel security plans of vessels not identified by the Port State Control Program. The conferees direct the Coast Guard to report no later than March 1, 2005, on the progress of this foreign vessel security oversight process, including the Coast Guard resources required to implement this process.

SECTOR COMMANDS

The conferees direct the Coast Guard to adhere to reporting requirements addressed in the House report 30 days prior to moving any sector commands. As part of these decisions, the Coast Guard is encouraged to recognize the importance of existing Department of Defense capabilities to maximize coordination and eliminate redundancies when forming joint sector command centers with the Navy.

LIQUEFIED NATURAL GAS TERMINALS

The Coast Guard shall submit a report to the House and Senate Committees on Appropriations, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives not later than 90 days after the enactment of this Act on opportunities for integrating the process the Coast Guard uses to issue letters of recommendation for proposed liquefied natural gas terminals and the process by which the Federal Energy Regulatory Commission issues permits for such terminals under the National Environmental Policy Act. The report shall also include the advisability of requiring that Coast Guard responsibilities relating to vessel transit, facility security assessment and facility security plans under the Maritime Transportation Security Act be completed for a proposed liquefied natural gas terminal before a final environmental impact statement for such terminal is published under the Federal Energy Regulatory Commission process.

ICEBREAKING STUDY

As discussed in the Senate report and the Coast Guard authorization bill for fiscal year 2005, the conferees require the National Academy of Sciences to study the role of Coast Guard icebreakers.

MARITIME SAFETY AND SECURITY TEAMS

The conferees direct the Coast Guard to adhere to Senate report language on maritime safety and security teams.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

The conferees agree to provide $17,000,000 as proposed by both the House and the Senate.

RESERVE TRAINING

The conferees agree to provide $113,000,000 as proposed by the House instead of $117,000,000 as proposed by the Senate.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(INCLUDING RESCISSION OF FUNDS)

The conferees agree to provide $982,200,000 instead of $936,550,000 as proposed by the House and $1,062,550,000 as proposed by the Senate. Consistent with prior practice, bill language is included to distribute the total appropriation by separate obligation availabilities. The following table summarizes the recommended level by program, project, and activity:

| | |
|---|---|
| Vessels and critical infrastructure: | |
| Great Lakes icebreaker replacement | $7,750,000 |
| Response boat medium | 12,000,000 |
| Subtotal, vessels and critical infrastructure | 19,750,000 |
| Deepwater: | |
| Aircraft | |
| Maritime patrol aircraft | 5,250,000 |
| VTOL unmanned aerial vehicle (VUAV) | 43,000,000 |
| Capability enhancements for HH–60 Avionics | 15,000,000 |
| Capability for HC–130 aircraft radar | 9,000,000 |
| HH–65 re-engining project | 99,000,000 |
| Convert surveillance aircraft | 14,000,000 |
| Surface Ships | |
| National security cutter | 264,500,000 |
| Offshore patrol cutter requirements analysis | 25,000,000 |
| IDS patrol boat (110′ to 123′ conversion) | 30,000,000 |
| Fast response cutter | 30,000,000 |
| IDS small boats | 2,300,000 |
| 270′ WMEC sustainment project for major equipment | 12,500,000 |
| CHISR | |
| Command and control system for common operating picture | 31,000,000 |
| 270′ WMEC C4ISR upgrades | 1,500,000 |
| Communications area master station upgrade at shore sites | 19,500,000 |
| SEI Equipment for 270′ WMEC and 378′ WHEC | 1,600,000 |
| Logistics | |
| ICGS Development | 15,100,000 |
| Shore sites | 1,600,000 |
| Facilities required for future asset deployments | 23,100,000 |
| ICGS Management | 43,000,000 |
| Government program management/ICGS | 38,000,000 |
| Subtotal, Deepwater | 723,950,000 |
| Aircraft: | |
| Armed helicopter equipment | 2,500,000 |
| Other equipment: | |
| Rescue 21 | 134,000,000 |
| Automatic Identification System | 24,000,000 |
| Subtotal, other equipment | 158,000,000 |
| Shore facilities and aids to navigation facilities: | |
| Survey and design, shore operational and support projects | 1,000,000 |
| Minor AC&I shore construction projects | 1,600,000 |
| Small arms range at ISC Honolulu, Hawaii | 1,600,000 |
| Waterway aids to navigation infrastructure | 800,000 |
| Subtotal, shore facilities and aids to navigation facilities | 5,000,000 |
| Personnel and related support: | |
| Direct personnel costs | 72,500,000 |

| | |
|---|---|
| AC&I core | 500,000 |
| Subtotal, personnel and related support | 73,000,000 |
| Total | $982,200,000 |

The conferees agree to bill language proposed by the House that requires the Secretary to annually submit to the Congress, with the budget request, a future years capital investment plan for the Coast Guard that identifies for each capital budget line item: (1) the proposed appropriation included in the budget, (2) the total estimated cost of completion, (3) proposed funding levels for each of the next 5 fiscal years or until the project is completed, (4) an estimated completion date at the projected funding levels, and (5) changes from previous capital investment plans. The Secretary shall also ensure that amounts specified in future capital investment plans are consistent and that any inconsistencies between the capital investment plan and proposed appropriations are identified and justified.

The conferees have also retained longstanding bill language, as proposed by the Senate, that authorizes any proceeds that result from the disposal of surplus real property be applied as offsetting collections and only available for Rescue 21.

### DEEPWATER

The conferees require the Secretary to submit to Congress at the time of the fiscal year 2006 budget request a new Deepwater baseline. This new baseline must include revised acquisition timelines for each asset that is necessary to fulfill homeland security functions or multi-agency procurements as identified by the Joint Requirements Council; a timeline and detailed justification for each new asset; a detailed description of the revised mission requirements and impact on the acquisition timeline; and funding levels for each asset the Coast Guard continues to believe is necessary to acquire as proposed by the House. The Senate has no comparable bill language.

### LEGACY ASSETS

The conferees direct the Coast Guard to report to the House and Senate Committees on Appropriations, within 30 days of enactment of this Act, on its plan for maintenance of all its legacy assets and the entity responsible, whether contractor or Coast Guard, for such maintenance and estimated costs, including the costs associated with each legacy asset and future funding requests planned by the Coast Guard. The Coast Guard is also directed to submit quarterly reports to the Committees on its actions with respect to this plan, beginning with the submission of the President's budget request for fiscal year 2006.

### HH–65 RE-ENGINING PROJECT

The conferees agree to provide $99,000,000 instead of $75,000,000 as proposed by the House and $115,000,000 as proposed by the Senate. In addition, the conferees direct the Coast Guard to reallocate to the HH–65 re-engining project: (1) the $4,000,000 provided in fiscal year 2003 for the development of a new fuel control system (FADEC), and (2) $5,700,000 provided in fiscal year 2003 for additional 38 LTS-101-850 engines. These funds are no longer needed for the original work because the current HH–65 engine is being replaced entirely by a different manufacturer.

The conferees are aware that the Coast Guard's HH–65 Dolphin helicopters are experiencing an alarming rate of engine failure and that the Commandant would like to re-engine these critical assets within a 24–month period. The conferees commend the Coast Guard for moving quickly to address this critical flight safety issue and direct that all of the funds appropriated for HH-65 re-engining in fiscal year 2005 and past legacy aircraft sustainment funds be used to accelerate the delivery of conversion kits and the re- engining schedule. The conferees believe that taking immediate and definitive action to return the HH-65 fleet to safe and reliable operations is the Coast Guard's highest aviation priority. The additional funding provided above the level requested in the budget shall be used to achieve a 24-month completion schedule. If the Commandant determines that the present re-engining operations of the Coast Guard are not capable of achieving a 24-month completion goal, then he shall contract with a second qualified facility to achieve this objective. The conferees expect any additional funding required to meet this schedule to be included in the President's fiscal year 2006 budget submission.

### COVERT SURVEILLANCE AIRCRAFT

The conferees agree to provide $14,000,000 for manned, covert, multi-sensor surveillance aircraft to perform maritime domain awareness missions as proposed by the House.

### IDS PATROL BOAT

The conferees agree to provide up to $30,000,000 for the IDS patrol boat in the Deepwater program. As part of Deepwater rebaselining, the Secretary in conjunction with the Coast Guard is directed to provide an analysis of operational patrol boat and other ship hours available over the past five years and over the next ten years under the rebaselined program. The analysis should include the hours contributed by each class of ship or patrol boat (fast response cutter, 110′, 123′, or a replacement patrol boat); a yearly retirement, conversion, and acquisition schedule (including costs) covering all ships and patrol boats; and a year by year count of the different vessels in the Coast Guard inventory over the timeframe requested. Given the current and future reliance of the Coast Guard on these vessels, it is imperative that the Congress has a clear schedule of current and outyear assets that will provide the requisite operational hours. This report should be provided to the House and Senate Committees on Appropriations no later than February 10, 2005.

### AIRCRAFT DEPLOYMENTS

The conferees direct the Coast Guard to adhere to Senate report language on support facilities for aircraft deployments.

### RESCISSION

The conferees rescind $16,000,000 from funding appropriated in fiscal year 2004 (Public Law 108-90) for Rescue 21 due to contract delays and high unobligated balances.

### ALTERATION OF BRIDGES

The conferees agree to provide $15,900,000 instead of $16,400,000 as proposed by the House and $15,400,000 as proposed by the Senate. Within this total, funds shall be allocated as follows:

| | |
|---|---|
| Florida Avenue Bridge in New Orleans, Louisiana | $4,400,000 |
| Chelsea Street Bridge in Chelsea, Massachusetts | 1,000,000 |
| Canadian Pacific Railroad Bridge in La Crosse, Wisconsin | 2,000,000 |
| Fourteen Mile Bridge, Mobile, Alabama | 5,500,000 |
| EJ&E Railroad Bridge in Morris, Illinois | 1,500,000 |
| Burlington Northern Santa Fe Bridge in Burlington, Iowa | 1,500,000 |
| Total | 15,900,000 |

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conferees agree to provide $18,500,000 as proposed by the Senate instead of $13,500,000 as proposed by the House within the Science and Technology Directorate. The conferees expect the Commandant of the Coast Guard to continue to coordinate with the Under Secretary for Science and Technology on research and development activities.

### RETIRED PAY

The conferees agree to provide $1,085,460,000 as proposed by both the House and the Senate.

## UNITED STATES SECRET SERVICE

### SALARIES AND EXPENSES

The conferees agree to provide $1,172,125,000 instead of $1,179,125,000 as proposed by the House and $1,159,125,000 as proposed by the Senate. This includes: not to exceed $25,000 for representation and reception expenses; $5,000,000, to remain available until expended, for Secret Service costs related to National Special Security Events; [$34,536,000 to support investigations of electronic crimes; $2,100,000 for forensic support to the National Center for Missing and Exploited Children (NCMEC) as well as a $5,000,000 grant to NCMEC.

Funds shall be allocated as follows:

| | |
|---|---|
| Protection: | |
| Protection of persons and facilities | $571,640,000 |
| National Special Security Event Fund | 5,000,000 |
| Protective intelligence activities | 53,989,000 |
| White House mail screening | 16,365,000 |
| Subtotal, Protection | 646,994,000 |
| Field Operations: | |
| Domestic field operations | 221,489,000 |
| International field office administration, operations and training | 19,208,000 |
| Electronic crimes special agent program and electronic crimes task forces | 34,536,000 |
| Subtotal, Field Operations | 275,233,000 |
| Administration: | |
| Headquarters, management and administration | 197,747,000 |
| National Center for Missing and Exploited Children | 7,100,000 |
| Subtotal, Administration | 204,847,000 |
| Training: | |
| Rowley training center | 45,051,000 |
| Total, Salaries and Expenses | $1,172,125,000 |

### NATIONAL SPECIAL SECURITY EVENTS (NSSES)

The conferees agree to provide not less than $5,000,000 above the budget request for the Secret Service's unanticipated costs related to NSSEs, instead of $10,000,000 as proposed by the House. Funds are available until expended. The Conferees direct the Secret Service to budget for foreseeable costs related to NSSEs within its base budget. The Secret Service has the lead security responsibility for these events as authorized by Presidential Decision Directive 62 and 18 USC 3056 (e).

### ELECTRONIC CRIMES TASK FORCES (ECTFS)

The conferees agree to provide $34,356,000 instead of $36,356,000 as proposed by the House and $31,356,000 as proposed by the Senate. The $3,000,000 above the budget request is provided for the costs associated with the training and support of new Special Agents assigned to ECTFs. The Secret Service is directed to submit a deployment plan not later than February 8, 2005, to the House and Senate Committees on Appropriations, describing the staffing and other resources assigned to each ECTF, as specified in the House report. The Department is encouraged to apply any lapsed salary savings to fund ECTF requirements.

### OPERATING EXPENSES

### (RESCISSION OF FUNDS)

The conferees rescind $750,279 of the funds provided in Public Law 108–11.

### ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

The conferees agree to provide $3,633,000 as proposed by both the House and Senate. Funds are available until expended.

## TITLE III—PREPAREDNESS AND RECOVERY

### OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS

The conferees agree with the creation of the Office of State and Local Government Coordination and Preparedness (SLGCP), which merges the Office of State and Local Government Coordination with the Office for Domestic Preparedness (ODP). Administration and oversight of the following programs were moved to SLGCP from legacy agencies:

*Emergency Preparedness and Response Directorate.*—Metropolitan medical response system, first responder counter-terrorism training assistance, assistance to firefighter grants, emergency management performance grants, state and local all-hazards emergency operations planning, Citizens Corps, interoperable communications equipment, and Community Emergency Response Teams.

*Office for Domestic Preparedness.*—State domestic preparedness equipment support; law enforcement terrorism prevention; New York equipment replacement; national exercise program (TOPOFF) grants; multi-state anti-terrorism information exchange; terrorism early alert and strategic planning system; State Homeland Security Grant Program; and the Urban Area Security Initiative (UASI) Grant Program including UASI port security grants, UASI mass transit security grants, and UASI radiological defense systems.

*Transportation Security Administration.*—Port Security Grants, Intercity Bus Security Grants, Operation Safe Commerce, and Trucking Industry Security Grants.

The conferees understand that, while SLGCP will provide a single entry point for grant applications, the subject matter experts of those transferred grants will remain with the original legacy agencies. SLGCP shall continue to include these experts in the review of grant applications, the determination of eligibility, and making award determinations. The conferees agree that no more than 12 personnel from the Transportation Security Administration (TSA) and 51 personnel from the Emergency Preparedness and Response (EP&R) Directorate shall be transferred to SLGCP to assist in the administration of these grants.

### MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $3,546,000 instead of $41,432,000 as proposed by the House and $25,000,000 as proposed by the Senate. Funds are provided for the management and administration expenses of the Office of State and Local Government Coordination. Management and administration expenses for the Office for Domestic Preparedness are provided as a percentage of the formula-based grants, as authorized by Section 1014 of the USA PATRIOT Act. Funding of not to exceed $2,000 is provided for official reception and representation expenses, as proposed by the House.

### STATE AND LOCAL PROGRAMS

The conferees agree to provide $3,086,300,000 instead of $3,423,900,000 as proposed by the House and $2,845,081,000 as proposed by the Senate.

| | |
|---|---|
| Formula-Based Grants: | |
| Formula-Based Grants: .. | $1,100,000,000 |
| Law Enforcement Terrorism Prevention Grants: .................... | 400,000,000 |
| Subtotal, Formula-Based Grants .............. | 1,500,000,000 |
| Discretionary Grants: | |
| High-Threat, High-Density Urban Area Grants | 885,000,000 |
| Rail and Transit Security Grants ................. | 150,000,000 |
| Port Security Grants ..... | 150,000,000 |
| Intercity Bus Security Grants ....................... | 10,000,000 |
| Trucking Security Grants ....................... | 5,000,000 |
| Subtotal, Discretionary Grants ............ | 1,200,000,000 |
| Technology Transfer: | |
| Technology Transfer Program ..................... | 50,000,000 |
| National Programs: | |
| National Domestic Preparedness Consortium | 135,000,000 |
| National Exercise Program .......................... | 52,000,000 |
| Metropolitan Medical Response System ....... | 30,000,000 |
| Technical Assistance ...... | 30,000,000 |
| Demonstration Training Grants ....................... | 30,000,000 |
| Continuing Training Grants ....................... | 25,000,000 |
| Citizen Corps .................. | 15,000,000 |
| Evaluations and Assessments .......................... | 14,300,000 |
| Rural Domestic Preparedness Consortium | 5,000,000 |
| Subtotal, National Programs .......................... | 3,086,300,000 |
| Total, State and Local Programs: ................ | $3,086,300,000 |

The conferees view state and local jurisdictions' ability to detect, prevent and respond to a terrorist attack as a high priority. State and local responders are first to arrive on scene when a terrorist attack occurs and must be prepared to protect life and property. This function is inherently non-federal, although federal resources and expertise are needed to manage the crisis, and provide support to state and local assets when an attack overwhelms their resources. For purposes of eligibility for funds under this heading, any county, city, village, town, district, borough, port authority, transit authority, intercity rail provider, commuter rail system, freight rail provider, water district, regional planning commission, council of government, Indian tribe with jurisdiction over Indian country, authorized tribal organization, Alaska Native village, independent authority, special district, or other political subdivision of any state shall constitute a "local unit of government."

### FORMULA-BASED GRANTS

The conferees agree to provide $1,100,000,000 instead of $1,250,000,000 as proposed by the House and $970,000,000 as proposed by the Senate. These funds are available to all states for purposes of training, procuring equipment (such as interoperable communications equipment), and conducting exercises, based on each state's approved, updated homeland security strategy. The conferees expect that these funds will be made available to states within 45 days after enactment of this Act, that states will have 45 days to apply after the grant is announced, and that SLGCP will act within 15 days of receipt of an application. The conferees also agree that no less than 80 percent of these funds shall be obligated by the state to local units of government within 60 days of the state receiving funds. None of the funds may be used for construction or overtime, except as provided in this Act. The conferees urge the Department to work with state and local governments to ensure that regional authorities, such as port, transit, or tribal authorities, are given due consideration in the distribution of state formula grants. Not to exceed 3 percent may be used for administrative expenses.

The conferees are pleased with steps taken by the SLGCP to allow states and localities to reallocate State Homeland Security Grant Program funds to address emerging threats identified by credible assessments. The conferees understand that beginning with fiscal year 2004 grant funds, reallocation of funds for this purpose does not require prior approval by SLGCP, provided that reallocation of funds for activities pursued by states and localities are consistent with state homeland security strategies, within the scope of allowable program expenditures, and that such reallocation will be notified to SLGCP through the required, regularly scheduled programmatic report.

### LAW ENFORCEMENT TERRORISM PREVENTION GRANTS

The conferees agree to provide $400,000,000 as proposed by the Senate instead of $500,000,000 as proposed by the House. The conferees expect that these funds will be made available to states within 45 days after enactment of this Act, that states will have 45 days to apply after the grant is announced, and that SLGCP will act within 15 days of receipt of an application. The conferees also agree that no less than 80 percent of these funds shall be obligated by the state to local units of government within 60 days of the state receiving funds. Not to exceed 3 percent may be used for administrative expenses.

Law enforcement terrorism prevention activities that involve compensation of overtime shall be limited to those specifically related to homeland security, such as providing expanded investigative and intelligence efforts. Funding may not be used to supplant ongoing, routine public safety activities of state and local law enforcement. State applications must certify that all requests for overtime comply with this requirement.

### DISCRETIONARY GRANTS

The conferees agree to provide $1,200,000,000 instead of $1,000,000,000 as proposed by the House and $1,328,000,000 as proposed by the Senate. Of these funds, $885,000,000 is made available to the Secretary for discretionary grants to high-threat, high-density urban areas, instead of $900,000,000 as proposed by the House and $875,000,000 as proposed by the Senate. The Secretary shall consider credible threat, presence of critical infrastructure, population, vulnerability, cooperation of multiple jurisdictions in preparing domestic preparedness plans, and the identified needs of public agencies in determining the allocation of these funds. The conferees expect funds to be obligated no later than 60 days after enactment of the Act. The conferees also agree that no less than 80 percent of these funds shall be obligated by the state to local units of government within 60 days of the state receiving funds. Grants may be made to single or multiple jurisdictions in the same urban area. Of the funds made available for grants to high-threat, high-density urban areas, $25,000,000 is for grants to non-profit organizations determined by the Secretary to be at high risk of international terrorist attacks.

The conferees agree that except for rail, transit, and port security grants, the use of grant funds for construction is prohibited. However, for those projects that specifically address enhanced security at critical infrastructure facilities, such as improved perimeter security, minor construction or renovation for necessary guard facilities, fencing, and related efforts, project construction or renovation not exceeding $1,000,000 is allowable, as deemed necessary by the Secretary. The conferees expect SLGCP to continue the practice of reimbursing eligible overtime expenses as designated in ODP Information Bulletin No. 127, dated August 3, 2004.

The conferees are aware that the Department has previously provided technical assistance to urban areas through the Urban Area Security Initiative. The conferees encourage SLGCP to consider urban area technical assistance requirements as part of normal technical assistance requests, which are funded under a separate account.

### TRANSPORTATION SECURITY GRANTS

Of the funds provided for Discretionary Grants, $150,000,000 is for port security grants; $150,000,000 is for rail, freight, and transit security grants; $10,000,000 is for intercity bus security grants; and $5,000,000 is for trucking security grants. Despite the consolidation of selected grant award functions within SLGCP, the conferees agree that TSA subject matter experts will remain within TSA and SLGCP shall continue to include these experts in the review of grant applications, the determination of eligibility, and making award determinations.

The conferees are concerned that port security grants made to independent terminal operators are not coordinated at the state, local port authority, or Captain of the Port levels. The conferees direct that SLGCP ensure the coordination of all port security grants with the state, local port authority, and the Captain of the Port, to ensure all vested parties are aware of grant determinations and that the limited resources are maximized.

The conferees are concerned about the lack of priority setting in the intercity bus grant program. It is important for the Department to clearly identify priorities, including the importance of passenger screening and terminal security, and focus on the unique structure of the intercity bus industry and the importance of fixed route service.

### TECHNOLOGY TRANSFER PROGRAM

The conferees agree to provide $50,000,000 as proposed by the House. The Senate proposed $50,000,000 under the Law Enforcement Terrorism Prevention Grants. The conferees are aware of the unique needs of jurisdictions in smaller communities that make it more difficult for them to identify, select, procure, practice and become proficient in specialized equipment and technology. The conferees direct SLGCP to develop a technology transfer program to assist smaller communities in acquiring and using commercially available technologies to prevent, deter, and respond to terrorist attacks, as identified in state homeland security strategies. This competitive program shall be a direct assistance program, not a grant program, and SLGCP will provide the equipment and technical assistance directly to the selected jurisdictions. This includes, but is not limited to, interoperable communications technology, defensive protective equipment for first responders, and vulnerability assessment technology appropriate to rural jurisdictions. A key element of this program shall be the provision of appropriate training and technical assistance to ensure effective integration of the technologies into the jurisdictions' response plans. This training should address the specialized equipment related issues found in small and rural communities, and solutions achieved by SLGCP's technology transfer program that address these issues. Of the amount provided, no more than $10,000,000 may be used for commercially available equipment testing and validation to determine appropriateness for inclusion in the technology transfer program.

### NATIONAL PROGRAMS

The conferees agree to provide $336,300,000 instead of $275,081,000 as proposed by the Senate. The House proposed $328,900,000 for these programs in separate accounts.

### NATIONAL DOMESTIC PREPAREDNESS CONSORTIUM

Of the funds provided for National Programs, the conferees agree to provide $135,000,000 as proposed by the Senate instead of $130,000,000 as proposed by the House. Of these funds, $55,000,000 is for the Center for Domestic Preparedness.

### NATIONAL EXERCISE PROGRAM

Of the funds provided for National Programs, the conferees agree to provide $52,000,000 as proposed by both the House and Senate.

### TECHNICAL ASSISTANCE

Of the funds provided for National Programs, the conferees agree to provide $30,000,000 as proposed by the Senate instead of $7,600,000 as proposed by the House. Of these funds, $20,000,000 shall be for the Interoperable Communication Technical Assistance program, as proposed by the Senate. The House contained no similar provision.

The conferees recognize the importance of interoperable communications standards, which are critical to the Department's efforts to improve communications nationally. Therefore, the Science and Technology Directorate shall expedite the development of these standards, and coordinate with SLGCP to ensure that SLGCP's technical assistance program incorporates these standards, as appropriate.

### METROPOLITAN MEDICAL RESPONSE SYSTEM

Of the funds provided for National Programs, the conferees agree to provide $30,000,000 instead of $50,000,000 as proposed by the House. The Senate included no similar provision.

### DEMONSTRATION TRAINING GRANTS

Of the funds provided for National Programs, the conferees agree to provide $30,000,000 instead of $50,000,000 as proposed by the House and $55,000,000 as proposed by the Senate. The conferees agree that these peer reviewed competitive grants shall be for first responder pilot and demonstration training projects, covering the local, regional, and national levels.

### CONTINUING TRAINING GRANTS

Of the funds provided for National Programs, the conferees agree to provide $25,000,000. The conferees agree to create this separate grant program to fund continuing first responder training efforts, instead of funding from a combined competitive training account as proposed by the House. The Senate contained no similar provision.

### EVALUATIONS AND ASSESSMENTS

Of the funds provided for National Programs, the conferees agree to provide $14,300,000 as proposed by the House instead of $3,081,000 as proposed by the Senate.

### CITIZEN CORPS

Of the funds provided for National Programs, the conferees agree to provide $15,000,000 instead of $20,000,000 as proposed by the House and $30,000,000 as proposed by the Senate.

### RURAL DOMESTIC PREPAREDNESS CONSORTIUM

Of the funds provided for National Programs, the conferees agree to provide $5,000,000 for the development of a Rural Domestic Preparedness Consortium, as proposed by the House. The Senate included no similar provision. Training for rural first responders poses unique challenges when compared to their urban counterparts. This new consortium should provide a regional approach to rural first responder awareness level training, develop emerging training, and provide technical assistance in support of rural homeland security requirements. SLGCP is to provide a report to the House and Senate Committees on Appropriations on the creation of this consortium no later than January 15, 2005.

### HOMELAND SECURITY PRESIDENTIAL DIRECTIVE 8

At the urging of both the Congress and the President, the Department is proceeding with a proposed plan to transition first responder grant programs to a risk- and threat-based allocation system. The conferees will monitor this progress so that the Congress can consider such a transition in fiscal year 2006, with the exception of the guaranteed state minimum as prescribed in section 1014 of the USA PATRIOT Act of 2001. In this regard, the conferees direct that SLGCP continue the development of a universal list of first responder preparedness tasks, defined capabilities to accomplish those tasks grouped by the vulnerability of the jurisdiction, and performance metrics for each capability, as defined in the draft National Preparedness Goal. The conferees further direct SLGCP to establish a comprehensive rollout strategy to educate state and local jurisdictions on the finalized National Preparedness Goal. The conferees include bill language requiring SLGCP to provide state and local jurisdictions with nationally accepted preparedness levels of first responder capabilities no later than January 31, 2005; include in the fiscal year 2005 formula-based grant guidance guidelines for the states to adopt national preparedness standards in fiscal year 2006; and issue final guidance on the implementation of the National Preparedness Goal, as required in Homeland Security Presidential Directive 8, no later than March 31, 2005.

### FIREFIGHTER ASSISTANCE GRANTS

The conferees agree to provide $715,000,000 instead of $650,000,000 as proposed by the House and $750,000,000 as proposed by the Senate. Of this amount, $65,000,000 shall be for firefighter staffing, as authorized by section 34 of the Federal Fire Prevention and Control Act of 1974, instead of $50,000,000 as proposed by the House. The Senate proposed $100,000,000 for this purpose in a separate account. Not to exceed 5 percent may be used for administrative expenses. Funds are available until September 30, 2006.

The conferees are concerned by the Department's proposed shift in grant focus from all-hazards to placing priority on terrorism, and the proposed deletion of several eligible activities, specifically, wellness and fitness programs, emergency medical services, fire prevention programs, public education programs, and modifications of facilities for health and safety of personnel. The Department should continue the present practice of funding applications according to local priorities and those established by the United States Fire Administration (USFA); reinstate all previously eligible funding areas, continue direct funding of grants to fire departments and the peer review process for determining funding awards; and include the USFA during grant administration. The conferees further direct the Department to continue the practice of allowing the Alaska Village Initiatives to apply for grants on behalf of Alaskan communities, and make $3,000,000 available for implementation of section 205(c) of Public Law 108–129, the United States Fire Administration Reauthorization Act of 2003.

### EMERGENCY MANAGEMENT PERFORMANCE GRANTS

The conferees agree to provide $180,000,000 instead of $236,000,000 as proposed by the Senate. The House proposed $170,000,000 under State and Local Programs. Not to exceed 3 percent may be used for administrative expenses.

The conferees agree that Emergency Management Performance Grants (EMPG) are vital to state and local emergency management systems, and therefore do not agree to shift from an all-hazards to a terrorism-specific focus or to limit personnel expenses to 25 percent. The conferees direct the Department to continue funding personnel expenses without a limit and to continue current grant administrative practices, including grant allocation, in a manner identical to fiscal year 2004. Despite the consolidation of selected grant award functions within SLGCP, the conferees agree that EMPG subject matter experts will remain within EP&R and SLGCP shall continue to include these experts in the review of grant applications, determination of eligibility, and making award determinations. Furthermore, the conferees expect the EP&R regional emergency managers' relationship with state and local governments to continue.

### COUNTERTERRORISM FUND

The conferees agree to provide $8,000,000 instead of $10,000,000 as proposed by both the House and Senate. Funds are available until expended. The Secretary shall notify the House and Senate Committees on Appropriations 15 days prior to obligation of these funds.

### EMERGENCY PREPAREDNESS AND RESPONSE

### OFFICE OF THE UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE

The conferees agree to provide $4,211,000 as proposed by both the House and Senate.

The conferees direct the Emergency Preparedness and Response (EP&R) Directorate to continue the practice of making balances from funds appropriated for disaster relief for the terrorist attacks of September 11, 2001, available to New York State at the request of the Governor of New York in coordination with the Mayor of New York City. Of the amounts available, $4,450,000 shall be for Project Liberty for personnel, families, and retirees of the New York City Fire Department and New York City Police Department, if requested by the Governor of New York.

### PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

The conferees agree to provide $239,499,000 instead of $210,499,000 as proposed by the House and $231,499,000 as proposed by the Senate.

### URBAN SEARCH AND RESCUE

Of the funds provided for Preparedness, Mitigation, Response, and Recovery, the conferees agree to provide $30,000,000 for Urban Search and Rescue Teams as proposed by the Senate, instead of $7,000,000 as proposed by the House. Not to exceed 3 percent may be used for administrative expenses.

### EMERGENCY HOUSING PLAN

Of the funds provided for Preparedness, Mitigation; Response, and Recovery, the conferees agree to provide $2,000,000, as proposed by the House, in support of EP&R's emergency housing plan to evaluate and deploy new housing solutions which can be used in conjunction with traditional response and recovery solutions. These new solutions shall be collapsible so that they may stack for economical shipping and storage, expand during assembly to increase usable space, be sturdy enough to ensure multiple reuse in future deployments, and address both housing and other infrastructure needs. In light of recent natural disasters; the conferees and EP&R believe this evaluation of new housing and infrastructure solutions is very timely. The conferees direct a report on the evaluation and deployment of these new housing solutions be submitted to the House and Senate Appropriations Committees no later than January 14, 2005, and that emergency housing and infrastructure requirements be submitted with the fiscal year 2006 budget request.

### NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)

Of the funds provided for Preparedness, Mitigation, Response, and Recovery, the conferees agree to provide $15,000,000 instead of $7,000,000 as proposed by both the House and Senate. The conferees expect the Department to implement a program concept for the NIMS Integration Center (NIC) that is anchored in multiple locations serving regional interests. As part of the NIMS mission the conferees strongly encourage the Department to establish regional centers to facilitate the development and deployment of NIMS training, education and publications.

### MINORITY EMERGENCY PREPAREDNESS DEMONSTRATION PROGRAM

The conferees continue to be concerned with EP&R's slow progress in the implementation of the Minority Emergency Preparedness Demonstration Program. Notwithstanding the draft outline for such a program shared with the Committees earlier this year and the direction of the Committees over the past three years to implement this program, EP&R has not acted. The conferees direct EP&R to develop a pilot program for socio-economically disadvantaged communities and underrepresented members of the population that assesses and analyzes the preparation and response of these communities and individuals to a widespread disaster affecting multiple states and regions. The program should utilize information gathered from organizations such as community based organizations, faith-based institutions, historically black colleges and universities, and private organizations and businesses serving socio-economically disadvantaged communities and underrepresented populations. The Department is directed to implement this pilot program no later than December 1, 2004; if this program is not implemented by December 1, 2004, the Secretary is to provide a written justification to the House and Senate Committees on Appropriations as to why this direction is not being followed.

### SHOCKOE CREEK

The conferees direct EP&R to conduct an investigation of the Shockoe Creek drain field in Richmond, Virginia, to determine means of preventing future damage in that area from floods and other natural disasters.

### OPERATING EXPENSES

### (RESCISSION OF FUNDS)

The conferees rescind $5,000,000 of the funds provided by Public Law 108–11.

### ADMINISTRATIVE AND REGIONAL OPERATIONS

The conferees agree to provide $202,939,000 instead of $203,939,000 as proposed by the House and $196,939,000 as proposed by the Senate. Within these funds, the conferees agree to provide $6,000,000 for the Document Management Support Program, instead of $7,000,000 as proposed by the House. Funding of not to exceed $3,000 is provided for official reception and representation funds as proposed by the Senate instead of $4,000 as proposed by the House.

### PUBLIC HEALTH PROGRAMS

The conferees agree to provide $34,000,000 as proposed by both the House and Senate.

### BIODEFENSE COUNTERMEASURES

The conferees agree with the budget estimate to make available in fiscal year 2005, $2,528,000,000 in obligation authority for fiscal years 2005–2008 pursuant to Public Law 108–90.

### RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The conferees agree to provide for the receipt and expenditure of fees collected, as authorized by Public Law 105–276, as proposed by both the House and Senate.

### DISASTER RELIEF

The conferees agree to provide $2,042,380,000 as proposed by the House instead of $2,221,000,000 as proposed by the Senate. The conferees do not agree to include $70,000,000 in emergency funding for the American Red Cross, as proposed by the Senate. These funds are addressed in the fiscal year 2004 emergency supplemental, as requested by the President on September 14, 2004.

The conferees direct the Under Secretary for Emergency Preparedness and Response to place special emphasis on the recruitment of American Indians, Alaska Natives, Native Hawaiians, and other minorities for positions within Disaster Assistance Employee cadres maintained by EP&R. The Under Secretary shall provide to the House and Senate Committees on Appropriations a report no later than 100 days after enactment of this Act which assesses the representation of American Indians, Alaska Natives, Native Hawaiians, and other minorities in the Disaster Assistance Employee cadres. The report should also identify recruitment strategies to increase the representation of such individuals in the cadres.

### DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

The conferees agree to provide $567,000 for administrative expenses as proposed by both the House and Senate. Gross obligations for the principal amount of direct loans shall not exceed $25,000,000 as proposed by both the House and Senate.

### FLOOD MAP MODERNIZATION FUND

The conferees agree to provide $200,000,000 as proposed by the Senate instead of $150,000,000 as proposed by the House. The conferees do not agree to Senate report language regarding the National Service Provider.

### NATIONAL FLOOD INSURANCE FUND

### (INCLUDING TRANSFER OF FUNDS)

The conferees agree to provide $33,336,000 for salaries and expenses as proposed by both the House and Senate. The conferees further agree to provide up to $79,257,000 for flood mitigation activities and limitations of $55,000,000 for operating expenses, $562,881,000 for agents' commissions and taxes, and $30,000,000 for interest on Treasury borrowings as proposed by both the House and Senate.

### NATIONAL FLOOD MITIGATION FUND

The conferees agree to provide $20,000,000 by transfer from the National Flood Insurance Fund as proposed by the House. The Senate proposed $20,000,000 for flood mitigation by transfer under Mitigation Grant Programs. Funds are available until September 30, 2006.

### NATIONAL PRE-DISASTER MITIGATION FUND

The conferees agree to provide $100,000,000 as proposed by the House. The Senate proposed $150,000,000 for pre-disaster mitigation under Mitigation Grant Programs. Not to exceed 3 percent may be used for administrative expenses. Funds are available until expended.

The conferees are concerned by EP&R's slow progress in awarding fiscal year 2003 pre-disaster mitigation grants. These grants were only recently awarded and an excessive unobligated balance remains. The conferees direct EP&R to report no later than February 15, 2005, on any changes it intends to make in future grants, including an expeditious and reasonable obligation plan for awarding all unobligated funds. The report shall also describe feedback received from state hazard mitigation officers and an assessment of ways to streamline the application and award process.

### EMERGENCY FOOD AND SHELTER

The conferees agree to provide $153,000,000 as proposed by both the House and Senate. Not to exceed 3.5 percent may be used for administrative expenses. Funds are available until expended.

## TITLE IV—RESEARCH, DEVELOPMENT, TRAINING, ASSESSMENTS, AND SERVICES

### CITIZENSHIP AND IMMIGRATION SERVICES

### SALARIES AND EXPENSES

The conferees agree to provide $160,000,000, as proposed by the House, instead of $140,000,000 as proposed by the Senate. This includes $140,000,000 for backlog elimination, as well as $20,000,000 for the historical records project to convert immigration records into an electronic, digitally-accessible format. The conferees direct that no funding for the historical record project may be obligated until U.S. Citizenship and Immigration Services (CIS) submits a detailed expenditure plan to the House and Senate Committees on Appropriations for approval. Current estimates of examination fee collections, which constitute the majority of offsetting resources for CIS are $1,571,000,000. The conferees direct that not to exceed $5,000 of these collections shall be for official reception and representation expenses, as proposed by the House.

The following table specifies funding by budget activity, and includes both direct appropriations and estimated collections:

| | |
|---|---|
| Adjudication Services (fee accounts): | |
| Pay and Benefits ............ | $561,000,000 |
| Operating Expenses: | |
| District Operations ..... | 284,000,000 |
| Service Center Operations ...................... | 217,000,000 |
| Asylum, Refugee, and International Operations ...................... | 73,000,000 |
| Records Operations ..... | 65,000,000 |
| Total, Adjudication Services .................... | 1,200,000,000 |
| Backlog Reduction Initiatives (Direct Appropriations): | |
| Contracting Services ...... | 120,000,000 |
| Other ............................ | 20,000,000 |
| Digitization .................... | 20,000,000 |
| Total, Backlog Reduction Initiatives ........... | 160,000,000 |
| Information and Customer Services (fee accounts): | |
| Pay and Benefits ............ | 78,000,000 |
| Operating Expenses: | |
| National Customer Service Center .......... | 46,000,000 |
| Information Services ... | 14,000,000 |
| Total, Information and Customer Services .......................... | 138,000,000 |
| Administration (fee accounts): | |
| Pay and Benefits ............ | 43,000,000 |
| Operating Expenses ........ | 190,000,000 |
| Total, Administration | 233,000,000 |
| Total, Citizenship and Immigration Services | 1,731,000,000 |

### REGIONAL SERVICE CENTERS

The conferees direct the Department to evaluate the distribution of staff and resources among the four CIS regional service centers, and submit a report no later than December 1, 2004, with recommendations to normalize the petition processing times across the regional centers.

### BENEFIT FRAUD

The conferees have agreed to the Administration's request to increase the resources available for benefit fraud enforcement by decreasing the funds available to Immigration and Customs Enforcement (ICE) from the examinations fee account, and leaving those resources available to CIS, as proposed in the House report. These resources are to fund the Office of Fraud Detection and National Security (FDNS) Unit, as called for by the Government Accountability Office. The FDNS unit is responsible for developing, implementing, directing, and overseeing the joint CIS-ICE anti-fraud initiative, and conducting law enforcement/background checks on every applicant, beneficiary, and petitioner prior to granting any immigration benefits. CIS is to report by July 1, 2005, to the House and Senate Committees on Appropriations on the progress in implementing the joint anti-fraud initiative.

### FEDERAL LAW ENFORCEMENT TRAINING CENTER (FLETC)

### SALARIES AND EXPENSES

The conferees agree to provide $177,440,000 instead of $183,440,000 as proposed by the House and $181,440,000 as proposed by the Senate. Funds above the budget request include a transfer of $21,000,000 for the Charleston, South Carolina, training facility. The conferees do not provide $2,000,000, as requested, for the transfer of the CBP Advanced Training Facility. At the department's request, the conferees do not include $2,000,000 for the pay for performance demonstration project.

### ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

The conferees agree to provide $44,917,000, instead of $37,917,000 as proposed by the House and $42,917,000 as proposed by the Senate. Funds above the budget request include $5,000,000 for renovation and construction needs at the Artesia, New Mexico, training center, as proposed by the Senate, and $2,000,000 for renovation and construction needs at the Charleston, South Carolina, training center.

### FACILITIES MASTER PLAN

An updated facilities Master Plan that identifies unfunded training facilities construction and renovation needs has not been submitted to the House and Senate Committees on Appropriations. The conferees direct FLETC to submit an updated Master Plan with the fiscal year 2006 budget request.

### INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

### MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $132,064,000 for management and administration to support 803 full-time equivalent positions as proposed by the House instead of $137,064,000 as proposed by the Senate. This includes $5,864,000 for the Office of the Under Secretary and $126,200,000 for other salaries and expenses. Funding of $35,000,000 for the Homeland Security Operations Center is funded under Assessments and Evaluation as proposed by the House. Within the amounts provided, not to exceed $5,000 is available for official reception and representation expenses as proposed by the House. The Senate proposed $20,000 in the Assessments and Evaluations account.

The conferees agree to provide $22,940,000 for protective security field operations and expect that the deployment of personnel will be executed in accordance with direction provided in the House report.

### ASSESSMENTS AND EVALUATIONS

The conferees agree to provide $761,644,000 instead of $722,512,000 as proposed by the House and $718,512,000 as proposed by the Senate. Funds are available until September 30, 2006. Funding is allocated as follows:

| *Program* | *Amount* |
|---|---|
| Critical infrastructure outreach & partnerships | $106,592,000 |
| Critical infrastructure identification and evaluation | 77,861,000 |
| National infrastructure simulation and analysis center (NISAC) | 20,000,000 |
| Protective actions | 191,647,000 |
| Biosurveillance | 11,000,000 |
| Cyber security | 67,380,000 |
| National security emergency preparedness telecommunications | 140,754,000 |
| Competitive analysis and evaluation | 4,000,000 |
| Threat determination and assessment | 21,943,000 |
| Infrastructure vulnerability and risk assessment | 71,080,000 |
| Evaluation and studies | 14,387,000 |
| Homeland security operations center | 35,000,000 |
| Total, Assessments and Evaluations | 761,644,000 |

The conferees have included up to $3,000,000 for the Under Secretary of Information Analysis and Infrastructure Protection (IAIP) to complete an analysis of whether the Department should require private sector entities to provide IAIP existing information about their security measures and vulnerabilities in order to improve IAIP's ability to evaluate critical infrastructure protections nationwide. The analysis should include all critical infrastructure, including chemical plants, evaluate the costs to the private sector for implementing such a requirement, the benefits of securing the information, and costs to IAIP to implement this requirement. The conferees direct the Government Accountability Office to review the quality of IAIP's analysis and report to the House and Senate Committees on Appropriations within three months after the analysis is complete.

The conferees have included bill language requiring the Under Secretary for IAIP to provide a quarterly report to the House and Senate Committees on Appropriations on all sole-source contractual agreements. The report shall include a listing of all sole-source contracts entered into, the recipient, the purpose of the contract, and a detailed explanation of why the competitive process was not followed. The conferees direct that the first report be submitted by November 15, 2004, and subsequent reports be submitted no later than 30 days following the completion of each quarter of the fiscal year.

### CRITICAL INFRASTRUCTURE OUTREACH AND PARTNERSHIPS

The conferees agree to provide $106,592,000 instead of $91,592,000 as proposed by the Senate and $71,592,000 as proposed by the House.

The conferees agree to provide $35,000,000 for computer hosting of departmental applications, network connectivity, and critical data storage under the direction of the Department's Chief Information Officer.

### CRITICAL INFRASTRUCTURE IDENTIFICATION AND EVALUATION

The conferees agree to provide $77,861,000 as proposed by the House, instead of $64,730,000 as proposed by the Senate.

### NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER

The conferees agree to provide $20,000,000 instead of $16,000,000 as proposed by the House and $23,105,000 as proposed by the Senate.

The conferees direct the Protective Security Division to obligate funds previously made available by Public Law 108–7 for the NISAC at the earliest date possible.

### PROTECTIVE ACTIONS

The conferees agree to provide $191,647,000 as proposed by the House instead of $193,673,000 as proposed by the Senate.

### NATIONAL ASSET DATABASE

The conferees are aware that the National Asset Database (NADB), an inventory of the nation's critical infrastructure and key resources compiled from federal, state, local, and private sector input, now includes information on approximately 30,000 assets, some 2,000 of which are considered of critical importance. Although IAIP continues to populate and refine the NADB, the Protective Security Division (PSD) has already begun completing Buffer Zone Protection Plans (BZPPs) for the sites it contains. These BZPPs are efforts to reduce vulnerabilities by extending the protected area from the critical infrastructure site out into the community. The conferees strongly support this initiative, and direct PSD to complete BZPPs for all critical assets in the NADB by the end of fiscal year 2005.

### RAIL CORRIDOR SECURITY

The conferees are aware that security measures are being implemented to improve the security of the Washington, DC, rail corridor through the cooperative efforts of freight rail operators, local law enforcement and first responders, and the federal government with the objective of reducing the risk of a terrorist attack on rail cars carrying hazardous materials. The conferees direct PSD to use existing resources within Protective Actions to begin applying this concept to other major metropolitan areas.

### DEVELOPMENT OF PROTOCOLS, POLICIES AND PROCEDURES

While the conferees are supportive of the efforts of IAIP to implement protective measures using the funds provided within Protective Actions, the conferees are concerned about the lack of written protocols, policies, and procedures governing the use of these funds. The conferees believe that without such guidelines, there exists the potential for duplication of effort between this account and other funding sources, such as grant programs within the Office of State and Local Government Coordination and Preparedness, as well as the possibility that funds could be used in ways that might not be consistent with the overall goals of the Department's critical infrastructure protection efforts. In addition to the funds provided in the Act, the conferees are aware of unobligated balances that remain available for these purposes from prior year appropriations. The conferees direct IAIP to develop appropriate written guidelines for the use of Protective Actions funds for buffer zone protection plans and grants that preserve needed flexibility, while preventing potential duplication or misapplication, and to provide a report regarding this policy to the House and Senate Committees on Appropriations no later than November 30, 2004.

### CYBER SECURITY

The conferees agree to provide $67,380,000 as proposed by both the House and the Senate. The conferees agree to include $3,500,000 for "live wire" cyber exercises to build upon previous similar terrorist attacks on the Nation's cyber infrastructure to demonstrate the impact of a cyber-based attack on critical infrastructures and to highlight the interdependencies among critical infrastructures and underscore the requirement for enhanced cross-sector cooperation.

The conferees support the National Cyber Security Division's (NCSD) efforts to monitor, predict, and prevent cyber attacks, and to minimize the damage and efficiently recover from attacks. The conferees encourage the NCSD to identify, assess, and implement preventative measures with organizations providing public health needs.

### COMPETITIVE ANALYSIS AND EVALUATION

The conferees agree to provide $4,000,000 instead of $3,868,000 as proposed by the House and $18,868,000 as proposed by the Senate.

### HOMELAND SECURITY OPERATIONS CENTER

The conferees agree to provide $35,000,000 as proposed by the House. Funding of $35,000,000 for the Homeland Security Operations Center was proposed by the Senate under the Management and Administration account.

### NATIONAL ALERTS

The conferees support the Department's use of the National Oceanic and Atmospheric Administration (NOAA) all-hazards weather radio system as the foundation for the Homeland Security Advisory System and provide $10,000,000 for fiscal year 2005, the same amount provided in fiscal year 2004. These funds are for the distribution of NOAA radios to schools throughout the country on a priority basis and for satellite, digital broadcast, and other advanced technologies to disseminate vital warning information to ensure that the general public can more effectively be warned about terrorist threats and other emergencies. For fiscal year 2004 and fiscal year 2005 funds, the conferees expect the Department to adhere to Section 102(b)(2) of Public Law 107-296 in purchasing and distributing the NOAA radios to schools as deemed appropriate by the Secretary.

The conferees direct the Secretary to work with the Chairman of the Federal Communications Commission to develop a legislative solution for a universal system for broadcasting national alerts. This will alleviate the need for separate negotiations between the Department and radio broadcasters, television broadcasters, and other telecommunications providers.

## SCIENCE AND TECHNOLOGY (S&T)

### MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $68,586,000 for management and administration to include 320 full-time equivalent positions as proposed by the House, instead of $42,550,000 as proposed by the Senate. Within the amounts provided, not to exceed $3,000 is available for official reception and representation expenses. The funding includes $6,315,000 for the immediate Office of the Under Secretary and $62,271,000 for other salaries and expenses. The conferees consolidate all salary expenses in one account and the recommendation reflects the salaries and expenses for laboratory facilities, including the National Biodefense Analysis and Countermeasures Center (NBACC), the Plum Island Animal Disease Center and the Environmental Measurements Laboratory previously funded under S&T's program account.

The conferees are concerned about the substantial lack of communication within the management of S&T, which has resulted in misinformation being provided to Congress. The conferees strongly encourage S&T to review their management practices to improve upon internal communications. The conferees believe S&T should move expeditiously to develop a policy regarding the use of national laboratories, and direct S&T to report to the House and Senate Committees on Appropriations on this policy no later than October 15, 2004.

### RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

The conferees agree to provide $1,046,864,000 instead of $1,063,713,000 as proposed by the House and $1,016,647,000 as proposed by the Senate. Funds are allocated as follows:

| | *Amount* |
|---|---|
| Biological countermeasures | $362,650,000 |
| Nuclear and radiological countermeasures | 122,614,000 |
| Chemical countermeasures | 53,000,000 |
| High explosives countermeasures | 19,700,000 |
| Threat and vulnerability, testing and assessment | 65,800,000 |
| Critical infrastructure protection | 27,000,000 |
| Conventional missions in support of DHS | 54,650,000 |
| (total includes transfers from consolidated transferred accounts) | |
| Rapid prototyping program | 76,000,000 |
| Standards | 39,700,000 |
| Emerging threats | 10,750,000 |
| University programs/Homeland security fellowship programs | 70,000,000 |
| Consolidated transferred accounts | |
| National Biodefense Analysis & Countermeasures Center | 35,000,000 |
| Counter MANPADS | 61,000,000 |
| SAFETY Act | 10,000,000 |
| Cyber Security | 18,000,000 |
| Interoperability and communications | 21,000,000 |
| Total, Research, development, acquisition, and operations | $1,046,864,000 |

### BIOLOGICAL COUNTERMEASURES

The conferees agree to provide $362,650,000 as proposed by the House instead of $346,310,000 as proposed by the Senate. This funding level supports the budget request for the individual programs within biological countermeasures with the following exceptions: $9,350,000 is transferred to management and administration for salaries and expenses; and $35,000,000 for the NBACC is funded as a separate program.

### NUCLEAR AND RADIOLOGICAL COUNTERMEASURES

The conferees agree to provide $122,614,000 as proposed by the House instead of $127,810,000 as proposed by the Senate; $6,686,000 is transferred to management and administration for salaries and expenses.

### CHEMICAL COUNTERMEASURES

The conferees agree to provide $53,000,000 as proposed by the House instead of $52,400,000 as proposed by the Senate.

### HIGH EXPLOSIVE COUNTERMEASURES

The conferees agree to provide $19,700,000 instead of $9,700,000 as proposed by the House and $33,590,000 as proposed by the Senate. The conferees include $10,000,000 to develop and conduct simulated real-world exercises to validate a training program for the use of commercially-available equipment against suicide bombers in commuter and passenger rail environments.

### THREAT AND VULNERABILITY, TESTING AND ASSESSMENT

The conferees agree to provide $65,800,000 instead of $68,900,000 as proposed by the House and $68,100,000 as proposed by the Senate.

### CRITICAL INFRASTRUCTURE PROTECTION

The conferees agree to provide $27,000,000 as proposed by the House, instead of $14,830,000 as proposed by the Senate. The conferees provide $12,000,000 to support existing work in research and development and application of technology for community based critical infrastructure protection efforts.

### CONVENTIONAL MISSIONS IN SUPPORT OF DHS

The conferees agree to provide $54,650,000 instead of $44,000,000 as proposed by the House and $34,000,000 as proposed by the Senate. The conferees agree to merge this account with the consolidated transferred accounts, as proposed by the Senate. Additionally, the conferees provide $10,000,000 to support the container security initiative, to accelerate the development of advanced sensors, and begin development of the Advanced Container Information Network in a joint U.S., international, and industry effort, as proposed by the House. The conference agreement includes $10,650,000 transferred from the consolidated transferred accounts as proposed by the Senate, instead of $24,150,000 as proposed by the House in a separate account. Funding is allocated as follows:

| | *Amount* |
|---|---|
| Emergency Preparedness and Response | $9,650,000 |
| Border Transportation and Security | 23,000,000 |
| Secret Service | 2,000,000 |
| Federal Air Marshals | 10,000,000 |
| Container security initiative | 10,000,000 |
| Total, Conventional Missions | 54,650,000 |

### RAPID PROTOTYPING

The conferees agree to provide $76,000,000 as proposed by the House instead of $75,120,000 as proposed by the Senate.

### STANDARDS

The conferees agree to provide $39,700,000 instead of $39,699,000 as proposed by the House and $39,239,000 as proposed by the Senate.

### EMERGING THREATS

The conferees agree to provide $10,750,000 as proposed by the Senate instead of $21,000,000 as proposed by the House.

### UNIVERSITY PROGRAMS/FELLOWSHIP PROGRAMS

The conferees agree to provide $70,000,000 as proposed by the House instead of $69,048,000 as proposed by the Senate.

### CONSOLIDATED TRANSFERRED ACCOUNTS

The conferees include no funding for consolidated transferred accounts. For these activities, $10,650,000 is provided under conventional missions in support of the Department as proposed by the Senate instead of $24,150,000 as proposed by the House in a stand-alone account. The conferees agree to fund Coast Guard research, development, test, and evaluation under Coast Guard as proposed by the Senate instead of within S&T as proposed by the House.

### SAFETY ACT IMPLEMENTATION

The conferees support the language in the House report that establishes an office to implement the requirements of the "Support Anti-terrorism by Fostering Effective Technologies Act of 2002", (SAFETY Act), and directs S&T to streamline the application process and expedite approvals. The conferees further direct the SAFETY Act Implementation Office to provide a written report no later than January 1, 2005, to the House and Senate Committees on Appropriations that describes the process and procedure for prioritizing and reviewing SAFETY Act applications.

### INTEROPERABILITY AND COMMUNICATIONS

The conferees agree to provide $21,000,000 as proposed by the House, instead of $11,000,000 as proposed by the Senate.

## TITLE V—GENERAL PROVISIONS

Section 501. The conferees continue a provision that no part of any appropriation shall remain available for obligation beyond the current fiscal year unless expressly provided.

Section 502. The conferees continue a provision that unexpended balances of prior appropriations may be merged with new appropriations accounts and used for the same purpose, subject to reprogramming guidelines.

Section 503. The conferees continue and modify a provision that provides authority to reprogram appropriations within an account and to transfer not to exceed 5 percent between appropriations accounts with 15-day advance notification of the House and Senate Committees on Appropriations. A detailed funding table identifying each Congressional control level for reprogramming purposes is included at the end of this Report. These reprogramming guidelines shall be complied with by all agencies funded by the Department of Homeland Security Appropriations Act, 2005.

The conferees expect the Department to submit reprogramming requests on a timely basis, and to provide complete explanations of the reallocations proposed, including detailed justifications of the increases and offsets, and any specific impact the proposed changes will have on the budget request for the following fiscal year and future-year appropriations requirements. Each request submitted to the House and Senate Committees should include a detailed table showing the proposed revisions at the account, program, project, and activity level to the funding and staffing (full-time equivalent position) levels for the current fiscal year and to the levels requested in the President's budget for the following fiscal year.

The conferees expect the Department to manage its programs and activities within the levels appropriated. The conferees are concerned with the number of reprogramming proposals submitted for consideration by the Department and remind the Department that reprogramming or transfer requests should be submitted only in the case of an unforeseeable emergency, or a situation that could not have been predicted when formulating the budget request for the current fiscal year. Further, the conferees note that when the Department submits a reprogramming or transfer request to the Committees on Appropriations and does not receive identical responses from the House and

Senate, it is the responsibility of the Department to reconcile the House and Senate differences before proceeding, and if reconciliation is not possible, to consider the reprogramming or transfer request unapproved.

The conferees would also like to clarify that this section applies to the Department's Working Capital Fund and that no funds may be obligated from the Working Capital Fund to fund programs, projects, or activities for which appropriations have been specifically rejected by the Congress, to initiate new programs or activities, or to augment the funds or personnel for any program, project, or activity above the levels appropriated by this Act.

The Department is not to propose a reprogramming or transfer of funds after June 30th unless there are exceptional or extraordinary circumstances such that lives or property are placed in imminent danger.

Section 504. The conferees continue a provision that not to exceed 50 percent of unobligated balances remaining at the end of fiscal year 2005 from appropriations made for salaries and expenses shall remain available through fiscal year 2006 subject to reprogramming guidelines.

Section 505. The conferees continue a provision that provides that funds for intelligence activities are deemed to be specifically authorized during fiscal year 2005 until the enactment of an Act authorizing intelligence activities for fiscal year 2005.

Section 506. The conferees continue a provision that directs FLETC to establish an accrediting body to establish standards for assessing federal law enforcement training programs, facilities, and instructors.

Section 507. The conferees continue and modify a provision that requires notification of the House and Senate Committees on Appropriations 3 business days before any grant allocation, discretionary grant award, discretionary contract award, or letter of intent totaling $1,000,000 or more is announced by the Department.

Section 508. The conferees modify and continue a provision that no agency shall purchase, construct, or lease additional facilities for federal law enforcement training without advance approval of the House and Senate Committees on Appropriations.

Section 509. The conferees modify and continue a provision that FLETC shall schedule basic and/or advanced law enforcement training at all four training facilities under its control to ensure that these training centers are operated at the highest capacity.

Section 510. The conferees continue a provision that none of the funds may be used for any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, has not been approved.

Section 511. The conferees continue and make permanent a provision that none of the funds maybe used to require airport sponsors to provide building modifications, utilities and expenses, or space to the TSA without cost for services related to aviation security.

Section 512. The conferees continue a provision that none of the funds may be used in contravention of the Buy American Act.

Section 513. The conferees continue and modify a provision that directs the Department to research, develop, and procure certified systems to inspect and screen air cargo on passenger aircraft at the earliest date possible, to enhance the known shipper program, and to triple the percentage of cargo inspected on passenger aircraft. TSA shall require cargo screened on passenger aircraft to meet the tripling threshold as measured by the average percentage of cargo inspected per day, per airline, per airport. The current minimum per flight shall also be maintained.

Section 514. The conferees include a new provision that directs the Commandant of the Coast Guard to provide to Congress a list of approved but unfunded priorities each year at the time that the President's budget is submitted, as proposed by the House.

Section 515. The conferees include a new provision that amends title 49 of the United States Code to provide for the disposition of unclaimed money recovered at airport security checkpoints, as proposed by the House.

Section 516. The conferees include a new provision that allows TSA to impose a reasonable charge for the lease of real and personal property to TSA employees, as proposed by the House.

Section 517. The conferees include a new provision that directs that the acquisition management system of TSA be applied to the acquisition of services, equipment, supplies, and materials, as proposed by the House.

Section 518. The conferees include a new provision related to the transfer of the authority to conduct background investigations from the Office of Personnel Management to the Department, as proposed by the House and modified by the conferees. The conferees are concerned by delays in personnel security and suitability background investigations, update investigations and periodic reinvestigations for Departmental employees and, in particular for positions within the Office of the Secretary and Executive Management and the Directorates of Science and Technology and Information Analysis and Infrastructure Protection. The conferees direct that this authority be used to expeditiously process background investigations, including updates and reinvestigations, as necessary.

Section 519. The conferees include a new provision that amends the Homeland Security Act to provide for the termination of the Homeland Security Institute 5 years after its establishment, as proposed by the House.

Section 520. The conferees include a new provision that amends the Homeland Security Act so that of the original members of the Advisory Committee, one class of six shall have a term of 1 year, one class of seven a term of 2 years, and one class of seven a term of 3 years, as proposed by the House.

Section 521. The conferees include a new provision that exempts funds appropriated under paragraphs (1) and (2) of the State and Local Programs heading under Title III of this Act from the provisions of the Cash Management Improvement Act, as proposed by the House.

Section 522. The conferees continue and modify a provision that prohibits the use of funds for deployment or implementation of CAPPS II, Secure Flight, or other follow on/successor programs until certain conditions are met.

Section 523. The conferees include a new provision that amends the Homeland Security Act to clarify the provision on contracting with foreign entities, as proposed by the House and Senate.

Section 524. The conferees include a new provision that directs that none of the funds may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448), as proposed by the House and the Senate.

Section 525. The conferees include a new provision setting the fiscal year 2004 overtime limitation at $30,000 for Customs and Border Protection (CBP), as proposed by the Senate. The conferees modify the Senate language to eliminate reductions to CBP's salaries and expenses appropriation.

Section 526. The conferees include a new provision regarding notifications.

Section 527. The conferees include a new provision regarding competitive sourcing, as proposed by the House. The Senate bill contained a similar provision.

Section 528. The conferees include a new provision that none of the funds may be used to alter the Secret Service from being anything but a distinct entity within the Department, to merge the Secret Service with any other agency or department function, or to alter the current reporting structure of the Secret Service, as proposed by the Senate.

### PROVISIONS NOT ADOPTED

The conference agreement deletes section 514 of the House bill amending the Homeland Security Act to establish a Chief Procurement Officer within the Department and to modify the reporting structure for the Chief Financial Officer and the Chief Information Officer.

The conference agreement deletes section 525 of the House bill making an unspecified reduction of $50,000,000 to the Office of the Under Secretary for Management, and increasing firefighter assistance grants under Title III of this Act by the same amount.

The conference agreement deletes Section 513 of the Senate bill prohibiting the use of funds for contracting out full time employee equivalent positions for which funds have been appropriated unless the House and Senate Committees on Appropriations are notified 15 days in advance. This provision is addressed in the statement of managers.

The conference agreement deletes Section 515 of the Senate bill prohibiting the use of funds to process or approve a competition under Office of Management and Budget Circular A-76 for services provided as of June 1, 2004, by certain employees of the Bureau of Citizenship and Immigration Services. This issue is addressed in Section 527.

The conference agreement deletes section 517 of the Senate bill directing FEMA to investigate the Shockoe Creek drain field in Richmond, VA, to determine means of preventing future damage from floods and other natural disasters. This requirement is addressed in the statement of managers.

The conference agreement deletes section 518 of the Senate bill providing an additional $200,000,000 for new ICE Air and Marine airbases, $50,000,000 for Federal Air Marshals, $50,000,000 for non-profit organization assistance through SLGCP, $50,000,000 for firefighter assistance grants, $20,000,000 for Emergency Management and Performance Grants (EMPGs), and extending Customs user fees until June 1, 2005.

The conference agreement deletes section 519 of the Senate bill providing an additional $150,000,000 for CBP salaries and expenses, $100,000,000 for ICE salaries and expenses, $128,000,000 for rail and transit security grants, $36,000,000 for EMPGs, and extending Customs user fees until September 30, 2005.

The conference agreement deletes section 520 of the Senate bill providing $5,000,000 out of the funds provided for Air and Marine Interdiction, Operations, Maintenance, and Procurement for a pilot project to test interoperable communications between the Northern Border Air Wing in Bellingham, WA and local law enforcement. This requirement is addressed in the statement of managers.

The conference agreement deletes section 521 of the Senate bill requiring the development of an integrated transportation security plan no later than February 1, 2005. This requirement is addressed in the statement of managers.

The conference agreement deletes section 522 of the Senate bill requiring a report on goods purchased by the Department that were manufactured outside the U.S. This requirement is addressed in the statement of managers.

The conference agreement deletes section 524 of the Senate bill providing for the continued support of the New Mexico National Guard for the performance of vehicle and cargo inspection activities to support law enforcement activities. This requirement is addressed in the statement of managers.

The conference agreement deletes section 525 of the Senate bill requiring a report on HSPD–7 regarding the mapping of the U.S. critical infrastructure, assessment of state and local resources, and the Department's plan for geospatial information systems management, and further requiring reporting on the Chief Information Officer's implementation of geospatial capability. This requirement is addressed in the statement of managers.

The conference agreement deletes section 527 of the Senate bill requiring status reports on the number of active Federal Air Marshals every 90 days. This requirement is addressed in the statement of managers.

The conference agreement deletes section 528 of the Senate bill requiring a report not later than 180 days after enactment on the personnel policies of the Department that apply to the employment of airport screeners in TSA with particular emphasis on compliance with equal opportunity and veterans preference laws. This requirement is addressed in the statement of managers.

The conference agreement deletes section 529 of the Senate bill directing that none of the funds may be used for implementation of any policy or practice that reveals the identity of a Federal Air Marshal. This requirement is addressed in the statement of managers.

The conference agreement deletes section 530 of the Senate bill requiring a report from the secretary on protecting commercial aircraft from MANPADS. This requirement is addressed in the statement of managers.

The conference agreement deletes section 532 of the Senate bill requiring the submittal of data-mining reports from the head of each agency or relevant privacy officer 90 days after the end of fiscal year 2005. This requirement is addressed in the statement of managers.

The conference agreement deletes section 533 of the Senate bill directing FEMA to provide $4,450,000 from within funds currently available to mental health counseling entities. This requirement is addressed in the statement of managers.

The conference agreement deletes section 534 of the Senate bill reflecting the sense of the Senate that the Information Analysis and Infrastructure Protection Directorate should work with the American Red Cross. This requirement is addressed in the statement of managers.

The conference agreement deletes section 535 of the Senate bill reflecting the sense of the Senate that the Director of SLGCP be authorized to reprogram State grant funds to address specific security requirements that arise after the State has submitted its application. This requirement is addressed in the statement of managers.

The conference agreement deletes section 536 of the Senate bill directing FEMA to periodically report on the representation of American Indians, Alaska Natives, and Native Hawaiians in the Disaster Assistance Employee cadres. This requirement is addressed in the statement of managers.

The conference agreement deletes section 537 of the Senate bill amending the Homeland Security Act to allow the Chief Financial Officer and the Chief Information Officer to report directly to the Secretary by striking dual report language.

The conference agreement deletes section 538 of the Senate bill amending P.L. 108–137.

The conference agreement deletes section 539 of the Senate bill authorizing the Secretary of Agriculture to deploy disaster liaisons to Department of Agriculture Service Centers in a federally declared disaster area whenever FEMA personnel are deployed in that area.

### CONFERENCE RECOMMENDATIONS

The conference agreement's detailed funding recommendations for programs in this bill are contained in the following table:

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

| | Budget Request | Conference |
|---|---|---|
| DEPARTMENT OF HOMELAND SECURITY | | |
| TITLE I - DEPARTMENTAL MANAGEMENT AND OPERATIONS | | |
| Departmental Operations | | |
| Office of the Secretary and Executive Management: | | |
| Immediate Office of the Secretary | 2,388 | 2,141 |
| Immediate Office of the Deputy Secretary | 1,112 | 1,112 |
| Office of Security | 21,044 | 21,424 |
| Chief of Staff | 5,240 | 5,240 |
| Executive Secretary | 5,190 | 3,500 |
| Special Assistant to the Secretary/Private Sector | 3,781 | 3,781 |
| Office for National Capital Region Coordination | 1,323 | 688 |
| Office for State and Local Government Coordination | 3,546 | --- |
| Office of International Affairs | 1,318 | 1,200 |
| Office of Public Affairs | 10,669 | 8,120 |
| Office of Legislative Affairs | 6,627 | 5,400 |
| Office of General Counsel | 10,821 | 10,821 |
| Office of Civil Rights and Liberties | 15,025 | 13,000 |
| Citizenship and Immigration Services Ombudsman | 5,858 | 3,546 |
| Homeland Security Advisory Committee | 1,414 | 1,287 |
| Privacy Officer | 3,774 | 3,774 |
| Regions | 3,493 | --- |
| Subtotal, Office of the Secretary and Executive Management | 102,623 | 85,034 |
| Office of the Under Secretary for Management: | | |
| Under Secretary for Management | 1,434 | 1,434 |
| Business Transformation Office | 1,832 | 920 |
| Office of the Chief Financial Officer | 12,275 | --- |
| Office of the Chief Procurement Officer | 7,024 | 7,350 |
| Office of Human Resources | 7,706 | 7,200 |
| Office of the Chief Information Officer | 68,396 | --- |
| Secure communications for the Secretary | 747 | --- |
| Office of Administration | 27,271 | 27,270 |
| Immigration statistics | 5,898 | 5,898 |
| Headquarters | 65,081 | 65,081 |
| Human resources system | 102,500 | 36,000 |
| Investment review board | 2,500 | --- |
| Subtotal, Office of the Under Secretary for Management | 302,664 | 151,153 |
| Office of the Chief Financial Officer | --- | 13,000 |
| Office of the Chief Information Officer: | | |
| Salaries and expenses | --- | 67,270 |
| Information technology services | --- | 91,000 |
| Security activities | --- | 31,000 |
| Wireless program | --- | 86,000 |
| Subtotal, Office of the Chief Information Officer | --- | 275,270 |
| Total, Departmental operations | 405,287 | 524,457 |
| Department-Wide Technology Investments | | |
| Information technology services | 92,000 | --- |
| Security activities | 31,000 | --- |
| Wireless program | 100,000 | --- |

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

| | Budget Request | Conference |
|---|---|---|
| Salaries and expenses | 3,000 | --- |
| Total, Department-wide technology investments | 226,000 | --- |
| Office of Inspector General | | |
| Operating expenses | 82,317 | 82,317 |
| Total, title I. Departmental Management and Operations | 713,604 | 606,774 |
| TITLE II - SECURITY, ENFORCEMENT, AND INVESTIGATIONS | | |
| Office of the Under Secretary for Border and Transportation Security | 10,371 | 9,617 |
| U.S. Visitor and Immigrant Status Indicator Technology | 340,000 | 340,000 |
| Customs and Border Protection | | |
| Salaries and expenses: | | |
| Headquarters management and administration | 1,366,146 | 1,172,838 |
| Border security inspections and trade facilitation: | | |
| Inspections, trade, and travel facilitation at ports of entry | 1,262,800 | 1,242,800 |
| Harbor maintenance fee collection (trust fund) | 3,000 | 3,000 |
| Container security initiative | 126,096 | 126,096 |
| Other international programs | 58,300 | 57,300 |
| Customs trade partnership against terrorism/ Free and secure trade | 37,828 | 37,828 |
| Inspection and detection technology investments | 115,159 | 145,159 |
| Automated targeting systems | 29,800 | 29,800 |
| National Targeting Center | 16,100 | 16,100 |
| Other technology investments, including information technology | --- | 1,000 |
| Training | 18,300 | 23,800 |
| Subtotal, Border security inspections and trade facilitation | 1,667,383 | 1,682,883 |
| Border security and control between ports of entry: | | |
| Border security and control | 1,413,800 | 1,413,800 |
| Air program operations | 37,300 | 37,300 |
| Unmanned aerial vehicles | 10,000 | 10,000 |
| Integrated surveillance and intelligence system procurement | 64,162 | 64,162 |
| Training | 21,700 | 21,700 |
| Subtotal, Border security and control between ports of entry | 1,546,962 | 1,546,962 |
| Air and marine operations, personnel compensation and benefits | --- | 131,436 |
| Subtotal, Salaries and expenses (gross) | 4,580,491 | 4,534,119 |
| Rescission (P.L. 108-11) | --- | -63,010 |
| Subtotal, Salaries and expenses (net) | 4,580,491 | 4,471,109 |

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

| | Budget Request | Conference |
|---|---|---|
| Automation modernization: | | |
| Automated commercial environment/International Trade Data System (ITDS) | 321,690 | 321,690 |
| Automated commercial system and legacy IT costs | 128,219 | 128,219 |
| Subtotal, Automation modernization | 449,909 | 449,909 |
| Air and marine operations: | | |
| Operations and maintenance | --- | 196,535 |
| Procurement | --- | 61,000 |
| Subtotal, Air and marine operations | --- | 257,535 |
| Construction (Border patrol) | 91,718 | 91,718 |
| Total, Direct appropriations | 5,122,118 | 5,270,271 |
| Fee accounts: | | |
| Immigration inspection user fee | (429,000) | (429,000) |
| Immigration enforcement fines | (6,000) | (6,000) |
| Land border inspection fee | (28,000) | (28,000) |
| COBRA passenger inspection fee | (318,000) | (318,000) |
| APHIS inspection fee | (204,000) | (204,000) |
| Puerto Rico collections | (89,000) | (89,000) |
| Small airport user fees | (5,004) | (5,004) |
| Subtotal, fee accounts | (1,079,004) | (1,079,004) |
| Total, Customs and Border Protection | (6,201,122) | (6,349,275) |
| Appropriations | (5,122,118) | (5,333,281) |
| Rescission | --- | (-63,010) |
| (Fee accounts) | (1,079,004) | (1,079,004) |
| Immigration and Customs Enforcement | | |
| Salaries and expenses: | | |
| Headquarters Management and Administration (non-Detention and Removal Operations): | | |
| Personnel compensation and benefits, service and other costs | 45,676 | 96,202 |
| Headquarters managed IT investment | 120,119 | 120,119 |
| Subtotal, Headquarters management and administration | 165,795 | 216,321 |
| Investigations: | | |
| Operations | 947,347 | 1,055,345 |
| Training | 15,671 | 15,671 |
| Subtotal, Investigations | 963,018 | 1,071,016 |
| Intelligence: | | |
| Headquarters Reporting Center | 4,882 | 4,882 |
| Operations | 51,130 | 55,130 |
| Subtotal, Intelligence | 56,012 | 60,012 |
| Detention and removal operations: | | |
| Custody management | 482,721 | 504,221 |
| Case management | 192,269 | 192,269 |
| Fugitive operations | 35,242 | 35,242 |
| Institutional removal program | 33,719 | 33,719 |
| Alternatives to detention | 14,202 | 14,202 |

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

| | Budget Request | Conference |
|---|---|---|
| Transportation and removal program | 311,492 | 311,492 |
| Subtotal, Detention and removal operations | 1,069,645 | 1,091,145 |
| Air and marine operations, personnel compensation and benefits | 116,436 | --- |
| Subtotal, Salaries and expenses | 2,370,906 | 2,438,494 |
| Federal air marshals: | | |
| Federal air marshals | 612,900 | --- |
| Management and administration | --- | 593,552 |
| Travel and training | --- | 69,348 |
| Subtotal, Federal air marshals | 612,900 | 662,900 |
| Federal protective service: | | |
| Basic security | 106,362 | 106,362 |
| Building specific security (including capital equipment replacement/acquisition) | 371,638 | 371,638 |
| Subtotal | 478,000 | 478,000 |
| Offsetting fee collections | -478,000 | -478,000 |
| Automation modernization: | | |
| ATLAS/CHIMERA IT connectivity | 39,605 | 39,605 |
| Air and marine operations: | | |
| Operations and maintenance | 196,535 | --- |
| Procurement | 61,000 | --- |
| Subtotal, Air and marine interdiction | 257,535 | --- |
| Construction | 26,179 | 26,179 |
| Total, Direct appropriations | 3,307,125 | 3,167,178 |
| Fee accounts: | | |
| Immigration inspection user fee | (90,000) | (90,000) |
| Breached bond/detention fund | (70,000) | (70,000) |
| Student exchange and visitor fee | (65,375) | (40,000) |
| Subtotal, fee accounts | (225,375) | (200,000) |
| Total, Immigration and Customs Enforcement | (3,532,500) | (3,367,178) |
| Appropriations | (3,307,125) | (3,167,178) |
| (Fee accounts) | (225,375) | (200,000) |
| Transportation Security Administration | | |
| Aviation security: | | |
| Passenger screening: | | |
| Screening pilots | 129,654 | 129,654 |
| Passenger screeners: | | |
| Personnel, compensation and benefits | 1,445,486 | 1,445,486 |
| Training and other | 140,614 | 140,614 |
| Subtotal | 1,586,100 | 1,586,100 |
| Human resource services | 150,000 | 150,000 |
| Checkpoint support | 86,060 | 123,500 |
| CAPPS II | 60,000 | 34,919 |
| Crew vetting | --- | 10,000 |

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

| | Budget Request | Conference |
|---|---|---|
| Registered traveler | 15,000 | 15,000 |
| Subtotal, Passenger screening | 2,026,814 | 2,049,173 |
| Baggage screening: | | |
| Baggage screeners: | | |
| Personnel, compensation and benefits | 848,860 | 848,860 |
| Training and other | 203,660 | 203,660 |
| Subtotal | 1,052,520 | 1,052,520 |
| Explosive detection systems: | | |
| Purchase | 150,000 | 180,000 |
| Installation | --- | 45,000 |
| Subtotal | 150,000 | 225,000 |
| Maintenance | 174,940 | 174,940 |
| Subtotal, Baggage screening | 1,377,460 | 1,452,460 |
| Airport security direction and enforcement: | | |
| Aviation regulation and other enforcement | 227,000 | 230,000 |
| Airport management and staff | 284,000 | 284,000 |
| Airport information technology and other support | 267,890 | 242,890 |
| Federal flight deck officer program | 25,000 | 25,000 |
| Air cargo | 30,000 | 40,000 |
| Subtotal, Airport security direction and enforcement | 833,890 | 821,890 |
| Flight school checks (by transfer) | (4,600) | (9,700) |
| Subtotal, Aviation security (gross) | 4,238,164 | 4,323,523 |
| Offsetting fee collections | -2,223,000 | -1,823,000 |
| Total, Aviation security (net) | 2,015,164 | 2,500,523 |
| Maritime and land security: | | |
| TWIC | 55,000 | 15,000 |
| Other credentialing activities | --- | 2,000 |
| Rail security | --- | 5,000 |
| Intercity bus security | --- | 12,000 |
| Hazardous materials security | 17,000 | 17,000 |
| Staffing and operations | 24,000 | 24,000 |
| Transfer to credentialing activities | -67,000 | -27,000 |
| Subtotal, Maritime and land security | 29,000 | 48,000 |
| Credentialing activities | 67,000 | 67,000 |
| Offsetting fee collections | -67,000 | -67,000 |
| Intelligence | 14,000 | 14,000 |
| Research and development: | | |
| Research and development at Tech Center | 49,000 | 49,000 |
| Next generation explosive detection systems and explosive trace detection | 50,000 | 54,000 |
| Air cargo | 55,000 | 75,000 |
| Subtotal, Research and development | 154,000 | 178,000 |

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

|  | Budget Request | Conference |
|---|---|---|
| Administration: |  |  |
| Headquarters administration | 277,382 | 267,382 |
| Mission support centers | 14,000 | 5,000 |
| Information technology | 240,470 | 240,470 |
| Corporate training | 8,000 | 7,000 |
| Subtotal, Administration | 539,852 | 519,852 |
| Aviation security capital fund | (250,000) | (250,000) |
| Total, Transportation Security Administration | 2,752,016 | 3,260,375 |
| United States Coast Guard |  |  |
| Operating expenses: |  |  |
| Military pay and allowances | 2,812,827 | 2,807,827 |
| Civilian pay and benefits | 466,110 | 456,110 |
| Training and recruiting | 166,441 | 161,441 |
| Operating funds and unit level maintenance | 929,125 | 924,125 |
| Centrally managed accounts | 175,438 | 175,438 |
| Coast Guard watch standards | --- | 9,000 |
| Intermediate and depot level maintenance | 623,279 | 623,279 |
| Subtotal, Operating expenses | 5,173,220 | 5,157,220 |
| Less adjustment for defense function | -340,000 | -1,204,000 |
| Defense function | 340,000 | 1,204,000 |
| Subtotal, Operating expenses | 5,173,220 | 5,157,220 |
| Appropriations | (4,833,220) | (3,953,220) |
| Defense function | (340,000) | (1,204,000) |
| Environmental compliance and restoration | 17,000 | 17,000 |
| Reserve training | 117,000 | 113,000 |
| Acquisition, construction, and improvements: |  |  |
| Vessels: |  |  |
| Great Lakes Icebreaker (GLIB) replacement | 7,750 | 7,750 |
| 41 foot UTB and NSB replacement project | 12,000 | 12,000 |
| Subtotal, Vessels | 19,750 | 19,750 |
| Aircraft: |  |  |
| Armed helicopter equipment (Phase I) (legacy asset) | 1,800 | 2,500 |
| Other equipment: |  |  |
| Automatic identification system | 4,000 | 24,000 |
| National distress and response system modernization | 161,000 | 134,000 |
| Subtotal, Other equipment | 165,000 | 158,000 |
| Personnel compensation and benefits: |  |  |
| Core acquisition costs | 500 | 500 |
| Direct personnel cost | 72,500 | 72,500 |
| Subtotal, Personnel compensation and benefits | 73,000 | 73,000 |
| Integrated deepwater systems: |  |  |
| Aircraft | 147,250 | 86,250 |
| HH-65 re-engining | --- | 99,000 |
| Surface ships | 354,290 | 364,300 |
| C4ISR | 53,590 | 53,600 |
| Logistics | 39,870 | 39,800 |

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

| | Budget Request | Conference |
|---|---|---|
| Systems engineering and integration | 45,000 | 43,000 |
| Government program management | 38,000 | 38,000 |
| Subtotal, Integrated deepwater systems | 678,000 | 723,950 |
| Shore facilities and aids to navigation: | | |
| Shore operational and support projects | 1,000 | 1,000 |
| Shore construction projects | 1,600 | 1,600 |
| Small arms range at ISC Honolulu, HI | 1,600 | 1,600 |
| Waterways aids to navigation infrastructure | 800 | 800 |
| Subtotal, Shore facilities and aids to navigation | 5,000 | 5,000 |
| Subtotal, Acquisition, construction, and improvements (gross) | 942,550 | 982,200 |
| Rescission (P.L. 108-90) | --- | -16,000 |
| Subtotal, Acquisition, construction, and improvements (net) | 942,550 | 966,200 |
| Alteration of bridges | --- | 15,900 |
| Research, development, test, and evaluation | --- | 18,500 |
| Subtotal, U.S. Coast Guard discretionary | 6,249,770 | 6,287,820 |
| Retired pay (mandatory) | 1,085,460 | 1,085,460 |
| Total, United States Coast Guard | 7,335,230 | 7,373,280 |
| Appropriations | (7,335,230) | (7,389,280) |
| Rescissions | --- | (-16,000) |
| United States Secret Service | | |
| Salaries and expenses: | | |
| Protection: | | |
| Protection of persons and facilities | 571,640 | 571,640 |
| National special security event fund | --- | 5,000 |
| Protective intelligence activities | 53,989 | 53,989 |
| White House mail screening | 16,365 | 16,365 |
| Subtotal, Protection | 641,994 | 646,994 |
| Field operations: | | |
| Domestic field operations | 221,489 | 221,489 |
| International field office administration, operations and training | 19,208 | 19,208 |
| Electronic crimes special agent program and electronic crimes task forces | 31,536 | 34,536 |
| Subtotal, Field operations | 272,233 | 275,233 |
| Administration: | | |
| Headquarters, management and administration | 197,747 | 197,747 |
| National Center for Missing and Exploited Children | 2,100 | 7,100 |
| Subtotal, Administration | 199,847 | 204,847 |

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

| | Budget Request | Conference |
|---|---|---|
| Training: | | |
| Rowley training center | 45,051 | 45,051 |
| Subtotal, Salaries and expenses | 1,159,125 | 1,172,125 |
| Operating expenses (rescission) (P.L. 108-11) | --- | -750 |
| Acquisition, construction, improvements and related expenses (Rowley training center) | 3,633 | 3,633 |
| Total, United States Secret Service | 1,162,758 | 1,175,008 |
| Total, title II, Security, Enforcement, and Investigations: | | |
| New budget (obligational) authority | 20,029,618 | 20,595,729 |
| Appropriations | (20,029,818) | (20,675,489) |
| Rescission | --- | (-79,760) |
| TITLE III - PREPAREDNESS AND RECOVERY | | |
| Office for State and Local Government Coordination and Preparedness | | |
| Salaries and expenses | --- | 3,546 |
| State and local programs: | | |
| Basic formula grants | 700,000 | 1,100,000 |
| Law enforcement terrorism prevention grants | 500,000 | 400,000 |
| Emergency management performance grants | 170,000 | --- |
| Urban area security initiative: | | |
| High-threat, high-density urban area | 1,200,000 | 885,000 |
| Critical infrastructure | 200,000 | --- |
| Port security grants | 46,000 | 150,000 |
| Rail and transit security | --- | 150,000 |
| Trucking security grants | --- | 5,000 |
| Intercity bus security grants | --- | 10,000 |
| Subtotal, Urban area security initiative | 1,446,000 | 1,200,000 |
| Technology transfer | --- | 50,000 |
| National programs: | | |
| National domestic preparedness consortium | 80,000 | 135,000 |
| National exercise program | 52,000 | 52,000 |
| Technical assistance | 7,600 | 30,000 |
| Metropolitan medical response system | --- | 30,000 |
| Demonstration training grants | --- | 30,000 |
| Continuing training grants | --- | 25,000 |
| Citizen Corps | 50,000 | 15,000 |
| Evaluations and assessments | 14,300 | 14,300 |
| Rural domestic preparedness consortium | --- | 5,000 |
| Subtotal, National programs | 203,900 | 336,300 |
| Continuing and emerging training | 3,000 | --- |
| Management and administration | 38,355 | --- |
| Subtotal, State and local programs | 3,061,255 | 3,086,300 |

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

| | Budget Request | Conference |
|---|---|---|
| Firefighter assistance grants | 500,000 | 650,000 |
| Fire department staffing assistance grants: | | |
| Staffing for Adequate Fire and Emergency Response (SAFER) Act | --- | 65,000 |
| Subtotal, Firefighter assistance grants | 500,000 | 715,000 |
| Emergency management performance grants | --- | 180,000 |
| Total, Office for State and Local Government Coordination and Preparedness | 3,561,255 | 3,984,846 |
| Counterterrorism Fund | | |
| Counterterrorism fund | 20,000 | 8,000 |
| Emergency Preparedness and Response | | |
| Office of the Under Secretary for Emergency Preparedness and Response | 4,211 | 4,211 |
| Preparedness, mitigation, response and recovery: | | |
| Operating activities | 201,499 | 209,499 |
| Urban search and rescue teams | 7,000 | 30,000 |
| Subtotal, Preparedness, mitigation, response and recovery | 208,499 | 239,499 |
| Operating expenses (rescission) | --- | -5,000 |
| Administrative and regional operations | 146,939 | 202,939 |
| Defense function | 50,000 | --- |
| Subtotal, Administrative and regional operations | 196,939 | 202,939 |
| Public health programs: | | |
| National disaster medical system | 34,000 | 34,000 |
| Radiological emergency preparedness program | -1,000 | -1,000 |
| Biodefense countermeasures: | | |
| Advance appropriations, FY 2005 | 2,528,000 | 2,528,000 |
| Disaster relief | 2,151,000 | 2,042,380 |
| Disaster assistance direct loan program account: | | |
| (Limitation on direct loans) | (25,000) | (25,000) |
| Administrative expenses | 567 | 567 |
| Flood map modernization fund | 200,000 | 200,000 |
| National flood insurance fund: | | |
| Salaries and expenses | 33,336 | 33,336 |
| Flood mitigation | 79,257 | 79,257 |
| Offsetting fee collections | -112,593 | -112,593 |
| (Transfer to Mitigation grants) | (-20,000) | --- |
| (Transfer to National flood mitigation fund) | --- | (-20,000) |
| Subtotal, National flood insurance fund | --- | --- |
| National flood mitigation fund (by transfer) | --- | (20,000) |
| National pre-disaster mitigation fund | --- | 100,000 |
| Mitigation grants | 150,000 | --- |
| (By transfer) | (20,000) | --- |

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

| | Budget Request | Conference |
|---|---|---|
| Emergency food and shelter | 153,000 | 153,000 |
| Total, Emergency Preparedness and Response | 5,625,216 | 5,498,596 |
| Total, title III, Preparedness and Recovery: | | |
| New budget (obligational) authority | 9,206,471 | 9,491,442 |
| Appropriations | (6,678,471) | (6,968,442) |
| Advance appropriations | (2,528,000) | (2,528,000) |
| Rescissions | --- | (-5,000) |
| (Limitation on direct loans) | (25,000) | (25,000) |
| (Transfer out) | (-20,000) | (-20,000) |
| (By transfer) | (20,000) | (20,000) |
| TITLE IV - RESEARCH AND DEVELOPMENT, TRAINING, ASSESSMENTS, AND SERVICES | | |
| Citizenship and Immigration Services | | |
| Backlog reduction initiative: | | |
| Contracting services | 120,000 | 120,000 |
| Other | 20,000 | 20,000 |
| Digitization | --- | 20,000 |
| Subtotal, Backlog reduction initiative | 140,000 | 160,000 |
| Adjudication services (fee account): | | |
| Pay and benefits | (621,000) | (621,000) |
| Operating expenses: | | |
| District operations | (244,000) | (244,000) |
| Service center operations | (197,000) | (197,000) |
| Asylum, refugee and international operations | (73,000) | (73,000) |
| Records operations | (65,000) | (65,000) |
| Subtotal, Adjudication services | (1,200,000) | (1,200,000) |
| Information and customer services (fee account): | | |
| Pay and benefits | (78,000) | (78,000) |
| Operating expenses: | | |
| National Customer Service Center | (46,000) | (46,000) |
| Information services | (14,000) | (14,000) |
| Subtotal, Information and customer services | (138,000) | (138,000) |
| Administration (fee account): | | |
| Pay and benefits | (43,000) | (43,000) |
| Operating expenses | (190,000) | (190,000) |
| Subtotal, Administration | (233,000) | (233,000) |
| Total, Citizenship and Immigration Services | (1,711,000) | (1,731,000) |
| Appropriations | (140,000) | (160,000) |
| (Immigration Examination Fee Account) | (1,571,000) | (1,571,000) |
| Federal Law Enforcement Training Center | | |
| Salaries and expenses | 158,440 | 177,440 |
| Acquisition, construction, improvements and related expenses | 37,917 | 44,917 |
| Total, Federal Law Enforcement Training Center | 196,357 | 222,357 |

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

| | Budget Request | Conference |
|---|---|---|
| Information Analysis and Infrastructure Protection | | |
| Management and administration: | | |
| Office of the Under Secretary for Information Analysis and Infrastructure Protection | 5,864 | 5,864 |
| Other salaries and expenses | 121,200 | 126,200 |
| Department of Homeland Security Command Center | 35,000 | --- |
| Subtotal, Management and administration | 162,064 | 132,064 |
| Assessments and evaluations: | | |
| Critical infrastructure outreach and partnerships | 71,592 | 106,592 |
| Critical infrastructure identification and evaluation | 77,861 | 77,861 |
| National Infrastructure Simulation and Analysis Center (NISAC) | 16,000 | 20,000 |
| Protective actions | 191,647 | 191,647 |
| Biosurveillance | 11,000 | 11,000 |
| Cyber security | 67,380 | 67,380 |
| NS-EP Telecommunications | --- | 140,754 |
| Defense function | 140,754 | --- |
| Competitive analysis and evaluation | 18,868 | 4,000 |
| Threat determination and assessment | 21,943 | 21,943 |
| Infrastructure vulnerability and risk assessment | 71,080 | 71,080 |
| Evaluation and studies | 14,387 | 14,387 |
| Department of Homeland Security Command Center | --- | 35,000 |
| Subtotal, Assessments and evaluations | 702,512 | 761,644 |
| Total, Information Analysis and Infrastructure Protection | 864,576 | 893,708 |
| Science and Technology | | |
| Management and administration: | | |
| Office of the Under Secretary for Science and Technology | 6,315 | 6,315 |
| Other salaries and expenses | 46,235 | 82,271 |
| Subtotal, Management and administration | 52,550 | 88,586 |
| Research, development, acquisition, and operations: | | |
| Biological countermeasures: | | |
| Operating expenses | --- | 362,650 |
| Defense function | 407,000 | --- |
| Subtotal, Biological countermeasures | 407,000 | 362,650 |
| Nuclear and radiological countermeasures | 129,300 | 122,614 |
| Chemical countermeasures | 53,000 | 53,000 |
| High explosives countermeasures | 9,700 | 19,700 |
| Threat and vulnerability, testing and assessment | 101,900 | 65,800 |
| Conventional missions in support of DHS | 34,000 | 54,650 |
| Rapid prototyping program | 76,000 | 76,000 |
| Standards | 39,699 | 39,700 |
| Emerging threats | 21,000 | 10,750 |
| Critical infrastructure protection | 61,000 | 27,000 |
| University programs/homeland security fellowship | 30,000 | 70,000 |
| National Biodefense Analysis and Countermeasures Center construction | --- | 35,000 |
| Consolidated transferred accounts | 24,150 | --- |
| Counter MANPADs | --- | 61,000 |

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

| | Budget Request | Conference |
|---|---|---|
| Safety act | --- | 10,000 |
| Cyber security | --- | 18,000 |
| Interoperability and communications | --- | 21,000 |
| Subtotal, Research, development, acquisition, and operations | 986,749 | 1,046,864 |
| Total, Science and Technology | 1,039,299 | 1,115,450 |
| Total, title IV, Research and Development, Training Assessments, and Services: | | |
| New budget (obligational) authority | 2,240,232 | 2,391,515 |
| Grand total, Department of Homeland Security: | | |
| New budget (obligational) authority | 32,189,925 | 33,085,460 |
| Appropriations | (29,661,925) | (30,642,220) |
| Advance appropriations | (2,528,000) | (2,528,000) |
| Rescissions | --- | (-84,760) |
| (Limitation on direct loans) | (25,000) | (25,000) |
| (Transfer out) | (-20,000) | (-20,000) |
| (By transfer) | (20,000) | (20,000) |

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2005 recommended by the Committee of Conference, with comparisons to the fiscal year 2004 amount, the 2005 budget estimates, and the House and Senate bills for 2005 follow:

[In thousands of dollars]

| | |
|---|---|
| New budget (obligational) authority, fiscal year 2004 | $37,048,446 |
| Budget estimates of new (obligational) authority, fiscal year 2005 | 32,189,925 |
| House bill, fiscal year 2005 | 33,085,401 |
| Senate bill, fiscal year 2005 | 36,128,460 |
| Conference agreement, fiscal year 2005 | 33,085,460 |
| Conference agreement compared with: | |
| New budget (obligational) authority, fiscal year 2004 | −3,962,986 |
| Budget estimates of new (obligational) authority, fiscal year 2005 | +895,535 |
| House bill, fiscal year 2005 | +59 |
| Senate bill, fiscal year 2005 | −3,043,000 |

HAROLD ROGERS,
BILL YOUNG,
FRANK R. WOLF,
ZACH WAMP,
TOM LATHAM,
JO ANN EMERSON,
KAY GRANGER,
JOHN E. SWEENEY,
DON SHERWOOD,
*Managers on the Part of the House.*

THAD COCHRAN,
TED STEVENS,
ARLEN SPECTER,
PETE V. DOMENICI,
MITCH MCCONNELL,
RICHARD SHELBY,
JUDD GREGG,
BEN NIGHTHORSE CAMPBELL,
LARRY CRAIG,
*Managers on the Part of the Senate.*

## CONFERENCE REPORT ON H.R. 4567, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2005

Mr. ROGERS of Kentucky. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider a conference report to accompany H.R. 4567; that the conference report be considered as read; and that all points of order against the conference report and against its consideration be waived.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. SABO. Mr. Speaker, reserving the right to object, might I inquire of the gentleman from Kentucky if the conference report we have today as it relates to Homeland Security, his word was, 2 days ago, titles I through V absent VI, I guess we were talking about, is it identical as to what our agreement was of several days ago?

Mr. ROGERS of Kentucky. Mr. Speaker, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Speaker, the conference report that is being filed is precisely as it was when we left conference.

Mr. SABO. So, Mr. Speaker, there have been no changes or additions or deletions?

Mr. ROGERS of Kentucky. Correct.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding to me.

So let me be explicit. Does that mean that there is no change whatsoever from the decision made in the conference when the conference approved A-76?

Mr. ROGERS of Kentucky. Mr. Speaker, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Speaker, the gentleman is correct.

□ 1330

Mr. OBEY. Mr. Speaker, if the gentleman would continue to yield under his reservation, I at this point do not plan to object, but under the reservation of the gentleman from Minnesota (Mr. SABO), I just want to make one point. I referred earlier to what is happening in this House, when we see decisions made by subcommittees routinely overturned when somebody does not like them. I do not want to object, because this bill is a serious matter involving homeland security, but I must note that we are cooperating procedurally on this side of the aisle, even though this conference was gaveled to an end in a manner which prevented me from being able to get a vote on the matter that I discussed earlier on the previous bill, and in my judgment that was a slap in the face, not just to me, but to every member of the conference on both sides of the aisle who were prepared to support that motion.

I think that when this House routinely allows votes to be reversed, as they were on the Medicare bill weeks ago, or when they allow conference committees to block what is clearly the action of the majority will in the subcommittees, then this House might as well not operate at all. We might as well just wire our respective buttons to our respective party leaders' offices and go get a steak somewhere for the remainder of the year.

Mr. Speaker, I am pleased to hear that the A–76 provision has not been arbitrarily removed. I wish I could say the same thing with respect to the extension of the milk program to which I referred several weeks ago.

Mr. Speaker, I will not object to consideration of the bill.

Mr. SABO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Kentucky?.

There was no objection.

Mr. ROGERS of Kentucky. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the bill (H.R. 4567) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered read.

(For conference report and statement, see immediately prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) will each control 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. ROGERS).

### GENERAL LEAVE

Mr. ROGERS of Kentucky. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the conference report to accompany H.R. 4567, and that I may include tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. my intention is to be brief, and I hope that the debate today is brief because of the hour and the day of the week and the day of the session.

Mr. Speaker, I am very pleased to present to the body the second-ever conference report for the Department of Homeland Security. This agreement provides $32 billion for the Department. That is $1.1 billion above the current level and $496 million over the President's request. These amounts exclude the $2 billion supplemental provided in September for Hurricanes Charlie and Francis, as well as the $6.5 billion in supplemental funding formally included in as part of this bill for Ivan and Jeanne. Including these funds, the Department will receive $38.5 billion in fiscal year 2005.

Mr. Speaker, I would be remiss if I did not mention my concerns over attempts to add extraneous matters to this bill. I appreciate the desire by some people to attach legislative riders to appropriations bills. After all, appropriations bills are must-do legislation. However, these attempts, and in particular the actions taken by the other body to add extraneous matter, have led to unnecessary delays in the consideration of this bill that funds important homeland security programs.

My colleagues might be interested to know that FEMA is running out of money. Despite the $2 billion given to FEMA just 4 weeks ago, the pot is almost empty, practically drained dry. There is an unprecedented amount of work to be done in the country because of Hurricanes Charlie, Francis, Ivan and Jeanne, and, simply put, without some very creative accounting, FEMA would be out of money today.

I am pleased that the Military Construction conference agreement includes emergency funds to help Florida, especially, recover from the devastation of the recent hurricanes, providing an additional $5.6 billion for those efforts.

Mr. Speaker, in just one year, the Department of Homeland Security has made tremendous progress. More work obviously needs to be done, but the Department, I think, is clearly on the right track, identifying our vulnerabilities, matching them to threats and putting out guidance on ways to protect our homeland. The conference agreement builds upon the successes of the past year and includes initiatives to move us closer to our goals of prevention, preparedness and response.

In the interests of time, Mr. Speaker, I would like to highlight just a few of the items included in the proposed agreement, items I know are of interest to all of the Members.

First, there is $4 billion in the bill for our first responders. The agreement strikes a balance between funding high-risk communities and providing support for States and localities to achieve and maintain minimum levels of preparedness.

The bill includes $1.1 billion for the basic formula grants and $1.2 billion to improve security in our urban and most populated areas.

There is $9.8 billion in the bill for border protection and related activities, including $145 million for new inspection and detection technologies. There is $340 million for the U.S. Visit Program, and there is $1.1 billion for detention and removal operations on our borders. The conferees provide $26.5 million in new funding to provide 750 additional beds for detainees, permit removal of 5,000 additional deportable aliens, and reduce the risk that such aliens will be released into our communities while they await deportation.

This funding will also advance our efforts to create smart borders that keep terrorists out without stemming the flow of free commerce or legitimate travel into and from the country.

Thirdly, the conference agreement supports security for all modes of transportation, including $5.1 billion for the Transportation Security Administration, with $673 million for our Federal air marshals program. There is $118 million in the bill for air cargo screening, which we hear so much about. This money will support the hiring of 100 new air cargo inspectors, the development of new cargo screening technology and the expansion of canine enforcement teams. The bill also requires TSA to triple the number of cargo inspections on passenger aircraft.

Let me repeat that, Mr. Speaker, in case someone may have questioned what I said. This bill requires the Transportation Security Administration to triple the number of cargo inspections on passenger planes.

The agreement also funds several initiatives for rail security, including $150 million for grants to high threat rail systems, hiring and deploying rail security inspectors and canine teams to screen for explosives and furthering intelligence-related activities.

Also, Mr. Speaker, there is $1.1 billion for science and technology, targeting the research and development of technologies to detect biohazards and nuclear detection technology for cargo. We also continue to fully fund R&D for anti-missile devices aimed at commercial aircraft.

Finally, there is $894 million for the information analysis and infrastructure protection. That is a mouthful, but it is to complete an inventory of critical infrastructure in the country, enhance current communications between Federal, State and local homeland security personnel, interoperability, if you will, and to assist local communities as they put protective measures in place to protect our hometowns.

Mr. Speaker, the important work of the Department of Homeland Security cannot be emphasized enough. I believe this conference agreement builds on the progress of the past year and substantially furthers the protection of our homeland. I urge my colleagues to support it.

Mr. Speaker, the Homeland Security Appropriations Subcommittee will soon bid farewell to our Congressional Fellow, Lt. Ben Nicholson, who has served the Committee on Appropriations over the past three years in two different Subcommittees.

Lt. Ben Nicholson has been detailed to the Committee from the United States Coast Guard since 2001. He served initially with the Transportation Subcommittee; spent a year helping establish the new Transportation-Treasury Subcommittee; and this year came to work with the Homeland Security Subcommittee. Mr. Speaker, the Appropriations Committee had never had a detailee from the Coast Guard. Lt. Ben Nicholson was a pathbreaker for the service in that role, and he performed admirably. He did everything we asked of him, with pinpoint accuracy and usually ahead of time. I would also add that he served the Committee during interesting times, perhaps more interesting than he imagined when he accepted the job. Eight months after he began, the 9/11 terrorist attacks occurred. Immediately after that, the anthrax attacks occurred. He assisted the Committee in overseeing the establishment of the Transportation Security Administration, including key analysis, which demonstrated the overstaffing of screening personnel in smaller airports. He made sure that shipbuilding loans for the Maritime Administration were contingent upon management improvements in the contracting and oversight process. And he properly evaluated, and helped us provide for, critical facility repairs at MARAD's James River Reserve Fleet, which was devastated by Hurricane Isabel last year. Ben's maritime experience and background were simply invaluable to our Committee.

On the Homeland Subcommittee, we have benefited from the experience Lt. Nicholson gained as a Coast Guard Officer, in particular his insights into the operations of a complex military organization that is combined with a large domestic agency. He has superb analytical skills that have been critical in our review of a $32 billion budget request and in developing complex spreadsheets that synthesize funding issues into easily understood documents we have used in hearings, closed briefings, in Full Committee, and on the floor. His infectious energy, his focus, and superb analytic and technical skills have also helped keep the momentum for this bill moving forward. His high standards of professionalism and thoroughness are beyond reproach, and his contributions have been highly valued.

Through all of this, Ben maintained the decorum and professionalism that we have all come to expect from our military officer corps, and he has represented the Coast Guard with the highest integrity and competence. Lt. Nicholson has served me, this Subcommittee, the Transportation-Treasury Subcommittee, and the House well. We are sorry to see him leave, and will miss him as our colleague—but are glad to count him as a friend. Each of us on the Homeland Security Appropriations Subcommittee wish Ben all the best as he moves forward in his career, where we anticipate seeing great things of him in the coming years.

I am grateful for his contributions.

Mr. Speaker, the Homeland Security Appropriations Subcommittee will soon bid farewell to our Congressional Fellow, Brian Dunlop, who has served the Committee on Appropriations over the past 2 years in two different Subcommittees.

Mr. Dunlop will soon be leaving to resume duties as a senior Special Agent for the U.S. Secret Service. Special Agent Dunlop came to the former Treasury-Postal Subcommittee during the summer of 2002, and has proven himself indispensable to the smooth functioning of the Committee during the intense period surrounding the planning for, and inauguration of, the new Homeland Security Department and the Homeland Security Appropriations Subcommittee. His strong understanding of organizational dynamics, of operational issues and real-world, real-time considerations for building a successful new Department contributed significantly to the success of this subcommittee. Brian brought to the appropriations process clear, thoughtful analysis and mature judgment, developed in his successful career in criminal investigation and protective operations. He has clearly mastered the technical issues and folkways of the appropriations process and he undoubtedly has as good a working knowledge of the nooks and crannies of the Department of Homeland Security as anyone working there.

Special Agent Dunlop has provided insight into sensitive law enforcement and security matters involved in setting up and overseeing DHS in its capacity as the newest member of the Intelligence Community. In this capacity, he facilitated the work of this Subcommittee by developing detailed analyses, preparing classified briefings, writing easy to understand factsheets and briefing packages on extremely technical issues; and developing and implementing complicated oversight travel for the Subcommittee. Brian has also been the "go to" man when the Subcommittee required answers on crosscutting law enforcement issues, such as coordinating the security efforts of multiple agencies during high threat periods; as well as developing consistency in professional standards, training, and gun use policies throughout DHS.

Brian was instrumental in evaluating the need to deploy Infrastructure Protection personnel to states and localities, whose responsibility will be to work with the public and private sector to implement security measures to protect critical infrastructure. His analysis and recommendations will have lasting effects, as protective security advisors will now be on site in every state in order to better secure our nation's infrastructure.

Throughout his service here, Brian has shown unqualified professionalism, perception, and the great combination of a keen sense of humor, a cool head, and a modesty rarely seen on Capitol Hill. Special Agent Dunlop has served me, this Subcommittee, and the House well. We are sorry to see him leave, and will miss him as our colleague—but are glad to count him as a friend. Each of us on the Homeland Security Appropriations Subcommittee wish Brian all the best as he moves forward in his career, where we anticipate seeing great things of him in the coming years.

I am grateful for his contributions.

Mr. Speaker, I include the following for the RECORD.

DEPARTMENT OF HOMELAND SECURITY - FY 2005 (H.R. 4567)
(Amounts in thousands)

| | FY 2004 Enacted | FY 2005 Request | House | Senate | Conference | Conference vs. Enacted |
|---|---|---|---|---|---|---|
| DEPARTMENT OF HOMELAND SECURITY | | | | | | |
| TITLE I - DEPARTMENTAL MANAGEMENT AND OPERATIONS | | | | | | |
| Departmental Operations | | | | | | |
| Office of the Secretary and Executive Management | 80,317 | 102,623 | 80,227 | 82,206 | 85,034 | +4,717 |
| Office of the Under Secretary for Management | 130,210 | 302,664 | 129,356 | 245,579 | 151,153 | +20,943 |
| Office of the Chief Financial Officer | --- | --- | 13,000 | --- | 13,000 | +13,000 |
| Office of the Chief Procurement Officer | --- | --- | 7,734 | --- | --- | --- |
| Office of the Chief Information Officer | --- | --- | 60,139 | --- | 275,270 | +275,270 |
| Total, Departmental operations | 210,527 | 405,287 | 290,456 | 327,785 | 524,457 | +313,930 |
| Department-wide technology investments | 183,784 | 226,000 | 211,000 | 222,000 | --- | -183,784 |
| Office of Inspector General | | | | | | |
| Operating expenses | 58,318 | 82,317 | 82,317 | 82,317 | 82,317 | +23,999 |
| (By transfer) | (22,000) | --- | --- | --- | --- | (-22,000) |
| Total, Office of Inspector General | (80,318) | (82,317) | (82,317) | (82,317) | (82,317) | (+1,999) |
| Total, title I, Departmental Management and Operations: | | | | | | |
| New budget (obligational) authority | 452,629 | 713,604 | 583,773 | 632,102 | 606,774 | +154,145 |
| (By transfer) | (22,000) | --- | --- | --- | --- | (-22,000) |
| TITLE II - SECURITY ENFORCEMENT AND INVESTIGATIONS | | | | | | |
| Office of the Under Secretary for Border and Transportation Security | 8,058 | 10,371 | 10,371 | 8,864 | 9,617 | +1,559 |
| U.S. Visitor and Immigrant Status Indicator Technology | 328,053 | 340,000 | 340,000 | 340,000 | 340,000 | +11,947 |
| Customs and Border Protection | | | | | | |
| Salaries and expenses | 4,367,430 | 4,577,491 | 4,609,441 | 4,463,960 | 4,531,119 | +163,689 |
| Harbor maintenance fee collection (trust fund) | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 | --- |
| Rescission | --- | --- | --- | --- | -63,010 | -63,010 |
| Subtotal, Salaries and expenses | 4,370,430 | 4,580,491 | 4,612,441 | 4,466,960 | 4,471,109 | +100,679 |
| Automation modernization | 438,520 | 449,909 | 449,909 | 449,909 | 449,909 | +11,389 |
| Air and marine operations | --- | --- | --- | --- | 257,535 | +257,535 |
| Construction (border patrol) | 89,830 | 91,718 | 91,718 | 91,718 | 91,718 | +1,888 |
| Total, Direct appropriations | 4,898,780 | 5,122,118 | 5,154,068 | 5,008,587 | 5,270,271 | +371,491 |
| Fee accounts | (1,044,327) | (1,079,004) | (1,100,551) | (1,079,004) | (1,079,004) | (+34,677) |
| Total, Customs and border protection | (5,943,107) | (6,201,122) | (6,254,619) | (6,087,591) | (6,349,275) | (+406,168) |
| Immigration and Customs Enforcement | | | | | | |
| Salaries and expenses | 2,138,358 | 2,370,906 | 2,377,006 | 2,413,438 | 2,438,494 | +300,136 |
| Rescission | -54,000 | --- | --- | --- | --- | +54,000 |
| Federal air marshals | 622,704 | 612,900 | 662,900 | 662,900 | 662,900 | +40,196 |
| Federal protective service | 424,211 | 478,000 | 478,000 | 478,000 | 478,000 | +53,789 |
| Offsetting fee collections | --- | -478,000 | -478,000 | -478,000 | -478,000 | -478,000 |
| Automation modernization | 39,764 | 39,605 | 39,605 | 39,605 | 39,605 | -159 |
| Air and marine operations | 208,960 | 257,535 | 257,535 | 267,535 | --- | -208,960 |
| Construction | 26,617 | 26,179 | 26,179 | 26,179 | 26,179 | -438 |
| Total, Direct appropriations | 3,406,614 | 3,307,125 | 3,383,225 | 3,409,657 | 3,167,178 | -239,436 |
| Fee accounts | (273,000) | (225,375) | (225,375) | (250,375) | (200,000) | (-73,000) |
| Total, Immigration and customs enforcement | (3,679,614) | (3,532,500) | (3,588,600) | (3,660,032) | (3,367,178) | (-312,436) |
| Transportation Security Administration | | | | | | |
| Aviation security | 3,724,112 | 4,238,164 | 4,270,564 | 4,386,083 | 4,323,523 | +599,411 |
| Maritime and land security | 261,449 | 29,000 | 65,000 | 44,000 | 48,000 | -213,449 |
| Credentialing activities | --- | 67,000 | 67,000 | 67,000 | 67,000 | +67,000 |
| Intelligence | 13,520 | 14,000 | 14,000 | 14,000 | 14,000 | +480 |
| Research and development | 154,285 | 154,000 | 174,000 | 181,000 | 178,000 | +23,715 |
| Administration | 424,679 | 539,852 | 524,852 | 534,852 | 519,852 | +95,173 |
| Aviation security capital fund | --- | (250,000) | (250,000) | (250,000) | (250,000) | (+250,000) |
| Subtotal, Transportation Security Administration (gross) | 4,578,045 | 5,042,016 | 5,115,416 | 5,226,935 | 5,150,375 | +572,330 |

DEPARTMENT OF HOMELAND SECURITY - FY 2005 (H.R. 4567)
(Amounts in thousands)

| | FY 2004 Enacted | FY 2005 Request | House | Senate | Conference | Conference vs. Enacted |
|---|---|---|---|---|---|---|
| Offsetting fee collections: | | | | | | |
| Aviation security fees | -2,070,000 | -2,223,000 | -1,823,000 | -1,823,000 | -1,823,000 | +247,000 |
| Credentialing fees | --- | -67,000 | -67,000 | -67,000 | -67,000 | -67,000 |
| Subtotal, offsetting collections | -2,070,000 | -2,290,000 | -1,890,000 | -1,890,000 | -1,890,000 | +180,000 |
| Total, Transportation Security Administration (net) | 2,508,045 | 2,752,016 | 3,225,416 | 3,336,935 | 3,260,375 | +752,330 |
| United States Coast Guard | | | | | | |
| Operating expenses | 4,347,256 | 4,833,220 | 3,967,220 | 4,063,220 | 3,953,220 | -394,036 |
| Defense function | 337,994 | 340,000 | 1,204,000 | 1,090,000 | 1,204,000 | +866,006 |
| Emergency appropriations (P.L. 108-106) | 23,183 | --- | --- | --- | --- | -23,183 |
| Rescissions | -71,000 | --- | --- | --- | --- | +71,000 |
| Subtotal, Operating expenses | 4,637,433 | 5,173,220 | 5,171,220 | 5,153,220 | 5,157,220 | +519,787 |
| Environmental compliance and restoration | 16,900 | 17,000 | 17,000 | 17,000 | 17,000 | +100 |
| Reserve training | 94,440 | 117,000 | 113,000 | 117,000 | 113,000 | +18,560 |
| Acquisition, construction, and improvements | 961,492 | 942,550 | 936,550 | 1,062,550 | 982,200 | +20,708 |
| Rescissions | --- | --- | -33,000 | --- | -16,000 | -16,000 |
| Subtotal, Acquisition, construction, and improvements | 961,492 | 942,550 | 903,550 | 1,062,550 | 966,200 | +4,708 |
| Alteration of bridges | 19,136 | --- | 16,400 | 15,400 | 15,900 | -3,236 |
| Research, development, test, and evaluation | 14,912 | --- | --- | 18,500 | 18,500 | +3,588 |
| Subtotal, U.S. Coast Guard discretionary | 5,744,313 | 6,249,770 | 6,221,170 | 6,383,670 | 6,287,820 | +543,507 |
| Retired pay (mandatory) | 1,020,000 | 1,085,460 | 1,085,460 | 1,085,460 | 1,085,460 | +65,460 |
| Total, United States Coast Guard | 6,764,313 | 7,335,230 | 7,306,630 | 7,469,130 | 7,373,280 | +608,967 |
| United States Secret Service | | | | | | |
| Salaries and expenses | 1,130,570 | 1,159,125 | 1,179,125 | 1,159,125 | 1,172,125 | +41,555 |
| Operating expenses (rescission) | --- | --- | --- | --- | -750 | -750 |
| Acquisition, construction, improvements, and related expenses | 3,558 | 3,633 | 3,633 | 3,633 | 3,633 | +75 |
| Total, United States Secret Service | 1,134,128 | 1,162,758 | 1,182,758 | 1,162,758 | 1,175,008 | +40,880 |
| Total, title II, Security, Enforcement, and Investigations: | | | | | | |
| New budget (obligational) authority | 19,047,991 | 20,029,618 | 20,582,468 | 20,735,931 | 20,595,729 | +1,547,738 |
| Appropriations | (19,149,808) | (20,029,618) | (20,615,468) | (20,735,931) | (20,675,489) | (+1,525,681) |
| Emergency appropriations | (23,183) | --- | --- | --- | --- | (-23,183) |
| Rescissions | (-125,000) | --- | (-33,000) | --- | (-79,760) | (+45,240) |
| TITLE III - PREPAREDNESS AND RECOVERY | | | | | | |
| Office for State and Local Government Coordination and Preparedness | | | | | | |
| Salaries and expenses | --- | --- | 41,432 | 25,000 | 3,546 | +3,546 |
| State and local programs | 3,267,608 | 3,061,255 | 3,423,900 | 2,845,081 | 3,086,300 | -181,308 |
| Firefighter assistance grants | 745,575 | 500,000 | 650,000 | 700,000 | 715,000 | -30,575 |
| Emergency management planning grants | --- | --- | --- | 180,000 | 180,000 | +180,000 |
| Total, Office of State and Local Government Coordination and Preparedness | 4,013,183 | 3,561,255 | 4,115,332 | 3,750,081 | 3,984,846 | -28,337 |
| Counterterrorism fund | 9,941 | 20,000 | 10,000 | 10,000 | 8,000 | -1,941 |
| Emergency Preparedness and Response | | | | | | |
| Office of the Under Secretary for Emergency Preparedness and Response | 3,430 | 4,211 | 4,211 | 4,211 | 4,211 | +781 |
| Preparedness, mitigation, response, and recovery | 223,673 | 208,499 | 210,499 | 231,499 | 239,499 | +15,826 |
| Operating expenses (rescission) | -3,000 | --- | --- | --- | -5,000 | -2,000 |
| Administrative and regional operations | 166,015 | 146,939 | 203,939 | 146,939 | 202,939 | +36,924 |
| Defense function | --- | 50,000 | --- | 50,000 | --- | --- |
| Subtotal, Administrative and regional operations | 166,015 | 196,939 | 203,939 | 196,939 | 202,939 | +36,924 |
| Public health programs | 481,144 | 34,000 | 34,000 | 34,000 | 34,000 | -447,144 |

DEPARTMENT OF HOMELAND SECURITY - FY 2005 (H.R. 4567)
(Amounts in thousands)

| | FY 2004 Enacted | FY 2005 Request | House | Senate | Conference | Conference vs. Enacted |
|---|---|---|---|---|---|---|
| Radiological emergency preparedness program | --- | -1,000 | -1,000 | -1,000 | -1,000 | -1,000 |
| Biodefense countermeasures | 884,749 | --- | --- | --- | --- | -884,749 |
| Advance appropriations | 4,703,000 | --- | --- | --- | --- | -4,703,000 |
| Advance appropriations, FY 2005 | --- | 2,528,000 | 2,528,000 | 2,528,000 | 2,528,000 | +2,528,000 |
| Subtotal, Biodefense countermeasures | 5,587,749 | 2,528,000 | 2,528,000 | 2,528,000 | 2,528,000 | -3,059,749 |
| Disaster relief | 1,789,380 | 2,151,000 | 2,042,380 | 2,151,000 | 2,042,380 | +253,000 |
| (Transfer to Office of the Inspector General) | (-22,000) | --- | --- | --- | --- | (+22,000) |
| Red Cross (emergency appropriations) | --- | --- | --- | 70,000 | --- | --- |
| Emergency appropriations (P.L. 108-106) | 500,000 | --- | --- | --- | --- | -500,000 |
| Emergency rescission (P.L. 108-199) | -225,000 | --- | --- | --- | --- | +225,000 |
| Emergency appropriations (P.L. 108-303) | 2,000,000 | --- | --- | --- | --- | -2,000,000 |
| Subtotal, Disaster relief | 4,064,380 | 2,151,000 | 2,042,380 | 2,221,000 | 2,042,380 | -2,022,000 |
| Disaster assistance direct loan program account: | | | | | | |
| (Limitation on direct loans) | (25,000) | (25,000) | (25,000) | (25,000) | (25,000) | --- |
| Administrative expenses | 557 | 567 | 567 | 567 | 567 | +10 |
| Flood map modernization fund | 198,820 | 200,000 | 150,000 | 200,000 | 200,000 | +1,180 |
| National flood insurance fund: | | | | | | |
| Salaries and expenses | 32,663 | 33,336 | 33,336 | 33,336 | 33,336 | +673 |
| Flood mitigation | 77,809 | 79,257 | 79,257 | 79,257 | 79,257 | +1,448 |
| Offsetting fee collections | --- | -112,593 | -112,593 | -112,593 | -112,593 | -112,593 |
| (Transfer to Mitigation grants) | --- | (-20,000) | --- | (-20,000) | --- | --- |
| (Transfer to National flood mitigation fund) | (-20,000) | --- | (-20,000) | --- | (-20,000) | --- |
| Subtotal, National flood insurance fund | 110,472 | --- | --- | --- | --- | -110,472 |
| National flood mitigation fund (by transfer) | (20,000) | --- | (20,000) | --- | (20,000) | --- |
| National pre-disaster mitigation fund | 149,115 | --- | 100,000 | --- | 100,000 | -49,115 |
| Mitigation grants | --- | 150,000 | --- | 150,000 | --- | --- |
| (By transfer) | --- | (20,000) | --- | (20,000) | --- | --- |
| Subtotal, Mitigation grants | --- | (170,000) | --- | (170,000) | --- | --- |
| Emergency management performance grants | 178,938 | --- | --- | --- | --- | -178,938 |
| Emergency food and shelter | 152,097 | 153,000 | 153,000 | 153,000 | 153,000 | +903 |
| Cerro Grande fire claims | 37,837 | --- | --- | --- | --- | -37,837 |
| Total, Emergency Preparedness and Response | 11,351,227 | 5,625,216 | 5,425,596 | 5,718,216 | 5,498,596 | -5,852,631 |
| Total, title III, Preparedness and Recovery: | | | | | | |
| New budget (obligational) authority | 15,374,351 | 9,206,471 | 9,550,928 | 9,478,297 | 9,491,442 | -5,882,909 |
| Appropriations | (8,399,351) | (6,678,471) | (7,022,928) | (6,880,297) | (6,968,442) | (-1,430,909) |
| Emergency appropriations | (2,500,000) | --- | --- | (70,000) | --- | (-2,500,000) |
| Advance appropriations | (4,703,000) | (2,528,000) | (2,528,000) | (2,528,000) | (2,528,000) | (-2,175,000) |
| Rescissions | (-3,000) | --- | --- | --- | (-5,000) | (-2,000) |
| Emergency rescissions | (-225,000) | --- | --- | --- | --- | (+225,000) |
| (Limitation on direct loans) | (25,000) | (25,000) | (25,000) | (25,000) | (25,000) | --- |
| (Transfer out) | (-42,000) | (-20,000) | (-20,000) | (-20,000) | (-20,000) | (+22,000) |
| (By transfer) | (20,000) | (20,000) | (20,000) | (20,000) | (20,000) | --- |
| TITLE IV - RESEARCH AND DEVELOPMENT, TRAINING, ASSESSMENTS, AND SERVICES | | | | | | |
| Citizenship and Immigration Services | | | | | | |
| Operating expenses | 234,733 | 140,000 | 160,000 | 140,000 | 160,000 | -74,733 |
| Immigration examination fee account | (1,564,000) | (1,571,000) | (1,571,000) | (1,546,000) | (1,571,000) | (+7,000) |
| Total, Citizenship and immigration services | (1,798,733) | (1,711,000) | (1,731,000) | (1,686,000) | (1,731,000) | (-67,733) |
| Federal Law Enforcement Training Center | | | | | | |
| Salaries and expenses | 154,506 | 158,440 | 183,440 | 181,440 | 177,440 | +22,934 |
| Acquisition, construction, improvements, and related expenses | 37,137 | 37,917 | 37,917 | 42,917 | 44,917 | +7,780 |
| Total, Federal Law Enforcement Training Center | 191,643 | 196,357 | 221,357 | 224,357 | 222,357 | +30,714 |
| Information Analysis and Infrastructure Protection | | | | | | |
| Management and administration | 124,263 | 162,064 | 132,064 | 157,064 | 132,064 | +7,801 |

DEPARTMENT OF HOMELAND SECURITY - FY 2005 (H.R. 4567)
(Amounts in thousands)

| | FY 2004 Enacted | FY 2005 Request | House | Senate | Conference | Conference vs. Enacted |
|---|---|---|---|---|---|---|
| Assessments and evaluations | 710,084 | 561,758 | 722,512 | 577,758 | 761,844 | +51,560 |
| Defense function | --- | 140,754 | --- | 140,754 | --- | --- |
| Subtotal, Assessments and evaluations | 710,084 | 702,512 | 722,512 | 718,512 | 761,644 | +51,560 |
| Total, Information Analysis and Infrastructure Protection | 834,347 | 864,576 | 854,576 | 875,576 | 893,708 | +59,361 |
| Science and Technology | | | | | | |
| Management and administration | 43,908 | 52,550 | 68,586 | 52,550 | 68,586 | +24,678 |
| Research, development, acquisition, and operations | 868,844 | 579,749 | 1,063,713 | 630,647 | 1,046,864 | +178,020 |
| Defense function | --- | 407,000 | --- | 386,000 | --- | --- |
| Subtotal, Research, development, acquisition, and operations | 868,844 | 986,749 | 1,063,713 | 1,016,647 | 1,046,864 | +178,020 |
| Total, Science and Technology | 912,752 | 1,039,299 | 1,132,299 | 1,069,197 | 1,115,450 | +202,698 |
| Total, title IV, Research and Development, Training, Assessments, and Services: New budget (obligational) authority | 2,173,475 | 2,240,232 | 2,368,232 | 2,309,130 | 2,391,515 | +218,040 |
| TITLE V - GENERAL PROVISIONS | | | | | | |
| Section 518: | | | | | | |
| Customs user fee extension | --- | --- | --- | -370,000 | --- | --- |
| Federal Air Marshals | --- | --- | --- | 50,000 | --- | --- |
| Air and Marine Interdiction | --- | --- | --- | 200,000 | --- | --- |
| SLGCP, non-profit assistance grants | --- | --- | --- | 50,000 | --- | --- |
| Firefighter Assistance grants (Sec. 33) | --- | --- | --- | 50,000 | --- | --- |
| EMPG | --- | --- | --- | 20,000 | --- | --- |
| Total, Sec. 518 | --- | --- | --- | --- | --- | --- |
| Section 519: | | | | | | |
| Customs user fee extension | --- | --- | --- | -414,000 | --- | --- |
| CBP, salaries and expenses | --- | --- | --- | 150,000 | --- | --- |
| ICE, salaries and expenses | --- | --- | --- | 100,000 | --- | --- |
| SLGCP, State and local programs, rail grants | --- | --- | --- | 128,000 | --- | --- |
| EMPG | --- | --- | --- | 36,000 | --- | --- |
| Total, Sec. 519 | --- | --- | --- | --- | --- | --- |
| Section 526: | | | | | | |
| CBP, salaaries and expenses | --- | --- | --- | -1,000 | --- | --- |
| Total, title V, General Provisions: New budget (obligational) authority | --- | --- | --- | -1,000 | --- | --- |
| TITLE VI - EMERGENCY AGRICULTURAL DISASTER ASSISTANCE | | | | | | |
| Crop disaster assistance (sec. 601) (emergency appropriation) | --- | --- | --- | 2,464,000 | --- | --- |
| Crop insurance (sec. 601) (emergency appropriation) | --- | --- | --- | 15,000 | --- | --- |
| Livestock assistance (sec. 602) (emergency appropriation) | --- | --- | --- | 475,000 | --- | --- |
| Tree assistance (sec. 603) (emergency appropriation) | --- | --- | --- | 20,000 | --- | --- |
| Total, title VI, Emergency Agricultural Disaster Assistance New budget (obligational) authority | --- | --- | --- | 2,974,000 | --- | --- |
| Grand total, Department of Homeland Security: | | | | | | |
| New budget (obligational) authority | 37,048,446 | 32,189,925 | 33,085,401 | 36,128,460 | 33,085,460 | -3,962,986 |
| Appropriations | (30,175,263) | (29,661,925) | (30,590,401) | (30,556,460) | (30,642,220) | (+466,957) |
| Emergency appropriations | (2,523,183) | --- | --- | (3,044,000) | --- | (-2,523,183) |
| Advance appropriations | (4,703,000) | (2,528,000) | (2,528,000) | (2,528,000) | (2,528,000) | (-2,175,000) |
| Rescissions | (-128,000) | --- | (-33,000) | --- | (-84,760) | (+43,240) |
| Emergency rescissions | (-225,000) | --- | --- | --- | --- | (+225,000) |
| (Limitation on direct loans) | (25,000) | (25,000) | (25,000) | (25,000) | (25,000) | --- |
| (Transfer out) | (-42,000) | (-20,000) | (-20,000) | (-20,000) | (-20,000) | (+22,000) |
| (By transfer) | (42,000) | (20,000) | (20,000) | (20,000) | (20,000) | (-22,000) |

Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me congratulate the chairman on his work in presenting this bill to us and thank all the staff, both on the minority and majority, for their work in putting this bill together. This is a complicated bill and involved lots of hard work and many, many hours. I and all the Members appreciate the work they do for us.

I will vote for this bill, but not with a great deal of excitement. One thing one can say for this bill is that it represents a very significant improvement on the President's budget. I find it rare that any of the budgets that come from the President that relate to homeland security reflect much of what I hear in the popular media and in the popular discussion by the President and other members of the administration. Their proposals rarely reflect a point of view that homeland security is one of the highest priorities of our country.

Clearly, we made some improvements, and we have spent billions of dollars. My own judgment, however, is that the Department is much better on press releases than they are on accomplishments. Maybe they have an impossible task in terms of putting 22 different agencies into one agency in this period of time, but I still find that agency loaded with confusion, loaded with management problems, spending an incredible amount of time putting the basics together, shuffling boxes, trying to find out where money is, where money is not, all-of-a-sudden hiring freezes because somebody did not keep track of money. The basics are not there. So I think they have lots of work yet to do to focus their attention really on solving what is a significant problem in this country.

I have expressed at various times some of my specific concerns where I think they are significantly underfunding homeland security in the country, and I will not repeat those today. Let me just, however, raise one concern.

We clearly are moving backwards in funding first responders in this country.

□ 1345

Our total funding for first responders in this bill is less than it was last year. That simply does not make sense. There are some very specific programs that are being cut. One that I find very important is the Metropolitan Medical Response System, a program that predated the Department of Homeland Security, and it is being cut by around $20 million, close to a 40 percent cut. That simply does not make sense.

But for all the Members, I think they should be particularly concerned over what is happening with the formula-based grants program in this bill, and then further complicated by the Intelligence bill that we passed yesterday in the House and the bill that passed the Senate. Currently, the formula-based grants which flow to the States on the basis of population and for which they made plans on how they should be expended is $1.690 billion. That program is being reduced by close to $600 million in this bill, to $1.1 billion, a deep cut in formula funds that flow to the States, who it is going to hurt; and at the same time, we are upping the Urban Area Security Initiative by close to $200 million. But we are fundamentally taking money away from smaller States and from rural areas to fund the increase in the Urban Area Initiative Grant program.

Then, that is further complicated by the bill that passed the House yesterday; and it is my understanding the bill that passed the Senate. They would further reduce the formula grant back to only a basic guarantee to the States, a minimal amount, and leave everything else at the discretion of the Secretary. How the Secretary intends to distribute that fund, we do not know. We have asked and they have no answers.

So I would just suggest to all, to all of my colleagues who come from more rural areas, come from smaller-sized States, they are facing a disproportionate cut in local first responder funding in this bill in either the House or Senate Intelligence bills passed, and they will face an even deeper cut in the funding for local first responders, and I just simply think that is wrong.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield myself such time as I may consume.

We would not be here at this point in time without the gentleman whom I yield to next. This full chairman of our committee has been marvelous in this bill in helping us through. I believe this is the last of the appropriations bills that this full committee chairman will, in effect, manage before this body; and I know that he is enormously pleased with the passage, or soon to be passed, I am sure, of the MILCON bill that includes aid for his home State.

Mr. Speaker, we all owe a great debt of gratitude to this great public servant who has put up with all sorts of devilishness during the development of this bill, among others.

So I yield such time as he may consume to the honorable gentleman from Florida (Mr. YOUNG), the chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding me this time, and I take this time to say that these are the last appropriations matters that we will deal with prior to the election. But I want the Members to know that when we come back in November, we and our counterparts in the Senate will have worked during the break to try to provide for the rest of the appropriations bills, that have not been completed in an omnibus package that we hope will be able to conclude the business of the 108th Congress.

As we prepare to do that, I want to thank the gentleman from Kentucky (Mr. ROGERS), the chairman of this Subcommittee on Homeland Security, and the gentleman from Minnesota (Mr. SABO), the ranking member.

This is an extremely important piece of legislation. They have done a really great job. I can tell my colleagues that there have been many, many obstacles, and they have worked really hard around those obstacles, and they have produced a good product.

But none of this could have happened, and none of what we just did earlier on the Military Construction bill or the hurricane supplemental, without tremendous staff. When it is all said and done, and the Members have their debates and their arguments and have made decisions, there is an awful lot of staff work that has to be done to help make that happen, and then to produce the product that we write and consider on the floor.

I want to mention specifically the staff director and the clerk of the Committee on Appropriations, Jim Dyer; the full committee staff just across the hall from here, John Blazey, Dale Oak, Therese McAuliffe and John Scofield, and the others who work in the front office, Diann Kane, Sandy Farrow, John Howard and Jane Porter. Martin Delgado also had a big part of this supplemental on agricultural issues. Rich Efford was very heavily involved and responsible for much of the success in our transportation areas. Debbie Weatherly worked on Interior, and Kevin Cook on Energy and Water.

Others who have been important to the emergency supplemental, include Kevin Roper on Defense; Tim Peterson on VA–HUD; Carol Murphy on military construction and whose bill became the vehicle for the hurricane supplemental. And Michelle Mrdeza on homeland security, Mike Ringler on commerce and justice, John Shank on foreign operations, and Craig Higgins on Labor-HHS, all have been important on the supplemental. Additionally, all of the staff of our subcommittees and Rob Nabors, who is the chief clerk for the gentleman from Wisconsin (Mr. OBEY), and I am sure that the gentleman from Wisconsin (Mr. OBEY) will supply the list of all of his staff have been important to this work. We would like to recognize all of them because they have done a really great job.

This is a good bill. After we vote on this Homeland Security bill, and when we vote on the Military Construction bill and the hurricane supplemental, I hope that then everyone will leave here in a relaxed mood and have a very safe journey home to do whatever it is they are going to do to campaign for reelection. I thank all of you for the support that you have given us. I really appreciate it.

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

Let me just say as a member of the Committee on Appropriations, I think there is no one on that committee that all of the Members have greater respect for than the gentleman from Florida (Mr. YOUNG). He amazes me to the degree that he keeps his calm and cool. While all of us scurry about with great excitement and angst, the person who stands there calmly and cooly and keeps our committee functioning is the gentleman from Florida (Mr. YOUNG). I have just incredible respect and admiration for the work that the gentleman from Florida (Mr. YOUNG) has done these last 6 years as Chair of the committee. All of us have disagreements on policies and issues, but the gentleman from Florida (Mr. YOUNG) has made it a pleasant committee to serve on, and I think all Members just thank the gentleman from Florida, deeply.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to commend the gentleman from Kentucky (Chairman ROGERS) and the gentleman from Minnesota (Ranking Member SABO), the gentleman from Florida (Chairman YOUNG), and the gentleman from Wisconsin (Ranking Member OBEY) for their work on producing this conference report. I am pleased that the report contains more funding than was requested by the President.

However, it is clear that this conference report does not contain the level of resources needed to ensure that the Department of Homeland Security, our Border Patrol agents, our airport security workers, our port directors, and our first responders urgently need in order to make America safe.

This failure has occurred despite vigorous efforts to strengthen the bill. The ranking member of the House Committee on Appropriations, the gentleman from Wisconsin (Mr. OBEY), and the ranking member of the Senate committee, Senator BYRD, attempted to add $2 billion to the conference report for critical homeland security needs; but, regretfully, they were defeated on a 9 to 8 vote.

We are at war against al Qaeda. Osama bin Laden declared one year after 9/11 that his goal is to kill 4 million Americans. Business as usual is not an option. Our terrorist enemies are not waiting. We must do all we can as fast as we can to protect this country.

The administration tells us regularly that al Qaeda may attack us anywhere, any time, and admits that we are not as safe as we must be. The bipartisan 9/11 Commission issued that same warning.

Faced with the reality of an imminent threat of another terrorist attack, the President requested only a 4.6 percent increase, about $1 billion, in our homeland security funding for this fiscal year. We spend that much in Iraq every week. In last night's debate, the President declared that he has tripled homeland security funding since 9/11. That $20 billion increase, however, is only 2 cents out of every dollar of Federal discretionary spending.

The gap between the rhetoric of protecting the homeland and the reality of protecting the homeland is wide indeed.

The fiscal policies and priorities of the President and the Republican leadership are a record of wrong choices while America is at war. While the President expresses pride in spending $20 billion more on homeland security last year than we spent in the year of 9/11, the President's tax cuts gave the top 1 percent of American taxpayers, those making over $1 million, four times that amount of tax cuts, all the while America is at war.

The reckless fiscal policy that has been pursued by the Republican leadership has resulted in our government borrowing $422 billion last year alone. This is half of all of the money we appropriated to fund the entire government last year.

For the first time in American history, we have sent young men and women into war while passing the burden of paying for it to the next generation.

The fact is, Mr. Speaker, we have not taken strong enough action in the wake of 9/11 to make our country safe from terrorist attack. Here are a few examples: America is not safe when we fail to install sufficient numbers of radiation detection monitors at all of our ports of entry. America is not safe when we fail to screen 100 percent of the cargo that travels on passenger planes. America is not safe when over 24,000 illegal immigrants from countries other than Mexico are caught, but released into our communities because the Department of Homeland Security lacks funding for detention space.

America is not safe when we screen only 5 percent of the 7 million cargo containers that enter our country each year for weapons of mass destruction. America is not safe when the government has only enough anthrax vaccine in our stockpile to inoculate 500 people. America is not safe when our Nation's first responders lack the equipment they need to talk to one another in the event of an emergency. America is not safe when the Department of Homeland Security's own Inspector General concludes that 3 years after 9/11 we still lack an integrated, comprehensive terrorist watch list. And America is not safe when our border inspectors and our police officers do not have access to the full range of information held by our government on terrorist suspects.

We all know that it is only a matter of time before al Qaeda strikes us again. Can we say in all honesty that we have made America as safe as we need to be if we increase our investment in protecting the American people here at home by no more than what we spend in 1 week in Iraq?

It is all about choices, and there can be no doubt that the American people will hold us accountable for the choices we make.

We are at war against al Qaeda. Usama Bin Ladin declared 1 year after 9/11 that his goal is to kill 4 million Americans. "Business as usual" is not an option. Our terrorist enemies are not waiting. We must do all we can—as fast as we can—to protect our country.

The administration tells us regularly that al Qaeda may attack us anywhere, anytime—and admits we are not as safe as we must be. The bipartisan 9/11 Commission issued the same warning.

Faced with the reality of imminent threat of another terrorist attack, the President requested only a 4.6 percent increase—about $1 billion—in homeland security funding for this fiscal year—we spend that much in Iraq every week. In last night's debate, the President declared that he has tripled homeland security funding since 9/11. That $20 billion increase, however, is only 2 cents out of every dollar in fiscal discretionary spending.

The gap between the rhetoric of protecting the homeland and the reality of a real commitment to protect the homeland is wide indeed.

The fiscal policies and priorities of the President and the Republican leadership are a record of the wrong choices while America is at war.

While the President expresses pride in spending $20 billion more on homeland security last year than in the year of 9/11, the President's tax cuts gave the top 1 percent of American taxpayers—those making more than $1 million a year—four times that amount—all while America is at war.

This reckless fiscal policy has resulted in our government borrowing $422 billion last year alone—this is over one-half of all the money we appropriated last year to fund our entire government.

For the first time in American history, we have sent young men and women into war while passing the burden of paying for it on to their generation.

The fact is, Mr. Speaker, we have not taken strong action in the wake of 9/11 to make our country safe from terrorist attack. Let me give you some examples:

America is not safe when we secured less nuclear material in Russia and around the world in the two years after 9/11 than in the two years before 9/11.

America is not safe when we fail to install radiation detection monitors at all ports of entry and other critical sites.

America is not safe when we fail to screen 100 percent of the cargo that travels on passenger planes.

America is not safe when over 24,000 illegal immigrants from countries other than Mexico are caught but released into our communities because the Department of Homeland Security lacks detention space. Two years ago, on its website, al Qaeda took note of our porous borders.

America is not safe when we screen only 5 percent of the 7 million cargo containers that enter our country each year for weapons of mass destruction.

America is not safe when 120,000 hours of terrorist-related wiretap information lies untranslated at the FBI.

America is not safe when the government has only enough anthrax vaccine in our stockpile to inoculate 500 people.

America is not safe when we fail to aggressively deal with the threat of biological weapons by pursuing a "Manhattan Project" to shorten the time between the discovery of a "bug" and the development of a drug or vaccine to counter it.

America is not safe when cities like Chicago and New York have only 1 health care worker vaccinated for smallpox for every 40,000 people, and some States have only a couple of dozen health care workers vaccinated against smallpox to enable them to respond to a smallpox attack.

America is not safe when our Nation's first responders lack the ability and the equipment they need to talk to one another during an emergency.

America is not safe when the Department of Homeland Security's own Inspector General has concluded that 3 years after 9/11 we still lack an integrated, comprehensive terrorist watch list.

America is not safe when our border inspectors and police officers do not have access to the full range of information held by our government on terrorist suspects.

America is not safe when we fail to protect the thousands of chemical plants that could serve as "pre-positioned toxic weapons of mass destruction" if hit with explosives by terrorists.

America is not safe when we fail to prevent the rise of future terrorists by supporting the voices of moderation in the Arab and Muslim world through economic, educational, and cultural partnerships.

America is not safe when we fail to keep our focus on Usama bin Ladin and al Qaeda—the enemy responsible for the attacks of 9/11.

We can provide the resources necessary to improve our military counterterrorism capabilities, invest in smart, effective homeland security measures, and win the hearts and minds of people in the Arab and Muslim worlds—we can win the war against our terrorist enemies. But—it will require the right choices and the right priorities.

We all know that it is not a matter of "if" but "when" al Qaeda will strike again.

Can we say that we have made America safe when we increase our investment in protecting the security of the American people by no more than what we spend in one week in Iraq? It's all about choices, and there can be no doubt that the American people will hold us accountable for the choices we make.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I recognized earlier the Committee staff. But after thinking about it, there is one staffer that I really need to make special mention of, and that is Mr. Doug Gregory who is very important to everything that I do here. He is very loyal, he is very smart, he is very faithful, he is very industrious; and I depend on him for an awful lot. He is very special, and he has been a very important member of my staff for 36 years, and this is Douglas Gregory of my district in St. Petersburg, and a professional member of the appropriations staff.

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Mr. ROGERS of Kentucky. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. SWEENEY) who is a very valuable member of our subcommittee.

Mr. SWEENEY. Mr. Speaker, I thank the chairman for yielding me time.

I realize we all are on our way out of town, and it is important we get moving, so I will be very brief and I will attempt not to be too provocative. But I urge the membership to strongly support this piece of legislation for a couple of very important reasons.

One, as the gentleman from Kentucky (Mr. ROGERS) pointed out, FEMA money is running out and, as well, if we think about that in terms of what we need to do to make sure that we continue the momentum towards developing a safer, more secure homeland security, this bill needs to get done before we break for the election.

I recognize that there are a lot of tough choices here. I recognize that there are a lot of disagreements over where exactly we ought to be prioritizing the expenditures here, but I view this as an evolving, accommodating balance.

I want to salute the chairman of the subcommittee for his great work here. We have had our disagreements, but the chairman has always been there, and he has moved this bill substantially towards a system that I think can evolve into a system that allows the Federal Government to respond to the threats where they most exist.

We can bemoan what is left to be done, but this bill actually goes out and begins to take and continues to take substantial strides towards getting us to the place we need to be. We need to recognize that either structurally or technically or, frankly, politically in this town we may not be ready to do all the things we need to do, but this bill moves us way along the line. I want to salute the gentleman from Florida (Mr. YOUNG) for that, as well the ranking member on the subcommittee.

We do not agree on the first responders money as well, but this bill does important things. And as one who comes from New York, a place that was attacked, this bill needs to get passed so that New York can continue to do the great work it does to protect this Nation and that city.

Mr. SABO. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member of the House Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I would simply make two points. I recognize that this bill is some $800 million above the amount that was requested originally by the President, and for that, I congratulate the subcommittee; but if anyone in this House thinks that this is an adequate response to the threat that faces us, they are smoking something that is not legal.

The fact is that we have immense homeland security needs that are not being met. And the fact is also that despite his public protestations to the contrary, the President for 3 years in a row has strenuously resisted adequate funding for homeland security. Starting with the first meeting that I had with him in the White House after 9/11 when, before the gentleman from Florida (Mr. YOUNG) or I could even get a word out of our mouths explaining to him what some of the additions were that we thought needed to be provided, before we could even get a word out of our mouths, the President said, I just want you to know that if you appropriate one dollar more than I have asked for I will veto the bill.

So much for an open mind.

I really believe that with respect to adequate funding levels for homeland security that the President's conduct itself is a security risk, because we have immense needs that are not being met. This Congress on a bipartisan basis has consistently tried to meet those needs, and we have been consistently reined in by a White House which, as the gentleman from Texas (Mr. EDWARDS) indicated, by a White House that thinks it is much more important to provide four times as much money to people who make a million bucks by way of tax cuts than to provide larger increases for homeland security funding.

Now, reasonable people can disagree, but those are my views, and I hope that we are not proven to be right by future events.

I just want to make one other point. I referred earlier to an important matter which was not included in this bill despite the fact that the Senate conferees voted by majority vote to include it and despite the fact that we had a majority of House conferees who favored that same provision.

I do not mind losing. I lose every day. There is nothing wrong with losing, and I can certainly accept that provided that the process that is used to determine the outcome is fair. But when it is not fair, as it was not in this case, when the process is not fair, then it leaves one to want to oppose the basic bill that is before us.

I am not going to do that because these matters are too important; but I do want to suggest that sometime, somewhere, it would be nice if committee judgments were allowed to stand rather than having the House leadership insist that they be overturned because they were not consistent with the dictates of that House leadership.

I thank the gentleman for yielding me time, and I reluctantly urge support for this bill. Again, I recognize the committee has tried to meet its responsibilities, but we are being hemmed in by a President who prefers to put money in the pockets of millionaires before putting adequate resources into the budgets that would provide greater port security, airport security and all the rest.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. LATHAM), a very hard-working member of our subcommittee.

Mr. LATHAM. Mr. Speaker, I thank the chairman for yielding me time. I will be very, very brief.

I would only like to congratulate our great chairman, the gentleman from Kentucky (Mr. ROGERS), and our ranking member, the gentleman from Minnesota (Mr. SABO) on a very difficult bill that is one that we cannot fail on. We have to be successful as far as our homeland security.

I would also like to acknowledge the great work of the staff that has done a very good job and worked very, very hard on this bill.

I rise in support of this conference agreement and urge my colleagues to do the same. I want to commend Chairman ROGERS, Mr. SABO and the subcommittee staff for their work in putting this homeland security bill together.

The process of structuring this appropriations bill to address the operational needs of the 22 agencies and departments under the Homeland Security Department has, once again, been a difficult one. I suspect it will be difficult again next year, in part, because we are funding a mission that has many dimensions, and for which there are few absolutes.

As I have watched and participated in this process, I have come to the conclusion that our approach to funding homeland security has been measured and judicious. We have not thrown good money after bad, but rather made difficult choices.

There are some in this House who want to put more money in this bureau or that agency. Some of those Members are well-intentioned, while others simply want to create a political issue by forcing Members to make a choice between spending more money on the one hand, or appearing to be less than responsible on homeland security issues on the other. This is a false choice. In the future, we would do ourselves a favor by avoiding the temptation to politicize the funding of this important function.

I hope that as we go forward in the FY–06 cycle, we will recognize that there is much room for honest debate on the subject of homeland security funding. However, none of our constituents is served well by gaming this funding debate, and certainly the mission of protecting the homeland is not served well by this approach.

As we go forward in the area of homeland security, we will continue to make progress in sorting out priorities. We will continue to benefit from the ideas and knowledge of State and local officials from our districts around the country, and from the innovations of DHS officials. That collective wisdom will serve us well.

The process we went through this year for homeland security represented an improvement over last year. Going forward, we will improve over this year. I think because, once again, we carried out our duty to appropriate these funds in a measured way, we will improve on the FY–06 process.

Again, I want to commend the chairman and the ranking minority member, Mr. SABO, and urge the Members to support this conference report.

Mr. SABO. Mr. Speaker, I yield back the balance of my time.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I cannot close this debate without thanking some people. My colleague on the other side of the aisle has been marvelous to work with. He is demanding about the facts, but he is agreeable in working with us on the bill. I want to thank the gentleman from Minnesota (Mr. SABO) especially for his great work on this subcommittee, as he does in other parts of the Congress.

Mr. Speaker, the Speaker of this House was very, very instrumental as late as the early hours of this morning in trying to remove snags that might prevent this bill from being placed on the floor, and I have to publicly compliment the Speaker and thank him for taking the personal interest that he did in helping us to move the passage of the bill to the floor. I can say the same for the majority leader.

We had a tough snag that the other body had placed in the way of this bill's coming to the floor, and as late as 2 o'clock this morning, the Speaker of the House and your majority leader, the gentleman from Texas (Mr. DELAY) were up there working in their offices on the telephones to make this day possible. I have to publicly compliment them on doing a great job to help us.

Mr. Speaker, finally, let me say thanks to this great staff. We would not be here without them. They do the hard work. They are up all night doing the tedious work. My chief of staff, Michelle Mrdeza, has just been terrific in making this day possible and making the subcommittee work. As did Stephanie Gupta and Jeff Ashford and Tom McLemore and Terry Tyborowski and Kelly Wade, and Brian Dunlop and Ben Nicholson. These last two, Brian from the Secret Service, a fellow with us, and Ben Nicholson, a fellow from the Coast Guard, have been with us all this year and they will be rotating off this assignment now. I want to publicly thank them especially for their service with us on this subcommittee.

I want to thank my chief of staff, Will Smith, and Beverly Pheto of the minority staff, who has been especially helpful. We would not be here without them, Mr. Speaker, and I think we should publicly thank them for the great work they do.

In closing, Mr. Speaker, I want to thank the Members for being understanding of the difficulties in putting this bill together. We are trying to fund some 53,000 units of local public safety, as well as all the other myriad of things that go into funding this 22-agency new department in its second year. I want to thank the Members for being understanding and supportive and helpful in making that possible.

Mr. GREEN of Wisconsin. Mr. Speaker, I rise today to express my great disappointment that members have chosen not to include a two-year extension of the Milk Income Loss Contract Program in the Department of Homeland Security appropriations bill the House passed today.

At the same time, however, I want to inject a bit of hope into the discussion, and also correct some misstatements that have been made—on the floor and elsewhere—about this issue.

We still have time to extend the MILC Program. I, of course, would support doing it today—but we will again have the opportunity to do so in coming months. And it is my hope that other members of this body will see how crucial this program is to farmers and for maintaining our Nation's great dairy tradition—and pass this very important extension.

Some members have stood on this floor and, for blatantly partisan political purposes, blamed the failure to extend the MILC Program on the president. But these critics have two key problems.

First, they have a credibility problem. Some of the loudest critics actually voted against the legislation creating the MILC Program in the first place and have even authored their own legislation that would effectively end the MILC Program. And now they're angry that the program is not being extended? Their feigned anger strains credulity.

Second, they have a truth problem. It is this president who signed MILC Program into law. And it is this president who stood in Wisconsin and pledged his staunch support for the MILC Program. The president is not member of this body and did not make the decision not to include the MILC extension in this bill. Any effort to convince people otherwise should be interpreted for exactly what it is—a cynical partisan ploy designed to affect the election in the key swing state of Wisconsin.

Ms. MCCARTHY of Missouri. Mr. Speaker, I commend members and staff of the Appropriations Committee for their hard work on the FY05 Department of Homeland Security Appropriations Act. Securing the resources we need for this country's long term war on terrorism is a formidable task, but one we must accomplish in a bipartisan manner. I support the appropriations bill before us today, yet I am concerned by the levels of funding for first responders, interoperability and port security. These are programs upon which the American people depend to protect our communities.

As the Ranking Member of the Intelligence and Counterterrorism Subcommittee of the Select Committee on Homeland Security, I support the funding needed by the Department of Homeland Security (DHS) to provide accurate and timely intelligence assessments. Unfortunately, this bill cuts funds for the first responder programs.

First Responders must have the resources they need to do their jobs. I represent the Kansas City, Missouri area, and my firefighters, police and emergency workers tell me that they have trouble communicating with each other because of incompatible equipment. This problem affects first responders throughout the country and is unacceptable.

Missouri has the seventh largest highway system in the nation and the second and third largest railroad terminals in the nation. Port and transportation security is crucial to our Nation's economy. Six million cargo containers enter U.S. ports every year, but only about 5 percent of these containers are ever screened. This appropriations bill fails to adequately fund port security.

Appropriations Committee Ranking Member DAVID OBEY attempted to counter these shortfalls with an amendment to H.R. 4567 that would have created a $3 billion contingent emergency fund for homeland security. Even though this emergency funding would be contingent upon the President requesting it, the amendment was rejected by Republicans on the House Rules Committee. We owe it to the American people to make sure that our nation is secure.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in support of the Homeland Security Appropriations conference report.

I would like to begin by commending Homeland Security Subcommittee Chairman HAL ROGERS and Appropriations Committee Chairman BILL YOUNG for their efforts to address our Nation's security needs with the unrealistic budget limits that were forced upon them.

I also thank Chairmen ROGERS and YOUNG for including in the Homeland Security conference report several items I requested to address issues of concern I raised during subcommittee hearings with representatives of the Department of Homeland Security. Included in this final conference report, for example, are the following items:

Security Training—Congress has done much to address the security of our aviation system since the events of September 2001. However, I was concerned that Congress had not adequately addressed the issue of security training for flight attendants, potentially the last line of defense in the aircraft cabin. The bill directs the FAA to issue regulations for basic security training for flight attendants.

Port Security Grants—Another of my concerns was that resources currently dedicated to port security are too often diverted to private shippers at the ports while the port authority received minimal if any funds. This bill states the committee's belief that port security grants, for the 55 ports of national significance, should be based on findings contained within port vulnerability assessments. This means that limited resources for port grants will be used where they are needed most.

Security Assessments—In addition, I was concerned that critical security assessments had not been completed. This bill establishes a deadline for the completion of security assessments for the top 1700 critical infrastructure elements and key assets identified by the Information Analysis and Infrastructure Protection Directorate. This deadline will help ensure security assessments on such items as monuments, landmarks, power plants, highways, and food and water sources will be completed by the Department.

Independent Districts—Many of the districts that operate bridges and highways are independent authorities, and as such, their eligibility to apply for certain homeland security grants had been in question. The bill clarifies the eligibility of independent districts, such as bridge authorities, to compete for homeland security grants.

Immigration Officers—The bill also includes language I drafted to prevent the Department of Homeland Security from moving forward with the unnecessary and potentially dangerous privatization of key immigration officers at the Bureau of Citizenship and Immigration Services. These officers are responsible for handling classified information used to prevent fraud and the exploitation of our immigration laws. I am pleased that this inherently governmental work will continue to remain the responsibility of trained and experienced federal employees directly accountable to the Department and not to the bottom line of a private company. And I take the opportunity to thank the ranking member, DAVID OBEY, and ranking member MARTIN SABO of the Homeland Security Subcommittee for their efforts to keep this language in the bill.

In addition, the bill addresses two issues of importance to urban communities such as my own.

First, funding for the Urban Area Security Initiative (UASI) grant program to protect high threat urban areas was more than doubled for a total of $1.3 billion. These additional resources are critical to our Nation's large urban areas which face a higher terrorist threat than other parts of the country.

Second, state and local emergency managers will benefit significantly from an increase of $56 million for Emergency Management Performance Grants. In California, emergency managers use these grants to develop plans to help prepare our residents for disasters such as earthquakes, fires, floods, or terrorist attacks. Although Congress has called this grant program "the backbone of the Nation's emergency management system" it has been drastically underfunded for years, and this funding increase is certainly a step in the right direction.

However, Mr. Speaker, despite the fact that this Homeland Security Appropriations conference report resolves several of the issues I raised in hearings and increases funding levels in certain accounts, I remain seriously concerned that this bill as a whole underfunds important homeland security initiatives and programs.

I am disturbed that the measure retains the current formula for state-wide grants that continues to underfund the homeland security needs of my home state, California. Over the past several years, the Department of Homeland Security has distributed 60 percent of these formula grants on a per capita basis that does not consider critical infrastructure, vulnerabilities, or the actual risk of terrorist attacks. For example, although California is the most populous state with the most areas deemed at high risk of terrorist attack, it actually receives far less funding on a per capita basis than any other state. In a time of heightened national security and limited local resources, we need to ensure that federal resources are targeted where they will be most productive in fighting the war on terror.

I am also concerned by the deep budget cuts this bill makes to the Bureau of Citizenship and Immigration Services. This bureau is charged with processing work authorization and citizenship applications for immigrants in our country. This bill includes only $160 million to reduce the backlog of these unprocessed documents, a decrease of nearly $75 million from fiscal year 2004. These funding cuts simply do not make sense given that during the last 3 years, the Bureau of Citizenship and Immigration Services the last 3 years, the Bureau of Citizenship and Immigration Services has fallen far short of meeting its six month goal for processing citizenship applications. In fact, the backlog of these applications has grown from three million to more than six million nationally. These backlogs send the wrong message to our nation's immigrants who are eager to become full participants in our society, but must wait years before their citizenship applications can be reviewed and processed. I am hopeful that next year the President's budget will request enough funds to realistically address the Bureau's huge case backlog.

And lastly, it is disappointing that the bill reduces to 75 percent the federal contribution given to airports to install state-of-the-art in-line baggage screening equipment. Previously, certain airports had signed letter of intent (LOI) agreements committing the federal government to pay 90 percent of these costs. Reducing the federal contribution creates an additional burden for our communities and their airports. I regret that Congress will not honor our original commitment to pay 90 percent of the costs.

Unfortunately, fully addressing these and other critical national security concerns requires resources that Republican congressional leaders simply do not provide in this bill.

Nevertheless, Mr. Speaker, I will support this conference report to provide the resources, although limited, to help make our country safer.

Mr. HOYER. Mr. Speaker, this conference report provides critical funding for our Nation's first responders, for the defense of our borders and our ports, and enhances our transportation and infrastructure security.

While I believe we continue to have critical, unmet homeland security needs, and have supported repeated democratic efforts to increase the funding in this bill, Chairman ROGERS and Mr. SABO have done an admirable job with their allocation, and I support this agreement.

I am particularly pleased with the $65 million for the Staffing for Adequate Fire and Emergency Response Firefighters—or SAFER—Program, and I was proud to have worked with CURT WELDON to pass an amendment this summer to provide initial SAFER funding.

This conference agreement's $65 million in new hiring grants will help bring fire departments to adequate staffing levels and improve the safety of our firefighters and the communities they serve.

The agreement also contains $650 million for the Fire Grant Program, and while we do not maintain the $750 million provided the last 2 years, this is a $150 million increase over the presidents request—an increase that is vital to our firefighters, too many of whom risk their lives on a daily basis to protect our homes and our families without the modern equipment and advanced training they deserve.

Thanks to the equipment, vehicles and improved training provided by fire grants, more than 15,000 departments across America are now better trained and equipped to respond to fires, automobile accidents, natural disasters, or acts of terrorism.

We have an obligation to provide our firefighters with the necessary resources to improve their safety as they risk their lives in our defense every day, and funding for the SAFER and Fire Grant Programs helps us make good on that obligation.

Mr. KIND. Mr. Speaker, I rise in favor of this important bill, but with great disappointment in President Bush's failure to take affirmative action to support the two-year extension of the Milk Income Loss Compensation (MILL) program to help Wisconsin's dairy farmers survive when milk prices plummet.

Two days ago, President Bush came to Wisconsin to proclaim his support for extending the MILC program for our hardworking family dairy farmers. Today, that provision was stripped by the Republican leadership in Congress from the last bill the House will consider until after the November election.

The Milk Income Loss Contract Program, was established by the 2002 Farm bill, and is the first national dairy program to transcend the usual regional tension that have arisen over past safety net proposals. The MILC provides a basic level of direct support to all dairy operations, regardless of the end use of the farmers' milk, by providing assistance only on the first 2.4 million pounds of production annually roughly equivalent to production of a 130 cow operation.

As a result, nearly 86 percent of all dairy farms in the country, and nearly 90 percent in the Upper Midwest, are fully eligible for assistance under this limit. This counter-cyclical program has provided Wisconsin's struggling dairy farmers with $413 million in crucial assistance since its inception. Unfortunately, this national safety net for dairy farmers will expire in 2005 if we do not act quickly to extend it.

Mr. Speaker, it is disappointing to have the President say one thing while campaigning in Wisconsin and then do absolutely nothing to get the job done. All it would have required was a one-minute phone call with House Speaker HASTERT asking him to extend this program for an additional 2 years and it would have been signed into law.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## PROVIDING FOR AN ADJOURNMENT OF THE TWO HOUSES

Mr. DELAY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 518) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

### H. CON. RES. 518

*Resolved by the House of Representatives (the Senate concurring),* That when the House adjourns on the legislative day of Saturday, October 9, 2004, or Sunday, October 10, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, November 16, 2004, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Saturday, October 9, 2004, through Friday, October 15, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, November 15, 2004, or noon on Tuesday, November 16, 2004, as may be specified in the motion to recess or adjourn, or until such other time on either day as may be so specified, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on the adjournment resolution will be followed by 5-minute votes on the conference report to accompany H.R. 4200, by the yeas and nays; the conference report to accompany H.R. 4837, by the yeas and nays; and the conference report to accompany H.R. 4567, by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 204, nays 169, not voting 60, as follows:

[Roll No. 527]

YEAS—204

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Conyers
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)

Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Jenkins
Johnson (CT)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Miller (FL)
Miller (MI)
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Northup
Nunes
Nussle
Osborne
Ose
Otter
Pastor

Pearce
Pence
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—169

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry

Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano

Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clyburn
Cooper
Costello
Cramer
Crowley

Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dooley (CA)
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (WI)
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Hill
Hinchey
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Kanjorski
Kennedy (RI)
Kildee
Kind
Kucinich
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Menendez
Michaud
Millender-McDonald
Miller (NC)
Moore
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Watson
Watt
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—60

Ballenger
Boehlert
Brady (TX)
Brown (OH)
Burton (IN)
Clay
Doggett
Doyle
Duncan
Dunn
Eshoo
Fattah
Filner
Foley
Gallegly
Gephardt
Green (TX)
Greenwood
Hinojosa
Hobson
Hoeffel
Isakson
Issa
Istook
Johnson (IL)
Jones (NC)
Jones (OH)
Kaptur
Kilpatrick
King (NY)
Kleczka
LaHood
Larsen (WA)
Lipinski
Majette
Markey
Matsui
Meehan
Meek (FL)
Meeks (NY)
Mica
Miller, Gary
Miller, George
Moran (VA)
Ney
Norwood
Oberstar
Ortiz
Oxley
Paul
Peterson (PA)
Quinn
Ros-Lehtinen
Slaughter
Stupak
Tauzin
Tiberi
Towns
Visclosky
Waters

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1436

Messrs. FROST, MATHESON, and HONDA changed their vote from "yea" to "nay."

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. JOHNSON of Illinois. Mr. Speaker, on rollcall No. 527 I was unavoidably detained. Had I been present, I would have voted "yea."

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall No. 527, I was in my Congressional District on official business. Had I been present, I would have voted "nay."

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## CONFERENCE REPORT ON H.R. 4200, RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The unfinished business is the question of agreeing to the conference report on the bill, H.R. 4200, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 359, nays 14, not voting 59, as follows:

[Roll No. 528]

YEAS—359

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Flake
Forbes
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Menendez
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Northup
Nunes
Obey
Olver
Osborne
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—14

Conyers
Honda
Jackson (IL)
Kucinich
Lee
Lewis (GA)
Markey
McDermott
Payne
Schakowsky
Serrano
Stark
Velázquez
Woolsey

NOT VOTING—59

Ballenger
Boehlert
Brown (OH)
Burton (IN)
Clay
Doggett
Doyle
Duncan
Dunn
Eshoo
Fattah
Filner
Foley
Ford
Gallegly
Gephardt
Green (TX)
Greenwood
Hinojosa
Hobson
Hoeffel
Isakson
Issa
Istook
Jones (NC)
Jones (OH)
Kaptur
Kilpatrick
King (NY)
Kleczka
LaHood
Larsen (WA)
Lipinski
Majette
Matsui
Meehan
Meek (FL)
Meeks (NY)
Mica
Miller, Gary
Miller, George
Ney
Norwood
Nussle
Oberstar
Ortiz
Oxley
Paul
Peterson (PA)
Quinn
Ros-Lehtinen
Slaughter
Stupak
Tauzin
Tiahrt
Tiberi
Towns
Visclosky
Waters

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

☐ 1443

Mr. PAYNE changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. TIAHRT. Mr. Speaker, on rollcall No. 528 I was unavoidably delayed. Had I been present, I would have voted "yea."

Mr. FILNER. Mr. Speaker, on rollcall No. 528, I was in my congressional district on official business. Had I been present, I would have voted "yea."

Mr. FOLEY. Mr. Speaker, due to a family commitment I missed rollcall No. 528. Had I been present, I would have voted "yea."

## CONFERENCE ON H.R. 4837, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. The pending business is the question of agreeing to the conference report on the bill, H.R. 4837.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 374, nays 0, not voting 58, as follows:

[Roll No. 529]

YEAS—374

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Flake
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Menendez
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Northup
Nunes
Obey
Olver
Osborne
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—58

Ballenger
Boehlert
Brown (OH)
Burton (IN)
Clay
Doggett
Doyle
Duncan
Dunn
Eshoo
Fattah
Filner
Foley
Gallegly
Gephardt
Green (TX)
Greenwood
Hinojosa
Hobson
Hoeffel
Isakson
Issa
Istook
Johnson (CT)
Jones (NC)
Jones (OH)
Kaptur
Kilpatrick
King (NY)
Kleczka
LaHood
Larsen (WA)
Lipinski
Majette
Matsui
Meehan
Meek (FL)
Meeks (NY)
Mica
Miller, Gary
Miller, George
Ney
Norwood
Nussle
Oberstar
Ortiz
Oxley
Paul
Peterson (PA)
Quinn
Ros-Lehtinen
Slaughter
Stupak
Tauzin
Tiberi
Towns
Visclosky
Waters

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1451

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 529, I was in my congressional district on official business. Had I been present, I would have voted "yea."

Mr. FOLEY. Mr. Speaker, due to a family commitment I missed rollcall No. 529. Had I been present, I would have voted "yea."

## CONFERENCE REPORT ON H.R. 4567, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. The pending business is the question of agreeing to the conference report on the bill, H.R. 4567.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 363, nays 0, not voting 64, as follows:

[Roll No. 530]

YEAS—368

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)

DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Farr
Feeney
Ferguson
Flake
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Menendez
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Northup
Nunes
Obey
Olver
Osborne
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Vitter
Walden (OR)
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NOT VOTING—64

Bachus
Ballenger
Boehlert
Brown (OH)
Burton (IN)
Clay
Doggett
Doyle
Duncan
Dunn
Eshoo
Everett
Fattah
Filner
Foley
Gallegly
Gephardt
Green (TX)
Greenwood
Hinojosa
Hobson
Hoeffel
Isakson
Issa
Istook
Johnson (CT)
Jones (NC)
Jones (OH)
Kaptur
Kilpatrick
King (IA)
King (NY)
Kleczka
LaHood
Larsen (WA)
Lipinski
Majette
Matsui
Meehan
Meek (FL)
Meeks (NY)
Mica
Miller, Gary
Miller, George
Murtha
Ney
Norwood
Nussle
Oberstar
Ortiz
Oxley
Paul
Peterson (PA)
Quinn
Ros-Lehtinen
Slaughter
Stupak
Tauzin
Taylor (NC)
Tiberi
Towns
Visclosky
Walsh
Waters

□ 1459

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 530, I was in my Congressional District on official business. Had I been present, I would have voted "yea."

Mr. FOLEY. Mr. Speaker, due to a family commitment, I missed rollcall No. 530. Had I been present, I would have voted "yea."

## PERSONAL EXPLANATION

Mr. MATSUI. Mr. Speaker, I was absent on Saturday, October 9, 2004 and missed the rollcall votes ordered, due to illness. Had I been present, I would have voted as noted: rollcall Vote No. 527: "nay"; rollcall Vote No. 528: "yea"; rollcall Vote No 529: "yea"; rollcall Vote No. 530: "yea."

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2672

Mr. CRANE. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2672.

The SPEAKER pro tempore (Mr. PEARCE). Is there objection to the request of the gentleman from Illinois?

There was no objection.

## CORRECTING ENROLLMENT OF H.R. 5107, JUSTICE FOR ALL ACT OF 2004

Mr. DELAY. Mr. Speaker, I offer a concurrent resolution (H. Con. Res 519) correcting the enrollment of H.R. 5107, and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 519

*Resolved by the House of Representatives (the Senate concurring)*, That in the enrollment of H.R. 5107 (the Justice for All Act of 2004), the Clerk of the House is hereby authorized and directed—

(1) in section 312(a), to insert "and title II" after "this title" each place that term appears;

(2) in each of paragraphs (2) and (3) of section 312(b), to insert "and title II" after "this title" each place that term appears;

(3) in section 312(b)(9), to strike "202" and insert "311";

(4) in section 3600(a)(10)(A)(ii), as added by the amendment made by section 411(a), to insert "the" after "that";

(5) in section 3600(a)(10)(B)(ii), as added by the amendment made by section 411(a), to insert "the" after "that"; and

(6) in section 421(e)(1)(B), to strike "representation" and insert "cases, except for individuals currently employed as prosecutors".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## CONDITIONAL ADJOURNMENT TO WEDNESDAY, OCTOBER 13, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Wednesday, October 13, 2004, unless it sooner has received a message from the Senate transmitting its concurrence in House Concurrent Resolution 518, in which case the House shall stand adjourned pursuant to that concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, NOVEMBER 17, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, November 17, 2004.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## APPOINTMENT OF HON. FRANK R. WOLF OR HON. TOM DAVIS OF VIRGINIA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH NOVEMBER 16, 2004

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
*Washington, DC, October 9, 2004.*

I hereby appoint the Honorable FRANK R. WOLF or, if he is not available to perform this duty, the Honorable TOM DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions through November 16, 2004.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

## CONGRATULATING HOUSTON ASTROS ON WINNING BERTH IN NATIONAL LEAGUE PLAYOFFS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, there are some times on the floor that we cannot help but celebrate our hometown heroes. Let me simply, among the many heroes that we have and certainly those fighting for us around the world, be able to acknowledge our great team in Houston, the Houston Astros, the 2004 National League wild card winners.

We are delighted that in early September the Astros won 12 straight games to pull even in the race for the National League wild card. Yet somehow they still had another gear left in them and they became baseball's hottest team down the stretch. We congratulate Drayton McLane and all of his stars. We are glad that our friend Roger came on home.

The Astros won their final seven games of the regular season and nine of their last 10 to overcome Chicago and San Francisco in the race for the wild card.

□ 1515

From August 14 to the end of the regular season, the Astros had a Major League best 36–10 record. The Astros currently have an amazing 18-game home winning streak, the longest such streak in baseball in the last 10 years. While this streak is extraordinary, it is not hard to see why the Astros do well at home. This year, the Astros had a franchise record for attendance with over 3 million fans coming to watch baseball in the beautiful Minute Maid Park in my own 18th congressional district. Clearly, the great fans of Houston are excited. Go Astros today, Saturday, and tomorrow. And we are looking forward to the World Series, maybe not in Houston but certainly our Astros playing the game. We are happy. Congratulations to the Houston Astros.

I rise today to honor my hometown baseball team, the Houston Astros, the 2004 National League Wild Card winners. Since 1975 the Astros have been a part of the heart and soul of the Houston community. There have been many great players in the history of the Astros. Hall of fame players like the early greats Nelly Fox and Eddie Mathews who made baseball our national pastime. Players like the great Joe Morgan who finished as one of the best second basemen of all time. Of course we all know about the legendary Nolan Ryan, baseball's all time strikeout king. Among these Astros greats is my good friend Enos Cabell who played third base over eight seasons with the Astros. At six foot five inches tall they aptly called him 'Big E' and today he is a successful businessman in the city of Houston. With all this great history for the Astros franchise it would be hard to take the team to a new level, but this current squad of players has done it.

When this current team entered Spring Training there were great hopes that this Astros team would be amongst the best in our history. With the addition of hometown star pitchers Andy Petite and Roger Clemens there was no reason to believe that the Astros couldn't compete for a championship. This team never gave up; they never looked at the standings and thought their hopes and that of their fans were futile. No, instead this team took one game at a time and slowly built up momentum. First there was a four-game winning streak to get the Astros back to a .500 record. Then in early September, the Astros won 12 straight games to pull even in the race for the National League Wild Card. Yet, somehow they still had another gear left in them and they became baseball's hottest team down the stretch. The Astros won the final seven games of the regular season and nine of their last 10 to overcome Chicago and San Francisco in the race for the Wild Card. From Aug. 14 to the end of the regular season, the Astros had a major league-best 36–10 record. The Astros currently have an amazing 18-game home winning streak, the longest such streak in baseball in the last 10 years. While this streak is extraordinary, it's not hard to see why the Astros do so well at home. This year the Astros set a franchise record for attendance with over 3 million fans coming to watch baseball in beautiful Minute Maid Park. Clearly, the great fans of Houston are the tenth man on the field, the ones who have cheered our Astros on to victory.

I am so proud of this year's team because of how they overcame adversity this year. Despite the high expectations and the early season troubles this team never got down on itself, like true Texans they lifted themselves up off the dirt and played to their potential. Much of the credit for this year's success should go to Astros owner Drayton McLane who assembled this current team and has been such a great franchise owner in Houston for many years. Also, the work of Astros Manager Phil Garner to resurrect this team will go down in baseball legend. He came in to a very difficult situation, one in which most others are content to mediocrity, but instead he decided to lead. His calming influence and superior baseball knowledge gave the players the confidence to go out on the field and succeed day in and day out.

For the last decade the heart and soul of the Astros franchise has been Jeff Bagwell and Craig Biggio and this year is no different. Both players have been perennial All-Stars and have won numerous awards over their long careers, but their leadership in the clubhouse is what makes them such great Astros, there is no doubt that one day both of their uniforms will be retired in Minute Maid Park. I also want to recognize the great Roger Clemens, who undoubtedly will go down as one of the greatest pitchers of all time. He has been many things over his illustrious career, he started out as Boston Red Sock, then a Toronto Blue Jay, and then as a New York Yankee, but no matter what uniform he was wearing his heart was always in Houston. This year he postponed his retirement to help his hometown Astros try to win a World Series, with an astounding 18–4 record this year he has clearly helped pitch the Astros into the playoffs. This Astros season, especially their comeback from the bottom of the division has been a total team effort.

This inspiring team is now in the National League Division Series against the Atlanta Braves. They have already managed to take one of two games from the Braves in this best of five series and gain the home field advantage. With all due respect to my colleagues from Atlanta, I have to say that I am confident the Astros can finish off the Braves at home in Houston this weekend. Because the one advantage this team has that fewer others can claim is that if their backs are against the wall in these playoffs you know this team will never quit. It is that inspiring spirit that has many of us Houstonians dreaming of a World Series Championship.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PEARCE). The Chair will recognize Members for Special Order speeches without prejudice to further legislative business.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

## SMART SECURITY AND THE "BACKDOOR DRAFT"

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I am sad to say that the military draft is alive and well in the United States of America. But, this time, it is the Bush administration's shameful behind-the-scenes version: a "backdoor draft," specifically targeting soldiers who have already served and poor young men and women from rural areas who enlisted because the military helped them pay for a college education they would not have been able to get otherwise.

Since the war in Iraq began, the Bush administration has done everything in its power to cajole and deceive soldiers into serving longer than they want or longer than they agreed to.

Depending on members of the Army Reserve and National Guard, who almost always serve the country only here at home in the United States, to serve in Iraq was just the tip of the iceberg. This administration has also started the shameful policy of issuing "stop loss" orders, which allowed the military to break its contractual obligations to a service member in order to keep that soldier in the military for longer than he or she has agreed. They have resorted to the shameful policy of recruiting the "ready reserve," a group of retired soldiers, who, after completing their years of service, agreed to serve their country should a national emergency arise.

I have got news for the President. Our invasion of a country that never threatened us, did not have weapons of mass destruction or even a weapons of mass destruction program, and did not have links to al Qaeda, does not qualify as a national emergency.

These shameful Bush administration policies all add up to a "backdoor draft," a means for the administration to dishonestly and dishonorably force soldiers who have already served their country to be serving now or to force soldiers to serve 6 or even 12 months longer than they agreed to. In fact, many soldiers have been manipulated into extending their contracts with the Army. They have been warned that if they do not reenlist on time, their brigade could be shipped to Iraq or Afghanistan.

Mr. Speaker, at the same time that President Bush and his fellow Republicans have pursued an all-too-real "backdoor draft," just this week, the House Republican leadership placed on the schedule under the suspension calendar a controversial bill to reimplement the draft. The suspension calendar, of course, and we all know this, is reserved for noncontroversial legislation. The reimplementation of the draft is hardly noncontroversial, and surely, it should be subject to hearings and expert testimony.

The administration must assess the military's recruitment and retention rates, the military's manpower needs, and the extent to which our troops are overextended in the field. The American people deserve better than this. Our troops who will still be in Iraq after we leave here today should not be left with the message that Congress did not have the time to discuss in detail what must be done to help them in the field.

There has to be a better way, Mr. Speaker. A better way than voting one way and acting another, especially when American lives are at stake. We need new policies that will make America stronger at home and more respected around the world. That is why I have introduced H. Con. Res. 392, a SMART Security Platform for the 21st Century. SMART stands for Sensible Multilateral American Response to Terrorism. We would not be in Iraq if we had pursued a SMART Security strategy in the first place.

SMART Security treats war as an absolute last resort. It fights terrorism with stronger intelligence and multilateral partnerships, and it controls the spread of weapons of mass destruction with aggressive diplomacy, strong regional security arrangements, and vigorous inspection regimes. SMART Security means respecting our Nation's servicemen and women by respecting their service contracts and then providing them with the care and the benefits they deserve once they have returned home. It does not mean tricking our brave soldiers into serving for longer than they expected or agreed to. SMART Security is tough, pragmatic, and safe, and it is the right choice to keep America truly secure.

## JUDICIAL ACTIVISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FRANKS) is recognized for 5 minutes.

Mr. FRANKS of Arizona. Mr. Speaker, there have been many external threats to this Republic across the years. Recently, we have been highly focused on the war on terrorism and diminishing global nuclear threats. We have always been able to face such external threats successfully because our country has had a strong internal foundation.

But, today, it is critically important to sound a past-due warning about the internal threat to this republic. We are going to awaken to the fact that our own courts, in spite of their sacred duty and charge to defend the United States Constitution, have now become the greatest threat to its survival. The rule of law itself and the underpinnings that hold this Nation together are now at stake.

This undermining of our Constitution did not develop overnight. One hundred and eighty-four years ago, Thomas Jefferson wrote: "The object of my great fear is the federal judiciary. That body, like gravity, ever acting, with noiseless foot, and unalarming advance, gaining ground step by step, and holding what it gains, is engulfing insidiously the special governments into the jaws of that which feeds them."

Only 3½ decades after Thomas Jefferson wrote these ominous words, United States Supreme Court ruled in it their Dred Scott decision that "all blacks, slaves as well as free, were not and could never become citizens of the United States." The Supreme Court said that blacks "had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit."

Mr. Speaker, we can all see the sickness and evil in that twisted reasoning today. It is a sickness and an evil that precipitated the worst loss of American life in any war in the history of this Nation, 600,000 dead soldiers: husbands, fathers, sons, and brothers.

In the face of these historical realities, it is astonishing today that we do not seem to collectively recognize the dangers represented by an unrestrained judiciary, especially since many of the great conflicts in our society's recent history have been precipitated by arrogant court decisions imposed by an unjust court and imposing an unjust mandate on the entire Nation.

Not so long ago, our courts mandated racial segregation in our public schools. That was the so-called "separate but equal doctrine." And people died on the streets reversing that obscene ruling.

American courts have now declared that protecting viable unborn children from the hideous act of partial birth abortion is "unconstitutional." The courts are now beginning to attack the very foundation and makeup of our country and any civil society, that being marriage and the family itself.

They have said it is "unconstitutional" to protect a 9-year-old girl from Internet pornography or for her to pray a certain prayer in school or for her to voluntarily say her Pledge of Allegiance to the flag of the United States using the words "under God."

Mr. Speaker, are these the causes that our American heroes lying out in Arlington National Cemetery died for? And I am just wondering when those who still have breath say will enough is enough.

As we seek to protect America from the external threats that we face like terrorism, we would do well to remember that it is not the water on the outside of the ship that sinks it. It is the water on the inside. And, Mr. Speaker, I submit that there is water on the inside of this ship.

When courts forcefully interject false and unconstitutional notions that go against justice, natural law and common sense, without allowing the issue to go through the legislative process of debate and consensus, it abrogates the miracle of America and abridges the freedom of the people to govern themselves.

Daniel Webster's admonition to all of us is so very appropriate. He said, "Hold on, my friends, to the Constitution and to the Republic for which it stands, for miracles do not cluster and what has happened once in 6,000 years may never happen again. So hold on to the Constitution, for if the American Constitution should fall, there will be anarchy throughout the world."

Mr. Speaker, the commitment to true justice in the heart of this Congress and in the heart of the one who occupies the Oval Office are now the only two remaining barriers which prevent judicial oligarchy and the subsequent fall of the American Constitution.

May those of us in this Congress find the courage to assume our constitutional power to prevent the judicial destruction of the United States Constitution.

And, Mr. Speaker, may God give the people of this Nation the insight and soundness of mind to maintain the presidency of the United States in the hands of George W. Bush, who will protect America and the world from such an irrelevant revocable tragedy. God bless America.

## ORDER OF BUSINESS

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

## ELECTIONS IN AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Mr. JACKSON-LEE of Texas. Mr. Speaker, I join with the gentleman from Ohio (Mr. NEY), my co-chair, to solute the people of Afghanistan for this historic time in their Nation's destiny.

□ 1515

I am the cochair with the gentleman from Ohio (Mr. NEY) of the U.S.-Afghan Caucus. Again I would like to congratulate the government and the people of Afghanistan, who are in the midst of a historical turning point. Leading up to the elections going on today, there has been great progress made in the registration process.

Of an estimated 10 million eligible voters, over 9 million voters, over 40 percent of whom are women, have registered for the country's first presidential election. Saturday, today, this process is ongoing. I applaud the high percentage of registered voters and the diversity of the 24 candidates for presidency. It shows that democracy is in fact working, and these candidates symbolize for the Afghan people the pluralism and open electoral process.

I hope the warlords understand that it is through the ballot box and not the bullet process that we will find democracy and peace in Afghanistan.

I am pleased with President Karzai's choice for his two running mates, Mr. Karim Khalili and Mr. Ahmad Zia Massoud. Mr. Massoud is the brother of the late Ahmed Shah Massoud, the renowned commander of the Northern Alliance, an organization that includes members of the Tajik ethnic group and other communities. Both of the nominees are individuals of high standing and integrity and are committed to the process of reform and the disarmament of private militias.

Afghanistan will not survive as long as the private militia run rampant without control, threatening and terrorizing those farmers and others who are seeking peace, economic prosperity, education and democracy.

I commend President Karzai's brave stand against the warlords and his committed leadership in liberating Afghanistan from private militias and the rule of the gun. These warlords and militia threaten to destabilize constitutional governance, impede economic development, and facilitate narcotrafficking. Their disarmament must continue to be a major priority of the new Afghan administration.

Mr. Speaker, we have a challenge and a job to do as well. We must provide the funding, but also the resources, the compromise, the collaborative peacekeeping troops. We must be able to work together.

President Karzai and the people of Afghanistan have come a long way since the fall of the Taliban. They deserve praise and continued support from the United States and NATO.

Let us hopefully find an opportunity for collaborative work for peace in Iraq. But we should never forget Afghanistan and the brave soldiers who have stood on behalf of the United States and many coalition fighters to ensure democracy in Afghanistan; never forget the people and their challenge, their journey, their fight as well.

I hope with this election there will be increased human rights for the people of Afghanistan and the women will be further empowered as well. I hope that the march toward education for all children will continue. Good luck to Afghanistan and its people in the journey toward full democracy.

Mr. Speaker, as co-chair of the U.S.-Afghan Caucus, I would like to congratulate the government and the people of Afghanistan are in the midst of a historical turning point. Leading up to the elections this Saturday, October 9th, there has been great progress made in the registration process. Of an estimated 10 million eligible voters, over 9 million voters—more than 40 percent of whom are women—have registered for the country's first Presidential election. I applaud the high percentage of registered voters and the diversity of the 24 candidates for the Presidency, symbolizing the commitment of the Afghan people to pluralism and an open electoral process.

I am pleased with President Hamid Karzai's choice for his two running mates, Mr. Karim Khalili and Mr. Ahmad Zia Massoud. Mr. Massoud is the brother of the late Ahmed Shah Massoud, the renowned commander of the Northern Alliance, an organization that includes members of the Tajik ethnic group and other communities. Both of the nominees are individuals of high standing and integrity, and are committed to the process of reform and the disarmament of private militias.

I commend President Karzai's brave stand against the warlords, and his committed leadership in liberating Afghanistan from private militias and the rule of the gun. These warlords and militias threaten to destabilize constitutional governance, impede economic development, and facilitate narco-trafficking. Their disarmament must continue to be a major priority of the new Afghan Administration.

President Karzai and the people of Afghanistan have come a long way since the fall of the Taliban. They deserve praise and continued support from the United States and NATO to ensure that there is adequate security for the upcoming elections to be free, fair, and broadly inclusive.

I hope with this election there will be increased human rights for the people of Afghanistan and the women will be furthered empowered, as well, the education for all children will continue.

Good luck in the journey toward full democracy.

## REMEMBERING THOSE DEFENDING AMERICA'S FREEDOM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Arizona (Mr. HAYWORTH) is recognized for 60 minutes as the designee of the majority leader.

Mr. HAYWORTH. Mr. Speaker, as we prepare to head back to our respective districts and likewise as we prepare to engage in the exercise that typifies this constitutional Republic, where our government operates only through the consent of the governed, I believe it incumbent upon Members of this House and, indeed, Mr. Speaker every citizen of these United States, to pause and remember, and, yes, in this case to hear from one of those young Americans defending our freedom in Iraq.

Recently on the pages of the Arizona Republic there appeared a letter from Captain Scott Moore. Captain Moore, with the United States Army, lives in Sholo, Arizona. His civilian job is that of a high school history teacher in White River on one of our tribal reservations in rural Arizona. How appropriate it is that Captain Moore, through his letter, teaches all of us about the nature of the men and women serving this country and reminds us of the special gift it is to be an American.

This letter was written February 1. It was composed in a military plane headed for Kuwait. Captain Moore writes:

"If you were with me, you could tell this plane I am on is heading to a combat zone. All the passengers are dressed in desert camouflage uniforms and carrying weapons. I have an M–16 and a 9 millimeter Beretta, which will be in my possession until I go home in about a year from now.

"As I sit on this plane taking us to war, I cannot help but think about who is with me. No African Americans are going to war, no Asian Americans are going to war, no Mexican Americans are going to war, no Native Americans are going to war, no Hispanic Americans are going to war, no Arab Americans are going to war, no Anglo Americans are going to war. Only Americans who happen to have different ethnic backgrounds are going to war with me.

"I assume Americans from different religions, such as Catholics, Protestants, Jews, Muslims, et cetera, are going to war together on this plane. We don't really know who practices what religion, and don't really care. Only Americans are going to war.

"Americans from all over the United States are going to war together on this plane. They are from different States, from urban cities to rural towns. Once we left the United States, this didn't matter anymore. We were from only one place, and that was the United States of America.

"Americans from all walks of life are going to war together on this plane: doctors, custodians, teachers, police officers, store owners, engineers, the unemployed, college students, post office employees, restaurant workers, retail sales workers, veterinarians and countless other people with different civilian jobs are going to war together. These citizen soldiers left their civilian jobs and are now all American soldiers fulfilling their commitment to the Army Reserves and the United States.

"Americans going to war on this plane are grandparents, parents, daughters, sons, single parents, granddaughters, grandsons, nephews, nieces, cousins, boyfriends, girlfriends, wives, husbands and fiancees. Americans going to war on this plane are ages 18 to 59. Americans going to war on this plane are rich and poor. We have soldiers who were unemployed before getting activated for military service. We also have soldiers who were making six-digit salaries and just took quite a pay cut going to war on this plane.

"Americans on this plane joined the Army Reserves for different reasons. All are volunteers. Some joined primarily for college funds. Far many more joined out of a sense of duty and loyalty to their country.

"Many people in this unit were not originally in the unit when it initially got alerted. Only when they knew the unit was going to Iraq did they join. Some joined to be with friends in the unit, some to do their duty, some out of guilt of not being in Iraq with friends already there. Some joined for very specific reasons. One joined the day after September 11, 2001. Another was excited to hear news reports that al Qaeda is showing up in Iraq. He has special plans for those people.

"The very best of America is on this plane heading to war. I feel humble and not good enough to be with them."

So writes Captain Scott Moore, serving now with the United States Army in Iraq.

Mr. Speaker, Captain Moore need not feel unworthy. Indeed, the reader of this letter cannot help but be humbled by the quality of those in our all-volunteer force willing to step forward. And whether it is in Afghanistan or Iraq or elsewhere around the world or here within the boundaries and borders of the United States of America, we have been blessed by this all-volunteer force.

Indeed, Mr. Speaker, it was I who felt incredibly humbled in the spring of this year visiting with our troops in Iraq and Kuwait. Indeed, just about 6 weeks to 2 months after this letter was initially written by Captain Moore, I had occasion to travel with a congressional delegation led by the gentleman from Michigan (Mr. KNOLLENBERG), who just managed the conference report for Military Construction. The ranking member, the gentleman from Texas (Mr. EDWARDS), joined us, along with others.

Our travels took us first to Baghdad and then north to Mosul, and then to the growing nerve and supply center known as Balad, where the Iraqi Olympic team during Saddam's reign of terror trained, and, indeed, members of that team had terror and torture perpetrated on them by the now departed sons of Saddam, Odai and Qusai.

So many instances in that trip resonate in this letter. I can recall climbing aboard a Blackhawk helicopter flying over Mosul, flying over a large hydroelectric dam utilized for power to the northern portion of Iraq and viewing the infrastructure there, but climbing into the helicopter and having the help of one young soldier. And when I pled lack of familiarity with the harnessing and the procedures, the young soldier said, "That's okay, sir. That is what we are here for."

"That is what we're here for."

President Bush at our National Cathedral on our Day of National Remembrance for those Americans and others who perished on the date we now know in that historical shorthand as 9/11, President Bush said, "This war was started by others, but it will end at a time and a place of our choosing."

Perhaps our Commander in Chief did not realize exactly how prophetic those words have become, because in a free society we celebrate the fact that different Americans can have different points of view. We rejoice in that divergence of opinion.

But it is worth noting the consequences of following certain policies that have been advocated as people make their choices as to who should serve in public office. I am disturbed that the Democratic nominee for the Presidency has yet to express a consistent, clear, concise response to carrying out the mission in Iraq and elsewhere in the ongoing war on terror.

☐ 1530

Indeed, there have been so many different responses.

Mr. Speaker, I cannot help but believe that the electorate is somewhat confused. We heard the Democratic nominee a few days ago say he was committed to staying the course in Iraq, yet even as he called it the wrong war at the wrong place and the wrong time.

Mr. Speaker, it is more accurate to describe the military action in Afghanistan and in Iraq not as a singular or specific war, but as battle campaigns in an ongoing war against Islamo fascism and the terror that has been utilized by Islamo fascists and unleashed on liberty-loving peoples throughout this world.

Accordingly, I celebrate in a bipartisan fashion with my friend, the gentlewoman from Texas (Ms. JACKSON-LEE); we do not agree on much, but as I heard her comments celebrating what transpired today in Afghanistan when the citizens of that Nation went to the polls and expressed their preference for leaders and for government and for governance. When we realize that now, in Afghanistan and in Iraq, young children are going to schools, including little girls, many for the first time, having the opportunity to learn reading, writing, arithmetic, and oh, yes, for the first time to learn without a message of hatred for others in the world or an endorsement of the twisted cult and political morphing and hijacking of a faith best described as Islamo fascism.

Instead of an endorsement of Islamo fascism, little boys and little girls now in Afghanistan and in Iraq are going to schools opened by the same soldiers who we have seen perform their duties so valiantly and work actually to rebuild two societies even as insurgent conflicts continue.

We are reminded that not only were elections held today in Afghanistan where close to 10 million Afghanis, according to the latest reports I saw, 10 million Afghanis were willing to come forward and vote, despite remnants of the Taliban and other terrorist groups who would try to abridge, who would try to terrorize, who would try to tear down the elections process. Yet, the Afghanis lined up to vote.

Mr. Speaker, I am reminded that just a few short days ago, if memory serves, just 2 weeks ago, the Prime Minister of Iraq, Prime Minister Allawi stood here at the podium behind me and addressed a joint session of this Congress and spoke of the challenges confronting his homeland, but pledged to this Congress and to the people of the United States that the sacrifice in blood and treasure of the American people will not be in vain, that there will be a free Iraq, and that there will be elections in January of next year.

Consider the source making this bold, clean assertion. Perhaps my colleagues do not know the story of the Iraqi Prime Minister. Perhaps you are unfamiliar with the fact that now, at least 2 decades, perhaps close to a quarter of a century ago, Saddam's secret police tracked then-private-citizen, or perhaps more accurately, political-refugee Allawi to London, and Saddam's agents of death, wielding axes, went in to kill him. He fought off that attack in the most literal sense. Prime Minister Allawi is a survivor.

So often, because of just the sheer volume of information and news that come across anchor desks and through the Internet to your home and through so many sources, sometimes we fail to pause to understand the unique nature of those who stand with us.

Mr. Speaker, we should make no mistake, for we also need to understand the evil nature of those who fight against us. We have heard of the Jordanian al Zarkawi wreaking havoc within the boundaries of Iraq, beheading in barbarous, indescribably cruel and evil fashion American citizens and others. But the irony seems to be this: As horrible as this monster is, in an intercepted communication which first appeared in the American press, in The New York Times, of all publications, in an intercepted communication to other allies in terror, Zarkawi outlined what is exactly at stake. He outlined to other evil agents of terror, if Iraq is able to elect a free government, if boys and girls are able to go to school and learn without the prejudice of Islamo fascism and without the heel of the jackboot upon their throat, and without the continued threat of mass graves, that freedom in Iraq would be a crushing, mortal blow to the forces of terror and Islamo fascism around the world.

Now, Mr. Speaker, if one of our sworn enemies understands what is at stake, I would ask the American people to likewise understand that dynamic. Here is the irony: Our sworn enemy, in communications not intended for our ears, in intercepted correspondence, clearly and succinctly put the stakes of our action and the possible consequences for his evil movement out for us to understand. It was not his intent, but that is the result.

Mr. Speaker, while we all rejoice in the fact that we are free to agree to disagree, while people of goodwill can disagree, while indeed we will make manifest those different opinions through different choices at the ballot box on the first Tuesday following the first Monday in November, Mr. Speaker, I would simply ask the American people, whether Republican or Democrat or Independent or Libertarian or vegetarian, whatever your political label, whatever your partisan stripe, as Americans who were brutally and viciously attacked on 9/11, as Americans who now in this post-9/11 world understand that there are those who will harm the most innocent among us, as Americans who just read of reports emanating from Iraq where our forces had uncovered intelligence, where Islamo Fascists and forces of terror had the layout and the architectural plans and the schedules of certain schools in the United States, bringing to mind the horror of what transpired in Russia and what in that culture and society was a day of great joy, the first day of school in that society, that turned to such evil carnage.

We are confronted by people who are not out to win debating points, who are not out to win friends among us, but indeed, Mr. Speaker, if there is a new phrase I could coin, I would say that those forces of evil are actively engaged in plotting and planning Americide, where our only crime is to be Americans in their eyes, and the malignant, malingering, accompanying aspect of this wretchedly despicable and evil behavior is the fact that these same Islamo Fascists care not if they kill fellow Muslims, care not if they kill noncombatants and women and children, indeed, care not if their carnage continues unabated, such is their twisted, malignant outlook.

The choice remains for us here at the dawn of the 21st century. The choice is a stark one, and it is very simple. Either we take the fight to the terrorists where they live, where they grow up, where their homes are located; or we sit back, we hope for the best through nuance and timidity and the alluring siren song of complacency, if we do not bother them, they will not bother us. If we follow that doctrine, I fear for my country and for its survival.

No. It is simple. The reason we are in Iraq, the reason we are in Afghanistan, the reason we must be prepared to fight Islamo fascism around the world is because it is far better to take on the terrorists on the streets of Tikrit, Iraq, than on the streets of Tucson, Arizona. It is far better to deal with the terror movements and the insurgency on the streets of Baghdad than on the streets of Baltimore. It is far better to confront these agents of evil in Sadr City than in Syracuse, New York.

The key to our national security and defense is not found in a fantastic fantasy of hope that these agents of evil will ever listen to reason. It is instead found in the solemn promise and commitment to this Nation, a commitment embodied so valiantly in our all-volunteer force, a commitment embodied in the letter of Captain Scott Moore of Sholo, Arizona, a high school history teacher in White River, on one of our Native American reservations who is, himself, along with his colleagues in arms, making history, building a free Iraq. Moving forward, he eventually strikes a blow for peace by picking up the implements of war.

□ 1545

Mr. Speaker, our President again made the statements so clearly and compellingly, in the days following 9/11: "This conflict was started by others but it will end at a time and place of our choosing."

No one wants war. General MacArthur, our supreme allied commander in the Pacific theater in World War II said, "The soldier least of all wants war for it is the soldier who literally has the most to lose."

His counterpart in the European theater, the supreme allied commander, General Dwight David Eisenhower, who remarked that when he came ashore a few days following D-Day on Omaha Beach, it was impossible to take a step without treading upon dead and decaying human flesh. Eisenhower, even in victory, seared by that experience described war as a cross of iron upon which hangs all humanity. But as horrible as war is, the constant threat of terror, the scourge of those who in barbaric fashion would murder the innocent, cannot be left unchecked nor unanswered.

We must renew our commitment at this time, in this place, and through our expressions of conferring power. Again, as I mentioned earlier, the unique aspect of governance in our constitutional Republic is that this government only operates, only derives its power from the consent of the governed. And as the people make their decisions, Mr. Speaker, I would appeal to all Americans regardless of partisan label, political stripe or philosophy to see this thing through. It will take many different forms. It will take many different approaches. It may, in fact, Mr. Speaker, take us many years.

I mentioned earlier the observations of our great wartime military leaders, Generals Eisenhower and MacArthur. I am also reminded of our British cousin with whom we formed the grand alliance during World War II, Prime Minister Churchill, who in the other body addressed the American people in 1941 or in early 1942, the date escapes me, but who essentially said, as allies we are in for a time of great tribulation and sacrifice.

There is no way to sugar-coat or put aside the sacrifices of war. There is no way to explain away the sacrifice of the lives of men and women. There is no way to articulate the thanks we owe to so many brave wounded with whom I have had the privilege to meet at Walter Reed Medical Center and at other locations.

But we dare not in this new century fail to understand that the horror of war cannot obscure the even greater horror of inaction, the even greater horror of appeasement, the even greater horror of capitulation through inaction, the even greater horror of a lack of resolve. For in the final analysis, Mr. Speaker, the most basic responsibility of government is to protect the citizens of this Nation, as our founders said it, to provide for the common defense. And we best provide that defense and that national security with offense, with offensive operations, with taking the fight to those who would hope to bring the fight to our shores.

Mr. Speaker, I mentioned earlier my visit to the war theater on the anniversary of the outbreak of the conflict. I saw many Arizonans there. I was greeted in Baghdad by a former Arizonan, General Steve Sergeant, former commander at Luke Air Force Base in the west valley at Balad. I saw my old friend Cornell Ronny Cox who I first got to know when he was a high school football coach for an opposing team in my youth, who at the time I saw him in Balad earned the informal title the "Mayor of Balad," dealing with civil administration and so many other things.

I have met many other Arizonans along the way, but in Mosul I saw another young Arizonan who typified what is best with America. This young man calls the Navajo Reservation in northwest Arizona his home. This young man happens to be the grandson of former Arizona State Senator Jack Jackson. And it was interesting as I sat in the mess hall with Munoz of Tempe and Pignato of Tucson, they said to me, Whatever you do, Congressman, do not leave until you meet Adahy. Sergeant Adahy, the young Navajo was working in the garage, but he was not performing the standard maintenance of vehicles that we often associate with the grease pits in the garage. No. Adahy was there building what was eponymously named the Adahy Special.

You have heard about the challenges that our forces faced as they tried to deal with their different vehicles and initially a lack of armor; and this Congress provided supplemental funds not only for personal body armor but also for retrofitting armor on vehicles. Indeed, one of the companies supplying that armor likewise is located in Arizona. But our friend, Adahy, was not waiting, was not waiting for that armor to come up the supply line.

He was doing what so many Americans have done before. He was displaying good old fashioned Yankee ingenuity, finding scrap iron, taking the welding torch, working in his own way to build what they call Adahy Specials, putting armor on the vehicles to protect his fellow soldiers.

What Sergeant Adahy was doing that day we have seen so often in our all volunteer force. The unique thing about our men and women in uniform, whether they hail from the Navajo Nation in northwest Arizona or from the plains of Kansas or from the streets of New York City, our fighting forces are composed of seemingly ordinary men and women who are capable of extraordinary things. And we give thanks for their service. To those who have sacrificed, we will remember that sacrifice, and we dare not fail to see this through. Because as we learned on that beautiful fall day just 3 years ago, there are those perfectly happy to kill Americans just because we are Americans.

So let us remember the sacrifices of those who serve. Let us remember the words of Captain Moore of Arizona. Let us remember the actions of Sergeant Adahy and so many others who are taking the fight to the insurgents and the agents of terror over there so that we do not confront them here.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 3858. An act to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

H.R. 4555. An act to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards.

H.R. 5185. An act to temporarily extend the programs under the Higher Education Act of 1965.

H.R. 5186. An act to reduce certain special allowance payments and provide additional teacher loan forgiveness on Federal student loans.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 2486. An act to amend title 38, United States Code, to improve and extend housing, education, and other benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

S. 2965. An act to amend the Livestock Mandatory Price Reporting Act of 1999 to modify the termination date for mandatory price reporting.

The message also announced that pursuant to Public Law 93-415, as amended by Public Law 102-586 the Chair, on behalf of the Majority Leader, after consultation with the Democratic Leader, appoints the following individuals to serve as members of the Coordinating Council on Juvenile Justice and Delinquency Prevention:

The Honorable Steven H. Jones of Tennessee;

Mr. Bill Gibbons of Tennessee; and

Dr. Larry K. Brendtro of South Dakota.

The message also announced that in accordance with section 1928a-1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the following Senators as members of the Senate Delegation to the North Atlantic Treaty Organization Parliamentary Assembly during the Second Session of the One Hundred Eighth Congress.

Senator PATRICK LEAHY of Vermont; and

Senator DIANE FEINSTEIN of California.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GREEN of Texas (at the request of Ms. PELOSI) for today on account of important business in the district.

Ms. MAJETTE (at the request of Ms. PELOSI) for October 4, 5, 7, 8 and today on account of personal reasons.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. TURNER of Texas, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

(The following Members (at the request of Mr. FRANKS of Arizona) to revise and extend their remarks and include extraneous material:)

Mr. FRANKS of Arizona, for 5 minutes, today.

## ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. PEARCE). Accordingly, pursuant to the previous order of the House of today, the House stands adjourned until 2 p.m. on Wednesday, October 13, 2004, unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 518, in which case the House shall stand adjourned pursuant to that concurrent resolution.

Thereupon (at 3 o'clock and 59 minutes p.m.), pursuant to the previous order of the House of today, the House adjourned until 2 p.m. on Wednesday, October 13, 2004, unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 518, in which case the House shall stand adjourned pursuant to that concurrent resolution.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

10539. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limiting the Volume of Small Red Seedless Grapefruit [Docket No. FV04-905-3 IFR] received August 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10540. A letter from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule — Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems [CC Docket No. 94-102]; Non-Initialized Phones [RM-8143] received October 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10541. A letter from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting the Commisison's final rule — Amendment of Parts 73 and 74 of the Commission's Rules to Etablish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations [MB Docket No. 03-185] received October 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10542. A letter from the Legal Advisor/Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule — Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets [WT Docket No. 00-230] received October 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10543. A letter from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule — The 4.9 GHz Band Transferred from Federal Government Use [WT Docket No. 00-32] received October 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10544. A letter from the Attorney Advisor, WTB, Federal Communications Commission, transmitting the Commission's final rule — Improving Public Safety Communications in the 800 MHz Band [Dkt. 02-55] Consolidating the 800 and 900 Mhz Industrial/Land Transportation and Business Pool Channels; Amdt of Pt 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including 3rd Generation Wireless Systems [Dkt. 00-258] Petition for Rule Making of the Wireless Information Networks Forum Concerning the Unlicensed Personal Communications Service [RM-10024] Petition for Rule Making of UT Starcom, Inc., Concerning the Unlicensed Personal Communications Service [Dkt. to the Committee on Energy and Commerce.

10545. A letter from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting the Commission's final rule — Redesignation of the 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 GHz and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use [IB Docket No.98-172; RM-9005; RM-9118] received October 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10546. A letter from the Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Glendive, Montana) [MB Docket No. 04-188] received October 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10547. A letter from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting the Commission's final rule — Policy for Licensing Domestic Satellite Earth Stations in the Bush Communities of Alaska (IB Docket No. 02-30; RM No. 7246) received October 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10548. A letter from the Legal Advisor to the Buerau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Athens and Doraville, Georgia) [MB Docket No. 03-190] received October 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10549. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. FM Broadcast Stations. (Caliente, Bunkerville, Lauglin, Longdale, Nevada; Mohave, Arizona; St. George, Utah) [MB Docket No. 01-135] received October 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10550. A letter from the Under Secretary for Management, Department of Homeland Security, transmitting the Department's Annual Report on the Implementation of the Federal Financial Assistance Management Improvement Act of 1999, pursuant to Public Law 106-107, section 5 (113 Stat. 1488); to the Committee on Government Reform.

10551. A letter from the Chairman, Federal Housing Finance Board, transmitting pursuant to the requirements of Sections 3 and 4 of the Government Performance and Results Act of 1993 and Part 6 of Circular A-11 of the United States Office of Management and Budget, the Board's strategic plan for FY 2003 through 2008, amended and updated through August 31, 2004; an annual performance plan for FY 2004; and an annual performance budget for FY 2005; to the Committee on Government Reform.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROGERS of Kentucky: Committee of Conference. Conference report on H.R. 4567. A bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108-774). Ordered to be printed.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. KELLY:

H.R. 5353. A bill to establish limitations on the utilization and disposal of the Franklin Delano Roosevelt campus of the Department of Veterans Affairs Hudson Valley Health Care System at Montrose, New York, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. HOOLEY of Oregon (for herself, Mr. HOLDEN, Mr. CAPUANO, Mr. SANDLIN, Mr. SCOTT of Georgia, Ms. CARSON of Indiana, Mr. PAYNE, Mr. RUPPERSBERGER, Mr. DEFAZIO, Mr. HOLT, Mr. KILDEE, Mr. STARK, Mr. STUPAK, Ms. ESHOO, Mr. GRIJALVA, Mr. BISHOP of Georgia, Mrs. CAPPS, Mr. BERRY, Mr. BELL, Mr. LUCAS of Kentucky, Ms. KILPATRICK, Mr. CARDOZA, Mr. ROSS, Mr. SCOTT of Virginia, Ms. LINDA T. SÁNCHEZ of California, Mr. BISHOP of New York, Mr. MCNULTY, Mr. WU, Mr. DAVIS of Tennessee, Mr. HONDA, Mr. LARSEN of Washington, Mr. SMITH of Washington, Ms. DEGETTE, Mr. PASTOR, Mr. KIND, Mr. FRANK of Massachusetts, Ms. JACKSON-LEE of Texas, Mr. MCGOVERN, Mr. KENNEDY of Rhode Island, Mr. STENHOLM, Mr. SERRANO, and Mr. BLUMENAUER):

H.R. 5354. A bill to enhance the benefits and protections for members of the reserve components of the Armed Forces who are called or ordered to extended active duty, and for other purposes; to the Committee on Armed Services, and in addition to the Committees on Energy and Commerce, Education and the Workforce, Ways and Means, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOSWELL (for himself and Mr. OSBORNE):

H.R. 5355. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage small business health plans; to the Committee on Ways and Means.

By Mr. LANGEVIN (for himself, Mr. MCDERMOTT, Mr. PETERSON of Minnesota, Mr. GRIJALVA, and Mr. KENNEDY of Rhode Island):

H.R. 5356. A bill to amend title 38, United States Code, to authorize the placement in a national cemetery of memorial markers for the purpose of commemorating servicemembers or other persons whose remains are interred in an American Battle Monuments Commission cemetery; to the Committee on Veterans' Affairs.

By Mr. RYAN of Ohio:

H.R. 5357. A bill to direct the Secretary of Education to establish a music education pilot program to make grants to a university to fund a music education center for young people; to the Committee on Education and the Workforce.

By Mr. SOUDER (for himself, Mr. BAIRD, Mr. EHLERS, Mr. GRIJALVA, Mr. GORDON, Mr. CASE, Mr. RODRIGUEZ, Mr. MCINNIS, Mr. BOEHLERT, Mr. VAN HOLLEN, Mrs. CAPITO, Mr. HOEFFEL, Ms. MCCOLLUM, Mr.

Snyder, Mr. Udall of Colorado, Mr. Kildee, Mr. Markey, Ms. Ros-Lehtinen, Mr. Neal of Massachusetts, Ms. Bordallo, and Mr. Michaud):

H.R. 5358. A bill to eliminate the annual operating deficit and maintenance backlog in the national parks, and for other purposes; to the Committee on Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. VITTER:

H.R. 5359. A bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews; to the Committee on Ways and Means.

By Mr. DeLAY:

H. Con. Res. 518. Concurrent resolution providing for an adjournment or recess of the two Houses; considered and agreed to.

By Mr. SENSENBRENNER:

H. Con. Res. 519. Concurrent resolution correcting the enrollment of H.R. 5107; considered and agreed to.

By Mr. DAVIS of Illinois:

H. Con. Res. 520. Concurrent resolution supporting the efforts and activities of individuals, organizations, and other entities to honor the lives of enslaved Africans in the United States and to make reparations to their descendants for slavery and its lingering effects; to the Committee on Government Reform.

By Mr. DAVIS of Illinois (for himself and Ms. Schakowsky):

H. Res. 852. A resolution expressing the support of the House of Representatives for programs and activities to prevent perpetrators of fraud from victimizing senior citizens; to the Committee on Energy and Commerce.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 528: Mr. Sessions.

H.R. 785: Mr. Van Hollen and Mr. Wexler.

H.R. 1083: Ms. Hooley of Oregon.

H.R. 1751: Mr. Boswell.

H.R. 2394: Mr. Wynn.

H.R. 3767: Mrs. Davis of California.

H.R. 4367: Ms. Berkley, Mr. Cramer, Mr. Udall of Colorado, and Mr. Tanner.

H.R. 4585: Ms. Eddie Bernice Johnson of Texas.

H.R. 4910: Ms. Waters.

H.R. 5055: Mr. Burgess, Mr. Davis of Florida, Mr. English, Mr. Filner, Mr. Frank of Massachusetts, Mr. Hoyer, Ms. Linda T. Sánchez of California, Mr. Serrano, Mr. Gingrey, Mr. Blumenauer, Mr. Isakson, Mr. Alexander, Mr. Baca, Mr. Walsh, Mr. Wolf, Mr. Bell, Ms. Hart, Mrs. Capito, Mr. Skelton, Ms. Lee, Mr. Burns, Mr. Souder, and Mr. Walden of Oregon.

H.R. 5091: Mrs. Blackburn and Mr. Meeks of New York.

H.R. 5203: Mr. Gerlach and Mr. Platts.

H.R. 5291: Mr. Cardin and Mr. Etheridge.

H.R. 5345: Mr. Walden of Oregon.

H.R. 5347: Mr. Walden of Oregon.

H.J. Res 109: Mr. Kucinich and Mr. Nadler.

H. Res. 851: Ms. Kilpatrick.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2672: Mr. Crane.

## DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petitions were filed:

Petition 14, October 5, 2004, by Mr. EDWARDS on House Resolution 788 has been signed by the following Members: Chet Edwards, Timothy H. Bishop, Stephen F. Lynch, Michael E. Capuano, Rahm Emanuel, Dale E. Kildee, Raúl M. Grijalva, Peter A. DeFazio, Hilda L. Solis, Sanford D. Bishop, Jr., Diane E. Watson, Bob Etheridge, Lois Capps, Ted Strickland, Artur Davis, Carolyn McCarthy, Carolyn B. Maloney, Barbara Lee, Janice D. Schakowsky, Charles A. Gonzalez, Peter Deutsch, Solomon P. Ortiz, Joe Baca, José E. Serrano, Nita M. Lowey, Nydia M. Velázquez, Ciro D. Rodriguez, Bobby L. Rush, James E. Clyburn, Lynn C. Woolsey, Lucille Roybal-Allard, Jerrold Nadler, Sheila Jackson-Lee, Stephanie Herseth, John W. Olver, Gene Green, Patrick J. Kennedy, Michael R. McNulty, Kendrick B. Meek, Zoe Lofgren, Bill Pascrell, Jr., Brian Baird, Tammy Baldwin, Jim McDermott, Susan A. Davis, Lincoln Davis, Eddie Bernice Johnson, James P. Moran, Major R. Owens, Nick J. Rahall II, Betty McCollum, Jim Marshall, Luis V. Gutierrez, Leonard L. Boswell, Michael H. Michaud, Chris Bell, Adam B. Schiff, Ken Lucas, Ron Kind, John B. Larson, Martin T. Meehan, Barney Frank, Brad Miller, Earl Blumenauer, Maurice D. Hinchey, Sherrod Brown, Bart Gordon, Joseph Crowley, Michael M. Honda, Jane Harman, David Scott, Benjamin L. Cardin, Sander M. Levin, Baron P. Hill, Grace F. Napolitano, Bart Stupak, Darlene Hooley, Charles B. Rangel, Lloyd Doggett, Elijah E. Cummings, William D. Delahunt, Bennie G. Thompson, Danny K. Davis, Thomas H. Allen, Ellen O. Tauscher, Alcee L. Hastings, Karen McCarthy, C. A. Dutch Ruppersberger, James R. Langevin, Gary L. Ackerman, William J. Jefferson, Anna G. Eshoo, Robert T. Matsui, Eliot L. Engel, James P. McGovern, Denise L. Majette, David R. Obey, Ike Skelton, Michael F. Doyle, Marion Berry, Jesse L. Jackson, Jr., Albert Russell Wynn, Bob Filner, Jim Cooper, Martin Frost, Robert C. Scott, Steven R. Rothman, Donald M. Payne, Nick Lampson, Sam Farr, Marcy Kaptur, Mike McIntyre, Fortney Pete Stark, Julia Carson, John M. Spratt, Jr., Carolyn C. Kilpatrick, Tom Lantos, Steve Israel, Tom Udall, Harold E. Ford, Jr., Dennis J. Kucinich, Vic Snyder, Bernard Sanders, Frank Pallone, Jr., Jim Davis, David E. Price, Mike Ross, Charles W. Stenholm, Brad Sherman, Rush D. Holt, Nancy Pelosi, Maxine Waters, Chris Van Hollen, James L. Oberstar, Edward J. Markey, Diana DeGette, Anthony D. Weiner, Rosa L. DeLauro, Corrine Brown, Allen Boyd, David Wu, Ben Chandler, Ed Case, Gregory W. Meeks, Silvestre Reyes, Stephanie Tubbs Jones, John Lewis, G. K. Butterfield, Neil Abercrombie, Dennis Moore, Melvin L. Watt, Steny H. Hoyer, John Conyers, Jr., Max Sandlin, Collin C. Peterson, Mark Udall, John D. Dingell, Adam Smith, Rick Larsen, Dennis A. Cardoza, and Howard L. Berman.

Petition 15; October 5, 2004, by Mr. BISHOP of New York on House Resolution 790 has been signed by the following Members: Timothy H. Bishop, Stephen F. Lynch, Michael E. Capuano, Rahm Emanuel, Dale E. Kildee, Raúl M. Grijalva, Peter A. DeFazio, Hilda L. Solis, Sanford D. Bishop, Jr., Diane E. Watson, Bob Etheridge, Lois Capps, Ted Strickland, Artur Davis, Carolyn McCarthy, Carolyn B. Maloney, Barbara Lee, Janice D. Schakowsky, Charles A. Gonzalez, Peter Deutsch, Solomon P. Ortiz, Joe Baca, Jose E. Serrano, Nita M. Lowey, Nydia M. Velázquez, Ciro D. Rodriguez, James E. Clyburn, Lynn C. Woolsey, Jerrold Nadler, Sheila Jackson-Lee, Stephanie Herseth, John W. Olver, Gene Green, Patrick J. Kennedy, Michael R. McNulty, Kendrick B. Meek, Zoe Lofgren, Bill Pascrell, Jr., Brian Baird, Tammy Baldwin, Linda T. Sánchez, Jim McDermott, Susan A. Davis, Lincoln Davis, Eddie Bernice Johnson, James P. Moran, Major R. Owens, Nick J. Rahall II, Luis V. Gutierrez, Leonard L. Boswell, Michael H. Michaud, Chris Bell, Adam B. Schiff, Ken Lucas, Ron Kind, John B. Larson, Martin T. Meehan, Barney Frank, Brad Miller, Earl Blumenauer, Maurice D. Hinchey, Sherrod Brown, Joseph Crowley, Bart Gordon, Michael M. Honda, Jane Harman, David Scott, Grace F. Napolitano, Bart Stupak, Darlene Hooley, Charles B. Rangel, Lloyd Doggett, Elijah E. Cummings, William D. Delahunt, Bennie G. Thompson, Danny K. Davis, Thomas H. Allen, Karen McCarthy, C. A. Dutch Ruppersberger, James R. Langevin, Gary L. Ackerman, William J. Jefferson, Anna G. Eshoo, Lane Evans, Robert T. Matsui, Eliot L. Engel, James P. McGovern, Denise L. Majette, David R. Obey, Michael F. Doyle, Marion Berry, Jesse L. Jackson, Jr., Albert Russell Wynn, Bob Filner, Jim Cooper, Martin Frost, Robert C. Scott, Steven R. Rothman, Donald M. Payne, Nick Lampson, Sam Parr. Marcy Kaptur, Mike McIntyre, Fortney Pete Stark, Julia Carson, John M. Spratt, Jr., Carolyn C. Kilpatrick, Tom Lantos, Steve Israel, Tom Udall, Harold E. Ford, Jr., Dennis J. Kucinich, Vic Snyder, Bernard Sanders, Frank Pallone, Jr., David E. Price, Mike Ross, Charles W. Stenholm, Brad Sherman, Rush D. Holt, Nancy Pelosi, Maxine Waters, Chris Van Hollen, Jim Marshall, James L. Oberstar, Lucille Roybal-Allard, Edward J. Markey, Diana DeGette, Rosa L. DeLauro, Betty McCollum, Corrine Brown, David Wu, Bobby L. Rush, Ed Case, Gregory W. Meeks, Stephanie Tubbs Jones, John Lewis, G. K. Butterfield, Neil Abercrombie, Dennis Moore, Melvin L. Watt, Steny H. Hoyer, John Conyers, Jr., Max Sandlin, Ben Chandler, Mark Udall, John D. Dingell, Rick Larsen, and Dennis A. Cardoza.

Petition 16, October 6, 2004, by Mr. MILLER of North Carolina on House Resolution 800 has been signed by the following Members: Brad Miller, Thomas H. Allen, Nydia M. Velázquez, Maxine Waters, Joseph Crowley, Charles A. Gonzalez, Loretta Sanchez, Lynn C. Woolsey, Dale E. Kildee, Robert A. Brady, Tim Holden, Carolyn McCarthy, Linda T. Sánchez, Raúl M. Grijalva, Ellen O. Tauscher, Zoe Lofgren, David Scott, Joe Baca, Lois Capps, Gregory W. Meeks, Karen McCarthy, Bob Etheridge. C. A. Dutch Ruppersberger, James R. Langevin, Gary L. Ackerman, William J. Jefferson, John B. Larson, Hilda L. Solis, Anna G. Eshoo, Nita M. Lowey, Lane Evans, Robert T. Matsui, Eliot L. Engel, Sanford D. Bishop, Jr., James P. McGovern, Denise L. Majette, Michael F. Doyle, Ciro D. Rodriguez, Ruben Hinojosa, Marion Berry, Jesse L. Jackson, Jr., Albert Russell Wynn, Diane E. Watson, Leonard L. Boswell, Bob Filner, Barbara Lee, Jim Cooper, Martin Frost, Chris Bell, Robert C. Scott, Steven R. Rothman, Donald M. Payne, Sheila Jackson-Lee, Bill Pascrell, Jr., Grace F. Napolitano, Nick Lampson, Sam Farr, Marcy Kaptur, Mike McIntyre, Fortney Pete Stark, Julia Carson, John M. Spratt, Jr., Carolyn C. Kilpatrick, Tom Lantos, Susan A. Davis, Steve Israel, Tom Udall, Harold E. Ford, Jr., Dennis J. Kucinich, Vic Snyder, Stephanie Herseth, Bernard Sanders, Frank Pallone, Jr., Timothy H. Bishop, Michael M. Honda, Stephen F. Lynch, David E. Price, Tammy Baldwin, Danny K. Davis, Mike Ross, Carolyn B. Maloney, Charles W. Stenholm, John W. Olver, Rush D. Holt, Nancy Pelosi, Charles B. Rangel, Chris Van Hollen, Artur Davis, Janice D. Schakowsky, Lucille Roybal-Allard, James P. Moran, Diana DeGette, Michael R. McNulty, Rosa L. DeLauro, Brad Sherman, Eddie Bernice Johnson, Tim Ryan, Patrick J. Kennedy, Corrine Brown, Peter A. DeFazio, Darlene Hooley, David Wu, Bobby L. Rush, Bart Stupak, Ed Case, William D. Delahunt, Gene Green, Stephanie Tubbs Jones, John Lewis, Michael H. Michaud, Bennie G. Thompson, James E. Clyburn, Luis V. Gutierrez, Sherrod Brown, G. K. Butterfield, Neil Abercrombie, Dennis Moore, Melvin L. Watt, Steny H. Hoyer, John Conyers, Jr., Max Sandlin, Nick J. Rahall II, Ben Chandler, Collin C. Peterson, Mark Udall, John D. Dingell, Sander M. Levin, Rick Larsen, and Dennis A. Cardoza.

## DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Mr. FROST on S. 121: Alcee L. Hastings, Steven R. Rothman, and William J. Jefferson.

Petition 9 by Mr. FROST on House Resolution 696: Steven R. Rothman.

Petition 11 by Ms. LEE on House Resolution 748: Allen Boyd, George Miller, Lincoln Davis, Bennie G. Thompson, Peter Deutsch, Solomon P. Ortiz, Lucille Roybal-Allard, Brian Baird, Sanford D. Bishop, Jr., Bart Gordon, Benjamin L. Cardin, Sander M. Levin, Tim Holden, Calvin M. Dooley, Marion Berry, William J. Jefferson, Sam Farr, Fortney Pete Stark, Jay Inslee, Nita M. Lowey, Anthony D. Weiner, Rodney Alexander, Neil Abercrombie, Collin C. Peterson, Earl Pomeroy, and Harold E. Ford, Jr.

Petition 12 by Mr. MEEHAN on House Resolution 769: Anna G. Eshoo, Loretta Sanchez, George Miller, Henry A. Waxman, James R. Langevin, Peter Deutsch, Bobby L. Rush, Lucille Roybal-Allard, Jerrold Nadler, Sheila Jackson-Lee, John W. Olver, Ed Case, Brad Sherman, Barney Frank, Michael M. Honda, James P. McGovern, Alcee L. Hastings, Robert C. Scott, William J. Jefferson, Sam Farr, Fortney Pete Stark, Julia Carson, Carolyn C. Kilpatrick, Steve Israel, Dennis J. Kucinich, Nancy Pelosi, Maxine Waters, Nita M. Lowey, Grace F. Napolitano, Artur Davis, Janice D. Schakowsky, Edward J. Markey, Diana DeGette, Anthony D. Weiner, William D. Delahunt, Stephanie Tubbs Jones, Eliot L. Engel, G. K. Butterfield, Melvin L. Watt, Donald M. Payne, Steny H. Hoyer, Tammy Baldwin, Elijah E. Cummings, Patrick J. Kennedy, Earl Blumenauer, Howard L. Berman, and Danny K. Davis.

Petition 13 by Mr. EDWARDS on House Resolution 773: Anna G. Eshoo, Loretta Sanchez, George Miller, G. K. Butterfield, Sander M. Levin, Tammy Baldwin, James R. Langevin, Jim Turner, Shelley Berkley, Lincoln Davis, Calvin M. Dooley, John W. Olver, Peter Deutsch, Solomon P. Ortiz, Bobby L. Rush, Jerrold Nadler, Sheila Jackson-Lee, Stephanie Herseth, Brian Baird, Jim McDermott, Brad Sherman, John F. Tierney, Michael H. Michaud, Brad Miller, Earl Blumenauer, Danny K. Davis, Maurice D. Hinchey, Michael M. Honda, Jane Harman, Lloyd Doggett, Elijah E. Cummings, Alcee L. Hastings, Gary L. Ackerman, Sanford D. Bishop Jr., Ciro D. Rodriguez, Stephen F. Lynch, Bob Etheridge, Robert C. Scott, William J. Jefferson, Sam Farr, Marcy Kaptur, Mike McIntyre, Fortney Pete Stark, Carolyn C. Kilpatrick, Steve Israel, Tom Udall, Harold E. Ford, Jr., Dennis J. Kucinich, Vic Snyder, Bernard Sanders, Timothy H. Bishop, Jim Davis, Ken Lucas, Jim Cooper, Ron Kind, Mike Ross, Carolyn B. Maloney, Gregory W. Meeks, Steny H. Hoyer, Linda T. Sánchez, Nancy Pelosi, Maxine Waters, John M. Spratt, Jr., Jim Marshall, Nita M. Lowey, Grace F. Napolitano, Janice D. Schakowsky, Dennis A. Cardoza, Nick Lampson, Lucille Roybal-Allard, Lynn C. Woolsey, Edward J. Markey, C. A. Dutch Ruppersberger, James P. Moran, Diana DeGette, Anthony D. Weiner, Rosa L. DeLauro, Henry A. Waxman, James E. Clyburn, Tim Ryan, Chris Bell, Rahm Emanuel, Betty McCollum, Patrick J. Kennedy, David R. Obey, Corrine Brown, Darlene Hooley, David Wu, Bill Pascrell, Jr., Ben Chandler, Rick Larsen, Jay Inslee, William D. Delahunt, Silvestre Reyes, Gene Green, Stephanie Tubbs Jones, Mike Thompson, Major R. Owens, Bennie G. Thompson, Neil Abercrombie, Dennis Moore, Robert Wexler, Joseph M. Hoeffel, Artur Davis, Baron P. Hill; Lane Evans, Barbara Lee, David Scott, Melvin L. Watt, Donald M. Payne, John Conyers, Jr., Max Sandlin, Zoe Lofgren, Mark Udall, John D. Dingell, Bart Gordon, Harold E. Ford, Jr., and Howard L. Berman.

# SENATE—*Saturday, October 9, 2004*

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

O God. our protector, mountains melt in Your presence and islands shout for joy. We praise You because Your ways are just and true. You know our hearts and minds like an open book. Thank You for the security we have in You. When all around us seems destined for disaster, You alone remain our rock and refuge.

Lead our national and international leaders on the right road and give them strength for the journey. Keep them safe as You provide them with the patience to wait for Your harvest. Save them from the plots of evil and from the enemies of freedom. Give them the courage to speak for justice.

Give us the grace to love and pray even for those who hurt and wrong us. We pray this in Your holy Name. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, good morning to everyone on this pleasant Saturday morning.

Today the Senate convenes for a rare weekend session. I believe it reflects our commitment to completing the very important business that has a direct impact on Americans. That is why we are here. We have important business before us and we will complete that business.

This morning, we will have the concluding remarks and amendments to the Senate intelligence and homeland security reform resolution under last night's order. At 11:15, we will begin the series of rollcall votes, which will conclude our action on this resolution. There will be anywhere from three to five votes, depending on the number of amendments that have been worked out. The final vote in the sequence will be on a sense-of-the-Senate resolution on agricultural disasters.

Today, we will also consider any available conference reports that arrive from the House, and that includes appropriation measures, as well as the Department of Defense authorization.

We also have an agreement that the cloture vote on the FSC JOBS conference report will occur at 1 p.m. on Sunday. I hope that cloture is invoked and, once invoked, on the JOBS legislation, we can move expeditiously toward passage of that conference report.

With that said, although we have made great progress toward finishing the remaining items on our agenda, there is still work to do. Individual members will ultimately determine how long the Senate will remain to complete our business. As I have stated repeatedly, we will stay in session until our work is done. I ask those individual Members to give consideration to the business we have before us and to our commitment on completing this business. and that they give every consideration to scheduling in that regard.

We are here through the weekend to work toward our goal, and I will continue to work with Senators to see if we can expedite our schedule for finishing.

## RECOGNITION OF THE DEMOCRATIC LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

## COMPLETING THE SENATE'S WORK

Mr. DASCHLE. Mr. President, I also concur with the majority leader. I think today is going to be a very important day. because we will now have completed the first phase of the Senate's work in response to the 9/11 Commission recommendations. I have said this now on several occasions, but I think it bears repeating—it would not have happened were it not for the great effort made by the Senator from Kentucky and the Senator from Nevada. our two assistant leaders. I congratulate them and I appreciate their excellent work.

The majority leader also noted an interest and absolute necessity of finishing work on the foreign sales credit bill. I will be supporting cloture as well. I know there are all kinds of conflicting views about how many votes, what kind of votes, and what time the vote should be on Sunday. I know it is an inconvenience to a lot of Senators and we will try to accommodate those concerns as best we can. I think a Sunday vote—at least one—is unavoidable. I apologize to those who are inconvenienced. I don't think we have any choice given our circumstances. I also hope we can finish homeland security. As the majority leader has said on several occasions, it is important that we finish the homeland security bill. We cannot leave, as he has noted several times, without finishing that. It sends a terrible message to the country if we are not in a position to complete our work. I know the conferees are almost finished. So I hope we can complete our work over the course of the next several days.

We will work with the majority in making sure these unfinished items are completed, even though we cannot say at this point how much more time it is going to take to do so. I appreciate the majority leader's determination to finish our work before we leave. We will work with him to do that.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## INTELLIGENCE COMMITTEE REORGANIZATION

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. Res. 445, which the clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 445) to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

Pending:

> McConnell/Reid/Frist/Daschle Amendment No. 3981, in the nature of a substitute.
>
> Bingaman (for Domenici) Amendment No. 4040 (to Amendment No. 3981), to transfer jurisdiction over organization and management of United States nuclear export policy to the Committee on Energy and Natural Resources.

The PRESIDENT pro tempore. Under the previous order, the time until 11:15 a.m. shall be equally divided between the managers, with 30 minutes under the control of the Senator from Iowa, Mr. HARKIN. Who yields time?

The majority leader is recognized.

### AMENDMENT NO. 4035, AS MODIFIED

Mr. FRIST. Mr. President, I ask for the consideration of the modified version of my amendment No. 4035, which is at the desk.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 4035, as modified.

The amendment is as follows:

At the end of section 201, insert the following:

(i) PUBLIC DISCLOSURE.—Section 8 of S. Res. 400 is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "shall notify the President of such vote" and inserting "shall—

"(A) first, notify the Majority Leader and Minority Leader of the Senate of such vote; and

"(B) second, consult with the Majority Leader and Minority Leader before notifying the President of such vote.";

(B) in paragraph (2), by striking "transmitted to the President" and inserting "transmitted to the Majority Leader and the Minority Leader and the President"; and

(C) by amending paragraph (3) to read as follows:

"(3) If the President, personally, in writing, notifies the Majority Leader and Minority Leader of the Senate and the select Committee of his objections to the disclosure of such information as provided in paragraph (2), the Majority Leader and Minority Leader jointly or the select Committee, by majority vote, may refer the question of the disclosure of such information to the Senate for consideration."

Mr. FRIST. Mr. President, this amendment has been cleared on both sides. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4035), as modified, was agreed to.

The PRESIDENT pro tempore. Who seeks recognition?

The Senator from Nevada.

Mr. REID. Mr. President, we have a number of amendments that are still outstanding. We disposed of the Frist amendment this morning, and we still have COLLINS, NICKLES, HUTCHISON, BINGAMAN, and ROCKEFELLER that are in order. I don't know if they are going to offer all of those amendments, but we have 1 hour and 5 minutes until we start voting. Everyone should understand, as I understand the order entered, a half hour over the next 65 minutes is for Senator HARKIN. So we have 35 minutes to debate these amendments. If they are not debated, we will start voting on them.

I think it would be unfortunate if people had to act on amendments without hearing something from someone. I hope they will either withdraw the amendments or present them. It puts Senator MCCONNELL and me in an awkward position when the amendments are in order and nobody is here to offer them. It is not fair to the Senate that there is not someone who lets us know whether they are going to be withdrawn or be offered, because some of the subject matter of the amendments is not very clear, as least to this Senator.

I have been told the Rockefeller amendment is not going to be offered.

The PRESIDENT pro tempore. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, floor staff also informs me that the Collins amendment will not be offered.

As Senator REID indicated, we hope to hear from others who are on the list as to what their intentions might be. If they want to offer their amendment, now would be a good time to come and explain it.

The PRESIDENT pro tempore. Does the Senator need to withdraw that amendment?

Mr. REID. The Collins amendment is withdrawn?

The PRESIDENT pro tempore. It is the Chair's understanding that it will not be offered. I do not know if it is pending.

Mr. MCCONNELL. It is not pending.

Mr. REID. It is not pending, so I ask that it be deleted from our list because it is on the list of amendments that was entered into last night. So we still have the Nickles, Hutchison, and Bingaman amendments.

The PRESIDENT pro tempore. The Senator from Kentucky.

Mr. MCCONNELL. I have been informed that Senator NICKLES does intend to offer his amendment.

### AMENDMENT NO. 4027 TO AMENDMENT NO. 3981, AND AMENDMENT NO. 4041 TO AMENDMENT NO. 4027, EN BLOC

Mr. MCCONNELL. Mr. President, I call up amendment No. 4027 by Senator NICKLES and also a second-degree amendment by Senator NICKLES, No. 4041. As I indicated, Senator NICKLES will be here to debate that amendment later.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. NICKLES, for himself, and Mr. CONRAD proposes an amendment numbered 4027.

The Senator from Kentucky [Mr. MCCONNELL], for Mr. NICKLES, for himself, and Mr. CONRAD proposes an amendment numbered 4041 to amendment No. 4027.

The amendments are as follows:

### AMENDMENT NO. 4027

(Purpose: To vest sole jurisdiction over the Federal budget process in the Committee on the Budget)

At the end of Section 101, insert the following:

"(e) JURISDICTION OF BUDGET COMMITTEE.—Notwithstanding paragraph (b)(3) of this section, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, including:

(1) the functions, duties, and powers of the Budget Committee;

(2) the functions, duties, and powers of the Congressional Budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits of surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

(4) the limiting of backdoor spending devices;

(5) the timetables for Presidential submission of appropriations and authorization requests;

(6) the definitions of what constitutes impoundment—such as "rescissions" and "deferrals";

(7) the process and determination by which impoundments must be reported to and considered by Congress;

(8) the mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

(9) the provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act."

### AMENDMENT NO. 4041 TO AMENDMENT NO. 4027

(Purpose: To vest sole jurisdiction over the Federal budget process in the Committee on the Budget, and to give the Committee on the Budget joint jurisdiction with the Governmental Affairs Committee over the process of reviewing, holding hearings, and voting on persons, nominated by the President to fill the positions of Director and Deputy Director for Budget within the Office of Management and Budget)

Strike all after the first word, and insert the following:

JURISDICTION OF BUDGET COMMITTEE.—Notwithstanding paragraph (b)(3) of this section, and except as otherwise provided in the Congressional Budget Act of 1974, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, which are:

(1) the functions, duties, and powers of the Budget Committee;

(2) the functions, duties, and powers of the Congressional Budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

(4) the limiting of backdoor spending devices;

(5) the timetables for Presidential submission of appropriations and authorization requests;

(6) the definitions of what constitutes impoundment—such as "rescissions" and "deferrals";

(7) the process and determination by which impoundments must be reported to and considered by Congress;

(8) the mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

(9) the provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act.

(f) OMB Nominees.—The Committee on the Budget and the Governmental Affairs Committee shall have joint jurisdiction over the nominations of persons nominated by the President to fill the positions of Director and Deputy Director for Budget within the Office of Management and Budget, and if one committee votes to order reported such a nomination, the other must report within 30 calendar days session, or be automatically discharged.

The PRESIDENT pro tempore. Who yields time?

Mr. McCONNELL. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I say to the Senator from Iowa, we have a few amendments that may be offered. I am concerned that the offerors will have no time at all to explain their amendments prior to the votes at 11:15. I am wondering if the Senator from Iowa would object if we have Senators who want to offer amendments on our list, which they are entitled to do, prior to the vote at 11:15, how we could accommodate them and give them an opportunity to explain what the amendment was about.

Mr. HARKIN. I do not mind. I thought I had half an hour under the rule. I do not care when I take my half hour. I can take it now or I will take it whenever. It does not make any difference to me.

Mr. McCONNELL. Mr. President, his half hour is unrelated to the underlying bill.

The PRESIDENT pro tempore. That is correct, and the time of the quorum has not been charged against the Senator from Iowa. He has 30 minutes.

Mr. HARKIN. I do not have to take it now if the Senator wants to do something else.

The PRESIDENT pro tempore. The Senator is recognized for his 30 minutes.

Mr. HARKIN. Mr. President, I understand I have a half hour of time yielded to me. I may have to yield it to another Senator, but I will take some time right now.

### NATURAL DISASTER RELIEF

Mr. President, the resolution I have offered is very straightforward. It simply reiterates the policy that this Senate and this Congress has endorsed repeatedly over the decades. It basically is that agricultural disaster assistance should be designated as emergency spending and not taken out of other farm programs. This is the way we have done this going back 50 years or more. In fact, I have looked and I have only found one instance in the last 50 years where we have offset, as they say, disaster assistance with some other money from the same program.

That was 2 years ago and that was corrected right away. We are now about to do the same thing.

Mr. President, one of the few uncertainties about agriculture is the uncertainty of the weather. And that is true whether it is farming or ranching, growing orchard crops or growing any other type of agricultural production. Even when a farmer has used his best practices, taken prudent steps to produce a crop, severe weather events can destroy years of work and threaten their livelihood.

Let me just quote from the USDA Web site:

> Natural disaster is a constant threat to America's farmers and ranchers. From drought to flood, freeze, tornadoes, or other calamity, natural events can severely hurt even the best run agricultural operation.

We have responded to these disasters through emergency legislation in the past because we believed it was essential to respond to natural disasters to lessen the financial hardship involved. We do have programs in place such as crop insurance, loans, and so forth. However, major disasters can easily overwhelm these programs, and that is why Congress has consistently responded to natural disasters by providing emergency assistance. This emergency assistance usually covers crop losses, forages—that is hay and things like that—pasture losses for livestock producers, funding for tree assistance programs, and again there is some misconception that this disaster money makes the producer whole, puts the producer where he would be if the disaster never happened. That is just not true.

Let me give you an example. It is only available, first of all, if you have over 35 percent loss of your expected production. So if you have a loss under 35 percent, you don't get anything anyway. But let's take an example of a Kansas farmer who, in a normal year, produces 100 bushels of grain sorghum per acre. Now he only harvests 80 bushels. Well, if the grain sorghum is worth $2.30 a bushel, that farmer will have an income shortfall of $46 an acre, but he will not be eligible for any disaster assistance because he only had a 20-percent loss, so he gets nothing. If the yield is only 50 percent, that means he has a 50-percent loss. His income shortfall is $115 an acre. Now the farmer is eligible for disaster assistance for 15 bushels of that loss—at a low payment rate. So, again, it is only a small fraction of what he gets. He loses $115, and receives only about $20. So some people think disaster assistance puts you back where you were if you were whole. No, it does not. It basically just kind of keeps you going, and that is about it.

Now, you will hear a lot of reference to drought relief or a drought bill or drought emergency assistance. Well, that is a misconception. It has been a misconception all along. While that may be the most common problem, disaster legislation covers the whole range of weather-related losses. The bill language covers losses "due to damaging weather or related conditions."

In addition to drought, the regulations that carry out disaster assistance include hurricanes, hail, floods, fires, freezes, tornadoes, mud slides, pest infestation, and other calamities—in short, just about anything Mother Nature can throw agriculture's way. It doesn't matter what weather event causes the loss. It doesn't matter if it is part of a hurricane that has a name or just a plain old ordinary storm that strikes the Midwest. It doesn't matter whether the crop loss happens in a catastrophic afternoon storm or whether it is the result of a drought that lasts 9 or 10 or 12 months. We have always included those in disaster assistance and treated them alike. That is what we passed in the Senate a few weeks ago. We passed an amendment unanimously on a voice vote to cover all types of weather-related disaster losses across the country and treated them the same.

That is basically what my resolution says. The White House and the House of Representatives decided to take a different approach. President Bush sent Congress the disaster assistance proposal that included agricultural disaster payments only for losses caused by hurricanes and left out assistance for a whole range of other disaster losses across the country. Furthermore, this hurricane disaster assistance would be designated emergency spending, meaning that it would not be taken away from other programs. The President was adamant that if Congress is going to respond to any other disasters across the country, then the cost has to be offset from the farm bill, and that is what the House measure did. It is interesting, the States included in the House hurricane package are Florida, Alabama, Mississippi, Louisiana, South Carolina, North Carolina, Georgia, Virginia, and Pennsylvania. So if you are a farmer in those States and you have a hurricane-related loss, your losses are covered without offsets. You get the emergency spending measure assistance. Here is the interesting wrinkle, Mr. President, in the President's package. If you are a farmer in one of those hurricane States that I just mentioned, but your loss was not from the hurricane—let's say you had a hailstorm. Let's say you had high wind damage from a severe storm in May. Let's say you had a pest infestation or something like that. Guess what. You get no assistance. In the House, in what the President proposed, if you suffer loss from a hurricane, your payments are under emergency spending. But if you are in a hurricane State and you have another disaster caused by a hailstorm, well, then the cost of your assistance comes out of the farm bill.

What kind of nonsense is that?

A sugarcane farmer, God bless him, in Florida lost his crop because of the hurricane. That farmer gets compensated out of the emergency package. Let's say you are a corn farmer in Ohio and your crop was knocked down by a tornado. Guess what. You are not in. Whatever assistance you get has to come out of the farm bill. So why is it, why is it that if you got hit by a hurricane, you are treated one way; if you get hit by a tornado or a hailstorm or a fire or a drought, you are treated another way. It absolutely makes no sense. So, again, we draw these artificial lines. The President has drawn them. Why discriminate against certain farmers? If you are a farmer and you lose your crop, as I said, to a tornado or high winds in Ohio or Wisconsin or Iowa or Minnesota or Missouri, well, guess what. They are going to take it out of one pocket and put it into your other pocket. But if you are a farmer down in Florida, they don't take it out of your pocket. The whole country, all of us, help pay for those disasters as we have done for the last 50 years.

Now the President wants to take the money out of the Conservation Security Program. That program covers the entire United States of America. Why would you want to take money out of a State such as Pennsylvania that uses conservation money or Ohio or Wisconsin or Minnesota or Iowa or Missouri, taking money out of those States to send to Texas or Oklahoma or Wyoming or Colorado to help the farmers who had a drought? That doesn't make sense. It seems if you are going to have a disaster assistance package, the whole country ought to pay for it, all of it. When you have an earthquake in Alaska, do we take the money out of one State, just one State, and pay for that—or two States—or do we just take it out of a State that maybe—we take it out of California because they have an earthquake and we send it to Alaska? No.

The entire United States of America, all of our people contribute to make sure that anyone who is hurt by an earthquake in Alaska or California or a flood in Iowa gets compensated and gets help. We had a flood in Iowa in 1993 that devastated our State. We didn't take money out of South Dakota or we didn't take out of Missouri or another State, out of what they get. The whole country came to our assistance.

As I said, I feel sorry for the people who have been hit by hurricanes, and we should help them, but we ought to do it on a national basis and not try to take it out of one pocket, one part to help another. That is not right. It is not right to discriminate against farmers.

One last thing I will say before I yield the floor. We don't take away a community's Federal funds for highways or housing or hospitals to fund civil disaster assistance. In other words, if we have a civil disaster, why should we take the money out of the highway money? If we are going to help Florida out, why don't we take it out of Florida's highway money? Take it out of their housing money? Take it out of their hospital money to pay for their civil disaster? We don't do that. So why should we do it in agriculture, on farmers? Why should we take it out of the farmers' pockets to pay for a disaster? Why don't we take the money out of the highway money going to Florida to pay for the hurricane? Take it out of their hospital money? Take it out of their housing money? We don't do that. We don't do it because it is not the right thing to do. We should not take it from the farm bill either.

I realize those of us who represent farmers and farm States, we get hit often because they say farmers get this and that. I want to point out, as I have pointed out time and time again, since we passed the farm bill in 2002 and the President signed it in May of 2002, we have saved the taxpayers of this country over $15 billion in less commodity program spending. I think that is a pretty healthy contribution by our farmers and our ranchers to help reduce the deficit of this country. Now they want to take more money out of agriculture to pay for a disaster. It is wrong. That is why I have offered this resolution which basically says:

> It is the sense of the Senate that the 108th Congress should provide the necessary funds to make disaster assistance available for all customarily eligible agricultural producers as emergency spending and not funded by cuts to the farmer.

It is very simple and straightforward.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER (Ms. SNOWE). The Senator has 16 minutes remaining.

Mr. HARKIN. Madam President, I don't know if anyone wants any time. I will be glad to yield to my friend from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I rise today to support the ranking member on the Senate Agriculture Committee in what he is saying. I am in my 18th year in the Senate. Only once before in that entire time have we taken money from other farmers to provide the funds to cover a natural disaster for others. That is just wrong. That is not the way we have operated. We have always dealt with natural disasters through emergency funding because none of us can know who is going to get hit by a natural disaster. None of us can know who is going to have a hurricane or a drought or a freeze.

In my State we have had three of the four. We didn't have hurricanes. We don't get hurricanes in North Dakota. But we have had drought in the southwestern part of the State. I have just taken a drought tour, and it looks like a moonscape. Nothing is growing. It is disastrous. The corn crop is about a foot high. There are no ears in the corn crop.

I go to the northern part of my State, and it is flooded. It is unbelievable. We have a lake in north central North Dakota called Devils Lake. That lake has risen 25 feet in the last 7 years. That lake is now 2½ times the size of the District of Columbia, and it has risen 25 vertical feet, taking up hundreds of thousands of acres.

We, as a Federal Government, have already had to buy out the entire town of Church's Ferry. We have had other towns that are on the brink of being swallowed up. We have spent tens of millions of dollars protecting the town of Devils Lake. We have moved over 600 structures.

All across the northern tier of North Dakota, something very unusual is happening. We have had extraordinarily wet conditions over a prolonged period. The result is 2 million acres they could not even plant this year—2 million acres. That is bigger than the size of the State of Delaware—land that couldn't be planted.

The land that could be planted is now so wet they can't drive the equipment in to harvest the crop. So you drive by the road and it looks like a fabulous crop, like there is a tremendous barley crop out there. It looks like 90- to 100-bushel barley. But you can't get into the land to take it off because the ground is soaked.

I was just at a farmer's home and he pointed up to the top of the rafters in his barn. He said: Senator, that is where the water is going to be 6 months from now, according to the State water commission, because the whole area is flooding.

In the midst of that we had a freeze in early August. Drought, flood, freeze—I have lived in North Dakota all my life, and I have never seen such a collection of natural disasters. So while I have great sympathy for the people of Florida and Southeastern United States who have suffered hurricanes, and I am prepared with my vote to help them, we would expect the same in return. They are not the only ones who have been hurt. I have tens of thousands of farm families who are wondering now, Is Washington going to help or is Washington going to turn its back?

We have not been on the news. The networks haven't been out there covering this drought. They have not covered this flooding because this is a slow-motion disaster. This is not the kind of thing that makes good television, as the water rises in North Dakota. That doesn't make good television. It is a slow-motion disaster, but it is a disaster nonetheless. People's lives are being devastated.

Always before we have had emergency funding—with one exception in the 18 years I have been here. Always before, when an area suffered natural disasters, we have voted emergency funding to give them some help.

Let me make clear to my colleagues—I have heard some say: If you would have had preventive planning, you wouldn't have any losses because you didn't have to plant the crop. That is not the way it works. You still have your land payment, you still have all your management expenses, and in most cases people put on fertilizer in anticipation of being able to plant. This idea that they don't have expenses is just wrong.

Then I have heard they will get more help than what they have lost. That is just wrong. People have said: They have crop insurance. Crop insurance will make them whole. No.

Crop insurance will not come anywhere close to making them whole; nowhere close. First of all, you have to have a 35-percent loss before you get anything. Then you only get a percentage of your loss over 35 percent. That is not going to make people anywhere close to whole—nowhere close. Even if you take disaster assistance and crop insurance, you are nowhere close to whole. You still have significant losses. That is the fact of the matter.

The disaster assistance we pass in the Senate is desperately needed, and it should not be taken away from other farmers in order to pay for it. We shouldn't take from what they need in order to try to provide assistance for those who have suffered natural disasters. That is not right. It is not fair. It has not been done before, with one exception in the 18 years I have been in the Senate. I had my staff go back and research the whole history. We have never done things that way with one exception.

We should not go down this path of turning our back on people who have suffered natural disasters, whether it is a hurricane, whether it is a flood, whether it is a drought, whether it is a freeze, or some horrific outbreak of disease. We need to stand ready to reach out with a helping hand.

I thank the ranking member from the State of Iowa, Senator HARKIN, for standing up, fighting back and being very clear about what is at stake here; and to our leader, Senator DASCHLE. The truth is without Senator DASCHLE as our leader, we wouldn't have a prayer of getting the assistance our area desperately needs. That is a fact.

Mr. DASCHLE. Madam President. I thank the distinguished Senator from North Dakota for his very kind words. There are a number of people who deserve great credit, beginning, of course, with our distinguished ranking member on the Senate Agriculture Committee. He has been the most forceful, the most passionate, the most articulate voice for agriculture and I am proud to call him my leader.

He and I were in the room when we wrote this a couple of years ago. I remember so vividly. It was in the room across the hall. This legislation wouldn't even exist were it not for what Senator HARKIN did in the room across the hall as we negotiated these issues and got the commitment from this administration and from our Republican friends that this conservation program would be fully funded. We got a commitment. Almost before the ink was dry, that commitment withered away. It disappeared.

I can understand the frustration of the distinguished Senator, the anger and the disappointment that after being given the commitment over and over again it was virtually the last thing we decided. Only because he held out as aggressively as he did, we finally said yes. OK. If this means getting the farm bill, we will agree to this and we will commit to funding. I was there in the room. I heard it myself, and here we are.

This isn't the first time. This is now the second time he has had to come to the floor.

I know a lot of Senators are inconvenienced, but I must say nobody is more inconvenienced by the doubletalk and the lack of commitment and the willingness to keep their word than our ranchers and farmers who are so desperate for the help Senator CONRAD and Senator HARKIN have so eloquently described.

Senator JOHNSON and I have the same situation in South Dakota. I talked to a rancher in the southwest near Edgemont. He broke down in tears, telling me that he is now going to be forced to sell his herd—a herd he has had all of his life. He said. I have never seen anything like this. His lips curled and he choked up. I felt so sorry for him. He said, But I am not alone. I am at the end of my career.

I worry about those young farmers and ranchers who are just getting started. What are they going to do?

This assistance is critical. But the double standard is so outrageous that I can understand why Member after Member representing farmer and rancher after farmer and rancher is coming to the floor to express their outrage and indignation.

You talk about heroes. I thank my colleague from South Dakota for making the effort he did so gallantly. Senator JOHNSON offered an amendment to say let's treat this disaster assistance the way we are treating all other disaster assistance. I understand it is about $11 billion. Let us treat it exactly the same. He made a passionate defense of that argument and lost on a 6-to-5 vote, as I understand it. It was a party-line vote.

Mr. JOHNSON. Madam President, may I direct a question to my colleague?

Mr. DASCHLE. I would be happy to yield for a question from the Senator from South Dakota.

Mr. JOHNSON. I want to report to the body that I have just come from the Military Construction Subcommittee conference markup. Oddly enough, military construction—the way things work around here—is now the vehicle for bringing up disaster relief to Florida and on the Northern Plains. We were able to obtain nearly a $3 billion drought relief package on that bill, thanks to Senator DASCHLE in large part, and Senator HARKIN, of course, with his leadership. But I don't believe it would be on the floor at all were it not for Senator DASCHLE's leadership.

That drought relief passed with a unanimous bipartisan vote in the Senate earlier this year. Yet when it came back to the Military Construction Subcommittee as part of this disaster aid we are adding, it had this very convoluted offset that is stretched out for over 10 years.

I have to ask the leader, Senator DASCHLE, who has been through this and has championed agriculture for so many years as an extraordinary representative and as a leader on rural and agricultural issues, if there is any logic the leader can discern why disaster relief for hurricane victims is emergency funding, and disaster relief as it turns out now for farmers and ranchers suffering from drought is cannibalized out of the agriculture budget for the rest of the decade. What logic is there to that? What fairness is there to that kind of approach to this disaster relief bill that is now likely to pass? We are grateful for disaster relief, but this uneven treatment between farmers and hurricane victims strikes me as sadly peculiar and an unfortunate precedent that rural people will suffer from for years to come.

I would be interested in any response, given the great experience and leadership Senator DASCHLE has afforded rural America for all of these years, whether he sees any logic to this kind of separate treatment of farmers versus others in America today.

Mr. DASCHLE. I thank my dear friend from South Dakota for his question and for his kind words.

I simply say there is no logical conclusion one can draw from this except that there are those in the administration and apparently here in Congress who believe farmers and ranchers ought to be subject to a double standard; that they aren't as poor as other victims and the other people who have experienced disasters of other kinds.

For some reason, this administration has minimized the losses in agriculture almost from the beginning. As the Senator so well knows, because he was right in the middle of the fight 2 years ago, we tried to persuade the administration to help farmers and ranchers with $6 billion disaster assistance. That was actually passed here on the Senate floor. They sat on it. They stalled it. They did everything they could to prevent it. Ultimately, all we got before the end of the year was about $1 billion—$5 billion less. It is no surprise. This isn't something new for this administration or some of our colleagues in the Congress.

This is yet another illustration and pattern of demonstration of how minimally they are prepared to support agriculture and our farmers and ranchers. It is a double standard. It is a shell game. They are telling farmers and ranchers we are going to take money out of your right-hand pocket and put it in your left-hand pocket, and we want you to feel good about it. There is no net additional revenue to be provided to agriculture as a result of this disaster relief. We are simply taking it out of their right pocket and putting it in their left pocket.

I can't imagine—and Senator CONRAD and others have noted how a rancher or a farmer could be anything but offended—that somebody would insist farmers and ranchers pay for their own grass and drought assistance, disaster assistance and flood assistance, when at the very same time, simultaneously, we are providing meaningful new assistance to the victims of hurricanes, which we all support.

The double standard, the shell game, the extraordinary intransigence on the part of those who are opposing the Johnson amendment and opposing our efforts to make farmers and ranchers whole is inexplicable. There is no logic. I appreciate very much his words.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. How much time do I have remaining?

The PRESIDING OFFICER. There is 8 minutes.

Mr. HARKIN. We all need leaders to organize us, to inspire us, to get us moving in the right direction. Our distinguished leader, Senator DASCHLE from South Dakota, was kind enough to say good things about me with regard to the Agriculture bill, but we would never have gotten it together had it not been for his leadership. We, on this side of the aisle, all rely on his inspiration and his leadership, pulling us together. Nowhere is that more evident than our fight for farmers and ranchers and people who live in small towns and communities all over America.

I thank my good friend and my leader from South Dakota for what he has done for the people who live in the little towns such as my home town, Cummings, IA, with 150 people, for the farmers and ranchers of Iowa, South Dakota, and all over this country. Senator DASCHLE has been their voice and their leader, as he has been our leader. I daresay we wouldn't have half of the things we have for agriculture today had it not been for Senator DASCHLE, in making sure we had a good farm bill 2 years ago.

As Members can tell today, his passion is still there. I thank the good farmers and ranchers and rural people of South Dakota for having him here and having him as our leader.

Madam President, I ask that an editorial from the Des Moines Register of October 9 be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARKIN. I will read one sentence from the editorial:

> "The reality of the situation is that there will be no disaster money before we go home unless we provide budget offsets," said the chairman of the House Agriculture Committee, Rep. BOB GOODLATTE, R-Va.

Easy for him to say; farmers in his State are covered by the hurricane disaster assistance package. He doesn't have to worry about whether it is emergency money.

What kind of selfishness is that around here? If you are from a State where you get the hurricane disaster assistance, to heck with everybody else?

The Des Moines Register editorial said:

> Cutting farm programs to pay for the assistance would amount to taking money from growers in the Midwest and giving it to producers in drought-stricken areas of Montana, the Dakotas and other Plains states.

I want to help those farmers. They should be helped. But as Senator DASCHLE said, they should not take it out of one pocket and put it in another.

I also ask that a letter from a number of different farm groups opposing the using of farm bill conservation money for disaster assistance be printed in the RECORD following my remarks. This is in opposition to the President's position.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HARKIN. I ask that a letter from a number of conservation groups be printed in the RECORD at the conclusion of my remarks, asking that money not be taken out of the conservation title.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. HARKIN. I ask unanimous consent that at the conclusion of my remarks a letter to a number of Representatives on the House side from a number of conservation groups also be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. HARKIN. Lastly, I have heard the argument that drought is long term; there is some kind of climate change, but for the western part of the United States, which has had droughts for the last 4 or 5 years, we cannot continue to give disaster money if it is going to be a drought one year after another.

Guess what. Florida sits in hurricane alley. They have had hurricanes going back for 100 years. Guess what. Hurricanes are going to hit Florida next year and the year after and the year after. Should we say we cannot give disaster money to Florida because this is a long-term type thing? That is what I heard about drought assistance because we have had it for 5 years. Because we have been hit by 5 years of drought, that is long term and therefore we cannot help you?

Maybe we ought to take a look at hurricane alley. Maybe they shouldn't get help because they will get hit by another hurricane next year or the year after. We don't get hit by hurricanes in Iowa. They do not bother us. But we get hit by things such as tornados and hail damage and drought and, yes, floods.

Lastly, this bill, in helping the drought-stricken farmers—and my friend from North Dakota knows this very well—it only covers 1 year. We have had a drought for 4, 5, or 6 years. Farmers who suffered crop losses in both 2003 and 2004 will get to pick 1 year, either 2003 or 2004, you pick one, that is all the disaster assistance you get. It does not cover 7 years; it covers 1 year.

I wanted to clear this up. I hear rumors and misconceptions around here. I wanted to make the record clear that, yes, we have had some problems—such as tornados. Oklahoma gets hit by tornados, and Kansas and Nebraska and Iowa. We have had a lot. We will next summer because we are in tornado alley. Does that mean if a tornado strikes we should not get any disaster money because we get hit by tornados every year? No. Neither should the farmers in the Dakotas or Montana or places that have a drought right now, nor should they be penalized because they have been hit by some dry weather for a few years.

EXHIBIT 1

[From the Des Moines Register, Oct. 9, 2004]

### MIDWEST FARMERS MAY LOSE OUT WITH DISASTER AID

WASHINGTON, DC.—Farmers hit by a succession of crop losses hoped an election year would bring some extra cash from the government.

However, House Republicans are pushing for cuts in farm programs to pay for a $3 billion package of farm-disaster assistance, and agriculture groups may drop their support for the aid.

Cutting farm programs to pay for the assistance would amount to taking money from growers in the Midwest and giving it to producers in drought-stricken areas of Montana, the Dakotas and other Plains states. The prime target for the cuts is the popular

Conservation Security Program written by Sen. TOM HARKIN.

"If disaster assistance comes out of the farm bill, then we oppose disaster assistance," said Mary Kay Thatcher, a lobbyist for the American Farm Bureau Federation.

Democrats accused Republicans of hypocrisy. The White House is pushing Congress to pass special emergency assistance for Florida hurricane victims, including farmers there, without demanding spending cuts. Florida is a key state in the presidential race. "It is not right to treat farmers in one part of this country different than farmers in another," Harkin said.

The House passed legislation earlier in the week that would pay for the drought assistance by capping the cost of the Conservation Security Program.

"The reality of the situation is that there will be no disaster money before we go home unless we provide budget offsets," said the chairman of the House Agriculture Committee, Rep. Bob Goodlatte, R-Va. Friday, lawmakers were looking into trimming things other than the Conservation Security Program because of technical problems with targeting the conservation payments, congressional aides said. Harkin, a Democrat, pledged to slow some must-pass bills unless Republicans backed off making the cuts. Friday afternoon, he blocked the Senate from considering amendments to an intelligence-reform bill.

The Senate passed a version of the drought aid paid for by adding to the federal budget deficit. Farmers could get payments for losses in either 2003 or 2004.

Iowa farmers would likely receive about $200 million to $250 million in disaster payments, primarily to cover damage to soybean fields, according to Harkin's staff. The Iowa Farm Bureau has estimated damage from the 2003 drought at $750 million.

The Conservation Security Program is designed to reward farmers for practices that prevent soil erosion and other environmental problems.

Some 2,188 farms, including 290 in Iowa, were signed up for the program this year. Enrollment was limited to 18 watersheds, or river drainage areas. The National Corn Growers Association never endorsed the disaster aid package, partly out of concern that it mean reductions in other farm spending, said Jon Doggett, a lobbyist for the group.

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EXHIBIT 2

OCTOBER 7, 2004.

Hon. TED STEVENS,
*Chairman, Committee on Appropriations, U.S. Senate, Washington, DC*

Hon. THAD COCHRAN,
*Chairman, Subcommittee on Appropriations, U.S. Senate, Washington, DC*

Hon. ROBERT BYRD,
*Ranking Member, Committee on Appropriations and Subcommittee on Homeland Security, U.S. Senate, Washington, DC*

DEAR MR. CHAIRMAN AND RANKING MEMBER: The House and Senate have approved virtually identical legislation to provide vitally important financial assistance to assist farmers and ranchers who have suffered devastating crop losses due to hurricanes and drought. Importantly, the provisions approved by the House and Senate allow producers to choose to receive assistance for either 2003 or 2004 crop losses. And, since the legislation is similar to previous disaster programs, USDA should be able to deliver the assistance in a timely and cost efficient manner.

We understand that the free-standing legislation passed by the House on October 6 may serve as the House position in the conference on FY05 funding for Homeland Security. We are concerned that the House provision providing assistance for agricultural losses includes a funding offset, which reduces funding for a conservation program authorized in the 2002 farm bill. The Senate passed provision, which is included in the Homeland Security bill does not include an off-set. As you know, farm and commodity organizations have consistently opposed opening the farm bill, which is carefully balanced and has provided important, predictable financial stability for farmers, ranchers and rural Americans. While the House passed provision includes an off-set for a portion of the agriculture assistance, the other assistance was approved with an emergency designation and the House overwhelmingly rejected an amendment that would have offset the entire bill.

The purpose of this letter is to respectfully urge the conferees to retain the disaster assistance provisions as part of the Homeland Security funding but to eliminate the requirement that a portion of the funds for agricultural disaster assistance be off-set by a reduction in conservation programs or any other programs authorized by the 2002 farm bill. We believe the delivery of much needed assistance to farmers and ranchers suffering losses due to drought, hurricanes and other adverse weather is critically important to those who have suffered devastating losses, but we also believe preservation of the provisions of the 2002 farm law is important to all farmers and ranchers. We would also note that expenditures under the 2002 farm bill have been substantially less than that projected at the time of passage. Unfortunately budget rules do not allow use of those funds for other purposes, but we believe this should be a favorable factor in the consideration of our request.

As always, thank you for your consideration of our views and your leadership on matters critical to the U.S. agricultural community.

Sincerely,
Alabama Farmers Federation
American Corn Growers Association
American Farm Bureau Federation
American Soybean Association
Ducks Unlimited
Georgia Peanut Commission
Independent Community Bankers of America
National Association of Farmer Elected Committees
National Association of State Departments of Agriculture
National Association of Wheat Growers
National Barley Growers Association
National Cotton Council
National Council of Farmer Cooperatives
National Farmers Organization
National Farmers Union
National Grain Sorghum Producers
National Milk Producers Federation
Southern Peanut Farmers Federation
National Sunflower Association
Soybean Producers of America
US Canola Association
USA Dry Pea & Lentil Council
USA Rice Federation
USA Rice Producers Association
Women Involved in Farm Economics.

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EXHIBIT 3

AMERICAN FLY FISHING TRADE ASSOCIATION, AMERICAN LAND CONSERVANCY, ARCHERY TRADE ASSOCIATION, BOWHUNTING PRESERVATION ALLIANCE, CONGRESSIONAL SPORTSMEN'S FOUNDATION, DUCKS UNLIMITED, INTERNATIONAL HUNTER EDUCATION ASSOCIATION, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES, IZAAK WALTON LEAGUE OF AMERICA, ORION-THE HUNTERS INSTITUTE, PHEASANTS FOREVER, SAND COUNTY FOUNDATION, TEXAS WILDLIFE ASSOCIATION, THEODORE ROOSEVELT CONSERVATION PARTNERSHIP, THE WILDLIFE SOCIETY, WILDLIFE FOREVER, WILDLIFE MANAGEMENT INSTITUTE,

OCTOBER 7, 2004.

Hon. BILL FRIST,
Hon. TOM DASCHLE,
Hon. TED STEVENS,
Hon. ROBERT C. BYRD,
*U.S. Senate,*
*Washington, DC.*

Hon. DENNIS HASTERT,
Hon. TOM DELAY,
Hon. NANCY PELOSI,
Hon. BILL YOUNG,
Hon. DAVID OBEY,
*U.S. House of Representatives,*
*Washington, DC.*

DEAR SENATE AND HOUSE LEADERSHIP. The above listed conservation and sportsmen's organizations, which represent a diverse spectrum of interests with a combined membership of millions, stand together urging you to reject any attempt to offset the costs of the disaster package's assistance to U.S. farmers and ranchers with cuts to the 2002 Farm Bill's conservation assistance programs. We fully support a disaster assistance package that is appropriately designated by Congress as emergency spending.

Conservation funding was critical to securing passage of the 2002 Farm Bill. These conservation programs have become win-win solutions for landowners and wildlife, while at the same time guard against economic impacts from droughts and floods. Each of the programs is oversubscribed, with farmer demand continuing to outpace available funding.

We strongly oppose the use of conservation program spending as an offset for disaster assistance. If you have questions about this issue, please contact Barton James (Ducks Unlimited) at (202) 347–1530.

Thank you very much for your time and consideration of this matter.

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EXHIBIT 4

OCTOBER 5, 2004.

Hon. C.W. BILL YOUNG,
*Chairman, House Committee on Appropriations, H–218 Capitol Building, Washington, DC*

Hon. TED STEVENS,
*Chairman, Senate Committee on Appropriations, S–128 Capitol Building, Washington, DC*

Hon. THAD COCHRAN,
*Chairman, Subcommittee on Homeland Security, Senate Committee on Appropriations, Dirksen Senate Office Building Rm–135, Washington, DC*

Hon. MARTIN OLAV SABO,
*Ranking Member, Subcommittee on Homeland Security, House Committee on Appropriations, Rayburn HOB B–307, Washington, DC*

Hon. DAVID OBEY,

*Ranking Member, House Committee on Appropriations, 1016 Longworth HOB, Washington, DC*

Hon. ROBERT C. BYRD,
*Ranking Member, Senate Committee on Appropriations, S-112 Capitol Building, Washington, DC*

Hon. HAROLD ROGERS,
*Chairman, Subcommittee on Homeland Security, House Committee on Appropriations, Rayburn HOB B-307, Washington, DC*

DEAR APPROPRIATIONS CONFEREE: As you conference the fiscal year 2005 Homeland Security appropriations bill and consider the Senate-passed agricultural disaster package, we urge you to reject any attempt to offset the costs of the disaster package with cuts to the 2002 Farm Bill's conservation assistance programs.

Conservation funding was critical to securing passage of the 2002 Farm Bill. Conservation programs in the 2002 Farm Bill provide farmers and ranchers with important financial assistance while addressing the nation's urgent natural resource and environmental needs. These programs guard against heightened natural resource and economic impacts from droughts and floods, and thus the long-term costs of weather related disasters, by improving soil and water quality and conservation. Each of the programs is oversubscribed, with farmer demand continuing to outpace available funding.

We strongly oppose the use of conservation program spending as an offset for the disaster package. In our view, it is unfair to single out agricultural disasters for offsets and unwise to single out conservation as the potential offset.

Thank you for considering our views.

Sincerely,
American Farmland Trust
American Rivers
Chesapeake Bay Foundation
Defenders of Wildlife
Environmental Defense
National Association of Conservation Districts
National Catholic Rural Life Conference
National Wildlife Federation
Natural Resources Defense Council
Sierra Club
Soil and Water Conservation Society
Sustainable Agriculture Coalition
Union of Concerned Scientists.

Mr. HARKIN. How much time is remaining?

The PRESIDING OFFICER. There is 1 minute 40 seconds.

Mr. HARKIN. Whatever time I have remaining I would be glad to yield.

Mr. DORGAN. Let me, in the few moments remaining, thank the Senator from Iowa. Yesterday, someone asked him what he was doing, and he said: I am supporting my farmers.

The fact is, farmers in his State, our State and others, have been hit by weather-related disasters. You ought not treat farmers in different parts of the country in different ways. If you are going to provide disaster assistance to people in one part of the country, those farmers who have been hit with weather-related disasters in other parts of the country deserve to be helped as well.

This is a case of the Government saying to farmers during a tough period, you are not alone; we are here to help you. This is not a case of farmers begging to be helped. It is a case, for example, in our part of the country, where torrential rains wiped out the opportunity for farmers to even plant a crop on 1.7 million acres. Think of that. There were 1.7 million acres that could not be planted. These are farmers that will lose their farms if we do not offer some help.

The Senator from Iowa has been doing something very simple and powerful in the Senate. He is standing up for family farmers.

My colleague from North Dakota, Senator CONRAD, myself, and others are insistent we provide disaster relief and do so in the right way.

What is being done in the conferences, back and forth, the ping-ponging of inadequate proposals, proposals that are unusual, is not fair.

I commend the Senator from Iowa for being unwilling to sit by idly, silently, and allowing this to happen. I stand with him, as does my colleague, Senator CONRAD, and many others.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. On behalf of Senator BINGAMAN, I ask permission to withdraw from the list the Bingaman-Domenici amendment as listed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. I yield 5 minutes to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

### AMENDMENT NO. 4027

Mr. VOINOVICH. Madam President, later on today we will be discussing an amendment submitted by Senator NICKLES. The amendment's alleged purpose is to clarify the shared jurisdiction of the congressional budget process between Governmental Affairs and the budget situation that grew out of the Budget Committee and the modern budget process of 1974.

Senate committees rarely share jurisdiction, and joint referral of legislation is accomplished by unanimous consent. Today, anything that deals with the budget either coming out of the Governmental Affairs Committee or coming out of Budget has to be referred to the Governmental Affairs Committee and within 30 days some action has to be taken so there is a joint referral.

This amendment would eliminate that and say that all of the budgetary process is within the jurisdiction only of the Budget Committee and would also require that instead of the nominations for the Director of the Office of Management and Budget and the deputy director being the sole jurisdiction of the Governmental Affairs Committee, that would be a joint jurisdiction. In other words, the Presidential appointee to Director of Budget and Management, Deputy Director, and other people, would have to come to the Governmental Affairs Committee and also go to the Budget Committee for their approval.

I think one of the things we are trying to do here is to streamline that whole process, that we have too many people who are being, frankly, nominated, and too much advice and consent.

One of the things in an amendment to the Homeland Security Act that we were able to get done was the provision that says we are going to ask the administration to come back with recommendations on how they can reduce the number of people who are sent to the Senate for advice and consent to streamline the process.

This amendment would make this Presidential appointment process in regard to the Director of Budget and Management and the Deputy Director much more complicated than it is today. I would also argue—with due respect to the expertise that is on the Budget Committee—that this process has not been looked at since 1974.

As a member of the Governmental Affairs Committee and the oversight of Government management in the Federal workforce, I have been concerned that we have not looked at that process since 1974—that we have discussed the feasibility of going to a 2-year budget. There are many things, in my opinion, that this body should be doing, and if it were solely within the jurisdiction of the Budget Committee, it might not get done. The Governmental Affairs Committee looks at the big picture.

I would also argue that too often in the Office of Budget and Management, there is no "M" in OMB. I am pleased to say that this administration has undertaken some very aggressive management responsibilities. I, quite frankly, think they would not have undertaken those management responsibilities had it not been for the fact that they had to be confirmed by the Governmental Affairs Committee of the U.S. Senate.

I know the relationships that I have built personally with the Director of the Office of Budget and Management; Sean O'Keefe, who was the Deputy Director, and now Director Josh Bolten, have really accrued to the benefit of our country in terms of improving the management of Government.

So what I am trying to say is the budget process is important not only to the Budget Committee but the budget process is important to the entire country and to the operation of Government because it has such a large impact on the whole operation of Government.

I respect the chairman of the Budget Committee, but as one who has been concerned about modernizing our procedures, I believe this would not promote what is in the best interest of the

Senate or, for that matter, our country.

I ask unanimous consent to have printed in the RECORD the human capital changes that have occurred since 1999 that have come out of the Governmental Affairs Committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### U.S. Senator George V. Voinovich, Ohio—An Agenda To Reform the Federal Workforce: Accomplishments

Senator Voinovich has made identifying and developing solutions to the federal government's strategic human capital challenges his highest priority for his Subcommittee on Oversight of Government Management. He has held 15 hearings on the subject, spoken at numerous public conferences, and was a key participant in the Harvard University John F. Kennedy School of Government Executive Sessions on the Future of the Public Service in 2001-2002. He has brought together the best minds in academia, government and the private sector to address these issues and developed a forward-looking legislative agenda. Taken together, the legislation he has sponsored and cosponsored represents the most significant governmentwide changes to the federal civil service system since passage of the Civil Service Reform Act of 1978.

Legislation sponsored by Senator Voinovich enacted into law:

Department of Defense Civilian Workforce Reshaping Authority as part of the FY 2001 Defense Authorization, became law on October 30, 2000.

Several major provisions of S. 2651, the Federal Workforce Improvement Act of 2002, were included in the Homeland Security Act of 2002, Public Law 107–296, November 25, 2002. Its most important provisions: agency chief human capital officers (at the 24 largest federal agencies); an interagency chief human capital officers council (codifying the Human Resources Management Council); an OPM-designed set of systems, including metrics, for assessing agency human capital management; inclusion of agency human capital strategic planning in annual performance plans and program performance reports required by GPRA; reform of the competitive service hiring process (use of a category ranking system instead of the Rule of Three); permanent extension, revision, and expansion of voluntary separation incentive pay and voluntary early retirement ("buyouts" and "early-outs");

S. 926, the Federal Employee Student Loan Assistance Act, Public Law 108–123, November 11, 2003. The law raises to $10,000 and $60,000, respectively, the annual and aggregate limits of student loan repayment federal agencies may offer employees as incentives.

S. 1683, the Federal Law Enforcement Pay and Benefits Parity Act of 2003, Public Law 108–196, December 19, 2003. The law required OPM to conduct a study of federal law enforcement compensation and classification to inform reform efforts. It was submitted to Congress on July 16, 2004.

S. 610, NASA Workforce Flexibility Act of 2004, Public Law 108-201, February 24, 2004. The law provides new personnel flexibilities to the National Aeronautics and Space Administration to recruit and retain a technology savvy workforce for NASA's high-tech mission.

H.R. 2751, GAO Human Capital Reform Act of 2004, Public Law 108–271, July 7, 2004. H.R. 2751 was the House companion to Senator Voinovich's bill S. 1522, which passed the Senate on November 24, 2003. It provides several new personnel flexibilities to the now U.S. Government Accountability Office.

Legislation cosponsored by Senator Voinovich enacted into law:

The Homeland Security Act of 2002, Public Law 107–296, November 25, 2002, allowed the new department to design a new personnel system for its 170,000 employees to meet its mission needs.

The National Defense Authorization Act for Fiscal Year 2004, Public Law 108-136, November 24, 2003, includes the National Security Personnel System (NSPS). Senator Voinovich had a role in drafting the Senate version of NSPS, S. 1166. NSPS will provide significant personnel flexibilities to the Department of Defense similar to those at the Department of Homeland Security. In addition, this Act contains a provision that alleviates pay compression in the Senior Executive Service. Senator Voinovich had introduced a separate bill, S. 768, to accomplish this.

Legislation sponsored by Senator Voinovich currently under Congressional consideration:

S. 129, Federal Workforce Flexibility Act of 2003, was passed by the Senate on April 8, 2004, and it contains additional governmentwide human capital reforms. The House Committee on Government Reform considered and reported S. 129 to the full House on June 24, 2004. Senator Voinovich understands that the bill should pass the House the week of October 4th and return to the Senate for final passage.

Mr. VOINOVICH. I would like to emphasize for my colleagues how important it is that this jurisdiction in terms of the Director of Budget and Management and the Deputy Director remains in the Governmental Affairs Committee.

I would like to make one other point; that point is, the jurisdiction of our committee has been stripped out for the last couple of days. So I just urge my colleagues—I am going to ask for a vote. I think it is important to the management of our country.

I appreciate the opportunity to speak and yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator's time has expired.

The Senator from Nevada is recognized.

Mr. REID. Mr. President, for my friend to say the jurisdiction of the committee has been stripped out in the last few days, he should come in contact with reality. It simply is not true. How many times people come and say that does not make it true. The governmental affairs/homeland security committee is going to be one of most powerful committees in the Congress. Last year, as I understand, they had about 900 bills referred to them. This next year, it will probably be 3,000 bills referred to them. They have jurisdiction over wide-ranging matters. A few little things have been taken from Governmental Affairs, but they have been given a truckload of stuff.

I yield 5 minutes to the Senator from North Dakota.

Mr. CONRAD. Mr. President, first of all, I thank the Senator in Nevada for his comments. He is exactly right. For anybody to suggest Governmental Affairs has had their jurisdiction reduced here, I mean, come on. Governmental Affairs has had their jurisdiction dramatically increased.

Mr. NICKLES. Mr. President, the amendment I am offering today with my ranking member, Senator CONRAD, would consolidate jurisdiction for the congressional budget process within the Senate Committee on the Budget and establish shared jurisdiction with the new Committee on Homeland Security and Governmental Affairs over the nomination and confirmation of the Director of the Office of Management and Budget. The amendment would preserve the Government Affairs Committee's jurisdiction over management and accounting measures.

Under current Senate rules, jurisdiction over budget process matters is shared with the Committee on Governmental Affairs, a situation that grew out of the creation of the Budget Committee and the modern budget process in 1974.

This shared jurisdiction is unique in the Senate, where committees rarely share jurisdiction, and where joint referral of legislation is only accomplished by unanimous consent.

Since 1977, the Budget and Governmental Affairs Committees have received joint referral for legislation affecting the budget process pursuant to a unanimous-consent agreement. Under that UC, if one committee acts on a bill the other committee must act within 30 days or be automatically discharged. Our amendment would supercede this consent agreement.

We all know the Federal budget process is very complicated. The expertise on this subject clearly resides in the Budget Committee, and Senator CONRAD and I believe that is where these issues should be addressed.

Over the years, the Governmental Affairs Committee has done little work on the budget process. Although the current jurisdictional situation has not necessarily created significant problems, we believe it is simply unnecessary to have two committees involved in these issues.

The Governmental Affairs Committee has a very broad and expansive jurisdiction which the resolution being considered would expand even further to matters of homeland security.

Senator CONRAD and I believe consolidating jurisdiction over budget process issues within the Budget Committee would eliminate confusion and guarantee that this work is performed by those with the expertise.

I encourage my colleagues to support our amendment.

Mr. CONRAD. Mr. President, I rise today to speak on behalf of the amendment from the chairman of the Budget Committee, Senator NICKLES.

Mr. President, the Senator from Ohio just got it wrong, what the amendment of the Senator who is the chairman of the Budget Committee does. We do not take the jurisdiction of Governmental Affairs on management issues at all, not at all. That is not what the amendment does.

What the amendment does do is end the duplication of the jurisdiction of the committees on budget process issues. I would submit to my colleagues, it does not make any sense any longer, after 30 years, for Governmental Affairs and Budget to have joint jurisdiction on budget process issues.

The reason they have that joint jurisdiction is because Governmental Affairs wrote the Budget Act. There was no Budget Committee, so at that time they had expertise that the Budget Committee simply did not have, so they were included on jurisdiction on budget process issues.

Well, 30 years have passed. The expertise on these issues is on the Budget Committee. It makes no sense in any management sense to have joint jurisdiction on budget process issues—not on the management issues. The management issues are retained by Governmental Affairs, as they should be. But budget process issues, as the chairman of the Budget Committee has suggested in his amendment, ought to be the jurisdiction of the Budget Committee.

Second, it makes no earthly sense for the nominee to be the Budget Director only to go before the Governmental Affairs Committee. That is what happens now. I think my colleagues would be stunned—I must say, I was very surprised, serving on the Budget Committee—that the Director of the Budget does not come before the Budget Committee. What sense does that make?

The amendment of the chairman of the Senate Budget Committee, Senator NICKLES of Oklahoma, does not expand the jurisdiction of the Senate Budget Committee. It simply eliminates the overlap in jurisdiction between the two committees on the narrow issue of budget process issues.

The expertise on budget process issues, on pay-go, on discretionary caps, on oversight of budget agreements, does not reside with the Committee on Governmental Affairs; it resides in the Budget Committee. We ought to clean up this overlap that has existed for 30 years that started for a good reason—because the Committee on Governmental Affairs wrote the Budget Act because there was no Budget Committee. But now there is a Budget Committee. It has been in existence 30 years. It ought to have jurisdiction over budget process issues. That just makes common sense.

Who could possibly defend the notion that a Budget Director should not come before the Budget Committee for confirmation? It makes no earthly sense.

The amendment of the Senator from Oklahoma is entirely reasonable. It is rational. It improves the operations of both committees. It does not take jurisdiction to the Budget Committee; it simply reduces the common jurisdiction that currently exists between Governmental Affairs and the Budget Committee on the narrow issue of budget process.

Mr. VOINOVICH. Will the Senator yield for a question?

Mr. CONRAD. I would be happy to yield after this statement.

And it gives to the Budget Committee the right to hear from the Office of Management and Budget, the man who is named or the woman who is named Budget Director in the confirmation process. That just makes common sense.

I would be happy to yield.

Mr. VOINOVICH. The question I would like to ask is, Has the procedure that we now have in terms of the appointment—and this has been for 30 years—diminished the effectiveness of the Budget Committee, because of the fact that they have not participated in the nomination of the Budget Director?

Mr. CONRAD. I believe the answer simply has to be yes. It makes no earthly sense for the person who is named to be the budget director of the United States not to come before the Budget Committee. What sense could that possibly make?

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired.

The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I apologize to the Senator from Ohio. We are running out of time, and the distinguished senior Senator from Texas has an amendment she needs to be able to describe.

### AMENDMENT NO. 4015 TO AMENDMENT NO. 3981

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I call up amendment No. 4015.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 4015.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Purpose: To implement responsible subcommittee reorganization in the Committee on Appropriations)

In section 402, strike the second sentence and insert the following: "The Committee on Appropriations shall reorganize into 13 subcommittees not later than 2 weeks after the convening of the 109th Congress.".

### AMENDMENT NO. 4042 TO AMENDMENT NO. 4015

Mrs. HUTCHISON. Mr. President, I call up a second-degree amendment No. 4042.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 4042 to amendment No. 4015.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To implement responsible subcommittee reorganization in the Committee on Appropriations)

Strike "not later than 2 weeks" and insert "as soon as possible"

Mrs. HUTCHISON. Mr. President, I ask unanimous consent for adoption of the second-degree amendment.

Mr. REID. I object.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the second-degree amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4042) was agreed to.

Mrs. HUTCHISON. Mr. President, my amendment simply keeps what the Senate has said it wants, and that is an intelligence subcommittee on Appropriations, and it keeps the 13 subcommittees of Appropriations. It says the Appropriations Committee will organize into 13 subcommittees with the intelligence subcommittee as soon as possible after the convening of the 109th Congress.

All my amendment does is keep the Appropriations subcommittees at the same number, making sure there is one intelligence subcommittee, but it does not require the merging of Defense and Military Construction.

It may be that when the Appropriations Committee looks at all of the options for the making of 13 subcommittees, that that will happen, but I think the Appropriations Committee should be the one that makes the recommendations to the Senate. We do not have to rush to make this decision for the Appropriations Committee.

According to the CRS, eliminating a subcommittee through a measure on the Senate floor is unprecedented. In more than 200 years, the CRS says, the Senate has never eliminated a subcommittee through floor action without the committee bringing it to the floor. The Senate has created subcommittees, as with the Governmental Affairs Subcommittee on Investigations in 1952, but not eliminated subcommittees. Merging subcommittees to create room for the new one may be the right thing to do, but the floor is the wrong place to do it.

What is proposed today will set a precedent that could impact every committee by pulling the ability of the committee to organize itself and having that agreed to by the Senate. This is a precedent that should concern every committee. It should concern the majority and the minority. There is no reason to make this decision now.

Also, these changes must be made in conjunction with the House. The House Appropriations subcommittees and the Senate Appropriations subcommittees should match so that when we conference, we will have a finite subcommittee that deals with the same issues; otherwise, there could be many problems with the appropriations process that would complicate an already complicated process.

The House has not made any decisions about reorganizing itself on the Appropriations Committee. The wise thing for the Senate to do would be to create the new intelligence subcommittee of the Appropriations Committee, determine that there will be 13 subcommittees but require the Appropriations Committee to do the reorganization, after which the Senate would be asked to agree. That is all my amendment does.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. REID. Mr. President, I ask unanimous consent to speak for 2 minutes in opposition to the amendment offered by the Senator from Texas.

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. REID. Mr. President, I serve on the Appropriations Committee with the distinguished Senator from Texas. She certainly is one of the finest Senators here. But on this issue I disagree with her. In the underlying legislation before the Senate, there has been a consolidation of Defense appropriations and Military Construction. This certainly makes sense. The subject matter is related to the same players, same departments, military, same basis. It does not make sense to make the artificial divide for Construction. I have served as chairman of the Military Construction Subcommittee, and I enjoyed it, but I always wondered why it was a separate subcommittee.

It does, however, make sense to pull intelligence from defense and make it a separate subcommittee. That is what we have done. We have talked to experts, and we think this is the best way to do it. We should keep this plan intact. It is the right thing to do.

The legislation we now have before the Senate is a good package. I don't think it should be splintered with trying to have the Committee on Appropriations rearrange what we have done.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There is 2½ minutes remaining.

Mr. McCONNELL. I yield the remaining time that I have to the Senator from Ohio.

### AMENDMENT NO. 4027

Mr. VOINOVICH. Mr. President, I would just like to emphasize again that the current situation is one that is working. Unless one can show that it is not working in terms of the authority or the jurisdiction of the Governmental Affairs Committee, I would argue, why change it.

Secondly, this amendment would then subject the appointees of the Director of the Office of Management and Budget, the Deputy Director, and other people to jurisdictions in two committees, which would make the appointment process longer than it is today in an area that is particularly important to the President. What he wants to do immediately is to get his director of budget on board.

Secondly, I think we need to point out that the budget process is not just the jurisdiction of the Budget Committee. Under this amendment, if I want to put a bill in, for example, to reform the budget process to 2-year budgets, to require that the budget include a presentation on the accrued liabilities of the United States and, for that matter, go back and look at the Budget Act of 1974, which should be updated, that bill would have to go to the Budget Committee. If the members of that committee were unhappy with that, if they like the process of 1-year budgets because of the fact that they like to take a bite out of the apple each year, that bill would be dead.

Under the current situation, if someone has an idea of improving the budget process that impacts not only the budget but the entire operation of Government, they can bring it to the Governmental Affairs Committee. We could handle that legislation, and then that legislation would have to be referred to the Budget Committee for their consideration. The fact is, this is too large a responsibility just to put it within the jurisdiction of the Budget Committee. I argue that it makes a lot of sense to leave the situation as it is unless somebody can tell me that it is not working.

I will say one other thing: Our Government's biggest problem today is management. Having jurisdiction of the Office of Management and Budget in Governmental Affairs has given this Senator a lot of leverage to get this administration to do some things that are important for the country.

I thank the Chair.

Mr. REID. Mr. President, I would like the record to reflect that when I spoke regarding Senator VOINOVICH earlier, I said there were approximately 900 bills referred to the Governmental Operations Committee. I misspoke. It is 300. I want the record to reflect the proper number.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the first vote occur on the Nickles amendment, to be followed by a vote on the Hutchison amendment.

### VOTE ON AMENDMENT NO. 4041

Mr. REID. Mr. President, I believe we need the yeas and nays on the Nickles amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. All time has expired.

The question is on agreeing to the Nickles second-degree amendment No. 4041.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from Idaho (Mr. CRAIG), the Senator from South Carolina (Mr. GRAHAM), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. CORNYN) would vote "yea."

Mr. REID. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mrs. BOXER), the Senator from Louisiana (Mr. BREAUX), the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), the Senator from Georgia (Mr. MILLER), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 35, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—50

Allard
Baucus
Biden
Bingaman
Bond
Bunning
Burns
Cantwell
Chafee
Clinton
Conrad
Corzine
Crapo
Daschle
Dayton
Dodd
Dole
Domenici
Dorgan
Ensign
Enzi
Feingold
Feinstein
Graham (FL)
Grassley
Gregg
Harkin
Inouye
Johnson
Kennedy
Kohl
Kyl
Landrieu
Leahy
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Santorum
Schumer
Sessions
Shelby
Smith
Stabenow
Thomas
Wyden

NAYS—35

Akaka
Alexander
Allen
Bennett
Brownback
Byrd
Carper
Cochran
Coleman
Collins
DeWine
Durbin
Fitzgerald
Frist
Hagel
Hatch
Hutchison
Inhofe
Jeffords
Lautenberg
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Murkowski
Pryor
Roberts
Rockefeller
Snowe
Stevens
Talent
Voinovich
Warner

NOT VOTING—15

Bayh
Boxer
Breaux
Campbell
Chambliss
Cornyn
Craig
Edwards
Graham (SC)
Hollings
Kerry
Miller
Sarbanes
Specter
Sununu

The amendment (No. 4041) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Mr. President, Senator HATCH and Senator LEAHY have a crime bill that has been agreed to on both sides. I ask unanimous consent that they be allowed to bring up that bill, with debate time limited to 1 minute on each side.

Ms. LANDRIEU. May we have order in the Senate?

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I will not object.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Also, just prior to that, I ask consent that Senator NICKLES have 1 minute to speak on the amendment just voted on.

Mr. REID. I am sorry, I couldn't hear that.

Mr. MCCONNELL. One minute to speak on the amendment just voted on by Senator NICKLES, followed by 2 minutes equally divided by Senator HATCH and Senator LEAHY.

Mr. REID. I ask the Senator to modify his request to allow 1 minute on each side prior to voting on the Hutchison amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank our colleagues for the vote on the last amendment. I especially thank my colleague and friend, Senator CONRAD, for his eloquent debate on it, as well as for his support and cosponsorship of the amendment.

I think it is a good amendment. I think it helps the budget process. Also, I compliment my friend. It has been a pleasure to work with him on the Budget Committee. This was a good, positive budget change. I thank him for his leadership on this amendment.

Mr. HATCH. Mr. President, I ask unanimous consent that my reading of this procedural matter will not be counted against my 1 minute on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

## INNOCENCE PROTECTION ACT OF 2004

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 5107, the DNA bill, which is at the desk; further, that the bill be read a third time and passed and the motion to reconsider be laid upon the table; provided further, that when the Senate receives from the House a correcting enrollment resolution relating to H.R. 5107, the Senate proceed to its consideration and the resolution be agreed to and the motion to reconsider be laid upon the table. Finally, I ask unanimous consent that if the House does not adopt the correcting enrollment resolution by the end of this Congress, then the Senate action on H.R. 5107 be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill (H.R. 5107) was read the third time and passed.

Mr. HATCH. Mr. President, this is the very important DNA bill which will help resolve the difficulties with over 400,000 rape kits in this country, some of which are 20 years old or older.

Mr. President, I would just like to compliment Debbie Smith and Kirk Bloodsworth, who are two of the initiating people who have helped bring this about, but also all the people who worked so hard: Senator LEAHY, Senator BIDEN, Senator SPECTER, Senator FEINSTEIN, Senator DEWINE and, of course on the House side, Chairman SENSENBRENNER and Representative BILL DELAHUNT for their dogged determination, and to Senators KYL, SESSIONS, and CORNYN who did a really great job on this bill; also staff on both sides, in both Houses.

With that, I yield the floor.

Mr. KYL. Mr. President, as the primary drafter of Title I of H.R. 5107, I would like to make a few comments. After extensive consultation with my colleagues, broad bipartisan consensus was reached and the language in Title I was agreed to.

I would like to make it clear that it is not the intent of this bill to limit any laws in favor of crime victims that may currently exist, whether these laws are statutory, regulatory, or found in case law. I would like to turn to the bill itself and address the first section, (a)(1), the right of the crime victim to be reasonably protected. Of course the government cannot protect the crime victim in all circumstances. However, where reasonable, the crime victim should be provided accommodations such as a secure waiting area, away from the defendant before and after and during breaks in the proceedings. The right to protection also extends to require reasonable conditions of pre-trial and post-conviction relief that include protections for the victim's safety.

I would like to address the notice provisions of (a)(2). The notice provisions are important because if a victim fails to receive notice of a public proceeding in the criminal case at which the victim's right could otherwise have been exercised, that right has effectively been denied. Public court proceedings include both trial level and appellate level court proceedings. It does not make sense to enact victims' rights that are rendered useless because the victim never knew of the proceeding at which the right had to be asserted. Simply put, a failure to provide notice of proceedings at which a right can be asserted is equivalent to a violation of the right itself.

Equally important to this right to notice of public proceedings is the right to notice of the escape or release of the accused. This provision helps to protect crime victims by notifying them that the accused is out on the streets.

For these rights to notice to be effective, notice must be sufficiently given in advance of a proceeding to give the crime victim the opportunity to arrange his or her affairs in order to be able to attend that proceeding and any scheduling of proceedings should take into account the victim's schedule to facilitate effective notice.

Restrictions on public proceedings are in 28 CFR Sec. 50.9 and it is not the intent here today to alter the meaning of that provision.

Too often crime victims have been unable to exercise their rights because they were not informed of the proceedings. Pleas and sentencings have all too frequently occurred without the victim ever knowing that they were taking place. Victims are the persons who are directly harmed by the crime and they have a stake in the criminal process because of that harm. Their lives are significantly altered by the crime and they have to live with the consequences for the rest of their lives. To deny them the opportunity to know of and be present at proceedings is counter to the fundamental principles of this country. It is simply wrong. Moreover, victim safety requires that notice of the release or escape of an accused from custody be made in a timely manner to allow the victim to make informed choices about his or her own safety. This provision ensures that takes place.

I would like to turn to (a)(3), which provides that the crime victim has the right not to be excluded from any public proceedings. This language was drafted in a way to ensure that the government would not be responsible for paying for the victim's travel and lodging to a place where they could attend the proceedings.

In all other respects, this section is intended to grant victims the right to attend and be present throughout all public proceedings.

This right is limited in two respects. First, the right is limited to public proceedings, thus grand jury proceedings are excluded from the right. Second, the government or the defendant can request, and the court can order, judicial proceedings to be closed under existing laws. This provision is not intended to alter those laws or their procedures in any way. There may be organized crime cases or cases involving national security that require procedures that necessarily deny a crime victim the right not to be excluded that would otherwise be provided under this section. This is as it should be. National security matters and organized crime cases are especially challenging and there are times when there is a vital need for closed proceedings. In such cases, the proceedings are not intended to be interpreted as "public proceedings" under this bill. In this regard, it is not our intent to alter 28 CFR Sec. 50.9 in any respect.

Despite these limitations, this bill allows crime victims, in the vast majority of cases, to attend the hearings and trial of the case involving their victimization. This is so important because crime victims share an interest with the government in seeing that justice is done in a criminal case and this interest supports the idea that victims should not be excluded from public criminal proceedings, whether these are pre-trial, trial, or post-trial proceedings.

When "the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding," a victim may be excluded. The standards of "clear and convincing evidence" and "materially altered" are extremely high and intended to make exclusion of the victim quite rare, especially since (b) says that "before making a determination described in subsection (a)(3), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding." It should be stressed that (b) requires that "the reasons for any decision denying relief under this chapter shall be clearly stated on the record." A judge should explain in detail the precise reasons why relief is being denied.

This right of crime victims not to be excluded from the proceedings provides a foundation for (a)(4), which provides victims the right to reasonably be heard at any public proceeding involving release, plea, or sentencing. This provision is intended to allow crime victims to directly address the court in person. It is not necessary for the victim to obtain the permission of either party to do so. This right is a right independent of the government or the defendant that allows the victim to address the court. To the extent the victim has the right to independently address the court, the victim acts as an independent participant in the proceedings. When a victim invokes this right during plea and sentencing proceedings, it is intended that the he or she be allowed to provide all three types of victim impact: the character of the victim, the impact of the crime on the victim, the victims' family and the community, and sentencing recommendations. Of course, the victim may use a lawyer, at the victim's own expense, to assist in the exercise of this right. This bill does not provide victims with a right to counsel but recognizes that a victim may enlist a counsel on their own.

It is not the intent of the term "reasonably" in the phrase "to be reasonably heard" to provide any excuse for denying a victim the right to appear in person and directly address the court. Indeed, the very purpose of this section is to allow the victim to appear personally and directly address the court. This section would fail in its intent if courts determined that written, rather than oral communication, could generally satisfy this right. On the other hand, the term "reasonably" is meant to allow for alternative methods of communicating a victim's views to the court when the victim is unable to attend the proceedings. Such circumstances might arise, for example, if the victim is incarcerated on unrelated matters at the time of the proceedings or if a victim cannot afford to travel to a courthouse. In such cases, communication by the victim to the court is permitted by other reasonable means. In short, the victim of crime, or their counsel, should be able to provide any information, as well as their opinion, directly to the court concerning the release, plea, or sentencing of the accused. This bill intends for this right to be heard to be an independent right of the victim.

It is important that the "reasonably be heard" language not be an excuse for minimizing the victim's opportunity to be heard. Only if it is not practical for the victim to speak in person or if the victim wishes to be heard by the court in a different fashion should this provision mean anything other than an in-person right to be heard.

Of course, in providing victim information or opinion it is important that the victim be able to confer with the prosecutor concerning a variety of matters and proceedings. Under (a)(5), the victim has a reasonable right to confer with the attorney for the government in the case. This right is intended to be expansive. For example, the victim has the right to confer with the government concerning any critical stage or disposition of the case. The right, however, it is not limited to these examples. This right to confer does not give the crime victim any right to direct the prosecution. Prosecutors should consider it part of their profession to be available to consult with crime victims about concerns the victims may have which are pertinent to the case, case proceedings or dispositions. Under this provision, victims are able to confer with the government's attorney about proceedings after charging. I would note that the right to confer does impair the prosecutiorial discretion of the Attorney General or any officer under his direction, as provided (d)(6).

I would like to turn now to restitution in (a)(6). This section provides the right to full and timely restitution as provided in law. We specifically intend to endorse the expansive definition of restitution given by Judge Cassell in U.S. v. Bedonie and U.S. v. Serawop in May 2004. This right, together with the other rights in the act to be heard and confer with the government's attorney in this act, means that existing restitution laws will be more effective.

I would like to move on to (a)(7), which provides crime victims with a right to proceedings free from unreasonable delay. This provision does not curtail the government's need for reasonable time to organize and prosecute its case. Nor is the provision intended to infringe on the defendant's due process right to prepare a defense. Too often, however, delays in criminal proceedings occur for the mere convenience of the parties and those delays reach beyond the time needed for defendant's due process or the government's need to prepare. The result of such delays is that victims cannot begin to put the criminal justice system behind them and they continue to be victimized. It is not right to hold crime victims under the stress and pressure of future court proceedings merely because it is convenient for the parties or the court.

This provision should be interpreted so that any decision to schedule, reschedule, or continue criminal cases should include victim input through the victim's assertion of the right to be free from unreasonable delay.

I would add that the delays in criminal proceedings are among the most chronic problems faced by victims. Whatever peace of mind a victim might achieve after a crime is too often inexcusably postponed by unreasonable delays in the criminal case. A central reason for these rights is to force a change in a criminal justice culture which has failed to focus on the legitimate interests of crime victims, a new focus on limiting unreasonable delays in the criminal process to accommodate the victim is a positive start.

I would like to turn to (a)(8). The broad rights articulated in this section are meant to be rights themselves and are not intended to just be aspirational. One of these rights is the right to be treated with fairness. Of course, fairness includes the notion of due process. Too often victims of crime experience a secondary victimization at the hands of the criminal justice system. This provision is intended to direct government agencies and employees, whether they are in executive or judicial branches, to treat victims of crime with the respect they deserve and to afford them due process.

It is not the intent of this bill that its significance be whittled down or marginalized by the courts or the executive branch. This legislation is meant to correct, not continue, the legacy of the poor treatment of crime victims in the criminal process. This legislation is meant to ensure that cases like the McVeigh case, where victims of the Oklahoma City bombing were effectively denied the right to attend the trial and to avoid federal appeals courts from determining, as the Tenth Circuit Court of Appeals did, that victims had no standing to seek review of their right to attend the trial under the former victims' law that this bill replaces.

I would also like to comment on (b), which directs courts to ensure that the rights in this law be afforded and to record, on the record, any reason for denying relief of an assertion of a crime victim. This provision is critical because it is in the courts of this country that these rights will be asserted and it is the courts that will be responsible for enforcing them. Further, requiring a court to provide the reasons for denial of relief is necessary for effective appeal of such denial.

Turning briefly to (c), there are several important things to point out. First, this provision requires that the government inform the victim that the victim can seek the advice of the attorney, such as from the legal clinics for crime victims contemplated under this law, such as the law clinics at Arizona State University and those supported by the National Crime Victim Law Institute at the Law School at Lewis and Clark College in Portland, Oregon. This is an important protection for crime victims because it ensures the independent and individual nature of their rights. Second, the notice section immediately following limits the right to notice of release where such notice may endanger the safety of the person being released. There are cases, particularly in domestic violence cases, where there is danger posed by an intimate partner if the intimate partner is released. Such circumstances are not the norm, even in domestic violence cases as a category of cases. This exception should not be relied upon as an excuse to avoid notifying most victims.

I would now like to address the enforcement provisions of the bill in (d). This provision allows a crime victim to enter the criminal trial court during proceedings involving the crime against the victim, to stand with other counsel in the well of the court, and assert the rights provided by this bill. This provision ensures that crime victims have standing to be heard in trial courts so that they are heard at the very moment when their rights are at stake and this, in turn, forces the criminal justice system to be responsive to a victim's rights in a timely way. Importantly, however, the bill does not allow the defendant in the case to assert any of the victim's rights to obtain relief. This prohibition prevents the individual accused of the crime from distorting a right intended for the benefit of the individual victim into a weapon against justice.

The provision allows the crime victim's representative and the attorney for the government to go into a criminal trial court and assert the crime victim's rights. The inclusions of representatives and the government's attorney in the provision are important for a number of reasons. First, allowing a representative to assert a crime victim's rights ensures that where a crime victim is unable to assert the rights on his or her own for any reason, including incapacity, incompetence, minority, or death, those rights are not lost. The representative for the crime victim can assert the rights. Second, a crime victim may choose to enlist a private attorney to represent him or her in the criminal case—this provision allows that attorney to enter an appearance on behalf of the victim in the criminal trial court and assert the victim's rights. The provision also recognizes that, at times, the government's attorney may be best situated to assert a crime victim's rights either because the crime victim is not available at a particular point in the trial or because, at times, the crime victim's interests coincide with those of the government and it makes sense for a single person to express those joined interests. Importantly, however, the provision does not mean that the government's attorney has the authority to compromise or co-opt a victim's right. Nor does the provision mean that by not asserting a victim's right the government's attorney has waived that right. The rights provided in this bill are personal to the individual crime victim and it is that crime victim that has the final word regarding which of the specific rights to assert and when. Waiver of any of the individual rights provided can only happen by the victim's affirmative waiver of that specific right.

In sum, without the ability to enforce the rights in the criminal trial and appellate courts of this country any rights afforded are, at best, rhetoric. We are far past the point where lip service to victims' rights is acceptable. The enforcement provisions of this bill ensure that never again are victim's rights provided in word but not in reality.

I want to turn to (d)(2) because it is an unfortunate reality that in today's world there are crimes that result in multiple victims. The reality of those situations is that a court may find that the sheer number of victims is so large that it is impracticable to accord each victim the rights in this bill. The bill allows that when the court makes that finding on the record the court must then fashion a procedure that still gives effect to the bill and yet takes into account the impracticability. For instance, in the Oklahoma City bombing case the number of victims was tremendous and attendance at any one proceeding by all of them was impracticable so the court fashioned a procedure that allowed victims to attend the proceedings by close circuit television. This is merely one example. Another may be to allow victims with a right to speak to be heard in writing or through other methods. Importantly, courts must seek to identify methods that fit the case before that to ensure that despite the high number of crime victims, the rights in this bill are given effect. It is a tragic reality that cases may involve multiple victims and yet that fact is not grounds for eviscerating the rights in this bill. Rather, that fact is grounds for the court to find an alternative procedure to give effect to this bill.

I now want to turn to another critical aspect of enforcement of victims' rights, (d)(3). This subsection provides that a crime victim who is denied any of his or her rights as a crime victim has standing to seek appellate review of that denial. Specifically, the provision allows a crime victim to apply for a writ of mandamus to the appropriate appellate court. The provision provides that court shall take the writ and shall order the relief necessary to protect the crime victim's right. This provision is critical for a couple of reasons. First, it gives the victim standing to appear before the appellate courts of this country and ask for review of a possible error below. Second, while mandamus is generally discretionary, this provision means that courts must review these cases. Appellate review of denials of victims' rights is just as important as the initial assertion of a victim's right. This provision ensures review and encourages courts to broadly defend the victims' rights.

Without the right to seek appellate review and a guarantee that the appellate court will hear the appeal and order relief, a victim is left to the mercy of the very trial court that may have erred. This country's appellate courts are designed to remedy errors of lower courts and this provision requires them to do so for victim's rights. For a victim's right to truly be honored, a victim must be able to assert the rights in trial courts, to then be able to have denials of those rights reviewed at the appellate level, and to have the appellate court take the appeal and order relief. By providing for all of this, this bill ensures that victims' rights will have meaning. It is the clear intent and expectation of Congress that the district and appellate courts will establish procedures that will allow for a prompt adjudication of any issues regarding the assertion of a victim's right, while giving meaning to the rights we establish.

I would like to turn our attention to (d)(4) because that also provides an enforcement mechanism. This section provides that in any appeal, regardless of the party initiating the appeal, the government can assert as error the district court's denial of a crime victim's right. This subsection is important for a couple of reasons. First, it allows the government to assert a victim's right on appeal even when it is the defendant who seeks appeal of his or her conviction. This ensures that victims' rights are protected throughout the criminal justice process and that they do not fall by the wayside during what can often be an extended appeal that the victim is not a party to.

I would like to turn to the next provision, (d)(5). This provision is not intended to prevent courts from vacating decisions in non-trial proceedings, such as proceedings involving release, delay, pleas, or sentencings, in which victims' rights were not protected, and ordering those proceedings to be redone.

It is important for victims' rights to be asserted and protected throughout the criminal justice process, and for courts to have the authority to redo proceedings such as release, delay, pleas, and sentencings, where victims' rights are abridged.

I want to turn to the definitions in the bill, contained in (e). There are a couple of key points to be made about the definitions. A "crime victim" is defined as a person directly and proximately harmed as a result of a federal offense or an offense in the District of Columbia. This is an intentionally broad definition because all victims of crime deserve to have their rights protected, whether or not they are the victim of the count charged. Additionally, crime victims may, for any number of reasons, want to employ an attorney to represent them in court. This definition of crime victim allows crime victims to do that. It also assures that when, for any reason, crime victims unable to assert rights on their own—those rights will still be protected.

Now I would like to turn to the portion of the bill concerning administrative compliance with victims' rights. The provisions of (f) are relatively self-explanatory, but it important to point out that these procedures are completely separate from and in no way limit the victim's rights in the previous section.

I also would like to make it clear that it is the intention of the Congress that the money authorized in 1404D for the Director of the Office for Victims of Crimes "for the support of organizations that provide legal counsel and support services for victims in criminal cases for the enforcement of crime victims' rights in Federal jurisdictions, and in States and tribal governments . . ." is intended to support the work of the National Crime Victim Law Institute at the Law School at Lewis and Clark College in Portland, Oregon, and to replicate across the nation the clinics that it is supporting, fashioned after the Crime Victims Legal Assistance Project housed at Arizona State University College of Law and run by Arizona Voice for Crime Victims. The Director of OVC should take care to make sure that these funds go into the support of these programs so that crime victims can receive free legal counsel to enforce their rights in our federal courts. Only in this way will be able to fully and fairly test whether statutes are enough to protect victims' rights. There is no substitute for testing these rights in our courts to see if they have the power to change a culture that for too long has ignored the victim.

Let me comment briefly on the provision on reports. Under (a), the Administrative Office of the U.S. Courts to report annually the number of times a right asserted in a criminal case is denied the relief requested, and the reasons therefore, as well as the number of times a mandamus action was brought and the result of that mandamus.

Such reporting is the only way we in the Congress and other interested parties can observe whether reforms we mandate are being carried out. No one doubts the difficulty of obtaining case-by-case information of this nature. Yes, this information is critical to understanding whether federal statutes really can effectively protect victim's rights or whether a constitutional amendment is necessary. We are certain that affected executive and judicial agencies can work together to implement effective administrative tools to record and amass this data. We would certainly encourage the National Institute of Justice to support any needed research to get this system in place.

One final point. Throughout this Act reference is made to the "accused." The intent is for this word to be used in the broadest sense to include both those charged and convicted so that the rights we establish apply throughout the criminal justice system.

### TITLE IV

Mr. HATCH. Before we agree to send this bill to the House, there are a number of concerns raised with respect to the capital-counsel section of Title IV that I would like to address with my colleagues. I know that this title has been of particular concern to my friend from Texas, Senator CORNYN.

Mr. CORNYN. I thank the Senator. I do have a number of concerns about the Innocence Protection Act. Namely, I am concerned that under this bill, states effectively are required to adhere to a Federal regulatory system, answering to the Department of Justice, for defense and prosecution representation in State capital cases. However, I have been encouraged by recent modifications to the bill that lead me to believe a greater balance has been struck between ensuring strong capital representation systems and supporting the prosecution and sentencing of violent criminals. Senator HATCH, is it your belief that such a balance has been struck?

Mr. HATCH. That is my belief. And let me first say that I appreciate the concerns of the Senator from Texas as well as those of Senators KYL and SESSIONS, each of whom have worked very hard on this important issue. You bring to the debate a wealth of experience in this area, having served as Attorney General of your home State of Texas and as a Judge, and you have worked tirelessly on this, and I thank you for it.

The recent modifications to the bill are a great improvement. The bill is the result of the hard work and dedication of many on both sides of the aisle. Most importantly, we have significantly reworked this bill so as to address the legitimate concerns you, Senators KYL and SESSIONS as well as others have raised.

Specifically, we made some changes to the capital representation section of the Innocence Protection Act. We worked with the House to add language similar to language in the amendment that you offered in the Judiciary Committee language that would require that a large majority of the funding in this area to go to the trial level, rather than to the appellate or habeas litigation. This shift in funding allocation is a further safeguard against your concerns that funds might go to particular advocacy groups because they typically become involved in these cases at the appellate level.

Mr. CORNYN. On this issue—the issue of capital representation, I note that there is a provision in place negotiated by Majority Leader DELAY and other members of the Texas delegation in the House designed to protect the capital representation system that is in place in Texas? Do I understand that correctly?

Mr. HATCH. Yes. Section 421(d)(1)(C) was added specifically to ensure that Texas, or any other State with a similarly structured system, would qualify as an "effective system" under the statute. This provision has been referred to as the "Texas carve-out" throughout debate over this bill. It is appropriate in light of the changes Texas enacted in order to improve its capital-representation system just 3 years ago.

Mr. CORNYN. I thank the Senator. I share the perspective that Texas' system is preserved as a so-called "effective system" under the statute. And that is critically important. As you point out, in 2001, the Texas Legislature passed the Texas Fair Defense Act to overhaul Texas' indigent criminal defense system. The legislation passed ensures prompt appointment of an attorney for indigent criminal defendants, provides guidelines on method of appointment for counsel, establishes minimum standards for appointed attorneys in capital cases, and provides both State resources and oversight of county's indigent defense systems through a State Task Force on Indigent Defense. It is this system or any future version of it that specifically is intended to be protected by this language, is it not?

Mr. HATCH. That is absolutely my understanding.

Mr. CORNYN. So under the DeLay proviso, Texas will not have to change a thing in order to receive grants under this bill—it is automatically pre-qualified?

Mr. HATCH. Absolutely. In fact, it is my understanding that at least half a dozen other states also will automatically pre-qualify for funding under this proviso.

Mr. CORNYN. I thank the Senator. This so-called "Texas carve-out" is critical to my support for this bill. Without the carve-out, Texas and other States like it would not qualify for Federal grant funds, even though they already have an "effective system" for capital representation. And, without the carve-out, Texas and other States like it would have no incentive to apply for Federal grant funds because the Federal grant funds to be received would not exceed the State funds that would have to be spent to become eligible. On the other hand, because of the "carve-out," Texas and other States like it can keep appointment power with locally-elected judges, maintain their own innovations designed to improve—not make impossible—the effective representation of capital defendants, and avoid the need for the creation of a new, needlessly expensive, centralized bureaucracy often times controlled by those who oppose the death penalty such as was the case with the former capital defense Resource Centers that were disbanded by Congress in the 1990's.

Mr. HATCH. I would say that the "carve-out" is a compromise that is consistent with past Federal assistance to the States' criminal justice systems, and it sets appropriate limits on the level of Federal involvement in the administration of the death penalty at the state level.

Mr. CORNYN. Thank you for your work on this, Mr. HATCH, and for helping to ensure that my home State of Texas qualifies as having an "effective system for providing competent legal representation" under the legislation.

I have two other questions for you. In the new postconviction testing remedy created by this legislation for Federal prisoners—at what apparently will be section 3600(g) the bill allows the court to order a new trial if a DNA test result, in light of all of the other evidence, establishes, and I quote, "by compelling evidence that a new trial would result in an acquittal." As you recall, the standard for granting new trials in what can sometimes be old cases was much debated during the Judiciary Committee's consideration of this bill. The Committee almost voted in favor of changing this standard of proof from "would result in acquittal" to "did not commit the crime," and some discussed a middle option of raising the standard from preponderance of the evidence to "clear and convincing evidence." Ultimately, we chose to defer addressing this issue until negotiations on a final package with the House of Representatives. And in the end, we chose neither of the standards discussed, but instead opted for elevating the standard of proof to "compelling evidence."

We discussed at the time why "compelling" would be the best term of art for setting a standard for reopening litigation of an issue. In particular, we looked to two cases that tell us what "compelling" means in this context—cases that give us confidence that we have set a high bar that will not allow the probably guilty to receive a new trial—and go free if a new trial proves impossible—and also will not allow defendants to seek new trials on the basis of evidence that they could have presented all along. As the Chairman of the Committee that reported this bill and the Senate companion bill's lead sponsor, I think that you can speak with some authority on this matter, and clarify for the record the thinking that went into the House and Senate's selection of the word "compelling." Would you do so?

Mr. HATCH. I would be pleased to do so. In choosing the term "compelling," we relied on previous interpretation of that term in cases such as United States v. Walser, a 1993 case out of the Eleventh Circuit. That court analyzed a previous jury's decision—and whether it disadvantaged the defendant—under a standard of "compelling prejudice." The court there made clear that it could not find "compelling prejudice" if "under all the circumstances of [the] particular case it is within the capacity of jurors" to reach the proper result—in the case of this bill, to find that the defendant committed the crime. If, in light of the DNA test, it would not be within the capacity of jurors to conclude that the defendant is guilty, a new trial must be granted under 3600(g). But if they could possibly find guilty, no new trial is allowed. As the Eleventh Circuit explained, under the "compelling" standard, if a decision is "within the jury's capacity"—if it is reasonably possible—then "though the task be difficult [for the hypothetical jury], there is no compelling prejudice"—or in our case, no compelling evidence requiring a new trial.

As the Walser case also explains, you look to the trial transcript to decide what constitutes "compelling" evidence. Obviously, it is the defendant's burden to produce this evidence by other means if there is no trial transcript. If the defendant pleaded guilty, and received the inevitable benefits that come with a plea agreement, he cannot later turn the lack of a record against the State. It remains the defendant's burden of both persuasion and production to show that it would not have been possible for the jury to have concluded that he is guilty. This is again implicit in the adoption of the term of art "compelling"—as Walser elaborates, under the "compelling" standard, "absent evidence to the contrary, we presume that the jury" could properly reach the result that it did.

The other case to which I believe that you referred is the Seventh Circuit's 1979 decision in NLRB v. Austin Development Center, which makes clear that previously available evidence is not "compelling" evidence. The relevant passage from that case for our purposes was that only "[t]he discovery of new evidence is a compelling circumstance justifying relitigation. The proffer of evidence not presented earlier, however, will not justify relitigation where it is not shown that the evidence was unavailable at the time of the prior proceeding." In other words, for our purposes, if the DNA evidence that a prisoner relies on is something that would have been available to him earlier, it does not qualify as "compelling" evidence justifying a new trial. If he failed to seek a test when he could have, he cannot later use that test result to argue for a new trial, once witnesses have died or become unavailable or had their memories fade, and other evidence has deteriorated and disappeared. To allow a new trial under these circumstances would be fundamentally unfair to society and its interest in the finality of criminal judgments. As some of my colleagues have noted, Federal Rule of Criminal Procedure specifically limits its liberal new-trial rule to new evidence discovered within 3 years. Implicit in that limit is the judgment that the same evidence cannot carry the same weight in a new trial motion if it is brought at a later time. By adopting the "compelling" standard in this bill, we make that same judgement, and we protect these same societal interests.

I hope that this conforms to your previous understanding of this provision and clarifies matters for the record, Senator. We have chosen a tough standard here—in fact, I believe tougher than all those that we have discussed previously. This is not a standard that will grant new trials to people who probably did it—and then allow them to walk free when prosecutors are unable to try them after the passage of time. I hope that you can have confidence in that, Senator.

Mr. CORNYN. It does conform to my previous understanding and I do have confidence in it, Senator. Thank you. I regret taking up the Senate's time on this busy day, but I do have one other question, and this pertains to the bill's changes to CODIS and NDIS, the DNA index systems. It is my understanding that this bill places no limits on what States can upload into CODIS—that is, into their own databases.

Mr. HATCH. That is correct.

Mr. CORNYN. I also would like to clarify which profiles states are required to have expunged from NDIS—the national-exchange database—as a condition of access. The bill allows States to upload anything that is collected "under applicable legal authorities"—that is, that States or local governments collect under their own laws or policies. An exception is made, however, for two categories—unindicted arrestees and elimination-only samples. Then later, the bill provides that States must seek expungement of samples if, and I quote, "the person has not been convicted of an offense of the basis of which that analysis was or could have been included in the index, and all charges for which the analysis was or could have been included in the index have been dismissed or resulted in acquittal."

It is my understanding that, just as what will now be U.S. Code subsection (d)(2)(A)(i) requires that a person's analysis be expunged if it was originally uploaded on the basis of a criminal conviction and that conviction is overturned, this new subsection (ii) will require the analysis of the acquitted arrestee (or one for whom charges have been dismissed) to be expunged—but only if the analysis originally was or could have been included because he was an arrestee.

Mr. HATCH. That is correct. The new limitation that you noted—the new subsection 14132(d)(2)(A)(ii) corresponds to the limited "unindicted arrestee" category in the new (a)(1)(C). It does not apply to DNA analyses uploaded under other "applicable legal authorities." Our intent was to provide States with maximum flexibility in exchanging DNA profile information through NDIS. The only exception that we made in this bill was for arrestees, who had DNA samples taken from them involuntarily, and who, because of those circumstances, we give the right to have those samples withdrawn from NDIS.

Mr. CORNYN. As you know, I am a strong believer in the power of DNA to solve crimes. I want to see the United States develop as broad and as powerful a DNA database as possible. The States have a strong interest in solving past crimes. I also believe that there is no reason to exclude DNA from CODIS simply because charges against an arrestee are dismissed or he is acquitted—fingerprints are kept in such cases, and there is no reason to treat DNA differently than fingerprints. The bill bars States from keeping an arrestee's DNA sample if charges are dropped or he is acquitted. There is no reason to do so. Experience shows that felony arrestees—even those who are not ultimately convicted—are a good population from which to predict other crimes. Excluding unindicted arrestees will simply prevent States from solving more crimes. I understand that legislative compromise has forced us to exclude arrestees—even those indicted—if charges against them are dropped. I am glad to see that your understanding of the States's otherwise broad authority conforms to my own understanding—that outside of the arrestee-sample context, States may still upload and exchange any DNA collected under State and local laws, policies, and practices on the NDIS database.

In expressing this view, I would like to emphasize that keeping DNA samples in CODIS and NDIS does not affect privacy—the analysis used has no medical predictive value. The analysis of DNA that is kept in CODIS is what is called "junk DNA"—it is impossible to determine anything medically sensitive from this DNA. For example, this DNA will not allow a tester to determine if the donor is susceptible to particular diseases. As the Justice Department noted in its official Views Letter on the predecessor to this bill, and I quote at length:

> [T]here [are no] legitimate privacy concerns that require the retention or expansion of these [H.R. 3214] expungement provisions. The DNA identification system is already subject to strict privacy rules, which generally limit the use of DNA samples and DNA profiles in the system to law enforcement identification purposes. See 42 U.S.C. 14132(b)-(c). Moreover, the DNA profiles that are maintained in the national index relate to 13 DNA sites that do not control any traits or characteristics of individuals. Hence, the databased information cannot be used to discern, for example, anything about an individual's genetic illnesses, disorders, or dispositions. Rather, by design, the information the system retains in the databased DNA profiles is the equivalent of a "genetic fingerprint" that uniquely identifies an individual, but does not disclose other facts about him.

To those still concerned about some kind of civil liberties violation inherent in maintaining a DNA database, I would ask, what about Medicare and Medicaid?—they keep lots of medically sensitive information. Why should we trust those agencies, but not the FBI? Misuse of the information in CODIS and NDIS—if even possible—is prohibited by law. The Medicare and Medicaid system keep vast stores of medically sensitive information about people. If we are so afraid of CODIS and NDIS, what about Medicare?

And again—fingerprints are kept for all arrestees—should we now expunge those too? The FBI maintains a database of fingerprints of arrestees—without regard to whether the arrestee is later acquitted or convicted. As Justice notes in its Views Letter on this bill, "With respect to the proposed exclusion of DNA profiles of unindicted arrestees, it should be noted by way of comparison that there is no Federal policy that bars States from including fingerprints of arrestees in State and Federal law enforcement databases prior to indictment." Since database DNA is no more sensitive than fingerprints, and we would expunge DNA under S. 1700, should we also start throwing out fingerprints?

I would also note that keeping as broad a database as possible will stop many violent predators much earlier. As the Justice Department also noted in its Views Letter, "There is no reason to have a . . . Federal policy mandating expungement for DNA information. If the person whose DNA it is does not commit other crimes, then the information simply remains in a secure database and there is no adverse effect on his life. But if he commits a murder, rape, or other serious crime, and DNA matching can identify him as the perpetrator, then it is good that the information was retained."

Finally, on this point, I would like to highlight the British example: The British tried expunging arrestees' DNA and found that they ended up with embarrassing "improper" matches from perpetrators who weren't supposed to get caught. Now they take DNA from all suspects (not just arrestees) and have a 2,000,000 profile database. As a result, the British now get DNA matches from crimes scenes in 40 percent of all cases, and had 58,176 "cold hits" from crime scenes in 2001–02.

According to a recent National Institutes of Justice-commissioned study titled "The Application of DNA Technology in England and Wales," the U.K. tried expunging DNA profiles for arrestees who are not ultimately convicted and quickly realized that this was a mistake. According to the report:

> While [a 1994 law] called for the expungement of profiles of individuals who were not ultimately convicted, periodic problems with the database administration ultimately led to a number of cases in which suspects were identified by samples which were retained in the system but should have been removed. This lead to a number of court cases and a decision from the House of Lords addressing the legality of such convictions.
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> To address these public policy and legal issues, the House of Lords passed [a 2001 law] which . . . provides for the indefinite retention of DNA profiles on the [British database] even if suspects are not convicted." . . . [The new law] allows for the collection and retention of biological samples and DNA profiles for anyone who becomes a suspect during the course of a police investigation.

As a result of these changes, the British now have 2,000,000 DNA profiles in their national database, they now get matches from 40 percent of all crime scenes with DNA, and they had 58,176 "cold hits" from crime scenes in 2001. Why wouldn't we want the same for our country?

Another NIJ-commission study, produced by Washington State University and titled the "National Forensic DNA Study Report," notes that "the DNA database must have a strong pool of offenders for comparison. . . . the DNA database is a two-index system—a crime scene sample index, and an offender index. The effectiveness of either index is necessarily restricted by any limitation on the other index." From the British experience, we know that a broad database is highly effective. It is time to replicate that experience here, before more preventable crimes are committed. I am glad that we have moved far in that direction—toward the British model—though we still have maintained the unfortunate anachronism of requiring arrestees' analyses to be expunged if charges against them are dropped.

Mr. HATCH. I agree with the Senator. I, too, am pleased that, with the exception of samples collected from arrestees who have charges dismissed or are acquitted, States and local governments can now upload and compare analyses collected under applicable legal authorities on the national database without running afoul of arbitrary expungement requirements.

Mr. SESSIONS. If the Chairman would permit, I also would like to pose a few questions, in order to clarify for the record some new language added to the bill. As the lead sponsor of the Senate legislation that became this bill, and Chairman of the committee that reported that bill, I believe that you have unique authority to clarify these matters.

The modification to the bill that was approved on the Senate floor today changes who can serve on the capital-counsel entity that selects and manages counsel for State capital cases in States that do not have a public defender program. The committee-passed version of the bill read that, to receive its portion of the funds for State capital counsel, a State that does not have a public defender system must place control of the appointment of defense counsel in "an entity established by statute or by the highest State court with jurisdiction in criminal cases, which is composed of individuals with demonstrated knowledge and expertise in capital representation." The new version of the bill reads that the entity must be "composed of individuals with demonstrated knowledge and expertise in capital cases, except for individuals currently employed as prosecutors."

Previously, the bill required that only defense lawyers—and maybe retired prosecutors, or anyone else who "represented" parties in capital cases—be appointed to manage the entity. With today's amendment, sitting trial and appellate judges can be appointed to manage the capital-counsel entity—as well as anyone else with experience with capital cases, including law professors or victims' advocates—but not current prosecutors. Is that your understanding of the new bill?

Mr. HATCH. Yes. Anyone with knowledge of capital cases—not just someone who has litigated capital cases—can now serve on the entity. Most importantly, this includes members of the bench. It could also include law professors with knowledge of capital cases, or, as you mentioned, even advocates for crime victims—if they have a demonstrated familiarity with the death penalty. The interests of victims too often are left out in our justice system—I am pleased to see that we have now changed this bill to ensure that someone who has experience in guiding crime victims through a capital trial would be eligible to sit at the table of this important new capital-counsel entity. I think that such an entity certainly could benefit from diverse perspectives on the criminal-justice system.

Mr. SESSIONS. But there is no requirement of such apportionment, is there? If a State chooses to design its capital counsel entity so that, for example, it is composed exclusively of trusted members of the bench, the State could do so, could it not?

Mr. HATCH. Absolutely. This a matter that is properly left up to the States, and we have so left it.

Mr. SESSIONS. I also do not understand this bill to preclude the State from allowing the entity to delegate its authority—for example, the State could have one statewide entity that then delegates its functions to particular judges in particular counties or districts. Is my understanding correct?

Mr. HATCH. That understanding is correct. As long as the person to whom authority is delegated would herself be eligible to serve on the entity, there is no reason to centralize all functions in one office. Nor is there any limit or requirement as to how many people can serve on the capital counsel entity. I know that in some of our discussions earlier this week, Senator KYL posed the example of a State that creates a panel of three judges—trial judges, appellate judges, or some combination thereof—and has that panel carry out the functions of the entity. With the modification to the bill made today, this would be permissible. The State could use 5 judges, or 12, or even 1, though I can't imagine that the latter would be practical, except in the case where authority is delegated in local areas.

Mr. SESSIONS. I thank the Senator. I am pleased that your understanding of these aspects of the bill matches mine. One final point: I do not understand the bill to limit whom the State may vest with the authority to appoint the members of the capital-counsel entity. The entity's members could be appointed by the governor, the attorney general, the Supreme Court, or any other official designated by State law or supreme-court rule. Is that correct?

Mr. HATCH. Yes. There is no such restriction.

Mr. SESSIONS. I thank the Chairman.

Mr. LEAHY. Mr. President, I want to thank my friend from Utah. He and I have worked very hard, and, as he mentioned, we worked closely with Chairman SENSENBRENNER, Mr. DELAHUNT, and Mr. LAHOOD in the other body. Yesterday was an extremely busy day as we met over and over again, well into last evening and again early this morning, to make it possible.

I think this is also a day to rejoice on the part of courageous people like Debbie Smith and Kirk Bloodsworth. Debbie waited years to see this day, but she remained steadfast in her commitment to help other people. Kirk Bloodsworth faced an ordeal that nobody should have to face. That is why parts of this bill are named for each of them. I hope this achievement brings some kind of closure for them.

Mr. President, on February 1, 2000, I came to the floor to call attention to the growing national crisis in the administration of capital punishment. I noted that since the reinstatement of capital punishment in the 1970s, 85 people had been found innocent and released from death row. And I urged Senators on both sides of the aisle, both those who supported the death penalty and those who opposed it, to join in seeking ways to minimize the risk that innocent persons will be put to death. A few days later, I introduced the Innocence Protection Act of 2000.

That was more than 4 years ago. During that time, many more innocent people have been freed from death row—the total is now 117, according to the Death Penalty Information Center. During that time, the Republican Governor of Illinois commuted all the death sentences in his State to life in prison, having lost confidence in a system that exonerated more death row inmates than it executed. During that time, we learned about problems at the Houston crime lab so serious that the city's top police official called for a moratorium on executions of the inmates who were convicted based on evidence that the lab handled or analyzed. And during that time, the bipartisan, bicameral coalition supporting the Innocence Protection Act has continued to grow.

Earlier this week, the House of Representatives passed the Justice For All Act of 2004, a wide-ranging criminal justice package that includes the Innocence Protection Act. The House bill also includes the Debbie Smith Act and the DNA Sexual Assault Justice Act, which together authorize more than $1 billion over the next 5 years to eliminate the DNA backlog crisis in the Nation's crime labs and fund other DNA-related programs. Finally, the House bill includes crime victims' rights provisions that I sponsored with Senators FEINSTEIN and KYL, and which already passed the Senate earlier this year.

Today, at long last, the Senate is poised to pass the Justice For All Act and to send this important legislation to the President. I hope he will sign it, despite his Justice Department's continued efforts to kill this bill. The reforms it enacts will create a fairer system of justice, where the problems that have sent innocent people to death row are less likely to occur, where the American people can be more certain that violent criminals are caught and convicted instead of the innocent people who have been wrongly put behind bars for their crimes, and where victims and their families can be more certain of the accuracy, and finality, of the results.

This bill has been many years in the making, and there are many people to acknowledge and thank. Let me begin by thanking Kirk Bloodsworth, Debbie Smith, the Justice Project, and through them all the crime victims and the victims of a flawed criminal justice system who have made these changes possible. Without their commitment and dedication, these straightforward reforms simply would not have happened. Kirk and Debbie sat patiently, hour after hour, through our committee's work on this bill, and their presence was strong and eloquent testimony of the need for this legislation.

Part of this legislation is appropriately named for Kirk Bloodsworth. Kirk was a young man, just out of the Marines, when he was arrested, convicted, and sentenced to death for a heinous crime that he did not commit. DNA evidence ultimately freed him and identified the real killer. He became the first person in the United States to be freed from a death row crime through use of DNA evidence. The years he spent in prison were hard years, and he was treated horribly even after he was released. He could have become embittered by all he has endured. But instead, he has chosen to turn his experience into something constructive, to help others, and one way he has chosen to help is by being part of the effort to enact this bill. Kirk and his wife, Brenda, are remarkable people, and I thank them both. I am proud to have come to know them through our work together on this constructive cause.

I want to commend the chairman of the House Judiciary Committee, Congressman JAMES SENSENBRENNER, who spearheaded this effort in the House. Chairman SENSENBRENNER deserves high praise for steering this bill through some very rough patches to final passage. We would not be where we are today without his leadership, tenacity, and steadfast commitment to getting this done.

I also want to thank my longtime colleagues in this endeavor, Representative BILL DELAHUNT of Massachusetts and Representative RAY LAHOOD of Illinois. They have worked tirelessly over many years to pass the Innocence Protection Act, and they deserve much of the credit for building the strong support for the bill in the House.

I also want to acknowledge Senator HATCH, the chairman of our Committee, with whom I have debated these issues for years and with whom I have cosponsored many measures over the last 10 years. Had he continued to oppose these efforts we could never have been successful. Over the last couple of weeks he has focused on this bill, and the Judiciary Committee reported the Advancing Justice Through DNA Technology Act under his leadership just a few weeks ago. I am grateful for his help in overcoming objections to the bill from his side of the aisle. I know how hard he has worked to do that.

Thanks, too, to the many Members on both sides of the aisle, in the Senate and in the House, who have supported this legislation over this long struggle for reform. Working together, we have finally begun to address the many problems facing our capital punishment system. Here in the Senate, Senator BIDEN has championed additional funding for rape kit testing. Senators KENNEDY, KOHL, FEINGOLD, and DURBIN have been longtime and steadfast proponents of sensible reform. Senators FEINSTEIN and SPECTER were strong supporters of the Innocence Protection Act in the 107th Congress, and have been constructive partners in the effort in this Congress. Senator GORDON SMITH and Senator COLLINS were early cosponsors of the Innocence Protection Act as well. Senator DEWINE was a lead sponsor of the Senate DNA bill, and has made many important contributions. I have spoken to the majority leader a number of times over the last year having learned of his interest in these matters and thank him for allowing the Senate to turn to this important matter even as we approach adjournment of this session.

Many people have been generous with their time and expertise and experience over the years. Steve Bright, Bryan Stevenson, George Kendall, Jim Liebman, Larry Yackle, Scott Wallace, and Kyl O'Dowd have offered useful and important suggestions on how to improve State indigent defense systems. Peter Neufeld and Barry Scheck have been invaluable resources on the intricacies of post-conviction DNA testing. Ron Weich has offered superb legal counsel to both Republican and Democratic Senators and their staffs as we have worked on this bill. Pat Griffin's masterful advice has also been invaluable.

I have already mentioned the Justice Project, a nonprofit organization dedicated to criminal justice reform, which has been a staunch supporter of this bill from the beginning. I particularly want to recognize the contributions of my good friend Bobby Muller, as well as John Terzano, Cheryl Feeley, Laura Burstein, Cynthia Thomet, and Peter Loge.

Finally, I want to thank several staff members of the Senate and House Judiciary Committees who worked tirelessly, some for years, to accomplish this goal. I commend the Chief Counsel to Chairman SENSENBRENNER, Phil Kiko. He was instrumental in keeping the process moving over the past year. His hard work, fairness and judgment helped fulfill his chairman's dogged determination to get this done and make these needed changes. Also on the chairman's staff, I acknowledge the efforts of Jay Apperson and Katy Crooks. I want to express my deep gratitude to Mark Agrast, former counsel for Representative DELAHUNT, and his successor, Christine Leonard.

In the Senate, I want to acknowledge several Judiciary Committee staff members who made immeasurable contributions during this long and challenging effort. On Chairman HATCH's staff, I want to thank Bruce Artim, Brett Tolman, and Michael Volkov, a former detailee, for investing so much of their time and expertise in helping us to arrive at this moment. My staff and I appreciate the contributions of Neil MacBride, Jonathan Meyer, and Louisa Terrell on Senator BIDEN's staff, David Hantman on Senator FEINSTEIN's staff, and Robert Steinbuch with Senator DEWINE.

On my own staff, I want to express my appreciation to an entire team of talented and dedicated attorneys and staff who have devoted themselves so long to this effort and to this commitment to justice. Julie Katzman, a senior counsel on my staff, has devoted innumerable hours over the past 4½ years to accomplishing this goal, and I want to extend my deeply felt gratitude to her. Tara Magner began as a law clerk, and later as my counsel has dedicated herself to this effort with superb results. Beryl Howell, my former general counsel, guided this effort for years, and Bruce Cohen, my Chief Counsel, guided all of their efforts. Tim Rieser, Luke Albee, David Carle, and more all supported and contributed to this extraordinary effort.

I also want personally to thank the Senate Legislative Counsel, in particular Bill Jensen and Matt McGhie, who labor in obscurity to produce the legislative text that is being constantly revised to reflect the understanding reached during this arduous process.

This bill is a rare example of bipartisan cooperation for a good cause. It reflects many years of work and intense negotiation. No one who has worked on this bill is entirely satisfied with everything in it, but that is what the legislative process is all about finding the substantive, meaningful, middle ground that a broad majority can support.

The Justice For All Act is the most significant step we have taken in many years to improve the quality of justice in this country. DNA is the miracle forensic tool of our lifetimes. It has the power to convict the guilty and to exonerate the innocent. And as DNA has become more and more available, it also has opened a window on the flaws of the death penalty process. This is a bill to put this powerful tool into greater use in our police departments and our courtrooms. It also takes a modest step toward addressing one of the most frequent causes of wrongful convictions in capital cases, the lack of adequate legal counsel. These reforms, to put it simply, will mean better, faster, fairer criminal justice.

I thank each one of my colleagues in both bodies who worked hard to resolve conflicts and congratulate them on this legislative achievement.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I compliment the chairman and ranking member of the committee.

This bill was held up for a long while. Provisions were added to the bill, which I totally support, that will allow people who were wrongly accused of having committed crimes to be able to have DNA testing to prove their innocence.

I don't want anyone to misunderstand why this is so important. All of you should know so you can tell your constituents. In fact, we set up a provision in the crime bill whereby when there is a rape or a sexual assault, we have put a lot of money—you have put a lot of money over the years into providing for training of police, training forensic nurses and doctors to be able to take DNA samples.

There are over 800,000 so-called rape case kits sitting on shelves of the cities where you live and the States you represent. They have never been tested because of the cost of testing them. The bottom line is that an estimated 48 percent of outstanding rapes could be solved by just comparing the database that will come from testing these kits and the existing database in our State prison systems where DNA is already on the record. This will liberate thousands of women from the fear and concern that the man who raped them is out there and will be back again.

We have done a good thing today. You should let your people back home know. It is a big deal.

I yield the floor.

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## INTELLIGENCE COMMITTEE REORGANIZATION—Continued

The PRESIDING OFFICER (Mr. TALENT). The question is on agreeing to the amendment No. 4027, as amended.

The amendment (No. 4027), as amended, was agreed to.

Mr. HATCH. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 4015

The PRESIDING OFFICER. There is 2 minutes equally divided prior to the vote on the Hutchison amendment.

Mrs. HUTCHISON. Mr. President, my amendment keeps the intent of the Senate. It creates an intelligence subcommittee on Appropriations. It keeps 13 subcommittees on Appropriations, but it allows the Appropriations Committee to do the reorganization within those parameters.

According to the Congressional Research Service, there has never been a subcommittee eliminated by the Senate without coming from a committee itself.

This would set a precedent that could affect committees for years to come. It is not right, and there is no reason to have to do it on the Senate floor today. We must consult with the House so that our Appropriations Committees match. Appropriations are complicated enough. Having Appropriations Committees that are different in the House from the Senate is not a wise decision, and we don't have to do it today.

I urge my colleagues to adopt my amendment which keeps the intelligence subcommittee, it keeps 13 subcommittees in Appropriations, and allows the Appropriations Committee to do its job in reorganizing around those parameters.

Mr. REID. Mr. President, the 9/11 Commission is watching what we are doing. We have created an intelligence subcommittee on Appropriations. That was very difficult to do. But we did it. The consolidation of Defense appropriations and Military Construction makes sense. The subject matters are related, with the same players and same departments. It is military. It doesn't make sense to create an artificial divide different than this one.

The Appropriations Committee as it stands has all kinds of authority to organize within itself.

In short, we have done the work of the Senate. It is the right thing to do. It sets forth something that Governor Kean says makes sense.

I hope we will defeat this amendment and keep intact what we already have.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the pending amendment. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. REID. Mr. President, does the Senator from Texas wish to have a rollcall vote?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mrs. HUTCHISON. I am happy to vitiate the yeas and nays.

Mr. REID. I ask unanimous consent that the yeas and nays be vitiated.

Mr. BUNNING. Mr. President, a rollcall vote has been ordered. I don't think that is permitted.

The PRESIDING OFFICER. Since there was no response, the vote has not begun.

Mr. REID. Mr. President, I ask unanimous consent that the yeas and nays be vitiated and there be a voice vote.

The PRESIDING OFFICER. Is there objection?

The question is on agreeing to the pending amendment.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is a not a sufficient second.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senate from Idaho (Mr. CRAIG), The Senator from South Carolina (Mr. GRAHAM), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from New Hampshire (Mr. SUNUNU), are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. CORNYN), would vote "yea.".

Mr. REID. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mrs. BOXER), the Senator from Louisiana (Mr. BREAUX) the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), the Senator from Georgia (Mr. MILLER), and the Senator from Maryland (Mr. SARBANES), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 41, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—44

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Chafee
Cochran
Coleman
Collins
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Grassley

Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Stevens
Talent
Thomas
Voinovich
Warner

NAYS—41

Akaka
Baucus
Biden
Bingaman
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Schumer
Stabenow
Wyden

NOT VOTING—15

Bayh
Boxer
Breaux
Campbell
Chambliss
Cornyn
Craig
Edwards
Graham (SC)
Hollings
Kerry
Miller
Sarbanes
Specter
Sununu

The amendment (No. 4015), as amended, was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada

Mr. REID. Mr. President, I am wondering if Senators would give consideration to maybe not having the vote on cloture.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, we still have the technicals that are under consideration. We are essentially out of work for the moment until we get to the technicals.

Mr. GREGG. Mr. President, I have a housekeeping matter.

The Senator from New Hampshire.

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## TAXPAYER-TEACHER PROTECTION ACT OF 2004

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of H.R. 5186, which is at the desk.

The PRESIDING OFFICER. The clerk will report the title of the bill.

The legislative clerk read as follows:

An act (H.R. 5186) to reduce certain special allowance payments and provide additional teacher loan forgiveness on Federal student loans.

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, this bill deserves to pass, but it's only a down-payment on the real reform needed to close a flagrant loophole in the student loan program. The bill takes $285 million in excessive subsidies to banks and gives it to college students and new teachers in the form of increased forgiveness for student loans.

It is only a downpayment, however, because it does not close all of the notorious 9.5 percent student loan loophole, and because even this reform will expire after one year. The bill is silent on the full interest rate gouging that has taken place over the last 18 months—funds that the Secretary of Education should have reclaimed on his own, and still should after this bill passes.

Obviously, our Republican colleagues hope that this modest action will cool the public outcry that has erupted in the past month as the full extent of this shameful loophole has come to light.

For almost 25 years, the taxpayer has been guaranteeing banks a 9.5 percent rate of return on a specific type of student loans. In 1993, Congress acted to end the guarantee, but a loophole emerged that even the Government Accountability Office says the Bush administration has refused to shut down.

Today's bill still leaves 40 percent of the loophole wide open. In other words, our Republican colleagues can no longer stand the heat from the loophole, and so they're now sacrificing 60 percent of it, in the hope that their special interest friends in the student loan industry can still retain the other 40 percent.

Sadly, under this Republican bill, the abuse will continue. New loans will be made to new students that taxpayers will subsidize at a 9.5 percent interest rate. It's madness. We should be allowing older borrowers to refinance their student loans at today's market rates, instead of subsidizing big banks at the high interest rates of the 1980s. We should be helping students who are eligible for Pell Grants, instead of subsidizing big banks needlessly.

Republicans claim that some of this subsidy will go to student benefits. I say, it all should go to student benefits in whatever loan program a student participates. No one should be fooled. Half of the student loan loophole that this bill leaves wide open goes to for-profit corporations like Nelnet and Sallie Mae.

The 9.5 percent guarantee is still highway robbery for special interests. Our Republican colleagues reply that at least they're narrowing the highway from five lanes to two lanes. Banks like Nelnet and Sallie Mae can still drive right through, collecting outrageous profits at the expense of students and taxpayers.

I had hoped to offer an amendment to this bill that would close the 9.5 percent loan loophole completely and permanently. But the Republican Majority objects to that effort here and now. We will be back though on the first available vehicle to shut down this wasteful corporate subsidy once and for all.

It's long past time for President Bush and Republicans find the courage to stand up to their special interest friends, and do what's right for the Nation's students and taxpayers.

In most cases, lenders today receive a 3.6 percent rate of return on new student loans. But for the last 11 years, the Government—taxpayers—have been guaranteeing lenders a 9.5 percent rate of return on a certain group of otherwise non-descript student loans. A 9.5 percent rate of interest might have made sense years ago, but it doesn't today.

In 1993, Congress passed legislation intended to phase-out of existence the 9.5 percent bank guarantee. But two key loopholes have kept that subsidy alive and well. The legislation before the Senate closes one.

The first loophole—the one that isn't closed by this legislation—allows for what is called 9.5 percent loan "recycling." A lender makes a loan to a student—"Student A." Over the course of the next 10 to 25 years, the lender is repaid by Student A and the lender gets a subsidy payment guaranteeing a 9.5 percent rate of return.

Under the 1993 law, after one loan, there should be an end to that 9.5 percent guarantee. But lenders have been recycling Student A payments and the attached Government subsidy into a new loans issued to new students—"Student B"—and claiming a 9.5 percent guarantee on those loans as well. So, 9.5 loans haven't been phased out at all. They've being maintained. And the Department of Education has done nothing about it.

Worse, 18 months ago, lenders started growing the number of 9.5 percent loans through a process called "transferring." A lender shifts a loan out of its tax-exempt bond estate into its taxable bond estate. When the loan shifts, the 9.5 percent guarantee shifts with it and the tax-exempt bond estate then has money available to it to issue new 9.5 percent loans.

As a result of "transferring," 9.5 percent loan bank subsidy payments have more than doubled in the last 18 months. The Bush administration has refused to stop the process, despite Democrats' and GAO's urging.

A year ago, Senate Democrats proposed legislation to shut both loopholes down once and for all. The Senate Republicans did not act on that proposal, did not introduce their own legislation, and did not hold a single hearing. They asked no oversight questions of the Bush administration. In short, they did nothing.

Democrats requested a GAO investigation. We alerted non-partisan higher education policy experts. We requested an SEC investigation. Two months ago, we blew the whistle in the media on the new, explosive growth in the 9.5 loan subsidy. Finally, our Republican friends responded to the criticism with the legislation before us today.

But again, this bill doesn't get the job done. It leaves the "recycling" loophole open, and it lasts only one year. Now, this remains a live issue in the Appropriations Committee. I would hope we would follow the House's 413–13 vote lead in shutting down this loophole in its entirety. It's a change past due.

Mr. DODD. Mr. President, I would like to commend Senator GREGG for taking what I hope is one of many steps in closing what most, if not all of us agree, is an egregious loophole in current law relating to student loans.

In the 1980's, the Higher Education Act sought to attract more lenders to the student loan program by offering nonprofits a 9.5 percent rate on return on student loans in exchange for their participation in the program. At a time of high interest rates, it provided an assurance to nonprofits that they could make student loans and stay afloat economically. The 9.5 percent subsidy was an incentive to bring the nonprofit sector into the lending business, to offer students more options in choosing a lender. The subsidy made sense at the time.

In 1993, a time when interest rates were coming down, 9.5 percent amounted to a windfall for lenders. Congress rescinded the policy but grandfathered loans already made, assuming that the volume of these loans would decline as borrowers paid them off. That assumption turned out to be wrong.

Exploiting a loophole in current law, some lenders, including for-profits that have acquired nonprofits, have been rolling new loans into old accounts, sometimes for as little as a day, to qualify for the subsidy. That means that in today's market, some guaranteed a 9.5 percent profit on 3.4 percent student loans. The Federal Government is making up the 6.1 percent difference.

How egregious is this practice? From January 2004 to June 2004, one bank alone amassed over $3.2 billion in 9.5 percent loans by exploiting this loophole. The General Accounting Office GAO, has found that the overall volume of loans receiving a 9.5 percent return has increased to more than $17 billion this year from $11 billion in 1995. This is money that should be going to the student loan program and the Pell grant program, not bank profits.

In response to this discovery, the Department of Education has been asked to issue new rules clarifying that the practice in question is, in fact, not within the intent of current law. They have refused to do so. They claim that their hands are tied, that only Congress can close the current loophole. The GAO disagrees.

In a report issued September 21, the GAO states that the Department could use less formal guidance to clarify or alter its position on the practice, or publish an interim rule that would close the loophole until a formal rulemaking process is complete. The GAO also suggests that the Department publish an emergency rule. This type of rule allows Federal agencies to skip the formal process if they believe it would be "impracticable, unnecessary or contrary to public interest." The Department does not believe the current situation rises to that level. Clearly, it is against the public interest, and against the interest of the U.S. Treasury, to allow this practice to continue.

According to some, the payments in question could cost the U.S. Treasury nearly $1 billion by the end of this calendar year and at least $5 billion over the next 10 years. This is money that could be used to send kids to college.

Mr. President, in response to this crisis, Senator GREGG has proposed a bill to close the 9.5 percent loophole. There is just one problem with his bill. It does not close the loophole completely and it does not close the loophole permanently. The loophole should be completely and permanently closed.

I applaud Senator GREGG for taking this first step. Between enactment of the change and the time that it expires next year, his bill will achieve a $285 million savings for the student loan program. If we were to shut down the loophole completely, we would achieve a $400 million savings within the same time frame. That would amount to an additional $115 million for student financial aid.

In response to Senator GREGG's bill, Senator KENNEDY offered an amendment to close the loophole completely and permanently. This is something that my Democratic colleagues and I have been fighting to do since last October. Unfortunately, the amendment was not accepted.

Mr. President, the Pell grant maximum has remained flat for 3 years. Tuition is up. And all the while, the Federal government is giving away a $1 billion annual subsidy through 9.5 percent loans. The Federal Government is paying hundreds of million of dollars in unnecessary subsidies to student loan companies. The bill before us allows this practice to continue, even if it is to a lesser extent. I hope we will have an opportunity in the near future to take definitive action to correct this egregious short-coming in the law.

Mr. REED. Mr. President, I support the limited effort before us today to close a loophole in Federal student loan policy that has cost taxpayers billions of dollars over the past decade.

In the 1980s, when there were fears that student loans would become scarce due to high interest rates, Congress provided lenders participating in the Federal Family Education Loan, FFEL, program a guaranteed minimum 9.5-percent return on student loans generated from tax-exempt bond funds. Congress did so to ensure that there would be lenders willing to make affordable loans for students.

In 1993, Congress sought to end the 9.5-percent guaranteed return on what had become a small subset of student loans due to a much lower national interest rate environment, the growth in availability of other private bank and government-subsidized student loans, and the creation of Federal direct loans.

In doing so, a grandfather clause was enacted for outstanding 9.5-percent return, tax-exempt bond generated student loan funds. Rather than end the 9.5-percent loans, this grandfather clause has worked as a loophole. Owners of 9.5-percent guaranteed loans continually recycle proceeds from tax-exempt bonds originally issued before 1993—creating in effect a revolving loan fund—and the Federal Government continues to guarantee a 9.5-percent rate of return on what is today approximately 1 out of every 20 student loans. Lenders of the remaining 19 out of 20 student loans receive a much lower guaranteed interest rate—less than 4 percent.

This overpayment has grown dramatically over the past few years, as this administration and Department of Education have failed to intervene and stop it. According to the Government Accountability Office, GAO, the overpayment cost taxpayers well over $600 million by the end of June 2004, up from $209 million in Fiscal Year 2001.

To finally close this loophole once and for all, I joined Senator Kennedy in introducing S. 1793, the College Quality, Affordability, and Diversity Improvement Act last October, which among many provisions to expand access to higher education, would eliminate the 9.5-percent giveaway. More recently, I cosponsored legislation introduced last week by Senator Murray—S. 2861, the Student Loan Abuse Prevention Act—which would also permanently fix the abuse of the 9.5-percent rate and redirect the estimated savings of $5 billion over 10 years to increase the maximum Pell grant for low-income students.

Regrettably, the bill before us today does not contain such a comprehensive and permanent fix. This more limited effort provides only a temporary 1-year solution and it continues to allow "recycling" of loans, as opposed to the bonds, by which the lender uses the income from current 9.5-percent guarantee. And, instead of using the more modest savings from this bill to boost grants for low-income students struggling to afford college, the savings will be used for a different but important cause—providing help to certain teachers through loan forgiveness.

Considering how long it has taken the majority to act on this situation, I am pleased we are taking this first, although, limited step. I will be working with my colleagues to fully close this costly loophole in the upcoming Higher Education Act reauthorization process and capture these savings for students. I thank Senators Kennedy and Murray and their staffs for their leadership and work on this matter.

Mrs. MURRAY. Mr. President. I rise today to discuss my ongoing work to protect taxpayers and help students by finally ending a special interest subsidy.

As my colleagues know, I have been working to close a loophole that allows some banks to issue new students loans at outrageously inflated rates. These subsides were supposed to have ended more than ten years ago, but they continue today, and taxpayers are footing the bill.

Just last year, this wasteful subsidy cost taxpayers $1 billion. Imagine how many students we could have helped if that money went to Pell Grants instead of the special interests. I believe we should close this loophole—immediately and permanently—and use the savings to help more students afford a college education.

It is outrageous that taxpayers are paying 30 times what they should for these student loans. Interest rates haven't been at 9.5 percent in years, but new loans—at that inflated rate—are being written every day because of this loophole.

On September 15, in the Appropriations Committee, I offered an amendment to close the loophole. My amendment would have used those savings—about $370 million—to increase grants to college students. My amendment had the support of every Democrat on the Appropriations Committee, but unfortunately the chairman and every Republican opposed it. They said they wanted to deal with it later.

So Senator KENNEDY and I came here to the Senate floor and called on the Department of Education to take action, since our colleagues were not ready to act. Unfortunately, the Department of Education refused. As the Government Accountability Office noted, the Department could have closed this loophole with the stoke of a pen. Last week—seeing that neither the Republican Congress nor the administration—were willing to act, I introduced my own bill to permanently and fully close this loophole and help our students.

My bill is called the Student Loan Abuse Prevention Act S. 2861, and I thank Senators KENNEDY, MIKULSKI, DURBIN, REED, DODD, and CLINTON for cosponsoring it.

My bill would use all of the savings to increase Pell Grants for students. The day after I introduced my bill, Senator GREGG offered his own bill, which we are considering today. I am pleased that the Republican leaders have finally offered a proposal. I am disappointed, however, that their plan does not fully close the loophole, expires after 1 year, and will not help today's student afford college.

Let me say a word about each of those shortcomings. First, the GREGG bill does not fully close the loophole. This subsidy would still live on. My bill says that lenders cannot create new loans at 9.5 percent. No new subsidies—period. And that is important because in the past 2 years lenders have used tricks to extend these outrageous subsidiaries, and we need to put an end to it. But the Republican bill is not a real fix. It does not stop these gimmicks entirely. In many cases, lenders could keep writing new loans at 9.5 percent for decades. Under the Republican bill, the outrageous subsidy will live on. So the first problem with the Republican bill is that it does not fully close the loophole and will still overcharge taxpayers for this lender subsidy.

The second problem with the GREGG bill is that it expires after 1 year. My bill will stop the subsidy forever. The Republican bill would expire in a year. I want my colleagues to know that when we work on the Higher Education Act, I will again work for a permanent fix that protects taxpayers—not just for 1 year—but forever.

The third problem with the GREGG bill is that it does nothing to help students who are trying to pay for college today. While there are a lot of good uses for this money, I would also like to see those dollars go straight into the pockets of our students so they can pay for college.

So the GREGG bill before us has three big problems—it doesn't fully close the loophole, it expires after a year, and it doesn't help today's college student. But—after all the work it has taken to get the Republicans to finally address this—the GREGG bill is a step forward and one we should take while we can.

I believe that our students and taxpayers deserve better. They deserve a real fix that is permanent and that helps today's students. But, given the reluctance we have seen so far, given the votes against my amendment last month, and the Bush administration's refusal to act. we should pass this first step and stay on the job until it is done and done right.

And I remind my colleagues that we will revisit the Higher Education Act next year, and I will fight to close this loophole fully and permanently. From coast to coast, the price of college education is soaring and parents and students are struggling. I will continue to fight for policies that put students above special interests and that protect taxpayers from these wasteful subsidies.

Mr. GREGG. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5186) was read the third time and passed.

## EXTENDING THE HIGHER EDUCATION ACT OF 1965

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of H.R. 5185, which is at the desk.

The PRESIDING OFFICER. The clerk will report the title of the bill.

The legislative clerk read as follows:

A bill (H.R. 5185) to temporarily extend programs under the Higher Education Act of 1965.

There being no objection, the Senate proceeded to consider the bill.

Mr. GREGG. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5185) was read the third time and passed.

## MAMMOGRAPHY QUALITY STANDARDS REAUTHORIZATION ACT OF 2004

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4555, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4555) to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards.

There being no objection, the Senate proceeded to consider the bill.

Ms. MIKULSKI. Mr. President, I am pleased that today the Senate will pass the Mammography Quality Standards Reauthorization Act of 2004, H.R. 4555. It is fitting that Congress is reauthorizing the Mammography Quality Standards Act, MQSA, during Breast Cancer Awareness Month. This important bill is about saving lives. That is what the MQSA does. Accurate mammograms detect breast cancer early, so women can get treatment and be survivors.

Mammography is not perfect, but it is the best screening tool we have now. I authored MQSA 12 years ago to improve the quality of mammograms so that they are safe and accurate. Before MQSA became law, there was an uneven and conflicting patchwork of standards for mammography in this country. There were no national quality standards for personnel or equipment. Image quality of mammograms and patient exposure to radiation levels varied widely. The quality of mammography equipment was poor. Physicians and technologists were poorly trained. Inspections were lacking.

MQSA set Federal safety and quality assurance standards for mammography facilities for: personnel, including doctors who interpret mammograms; equipment; and operating procedures. By creating national standards, Congress helped make mammograms a more reliable tool for detecting breast cancer. In 1998, Congress improved MQSA by giving information on test results directly to the women being tested, so no woman falls through the cracks because she never learns about a suspicious finding on her mammogram.

Now Congress is renewing MQSA through 2007 and laying the foundation to improve it even more in the future. Next year, the Institute of Medicine, IOM, and the General Accountability Office, GAO, will release studies examining a number of issues relating to MQSA and mammography. These issues include ways to improve physicians' interpretations of mammograms, ways to ensure that sufficient numbers of adequately trained personnel are recruited and retained at all levels, and access to mammography. I look forward to receiving these IOM and GAO recommendations and considering them in the next MQSA reauthorization.

This legislation that the Senate passed today was passed by the House of Representatives earlier this week and now heads to the President for his signature. I acknowledge and thank Congressman Dingell for his longstanding leadership and work on MQSA, and appreciate the work of the House Energy and Commerce Committee on this issue. I thank Senators Gregg and Kennedy for working with me to make sure that the Senate made MQSA a priority in this Congress and that we reauthorized it this year. I also want to acknowledge Senator Ensign for his important work on MQSA. Senator Ensign joined me in introducing our MQSA reauthorization bill, S. 1879, that passed the Senate earlier this year.

I thank the Susan G. Komen Breast Cancer Foundation, American Cancer Society, National Alliance of Breast Cancer Organizations, American College of Radiology Association, Y-ME National Breast Cancer Organization, and the National Breast Cancer Coalition for their input and advice during this reauthorization of MQSA.

This year about 216,000 cases of breast cancer are expected to be diagnosed and over 40,000 women are expected to die of breast cancer in this country. MQSA saves lives. That is why it is so important that Congress is renewing and working to strengthen MQSA.

Mr. GREGG. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid on the table, and any statements relating to the bill be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4555) was read the third time and passed.

Mr. GREGG. Mr. President, just to clarify, the bills we just passed are fairly significant pieces of legislation, the most significant of which is a bill which Senator KENNEDY and I and many people in this body have been working on.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank the Senator from New Hampshire. He is right, we have just passed very important legislation, one of which is to reauthorize our mammogram quality standards. We have worked very hard on a bipartisan basis. I would like to thank him for his collegiality and cooperation. I see him smiling. Did I interrupt?

Mr. GREGG. I am happy to yield the floor to the Senator from Maryland.

Ms. MIKULSKI. It was a little chaotic. I wanted to be quickly complimentary.

Mr. GREGG. I appreciate that.

Ms. MIKULSKI. Literally, we are going to ensure the safety and security of our mammograms. I just finished the Race for the Cure in Baltimore. I did more of a "walk for the cure" this morning. But when you look at the survivors and you know what early detection from mammograms has meant, we really have done a good job.

I thank the Senator.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, let me thank the Senator from Maryland for her generous comments and her hard work, especially on the mammogram bill which we just passed. I was trying to highlight one of these pieces of legislation which essentially saves the taxpayers from paying out a $100 million windfall to people who give loans to students. Those individuals were getting paid mostly by banks at 9.5 percent. This will roll that back to a reasonable interest rate of 4 percent. We will take those additional monies that have been saved and use them to waive the repayment requirements for teachers on their student loans for teachers who go into underserved areas and teach special needs kids. This is a very important event and something that needed to be done, or we would have ended up with a windfall to these lenders and these individuals who go out and teach in these tough schools on difficult subject matters would have ended up with large student loans.

This is a very positive step. I thank the Senator from Massachusetts for his efforts in this area as the ranking member of the committee, and I thank the entire committee for its cooperation and appreciate the attention of the Senate.

I yield the floor.

## INTELLIGENCE COMMITTEE REORGANIZATION—Continued

### AMENDMENTS NOS. 3989, 3994, AND 4037, AS MODIFIED, AND AMENDMENT NO. 4045 TO AMENDMENT NO. 3981, EN BLOC

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I understand that the technical amendments are now approved on both sides. I send to the desk conforming modifications to three amendments that were previously agreed to, and a technical and conforming amendment, and ask unanimous consent that they be considered en bloc and agreed to en bloc.

The PRESIDING OFFICER. Is there objection to the modifications?

Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 3989, AS MODIFIED

Strike section 101(b)(1) of the resolution and insert the following:

(1) Department of Homeland Security, except matters relating to—

(A) the Coast Guard, the Transportation Security Administration, or the Federal Law Enforcement Training Center; and

(B) the following functions performed by any employee of the Department of Homeland Security—

(i) any customs revenue function including any function provided for in section 415 of the Homeland Security Act of 2002 (Public Law 107–296);

(ii) any commercial function or commercial operation of the Bureau of Customs and Border Protection or Bureau of Immigration and Customs Enforcement, including matters relating to trade facilitation and trade regulation; or

(iii) any other function related to clause (i) or (ii) that was exercised by the United States Customs Service on the day before the effective date of the Homeland Security Act of 2002 (Public Law 107–296).

AMENDMENT NO. 3994, AS MODIFIED

In section 101(b)(1), strike "(B)" and redesignate "(C)"

Following section 101(b)(1)(A) insert the following:

(B)(i) the U.S. Citizenship and Immigration Services or (ii) the immigration functions of the U.S. Customs or Border Protection or the U.S. Immigration and Customs Enforcement, or the Directorate of Border and Transportation Security; and".

AMENDMENT NO. 4037, AS MODIFIED

In section 101(b)(1)(A), after "center" insert ", or the Secret Service".

AMENDMENT NO. 4045 TO AMENDMENT NO. 3981

Page 2, line 10, strike "primarily"

Page 5, line 20 & 21, strike "Ranking Member" and insert "Vice Chairman"

Page 4, lines 9 through 13, strike.

At the end of section 101(b)(1) insert the following: "The jurisdiction of the Committee on Homeland Security and Governmental Affairs in this paragraph shall supersede the jurisdiction of any other committee of the Senate provided in the rules of the Senate."

Mr. McCONNELL. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCONNELL. We are down to the underlying McConnell-Reid amendment. I am unaware of any request for a rollcall vote.

Mr. REID. Mr. President, I am wondering—I made this statement earlier—if we could vitiate the necessity of having a cloture vote on this matter.

The PRESIDING OFFICER. Is there objection to vitiating the cloture vote?

Mr. McCAIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McCAIN. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3981, AS MODIFIED, AS AMENDED

Mr. REID. Mr. President, I understand there is no request that we vote on this.

The PRESIDING OFFICER. The Senator from Nevada restates his unanimous consent. The question is on agreeing to amendment No. 3981, as modified and as amended, the McConnell-Reid substitute.

The amendment (No. 3981) was agreed to.

SECTION 101(B) AND 101(C)

Mr. REID. Mr. President, Section 101(b) contains the jurisdiction for the new Homeland Security and Governmental Affairs Committee. Section 101(b)(1) refers to the new jurisdiction of the new committee. The rest of Section 101(b) and all of Section 101(c) describes the existing jurisdiction of the Governmental Affairs Committee and is not intended to make any changes to existing practice nor precedence regarding referrals on those issues with regard to other committees.

Mr. McCONNELL. I agree Section 101(b)(2) through Section 101(b)(13) and Section 101(c) makes no changes to the status quo regarding jurisdiction over those items.

AMENDMENT NO. 3981

Mr. LEAHY. Mr. President, I appreciate the managers of the resolution adopting this amendment. It achieves the goals of an amendment filed by my distinguished colleague, the junior Senator from Texas, that I cosponsored. The language in the managers' amendment will make explicit that the shared jurisdiction over "government information" that is provided by rule 25 to the Judiciary Committee is not adversely affected by this resolution. I thank the Senator from Texas for his leadership on this matter and the managers for working with us to clarify the resolution.

Mr. McCONNELL. Mr. President, I said at the beginning of this debate that after reforming the executive branch's intelligence and homeland security agencies, we needed to put our own house in order. We can now say that after years of demanding that other institutions reorganize and improve their performance, we have demanded the same of ourselves. And we succeeded.

This is no small achievement for the Senate, the cooling saucer of American politics. We are very averse to change here.

We respect history in this institution. But today we avoided making the mistake of falling victim to it. Learning from our mistakes prior to 9/11, we have changed the way we do business. This is a great accomplishment.

We recognized the need to reform the way we conduct oversight over the most important issues of our day: intelligence and homeland security.

I want to thank my good friend, Senator REID. I have greatly enjoyed working with him, and have marveled at his prodigious talents in resolving particularly contentious conflicts.

We have accomplished this difficult task thanks in large part to his honest brokering and commitment to respecting the concerns of each and every Senator. He is fair-minded, and he is effective. I look forward to working with him more often.

Let me also take a minute to thank his capable staff. Rich Verma, Gregg Jaczko, and Gary Myrick, who worked on a truly bipartisan basis with my staff. Their expertise on these issues, and their patience with Harry and me, are truly commendable. They deserve a great deal of credit for managing the Working Group and cobbling together for us the many suggestions made by our Members.

I would also like to thank my staff: Kyle Simmons and Robert Karem. Both of these outstanding gentlemen were with me from the beginning of this process and we would not be at this point without them. I would also like to thank Mike Solo. He jumped right in to masterfully produce this product and also helped steer it to passage on the floor. Finally, my thanks to John Abegg and Brian Lewis for their counsel and able assistance.

I want to thank the members of the Congressional Oversight Working Group themselves for their many good ideas, and for their patience and willingness to work on a bipartisan basis to do something that is very difficult, but also very worthwhile.

Not every Senator will be happy with the result of the Senate working its will on this resolution.

Some Members will complain this reform goes *too far*. Others will complain it *does not go far enough*.

I believe we have struck an appropriate balance of reform that improves our ability to conduct oversight of intelligence and homeland security during a very serious time for our country.

On intelligence oversight, I am pleased the Senate not only accepted our suggested reforms of the Select Committee on Intelligence, but also improved upon them by agreeing to modify the sequential referral of defense-related intelligence legislation to the Armed Services Committee so the process is more cooperative.

The working group wanted to improve the structure of the Committee to allow Members more time to become experts and give them many tools to do their jobs. And we have done that.

Let me briefly summarize just a couple of our reforms:

Improved and enhanced the Intelligence Committee;

Included 9 recommendations of the 9/11 Commission;

Members now have a stronger Committee;

Without term limits, Members can better develop the expertise needed to conduct effective oversight;

Clarified jurisdictional lines and improves the coordination of military intelligence matters between the Armed Services and Intelligence Committees.

Appropriations jurisdiction over oversight is currently dispersed throughout multiple subcommittees. We have created an Intelligence Subcommittee of Appropriations to consolidate the roughly 80 percent of the intelligence budget that will come under the jurisdiction of the national intelligence director.

This subcommittee will help the Appropriations Committee to live up to its responsibility to exercise oversight over the national intelligence budget.

This legislation consolidates widely dispersed appropriations for non-military intelligence under a single Subcommittee.

Allows the National Intelligence Director to work with only one Subcommittee to approve his budget.

Improves intelligence oversight by creating two sets of eyes on the budget and activities of the assets under the National Intelligence Director.

Jurisdiction over the Department of Homeland Security was too dispersed. Roughly 25 Congressional Committees or Subcommittees claimed jurisdiction over Homeland Security yesterday. We have cut that number down significantly.

The Senate worked its will on this Resolution, and in the end it significantly consolidated jurisdiction over Homeland Security.

Some will think the Senate went too far. Others will think the Senate hasn't gone far enough.

We introduced a Resolution that dramatically consolidated jurisdiction in the new Committee. In an open process, the Senate worked its will and decided that the overlapping functions of certain agencies required exceptions.

While there have been some changes to our proposal, we have not let the perfect be the enemy of the good. We have taken great strides towards a level of consolidation many of us would have thought impossible only weeks ago.

This reform puts the Homeland Security Committee in charge of those who prepare to defend against terrorist attacks and those who respond to terrorist attacks. This is the most important work the Department does.

Protecting the Homeland is the core function of the Department, and the Homeland Security Committee will acquire jurisdiction over the core entities of the Department that do just that.

Among other programs, the Homeland Security Committee will acquire jurisdiction over the following Directorates:

Office of the Secretary—Responsible for integration of terrorist threat warning, preparedness, and response. This alone is a huge responsibility.

Undersecretary for Information Analysis and Infrastructure Protection.

Undersecretary for Science and Technology—Chemical, Biological, and Nuclear defense research; and Homeland Security technology development.

Undersecretary for Emergency Preparedness and Response—FEMA; National Domestic Preparedness Office; Integrated Hazard Information System; and Domestic Emergency Support Teams.

Undersecretary for Management.

We have consolidated all of this on top of the existing jurisdiction of the Government Reform Committee, including the Permanent Subcommittee on Investigations.

Mr. President, I believe the Senate has accomplished a great deal today. We have strengthened our Intelligence oversight, created a Homeland Security Committee under the new Homeland Security and Government Affairs Committee, and stood up a new Intelligence Appropriations Subcommittee.

I hope our Colleagues will pay attention to the reform we have enacted as they consider their Committee assignments for the 109th Congress. The American people will be better served by these reforms. And the Senate as a whole will benefit from their improved expertise and authorities over these critical policy matters.

We have no more important charge than keeping the American people safe, and today we have improved our ability to do just that.

Mr. GRASSLEY. Mr. President, today the Senate adopted S. Res. 445, the Senate Intelligence and Homeland Security Oversight Reform resolution. This resolution will combine the oversight of most Department of Homeland Security functions and will provide jurisdiction over those functions to the Committee on Governmental Affairs, which will be renamed the Committee on Homeland Security and Governmental Affairs.

I will vote in favor of S. Res. 445. This resolution will help advance the U.S. war on terror by consolidating and streamlining Senate oversight over the Department of Homeland Security. I'm confident that the Committee on Homeland Security and Governmental Affairs will serve an important role in promoting the safety and security of the people of the United States.

As originally introduced, the resolution provided that the Committee on Homeland Security and governmental Affairs would not have jurisdiction over customs revenue functions. Instead, the drafters recognized that, going forward, it's important to keep the jurisdiction over customs revenue functions within the Finance Committee, the committee that has exercised jurisdiction over these issues for the past 188 years. Moreover, with the United States collecting over $23 billion annually in duties and trade related fees, the drafters realized that it's important that the U.S. customs agencies be able to perform their revenue functions efficiently. Retention of Finance Committee jurisdiction over these functions will greatly facilitate this objective.

Senator BAUCUS and I introduced an amendment during debate on S. Res. 445 that clarified the language concerning customs revenue functions contained in the managers' resolution. Specifically, our amendment stated that the Committee on Homeland Security and Governmental Affairs will not have jurisdiction over the following functions performed by any employee of the Department of Homeland Security: any customs revenue function including any function provided for in section 415 of the Homeland Security Act of 2002; any commercial function or commercial operation of the Bureau of Customs and Border Protection or the Bureau of Immigration and Customs Enforcement, including matters related to trade facilitation and trade regulation; or any other function related to those that I just mentioned that was exercised by the U.S. Customs Service on the day before the effective date of the Homeland Security Act of 2002. In a colloquy between Senator BAUCUS and me on October 7, we more fully spelled out what is covered by our amendment and the reasons why our amendment was necessary.

The Grassley-Baucus amendment was needed to elucidate non-security functions of the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement that necessarily should remain within the jurisdiction of the Finance Committee. Our amendment passed by voice vote on October 7.

A transfer of customs revenue and commercial functions to the Committee on Homeland Security and Governmental Affairs would detract from that committee's main focus. Moreover, the removal of customs revenue and commercial functions from the jurisdiction of the Finance Committee would be disruptive to our efforts to advance a comprehensive international trade agenda for the United States. In adopting our amendment, the Senate wisely avoided both of these outcomes. agenda for the United States. In adopting our amendment, the Senate wisely avoided both of these outcomes.

With passage of our amendment, the Committee on Homeland Security and Governmental Affairs will be better able to focus on its core objective, the protection of the United States from terrorist attacks. The staff of the new committee should be expected to be experts in the field of national security. They will work day-in and day-out to keep terrorists away from our shores and to protect Americans from attack. With their focus on national security concerns, it would be unrealistic to expect them to learn the technical details of our country's customs laws relating to revenue and commercial functions. The addition of customs revenue and commercial functions to their committee's agenda would only distract them from their central focus, national security. If that were to occur, Senate oversight of both the national security and international trade agendas of the United States would suffer.

Our amendment also recognizes that removal of customs revenue and commercial functions from the jurisdiction of the Finance Committee would be disruptive to U.S. businesses, and thus harmful to U.S. economic interests. The Finance Committee has a long history—of some 188 years—of exercising jurisdiction over tariffs and trade. This long history, and the technical expertise it has helped engender within the committee, provides the Finance Committee with an exceptional ability to provide sound oversight in the Congress over our government's customs revenue and commercial functions. Not surprisingly, the U.S. business community has developed strong confidence in the workings of this committee. Moreover, these same businessmen and women have doubts as to whether the committee on Homeland Security and Governmental Affairs—with its focus on national security—would pay sufficient attention to trade compliance and revenue functions.

The U.S. business community acted, and quickly, this week upon hearing rumors of possible legislation to strip jurisdiction over customs revenue and commercial functions from the Finance Committee. Let me read to you excerpts from letters sent to me this week on this issue.

The National Retail Federation wrote that "NRF's members are deeply concerned that moving jurisdiction for duty collection process issues from the Finance Committee would serve to reduce U.S. interest in preserving trade revenues, and require members of those committees to spend a great deal of time on revenue issues that are not central to the Government Affairs Committee's main jurisdictional interests. Of equal importance, the Senators who have served on Finance have developed expertise in these complex revenue issues that many members of the Homeland Security and Government Affairs Committee do not possess and would have to develop."

In another letter, the National Customs Brokers & Forwarders Association of America stated that "protecting our borders is vital. As we take measures to enhance security at our borders, however, we must also carefully weigh the consequences to the flow of international trade. . . . The Senate Finance Committee possesses the knowledge and expertise necessary to provide effective oversight over Customs' business facilitation issues. For over 200 years, the Finance Committee has been involved in the details of customs processing and their role is significant in assuring that the Senate gives due consideration to the practical consequences of security measures."

The Business Coalition for Customs Modernization, which is composed of 24 major companies operating in the United States, voiced similar concerns. It wrote that "granting jurisdiction over the business facilitation functions of the Customs Service to the Committee on Homeland Security and Government Affairs—a committee concerned primarily with security—will lead inevitably to commercial considerations being discounted heavily in the name of security, without thought about the effects on America's consumers. That will hurt the U.S. economy and undermine our strength and standard of living in the long run."

As pointed out in these letters, as we move forward in enhancing our border security efforts, it is important to keep in mind that a large part of homeland security is economic security. And international trade is a critical component of our economic security. Exports alone accounted for 25 percent of U.S. economic growth from 1990–2000. Exports alone support an estimated 12 million jobs. Trade also promotes more competitive businesses—as well as more choices of goods and inputs at lower prices for U.S. consumers. If we impede trade, we impede our own economic growth and our own future well-being.

A concrete example can be found by looking at one sector of the economy immediately following the events of September 11. Just 36 hours after the attacks, Daimler-Chrysler announced that it would close one of its assembly plants because it could not get the parts it needed to continue operations from Canada. Similar circumstances caused Ford to lay idle five of its assembly plants—each producing an average of one million dollars worth of cars per hour—for a week.

Events like this make it clear that the United States must be at the forefront in developing the border technologies and enforcement, methodologies which will enable our economy to prosper and grow in the post September 11 world. We cannot afford to do any less. The Finance Committee has the experience and expertise to appropriately meet this challenge. And I'm pleased that the resolution we passed today acknowledges the unique role of the Committee.

Finally, it only makes practical sense for the Finance Committee to retain jurisdiction over customs revenue and commercial functions. Rule XXV of the Standing Rules of the Senate provides that the Finance Committee is the committee to which shall be referred all proposed legislation, messages, petitions, memorials, and all other matters relating to reciprocal trade agreements and tariffs. It also provides that the Finance Committee has jurisdiction over customs. The reason that the Finance Committee has jurisdiction over reciprocal trade agreements, tariffs, and customs is precisely because all of these trade issues are all interrelated. Trade agreements set tariff levels, and customs personnel administer the U.S. laws relating to these tariffs. Therefore, as long as the Finance Committee has jurisdiction over reciprocal trade agreements and tariffs, this committee almost by necessity must have jurisdiction over customs revenue and commercial functions.

For these reasons, I'm very pleased that the Senate voted this week for the Finance Committee to retain jurisdiction over customs revenue and commercial functions. In doing so, the Senate permitted the Committee on Homeland Security and Governmental Affairs to focus on its core objective of national security, and prevented a disruption to U.S. businesses that could result if such jurisdiction were removed from the Finance Committee. In addition, given the Finance Committee's jurisdiction over reciprocal trade agreements and tariffs, it only makes sense for this committee also to maintain its jurisdiction over customs revenue and commercial functions of the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement, even though these agencies are now housed in the Department of Homeland Security.

Mr. REID. Mr. President, I ask the Chair, what is remaining on this legislation?

The PRESIDING OFFICER. The pending question is a clôture motion on the resolution, as amended.

Mr. REID. I ask unanimous consent that that be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, it is now my understanding the resolution is left?

The PRESIDING OFFICER. The question is on agreeing to the resolution, S. Res. 445, as amended.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from Idaho (Mr. CRAIG), the Senator from South Carolina (Mr. GRAHAM), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from New Hampshire (Mr. SUNUNU), are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. CORNYN), would vote "yea".

Mr. REID. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mrs. BOXER), the Senator from Louisiana (Mr. BREAUX), the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), the Senator from Georgia (Mr. MILLER), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER) would vote "yea".

The result was announced—yeas 79, nays 6, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—79

Akaka
Alexander
Allard
Allen
Baucus
Bennett
Biden
Bingaman
Bond
Brownback
Bunning
Burns
Byrd
Cantwell
Carper
Chafee
Clinton
Cochran
Conrad
Corzine
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Stabenow
Stevens
Talent
Thomas
Warner
Wyden

NAYS—6

Coleman
Collins
Enzi
Lieberman
McCain
Voinovich

NOT VOTING—15

Bayh
Boxer
Breaux
Campbell
Chambliss
Cornyn
Craig
Edwards
Graham (SC)
Hollings
Kerry
Miller
Sarbanes
Specter
Sununu

The resolution (S. Res. 445), as amended, was agreed to, as follows:

(The resolution will be printed in a future edition of the RECORD.)

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mrs. BOXER. Mr. President, because of previous long-standing commitments in the State of California and an unexpected family illness, I was not able to be present to vote on the Senate Intelligence Reform Resolution. Had I been present, I would have voted "yes."

Earlier this week, the Senate overwhelmingly passed legislation to implement recommendations of the 9/11 Commission in terms of reforming the intelligence structure of the executive branch and strengthening our efforts at homeland security. That was an important bill, and I hope we can quickly resolve differences with the House so that it can be sent to the President for his signature.

Equally important, however, is to implement intelligence reforms here in the Senate, as was also recommended by the 9/11 Commission.

This resolution strengthens the Senate Intelligence Committee, and it creates a new Intelligence Appropriations Subcommittee. In addition, the Government Affairs Committee will become the Homeland Security and Governmental Affairs Committee, and the Committee will have greater jurisdiction over the Department of Homeland Security.

All three of these steps will streamline operations in the Senate and make it easier for the Senate to conduct meaningful oversight of intelligence and homeland security.•

The PRESIDING OFFICER (Mr. HAGEL). The distinguished minority leader.

Mr. DASCHLE. Mr. President, I ask the Senator from West Virginia have 5 minutes prior to the next vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

## THE SABBATH

Mr. BYRD. Mr. President, I am not going to show any disrespect for the distinguished leader, majority leader, who is talking right now, so I will wait until he is finished.

I was saying, I thank the distinguished majority leader for listening to what I am saying. I will be brief. I am not sure I will use 5 minutes.

Mr. President, in my office hangs the Ten Commandments. We have heard a lot about the Ten Commandments in recent years. I believe in the Ten Commandments. I believe we ought to respect those commandments, one of which says:

> Remember the Sabbath Day, to keep it holy.

I am not saying I am a good man. My Bible says that no man is good. No man is good. But I think we ought to show some respect to those Christians in the body, and in our country, and many people who are not Christians, our Jewish friends, who believe in the Ten Commandments. As a matter of fact, the Ten Commandments originate, as we know, at the time when Moses went up on Mount Sinai and was given the tablets by God himself, by the Almighty himself. So we believe that.

I am a Christian. I may not be the best one around. I don't claim to be. But I do claim to be a Christian. I believe that way, and I believe that we ought to observe the Ten Commandments. I think that this body, as the greatest legislative body in the world, together with the other body, in particular should set an example of respecting the various religions that make up our Nation. That is why I take the floor today.

I think we are setting a bad example. I don't think we are showing proper respect to Christians in our country, and all over the world, for that matter, by publicly failing to observe that Commandment, that we keep the Sabbath Day holy and remember it.

I want to say I am protesting the fact that we are going to have a vote on tomorrow. I told my leadership I had hoped we wouldn't have votes on tomorrow. I also offered to say, Well, it is fine to have votes after sundown. The old Sabbath ran until sundown. Let's have any votes after sundown. If we have to have votes, let's have them after sundown. I asked my leaders to consider that. They did, and for various reasons they decided not to—that we had to have the vote.

I have to say as majority leader, when I was majority leader, I could have easily put this vote over to Monday simply by adjourning and not coming in tomorrow—which I would do, in this case. If this were an emergency, if something suddenly came up and it was a dire emergency, of course. You know the Bible says the ox may be in the ditch and we have to get it out of the ditch. But the ox is not in the ditch here. We have wasted a lot of time this year, and recently. We waste a lot of time. We are not in session when we could be in session. Then all of a sudden, here we are going to have this vote on Sunday. There are practicing Christians who like to go to church and want to observe this commandment.

So I say of course I will be in to vote. I have cast more rollcall votes than any other Senator in the history of the country. I guess I will not miss this one. But I am protesting. It could have been otherwise. It didn't have to be. It didn't have to happen tomorrow. We could have had it earlier. We jam these. We have a way around here in the Senate lately of jamming. The leadership on the other side—I have to say the Republicans are in control of the body—they have a way of jamming us. Maybe we are all at fault a little bit. But there is no reason why we should have to come in on a Sunday, on the Sabbath, and have rollcall votes. I protest it today. I hope it won't be done again after this year. I hope I will still be living and still be serving in the body.

I hope leadership will take this into consideration in the future and get our work done before the Sabbath comes and avoid having meetings on the Sabbath Day. It just isn't necessary. It is not a dire emergency. If it were, as I said, and the ox were in the ditch, I would say let us get it out and let us go in and vote. If it is important to the safety of the Nation, to the safety of the American people, or whatever, dire, we have to do it, of course. I think the Almighty would waive the Commandment as far as that is concerned. I understand we have duties, but I don't think it has to be done now.

I want to complain about the way we have done the business of the Senate—lagged along and dragged along and come in and have voting sessions on late Tuesday or Wednesday or Thursday, and we go out on Friday. We don't come in until Monday late. There are all kinds of reasons which I will bring up at another time perhaps and talk again about it.

I am not thinking at this point that we are going to be able to waive this unless the majority leader will be of a mind to put this vote over until Monday.

May I have 1 more minute, please.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I don't see why we can't have the vote today, or if not today, move it over until Monday. That could be done. The majority leader can easily do this, no question about it. I could do it when I was majority leader. I respect the majority leader, and I respect his doing whatever he has to do, but I am saying that a stitch in time would save nine.

As one Senator, I say that we should uphold the Commandments. I have always felt that side of the aisle and this side of the aisle are highly observant of the 10 Commandments and make a big to-do about religion in this country. Why don't we have a little religion here today and put this vote over from tomorrow and not come in on Sunday? Can't we do that?

I thank the Senators for allowing me to say these few words. I thank them. I will take my seat.

## PROVIDING AGRICULTURAL DISASTER ASSISTANCE

The PRESIDING OFFICER. Under the previous order, the clerk will report Senate Resolution 454 by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 454) expressing the sense of the Senate that the 108th Congress should provide the necessary funds to make disaster assistance available for all customarily eligible agricultural producers as emergency spending and not funded by cuts in the farm bill.

Mr. DAYTON. Mr. President, I rise in support of the resolution by the Senator from Iowa, the ranking member on the Senate Agriculture Committee, and I wish to support his outrage to the rip-off of money from the Conservation Security Program to pay for Agriculture disaster aid.

The Conservation Security Program exists because of the heroic efforts of the Senator from Iowa, Senator HARKIN.

It was reported out of the Senate Agriculture Committee, on which I am proud to serve,

It passes the Senate, the House, and it was signed into law by the President in 2002.

The program is underway, and it is benefiting farmers in my State of Minnesota and elsewhere.

The bill the Senate passed back then also included disaster aid—but the House bill do not.

In Conference Committees, the House opposed disaster aid, the White House opposed disaster aid, so the final legislation contained no disaster aid.

It was a terrible hole in an otherwise excellent Bill, for its counter-cyclical program. As crop prices go up—price supports go down—farmers make more money from higher market prices and taxpayers save money.

Everyone wins except farmers who suffer disasters and lose most or all of their crops. They get no benefit from higher market prices because they have little or no product to sell.

Because of a cruel twist of fate, they watch their hard work amount to nothing—nothing except destitution and bankruptcy.

If there were ever a time when government should lend a helping hand, it's in the face of a natural disaster.

Disaster aid is all of us insuring every one of us.

Hurricane, tornado, flood drought, frost, heat wave, epidemic, who among us is not potentially vulnerable to a disaster?

And if we lose our home, business, or farm, and are left destitute by that disaster, and if we have paid our taxes for years to benefit others, shouldn't our fellow citizens extend a hand to help us back on our feet?

Not a hand out but a hand up, a hand back up to productivity, profitability and dignity.

The House of Representatives would not extend that helping hand to America's farmers. The White House would not extend that helping hand to America's farmers. So much for compassionate conservatism.

I guess that means you are very conservative with your compassion. It doesn't go very far. It goes mainly to those who don't need it. And there is little left for those who do.

This time a number of us in the Senate insisted upon disaster aid for our farmers who have suffered losses during the last 2 years.

A couple of weeks ago, the House sent over a $2 billion hurricane disaster aid bill. We were asked to pass it without debate. The President was traveling to Florida the next day. Just like that, $2 billion, with no questions asked, no offset.

I supported that aid. But I made it clear, as did my colleagues, that I would not support further disaster aid that did not include Minnesota's farmers.

Now we have that disaster aid. In part; it covers only 1 of the past 2 years.

So those farmers hit the hardest—those who had the exceptional misfortune to suffer natural disasters in both years—they will receive no help for 1 of those 2 years.

That is compassionate conservatism—those hurt the worst get only half the help. Unfortunately, that was the best we could do. But we certainly did not expect that disaster aid would be taken away from conservation security, robbing one farmer to help another.

Helping hurricane victims didn't come out of another program. Hurricane victims won't have to choose between one of two hurricanes.

This isn't right. It isn't just. And it's certainly not compassionate.

This offset is not only unfair, it is unnecessary. The 2002 farm bill has spent $16 billion less than originally designed, due to higher market prices.

The counter-cyclical program designed by Senator HARKIN has worked—$16 billion budgeted has not been expended. It will not be expended. But—we are told—OMB will not count those savings.

And once again, the Legislative Branch, which constitutionally has the right to appropriate—is toadying up to the Executive Branch.

As Senator BYRD has reminded us so eloquently, we serve with the Executive Branch; we don't serve under the Executive Branch.

I think the House and the White House are all too eager to gut another farm program and this is their excuse.

Well, we have an election upcoming and no that day America's Farmers should reject that excuse.

Mr. JOHNSON. Mr. President, disaster assistance has nearly always been designated as emergency spending, just like the President's supplemental request now, which he wants to designate as emergency spending. The Senate spoke clearly by approving our agricultural disaster aid amendment that treats agricultural disaster just like any other disaster, as emergency spending and not off-set by other programs.

The President's supplemental request calls for agricultural emergency disaster aid for farmers and ranchers, but only for those whose crops or livestock have been damaged by a hurricane or tropical storm. And as I said, he did not require that the assistance be offset. If we are going to treat all farmers and ranchers the same, the disaster aid for them should make no difference if it is because of a drought in Texas, Colorado or South Dakota, or a flood in Ohio or Pennsylvania or West Virginia.

There is a huge disparity in matching up the disaster assistance spending, which will occur in fiscal year 2005, against the offset, which is spread across fiscal years 2006 through 2014. Because of this mismatch there would be a budget point of order against this conference report if it includes the offset from the farm bill as an offset for the farm bill. This is another reason why the disaster assistance should be designated emergency spending as it has been for many, many years—with only one exception, which was reversed not long afterward.

This budget problem is so significant that I would think, or at least hope, that the conferees and the leadership would be embarrassed to bring such an obvious budget gimmick to the floor. Let me explain further. The agricultural disaster package dollars will practically all be expended in fiscal 2005.

However, the offset that the House adopted does not kick in until fiscal 2006 according to CBO scoring. The offset would save $56 million in fiscal 2006, then the per-year savings would increase over the years, but the full offset would not be achieved until the end of fiscal 2014. Of course, I am not arguing for taking more out of the farm bill earlier. I am just saying that this entire idea of offsetting a disaster program that pays out in one year out of mandatory spending over the next 10 years is a charade. It will cannibalize money from the farm bill and dramatically damage the conservation title of the farm bill. It will reduce the farm bill baseline and damage our ability to write the next farm bill in a few years. And it is a precedent that ties the hands of the appropriations committee to respond to future disasters.

The point of the whole exercise? To come up with a budget gimmick that is not really even an offset and which raises a budget point of order. Again, the larger point here is that it makes no sense to require offsets for emergency disaster assistance legislation. A disaster is a disaster no matter where it is—and an emergency is an emergency, no matter where it is. We should simply recognize the wisdom and the necessity of funding agricultural disaster measures through the emergency spending designation—which is the overwhelming precedent over many years. Again, with only one exception we can find ever—in the past many decades in which we have responded to disaster losses.

American farmers and ranchers help keep food affordable in this country and also help to feed the world. They produce the food and fiber that is so vital to our economy while protecting our soil, helping to keep our waters clean, and reducing air pollution across the country. And, they are the basis for the strongest part of our Nation's economic engine—in fact, food and fiber comprise roughly 16 percent of our gross domestic product.

Farmers and ranchers did not ask for floods or frost or drought. Congress needs to respond to these natural disasters by providing assistance to those affected including the nation's farmers and ranchers to help restore financial stability in times of such losses, and since we have traditionally provided such assistance on an emergency basis without cutting programs to the class of those suffering—we should continue to do so as the Senate has already supported.

Mr. President, I am deeply concerned today at the manner in which the Congress, and more specifically conferees to the fiscal year 2005 Homeland Security Appropriations bill, have chosen to address disaster funding. Our agriculture producers in South Dakota and across America have waited a long time for substantive relief—relief that will enable our family farmers and agricultural communities to survive through hard times—and the majority leadership has chosen to provide emergency relief for hurricane victims while requiring farmers and ranchers on the Northern Plains to cannibalize an already underfunded conservation program in order to secure moderate drought assistance.

With respect to the Conservation Security Program, the CSP budget was funded at only 41 million dollars for Fiscal Year 2004. The severe funding limitations on the program allowed the Natural Resources Conservation Service to write only around 2,000 contracts, and limited watersheds were chosen, not one of which was in my home State of South Dakota. South Dakota has already been shortchanged because of decreased conservation dollars, and I would urge my colleagues to ensure CSP can operate as intended under the farm bill.

The disaster package that was attached to the Homeland Security funding bill had bipartisan support and was approved in the Senate by a voice vote. Given the enormous savings we have experienced with farm bill price support programs, totaling nearly $16 billion, we shouldn't be robbing Peter to pay Paul to provide any type of substantive relief. Farmers shouldn't have to pay any more, and they shouldn't have to choose between crucial environmental programs and substantive disaster relief.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the resolution, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from Idaho (Mr. CRAIG), the Senator from South Carolina (Mr. GRAHAM), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

Mr. REID. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mrs. BOXER), the Senator from Louisiana (Mr. BREAUX), the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), the Senator from Georgia (Mr. MILLER), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 71, nays 14, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—71

Akaka
Alexander
Allard
Allen
Baucus
Bennett
Biden
Bingaman
Bond
Brownback
Bunning
Burns
Byrd
Cantwell
Carper
Chafee
Clinton
Cochran
Coleman
Collins
Conrad
Corzine
Crapo
Daschle
Dayton
Dodd
Dole
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Frist
Graham (FL)
Grassley
Hagel
Harkin
Hatch
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
McConnell
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Schumer
Shelby
Smith
Snowe
Stabenow
Stevens
Talent
Thomas
Warner
Wyden

NAYS—14

DeWine
Ensign
Fitzgerald
Gregg
Hutchison
Inhofe
Kyl
Lott
McCain
Murkowski
Nickles
Santorum
Sessions
Voinovich

NOT VOTING—15

Bayh
Boxer
Breaux
Campbell
Chambliss
Cornyn
Craig
Edwards
Graham (SC)
Hollings
Kerry
Miller
Sarbanes
Specter
Sununu

The resolution was agreed to, as follows:

S. RES. 454

Whereas, agriculture has been the cornerstone of every civilization throughout history and remains the driving force behind the nation's economy;

Whereas, American farmers and ranchers help keep food affordable in this country and also help to feed the world;

Whereas, America's farmers and ranchers produce the food and fiber that is so vital to our economy while protecting our soil, helping to keep our waters clean, and reducing air pollution across the country;

Whereas, all sectors of our country rely in some way on a successful, strong and vibrant agriculture industry;

Whereas, it is the nature of agriculture that farmers and ranchers will suffer production losses because of the vagaries of weather;

Whereas, Congress has responded to natural disasters by providing assistance to those affected including the nation's farmers and ranchers to help restore financial stability in times of such losses; and

Whereas, Congress has traditionally provided such assistance on an emergency basis without cutting programs to the class of those suffering.”

*Resolved*, That it is the Sense of the Senate that the 108th Congress should provide the necessary funds to make disaster assistance available for all customarily eligible agricultural producers as emergency spending and not funded by cuts to the farm bill.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AMERICAN JOBS CREATION ACT OF 2004—CONFERENCE REPORT—Resumed

Mr. REID. Mr. President, is the FSC bill now before the Senate?

The PRESIDING OFFICER. Yes.

### INTELLIGENCE REORGANIZATION

Mr. REID. Mr. President, the chairman of the committee is here and wishes to speak on that measure. We have a number of people on this side who have been waiting today to speak. They will not be able to speak until he finishes his statement, unless he decides not to give it immediately.

I am going to give a very brief statement on the measure we just completed, that Senator McCONNELL and I worked on, a very short statement. Then with the permission of the manager of the bill, the chairman of the committee, I will go into a rollcall, so to speak, following your statement, who will speak on this side and who will speak on your side.

Mr. President, as I said earlier this week on more than one occasion, change is very difficult. Sometimes change is what we have to do. The events of 9/11 were very bad, and as a result of that, reluctantly, energetically, and enthusiastically, the 9/11 Commission was formed and they met for a year. They did wonderful work. But for the 9/11 Commission, we could not have done the reorganization of this body that we completed. As they found, our intelligence oversight was weak. Our homeland security oversight was fractionalized. We can and must do better for this institution and the country. The legislation just passed does that.

We have recommended four additional ways to strengthen the Select Committee on Intelligence, which is no longer a select committee; it is an "A" committee. We have also recommended the creation of an Appropriations subcommittee on intelligence. I thought we should have that as the last issue—the appropriations aspect of it. My friend, the Senator from Texas, offered an amendment that says there will be an intelligence subcommittee of Appropriations. But it is up to the Appropriations Committee as to whether they merge Military Construction and Defense or come up with something else. But there will be a freestanding intelligence subcommittee on appropriations which, as Governor Kean says, is in keeping with the spirit of the Commission's recommendations.

We have also consolidated homeland security oversight in the Governmental Affairs Committee. We have taken 10 committees' jurisdiction. From some, we took away five or six items. Significant things were taken from these committees. For example, from Environment and Public Works, my committee, we took FEMA, which is a very important part of what goes on in our country. That is the way it was through the 10 committees from which we took jurisdiction. We have consolidated homeland security oversight in the Governmental Affairs Committee.

We know there are some who think we did too much. We have had committee chairmen and ranking members really complain about what we did. They said: Why are you doing this? You are taking these things we have worked on for 105 years. What right do you have to do that and create this monstrous committee? But we felt it was the right thing to do—to bring together, the best we could, these homeland security functions. We did that.

There were others who thought we didn't go far enough. I say to them, they should have listened to the complaints and the admonitions we received from chairmen and ranking members and members of these committees. There can be no doubt that the new homeland security and governmental affairs committee will be one of the most powerful committees in the history of the Senate.

The committee will exercise its vast jurisdiction effectively under the leadership of Senators COLLINS and LIEBERMAN. They are disappointed; they wanted everything. But they got most everything. I am sure they will do a good job there. Remember, the Governmental Affairs Committee, before we started, was a pretty powerful committee. Now it is a committee that is a very powerful committee.

We would not have gotten here without the support of Senators FRIST and DASCHLE. I said at a press conference that Senator MCCONNELL and I just had, the next time Senator DASCHLE calls me and says, I have a little job for you, I am going to get a few more details about what that little job is before accepting it. I think Senator MCCONNELL feels the same way. This has been very hard. I have a few Members on my side, chairmen, who are upset at me. But we did the right thing. We did the right thing.

Anyway, I appreciate the support of the two leaders who formed a working group for this resolution. I express my appreciation to the members of my working group, my task force. They were so supportive and did such a good job in helping us get to where we are. I appreciate the feedback we got from members of our working group, and all Senators were committed to reforming the Senate.

Mr. President, I want to personally thank Senator MITCH MCCONNELL. It has been difficult for him and for me. But I said last night on the floor and I will say it again this afternoon—it is true that I certainly cannot understand totally the Presiding Officer's feelings because he has been in actual mortal combat, and the relationships formed there, I guess, are as close as any relationships could be. I didn't fight in the jungles in Vietnam as did the Presiding Officer. Senator MCCONNELL and I fought in the "jungles" of the Senate and, as a result of working as we did in the last almost month on this, we formed a very close friendship—something we didn't have before. I will always remember this time we spent, and I express publicly my admiration for the Senator from Kentucky for sticking with the program. It wasn't easy to do.

I have the greatest respect for his staff, Robert Karem, Kyle Simmons, Mike Solon, Brian Lewis, and John Abegg. They worked very hard. Two people on my staff worked very hard. Rich Verma worked so hard. He is a lawyer and we used his negotiation skills on many occasions. And then Gregg Jaczko, who has a Ph.D. in physics. We needed his scientific background. He understands the legislative process, and he has done an outstanding job. I hope everybody in the Senate feels good about the work he has done because he has been selected by Senator DASCHLE to be a member of the Federal Nuclear Regulatory Commission, the NRC. His nomination is pending in the Senate now. He did an outstanding job working with Robert, Kyle, Mike, Brian, and John.

I have thanked the members of the 9/11 Commission. I thank the families who were impacted by the attacks on our country. We would not be in the position we are today without their efforts. We have made our country safer as a result of what happened in the legislation that was marshaled and passed by Senators LIEBERMAN and COLLINS, and the work done by Senator MCCONNELL and myself is going to make our country safer. Serious times call for serious action. That is what we have done here. I appreciate very much my colleagues' support.

Following the statement of the Senator from Iowa, on our side of the aisle, I ask unanimous consent that Senator HARKIN be recognized for 5 minutes, Senator DORGAN for 20 minutes, Senator DAYTON for 10 minutes, Senator JACK REED for 30 minutes, and Senator LANDRIEU to follow for a time of 90 minutes.

Mr. President, Senator DEWINE is the Republican who is the only one who has come forward, other than Senator GRASSLEY. Because of the gentleman he is, he said he would be willing to wait until Senator REED finishes his statement. I appreciate that very much. Senator DEWINE wants to be recognized for up to 1 hour. Again, I ask unanimous consent that that be the case.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, reserving the right to object, is it the Senator's anticipation that we go back and forth?

Mr. REID. Yes. If there are people who come with relatively short statements who are on the majority side, we would fit those in between the statements. We want to make sure Senator DEWINE, who is being such a nice person, doesn't get jammed in the process. He, in fact, has agreed to let these others go before him. If a Republican comes over, we can do that.

Mr. KENNEDY. Mr. President, may I have an hour after Senator DEWINE?

Mr. REID. I ask unanimous consent that Senator KENNEDY be given up to 1 hour following Senator DEWINE.

The PRESIDING OFFICER (Ms. MURKOWSKI). Is there objection? Without objection, it is so ordered.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am glad that we are finally getting up the FSC/ETI bill, the JOBS bill as it is sometimes referred to, because this bill will create jobs in manufacturing.

As everyone knows, the World Trade Organization has ruled that our Foreign Sales Corporation extraterritorial income legislation that has been on the books for quite a few years is an illegal export subsidy and has authorized up to $4 billion a year in sanctions against U.S. exports. These sanctions actually began way back in the month of March this year. They now are at 12 percent and they are going to increase 1 percent each month that we do not repeal the existing law. By November, they will be at 13 percent, and Senator FRIST rightly has called these "Euro taxes" on our exporters.

It has been a long road to what I hope will be final passage of this legislation. Both bodies passed bills to deal with the Euro taxes. Both bodies struggled to get this to conference. Nothing has been easy, but we are at last in the final stages.

Now that we are at the doorway of final passage, we cannot fritter away the opportunity to eliminate this tax put on our exports to Europe by the European Union.

American workers, especially those in the manufacturing sector, put in the work necessary to make the U.S. the most productive economy in the world. We Senators have to employ the same work ethic. We have to match our constituents' work productivity. We cannot delay on this matter any longer. We cannot leave the job site without finishing our work.

I will inform my colleagues of what happened during the conference this week. It was one of the most open and unusual conferences between the Senate Finance Committee and the Ways and Means Committee of the House that we have ever had. There were 18 House conferees and 23 Senate conferees. The conference chairman, Chairman THOMAS of the Ways and Means Committee, started the ball rolling with a discussion draft. The discussion draft reflected the core elements of both bills.

The main piece complied with our WTO obligation by repealing the Foreign Sales Corporation extraterritorial income regime. In its place, we provide a deduction for all manufacturers, big and small. That was a significant movement toward the Senate position.

In one move, Chairman THOMAS addressed the top Senate priority; that is, that all manufacturers receive the benefit of the deduction.

The next piece of the discussion draft included a package of international tax reforms that will make America's manufacturers yet more competitive. This package reflects the priorities of both the Senate and the House bill.

Finally, the discussion draft included identical and near identical provisions from both bills. Revenue neutrality was another important principle of the Senate bill, and I appreciate Chairman THOMAS's cooperation on this Senate priority. Indeed, it was the bipartisan Finance Committee staff that refined the offsets that made this bill viable in the first place.

After presentation of the discussion draft, each Member had an opportunity to put forth their priorities by filing amendments for the public conference. Finance Committee conferees recognized the similarity to the customs of the Senate Finance Committee markup, the way we have done it traditionally in the Senate Finance Committee. This process was very unusual for a conference. Normally, conferees go through a series of meetings and exchange of offers or some other elongated process.

I have been a member of the Finance Committee for nearly 20 years, and I can tell my colleagues that in nearly all cases, conferees debate the issues in private. Nearly all of the toughest decisions come down to private negotiations between the two chairmen. Those decisions are reached after conferee input.

In this conference, however, all discussions were aired publicly. Sometimes conferences take months. Sometimes they end without accomplishing anything before the adjournment of a Congress. We had neither option before us. We were in an unusual and sensitive situation because we are coming up now to adjournment of this Congress. Unusual situations require then unusual procedures. We had only a few days remaining to enact this measure. That is not much time, but we are here now before the Senate, and this bill has passed the House of Representatives already.

The bottom line is that we have to move this measure to the President of the United States. I am fully committed to getting this bill done before we leave for the elections.

I appreciate the House's willingness to open up this process and let transparency occur through the amendment process. I would also like to thank my Finance Committee conferees, particularly my friend and ranking member, Senator BAUCUS. We would not be here—in fact, we would not have even gotten this bill through the Senate without the bipartisan spirit of the Finance Committee members and Senator BAUCUS's efforts in that. That spirit remained in place as we took the final steps in the conference committee between the House and Senate.

Both the House and Senate agreed on the basic structure of the bill and on the policy. In addition to the major movement to the Senate on the structure of the manufacturing deduction and revenue neutrality, many Senate priorities have been addressed. An expanded renewable electricity reduction credit is included. This was a high priority for Senate conferees BINGAMAN, SMITH, DASCHLE, HATCH, BAUCUS, SNOWE, BREAUX, LINCOLN, CONRAD, BUNNING, and GREGG.

Chairman THOMAS recognized this as an important bipartisan mark and included section 450 in his mark even though it cost over $2 billion to accommodate the Senate on this issue, within the spirit of revenue neutrality.

We have a very good small business package as well included in the conference report. The bill before us extends small business expensing for another 2 years. The bill contains significant S corporation reforms. Even though the subchapter S corporation provisions were House provisions, they have historically been Senate priorities. We have probably the most comprehensive agricultural and rural community tax incentive package ever.

I thank Chairman THOMAS for including these Senate priorities in his mark. For everyone, there is a substantial overhaul of the fuel excise tax system, with a VEETC proposal, fuel fraud, and also biodiesel provisions.

These provisions will mean more highway money for more States. According to Federal statistics for the current fiscal year, 37 of 50 States will receive more highway money because of the VEETC proposals in this bill. There will still be more highway money for all States from provisions in this bill by shutting down fraud when people do not pay the fuel tax that is required under existing law. VEETC and fuel fraud provisions are estimated to put over $24 billion into the highway trust fund.

Now, I point out that this bill does not contain many special interest members' provisions. If my colleagues will recall, the JOBS bill passed the Senate 92 to 5. In part, the bill received such widespread support because many Member items were accommodated when this bill first went through the Senate. Literally dozens of narrow tax benefits were adopted in committee and also added on the floor. Those provisions also unnecessarily caused the bill to be defined as a special interest bill. Senator BAUCUS and I put out a staff analysis that showed only a small portion of the bill's revenue was absorbed by these individual Members' items. But that did not stop the criticism of those items, either by Members of the Congress or by the press writing about this bill, emphasizing things that were only a small part of the legislation.

The House bill also, however, contained Member items. They were fewer in number, but very significantly defined. Most of those items enjoyed some Senate support.

In addition to the press criticism, the President also made clear to me he would not support a bill that is heavily laden with so many of these narrow items.

Neither side got everything they wanted. For example, the House made a huge concession by giving up its rate cut for only C corporations. They had invested $15 billion for this in small C corporations, and another $64 billion for large C manufacturing corporations. They relented on this point in order to accommodate the Senate concerns about extending the manufacturing rate cut to all manufacturers, regardless of whether they were C corporations, S corporations, partnerships, or individuals.

We have heard harsh complaints about the conference bill from Senator

LANDRIEU because the bill does not contain her reservist amendments. I would like to set the record straight on that point. The Senate voted in support of her amendment in conference. We approved it and presented it to the House for inclusion in the conference bill. The House rejected that amendment. The conference was open to the public. Everyone witnessed the vote. There were no back-room deals on the reservist amendment.

Finally, as a premise, let me note we knew the House would not accept as much in revenue offsets.

Mr. GRASSLEY. Indeed, the bill before us is smaller in size by more than $30 billion than the Senate-passed JOBS bill.

There has been some grumbling about how much the bill grew beyond the simple repeal of foreign sales corporations' extraterritorial income provisions. One of the reasons it grew is because the Finance Committee found sufficient offsets, most of which are loophole closers—loophole closers Senator KERRY spoke about in the debate, that he wanted to close. We did this to allow Members to have enough revenue to offset particular Senators' interests in this bill.

This is also true of Senator LANDRIEU's reservist amendment. Not only did we support it but we found a way to pay for it. We modified the foreign housing exclusion for high-income U.S. employees working overseas. Unfortunately, the House rejected that offset, and in turn the specific amendment.

I think the Senate is being distracted by too much emphasis upon particular specific Member priorities. I believe the core benefits of the bill should not be sacrificed to narrow items. The core benefits go to manufacturers. It is all about creating jobs in particular, particularly about creating jobs in manufacturing in America, where there has been some concern expressed in the Senate about outsourçing. So that is what this bill is all about. That is not to say we did not attempt to include a number of Members' issues from both sides of the aisle, and from both bodies of Congress. There was a balance that needed to be struck in order to get a compromise out of the conference committee. I committed to Chairman THOMAS that I would defend the mark as a whole. Chairman THOMAS made a similar commitment. That commitment enabled us to accommodate Member items that had broad support.

Let's finish the job this week before we leave. There is no excuse for allowing partisanship to hold up this bill. I will remind everyone, one more time, this bill passed the Senate Finance Committee on a bipartisan vote, 19 to 2. Only two Senators, both on my side of the aisle, not on the Democrats' side, voted against this bill. Both of those Senators, however, put their own special concerns aside for the greater good, and are supporting this conference report. This is a bipartisan bill that reflects everyone's concerns, both Republican and Democrat.

I will describe once again the history of this bill. The JOBS bill was a bipartisan bill from the ground up. The framework was laid by Senator BAUCUS when he was chairman of the Senate Finance Committee in the year 2002. In July 2002 we had a hearing to address the FSC/ETI controversy within the World Trade Organization. We have heard from a cross-section of industries that would be damaged by the repeal of the extraterritorial income laws we had on the books for the last few years. We also heard from U.S. companies that were clamoring for international tax reform, because our tax rules were hurting their competitiveness in foreign markets. Their foreign competitors were running circles around them because of our international tax rules.

During this hearing, Senator BOB GRAHAM of Florida and Senator HATCH expressed concerns about how our international tax laws were impairing the competitiveness of U.S. companies. After some discussion back there in the fall of 2002, we formed a blue ribbon commission to study this problem. We all decided that decisive action was more important than a commission. During that hearing, Chairman BAUCUS formed an international tax working group that was joined by Senator GRAHAM, Senator HATCH, and this Senator, and was open to any other Finance Committee Senator interested in participating.

The bipartisan Finance Committee working group developed a framework that formed the basis of the bill that is before us this very day. We directed our staff to engage in an exhaustive analysis of the many international reform proposals that have been offered. We sought to glean the very best ideas from as many sources as possible. Senator BAUCUS and I also formed a bipartisan bicameral working group, with the chairman and ranking member of the Ways and Means Committee, in an effort to find some common ground on dealing with the repeal of FSC/ETI. That effort did not go so well. But it did inspire Senator BAUCUS and this Senator to continue our Senate bipartisan development of a FSC/ETI repeal and international tax reform package.

We continued our efforts in cooperation with Senator HATCH and Senator GRAHAM and a few other members of the Finance Committee who wanted to do what was fair and right in complying with the World Trade Organization ruling. We continued our bipartisan efforts when I became chairman—again, in the year 2003. In July 2003 we held two hearings on the FSC/ETI and the international reform issues. One hearing focused on the effect of our tax policies on business competition within the United States and the other on international business competition. These two hearings led to the bipartisan Senate bill that passed earlier, 92 to 5.

Let me review what is in the bill before us, because most of it comes from our bipartisan Senate bill. The core part of the bill repeals the current FSC/ETI provisions that are in our current tax law and were ruled out of order by the World Trade Organization because they are contrary even to the laws of our own Congress.

FSC/ETI reduces the income tax on goods manufactured in the U.S. and exported overseas by as much as 3 to 8 rate points. That is, if a corporation's tax rate is 35 percent, the tax rate on export income is somewhere between 27 and 32 percent instead of that maximum of 35 percent.

It lowered the U.S. corporate rate on goods made in the United States and sold overseas to make us competitive because of the fact that the European Union and those countries do not export their value-added tax. The World Trade Organization has determined that the FSC/ETI is an impermissible export subsidy and has authorized the European Union to impose up to $4 billion a year of sanctions against U.S. exports until we get rid of FSC/ETI, which this bill does.

Those sanctions begin March 1. They are up as high as 12 percent right now. They can go up as high as 17 percent. They can even go higher than that if the European Union institutes longer phase-ins.

Our companies carry this burden because Congress has failed to act for 2 or 3 years. That is why we must pass this bill before we leave Washington for our campaigning.

This should be a very serious concern of all Members because the sanctions are hitting commodity products such as agricultural goods, timber and paper, as well as other manufactured products. Presently, about 89 percent of the FSC–ETI export benefits go to the manufacturing sector.

Repeal of FSC–ETI raises around $55 billion over 10 years. If that money is not sent back into the manufacturing sector, which this bill does, there will be a $50 billion tax increase on manufacturing. It is mathematically impossible for it doing anything else.

That is why the bill before us takes all $55 billion of the FSC–ETI repeal money and sends it back to the manufacturing sector in the form of a 3-point tax rate cut on manufacturing income; in other words, that corporate tax of 35 percent being reduced down to 32 percent.

This tax rate is for manufacturing in the United States. No company that manufacturers offshore will benefit from it. We start phasing in those cuts next year. The cuts apply to sole proprietors, partnerships, farmers, individuals, family businesses, multinational corporations, and foreign companies that set up manufacturing plants in the United States.

In total, this bill provides over $76 billion of tax relief to our U.S.-based manufacturing sector to promote factory hiring in the United States—$76 billion not lost to the Federal Treasury because it is offset.

This bill also contains another $7 billion for small businesses, local communities, inland shipping, and other local business concerns.

There has been chatter in the press about the short-line railroad provision benefiting big railroad companies. That is not true. Short lines are the small spurs that run off of the main railway systems and generally connect to local community businesses such as our grain elevators and our small factories. They connect them to the main rail arteries. They are often owned by small rail companies or local community businesses. This short-rail provision is vital to farming and rural communities across America, as well as secondary cities that do not have the benefit of massive public rail systems.

This bill also contains an agricultural and small business package which devotes $5 billion to our home communities.

As I said before, this is probably the most comprehensive agricultural and rural community tax incentive package ever passed by the Congress.

We also include international tax reforms, mostly in foreign tax credit areas, and most of which benefit the manufacturing sector.

The international tax reforms largely fix problems our domestic companies face with the complexities of the foreign tax credit. These reforms are necessary if we are to level the playing field for U.S. companies that compete with our trading partners, particularly those companies that are in countries that have value-added tax and they don't export that tax like we export our income tax as part of our cost of production.

You will hear arguments that the international reforms provide an incentive to move jobs offshore. Read the bill and you will find that is not true. We have carefully selected international reforms that do not provide offshore incentives.

Our bill also includes a House version of the Homeland Reinvestment Act which will temporarily reduce tax on foreign earnings that are brought into the United States for investment here at home instead of overseas. The Senate version of this provision is the work of Senators ENSIGN, BOXER, and SMITH, a bipartisan measure.

We included a provision that allows naval shipbuilders to use a method of accounting which results in more favorable income tax treatment.

There are enhanced depreciation provisions to help the ailing airline industry.

The bill also expands the new markets tax credit to high outmigration counties. These credits help economic development in rural counties that have lost over 10 percent of their population.

We have also included the Civil Rights Tax Fairness Act. We have a special dividend allocation rule which benefits farm cooperatives.

We have other farm provisions that give cattlemen tax-free treatment if they replace livestock because of drought, flood, or other weather-related conditions—things all beyond the control of the farmer.

We included a provision that allows payments under the National Health Service Corps loan repayment program to be exempt from tax. This is an important measure to enhance the delivery of medical services to rural areas that do not have the proper number of health practitioners.

The bill before us contains several energy provisions that were voted out of the Finance Committee that had been previously approved by the full Senate in the JOBS bill.

I have already spoken about VEETC, which is short for volumetric ethanol excise tax credit. This provision would add up to $14.2 billion of revenue to the highway trust fund over the 6-year life of the upcoming transportation bill now pending before Congress. This provision alone could create as many as 674,000 new jobs in America.

The energy tax package also includes a new incentive for the production of renewable biodiesel—biodiesel made from soybeans—and hence, mixed at a 20-percent mixture with petroleum diesel, clean burning, no sulfur in that 20 percent, as an example of being environmentally friendly.

Anyway, the biodiesel provision means jobs in our heartland. Renewable fuels have directly generated over 150,000 new jobs. In fact, in 2004 alone, this industry will add 22,000 new jobs.

The bill also includes a provision to accelerate the production of natural gas from Alaska and the construction of a natural gas pipeline from Alaska to the lower 48 States. According to our own Department of Labor's Bureau of Economic Analysis, construction of the Alaska natural gas pipeline would create nearly 400,000 jobs in construction, trucking, manufacturing, and other service sectors.

The bill provides all of this tax relief, nearly $140 billion worth, and yet is revenue neutral, meaning we reduce taxes over here, close corporate loopholes over here, raise a certain amount of money to make up for what is less taxation over here. It is revenue neutral—no additional money added, no additional dollars added to the national debt; not one dime to the Federal deficit.

The tax relief in this bill is paid for by extending Customs user fees, shutting down abusive corporate tax shelters, and attacking the abusive tax strategy used by Enron, which we unearthed during my Finance Committee Enron investigation.

Last October, the Finance Committee held hearings on the status of these abusive corporate tax shelter activities. During that hearing, we received anonymous testimony from a leasing industry executive describing how U.S. corporations are able to take tax deductions for the pair of sewer lines in the New York subway station.

Let me explain "anonymous." This meant the person was testifying before the committee. We knew who he was, but he was not identified to the public. But he knew what he was talking about. We have a situation where major corporations, through these abusive tax shelters, are claiming tax deductions on taxpayer-funded infrastructure, mostly by municipalities located both in the United States and overseas. Imagine our surprise on the Senate Finance Committee to learn that the U.S. taxpayer is subsidizing the cost of electric transmission lines in the Australian outback. No one believes that, but it showed up in our investigation.

I could go on with a lot of other examples, but the bill before the Senate ends this corporate tax shelter abuse.

It was shortly after the September 11, 2001, terrorist attacks that we saw the beginning of the exodus of U.S. companies moving their corporate headquarters to tax havens overseas, just setting up a shell corporation, basically just a mailbox, for the sole purpose of evading U.S. corporate taxes. It was the events of September 11, 2001, and the ensuing stock market plunge that provided companies with cost-efficient ways to get out of the United States. That is one thing, but to get out of the United States just to cheat on their taxes and leaving everything else in the United States—that is the problem.

Members may recall the video I played for some members in which a big four accounting firm partner said that U.S. companies were resistant to this scheme out of some post-September 11 sense of patriotism and national duty. This big four accounting firm partner said patriotism would have to take a back seat when they see their improved earnings per share. Isn't that a nice thing to be talking about within 2 or 3 months after losing 3,000 Americans in the terrorist attacks on New York City and the Pentagon?

In this bill before the Senate, patriotism is not taking a back seat. This bill includes measures to shut down this type of corporate expatriations that are there for the sole purpose of dashing from the country and stashing the cash, as opposed to those patriotic corporations that are staying in America and paying and playing here.

I am not pleased with the effective date that came out of the conference, but this bill does shut down for the future more of these corporate tax shelter abuses that we call inversions. They are done. In fact, this bill represents the most comprehensive attack on tax shelters since 1986.

There is a great deal of good in this bill. We can rescue the manufacturing sector. We can give companies less reason to outsource because the cost of capital—as one of the arguments for outsourcing—will be less if this bill passes.

We also end European Union sanctions. By passing this bill we can respond to the recent rise in gas prices through our encouragement of more renewable fuels, and we can shut down every known corporate tax shelter abuse.

It is time to pass what is a very important bill to aid our manufacturing sector, remove tariffs off our farmers' backs, create jobs for our workers, and to place the Senate back on its footing, to do its job, and move legislation that benefits the American working men and women.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I understand there was an order, and I am allowed to speak for 5 minutes.

### DISASTER ASSISTANCE

I take this time first to thank all the Senators who voted for S. Res. 454, expressing the sense of the Senate that disaster assistance ought to be emergency spending and not taken as an offset out of any other program, especially the farm bill.

The vote was overwhelming, 71 to 14. Once again, as we have in the past, the Senate has spoken very loudly and clearly that when a disaster strikes, wherever it is, this is an emergency. It ought to be taken out of the whole pot of Government money rather than invading a program and taking money out it as an offset.

Again, I have the deepest sympathy for all the people who got hit by the hurricane in Florida and other States. They ought to be compensated. That is a true emergency. It is a disaster. But we have had disasters in other parts of the country. We have had floods, tornados, droughts, all kind of things. Just because it is not a big hurricane does not mean it is not just as devastating. It is. It makes no sense why we should have to then offset, take money out of existing farm programs, to pay for agricultural disaster assistance. But that is the position of President Bush and of the House leadership. We do not require offsets to respond to the hurricane disaster, and we should not do it for any other disaster.

Seventy-one Senators again spoke and said emergencies are emergencies. Disasters require emergency spending.

I have to point out that last night in the debate in St. Louis the President said he had fought for strong conservation provisions in the farm bill. I was there when the President signed the farm bill in May 2002, and he touted the conservation title and how much he supported it and that one of the main reasons he was signing it was because of the strong conservation title.

Yet today, his people, the President's own people from the White House and OMB, are up here telling the members of the House and Senators that in order to respond to the droughts, flooding, tornados and other disasters we have had around the country, that the disaster payments have to be taken out of the farm bill and that the place to take them is from conservation.

Yes, you heard me correctly. The President of the United States, who so loudly last night said he fought for a strong conservation title in the farm bill, today, his people are up here and saying to take money out of conservation to pay for agricultural disaster assistance.

I am sorry, can someone please join the dots for me? What is happening? The President is saying one thing, but his people are up here doing exactly the opposite. Does the President not know what his people are doing up here or have they not informed him or what is going on?

The farmers and ranchers of this country, as well as Americans who support conservation, ought to know that there is a provision soon coming before the Senate that will take money out of conservation to pay for disasters. It is wrong. Seventy-one Senators just spoke and said it is wrong. Yet the White House is insisting that disaster money has to be taken out of conservation.

The White House and the House insist on provisions that basically take money away with hand and give it back with the other and say to farmers and ranchers: You are better off. It is a cruel hoax for agricultural producers. Farmers who receive disaster payments should not suffer the loss of other farm bill benefits. Nor should our Nation's farmers as a whole, the majority of whom will not receive any disaster payments, be forced to bear the cost of disaster assistance by having farm bill benefits taken away to be transferred to a disaster program for only some farmers.

Why should the farmers in Pennsylvania have their conservation funding taken away from them to transfer to farmers in Nebraska or Wyoming or Colorado or Oklahoma or Texas or wherever the disaster may be. The White House did not say to do that for Florida's hurricane losses. They did not say to take money away from Alaska or Ohio or places like that to go to Florida. No, and they should not have. We should all pitch in as we have before, the whole country, to respond to the hurricane recovery. We pitch in because it is a disaster and emergency and so we fund it as an emergency, not by taking funding away from other vital programs. Yet for agricultural disaster assistance responding to droughts, or floods or other disasters, the White House and the House leadership are telling farmers and ranchers they will have to bear the cost of it by losing conservation funding from the farm bill.

I am sorry, it is not right and not fair. And 71 Senators said it is not.

Again, I ask the President: Please, Mr. President, you touted the conservation program.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. I ask unanimous consent for just 30 more seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, you touted the conservation program. Last night you said you fought for a strong conservation title in the farm bill. And now you are taking money out of conservation to pay for disasters. Please, Mr. President, I am telling you, get ahold of your people who are at OMB—your people. They work for you. Get them on the phone right now and tell them, this agricultural disaster money ought to come out of emergency assistance, just like you proposed for the hurricanes, and not out of farmers' own pockets.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, I understand there is a unanimous consent agreement. I ask unanimous consent it be modified so I may be recognized now according to the time allocated under the unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

### HONORING OUR ARMED FORCES

Mr. REED. Madam President, as a preliminary point, let me say I had the privilege yesterday to go up to Walter Reed Army Hospital to visit soldiers who have been injured in action defending this country and also to visit the rehabilitation facilities there. And any time you go to Walter Reed, you are inspired by the courage, the selfless service, and the sacrifice of these outstanding young men and women. But I want to relay something I think is particularly appropriate but is not often said.

As I was leaving the room of an injured soldier from the 509th Parachute

Infantry Regiment, his parents—his mother and father—were there, and his father stopped me and said: Senator, I want to make sure you know something. The people in this hospital are extraordinary. They have treated my son with extraordinary care. He is my child, but all the people I have known here in this hospital treat my son as if he was their child.

That is an extraordinary compliment to the men and women of Walter Reed, the Army Medical Corps, the doctors, the nurses, the technicians, the occupational therapists, the janitors, the clerks. And it is not just Walter Reed, it is Bethesda, it is the Air Force Health System.

I do not think we spend enough time thanking those valiant soldiers, sailors, and air men and women for what they do. And certainly those soldiers who have suffered and are being treated, rehabilitated, we owe them more than we can ever repay. We have to match their courage with wise and thoughtful policy.

### OPERATIONAL DEPLOYMENT OF THE GROUND-BASED MISSILE SYSTEM

Madam President, I am going to spend a few moments talking about a policy which I do not consider to be the wisest and the most thoughtful, and that is the President's likely declaration, within a few days, of the operational deployment of the ground-based missile system. We have constructed a test bed in Alaska. We are trying to assemble a system that will work to protect this country. I think operational testing is in order. In fact, I would hope that the administration would actually follow the law more rigorously and provide for a scheme of operational testing. But that is not the case.

To declare this immature, technologically challenged system as deployed and operational today is a political judgment, not a military judgment. I think we should refrain from blatant political judgments when the security of the United States is in the balance.

Simply stated, this system is so immature and technologically challenged that they canceled the last test. And it defies me to understand how, after cancelling the test, you can turn around and say: It will work. It is operational. It defies common sense. It defies logic. It is something I think, again, that simply is a political statement.

Now, intercept tests are the critical means by which a missile system, any military system that is technologically sophisticated, must be validated, must be tested. It is the only way we can truly assess whether a system will work, whether it meets a minimum criteria for deployment, to put it in the hands of American fighting forces.

The last intercept flight test of the system was conducted almost 2 years ago in December 2002. It was a failure. Six days after the test failed, the President announced that the U.S. would deploy the missile defense system by the end of 2004. It is almost like watching a piece of military equipment crash and burn and then suddenly say it is operational. Again, it defies logic. It defies common sense.

Since the time of the last test failure in 2002, there have been seven other planned tests. They have all been canceled. Again, we are not able to test this system. How in good faith can we say it is operationally workable? The tests have been postponed, deferred. None of these tests have taken place.

None of the major components of the system, neither the new operational interceptor, nor the operational radar, nor the operational battle management system have ever been tested at all against a real test target. Yet the President will say, I assume in a few days, this system is capable of protecting the United States.

In addition to all these test delays and cancellations, the administration has essentially eliminated any effective oversight over the missile defense test program, avoiding standards and laws that have been on the books for at least 20 years.

Years of hard experience have shown that it is much more expensive to fix a problem with a military system after you have built and deployed it than it is to fix it before it is deployed. Because of this, more than 20 years ago, Congress passed laws which required all major defense systems to undergo a full set of realistic operational tests prior to spending large amounts of money on full production and deployment of the system. These tests were to be judged by an independent test authority called the Director of Operational Test and Evaluation. This law is still in effect today.

Thanks to this law, we have been able to avoid some of the mistakes we made in the 1970s and the 1980s, where we declared systems deployed and operational without adequate testing. These are high-profile systems, like the B-1 bomber, the Sergeant York gun, and the Bradley Fighting Vehicle. We were able to make certain corrections to the B-1 and the Bradley. They were eventually fixed at a cost of billions of dollars. The Sergeant York gun was unable to be fixed. That was canceled. But we wasted billions of dollars by deploying these systems prematurely.

If the missile system is truly as important as the administration thinks, then we should take the time to test this system to make sure it works instead of trying to convince people, by press release, that it does work.

The missile system has been exempted by the administration from the oversight of the independent Director of Operational Testing, and they have plunged ahead with full-rate production of the program with no independent testing at all. Incredibly, the administration has no plans to ever conduct realistic independent operational tests on this missile defense system. This avoids 20 years of law, practice, and indeed common sense. The politics of deploying a missile defense at any cost prior to the election has trumped any desire to make sure the system actually works and, if history is any guide, will likely result in the waste of a large amount of money to fix the system after it has been deployed.

If we can—and I think we should, indeed, with deliberate speed—deploy a system that is operationally effective, we should do that. But to take a system where the major components haven't even been tested and say it works is being intellectually dishonest and deceptive to the American people.

On August 18, Secretary Rumsfeld described the missile defense deployment as the "triumph of hope and vision over pessimism and skepticism." Actually it is a triumph of best wishes over reality. And hope is not a plan. We found that out in Iraq. Only a system that is rigorously tested, where improvements are made test by test by test, will get us to where we want to go and must be, a system that we are confident will work if it is called upon to defend the country.

Now this lack of testing is not a result of any lack of funds. The administration has lavished funding on this system. The budget request for fiscal year 2005 is $10.2 billion. It is the largest single-year budget request for any weapons program in the history of the United States. For perspective, the fiscal year 2005 budget request for missile defense is more than the Army's total research and development budget for this year. And we know we have an Army engaged in combat, in trying circumstances, that needs to develop new approaches, new sensors for the troops, new observation devices, new ways to deal with insurgencies in built-up areas, new ways to deter and defend against improvised explosive devices. Their budget is a fraction of the budget that is being lavished upon this system. It is twice the budget for the Bureau of Customs and Border Protection in the Department of Homeland Security, and it is nearly twice the Department's allocation for the Coast Guard—two times Coast Guard, two times Customs and Border Protection.

The ultimate costs of this system are unknown because the administration steadfastly refuses to provide to Congress any information on how much missile defense they want to buy and how much it will cost. Recent estimates by the Congressional Budget Office indicate the Bush administration's Missile Defense Program could exceed $100 billion. Nowhere is that $100 billion being factored into ongoing defense budgets as we move forward over the next 5 to 10 years, and it will have to come from somewhere. Again, we need a system, but we have to be honest about how much it will work and how we are going to pay for it. That honesty is not present today.

The other factor—and this is interesting—in contrast to the numbers that are being allocated for the Coast Guard and the Customs Service is that an intercontinental launch against the United States is probably less likely than other means of detonating a weapon of mass destruction in the United States. First of all, there are only two countries that currently have the capability: Russia and China. The Bush administration points—and I think rightfully so—with concern to North Korea. But that country has never successfully launched any missile capable of reaching the United States. Furthermore, North Korea has observed a self-imposed moratorium on long-range missile testing for 6 years since their last test failed in 1998.

But even if North Korea develops such a capacity, why would they launch a missile against the United States? Our early warning satellites will pick up the launch. It will tell us definitely and decisively where it is coming from, and we will retaliate swiftly and with devastating force that will likely destroy that regime. Why would they want to do that, particularly if they could attack us by other means, perhaps concealing a weapon of mass destruction in a container that comes to the United States since only a small percentage are opened?

Again, the budget for the Customs Service and the Border Protection Service is a fraction of what we are spending on this particular threat.

Now, that is not just my conceptual view. In December 2001, the U.S. intelligence community completed an assessment of the foreign ballistic missile threat to this country. The assessment was entitled "Foreign Missile Development and the Ballistic Missile Threat Through 2015." Their conclusions:

> [T]he intelligence community judges that U.S. territory is more likely to be attacked with [weapons of mass destruction] using nonmissile means, primarily because such means: Are less expensive than developing and producing ICBMs; can be covertly developed and employed; the source of the weapon could be masked in an attempt to evade retaliation; it probably would be more reliable than ICBMs that have not completed rigorous testing and validation programs; and probably would be much more accurate than emerging ICBMs over the next 15 years.

This is what the intelligence community said in 2001 looking forward to 2015. Yet since that time, the Bush administration has spent billions of dollars more on the development of this untested, unproven missile defense than it has on protection of our ports and borders where the real threats are likely to come from.

We should be very careful about making sure we take scarce dollars and apply them to the most likely threats. Some have said: Well, don't make those comparisons. We to have defend against every threat. Frankly, the simple contrast between the money we are spending on missile defense versus the Coast Guard and border patrol seems to be directly in contradiction to the intelligence community estimate of what the most likely threat would be. That is not wise policy.

There is also a huge opportunity cost for us. While we are lavishing money on this system, there are other programs—for example, the Department of Energy program called the Global Threat Reduction Initiative—which are not being adequately funded. This Department of Energy program is designed to help secure loose nuclear materials that are around the globe so that terrorists don't get their hands on them. And what is the most vital threat to the United States today? A terrorist group could obtain nuclear materials or a nuclear device, smuggle those materials into the United States, and attack us here. That is what the intelligence community assumes is the most likely threat. Yet we are not going to the source and securing and eliminating the nuclear material that is too abundant in the world.

There is another program that the administration is proposing, which is the airborne laser program, another part of this elaborate construct of missile defenses. The airborne lasers are designed to shoot down ballistic missiles in their first stage as they blast off and start going into space. This program has been plagued by problems throughout, problems which have delayed the program by a year, reduced the laser power by more than half, and have many wondering whether this program is doomed to fail.

By the way, using the same criteria of missile defense—i.e., test failures followed by numerous cancellations—I wonder why the administration doesn't declare the airborne laser operational. It works perhaps as well as our national missile defense.

During the same time the administration has been spending far less on security for our Nation's ports, it has been spending a great deal of money on the airborne laser. The Bush administration's fiscal year 2005 budget proposes a $50 million cut to the 2004 level of U.S. port security funding, the grant funding that we use to help our ports all across this country. Yet there they are still investing extraordinary amounts, almost a half a billion dollars, in the airborne laser. So while it is a risky, possibly doomed program, the money keeps flowing while we do not have adequate resources to protect our ports.

The other aspect of this dilemma is that the administration has never been able to open up this process to a transparent approach, where scientists can look at this data. Of course, we are going to protect the security and the proprietary information here, but they have been overly secretive. And the reason is obvious: it doesn't seem to work, and they don't want that information out as they are getting ready to declare it operational.

They also never really had the opportunity or the will to have realistic tests. All of these tests have been carefully scripted. All of these tests have relied upon nonrealistic scenarios. The incoming missile has a homing beacon on it to help guide the interceptor to it. They don't use realistic decoys, which any country attacking the United States, you would have to assume, would have decoys as well as a real warhead. And there is no element of surprise. A real enemy missile attack would not be scripted, would not have a convenient homing beacon on the target, would likely have realistic decoys and would be a surprise attack.

Frankly, if we had warning of the pending attack, we would take preemptive action immediately, take out the missile on the launch pad.

During the entire time of the Bush administration, there has been essentially no progress made toward the goal of realistic missile defense tests against realistic targets.

An effective missile defense is something we should all work for. But a missile defense that is based upon a press release and not tested is not an effective missile defense. Saying it is operational doesn't make it operational. What makes it operational is rigorous testing under realistic circumstances. This administration has never done that.

I believe we should proceed forward with all deliberate speed to develop and deploy a missile system. I don't think we should allow ourselves to make a political judgment and declare it operational by press release and not validation through testing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, I rise this afternoon to discuss the FSC bill. Some may view this as a tax bill, and it is; some have called it the American Jobs Creation Act of 2004, and I think that is fair; I am sure it will do that.

But let me say to the Members of the Senate, my colleagues, what this bill could have been, what this bill should have been, and what it was when it left here, when we sent it to the conference committee. What it should have been, what it could have been, what it was was the most important public health bill to be considered by this Congress.

Before the FDA provision to regulate tobacco was stripped out by the conference committee, it was the most important public health bill to be considered by this Congress. It was the most important children's health bill to come before this Congress. Tragically, the conference committee stripped out the FDA provision that would have, for the first time, put the marketing of the sale of tobacco under the same terms and conditions as the sale of every other product in this country. In this bill, which has so many things in it, there just wasn't room, according to the conference committee, for this FDA provision.

This is a sad day for the Congress. This Senate voted on an amendment, 78 to 15, to include the tobacco buyout that helped tobacco farmers, which I supported and continue to support, coupled with, for the first time, having the tobacco controlled like every other product in this country and regulated by the Government. This bill we have in front of us represents a missed opportunity. It is a missed opportunity to help our children, our grandchildren, and the public health. Two thousand children a day in this country start smoking; 400,000 people a year die of tobacco-related diseases. Yet we failed in this bill; we turned our back on this historic opportunity.

I truly believe that in public life, as well as in life as individuals, we are judged not only by what we do, but also by what we fail to do. I think we ultimately are held accountable for what we don't do. So I intend to vote no on this bill. I intend to vote no on cloture because of the failure of the conferees to include this historic provision. We had the opportunity and missed the opportunity to close this loophole in the law, to deal with this anomaly in the law. Every product that comes on the market is regulated. When you walk in the supermarket today and you buy a product, every single product is regulated. The ingredients are on the package. If there is a claim that is made, that has to be substantiated. Every single product, except one, and that product is tobacco—cigarettes and smokeless tobacco; they are exempt. King tobacco is exempt in the law today. That is wrong.

This bill, as we sent it out of the Senate, in the wisdom of the Senate, would have changed that. Yet the conferees stripped out that provision. So we should vote no on cloture and on the conference report.

This was a historic opportunity that will not come again. The coupling of the tobacco buyout and the coupling of the FDA-controlled tobacco—we will not have the opportunity to do that again. This bill, in fact, contained the tobacco buyout. I support that. If this bill passes, the tobacco buyout will be done and we will no longer have the opportunity to couple these together. We will have lost that—let's be candid—political opportunity to put these two together. So we have lost that chance and that opportunity.

A yes vote on this conference report, a yes vote on cloture says it was OK to strip that out. A yes vote says it is OK to turn our backs on our kids once again on this issue. A yes vote says it is OK, the status quo is fine, and business as usual is fine.

How long are we going to tolerate this? How long are we going to say tobacco is different than every other product in this country? How long are we going to say tobacco should not be regulated? How long are we going to say when one goes in and buys products on the market, every other product is regulated, one knows what they are buying but not tobacco? Why should tobacco be different?

Some Members may say, I cannot vote against this bill; there is too much in it. It has too much for my State, too many good things.

There are a lot of good things in there. There are things for my home State of Ohio. There are some things in there that are not that good, but there are some good things in that bill, and I know that.

I have been in politics and Government for 30 years. I have been in the Senate for 10 years. I have cast a lot of votes. When people say, I cannot vote no, when people say I have to do it, I say this to them: I have been in politics for 30 years, and they do not have to do anything. There is nothing that compels anybody to vote any way on any bill. The longer one is doing this, I think the more they realize that.

So I say to my colleagues, they do not have to vote for this bill. They do not have to vote for cloture. There is nothing that compels them to. It is the wrong vote.

Sometimes one has to look at the big picture. Sometimes I think my colleagues have to stand back from what would appear to be the parochial interests and look at the big interests, but I would maintain that if they look at the interests of their State and look at the interests of the people of their State, not to mention the interests of the people of their country, they will come to the conclusion that voting no on the motion on cloture, no on this bill is the right thing to do.

Look at my home State of Ohio. Yes, there are good things in here for Ohio, but I will read to my colleagues the statistics from Ohio. I share them with my colleagues as an example of what their State is probably like as well.

Here are the statistics from the State of Ohio: 22.2 percent of high school students smoke; 12.8 percent of the male high school students use smokeless or spit tobacco. The number of kids under 18 who become new daily smokers each year is 36,800. The number of kids who are exposed—this is all just Ohio, now. The number of kids who are exposed to secondhand smoke at home, 919,000; packs of cigarettes bought or smoked by kids each year in Ohio, 36.3 million; adults in Ohio who smoke, 2,251,000. That is 26.6 percent.

How about deaths from smoking? Adults who die each year from their own smoking, that is 18,900 just in my home State of Ohio. Kids now under 18 and alive in Ohio who will ultimately, if they continue to smoke, die prematurely from smoking, 314,000. Adults, children, and babies who die each year from others' smoking, that is secondhand smoke, is estimated between 1,800 to 3,200.

If we do not care about people, what about dollars and cents? Well, annual health care costs in Ohio directly caused by smoking, $3.41 billion. That is "billion." Portions covered by the State Medicaid program, that is what you and I pay if you are a resident of Ohio, $1.11 billion, and it goes on. Smoking-caused productivity losses in Ohio, that is $4.14 billion; resident State and Federal tax burden from smoking-caused Government expenditures, that is $534 per household.

Those are the figures. I look at this vote and I try to balance the fact that there are some good things that might be in here for my State versus what we could have achieved, what we could have done, and it is a pretty easy choice.

The conference committee had no business scuttling the will of the Senate and throwing out the FDA provision. It was wrong. They should not have done that.

I ask unanimous consent to use a few items in my speech. I am looking at them right now. They are some packages of cigarettes, a macaroni and cheese carton, yogurt, as well as a Sports Illustrated Magazine.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DEWINE. I will explain a little bit to my colleagues what the bill we sent to the conference committee would have done, because I want to explain the gravity of this. I will talk a little bit about the nature of what the tobacco companies can do that nobody else can do.

I will start with macaroni and cheese. We all buy it. If one has kids, they buy it, anyway. We all know what it is. I ask my colleagues, when they go home tonight, to look at the carton of macaroni and cheese and read what is in it. I am not going to bother to read everything that is in it but it has everything. It has calories, salt; then there is a whole long list of enriched macaroni, durum wheat flour, citric acid, sodium phosphate. It goes on and on. The thing one has to do is have pretty good eyes. If one is my age, they have to hold it back a little bit to make sure they can read it well, but it is there, and it can be read. Everything one wants to know, and probably more; every health item in the world.

The same company makes Marlboros. Try to figure out what is in here. If you do not smoke, go buy one, anyway, and take a look at it, or pick it up if you do not want to support the tobacco companies. Take a look. There is nothing on here. There is a Surgeon General warning but there is not a whole lot on here. One cannot tell what is on here.

Do my colleagues know why? Tobacco is exempt. Nobody regulates them. Nobody requires them to list what is in here. The same company: One makes macaroni and cheese and one makes Marlboros. Why? Because it is not in the law. How long are we going to put up with this? It is wrong.

Now I will turn to the claims that cigarettes make. Marlboro Lights, well, that must mean something. I am sure it means something, but we do not know what it means. Yogurt, light yogurt. When you see light yogurt, it means something. When you turn it around, it says one-third fewer calories, and it better be one-third fewer calories. Definable, measurable; it means something. If it is on cigarettes, it doesn't mean anything. It may mean something. I don't know what it means. Again, no Government regulation. Cigarette companies are exempt. A loophole this law would have closed, now they stripped it out and it will not close it now. Tell me that is right. Explain that to the American taxpayer. Explain that to American citizens. Why? No explanation. There is no logic behind that.

How about the claims of cigarettes? "Premium Lights." Again we are back to the "lights." "All of the taste, less of the toxins." The average person who buys cigarettes probably thinks this means something. Maybe it does. Maybe it doesn't. We will never know. We will never know as long as this Congress continues to refuse to regulate the tobacco industry. We will never know. The American consumer will never know whether, when the cigarette companies put claims on here like "all of the taste, less of the toxins," that is really true or whether "less of the toxins" means anything. Most people would think it would. Maybe that is healthier or not as dangerous, but we don't know that and we never will know it until this Congress changes the status quo.

Here is another one. This is Eclipse, "20 Class A cigarettes," it says. Here is what it says on the back, and again who knows if this is true:

> Scientific studies show that compared with other cigarettes, Eclipse may present less risk of cancer, bronchitis, and possibly emphysema, reduces secondhand smoke by 80 percent, leaves no lingering odor in hair or clothes.

That is important. Then, of course, they add:

> All cigarettes present some health risk, including Eclipse.

That is nice of them to say. Again, how do we know the accuracy of this claim? But again the average consumer picks this up and feels a little better with this. There is nobody to test it, nobody to regulate it.

Some people say: Mike DeWine, adults ought to know no cigarette is safe. So buyer beware. Who cares?

I don't think that is the right attitude because I believe some adults do rely on less tar, less this, lighter, and scientific studies have shown that.

But what about kids? It is here that the cigarette companies reach the low point, absolutely the low point where nobody can defend them. I will challenge anybody to come to this floor and defend what they are doing. I have a whole bag of these. This is what they are doing. The cigarettes I am holding in front of me are not focused on a 57-year-old Camel smoker, I will guarantee. I don't see any 57-year-old Camel smokers smoking this stuff. These are aimed at kids. Let me read it to you:

Camel Mandarin Mint:

> A blend of menthol and citrus flavor.

This is Liquid Coconut Flavor, Liquid Zoo:

> An exotic blend of coconut flavored tobacco for a sweet, fresh taste and aroma.

Camel Beach Breezer:

> Sultry, smooth and swingin'.

Oh, this one, this is the old one, I guess; this is a

Camel Kauai Kolada:

> Hawaiian hints of pineapple and coconut.

There we go. It goes on and on.

This is really exotic. This is Mocha Taboo:

> Inviting and surprising, Mocha Taboo will entice you with its sweet indulgence, while leaving you with a refreshment that's unmistakably menthol.

And again, Liquid Zoo flavored cigarettes:

> An exotic blend of coconut flavored tobaccos for a sweet, fresh taste and aroma.

I invite my colleagues, if any Senator wants to, to come up later and actually smell these; it will not permeate the entire Chamber, but if you get close you can smell them. This is something kids would like. This is clearly targeted at kids, and this is what they are selling. Nothing stops them from selling this. This bill would at least stop them from selling this trash. It is not prohibition. But these products are designed for one reason and one reason only—to get kids hooked. It is an entry level drug. You entice them, you get them in, start them on this, and move them to something else. There is no other reason. When we vote for this conference report and condone what the conferees have done, we are saying it is OK to allow this to continue.

This is Sports Illustrated. Any kid in this country who likes sports—I have had a whole household full of them, and I still have one at home—reads Sports Illustrated. This is a new edition, "Smashing In St. Louis." Everybody reads Sports Illustrated. Why should kids be subjected to full-page ads in Sports Illustrated, full-page, color, inviting ads? There it is.

We have tolerated this for too long in this country. I had a Senator, when we were discussing this off the floor, tell me that he didn't trust the FDA. I have had people tell me that. I guess my reaction to that would be, do you trust the people who are trying to hook our kids with this stuff? Do you trust them? Do you want them to continue to try to hook our kids with this stuff? I hope not.

People would say it is too late, this bill is already done. I agree, this bill is done. But we should be sending a message and we should be saying we are not going to tolerate this Senate passing this bill, this FDA reform, sending it on to the House, and then having it stripped out of this conference report. It is too serious an issue. It is too important.

I am not the only one who feels that this is a public health vote of immense importance. I have a letter from the American Lung Association dated October 7. I would like to read it in part:

> Dear Senator DeWine: How can the Congress give $10 billion to tobacco growers without requiring anyone to exit the tobacco farming business and fail to do anything for public health? This in unconscionable.
>
> Over 440,000 people die prematurely from tobacco-related illness each year and two thousand children become addicted regular smokers every day. Nearly 90 percent of lung cancer and 80 to 90 percent of emphysema and chronic bronchitis are caused by tobacco use. Despite this deadly assault on lung health, tobacco products are the most unregulated consumer products on the market today....
>
> Please implore your colleagues to change course and include the FDA oversight of tobacco in the FSC bill.
>
> Tobacco companies continue to aggressively market their products to our children, cynically targeting "replacement smokers" for those who die or quit smoking. New flavored cigarettes including R.J. Reynolds' Camel Exotic Blends Kauai Koloda with "Hawaiian hints of pineapple and coconut" and Kool Caribbean Chill and Mocha Taboo are aimed at young people. The tobacco companies make health claims of "reduced carcinogens" or "less toxins" without any oversight of the veracity of the statements or their impact on health.
>
> FDA regulation of tobacco would:
>
> Ban flavored cigarettes.
>
> Stop illegal sales of tobacco products to children and adolescents.
>
> Require changes in tobacco products, such as the reduction or elimination of harmful chemicals, to make them less harmful or less addictive.
>
> Restrict advertising and promotions that appeal to children and adolescents.

That was from the American Lung Association.

This is a letter from the American Thoracic Society:

> Dear Senator DeWine: Congress is about to give the Big Tobacco the one thing they want, continued access to the most attractive market for their deadly products—our children. Don't let Big Tobacco continue to peddle their products to our children.
>
> The best way to protect our nation's children from the continuing disease and addiction caused Big Tobacco and their deadly

products is by granting the Food and Drug Administration (FDA) the authority to regulate tobacco.

The bipartisan compromised reached in the Senate FSC bill would have granted the FDA the authority needed to regulate tobacco and reduce underage smoking throughout America. Unfortunately, during conference the supporters of Big Tobacco struck the one provision that would have given our children a fighting chance against the pervasive marketing power of tobacco companies.

If Congress fails to give FDA the authority to regulate tobacco, our children will pay the price. Children will pay the price through a lifetime of addiction to tobacco products. Children will pay through the diseases associated with tobacco addiction—lung disease, heart disease and cancer. Children will pay the price, literally, with their lives.

Here is another letter from the Ohio Children's Hospital Association:

DEAR SENATOR DEWINE: *I write today to express the terrible disappointment felt among Ohio's children's hospitals that Congress has lost an opportunity to protect the health of America's children. This is a shameful waste of a rare opportunity to take the bold action needed to reduce a staggeringly dangerous health risk that hurts kids and increases the cost of health care.*

Ohio has been working hard to reduce youth smoking, and children's hospitals have long been at the frontlines of this battle to protect our children from the devastating tool that tobacco exacts. But, for every step forward we take (youth smoking in Ohio is down recently), we face a barrage of new and cunning attempts by the tobacco industry to regain its foothold with Ohio's children. The tobacco industry is spending more than ever to market its products in ways that appeal to children. As a depressing example, we now face the prospect of candy-flavored cigarettes.

Across the country, every day 2,000 more children become regular smokers, one-third of whom will die prematurely as a result.

FDA regulation of tobacco products represents the best tool for combating the tobacco industry's reckless assault on our children's health. We need the FDA to have the authority to subject tobacco products to the same rigorous standards we impose on other consumer products, including ingredient disclosure, truthful packaging and advertising, and manufacturing controls.

Here is a letter from the American Heart Association:

TO THE MEMBERS OF THE U.S. SENATE: On behalf of the American Heart Associations' 22.5 million volunteers and advocates, I write you to express our deep dismay over the Foreign Sales Corporation (FSC) conference vote that failed to grant the Food and Drug Administration (FDA) authority to regulate tobacco products. This represents a squandered opportunity to protect the public against dangerous tobacco products, a failure to protect our children from the marketing of tobacco products, and also the adoption of the wrong tobacco buyout plan. How can Congress explain such neglect for our nation's health?

Tobacco use is responsible for more than 440,000 deaths each year, with more than one in three from heart disease or stroke. Each day, 4,000 youth try their first cigarette and 2,000 become regular daily smokers. This FDA legislation offered our best chance to reverse that trend and reduce the senseless death and disease that results from tobacco use.

Finally, a letter from Campaign for Tobacco-Free Kids:

DEAR SENATOR DEWINE: We were profoundly disappointed by yesterday's decision by the House/Senate conference on the FSC legislation not to include provisions establishing FDA regulation of tobacco products. An historic opportunity to protect the Nation's children and the nation's health was lost.

Enacting FDA regulation of tobacco products is the single most important thing Congress could do to reduce cancer, heart disease, emphysema, chronic bronchitis and a host of other diseases. It is the single most important thing Congress could do to improve the health of our children and protect our children from unscrupulous marketing by an industry that produces a product that kills one out of two long-term users. Close to 90 percent of all tobacco users start as children. First and foremost, it is our children who were ignored and who are the big losers by the decision not to include FDA in the FSC/ETI legislation.

The tragedy is not only that an opportunity to prevent disease has slipped through our fingers, but also that literally hundreds of thousands, if not millions of kids, one addicted, eventually will die of these tobacco-related diseases. And these deaths will be needless. They will occur because of the actions of the House/Senate Conferees who failed to include FDA in the original Conference draft and who voted not to add it to the final bill. Tobacco use is also a leading cause of premature birth. If congress had given FDA authority over tobacco products, Congress could have dramatically reduced the number of children born prematurely with serious medical programs due to tobacco use.

Rarely does Congress have the opportunity to take an action that will improve the lives and well being of millions of Americans. This was such an opportunity. Tobacco companies market candy flavored cigarettes, promote their products in a myriad of ways that make them more appealing to children, hide the truth about the dangers of their products and fail to take even the most minimal steps to reduce the number of Americans who die from tobacco use. By the decision not to include the FDA provisions adopted overwhelmingly by the Senate in this bill, Congress is doing nothing to stop them.

Yesterday's vote by the FSA conference committee against FDA authority over tobacco is a big victory for the tobacco industry that will carry a heavy price in lives lost and kids addicted to tobacco. The Nation will also pay a price in growing cynicism about government when Congress appears willing to trade tax breaks for kid's lives. We urge all Senators and Members of Congress to oppose the FSC Conference Report until the FDA provisions are included.

In conclusion, I think if you gave the average American a list, maybe if you give them a quiz and you said here is a list of macaroni and cheese, peanut butter, granola bars, milk, cheese, cigarettes, bottled water, and asked them to check which one of these products the Government does not regulate, check which one of these products the maker of the product doesn't have to list the ingredients, which one of these products was not tested, which one of these products the maker of the product can put a claim on and not have to substantiate, which one will the average American pick?

You would think they would pick the one product that by design or if it is used as intended, admittedly we all know is dangerous to your health.

I don't think so. It defies common sense. No one in their right mind would pick that product. No one in their right mind, if we were starting all over again, would say, That is the product we are not going to regulate; we are not going to list the ingredients on that product; that is the worst product we are going to allow the manufacturer to make any claim they want—lighter, better, safer, whatever they want to say. Yet that is the status of the law today.

By approving this conference report and by saying, yes, we are going to move forward with it—that will be the vote tomorrow—we are acquiescing in that. We are saying it is OK to give up the opportunity we had, the best shot we have had in years to change the status quo and to say we are not going to tolerate this anymore; we are not going to put up with this anymore. The time is here to change that. It defies common sense.

There are historic votes in this Chamber. This is a historic vote. This is a historic time. This was a historic opportunity to make a difference and to change things.

I often think, as a public official and as an American, we do not want to be on the wrong side of history. We all have our own list of things that if we were here or if we were involved in this debate 10 years, 20 years ago, 50 years ago, 100 years ago we would not have wanted to be on a particular side. I don't want to be overly dramatic, but Members do not want to be on the wrong side of this debate. We may lose this time, but there will be a day when the American people rise up and say they have had enough, and this Congress hears it and this Congress takes votes to finally regulate this product, as we do every other product, and finally say we have had enough. We are going to make the tobacco companies list what is in the product, list the ingredients, come clean with the American people and say, This is what is in it, and hold them to the same standard we hold for a company that makes peanut butter of macaroni and cheese, a granola bar, a bottle of water or milk. They should not be above the law.

Someday that will happen. I say to my colleagues, that day will come. That day may not be this session of Congress, but it will come. People do want to be on the right side of history. We will regulate them. We will bring them into the mainstream.

This is a very dangerous product. We are not going to go to prohibition. That has not worked in this country. It did not work with alcohol, and it will not work with cigarettes. That is not what this debate is about. This debate is about common sense, about doing what is rational, about doing something that makes good common sense.

I conclude by urging my colleagues to vote no on this bill, to vote no on cloture, to send a message strongly and loudly that we have had enough, and it is time to bring tobacco into the mainstream of the law. No longer should they be outside the law. A "no" vote tomorrow is a vote for safety and the health of our kids. It is a vote or the safety and the health of the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the hour is late in the afternoon on a Saturday, and I know there are many different matters of interest, primarily sports taking place across this country at the universities and high schools across our Nation. Young people are out there, parents are out there, families are out there, but I hope there are some who had the good opportunity to listen to my friend and colleague from Ohio State who spoke so clearly and eloquently as to what the real challenge is for this institution, the Senate, in protecting the children of this Nation.

The Senator laid out the kind of persuasive and irrefutable case that helped gain 78 Members of the Senate who supported the DeWine-Kennedy proposal earlier this last month, but the amendment was dropped, as the Senator from Ohio pointed out, in the course of the consideration of the underlying legislation.

There are public leaders who are talking about children all over this country. They talk about children being our future. They are our future. As the Senator from Ohio points out, we have missed the golden opportunity to make an extraordinary difference in the lives of their children and families.

We hear a great deal, as we should, about family values. This legislation is as much a part of family values as we could have, to the extent that legislation is bound in family values. We know that basically family values start with parents, work through their children's relationship with each other and their parents, and their own common sense about their responsibilities as young people for themselves and for their families and for others. Family values involves caring about what happens not only to our children and our immediate families but also to children whose lives we can impact.

This legislation which was supported by the overwhelming majority of this Senate, could make such an extraordinary difference to children today, tomorrow, and to the future. As has been pointed out, we have missed that extraordinary opportunity.

For that reason and for other reasons which I will outline briefly in a few moments. I intend to vote no on the conference report and no on cloture.

This country has had a very full education about the dangers of smoking. I can remember the 1964 Surgeon General's report that talked about the dangers of smoking and youth. That was a wake-up call to parents all across this country. Then we had Surgeon General Koop, who was an extraordinary Surgeon General.

Last night the President of the United States was asked about any mistakes he might have made in public life, and we did not hear any. I freely admit one of the important mistakes I made was voting against Everett Koop to be Surgeon General because we saw through his life and through his commitment not only as the Surgeon General but afterwards, as well, that once he made that judgment that cigarettes were addictive and cancerous, he spent a great part of his life educating families all across this country. This Nation owes a great deal to his work and his commitment and his education to families.

That was a wake-up call for America. We went on through the period of the 1980s when we had Dr. Kessler, head of the FDA, who drafted the regulations which were circumvented by the tobacco industry, and put aside those regulations that were the result of hours and hours and hours and hours and weeks and weeks and weeks, and days and days and days and months and months and months of careful, scientific testimony, those for and against it.

Nonetheless, he came through with outstanding recommendations. We incorporated those recommendations as a point of reference to put them into effect because they have been tried and tested and they should have been put into effect to provide the protections for the young children of this country.

Then we had—I can remember, and I bet most families can remember—that extraordinary day when we had the presidents of all the important tobacco companies who testified in front of my friend and an extraordinary Congressman, HENRY WAXMAN, who all raised their hands and swore—swore—to the Lord on high that they, as the chief executives of the tobacco companies, did not believe cigarettes were addictive and did not believe they were dangerous to your health, in complete conflict with all the evidentiary science at that time.

Well, we heard so many of them recant that testimony later. It has all been part of a parade, a parade of distortion and misrepresentation by the tobacco companies and their representatives to not the older members of our society but to the children in our society in order to bring them in and start them smoking and get them on the path to addiction.

I have been fortunate to be the chairman of the Health Committee in the Senate. I am ranking member now. How many days, how many weeks, how many months of hearings we have had about the problems young people have with their addiction, their attachment to dangerous drugs. Cigarettes are right up there. As the science would say, they are as addictive as heroin and cocaine. That is the science. That is not just an opinion of the Senator from Massachusetts, that is the science. It is as addictive as cocaine and heroin, yet we allow that to take place.

Then we had the comprehensive legislation in 1998 to try to deal with a range of different tobacco issues. The basic core part of the DeWine-Kennedy legislation on FDA was here before the Senate essentially at that time for 6 weeks and no one contested its importance. Go back and read the record. No one really questioned that if we were going to have a comprehensive tobacco bill at that time that particular provision deserved at least support. There were no amendments on that, none. All these voices now: Oh, well, we can't have the FDA, absolutely not. We don't need more regulation—we did not have a single amendment on that, none; no amendments.

I had the good opportunity to effectively reintroduce that legislation with the majority leader, Senator FRIST, who did so much in the drafting of the original legislation, one of the important leaders in this body on health care policy. This provision is basically very mainstream, if that gives assurance to some people. It is a very mainstream proposal, but it does the job in terms of protection.

So we had this proposal that was considered in the Senate, and was accepted, that would make such an extraordinary difference. As I was mentioning, the very simple fact is, this product, which is so addictive, so dangerous to the children of this country, not only to the children themselves but also to their families, is something that we should have addressed.

But this administration and, quite frankly, the leadership on that Ways and Means Committee, our Republican leadership, said: Absolutely not. We are not going to tolerate it. We are not going to accept it. We will not let it happen. And it did not.

I pay respect to my colleagues on the other side of the aisle because the progress that we made has not been just a partisan effort. The good Senator from Ohio has been a leader. There have been many. The Senator from Oregon, Mr. SMITH; the Senator from Maine, OLYMPIA SNOWE; JOHN MCCAIN from Arizona; ORRIN HATCH from Utah; Senator CHAFEE from Rhode Island; and many others have been willing to stand on this issue. This has not been a Republican or Democratic issue. But this administration has made a different judgment than those good Republicans who supported this effort in here and also a number of them supported us in the conference.

There has to be responsibility. There should be some accountability around here somewhere. We are elected as officials. We make judgments, we make choices, and we ought be held accountable for them. That was a decision that was made by the administration not to include it. If this administration said to include it, it would be in that bill tomorrow when we vote on it on the floor of the Senate. We had the support of some of the tobacco industries, with the Philip Morris industry.

Tomorrow, when the Senate addresses the underlying legislation, we are also going to voice vote and send back to the House of Representatives the DeWine-Kennedy FDA legislation. The Senate will pass that. We will send it back to the House. We have not given up hope.

Senator DEWINE and I have not given up hope that perhaps in some lameduck Congress, perhaps when the glare of the campaign in the last 4 weeks of the campaign—I would have thought it would have been a pretty good issue because people, parents, care about this, to indicate support for it. But, in any event, perhaps after the glare of the campaign is over, in a postcampaign time, when we meet, perhaps we can get a different reaction. So we take some hope and we want to give the assurance to those who have given us strong support that we are not giving up and we are not giving in.

Mr. President, I have a few letters that I will mention, and then there are a few final items I want to talk about. We have a detailed presentation on exactly what this legislation does. I want to make sure that is in this part of the RECORD. I ask unanimous consent that be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

I started smoking when I was 12 years old. My mother smoked, and my friends told me it would make me "cool." Since my mother was always at the hospital with my father, helping him while he was losing his battle against cancer, there was no one around to notice that I had begun smoking. That was in 1973. I smoked until Jan. 1, 1990, when I was 28 years old, and I have been smoke-free for almost 14 years. Quitting was probably the hardest thing I have ever done, but it was definitely the smartest. My mother smoked until she got diagnosed with lung cancer in 1994, which is also the year her only grandchild was born. They removed part of her lung, and since she believed she had "beat" the cancer, she began smoking again. Five years and five CT scans later, they found another tumor in her lung, this time inoperable and supposedly untreatable. The doctors gave her six to ten months to live. Knowing how short her time was, 1999 turned out to be an extremely painful year for all of us. Over the next four years, my mother suffered terribly, often unable to eat and using a stomach tube, constantly taking medication and losing lucidity, often too tired and too weak to be with her little granddaughter, whom she completely adored. We watched her waste away to 80 pounds, the cancer having invaded her bones, causing her to fall, taking away her independence, which she always valued highly. She died on April 21, 2003, the day after Easter, at only 67 years old. She was my best friend, and my daughter's, too. I miss our daily phone calls, and I will miss her warm, inviting presence this holiday season, as I do every single day. My 9 year-old daughter has seen what horror cigarettes can cause; I doubt that she will ever forget that cigarettes took her "Nonni" away from her, but she is coming to the age where social pressures will be on her to conform to the "crowd." I hope that she will be strong, and that there will be enough education in her school to help her to learn how to deal with people who try to coerce her into using this drug, among others. Thank you for allowing me to share my story.—Lorraine T., Ipswich MA, November 10, 2003.

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My father never liked to dance much. Yet, as we stood hugging, watching my best friend dance with her father at her wedding, Dad promised to dance with me at my wedding.

At age 39, he had a stroke that left him paralyzed on his left side. He was able to regain most of the use of his limbs through years of hard work. Unfortunately, he wasn't able to quit his addiction to cigarettes.

One month before his 50th birthday, he died from a tobacco related heart attack. He didn't live to fulfill his promise to dance with me at my wedding.—Donna M., Melrose MA, January 12, 2004.

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Today is like every other day I miss my mom so much, I look at my kids and realize "nanny" is not here to see how cute they have become. I am a only child and lost my mom 3 years ago to lung cancer. I can remember the moment the doctor told me she was going to die, and in the same breath she said "I truly believe what the tobacco companies are getting away with is criminal." I have from that day on not been able to understand why they are allowed to sell something that has killed so many, and is going to kill so many more. It is heartbreaking to see a young teen smoking. Sometimes I say something, yes they think I'm crazy. However there life to me is so precious. No I may not know them, but I wish they would listen. If they saw their mom or dad gasping for breath, if they saw their moms pelvic bones vividly sticking out would this change their minds and make them want to quit? I hope so, I don't want any more families to feel this pain and utter loneliness that I have had to endure. My children are the ones who get me through the bad days. They warm my heart taking away the sadness. I have taught them early on how bad and deadly tobacco is, and they also know that's why "nanny" is no longer here, and how much she loved them! Thank you.—Linda F., Middleboro MA, September 23, 2003.

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In November 2002 we learned that my mother, Gloria, had stage four lung cancer. What started as pain in her hip and was explained away as arthritis pain was actually bone cancer—yes, it had already spread from her lungs before she knew she even had it. Mom had quit smoking what seems like a very long time ago . . . yet, it came back to haunt us.

She fought a fight I never knew she had in her. An agonizing fight that I hope her story will prevent someone—or many someones—from ever having to fight. She lost all of the weight she had struggled to lose most of her adult life. She lost her hair. She lost her appetite. She lost sleep. She lost her freedom—unable to get around without pain, unable to drive, often unable to be alone. There were so many things that she lost . . . too many to mention.

But, what she did not lose was her faith. And it was her faith that carried her through those long months.

Mom fought for a year. She fought to the end. She died last October with one regret. That she would not live to see her new Granddaughter.

Her Granddaughter was born 8 months and 23 days after Mom passed away. She is now 4 weeks old (today!) and it is my hope that she will never breathe someone's secondhand smoke. That she will never have a friend who takes up smoking. And that she will never have to watch someone she loves die from such a horrible, preventable thing as lung cancer. I will share Mom's picture with all of the children I know. I will show them her smiling face. . . . even at the end when she smiled because she knew that she was going to be going home soon. And I will tell them of how much she loved children. And how she never, never wants to hear that they have taken up smoking. I will tell them that the reason she is so thin in the picture is because she was sick. I will show them the pictures when she had lost most of her hair. I will tell them how much I miss her. And I will make them promise me—and Mom—that they will never, never smoke or be around anyone who is smoking. I LOVE YOU MOM!—Sarah Z., South Easton MA, October 4, 2004.

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I have now been a smoker for over 8 years. I am only 24 years old. I already have a severe smokers cough that only gets worse with the cold weather. I live in New England. I sometimes read the side of the packs with the Surgeon Generals warnings. They say that smoking can cause babies to be low birth weight. Well two years ago I had a daughter. I did not smoke all the time when I was pregnant but I guess you still could have called me a smoker. My daughter was 8 pounds she was definitely not under-weight. Now don't get me wrong I am not saying this to be proud. Every time I look at her I wonder if I did any other damage to her. I am so ashamed of myself. Yet right now I am dying for a smoke. This is such an addiction I don't think that I will ever overcome it, I want to and God knows how I have tried. I want to be around when my daughter grows-up, to see her get married and to see any future grandchildren I might have. If I keep up this way I am not going to see any of it, it is so depressing.

Well the only thing I can say is that if there were stricter regulations when I was a minor I probably never would have started smoking. I know that sounds cliche but you can't miss something you never had . . . now I have had it and I cannot go without it. I feel like a junkie even though I am not. I will be scorned by the non-smoking community. I will be the pariah for the smokers. I only wish that I could quit.

I hope someone will not smoke once reading this . . . but then again I am only one person . . . barely able to make a difference. Maybe just once before it's too late. Just to quit for my little daughters sake . . . she does need to know . . . mommy cares what she thinks.—Tori H., South Boston MA, November 12, 2003.

(Mr. WARNER assumed the Chair.)

Mr. KENNEDY. Mr. President, here is a letter from Lorraine T. from Ipswich. MA. I will include the whole letter, but I will just read parts of it:

> My mother smoked until she got diagnosed with lung cancer in 1994, which is also the year her only grandchild was born. They removed part of her lung, and since she believed she had "beat" the cancer, she began smoking again. Five years and five CT scans later, they found another tumor in her lung, this time inoperable and supposedly untreatable. The doctors gave her six to ten months to live. Knowing how short her time was, 1999 turned out to be an extremely painful year for all of us. Over the next four years, my mother suffered terribly, often unable to eat and using a stomach tube, constantly taking medication and losing lucidity, often too tired and too weak to be with her little granddaughter, whom she completely adored. We watched her waste away to 80 pounds, the cancer having invaded her bones, causing her to fall, taking away her independence, which she always valued highly. She died April 21, 2003, the day after Easter, at only 67 years old. She was my best friend, and my daughter's, too. . . .
>
> My 9 year-old daughter has seen what horror cigarettes can cause; I doubt that she will ever forget that cigarettes took her "Nonni" away from her, but she is coming to the age where social pressures will be on her to conform to the "crowd." I hope she will be strong, and that there will be enough education in her school to help her to learn how to deal with people who try to coerce her into using this drug, among others. . . . Lorraine T., Ipswich MA.

Here is another letter from Donna M., from Melrose, MA. of this year:

> My father never liked to dance much. Yet, as we stood hugging, watching my best friend dance with her father at a wedding, Dad promised to dance with me at my wedding.
>
> At age 39, he had a stroke that left him paralyzed on his left side. He was unable to regain most of the use of his limbs through years of hard work. Unfortunately, he wasn't able to quit his addiction to cigarettes.
>
> One month before his 50th birthday, my Dad died from a tobacco related heart attack. He didn't live to fulfill his promise to dance with me at my wedding.

Here is a letter from Linda F., of Middleboro, MA:

> Today is like every other day. I miss my mom so much. I look at my kids and realize "nanny" is not here to see how cute they have become. I am an only child and lost my mom 3 years ago to lung, cancer. I can remember the moment the doctor told me she was going to die, and in the same breath she said "I truly believe what the tobacco companies are getting away with is criminal." I have from that day on not been able to understand why they are allowed to sell something that has killed so many, and is going to kill so many more.

Then the letter continues.

This is from Sarah Z. from South Easton. MA, October 4, 2004:

> In November 2002 we learned that my mother, Gloria, had stage four lung cancer. Mom fought for a year. She fought to the end. She died last October with one regret. That she would not live to see her new granddaughter. Her granddaughter was born 8 months and 23 days after Mom passed away. She is now 4 weeks old (today!) and it is my hope that she will never breathe someone's secondhand smoke. That she will never have a friend who takes up smoking. And that she will never have to watch someone she loves die from such a horrible, preventable thing as lung cancer.

And Tori H, South Boston:

> I have now been a smoker for 8 years. I am only 24 years old. I already have a severe smoker's cough. It only gets worse with cold weather. I live in New England. I sometimes read the side of the packs with the Surgeon General's warnings. They say smoking can cause babies to be low birth weight . . . I did not smoke all the time when I was pregnant but I guess you could have called me a smoker . . . My daughter was 8 pounds; she was definitely not under-weight. Now don't get me wrong—I am not saying this to be proud. Every time I look at her I wonder if I did any other damage to her. I am so ashamed of myself. Yet right now I am dying for a smoke. This is such an addiction. I don't think I will ever overcome it. I want to and God knows how I have tried. I want to be around when my daughter grows up, to see her get married and to see any future grandchildren I might have. If I keep up this way I am not going to see any of it; it is so depressing.

The letters go on, and they make the case. If there are any who think this is a partisan issue, look at what the Bush administration's Department of Justice filed in the final proposed findings of fact of the United States in the tobacco litigation brought by the Federal Government against tobacco companies.

This is the current administration's finding, page 21: Cigarette smoking, particularly that begun by young people, continues to be the leading cause of preventable disease and premature mortality in the United States. For children and adolescents. one out of three will die of smoking-related disease. As part of a scheme to defraud, defendants have intentionally marketed cigarettes to youth under the legal smoking age and falsely denied that they have done so.

We could go on. I have their brief notes right here about what is happening. These are the statistics in terms of the young people who get started smoking. It begins early. When adults who are daily smokers began smoking: 89 percent by the age of 18; 62 percent by the age of 16; 37 percent by the age of 14; and 16 percent by the age of 12.

You can ask why. Well, just look at this chart. This is advertising in billions of dollars. These are billions of dollars of advertising and how this has gone up and has continued in 2003 and 2004. That is targeted, as these various ads demonstrate: Winston, three young people out in the surf with a surfboard. The sun is setting. Additive free. Naturally smooth. Leave the bull behind, just pick up a Winston.

This is from Elle magazine, all targeted toward young people: Camel, Turkish blends. And there you see the advertisement, all focused on the youth.

Here is Rolling Stone: Stir the senses, Salem. All to appeal to the young people.

And it has great success because, like any narcotic, you get them hooked at that age, and it is very difficult to stop.

My friend from Ohio mentioned the costs for the taxpayers as well. We are motivated because of our concern for the children and children's health and the family's health. But if that doesn't move you, just look at the annual cost in the United States: the Medicaid payments, $23 billion; $20 billion in Medicare payments; other Federal payments, $8 billion; smoking during pregnancy, $4 billion; total health cost, $75 billion. And if you add lost productivity to that, you are talking over $150 billion a year in direct costs to the American taxpayer.

This makes sense, obviously, and is the most important for the children so they aren't going to be addicted and their health is going to be protected. It is for the other members of the families as well so that those young people who are eventually going to be parents are going to be protected. But if that doesn't get you and the pocketbook issues don't get you, you can see that you are paying billions and billions of dollars.

These are the conclusions about the activities of tobacco companies even by this Justice Department.

This is why this is so important and an opportunity missed.

Let me conclude on this subject by referring to the letters of support we received from some groups:

> Dear Senator KENNEDY, Congress has an historic opportunity to embrace responsible legislation that will help to reduce suffering and death caused by the tobacco. The House-Senate conferees should include the DeWine-Kennedy language. On July 15, the U.S. Senate took an unprecedented step towards granting the Food and Drug Administration effective authority. The Senate passed the DeWine amendment. The overwhelmingly bipartisan amendment linked the FDA with the tobacco buyout. Our organizations view this approach as critical to accomplishing our goal, securing FDA authority over tobacco products. Tobacco use kills more than 400,000 Americans each year. Across our Nation, more than $75 billion in health costs and, according to the Centers for Disease Control, tobacco use by pregnant women alone costs $400 million to $500 million. And every day another 2,000 children become regular smokers. A third will die prematurely as a result. Now we have an opportunity to do something about it. Yet tobacco products are virtually unregulated. For decades the tobacco companies have marketed to our children, deceived consumers about the harm their products caused, and failed to take any meaningful steps to make their products less harmful. The DeWine-Kennedy language would finally end the special protection enjoyed by the tobacco industry to protect our children and the Nation's health. This legislation meets the standards long established by the public health community for a strong FDA regulation bill that protects the public health. It would give the FDA the necessary tools and resources to effectively regulate the manufacture, marketing, labeling, distribution and sale of tobacco products.

Then it continues:

> The public health community worked in good faith to achieve this much-needed bipartisan legislation that protects the public

> health and can be enacted in this session. We remain concerned that opponents of an effective FDA will seek to weaken the provision prior to final passage. Our organization will work. Please support.

Those include the American Academy of Family Physicians, American Academy of Nurse Practitioners, American Academy of Pediatrics, American College of Cardiology, American College of Obstetricians and Gynecologists, American College of Physicians, American College of Preventive Medicine, American Heart Association, American Lung Association, the Medical Association, American Women's Medical Association, the Public Health Association, the School Health Association, the Children's Defense Fund, and the Campaign for Tobacco Free Kids.

I thank them in particular.

The FSC conference report that we are being asked to consider ignores fundamental issues that broad bipartisan majorities of the Senate have strongly supported. On vital matters concerning the protection of children's health, preserving the overtime rights of workers, and defending American jobs from outsourcing to foreign lands, the cynical actions of a few have blocked the will of the majority.

The House conferees were more interested in protecting big tobacco companies' profits than they were in protecting children. They would rather create tax incentives for multinational corporations to move millions of American jobs overseas than save millions of our kids from a lifetime of addiction and premature death.

We were not the ones who chose to link tobacco issues to this tax bill. That was a decision made by the House Republican leadership. But it is absolutely irresponsible to address a quota buyout for tobacco farmers, as this conference report does, while ignoring the urgent need for FDA authority to prevent cigarette companies from entrapping our kids. The conferees have left us no choice but to oppose passage of this conference report.

The importance to our children of authorizing the FDA to regulate tobacco products cannot be overstated. Smoking is the number one preventable cause of death in America. It kills well over 400,000 Americans each year, and nearly all of them started smoking as children. They are seduced by the tobacco companies before they are mature enough to recognize the enormous health risks of smoking, and become addicted while still teenagers.

We feel so strongly about this issue because FDA authority is the most important legislation Congress can pass to protect our children from the number one preventable cause of death in America—smoking. We cannot in good conscience allow the Federal agency most responsible for protecting the public health to remain powerless to deal with the enormous health risks of cigarettes.

The stakes are vast. Each day, 5,000 children try their first cigarette. Two thousand of them will become daily smokers, and nearly a thousand will die prematurely from tobacco-induced diseases. The fact is that more than 90 percent of adult smokers began smoking as teenagers.

Smoking can cause lifelong dreams to go up in smoke. Smoking can mean your hopes for an active life—of hikes with your children, and bike riding and long walks—are beyond your reach. You simply don't have the lung capacity and the stamina to do what you wish you could do. It can mean that your hope of enjoying your grandchildren and appreciating your retirement are gone, as you suffer from tobacco-induced disease and an early death. The most recent studies document the fact that smokers, on average, die 10 years earlier than nonsmokers. That is what can happen to your lifestyle when you start smoking as a teenager.

How many addicted smokers today are glad to be smoking? How many Americans with smoking-induced lung cancer or emphysema are glad to be smokers? How many addicted smokers can look their children and grandchildren in the eyes and say they are proud to smoke cigarettes. How many wish they could easily put out that last cigarette, and never look back? I think we all know the answers to these questions. That is why this issue is so important.

The Senate amendment which passed with the support of 78 Members set forth a fair and balanced approach to FDA regulation. It created a new section in FDA jurisdiction for the regulation of tobacco products, with standards that allow for consideration of the unique issues raised by tobacco use. It was sensitive to the concerns of tobacco farmers, small businesses, and nicotine-dependent smokers. But, it clearly gave FDA the authority it needs in order to prevent youth smoking and to reduce addiction to this highly lethal product.

The Senate amendment also provided financial relief for hard-pressed tobacco farmers, much more generous relief than is contained in the conference report. It incorporated bipartisan legislation introduced by thirteen tobacco-state Senators led by Senator MCCONNELL, to buy back tobacco quota from farmers. It would have provided $12 billion to financially vulnerable tobacco farmers and tobacco communities. The money to fund the buyout would come from an assessment on tobacco companies. This proposal was a legitimate buyout plan designed by tobacco-state members for the benefit of their tobacco farming constituents. Instead, the House designed proposal in the conference report forces tobacco farmers to settle for more than $2 billion less than they would have received if the Senate proposal had been accepted. For example, it will pay North Carolina farmers $800 million less than the Senate amendment. It will pay Kentucky farmers $500 million less. That is a very substantial difference. For small farmers who actually tend the land themselves, it is a 25 percent cut in what they will receive. So in reality, the farmers are losers too. Only the tobacco companies who will pay billions less are winners.

The heart of the Senate amendment was the FDA provision—which would lead to fewer children starting to smoke, and to fewer adults suffering with tobacco-induced disease and now that provision is gone. Public health groups told us it was the most important legislation we could pass to deal with the nation's number one health hazard.

We must deal firmly with tobacco company marketing practices that target children and mislead the public. The Food and Drug Administration needs broad authority to regulate the sale, distribution, and advertising of cigarettes and smokeless tobacco. The tobacco industry currently spends over eleven billion dollars a year to promote its products. The amount has actually grown dramatically since the Master Settlement Agreement was signed.

Much of that money is spent in ways designed to tempt children to start smoking, before they are mature enough to appreciate the enormity of the health risk. The industry knows that 90 percent of smokers begin as children and are addicted by the time they reach adulthood.

Documents obtained from tobacco companies prove, in the companies' own words, the magnitude of the industry's efforts to trap children into dependency on their deadly product. Recent studies by the Institute of Medicine and the Centers for Disease Control show the substantial role of industry advertising in decisions by young people to use tobacco products.

If we are serious about reducing youth smoking, FDA must have the power to prevent industry advertising designed to appeal to children wherever it will be seen by children. The Senate-passed legislation would give FDA the ability to stop tobacco advertising which glamorizes smoking from appearing where it will be seen by significant numbers of children. It grants FDA full authority to regulate tobacco advertising "consistent with and to the full extent permitted by the First Amendment."

FDA authority must also extend to the sale of tobacco products. Nearly every State makes it illegal to sell cigarettes to children under 18, but surveys show that those laws are rarely enforced and frequently violated. FDA must have the power to limit the sale of cigarettes to face-to-face transactions in which the age of the purchaser can be verified by identification. This means an end to self-service displays and vending machine sales, except in adult-only facilities. There must also be serious enforcement efforts with real penalties for those caught selling tobacco products to children. This is the only way to ensure that children under 18 are not able to buy cigarettes.

The FDA conducted the longest rulemaking proceeding in its history, studying which regulations would most effectively reduce the number of children who smoke. Seven hundred thousand public comments were received in the course of that rulemaking. At the conclusion of its proceeding, the Agency promulgated rules on the manner in which cigarettes are advertised and sold. Due to litigation, most of those regulations were never implemented. If we are serious about curbing youth smoking as much as possible, as soon as possible; it makes no sense to require FDA to reinvent the wheel by conducting a new multi-year rulemaking process on the same issues. The Senate legislation would give the youth access and advertising restrictions already developed by FDA the immediate force of law, as if they had been issued under the new statute.

The legislation also provides for stronger warnings on all cigarette and smokeless tobacco packages, and in all print advertisements. These warnings will be more explicit in their description of the medical problems which can result from tobacco use. The FDA is given the authority to change the text of these warning labels periodically, to keep their impact strong.

Nicotine in cigarettes is highly addictive. Medical experts say that it is as addictive as heroin or cocaine. Yet for decades, tobacco companies have vehemently denied the addictiveness of their products. No one can forget the parade of tobacco executives who testified under oath before Congress that smoking cigarettes is not addictive. Overwhelming evidence in industry documents obtained through the discovery process proves that the companies not only knew of this addictiveness for decades, but actually relied on it as the basis for their marketing strategy. As we now know, cigarette manufacturers chemically manipulated the nicotine in their products to make it even more addictive.

The tobacco industry has a long, dishonorable history of providing misleading information about the health consequences of smoking. These companies have repeatedly sought to characterize their products as far less hazardous than they are. They made minor innovations in product design seem far more significant for the health of the user than they actually were. It is essential that FDA have clear and unambiguous authority to prevent such misrepresentations in the future. The largest disinformation campaign in the history of the corporate world must end.

Given the addictiveness of tobacco products, it is essential that the FDA have the authority to effectively regulate them for the protection of the public health. Over 40 million Americans are currently addicted to cigarettes. No responsible public health official believes that cigarettes should be banned. A ban would leave forty million people without a way to satisfy their drug dependency. FDA should be able to take the necessary steps to help addicted smokers overcome their addiction, and to make the product less toxic for smokers who are unable or unwilling to stop. To do so, FDA must have the authority to reduce or remove hazardous ingredients from cigarettes, to the extent that it becomes scientifically feasible. The inherent risk in smoking should not be unnecessarily compounded.

Recent statements by several tobacco companies make clear that they plan to develop what they characterize as "reduced risk" cigarettes. The Senate legislation would require manufacturers to submit such "reduced risk" products to the FDA for analysis before they can be marketed. No health-related claims would be permitted until they have been verified to the FDA's satisfaction. These safeguards are essential to prevent deceptive industry marketing campaigns, which could lull the public into a false sense of health safety.

Tobacco use kills more Americans every year than AIDS, alcohol, car accidents, murders, suicides and fires combined. Nearly 90 percent of lung cancer cases, nearly 1 in 3 cancer deaths, and 1 in 5 deaths from heart disease are tobacco-related. Tobacco use results in $75 billion in annual health care costs and $157 billion in total cost. Unfortunately, smoking will remain the number one preventable cause of death in America until Congress is willing to do what it takes to bring this health crisis under control. Congress must vest FDA not only with the responsibility for regulating tobacco products, but with full authority to do the job effectively.

The Senate legislation would give the FDA the legal authority it needs—to reduce youth smoking by preventing tobacco advertising which targets children—to prevent the sale of tobacco products to minors—to help smokers overcome their addiction—to make tobacco products less toxic for those who continue to use them—and to prevent the tobacco industry from misleading the public about the dangers of smoking.

If the conference report is approved in its current form, we will have lost a golden opportunity to address this critical health issue. Congress will have put the well-being of our children last, behind a long parade of special interests clamoring for their tax breaks. It is not enough to just pay lip service to what is right for our children. You have got to be willing to fight for their health and their future. You have to make it a top priority.

While we are extremely disappointed that FDA authority over tobacco products is not in the conference report, this legislation will, I am confident, become law in the not too distant future. It is clearly an idea whose time has come. It passed the Senate on a strong bipartisan vote last summer. I am very pleased that the Senate has agreed to pass a freestanding FDA bill this weekend and send it to the House as a reaffirmation of our support. It is a powerful statement of this body's commitment to protecting the health of our children, and seeing this legislation through to enactment. The battle goes on, and we will prevail.

They have been spectacular spokespersons for children and children's health and we are indebted to that organization.

The list goes on. There are 68 March of Dimes organizations. Every organization in public health is behind this proposal.

Mr. President, I thank my good friend from Ohio. I join him in letting families know we are not going to let up, give up, or give in. This was a very reasonable measure, a reasonable response. As he has pointed out, it is the most important public health legislation this Congress, or any recent Congress up to the Congress of 7 years ago, when we passed the CHIP program, with the difference this would make in terms of children and children's health. We missed this opportunity. We are not giving up and we are not giving in. We want to let those who are opposed to us know we are coming at them and we are going to keep after this until we get the job done.

Mr. KENNEDY. Mr. President, another provision was included in the bill that passed the Senate and was dropped by the conference as well. We had the dropping of the FDA provisions—which I believe in and of itself is enough to oppose this legislation—but we also know there was another provision that related to how we were going to treat American workers that was dropped.

Since this legislation initially was drafted, in order to respond to the World Trade Organization which found some tax provisions worked in such a way as to violate various international agreements, it was about a $5 billion fix that was needed. Instead, we have a $140 billion solution for a $5 billion fix. Do you hear me? The rest of those are tax goodies for special interests. So since this was allegedly a jobs bill, we thought we would add an amendment to it. The principal sponsor was my friend and colleague Senator HARKIN, who provided such extraordinary leadership on this overtime issue. We added this provision that would effectively declare the proposal of the administration that dealt with denying workers overtime who worked more than 40 hours a week, that we would effectively vitiate the administration's proposal. Since the underlying legislation dealt with workers and the impact on manufacturing and jobs, this was a related matter.

It is useful to remind ourselves how often this institution has addressed the question of the proposal by this President in terms of overtime. We have voted three times in the Senate to reject the administration's proposal to deny overtime. We rejected it on September 10, 54–45; it was a bipartisan effort. On May 4, 52–47. Also on May 4, 99–0. So we acted on that and we added to it.

You can say, well, the House of Representatives has not faced this issue. Our answer to that is the House has faced this issue. They voted October 2, 2003, 221–203, effectively to vitiate the Bush overtime proposal. They voted September 9, 223–193. So that is two times in the House and three times in the Senate. We had it in the conference and, nonetheless, this administration said no.

The administration has said no to an increase in the minimum wage for 7 million Americans who are working at minimum wage. They said no to an extension of unemployment compensation for workers who paid into the unemployment compensation fund. And they have said no to eliminating the ban on the elimination of overtime.

I watched the debate, like many other Americans, last night, and I listened to one of the questions that my friend and colleague, the next President of the United States, answered in talking about the lost number of jobs. He indicated that under this administration they had lost 1.6 million jobs. Lo and behold, today, with all the fact-checkers all over the country, they said that is not right; JOHN KERRY should have said they only lost 800,000 jobs. Do you want to know why? The other 800,000 have been added in the public sector. I thought this administration was adding jobs in the private sector. They have failed in the private sector. They are trying to sharpshoot on that issue, and it doesn't go.

Let's look at where we are now in the last month with the administration's economy. They had announcements yesterday that 96,000 jobs had been created last month. It is interesting to note that a third of those jobs are temporary. What does that mean? Temporary jobs pay 40 percent, on average, less than regular jobs. Yes. What else? Temporary jobs don't give you benefits. Very few, if any, give you health insurance, let alone pensions. We have a third temporary jobs, and a third government jobs, and a third private jobs out of the 96,000. So it is not a good time in terms of the American economy.

I want to point this out again and come back to the issue of overtime. As I mentioned, we had passed those provisions in the House and in the Senate. Now the administration continues to want to implement them. Who are the people affected most by overtime? The people who are affected the most by overtime are interesting: Nurses are affected by overtime; nursery school teachers, the ones who are going to work with the children in nursery schools and programs in the Head Start Programs; clerical workers; computer programers, et cetera. These are the ones. Nurses, of course, are first responders.

It is almost as though this administration doesn't understand how hard American families are working in the United States of America. This is an extraordinary chart. This chart demonstrates that Americans' work hours have increased more than in any other industrialized country from 1970 to 2002. It is effectively up 20 percent. The next nearest country is Canada, up 16, and Australia is up 3.2 percent.

Americans are working harder and harder, and they are having an enormous difficulty in keeping pace. They cannot even keep economic pace, in terms of what they have to buy. One of the few benefits, of course, is the question of overtime. What happens when you eliminate overtime? Let's remind the workers who are out there who may be watching; let's remind them of something they know all too well. If you have overtime protections, your chances of working more than 40 hours a week are only 19 percent. But if you don't have overtime protections, your chances of working more than 40 hours a week are 44 percent. That is for 40 hours a week. If it is 50 hours a week, your chances of working are three times more if you don't have the overtime protections than if you do.

Make no mistake on what this is about. This is about exploiting American workers, treating them on the cheap. That is what this is about.

Well, Senator KENNEDY, how can you say that? Let me give a couple of examples why we can say it.

When the Bush rule was in the making, the Department of Labor asked for comment on the proposed regulation. In looking through the records, this is what we find out: Here is when the rule to eliminate overtime was being considered. The administration solicited the views of a number of different groups and industries. Now we have the National Association of Mutual Insurance Companies supports the section:

> . . . of the proposed regulations that provides that claims adjustors, including those working for insurance companies, satisfy the FLSAs administrative exemption. . . .

That is from the National Association of Mutual Insurance, June 25, 2003.

On April 23, 2004:

> Insurance claims adjustors generally meet the duties requirements for the administrative exemption, whether they work for an insurance company or the other type of company. . . .

There is the industry's interest. There is the administration's answer.

Here is another group that got exemption. Here is the overtime for funeral directors and embalmers:

> [T]he National Funeral Directors' Association believes that funeral directors and embalmers who have successfully completed a course of study . . . licensed by the state in which they practice are professional employees.

Then we have:

> Licensed funeral directors and embalmers . . .

It is almost the same direct language for industry after industry, right down the line. This was not an issue for simplification. This was looking out for special interests. And who is paying the piper? It is going to be the workers, working longer and harder for less.

As a result, this is what happens in this country:

In the last 3 years, we have seen 800,000 more children who are living in poverty. The total percent of those living in poverty in the United States has grown, but the number of children is 800,000 more living in poverty; 12 million children hungry or on the verge of hunger; 8 million Americans unemployed. Nearly 3 million have lost unemployment benefits since the Republicans ended the program. Seven million low-wage workers waiting 7 years for a minimum-wage increase. These are men and women of dignity. They work hard, play by the rules. They are primarily women. The income of low-income single mothers has gone down by three percent every year in the Bush economy.

There are 7 million who have been waiting for an increase in the minimum wage. Bush 1 supported an increase in the minimum wage. This did not use to be a partisan issue. It was so interesting in the course of this session, when I offered the increase in the minimum wage, when we had what they call the welfare reform proposal, the TANF proposal. What did the Republican leadership do? They pulled the bill so we could not even get a vote on it. Imagine that. They would not even let the Senate of the United States vote on it. I offered it again on the State Department reauthorization bill because the Republican leadership would not give us an opportunity to vote on the minimum wage. What did they do? They pulled that bill, too. They do not even let us get a vote in the Senate on the issue of increasing the minimum wage.

Sixty percent of those who receive the minimum wage are women. One-third of those have children. This is a civil rights issue, a children's issue, a fairness issue. Americans understand if someone is going to work 52 weeks of the year, 40 hours a week, they should not have to live in poverty. But do my colleagues think we have an opportunity to do something about it? No.

Still, we are taking away the—we have 4.3 million more Americans in poverty than when the President took office and we have 2.6 million fewer Americans who have a pension under Bush's watch.

On the issue of overtime, I will take a moment of the Senate's time to relate the concerns of one worker who will be affected by the new regulation. He says:

> My name is Randy Flemming. I live in Haysville, KS—outside Wichita—and I work as an Engineering Technician in Boeing's Metrology Lab.
>
> I'm also proud to say that I'm a military veteran. I served in the U.S. Air Force from August 1973 until February 1979.
>
> I've worked for Boeing for 23 years. During that time, I've been able to build a good, solid life for my family and I've raised a son who now has a good career and children of his own. There are two things that helped make that possible.
>
> First, the training I received in the Air Force made me qualified for a good civilian job. That was one of the main attractions when I enlisted as a young man back in Iowa. I think it's still one of the main reasons young people today decide to enlist. Military training opens up better job opportunities—and if you don't believe me, just look at the recruiting ads on TV.
>
> The second thing is overtime pay. That's how I was able to give my son the college education that has opened doors for him. Some years, when the company was busy and I had those college bills to pay, overtime pay was probably 10 percent or more of my income. My daughter is next. Danielle is only 8, but we'll be counting on my overtime to help get her a college degree, too, when that time comes. For my family overtime pay has made all the difference.
>
> That's where I'm coming from. Why did I come to Washington? I came to talk about an issue that is very important back home and to me personally as a working man, a family man and a veteran. The issue is overtime rights.
>
> The changes that this administration is trying to make in the overtime regulations would break the government's bargain with the men and women in the military and would close down opportunities that working vets and their families thought that they could count on.
>
> When I signed up back in 1973, the Air Force and I made a deal that I thought was fair. They got a good chunk of my time and I got training to help me build the rest of my life. There was no part of that deal that said I would have to give up my right to overtime pay.

This was the threat that was going to be under the initial regulations and rules by the Department of Labor that said the training in the military would count as professional training for the first time in the history, if you got the training in the military. Then they pulled those regulations back and they changed the language around. Interestingly, all they had to do was just say, for veterans it did not count. But the Department of Labor would not do that, and many of the veterans groups still feel that they are threatened by the existing rules and regulations.

And then he continues:

> You've heard of the marriage penalty? Well, I think that what these new rules do is create a military penalty. If you got your training in the military, no matter what your white collar profession is, your employer can make you work as many hours as they want and not pay you a dime extra. If that's not bait and switch, I don't know what it is. . . .
>
> I'm luckier than some other veterans because I have a union contract that will protect my rights for a while anyway. But we know the pressure will be on, because my employer is one that pushed for these new rules and they've been trying hard to get rid of our union.
>
> And for all those who want to let these military penalty rules go through, I have a deal I'd like to propose. If you think it's okay for the government to renege on its deal, I think it should be your job to tell our military men and women in Iraq that when they come home, their service to their country will be used as a way to cut their overtime pay.

. I am still very concerned about those provisions. The administration says it has addressed it. It did not address it the way the veterans want.

We should not be about cutting off overtime when we are having the economic challenges we are facing in this country today. It is the wrong economic policy. It is unfair and it was wrong for the administration to cut this out.

There is one final point I want to make on the proposal we have before us.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 16½ minutes remaining.

Mr. KENNEDY. Mr. President, there is one other provision of this underlying conference report I want to address. A top worry of many Americans is that their jobs may be shipped overseas. We have heard for years about manufacturing jobs being sent to other countries. Today, millions of Americans with other types of jobs face that risk, too. Every day we hear new stories about jobs in health care, financial services, information technologies going overseas in this high-tech age.

Yet, the Bush administration says shipping jobs overseas is a good thing. It was in the President's own annual economic report:

> When a good or service is produced more cheaply abroad, it makes more sense to import it than to make it or provide it domestically.

The President's chief economic adviser Gregory Mankiw has even said that shipping jobs to other countries is "probably a plus for the economy in the long run."

Treasury Secretary Snow has also defended corporations sending jobs overseas, saying they need to do what they need to do. He said anything that makes a company more competitive, including offshoring jobs, is good for corporate shareholders, it is good for their consumers, and it is good for their employees.

As recently as July, John Marburger, the President's science adviser, said that shipping jobs overseas is not necessarily a bad thing. American workers deserve better than this. They deserve better than to have their jobs exported with the President as the cheerleader in chief waving goodbye.

Shipping jobs overseas is a problem that is only going to grow. Experts project 3.4 million jobs, with total wages worth more than $150 billion, could be sent overseas in the next 11 years, including more than a half-million computer jobs and more than 600,000 business and management jobs. Lou Dobbs on CNN is keeping a running tally of companies that have sent jobs overseas. He is now at almost a thousand companies.

Many jobs that have already gone overseas have been in manufacturing. This is a loss that has taken a heavy toll on our economy. We have lost nearly 2.7 million manufacturing jobs since this Bush administration took office. It is a nationwide problem affecting almost every State in the Union. Forty-seven of the 50 States have lost manufacturing jobs under this President. For example, Ohio has lost 165,000 manufacturing jobs; Pennsylvania has lost 150,000 jobs; Massachusetts, my home State, has lost 84,000 jobs; Texas, the President's home State, has lost 170,000 manufacturing jobs.

The loss of these manufacturing jobs is especially serious because they pay good wages and benefits, and each manufacturing job creates close to three other jobs in other sectors of the economy.

As this chart indicates, for every 100 jobs in retail, they create 88 more jobs; for every 100 jobs in business services, they create 154 jobs; for every 100 jobs in manufacturing, 291.

The Bush administration wants to ignore this serious problem, too. They have suggested cooking the books to create the appearance of job growth in the manufacturing sector. They want to count flipping hamburgers and other fast food jobs as manufacturing jobs to make up for the loss of millions of manufacturing jobs under President Bush's watch.

Providing more tax breaks for multinational corporations is the wrong thing to do, and that is exactly what this bill does. For any of those Members who are interested in the particular details, they ought to just read Senator **BOB GRAHAM**'s excellent presentation on this very point. He has addressed the Senate frequently on it, and has identified it.

I have not the time this afternoon to go into it, but I want to give assurance to the Members on this, that we are providing in this legislation tax breaks for multinational corporations. It is more than the loss of the $40 billion in tax revenue which has been added in this jobs bill that could be used for many better purposes that is troubling. What is most disturbing is the fact that many of these international provisions will actually encourage companies to shift even more American jobs to low-wage countries.

The international provisions should have been removed from the bill and the tax dollars saved should be used to increase the tax benefits for domestic manufacturing. It makes no sense to expand the value of the foreign tax credits which multinational corporations receive.

Under the legislation, these companies would pay even less in U.S. taxes on the profits they earn from their business abroad than they do today—$40 billion less. This will create further incentives for them to move jobs abroad, undermining the intent of the legislation.

From the perspective of preserving American jobs, one of the worst features of this corporate tax law is a special tax subsidy for multinationals known as deferral. If a U.S. company moves its operation abroad, it can defer paying U.S. taxes on the profits it makes overseas until the companies choose to send those profits back to America.

In essence, it allows the corporation to decide when it will pay the taxes it owes the U.S. Government. That is a luxury that companies making products and providing services here at home do not have. This is an enormous competitive advantage which the Tax Code gives to companies doing the wrong thing, eliminating American jobs, over companies doing the right thing, preserving the jobs in the United States. That feature alone ought to be enough to have Members of this body vote no at the time of the consideration of the conference report.

I appreciate the indulgence of the Chair. I will reserve the remainder of my time.

Mr. GRASSLEY. Mr. President. I make a few points regarding the FDA issue and the regulation of tobacco. I voted for the FDA provision in this bill. I voted in conference to include FDA regulation of tobacco. But the House refused to accept it.

I voted for this, despite the growing problems that are coming to light about the FDA falling down on its current responsibilities.

Just in the last few months, the FDA has come under investigation, including from my own committee, regarding the way its failed regarding drugs causing suicide in children.

And where was the FDA regarding the recent Vioxx catastrophy and how it causes heart attacks? Just yesterday, it was revealed by my Finance Committee that it looks like the FDA pressured employees to suppress negative findings regarding Vioxx.

And, in today's paper, we read about what looks like the FDA falling down on the job in regard to the Flu vaccine crisis.

So, I hope some around here aren't trying to mislead the American people into thinking that FDA regulation is some kind of panacea for smoking.

I heard one Senator from the other side say that we sided with the tobacco companies when the FDA provision failed. Well that's interesting.

That's surely what opponents would like you to think. But, there's a dirty little secret involved here. Or, at least it's a secret vis a vis the public.

The fact is, the tobacco companies are divided on whether there should be FDA regulation. In fact, the largest tobacco company actually supports FDA regulation, and has been lobbying heavily and pouring money into the effort to get it.

Why? Well, for one thing, a great deal of its business is overseas, and it will therefore be immune from FDA regulation. This will give it a competitive edge against its competitors. So, the tobacco companies, or at least the biggest one, is much more in favor of FDA regulation than against it.

Therefore, anybody trying to frame this as tobacco vesus kids, or tobacco versus health groups, is just flatly misleading the public.

But, even for those of us who pushed for FDA oversight, our legs were cut right out from under us during the negotiations. And guess who cut the legs right out from under us? The leadership of the Democratic party cut the legs right out from under us. That's who.

The leader of the Democratic party, Senator KERRY, went down to North Carolina to talk to tobacco farmers. Guess what he said? He said he'd support a tobacco buyout with or without FDA regulation.

So, it looks to me like the senior Senator from Massachusetts didn't communicate very well with the junior Senator from Massachusetts—or vice-versa.

Moreover, we had the democratic Senate campaign chairman saying the same thing last week. He said he didn't need FDA regulation with a tobacco buyout.

And, he even had his candidate for the North Carolina Senate seat up here lobbying right over in the conference committee room to get this buyout through, with or without FDA. Can you believe that?

And, to add insult to injury to the Democratic Senators from Massachusetts, and Iowa, the Senate Democratic leader even signed the conference report.

So, obviously, when the House leadership knew the votes were there in the Senate for a buyout without FDA, they weren't about to agree to it in conference, and there's no way we could have successfully pushed it.

Now, what more does it take from their own leaders to undermine what the Democratic Senators from Iowa and Massachusetts wanted to do? Seems to me the need to get their own house in order before criticizing others.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, we still have a number of speakers. Under the order which we had set up, in which we would go back and forth with the majority and minority, it is now the majority's turn.

It is my understanding Senator STEVENS, the chairman of the Appropriations Committee, is on his way here to give a very short statement. I am wondering if that is, in fact, the case.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I will change places with you so you can make the unanimous consent request.

As I understand it, Senator STEVENS has asked for 5 minutes to make a speech before I make mine.

Mr. REID. It is my understanding we are also ready to move to the Defense Authorization conference report.

Mr. HATCH. Then, as I also understand it, the order should be Senator WARNER to make his unanimous consent request, Senator STEVENS for 5 minutes, then I for whatever time I need, and then Senator LANDRIEU for whatever time she wanted.

Mr. REID. I thought it was going to be Senator WARNER for 5 minutes, Senator STEVENS for 5 minutes, and then Senator LANDRIEU for an hour and half.

Mr. HATCH. If we can do it the way I suggested, it would be very acceptable.

I ask unanimous consent that be the order.

Mr. REID. The order has already been established. As soon as we finish with Senator WARNER and Senator STEVENS, Senator HATCH will take the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I thank the Chair.

The PRESIDING OFFICER (Mr. HATCH). The Senator from Virginia.

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## RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—CONFERENCE REPORT

Mr. WARNER. Mr. President, I submit a report of the committee of conference on the bill (H.R. 4200) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4200), to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD for Friday, October 8, 2004.)

Mr. WARNER. Mr. President, on behalf of the distinguished ranking member, Mr. LEVIN, and myself, I now ask unanimous consent that the conference report be adopted and the motion to reconsider be laid on the table, all with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

Mr. WARNER. Mr. President, this conference report represents the hard work of many, many individuals. I first thank my distinguished ranking member, Mr. LEVIN of Michigan, together with our subcommittee chairmen and all members of the committee. This was truly a bipartisan effort from start to finish. We achieved an extraordinary piece of legislation. I am proud to say, at the request of the chairman, myself, the bill is named the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.

We do that in honor of our late President's extraordinary contributions to the men and women of the Armed Forces in his capacity as President and in his role as Commander in Chief at that time.

This conference report provides $420.6 billion for defense, an increase of $19.3 billion above the amount authorized by Congress last year. The report also authorizes an additional $25 billion for war-related costs in Iraq and Afghanistan.

I am proud to bring the conference report for the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 before the Senate for final passage. I thank my ranking member and partner for these 26 years, the senior Senator from Michigan, CARL LEVIN, for his consistently constructive help and leadership in bringing this important legislation to the floor. I would also like to thank our subcommittee chairman and ranking members, and all committee members for their hard work on this conference report. I am pleased that this legislation report has the unanimous support of the members of the committee.

I also want to thank Chairman DUNCAN HUNTER and Congressman SKELTON for their leadership and teamwork in producing this conference agreement.

No committee succeeds without a dedicated, professional staff, and I believe our committee has one of the finest on Capitol Hill. I particularly want to recognize the efforts of the Committee Staff Director, Judy Ansley and the Democratic Staff Director, Rick DeBobes in bringing this process to a successful conclusion. They have led a great staff, all of whom deserve great credit and recognition. This dedicated professional staff worked very long hours and helped the members reach the agreements that are contained in the conference report before us. I ask that the names of all members of the committee staff be printed in the record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. As we consider this conference report, we remain a nation at war against terrorism around the world. There is no doubt that we will win this war because of the extraordinary Americans who volunteer to serve the cause of peace and freedom. All Americans are in their debt, and they and their families deserve our unwavering support. The legacy of President Ronald W. Reagan, to whom we and the Nation paid our last respects a few short months ago, is memorialized in this legislation. I can think of no better way to honor the service and sacrifice of the men and women of our Armed Forces and their families, than to provide them with the pay and benefits they so richly deserve, and to give them the equipment they need to carry out their critical missions on behalf of our Nation, as President Reagan fought so hard to do when he was President and their Commander-in-Chief.

This bill provides much needed benefits to those now serving in the Armed Forces—Reserve and Active Duty—as well as addressing long-standing needs of military retirees and veterans, and their families who served this Nation so well. There were many contentious issues to resolve—BRAC, Buy America, Tanker replacement, housing privatization and TRICARE for Reservists, among others. We did resolve them, however, and I am proud we have achieved our goal of concluding a conference which sends a strong message of support to our men and women in uniform.

As we stand here today hundreds of thousands of soldiers, sailors, airmen, and Marines, Active and Reserve, and countless civilians who support them, are serving bravely around the world from the Persian Gulf region and Afghanistan to Europe and North Korea. All Americans are justifiably proud of what the U.S. Armed Forces and their coalition partners have accomplished in the global war on terrorism. We are ever mindful that the defense of our homeland begins on the distant battlefields of the world.

We must pause and remember that military success is not achieved without significant sacrifice. No matter how well conducted, military victory does not come without sacrifice and loss. We extend our heartfelt sympathies to the families and loved ones of those who have lost their lives in these operations and in other military operations to make America and the world safer. We mourn their loss and resolve to forever remember their service. We give thanks to those who serve and have served their Nation with distinction throughout our history. We are blessed to have this new generation of great Americans, so committed to American traditions, values and ideals, carrying on the traditions of those who preceded them with such dedication and valor.

Without a doubt, the U.S. military is the most capable military force in the world today, a model of excellence, and the standard by which others are measured. The provisions in this conference report sustain and improve on that excellence.

This conference report continues the momentum of recent years in making real increases in defense spending—a 3.4 percent increase—to sustain readiness, enhance the quality of life of our military personnel and their families, modernize and transform the U.S. Armed Forces to meet current and future threats, and take care of our retirees and veterans. The conference report before us provides $420.6 billion for defense, an increase of $19.3 billion above the amount authorized by Congress last year. The conference report also authorizes an additional $25. billion for war-related costs in Afghanistan and Iraq.

There are many things contained in this conference report that are important and of which I am very proud, but I want to highlight just a few. First and foremost is the 3.5 percent pay raise for our men and women in uniform, and a new healthcare benefit for reservists who serve on extended active duty. Second, we have reached agreement on how to proceed in procuring new aerial refueling aircraft in a prudent manner, consistent with existing laws and regulations. Third, we have preserved the 2005 BRAC round—a much needed review of our basing infrastructure. This is critical for the efficiency and smart posturing of our Armed Forces to meet future challenges.

There are many other important initiatives, such as housing privatization, improved survivor benefits, funding for missile defense and other weapons systems. These important initiatives and authorities are contained in the conference report before you.

This conference report sends a clear signal to our citizens, and to nations around the world, that the United States is committed to a strong national defense. More important, this conference report sends a clear signal to our men and women in uniform, from the newest private to the most senior flag and general officer, that they have the support of the American people.

I thank my colleagues for their support of this conference report.

EXHIBIT 1

COMMITTEE STAFF OF THE COMMITTEE ON ARMED SERVICES

Judith A. Ansley, Staff Director
Richard D. DeBobes, Democratic Staff Director
Charles W. Alsup, Professional Staff Member
June M. Borawski, Printing and Documents Clerk
Leah C. Brewer, Nominations and Hearings Clerk
Alison E. Brill, Staff Assistant
Jennifer D. Cave, Special Assistant
L. David Cherington, Counsel
Christine E. Cowart, Administrative Assistant to the Minority
Daniel J. Cox, Jr., Professional Staff Member
Madelyn R. Creedon, Minority Counsel
Kenneth M. Crosswait, Professional Staff Member
Marie Fabrizio Dickinson, Chief Clerk
Regina A. Dubey, Research Assistant
Gabriella Eisen, Research Assistant
Evelyn N. Farkas, Professional Staff Member
Richard W. Fieldhouse, Professional Staff Member
Andrew W. Florell, Staff Assistant
Brian R. Green, Professional Staff Member
Creighton Greene, Professional Staff Member
William C. Greenwalt, Professional Staff Member
Bridget W. Higgins, Research Assistant
Ambrose R. Hock, Professional Staff Member
Gary J. Howard, Systems Administrator
Jennifer Key, Security Clerk
Gregory T. Kiley, Professional Staff Member
Michael J. Kuiken, Professional Staff Member
Maren R. Leed, Professional Staff Member
Gerald J. Leeling, Minority Counsel
Peter K. Levine, Minority Counsel
Thomas L. MacKenzie, Professional Staff Member
Michael J. McCord, Professional Staff Member
Elaine A. McCusker, Professional Staff Member
William G. P. Monahan, Minority Counsel
Lucian L. Niemeyer, Professional Staff Member
Stanley R. O'Connor, Jr., Professional Staff Member
Cindy Pearson, Assistant Chief Clerk and Security Manager
Paula J. Philbin, Professional Staff Member
Benjamin L. Rubin, Receptionist
Lynn F. Rusten, Professional Staff Member
Catherine E. Sendak, Staff Assistant
Arun A. Seraphin, Professional Staff Member
Joseph T. Sixeas, Professional Staff Member
Robert M. Soofer, Professional Staff Member
Scott W. Stucky, General Counsel
Diana G. Tabler, Professional Staff Member
Richard F. Walsh, Counsel
Bridget E. Ward, Staff Assistant
Nicholas W. West, Staff Assistant
Pendred K. Wilson, Staff Assistant

Mr. LEVIN. Mr. President, I am pleased to join the Chairman of the Senate Armed Services Committee and my good friend, Senator WARNER, in urging the adoption of the conference report on H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005. We began work on this bill with our mark-up in early May. Since that time, we have spent 5 weeks on the Senate floor and nearly 4 months in conference. This conference agreement would not have been possible without the strength and perseverance of Senator WARNER.

This conference report will promote the national defense, improve the quality of life of our men and women in uniform, and make the investments we need to meet the challenges of the 21st century. First and foremost, the bill before us continues the increases in compensation and quality of life that our service men and women and their families deserve as they face the hardships imposed by continuing military operations around the world.

Mr. President, we all know that our Armed Forces today are deployed in harms' way around the world. As we stand on the Senate floor today, more than 130,000 soldiers, sailors, airmen and marines are engaged in taking on an aggressive insurgency and winning the peace in Iraq, with tens of thousands more supporting the war effort from outside the country. At the same time, our military continues to bear the brunt of the continuing effort to stabilize and rebuild Afghanistan, keep the peace in Bosnia, Kosovo, and the Sinai, and contain the threat of North Korea—while also preparing to execute other missions in support of the national military strategy.

It has been clear to many of us for some time now that the Army and Marine Corps are simply stretched too thin, and that additional troops are badly needed to meet our worldwide commitments. I am pleased that this bill takes an important step toward that objective by increasing the active duty end strength of the Army by 20,000 and the active duty end strength of the Marine Corps by 3,000.

I am also pleased that the bill before us contains much of the amendment offered on the Senate floor by Senator DASCHLE and Senator GRAHAM to provide expanded TRICARE benefits for the National Guard and Reserve members who have made so many sacrifices and contributed so much to our nation over the last three years. In particular, the conference report would:

Make permanent the temporary authority for free TRICARE health care coverage for National Guard and Reserve members and their families up to 90 days before a mobilized service member reports for active duty and for 180 days after release from active duty; and

Authorize a new TRICARE benefit for Guard and Reserve members and their families when the member is not on active duty.

Under this provision, National Guard and Reserve members who are mobilized would be authorized, upon release from active duty, to enroll in TRICARE Prime for 1 year for every 90 days spent on active duty. This is the least that we can do for these brave men and women.

The bill would take a number of other important steps to improve the lives of our men and women in uniform. For example, the bill would:

Authorize a 3.5 percent across-the-board pay raise for military personnel;

Authorize a permanent increase in the rate of special pay for duty subject to hostile fire or imminent danger;

Authorize a permanent increase in the rate of the family separation allowance;

Improve the Survivor Benefit Plan by eliminating the reduction in SBP benefits for surviving spouses over age 62, phased in over 3½ years;

Ensure fair treatment of our disabled veterans by repealing the phase-in of concurrent receipt of retired pay and VA disability pay to military retirees with service-connected disabilities rated as 100 percent; and

Authorized a new program of educational assistance to members of the Selective Reserve, based on the GI Bill.

The bill would also directly address a number of specific problems and issues that have arisen in the course of our continuing operations in Iraq and Afghanistan.

First, the bill would provide our Armed Forces new flexibility to respond to changing circumstances on the ground by authorizing the use of up to $300 million for the Commanders' Emergency Response Program in Iraq and Afghanistan, under which commanders may use funds for small humanitarian and reconstruction projects; authorizing the use of up to $500 million for assistance to Iraq and Afghanistan military or security forces to enhance their ability to combat terrorism and support U.S. or coalition military operations in Iraq and Afghanistan; and authorizing the Special Operations Command to expend up to $25 million of existing funds to provide support to foreign forces, irregular forces, groups, or individuals, engaged in supporting or facilitating ongoing military operations by the United States special operations forces to combat terrorism; establishing a new rapid acquisition program to enable the Department of Defense to quickly acquire equipment needed by a combatant commander to eliminate deficiencies in equipment that have resulted in combat fatalities; and raising the thresholds for the use of streamlined acquisition procedures outside the United States in support of contingency operations.

Second, the bill contains important language from amendments offered by Senators DURBIN and LEAHY on the

Senate floor, reaffirming the prohibition against subjecting any person in the custody or under the physical control of the United States to "torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States." These provisions send an important message to the world that the United States will not permit, condone, tolerate, or encourage the kind of behavior so graphically depicted in the photographs from Abu Ghraib prison in Iraq. We all know that the abuses that occurred at Abu Ghraib and elsewhere have undermined the hard work and sacrifices of our military and tarnished the image of our armed forces. The provisions included in the conference report reaffirm that we are a Nation of laws and send the message that Congress will not accept mixed messages or ambiguous statements on the fundamental issue of human rights and dignity.

The bill contains several other important provisions addressing ongoing operations in Iraq and Afghanistan. These include:

A provision originally written by Senator DODD, which authorizes reimbursement of service members and their families for purchases of body armor and other protective equipment at a time when the Department of Defense did not have sufficient protective gear in Iraq to protect our men and women in uniform; a provision addressing deficiencies in the oversight and management of contractors on the ground in Iraq, and requiring the issuance of specific guidance and regulations to enhance the safety of contractor employees and improve coordination between our armed forces and the contractors who are there to support their rebuilding efforts; and a provision reauthorizing and extending the CPA Inspector General to ensure that we have continuing oversight over fraud, waste and abuse in the expenditure of funds for the rebuilding of Iraq.

The conference report also includes a number of provisions that will help improve the management of the Department of Defense and other federal agencies. These include: the Collins-Levin amendment permitting federal employees to be heard, for the first time, in bid protests appealing the results of public-private competitions; a provision that would extend the authority for energy savings performance contracts for an additional 2 years, enabling federal agencies to save hundreds of millions of dollars through improved energy efficiency; a provision that should help resolve the controversy over the Air Force's proposed lease of tanker aircraft by prohibiting the Air Force from entering a lease and instead requiring the use of a traditional multi-year contract; a provision that would require the Department of Defense to develop and implement a business enterprise architecture to gain better control over its finances; and a provision directing the Secretary of Defense to develop policies and regulations to discourage other countries from imposing "offset agreements" in defense trade, and thereby undermining our defense industrial base.

Finally, I am pleased that the conference report contains a series of provisions that will establish a workers' compensation-like program for nuclear workers who have cancers and other occupational-related injuries. The program will be administered by the Department of Labor and establishes a compensation scheme for both employees and survivors. Covered employees would receive the compensation benefits, as well as medical benefits under the provisions. The total amount of compensation under the provision would be capped at $250,000. Also included are provisions that would extend to uranium miners the opportunity to seek this workers' compensation-like benefit. Employees can elect to apply for this benefit or they may choose to remain in their individual state's workers' compensation system.

Mr. President, this is a good conference report, but no conference report is perfect.

I strongly disagree with a provision in the bill that would attempt to transfer from the Department of Defense to the Treasury the responsibility to provide the funding for military health care. Programs do not become "free" just because they are moved outside the Defense budget. That is why this provision was strongly opposed by the chairman and ranking member of the Senate Budget Committee.

I am deeply disappointed that the House conferees refused to accept important Senate provisions addressing hate crimes. Acts of violence and bigotry based on factors like race, religion, national origin, gender, sexual orientation, or disability can undermine our nation's fabric by placing in question our continuing commitment to acceptance and diversity. The Kennedy-Smith hate crimes bill would address this problem head-on. The Senate has now passed the hate crimes bill on two separate occasions, and each time, the House has refused even to consider the provision on the merits.

I am equally disappointed that the House refused to include the Boxer amendment on abortion. Under the law as it stands today, Medicare funds may be used for abortions in cases of rape or incest, but Department of Defense funds may not. This kind of discrimination against women who put their lives on the line for their country is incomprehensible to me.

I am disappointed that, faced with a veto threat, we were able to get less than half of the provisions that we wanted to codify sound practices in public-private competition of work currently performed by government employees.

Finally, I am disappointed that this conference report includes a House provision reducing the authority of the base closure commission to address bases not recommended for closure or realignment by the Secretary of Defense.

Despite my concerns about these issues, I will vote for this bill because it contains so many other provisions that are so important for our national defense and for our men and women and uniform. At a time when our armed forces are under hostile fire in Iraq and Afghanistan, it is vitally important that we enact a defense authorization bill that provides the training and equipment that our military needs and the compensation and benefits that they deserve.

I would like to thank the chairman of the Armed Services Committee, Senator WARNER, once again for the effective leadership that he provided in bringing this bill through conference and back to the Senate floor. Senator WARNER's inclusiveness and openness in the way he manages the Committee and the conference have resulted in a far better bill than we would otherwise have had.

I would also like to thank the minority members of our Committee for the able work that they have done in support of this bill throughout the past year, starting with hearings in the Spring, and continuing through markup, floor deliberation, and conference. We have a truly talented group of members, whose dedication to the national defense shows in their work.

I would be remiss if I did not also mention the work of our dedicated committee staff, on both sides of the aisle. It is the hard work of this staff—under the able leadership of Judy Ansley and Rick DeBobes—that has made this bill possible. Rick and Judy and the staff have been working literally around the clock for the last month to put this conference report, and I think that the Senate owes a debt of gratitude to every one of them.

On the Majority staff Judy Ansley, Chuck Alsup, June Borawski, Leah Brewer, Alison Brill, Jennifer Cave, David Cherington, Marie Dickenson, Regine Dubey, Andy Florell, Brian Green, Bill Greenwalt, Bruce Hock, Gary Howard, Jennifer Key, Greg Kiley, Tom MacKenzie, Elaine McCusker, Lucian Niemeyer, Stan O'Connor, Cindy Pearson, Paula Philbin, Ben Rubin, Lynn Rusten, Katie Sendak, Joe Sixeas, Rob Soofer, Diana Tabler, Dick Walsh, Bridget Ward, Nick West, and Kelley Wilson.

On the Minority staff Rick DeBobes, Chris Cowart, Dan Cox, Madelyn Creedon, Mitch Crosswait, Brie Eisen, Evelyn Farkas, Richard Fieldhouse, Creighton Greene, Bridget Higgins, Mike Kuiken, Maren Leed, Gary

Leeling, Peter Levine, Mike McCord, Bill Monahan, and Arun Seraphin.

Mr. President, I urge my colleagues to join me in supporting this bill.

Mr. LUGAR. Mr. President, while I support Senate passage of H.R. 4200, the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, and will not object to its passage, I am nevertheless concerned with language appearing in section 1225, "Bilateral Exchanges and Trade in Defense Articles and Defense Services Between the United States and the United Kingdom and Australia." My concerns are shared by the ranking Democratic member of the Foreign Relations Committee, Senator BIDEN.

We maintain an amicable and beneficial working relationship between the Foreign Relations and Armed Services Committees. In many years past, we opposed efforts by the Armed Services Committee to legislate on matters under our Committee's unique jurisdiction. Last June, we offered an amendment to the defense authorization bill because we understood that our own authorization bill would not proceed, and that the Senate Armed Services Committee supported all of the provisions we offered. We also sought to provide a response to certain provisions in the House defense authorization bill.

The Chairman of the Armed Services Committee, Senator WARNER, introduced Senate Amendment 3429 to S. 2400, the Senate version of the defense authorization bill, on June 7, 2004. This amendment was identical to language in our committee's bill that provided exceptions to the requirements in subsection (j) of section 38 of the Arms Export Control Act regarding the content of any bilateral agreement that would waive International Traffic in Arms Regulations—the ITAR, 22 CFR 120–130—export license requirements for transfers of defense items or defense services to the United Kingdom and Australia. This legislation would have, in the case of the agreement with the Government of Australia, excepted the agreement from section 38(j)(2)(A) and, in the case of the agreement with the Government of the United Kingdom, excepted that agreement from the requirements of section 38 (j)(1)(A)(ii), (2)(A)(i), and (2)(A)(ii). The administration supported that language, and so did Senator WARNER when he offered our language on his bill.

The issue of the ITAR exemption agreements is a complex and important topic and, unfortunately, has become a major irritant in our special relationship with the United Kingdom. Perhaps more unfortunately, the bill the Senate will pass today will include not our language but rather language that may be prejudicial to U.S. interests on several grounds.

First, the bill no longer provides the exceptions we sought. Enactment of this provision may therefore make any future efforts to obtain such statutory exceptions for these most important allies all the more difficult. The Senate will now have effectively endorsed the House position. This may well harm our bilateral relationship with the United Kingdom.

Second, the language of section 1225(b) states: "The Secretary of State shall ensure that any license application submitted for the export of defense articles or defense services to Australia or the United Kingdom is expeditiously processed by the Department of State, in consultation with the Department of Defense, without referral to any other Federal department or agency, except where the item is classified or exceptional circumstances apply." This language could do great harm to our government's ability to provide necessary and complete interagency review of munitions license applications. The phrase "without referral to any other Federal department or agency" is new law, and it far exceeds what wisdom would dictate. Under this language, the Departments of Justice and Homeland Security would not be allowed to review any case not involving classified defense items, unless it met an "exceptional circumstances" standard. The vast majority of defense exports to the United Kingdom and Australia that are governed under the ITAR are not classified items, and while the Foreign Relations Committee supports expeditious consideration of munitions license applications for these allies, we are concerned by provisions that could deny our government the ability to effectively staff and review license applications.

This concern is heightened by the fact that the provisions of section 1225 apply to all arms exports to the United Kingdom and Australia, irrespective of end-user. The bilateral agreements negotiated with the United Kingdom and Australia take a different approach. They afford relief from export license requirements for certain unclassified exports, rather than merely expedited processing, but they also are limited in their application of a waiver to a finite group of U.S.-approved end-users. That limit is a sensible accommodation of U.S. national security concerns, and it is difficult to understand why the National Defense Authorization Act conferees decided to ignore it.

I fully expect that the Foreign Relations Committee and the House International Relations Committee will revisit this issue next year in an effort to correct the failings of the measure that is now before us.

### SECTION 133

Mr. MCCAIN. Mr. President, I would like to review with my colleague Section 133 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005. Under the leadership of Senate Armed Services Committee Chairman WARNER and Ranking Member LEVIN, Congress has agreed to amend Section 135 of the National Defense Authorization Act for fiscal year 2004 by expressly prohibiting the Air Force from using previously granted authority to acquire, through a lease or purchase, Boeing 767 aircraft for use as aerial refueling tankers.

This provision succeeds in accomplishing Chairman WARNER's primary objective, as he stated in this chamber on October 23, 2003, to put the tanker replacement program back into a traditional budget, procurement, and authorization track. In other words, the Air Force's program to modernize its tanker fleet must be subject to the aerial refueling analysis of alternatives, the aerial refueling portion of the Mobility Capabilities Study, a new aerial refueling validated capabilities document and operational requirements document in accordance with all applicable Chairman of the Joint Chiefs of Staff Instructions, and the express approval of a Defense Acquisition Board in full accordance with Department of Defense regulations.

Mr. WARNER. The Senator from Arizona is correct. Section 133 specifically revokes the authority previously granted under Section 8159 of the Department of Defense Appropriations Act for Fiscal Year 2002, to the Air Force to lease aircraft for use as tankers. The conferees expressed their intent very strongly on this issue in eliminating all references to leasing aircraft throughout Section 135.

Mr. MCCAIN. I thank the Chairman for clarifying the intent of the legislation with respect to the prohibition on leasing tanker aircraft. Now, let's turn to what authority Section 133 grants with respect to purchase of tanker aircraft.

Mr. WARNER. Section 133 bars the Air Force from executing a contract for the multiyear purchase of aircraft specified under Section 8159, that is, general purpose Boeing 767 aircraft that would be modified as an aerial refueling aircraft. Section 8159 would have precluded full and open competition.

Mr. MCCAIN. The Chairman is correct. This means that, under Section 133, the Air Force may not acquire, either by lease or purchase, Boeing 767s without full and open competition. In other words, any program to acquire tankers must start from the beginning, as the Senator properly stated last year, on a traditional budget, procurement, and authorization track.

Mr. WARNER. The Senator from Arizona is correct. I thank him for that clarification.

Mr. MCCAIN. One last question. Have we obtained an opinion from the Congressional Budget Office as to how it would score the acquisition of tankers under Section 133?

Mr. WARNER. Yes, we have. The Congressional Budget Office would score this provision as a traditional procurement program which would expressly require the Air Force to pay for each tanker in the year it is purchased.

Mr. McCAIN. I thank the Senator. I am grateful to the gentleman from Virginia for his leadership in this 3-year odyssey. I remind my colleagues that three out of the four defense committees that were required to approve the original proposal to lease 100 tankers, did so without so much as reading the contract for that $30 billion procurement proposal. It was the Senate Armed Services Committee that put the brakes on that costly and misguided misadventure. That having been said, the final chapter on the tanker lease program cannot be closed until those among Air Force leadership who engaged in misconduct are held accountable.

Mr. WARNER. I thank the Senator from Arizona for his steadfast leadership and vigilance on this critical issue. There could be no doubt as to the gentleman's sincerity in always protecting the interests of taxpayers and the warfighter.

Mr. KENNEDY. Mr. President, it is reprehensible that the GOP House leadership demanded the removal of the hate crimes provision from the Defense Authorization Act.

The provision had solid support in both the Senate and the House. Under the leadership of Senator WARNER and Senator GORDON SMITH, the Senate approved it as an amendment to the Defense Authorization bill in July by the nearly 2-to-1 bipartisan majority of 65 to 33. Eighteen Republicans joined all the Democrats in approving this measure. Last week, by a vote of 213 to 186, the House instructed its conferees to support this provision in the conference report on the bill.

The hate crimes provision is an essential response to a serious problem which continues to plague the nation. Since the September 11 attacks, we've had a shameful increase in the number of hate crimes committed in our country against Arabs and Muslims—murders, beatings, arson, attacks on mosques, shootings, and other assaults. In 2001, anti-Muslim incidents were the second highest-reported hate crimes based on religion—second only to anti-Jewish hate crimes.

Nevertheless, under current law, the Justice Department has to fight these vicious crimes with one hand tied behind its back. Outdated pre-9/11 restrictions limit Federal jurisdiction in hate crimes based on religion. Hate crimes based on sexual orientation are not even covered by the law. How can House Republican leaders say they're fighting a war on terrorism, when they're not prepared to fight it here at home?

Clearly, President Bush is worried about his right-wing base in the coming election, and the implication is obvious that the White House sent word to its Republican allies in the House—block the hate crimes provision, even if blocking it denies the clear will of the majority.

The carefully selected White House candidate for the Senate in Florida used the hate crimes issue to smear his opponent in the Republican primary in August. Former Congressman Bill McCollum, a respected law-and-order Republican, was smeared as "anti-family" and "the new darling of the homosexual extremists" and lost the primary—because he supported the hate crimes legislation. There is nothing "anti-family" or divisive about the hate crimes bill. It protects all victims of hate-motivated violence: citizens of all races, all religions, all sexual orientations. No one is left out.

Sadly, the despicable smear against Congressman McCollum in Florida is only one example of the vicious campaign tactics used by Republicans this year. In West Virginia and Arkansas, the Republican National Committee has sent out flyers suggesting that "liberals" want to ban the Bible. My colleague Senator ROBERT BYRD aptly described it as a "desperation tactic" and "an insult to the intelligence of voters" in his State.

In Oklahoma, the National Republican Senate Campaign is running a race-baiting advertisement on television attacking Democratic Senate candidate Brad Carson's record on immigration by showing images of Hispanic farm workers and African Americans receiving welfare dollars. We've seen such campaign appeals to racism and bigotry before in this country. Most of us hoped we would never see them again.

When President Bush condones outrageous tactics like these, how can he claim with a straight face that he's lived up to his campaign promise to be a uniter, not a divider?

The administration is wrong to have ordered its allies in the House to block our bipartisan hate crimes provision. However, this is not the end of our battle. We will be back again and again, and we will continue to bring this legislation up every opportunity we can until it is signed into law. It's heartening to know that we may soon have a President who will sign it—a President who is honestly committed to uniting, not dividing, the country.

Mr. BINGAMAN. Mr. President, I would like to congratulate the conferees on the National Defense Authorization Act for Fiscal Year 2005, for reforming the Energy Employee's Occupational Illness Act, EEOICPA, and ensuring that the Radiation Exposure Compensation Program, RECA, receives additional mandatory funding to pay the workers whose claims were originally subject to additional appropriations.

I view the reform of EEOICPA's subtitle D as particularly significant. From November 2003 through March 2004, the Energy and Natural Resources Committee held three hearings on this program. These hearings determined that the current program's subtitle D was not paying injured atomic workers. Subtitle D relied on the DOE to determine causation with a subsequent referral to State compensation systems. Typically these State compensations not only add add additional delay to the process but they are adversarial in nature because insurers can contest the claim against a sick and dying worker. As a result of these three Senate hearings, there was a bipartisan effort by 20 Senators to move subtitle D from the Department of Energy to the Department of Labor, where EEOICPA's subtitle B is administered. The Department of Labor specializes in providing worker compensation, so it only seems reasonable to consolidate the program there. Originally, the Senate's proposed reform of subtitle D required the Department of Labor to adjudicate each claim according to the workers' respective State compensation standard. This compensation procedure, while insuring that the original intent of EEOICPA remained intact, was determined by the conferees to be too hard to administer. In my view, and it was stated in the March 2004 hearing, the proper course of action to pay these sick workers was to use a uniform standard funded from a mandatory account similar to subtitle B.

The conference report's version of EEOICPA's subtitle D takes the right approach. Instead of a compensation scheme tied to each State as in the Senate proposal, the conference report chooses a uniform payment schedule according to disability and lost wages, for both living and deceased persons. Most importantly, subtitle D is funded out of the subtitle B mandatory account so it does not end up like the RECA program in lacking the necessary compensation funds once a positive determination is made. I am also pleased that the language contains the ombudsman provision, even though it is only authorized for three years. The ombudsman will report to Congress on the transition from the Department of Energy to the Department of Labor, and whether the intent of the reform language is adhered to, which is the quick compensation of sick workers.

I would like to thank the many Senate staffers listed below who held together as a group for the past seven months; their names are found at the end of this statement. Through this strong bipartisan effort, more was accomplished than any by any single member. I hope this effort sets a tone for other endeavors that we pursue in Congress.

Elizabeth Bellville, Office of Senator DeWine;

Catherine Boland, Office of Senator Voinovich;

David Cherington, Senate Armed Services Committee;

Doug Clapp, Office of Senator Murray;

Madelyn Creedon, Senate Armed Services Committee;

Angela Becker-Dippman, Office of Senator Cantwell;

Ken Ende, Office of Senator Murkowski;

Jonathan Epstein, Office of Senator Bingaman;

Holly Fechner, Health Education and Labor Committee;

Tom Horgan, Health Education and Labor Committee;

Kurt Kovarik, Office of Senator Grassley;

Kate Kimpan, Office of Senator Bunning;

Pete Lyons, Energy and Natural Resources Committee;

Sara Mills, Office of Senator Reid;

Beth Stein, Office of Senator Harkin;

Kristine Svinicki, Office of Senator Craig;

Katie Swaney, Office of Senator Talent;

Kim Taylor, Office of Senator Bunning;

Jason Unger, Office of Senator Reid;

Dan Utech, Office of Senator Clinton;

Tim Valentine, Office of Senator Alexander;

Karina Waller, Office of Senator Stevens;

Jenny Wing, Office of Senator Harkin;

Portia Wu, Health Education and Labor Committee.

Again, my thanks to the Chairman and Ranking members of both the House and Senate Armed Services Committees for ensuring that these innocent atomic workers, who helped win the cold war, clean up its former nuclear sites, and continue to maintain our nuclear deterrent, are adequately compensated for the injuries they sustained working at DOE's nuclear facilities.

Mr. MCCAIN. Mr. President, I strongly support passage of the conference report on HR 4200, the National Defense Authorization Act for Fiscal Year 2005. This legislation funds over $420 billion for defense programs, which is a 3.4 percent increase or $20.9 billion above the amount authorized by Congress last year.

While I am pleased that we are able to act on this legislation prior to adjourning for the elections, I would be remiss if I did not mention that once again, the Defense Appropriations Act has been signed into law prior to final action on the Defense Authorization Act. The responsibilities of authorizors and appropriators are expected to be distinct. The Defense Authorization Act lays out the blueprint for the policies and funding levels for the Department of Defense and its programs. The role of the Appropriations Committee is to allocate funding based on policies provided by authorization bills. In reality however, the Appropriators' function, has expanded dramatically, and the Appropriations Committee now engages in significant policy decision making and micromanagement, largely usurping the role of the authorizing committees. I hope next year we will succeed in passing the authorization measure prior to the appropriations measure.

The men and women of our Nation's Armed Forces put their lives on the line every day to protect the very freedoms we Americans hold dear. It is our obligation to provide key quality of life benefits to the members of our military. Great strides will be made by this bill towards accomplishing that goal. For example, this Conference Report authorizes a 3.5 percent across-the-board pay raise for all military personnel. It repeals the requirement for military members to pay subsistence charges while hospitalized, and adds $7.8 million for expanded care and services at the Walter Reed Amputee Patient Care Center. Also, included in the conference report is a permanent increase in the rate of family separation allowance from $100 per month to $250 per month as well as a permanent increase in the rate of special pay for duty subject to hostile fire or imminent danger from $150 per month to $225 per month.

We continue to be increasingly reliant on the men and women of our Reserve forces and National Guard. In fact, around 40 percent of all the ground troops in Iraq and Afghanistan are composed of National Guard and Reserve forces as well as nearly all of the ground forces in Kosovo, Bosnia, and the Sinai. Many of these soldiers and sailors leave behind friends, families, and careers to defend our nation. Accordingly, it is the responsibility of policy makers to ensure we look after the needs of these patriots. Included in the conference report is the authorization for full medical and dental examinations and requisite inoculations when reservists mobilize and demobilize as well as a new requirement for pre-separation physical examinations for members of the reserve component. This provision is critical to maintain and, in some circumstances, increase the readiness of the total force.

In the Senate version of this legislation, we passed an important amendment to authorize an increase in the size of our Army by 20,000 and size of our Marine Corps by 3,000. I am very pleased this provision was included in the conference report. This increase is absolutely vital in our Army's ability to carry out its mission in the global war on terror. There is no shortage of evidence supporting an increase in Army endstrength. Recently, the Army pulled 3,600 troops out of South Korea to fill critical needs in Iraq. The Department of Defense should be able to move troops around as needed to address critical needs. However, in this case, we are sacrificing our readiness on the Korean peninsula because we do not have enough solders serving in the Army.

After returning home for a short period of time, soldiers and Marines are already making preparations for their second tour in Iraq or Afghanistan in as many years. This is not good for morale, this is not good for retention, this is not good for readiness, and this is not good for the soldier's families. Eventually, recruitment will be seriously affected by these trends.

Additionally, the Army recently announced a new stop-loss policy. While, I certainly recognize the Army's authority and necessity to issue stop loss orders, their issuance in this instance is yet another reason why we need to increase the size of the Army. For all the benefits in group cohesion that results from extended tours, the Army will be facing a serious crisis when it comes time for these soldiers to reenlist on their own accord. I am concerned about the effect that these stop-loss orders will have on the morale of our Army. While I still do not believe that we need a draft, we do need to increase the size of the Army to carry out important defense missions.

Once again, I am disappointed that the development of this legislation lent the opportunity for the annual buy America battle. In a similar fashion as last year, the Senate had to beat back a provision in the house version of the legislation that sought to protect parochial interests at the cost of our defense industry and American jobs. It seems as if every year, we fight the same fight in conference. I am pleased that once again, the Senate prevailed over the protectionist leanings in the House.

As I have stated countless times before, we need to provide American servicemen and women with the best equipment at the best price for the American taxpayer. By following this simple philosophy, we will protect both the men and women in uniform, as well as our domestic defense industry.

The international considerations of buy America provisions are immense. Isolationist, go-it-alone approaches have serious consequences on our relationship with our allies. Our country is threatened when we ignore our trade agreements. Currently, the U.S. enjoys a trade balance in defense exports of 6-to-1 in its favor with respect to Europe, and about 12-to-1 with respect to the rest of the world. We don't need protectionist measures to insulate our defense or aerospace industries. If we enact laws that isolate our domestic defense industry, our allies will retaliate and the ability to sell U.S. equipment as a means to greater interoperability with NATO and non-NATO allies would be seriously undercut. Critical international programs, such as the Joint Strike Fighter and missile defense, would likely be terminated as our allies reassess our defense cooperative trading relationship.

The Senate also successfully defeated an amendment during Senate consideration and again in conference aimed at crippling the upcoming BRAC round. BRAC has taken on a new significance in the war against terror. There has not been a time in recent memory when it has been more important not to waste money on non-essential expenditures. To continue to sustain an infrastructure that exceeds our strategic and tactical needs will make less funding available to the forces that we are relying on to destroy the international network of terrorism. I am once again pleased that the Senate put the good of the Department of Defense over parochial interests and protected the upcoming BRAC round.

The Department of Defense has come out with very fair and reasonable criteria used to select what bases are chosen for BRAC. I have every confidence the Secretary of Defense will carry out this round of BRAC in a just and consistent manner. Sooner or later surplus bases must be closed. Delaying or canceling BRAC would only make the process more difficult and painful than necessary. The sooner the issue is addressed, the greater will be the savings that will ultimately go toward defense modernization and better pay and benefits for our hard working service members.

I understand that some of my colleagues are concerned about the potential negative effects a base closure may have on their local economy. But let me point out that previous base closure rounds have had many success stories. For example, after England Air Force Base closed in 1992, Alexandria, LA, benefitted from the creation of over 1,400 jobs—nearly double the number of jobs lost. Across the U.S., about 60,000 new jobs have been created at closing military bases. At bases closed more than 2 years, nearly 75 percent of the civilian jobs have been replaced. This is not to say that base closures are easy for any community, but it does suggest that communities can and will continue to thrive.

Another issue of considerable diverse views during conference deliberations concerned the aerial refueling tanker lease program. I would be remiss if I did not take the opportunity to praise the leadership of Senate Armed Services Committee Chairman WARNER and Ranking Member LEVIN for their steadfast vigilance during the three-year odyssey on the Air Force's failed Boeing 767 tanker program. I remind my colleagues, again, that three out of the four defense committees that were required to approve the original proposal to lease 100 tankers, did so without so much as reading the contract for the $30 billion procurement proposal. It was the Senate Armed Services Committee and the Commerce, Science, and Transportation Committee that put the brakes on that costly and misguided misadventure. And lest one thought otherwise, the Boeing 767 tanker investigations in the Department of Justice, Department of Defense, Office of Inspector General and the U.S. Senate are continuing and expanding.

Under Section 133 of the National Defense Authorization Act for Fiscal Year 2005, the Air Force may not enter into a sole-source multiyear contract for the lease or purchase of Boeing 767s. Indeed, the Conference Report makes clear that, at the end of the day, the Air Force's plan to modernize or update its fleet must be subject to full and open competition and the traditional budget, procurement and authorization track. The conference report brings the Air Force's plan back to square one.

The bottom line here is this. The aerial refueling tanker provision in the defense authorization bill does much to inject much needed sunlight in a program that has largely been insulated from public scrutiny. In so doing, this provision, that was adopted, directs the Air Force to begin—anew from the beginning—in its program to modernize its tanker fleet. The Air Force will have to now fully consider the Congress's direction, prohibiting the retirement of KC–135E tanker aircraft, as a worthwhile alternative to updating tankers through KC–135E to R conversions. The tanker legislation in this bill ensures that any effort by the Air Force to modernize and replace its fleet of tankers is done responsibly. We should expect no less from the Air Force. That having been said, the final chapter on the failed tanker lease program cannot be closed until those among Air Force leadership who engaged in misconduct, are held accountable.

I also would like to thank the chairman and ranking member, as well as Senators DODD, DEWINE, and HOLLINGS for their assistance in reauthorizing the Assistance to Firefighters Grant Program through Fiscal Year 2009. This program uses a competitive, merit-based review process to give grants directly to local fire departments for equipment, training, and fire prevention programs. Our nation's firefighters must be prepared to respond to a myriad of threats, and this legislation will help ensure that they are adequately trained and equipped to meet them.

Mr. President, Americans are blessed with nearly limitless freedoms and liberties. In exchange for all our country gives to us, it does not demand much in return. Yet throughout our history, millions of people have volunteered to give back to their nation through military service. The selfless acts of courage and sacrifice made by the men and women in our armed services have elevated our nation to the greatness we enjoy today.

America is defined not by its power but by its ideals. One of the great strengths of the American public is the desire to serve a cause greater than our own self interest. All too often, our younger generations are accused of selfishness and an unwillingness to sacrifice. I disagree. I see generations of people yearning to serve and help their fellow citizens. Each year, thousands of our young Americans decide to dedicate a few years or even a full career to protecting the rights and liberties of others. They often do this with very real risks to their lives. They volunteer to do this not for profit, nor for self promotion, but out of a sense of duty, service, and patriotism.

I urge my colleagues to support this important legislation.

Ms. SNOWE. Mr. President, I rise today to speak briefly on the fiscal year 2005 national Defense authorization conference report.

I acknowledge the leadership of the senior Senator from Virginia, Mr. JOHN WARNER, chairman of the Armed Services Committee, in bringing this bill to final passage. Of course, I must also recognize the ranking member, Senator CARL LEVIN. I had the privilege of working with them on the committee for several years and I can attest that each year they work together tirelessly to pass the Defense authorization bill because they understand how absolutely vital this legislation is to the effectiveness and well-being of our Armed Forces.

For that matter, I also recognize every Senator on the committee for their efforts because this conference report authorizes the equipment, the training, and the operational funds necessary to support our troops who are right now operating across the globe to make our Nation and the world more secure.

It also reflects the service and sacrifice of our troops by making a solid investment in their quality of life by increasing their pay and enhancing educational and health care opportunities for our active duty military members, our National Guard and Reserve troops and their family members. And that is only right, for today we are asking a great deal of our gallant young men and women as they guard our Nation at home and abroad and, of course, risk their lives every day to restore freedom and prosperity to the oppressed peoples of Iraq and Afghanistan.

This legislation also recognizes that we owe a continuing debt to those who have served honorably by continuing to work on full concurrent receipt for those with a service connected disability, the same benefit available to every other retired Federal employee, the ability to collect full retirement pay and disability entitlements without offsets. Last year we made great strides in addressing the disparity by which disabled military retirees have their pension benefits reduced, dollar for dollar, by the amount of disability benefits they receive from the Department of Veterans Affairs. And this bill goes even further by removing disabled retirees, who are rated as 100 percent disabled, from the 10-year phase-in period. Thanks to this bill, those retirees will be authorized for full concurrent receipt effective January 2005.

This bill also finally corrects an inequity to those who have doubly sacrificed for our Nation, survivors of those who served this Nation well and honorably. First, they sacrificed each day as their loved one defended our Nation and they again sacrificed when they laid their hero to rest. And how did we repay them, by reducing their survivor benefit payment by over 30 percent once they reached age 62.

In the first session of this Congress, I sponsored S. 451, along with 46 cosponsors, a bill to correct this inequity. My colleague, Senator LANDRIEU, sponsored a similar measure for the same reasons. This year we worked together during the debate to include an amendment that would provide survivors relief from this "widow's tax." I am very pleased to note that the conferees also recognized the unfairness of this reduction and approved a provision that will, over the next 3½ years, raise the percentage of the annuity available for survivors from 35 percent after age 62 back to the 55 percent they were collecting before their birthday.

This bill provides $420.6 billion for Defense programs in fiscal year 2005, an increase of $19.3 billion above the amount authorized by the Congress last year. In addition, the conferees authorized $25.0 billion for additional war-related costs for Operations Iraqi Freedom and Enduring Freedom, including more than $2 billion for force protection measures, including armor, munitions, communications and surveillance programs.

In particular, this bill also provides a little over $10 billion in an area that is critical to the security of the Nation, our shipbuilding capacity. It has become more and more apparent that as we engage the forces of terrorism around the world we have become increasingly dependent on the ability of our Navy to not only deliver troops and munitions to the fight, but to act as the sea base from which our forces can operate without restrictions virtually anywhere in the world.

Yet, as a former chair of the Seapower Subcommittee, I remain concerned about the Navy's shipbuilding program, particularly with respect to the surface combatant force. As part of the 2001 Quadrennial Defense Review, the Navy and DoD approved a plan for maintaining a 310-ship Navy including 116 surface combatants, cruisers, destroyers and frigates. By the end of fiscal year 2003, the Navy's surface combatant fleet had fallen to 106 ships and the Navy has notified Congress that by the end of fiscal year 2004, it was their intent to reduce the force of surface combatants to 103 ships.

Therefore, I am encouraged that this authorization provides $3.6 billion for the construction of three DDG-51 *Arleigh-Burke* class destroyers for it is these ships, along with cruisers and frigates, that provide protection to the carriers and amphibious ships deployed to the Persian Gulf and around the world to prosecute the war on terrorism. Moreover, it adds $100 million for the DDG in service modernization program to begin the insertion of advanced technologies that will dramatically reduce operation and support costs to the fleet and mitigate the risk of back-fitting these technologies on older ships. Above all, we must pursue every path necessary to provide technologies to our sailors that will ease their workload, enhance their training opportunities and increase the survivability of their ships.

However, this is the last planned funding for the DDG-51 acquisition program, and the next generation of surface combatants, the DD(X) and the Littoral Combat Ship, LCS, are being funded in the research and development accounts. Although this authorization provides $1.5 billion for the continued development of the DD(X), including an additional $84.4 million for the detailed design of the second DD(X) and $350 million for the continued development of the LCS in the RDT&E accounts, there is a looming gap in the shipbuilding and conversion, Navy account for surface combatants.

Without a focused effort on the part of the Navy to commit and invest in a robust surface combatant program, I am concerned not only about the ability of the Navy's surface combatant force to maintain current operating tempos but the continuing viability of our shipbuilding industrial base. Many have noted that in spite of Congress' efforts to stabilize the workload in our surface combatant shipyards, the Navy's changing construction profile is undermining those efforts.

I urge the Navy to heed the stated concerns of Congress, especially those of us with shipyards facing an uncertain future and do everything in their power to stabilize their shipbuilding accounts both in terms of budget and in schedule.

Importantly, this bill sets aside $66.5 billion in the research and development accounts to develop the advanced technologies our troops will use to maintain their technological superiority over their adversaries. Significantly, conferees authorized $11.2 billion for the critical science and technology programs which brings us close to the goal of setting aside 3 percent of the defense budget to invest in the "seed corn" of our future military capability.

Much of that S&T investment will be executed at universities and colleges throughout America. For example, the University of Maine system has been on the forefront of the development of advanced engineered wood structures and composites. The bill provides funds so the university can develop the advanced lightweight structures the Army needs to meet the requirement to establish forward operating bases for our expeditionary forces in the far-flung regions of the world.

In addition, this bill also authorizes continued research at the University of Maine into the structural reliability of fiber-reinforced polymers composites in ship assemblies that will help define and ultimately control the significant property variations found composite plates used in Navy ship construction.

I am deeply disappointed that the House provision to delay the 2005 BRAC round by 2 years was not maintained in this bill because I believe fervently that closing domestic bases at a time we are engaged in a global war is not in the best interests of our Nation.

During the Senate debate on the fiscal year 2005 authorization bill, I and my colleagues, Senators LOTT, DORGAN and FEINSTEIN offered an amendment that would have delayed the 2005 Base Realignment and Closing Process, BRAC, for 2 years in order to focus on a closing process for our overseas military installations because we believed that the Nation must reassess its current overseas force structure and adjust it to meet the threats of today. Unfortunately, our amendment was narrowly defeated by a vote of 47 to 49.

Since then, the President has announced a force restructuring that includes the closure of several overseas military facilities and a redeployment of troops and assets back to the United States. This is exactly the reason we offered our amendment and I continue to strongly believe that until our global defense posture is defined and our foreign basing requirements are thoroughly understood, closing our domestic bases is premature and ill-advised.

Finally, and most importantly, the bill continues our commitment to the men and women in the armed forces and their families through the enactment of several important pay and benefits provisions. First, it includes an across-the-board pay raise of 3.5 percent for all military personnel. It also contains a number of provisions that will directly aid the families of service members. For example, the bill removed the existing funding limitations on the military housing privatization authorities, which will allow the military services to continue to partner with the private sector to provide the highest quality housing for military members and their families in the shortest amount of time.

This authorization rightly recognizes that our Reservists and National Guard troops play an increasingly vital role in the war on terrorism, and extends to them expanded benefits in critical areas such as medical care and special pay rates. The bill approves permanent eligibility for up to 90 days of TRICARE coverage for Reserve members and their families prior to mobilization, and 180 days of transitional health benefits for Reserves, active duty members, and their families when the member separates from active duty service. It also authorizes a new program of educational assistance to members of the Selected Reserve, providing varying amounts of aid depending on the length of time they were mobilized.

Overall, this authorization provides the men and women of our armed forces with the equipment they need to accomplish their mission, the quality of life they have earned and security for their families. For these reasons, I support this legislation and urge my colleagues to pass this conference report unanimously because in a time when our Nation is facing unprecedented security challenges and dangers, we can do no less.

Ms. SNOWE. Mr. President, as chair of the Senate Committee on Small Business and Entrepreneurship, I express my views on the Conference Report for H.R. 4200, the fiscal year 2005 DOD Authorization Act. Defense authorization legislation typically contains a variety of provisions pertaining to government contracting, and these provisions have a significant impact on the ability of small firms to compete for Federal procurement dollars. Small businesses will find that this report contains both positive and negative provisions.

First, I express my deep disappointment with the decision of the Conference Committee to remove from the act the legislative language requiring consideration of small business interests by the Office of Federal Procurement Policy's advisory panel on reform of government contract laws, extending the panel's term, and specifically requiring the panel to reports its findings to the Congressional small business committees. I originally proposed this language as Senate Amendment No. 3273. It was adopted unanimously by the Senate and codified in Section 805 of the DOD Authorization Act.

The work of this advisory panel, like its predecessor panels, is critical to the long-range direction of acquisition reforms. This panel, authorized by Section 1423 of the fiscal year 2004 National Defense Authorization Act, was to emphasize the study of commercial practices, performance-based contracting, the performance of acquisition functions across agency lines of responsibility, and the use of Governmentwide contracts. In making appointments to the panel, the administrator for Federal Procurement Policy was required to consult the agency heads as well as the House and Senate Armed Services Committees, Governmental Affairs Committee, and House Government Reform Committees. The panel's authorizing legislation required it to prepare a written report with recommendations and to submit this report to these named Committees along with the Office of Federal Procurement Policy Administrator, or OFPP.

Curiously, the panel's mandate was silent with regards to small business contracting, even though the Federal Government is committed by law to the goal of awarding 23 percent of all prime contracts to small businesses. My amendment, as adopted by the Senate, responded to this glaring omission by extending the panel's reporting period, requiring the panel to make recommendations on assuring small business participation in Government contracting, and directing the panel to submit its report to the House and Senate Small Business Committees.

Because of President Bush's strong support for small business contractors, the policies of Section 805 had solid backing from the administration. Over the summer, I wrote to the White House and requested that small businesses be represented both in the composition and in the work of this panel. In reply, OFPP Acting Administrator Robert Burton responded that, "Based on your suggestion, I will ensure that senior level representation from the Small Business Administration will serve on the panel. Moreover the Office of Federal Procurement Policy will request the panel to specifically address small business contracting and subcontracting issues."

Some recent changes to Federal procurement laws have had the effect of decreasing competition, accountability, and transparency in the procurement process while increasing the barriers to entry faced by small business contractors. Section 805 was designed to address this unfortunate trend, and I believe it should not have been removed.

I am particularly disappointed the conference report contradicts the public position of the administration that small business interests deserve consideration in formulating Federal procurement reforms by the Office of Federal Procurement Policy advisory panel. However, let me be clear: the Conference Committee's decision to remove Section 805 does not overrule the commitment of the OFPP administrator and does not prevent the Senate Small Business Committee from closely monitoring the work of the panel and holding in-depth oversight hearings on its report.

In addition, I find unfortunate the choice to permit exemption of the entire landscaping and pest control industries from the application of the Small Business Act. Adoption of this provision was not marked up by either the Senate Committee on Small Business and Entrepreneurship or the House Committee on Small Business.

I also regret the conference committee's decision not to authorize transitional counseling on federal procurement opportunities at the DOD and the Department of Veterans Affairs facilities. Our veterans, especially service-disabled veterans, deserve immediate assistance. However, I am encouraged that the Conference Committee directed the Comptroller General to conduct a study on this subject. I am also very pleased that HUBZone and service-disabled veteran-owned small businesses can now participate in the DOD Mentor-Protégé Program, preserved the parity between the small business reserve threshold and the simplified acquisition threshold in future threshold adjustments for inflation, limited the period of multi-year task order contracts to 10 years, protected small businesses engaged in the DOD satellite procurement against arbitrary changes, and refused to adopt changes to source selection criteria which may have favored large businesses over small contractors.

In conclusion, I again commend President Bush and Acting OFPP Administrator Burton for the administration's continued steadfast support of small business-friendly procurement policies. I look forward to continuing to work closely with the Office of Federal Procurement Policy.

Mr. REID. Mr. President, I want to express my appreciation to Senators WARNER and LEVIN for their expert guidance for moving this huge piece of legislation through the Congress. This will now go to the President of the United States.

One of the provisions in this legislation is so important to me—more important to 40,000 100-percent disabled Americans. Those who are 100-percent disabled will receive the concurrent receipts immediately. We had a 10-year phaseout. That will no longer be the case.

That was not easy, but it is really wonderful because, first of all, those 40,000 are either disabled, unable to work at all and, frankly, the vast majority of them may not live 10 years to receive their benefits. This is so important that these most dedicated members of our armed services, who are 100-percent disabled, will receive these benefits immediately.

I appreciate very much the work of the chairman and ranking member, Senator LEVIN.

I also want to express my appreciation to Senator HARKIN. Senator HARKIN basically had a hold on the work we do around here, meaning he was going to slow everything up. Senator HARKIN is a veteran himself. He understands that this is not something which needs to be held up.

I want the RECORD to be spread with the appreciation of the four leaders for Senator HARKIN's cooperation in this matter to allow this bill to go to the President right now.

Mr. WARNER. Mr. President, I join in that. Senator HARKIN was actually a Naval aviator. We have discussed that distinguished part of his career many times.

I thank the distinguished senior Senator from Nevada. He very quietly works on issues. I can remember a year ago we stood in this well when we weren't able to achieve that goal, the distinguished Senator from Nevada himself—I think Senator MCCAIN was very active and Senator LEVIN. We said: All right. This year we can't get it, but next year we will. Through the Senator's absolute resolute determination that was accomplished. He did it for a category of veterans who are well deserved of this recognition by the Congress and the American people for their services.

I thank the Senator.

## TECHNICAL CORRECTION IN ENROLLMENT OF H.R. 4200

Mr. WARNER. Mr. President, I believe this has been cleared on both sides.

I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 514, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 514) directing the Clerk of the House of Representatives to make a technical correction in the enrollment of the bill H.R. 4200.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. WARNER. Mr. President, I ask unanimous consent the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 514) was agreed to.

Mr. WARNER. I thank the distinguished Presiding Officer.

I yield the floor.

## AMERICAN JOBS CREATION ACT OF 2004—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. The distinguished Senator from Alaska, chairman of the Appropriations Committee, is recognized.

Mr. STEVENS. I thank the Chair.

The House passed the military construction appropriations bill as well as the homeland security bill. No one voted against the bills. The first one was 374–0 and the second was 368–0.

Military construction contains $2.8 billion for the drought and $11.6 billion for disasters which includes the hurricanes. This bill affects all our States with farms that are suffering from the drought and it helps states like Florida and Alabama that were in the path of the hurricanes. FEMA will likely run out of money tonight, Saturday, October 9.

On October 1 FEMA had $836 million which included a $500 million carryover from FY 2004 and a $336 million apportionment under the continuing resolution. That means they get 51 days worth of cash since the CR takes us through November 20. But FEMA tells me that they burn through this money at approximately $65 million to $79 million a day. The balance in the disaster fund yesterday, Friday, October 8, was only $150 million. The fund runs dry tonight.

It is true they can re-apportion under the CR, which means they can transfer funds from other areas but it will have to be taken from places like our Federal air marshals, air cargo inspections, port security, and more.

On homeland, many believe we will be attacked before the election. There is a continuing resolution in affect until November 20 but getting this bill increases much of the effort we are making to protect the United States.

It also has new programs that cannot be started until we pass this bill. Some of the program I refer to are radiations detection, aviation security technology, border surveillance, additional detention and removal programs. Getting more screeners at airports is on hold. All first responder grant allocations would be put on hold.

The Coast Guard will not be able to re-engine the HH-65 helicopter for at least 6 months, causing the Coast Guard to continue to experience alarming rates of engine failures. At current funding levels, there are insufficient funds to support the Coast Guard's increased force presence in Iraq port security units, patrol boats, and security forces on oil rigs.

Cargo screening will remain only at current levels—we will forgo a tripling of cargo screening on passenger aircraft. Research and development of new technologies for cargo security will be delayed.

TSA will not hire replacement screeners to fill vacancies at airports, causing longer lines at airports, particularly around the holiday period. TSA will delay airport modifications to install explosive detection devices to screen for explosives in carry-on baggage as recommended by the 9/11 Commission.

The department will not be able to hire additional Federal air marshals, FAMs and, in fact, may have to lay off FAMs that they have on staff, up to 500.

This bill includes significant increases in the intelligence capabilities of the department. A continuing resolution will prevent that expansion from taking place leaving the nation at risk.

Under a continuing resolution the Transportation Security Administration has very little funding for rail and transit security. All of the additional funding available for inspectors, canine teams, research and other activities is in the fiscal year 2005 appropriation. None of the additional funding for letters of intent for airport security modifications will be available.

Seven hundred and ninety-two new Coast Guard personnel will not be hired to enforce maritime security plans.

It prevents interoperable communications and personal protective equipment from reaching rural and smaller communities.

Fire departments will remain critically understaffed without the implementation of the SAFER Act.

The biowatch program will not be expanded in major urban areas, affecting our ability to detect the release of biological agents in the air.

It stops the procurement of 250 additional radiation detection/inspection systems.

It delays procurement of border surveillance systems to monitor and defend U.S. borders.

It delays Container Security Initiative, CSI needed to stay on schedule to add up 22 more ports to existing 25.

It delays establishment of fugitive operation teams and hinders immigration enforcement—limiting detention and arrest operations of criminal alien fugitives and hindering our ability to keep jailed aliens from being released into our communities.

It delays staffing up for overseas operations to ensure no visas are granted to foreign visitors who pose a security risk.

It delays adding 750 beds to hold alien detainees, allowing 5,000 deportable aliens to stay in our communities.

It delays support to reduce the backlog in immigration prosecutions.

Delaying the bill delay this Nation's security. Delaying the bill delays help to those that are suffering from the after-affects of numerous hurricanes. Delaying the bill will delay much needed drought assistance.

Mr. President, I am here because the Military Construction appropriations bill, as well as Homeland Security appropriations bill, has passed the House. Both of them have passed the House. I know we are not supposed to talk about the vote over there, particularly about how many people voted. But I think we can say consistent with the rules that each one of these bills was passed unanimously with not one single opponent. Why? Because the Military Construction bill contains $2.8 billion to the drought program and $11.6 billion for the disasters, particularly those relating to the hurricanes in the Florida area.

This bill will affect all of the States that have farms that are suffering from drought. It certainly helps the Florida area and Alabama—particularly in the path of those hurricanes.

But the reason I have come to the floor now to talk to the Senate is I was reliably informed this afternoon that FEMA runs out of money tonight.

I want to say that again. I hope Senators will listen. FEMA runs out of money tonight. There will be no more payments made in Florida or Alabama. I am told people down there are living in tents. The temperature is rising. They are being given buckets of ice to try to keep cool. They have patients being moved from medical facilities. They are in temporary quarters.

This is probably the worst series of storms in the history of this country.

On October 1, FEMA had $836 million. That included a $500 million carryover from 2004, and they were allocated $336 million under the continuing resolution we passed that expires November 20.

As of tonight, that money is gone. This really is an emergency now.

We have been delayed for one reason or another as we tried to get these bills passed. There were riders offered on the bill in both Houses. We tried to work those out in conference. I know there are some people who are disturbed about some of the riders that weren't included. These were legislative riders that did not pertain to the bills themselves, and there are some that were accepted.

But we have to get this bill done and to the President as quickly as possible.

This covers everything you can think about in terms of the Homeland Security bill—Federal air marshals, air cargo inspections, port security.

As I said, we have a continuing resolution in effect until November 20. As far as the FEMA money, it is gone.

I think we have an absolute obligation to these people who are providing the security for this country to see to it that they get their money on time.

We were unable to get these bills done by the end of the fiscal year, which was September 30, because we had no budget resolution.

We have been working against all sorts of impediments in the appropriations process this year.

We have a number of things in this bill that are absolutely necessary.

We have funds for the Coast Guard, for instance. Many people don't realize the Coast Guard has a presence in Iraq. They have port security units and patrol boats. They have security forces near the oil rigs over there. They are part of our forces over there. They still also have this enormous problem in the United States. They need to increase money.

The continuing resolution continues all of these agencies at the level of money approved by Congress in 2003 for the 2004 period. This is the first quarter of 2005.

The money is for cargo screening. That level of demand has increased. We forego a tripling of cargo screening on passenger aircraft by virtue of the bill that was passed.

We have enormous demands now by the Transportation Security Agency to fill vacancies in airports. There will be longer lines at airports if we don't get this money out to them.

The Department also has the Federal air marshals. I am told that they may have to lay off up to 500 Federal air marshals because they are traveling under that continuing resolution. Their moneys are allocated on the basis of what we thought was necessary in the fall of 2003. This is money for 2005. It must start now.

Again, I don't understand why we can't vote tonight. The House took up these bills and passed them within 2 hours. Each one passed the House within 2 hours because they recognized the need for this money.

Now I am told we may not vote until Monday or Tuesday on these bills. I am sort of aggravated. These bills are necessary.

I would like to identify the people who are objecting to passage of these bills tonight. I hope they come to the floor and defend themselves.

I sat in the Chair and presided over the Senate this morning, and I heard the distinguished minority leader say we cannot leave until these bills pass. We cannot go into recess and go back for the election process until these bills are passed. That should be the bipartisan position of this Senate.

Forget these minute details about antagonism because some person's ego has been bruised because we have not done exactly what they want on these bills. We all have to be bigger than that.

It is time to pass these bills. These delays on this bill affect national security. There is no question that homeland security is the second line of defense now. Our first line of defense is protecting our perimeter. But we have national security as No. 1. We spent weeks on the Homeland Security bill. Now we are refusing to provide the money which we came to total agreement on which they need for next year. It is being delayed. I don't understand that at all.

I particularly don't understand why any Member in the Senate is opposing these bills when it was unanimously approved. Not one voice was raised against these bills in the other House. We represent the same constituents. On what basis does anyone want to oppose these bills, either for the hurricane, military construction, or Homeland Security? I am standing ready. Anyone who wants to debate them, I will be here all night. I want these bills passed. They have to pass. There is no reason why they should not pass.

I am pleased to explain any portion of these bills to any Member tonight, but I don't know why we can't come here and vote for these bills. Someone is objecting somewhere and I would like to find out who it is because I think the whole world—I hope someone is watching, anyway—will ask why. Why can't we do what the House did and approve the bills after such hard work we put in? As I said, it has been totally bipartisan. Not one word in the House from either party was raised against these bills.

I will be back.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Utah.

Mr. HATCH. Mr. President, I agree with the distinguished chairman of the Appropriations Committee. It is a catastrophic failure not to take care of these problems. I salute the chairman for making the statement he made and for the leadership he has provided in this Senate. We all know what a feisty, wonderful man he is. I hope we can get this resolved. I hope whoever has these objections will identify himself or herself and why they are making the objections.

I listened to the statement of the Senator from Massachusetts this afternoon, and to hear him you would think we are living in the most calamitous times in the history of the world, that our country is falling apart, that we are not employing people, that people are getting poorer, and nobody has a chance in our society anymore, all because George W. Bush became President of the United States. It is amazing to me how many comments are made by people who are in the business of politicizing these matters rather than talking sensibly about them.

Think about it, we lost over a million jobs shortly after September 11. Lost them. September 11 was the reason. That was no fault of President Bush. That was the fault of the people who attacked our country. Over 1.9 million jobs have been created since August of 2003. We now have the lowest unemployment rate in the last 4 or 5 years. 5.4 percent. When I was chairman of the Labor Committee, if you could get unemployment below 6 percent, if you got it to 5.6 percent, you had full employment. When you count those who cannot work, those who don't need to work, and those who won't work, you basically had full employment. 5.4 percent is incredibly low by historical standards.

I might add that the Household Employment Survey shows 2.2 million jobs have been created, many more jobs than shown in the Payroll Survey. This is because the Household Survey counts the self-employed and the Payroll Survey does not. We have the highest rate of home ownership in history, which has been developed during this administration. I can go on and on. The fact of the matter is we can play politics with about everything in this overheated political campaign.

Since September 11, the employment rate peaked at 6.3 percent last year and has come down to 5.4 percent. The current 5.4 percent rate is well below the average rates of the 1970s, the 1980s, and the 1990s. Some have said the job growth has failed to keep up with population growth. That is simply not true. Since last June, total employment has increased by 2.2 million. The labor force has increased by 949,000. Unemployment has fallen by 1.2 million people.

In addition, we hear all the time how people are not making a good living. Let's be honest. In some respects we have priced ourselves out of the marketplace with some of the heavy-duty industries, and we know there are many reasons why that happens,. and that goods and services are being produced elsewhere at a lower cost, and this benefits the consumers of America. The consumers of America then have more money and they will be spending more so we can create other businesses that will compete.

The fact of the matter is, I have listened to these complaints about the labor overtime regulations that the Secretary of Labor worked on. I happened to have chatted with her during that process and she was doing an absolutely wonderful job of trying to make sure we got more people eligible to receive overtime pay than ever before. But to listen to some on the other side, you would think the whole world was coming to an end and the fact is she has come up with very good regulations.

We could talk about these things all day, and I guess anyone can distort any statistical analysis. There is a lot of distortion that goes on in this Senate from time to time in these matters. Of course, we are in a heated Presidential election campaign and I have to say I make a certain allowance for that, but I hope the folks out there watching make an allowance for that as well, because we have a lot of heated rhetoric in the Senate that sometimes does not make sense.

I intend to speak about three different things today and I ask unanimous consent my respective remarks be placed in the appropriate context.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

### JUSTICE FOR ALL ACT

Mr. HATCH. Madam President, I come to the Senate to discuss H.R. 5107, the Justice For All Act that the Senate adopted this morning. After days, months, and now years of hard-fought negotiations, we finally reached an agreement on one of the most significant bills that has come out of the 108th Congress.

Just days ago, the House passed H.R. 5107 by an overwhelming bipartisan vote of 393–14. I especially commend my friends and colleagues, chairman of the House Judiciary Committee JIM SENSENBRENNER from Wisconsin and Congressman Bill Delahunt of Massachusetts, for their leadership on this important bill. Nor could we have accomplished this matter without the cooperation and leadership of my friend from Vermont, Senator PATRICK LEAHY. As we know, the Senate adopted this bill this morning and we are pleased to send it to the President for his signature.

Our bill, the Justice for All Act, contains President Bush's DNA initiative. It also contains Senator LEAHY's Innocence Protection Act which has been modified by almost everyone on the committee, and Senators KYL and FEINSTEIN's victims' rights legislation. This is a groundbreaking crime bill, one of the most important in history, that will allow us to unleash the power of evidentiary DNA and help provide law enforcement the ability to find and punish the guilty, yet give us the comfort of more certainty in criminal prosecution.

Passage of the bill is extremely important to people such as Debbie Smith and Kirk Bloodsworth after whom individual parts of the bill are named. March 3, 1989, Debbie Smith—who I know very well—was the victim of a brutal rape in Williamsburg, Virginia. It took 6 long years to finally analyze Debbie Smith's rape kit. Debbie Smith's rapist was ultimately caught because of this, but it took far too long to catch him.

According to the U.S. Department of Justice, a woman is raped every 6 minutes in this country and many rapists commit this crime 8 to 10 times before they are caught, which means that at any given moment there are literally millions of rape survivors waiting to hear that their attacker has been apprehended.

Debbie Smith waited 6 agonizing years for justice to be served. It was not just waiting for justice to be served; it was agonizing because she was never sure when she walked out of her house or even within her house whether this brutal rapist would return. It was something that affected her all of those years. Thankfully, through the use of DNA evidence, this awful person was apprehended and slammed in jail, where he deserves to be.

Some women are not that fortunate. The Justice Department reports there are approximately 150,000 to 500,000 rape kits nationwide that have yet to be analyzed because law enforcement officials are short on both the funds and the skilled personnel necessary to process these rape kits and match the evidence collected to existing DNA samples of known criminals. Imagine how many rapists we would have caught by now had those up to 500,000 rape kits been analyzed. By the way, some of those are 20 years old. I have been fighting for this bill for years. It is so difficult to get it through, but today is the day it has gone through the Senate and has passed the House.

This bill makes a giant leap in the rape kit backlog and specifies when and how DNA tests should and should not be used. The President has often indicated his commitment to unlocking the power of DNA to solve these crimes. Today the Senate has joined the House in stepping up to follow through with the President's plan.

It cannot be said any better than in Debbie Smith's own words:

> Each one of these stalled cases represents women's lives. Many women are paralyzed after an attack because their rapist is still out there, and you never know if he's going to come back.

Now, this bill will not take away the pain and anguish these victims have endured. It can, however, allow for health care professionals, law enforcement, and other first responders to assist victims by using the evidentiary power of DNA to apprehend and prosecute those responsible for these horrible crimes.

This bill was too important to be delayed any longer. As so many of my colleagues, I am well aware of the incomparable power of DNA testing to solve crimes, particularly sexual assault. This fact is reflected in newspaper headlines spread across the country each week. During the week of August 16 alone, the media reported that DNA evidence pinpointed a suspect in three rapes in Miami, FL, caused a man to be charged in a 20-year-old Missouri rape case, and proved critical in convicting a New York man accused of committing nine rapes over the course of a decade.

That is what DNA can do. If we had all these rape cases analyzed, we would be catching these rapists right and left and we would be protecting women all over this country from this type of violent, criminal activity in many cases. So I want to stand here and thank Debbie Smith from the bottom of my heart for her constant efforts to help us pass this bill. I have known her for a long time. We have flown together. She has appeared at our hearings. She is leading the fight throughout America, along with a number of other very courageous women. This has to be a very important day for her.

When this bill is finally signed into law by our President, who will sign it into law, it is going to be a big day for the Debbie Smiths of this world and, I might add, every woman in this world who is the potential target of these vicious rapists.

Also contained in this bill are provisions that will give us assurance that those whom we arrest and convict are indeed those who have committed the crime. Kirk Bloodsworth, a former marine with no criminal background whatsoever, was arrested in 1984 for the brutal rape and murder of 9-year-old Dawn Hamilton on Maryland's Eastern

Shore. Kirk Bloodsworth maintained his innocence but was convicted and sentenced to death. After 9 years in prison, two of them on death row, Kirk Bloodsworth, an innocent man, was exonerated by post-conviction DNA testing. Last year, prosecutors matched the DNA evidence in the case to another man, who subsequently pleaded guilty to the crime, for which he was sentenced to death.

This is the power of DNA when it is used and analyzed properly. I want to stand here and thank Kirk Bloodsworth from the bottom of my heart for his efforts to improve and pass this bill. The bill will help to protect unintentional victims of the criminal justice system.

I think we all owe a debt of gratitude to Kirk Bloodsworth. One reason I have stayed around here all day, although there are no more votes, is to be able to stand on this floor and personally pay tribute to Debbie Smith and Kirk Bloodsworth. They deserve it. They have been with us throughout this process, and I have nothing but respect for both of them.

Moreover, this bill includes Senator KYL's and Senator FEINSTEIN's critical Crime Victims Act that ensures victims rights are protected in criminal prosecutions. This bill is truly justice for all.

It is an important bill, and they fought for this for years and years, and we helped them to get it out of committee. I am so grateful it was matched with the DNA bill, and we now have these two bills brought together in one bill that will do a great deal of good for our society.

Finally, let me say I am grateful for the hard work and determination of so many people to get such a vital bill passed.

I thank my cosponsors of this bill. First, let me thank my good friend from Vermont, Senator LEAHY, for his commitment and willingness to set aside politics in a very political year and work with me to get such a critical bill passed.

I also want to recognize and specifically thank Senator BIDEN, Senator SPECTER, Senator FEINSTEIN, and Senator DEWINE for their calming voices of wisdom throughout the negotiations, our difficult committee markup, and in the final preparations to achieve a properly balanced bill. Without their unwavering support and counsel, this bill would not have occurred.

I also thank the chairman of the House Judiciary Committee, JIM SENSENBRENNER, and Representative DELAHUNT for their dogged determination on the House side in leading the House in passing this bill through the House on two occasions by overwhelming majorities.

I have worked side by side with Chairman SENSENBRENNER on many occasions. He is a true friend and he is a man of his word. I am pleased to have had the opportunity to work closely with Congressman DELAHUNT on this measure, and I can tell you, he is a man of honor and wisdom. I have enjoyed working with him. I will look forward to working with both of them again in the future.

I also want to make special mention that without the thorough consideration of this bill by Senators KYL, SESSIONS, and CORNYN, we would not be here today. Nearly two dozen changes were addressed and implemented at the insisting of these fine Senators, and this bill is a better bill because of it. And I have to admit, they have helped to improve the bill.

At times the process through the committee was a bit tension filled, but I commend Senators KYL, SESSIONS, and CORNYN for working to improve and refine this legislation. Some have unfairly criticized their efforts, but that is only because these critics apparently do not understand the committee process. I commend these colleagues and all of my colleagues for giving this bill the scrutiny it deserves.

Now, let me say that many have worked to make this bill a successful effort. We could not get much done around here if we did not have such an intelligent and dedicated staff. I want to thank those on my staff, including Reed O'Conner and Ted Lehman, for their commitment and dedication in getting this bill done. I especially want to single out Brett Tolman, a bright, young assistant U.S. attorney from Salt Lake City who is on assignment to the Judiciary Committee. We are fortunate to have him, and he has made a tremendous difference on this bill. Brett took the initiative for undertaking a lot of the analysis and negotiations that led to the final compromise language.

I am proud of him, and I think everybody else ought to be, too.

I want to thank Senator LEAHY's chief counsel Bruce Cohen and his lead counsel on this issue, Julie Katzman. Their efforts helped guide and drive this effort throughout and are greatly appreciated. We are also indebted to chief counsel Neil MacBride, Jon Meyer, and Louisa Terrell from Senator BIDEN's office. They continuously helped move the ball forward.

I give special thanks tc Rob Steinbuch, a senior counsel in Senator DEWINE's Judiciary Committee office. Rob and Brett Tolman were key players on our side of the aisle in educating Members and staff about this bill and proposing creative solutions to problems that surfaced.

I also thank Joe Matal, William Smith, and Chip Roy, who ably represented the views of, respectively, Senators KYL, SESSIONS, and CORNYN.

On the House side, Phil Kiko, chief counsel for Chairman SENSENBRENNER, Jay Apperson, Katy Crooks, and Christine Leonard were instrumental in building the overwhelming support for this bill.

As well, I give special thanks to Matt McGhie and Bill Jensen from legislative counsel. On this type of bill it is critical to get the language exactly right, and they did so time and time again.

The list of contributors could go on and on because so many private and governmental organizations have also provided critical assistance.

Let me also say, while I had to get a little rough with the Justice Department—and I am still not over it—I am, nonetheless, grateful for their help in coming to compromises and getting this bill in acceptable form. I call upon Attorney General Ashcroft to urge the President to sign this good bill, and to do it quickly.

I thank the leadership, Majority Leader FRIST and Senator MCCONNELL, as well as Minority Leader DASCHLE and Senator REID for giving us floor time to get this done today.

Most of all, I am pleased to send to the President a bill that will make such a difference in the lives of victims of crime, including those wrongly accused or convicted of crimes across this country.

This bill passed 393 to 14 over in the House. We amended it in many ways to make it a far better bill because of the work of all of these people I have been chatting about. I have to say that it passed unanimously by the Senate today. This body sent that version back over to the House, and I am pleased to report that they took it up and passed it so that it may be sent to the President for his signature.

### FSC/ETI

Madam President, I rise in strong support of the conference report for the American Jobs Creation Act. Before we leave, we have to pass this bill to protect domestic manufacturers, strengthen our economy, better help our U.S.-based multinational firms compete globally, and honor our trade obligations.

I congratulate the chairman and cochairman of the conference, Congressman BILL THOMAS and Senator CHUCK GRASSLEY, for completing the bill this week.

Many thought the task would be difficult or impossible given the large differences in the two versions and the time constraints we in the conference faced. This could have taken many weeks—or even failed—yet they got it done.

The innovative conference process developed by the chairman and cochairman made success possible. Conferencing a large and diverse pair of tax bills in the usual fashion could have taken many weeks and led to a likely failure to finish this bill before sine die adjournment of the 108th Congress. Again, I want to recognize the extraordinary achievement of this conference committee and thank its leaders and my fellow conferees for their hard and dedicated work.

Madam President, this conference report represents what we hope will be the culmination of a very lengthy and fascinating issue that had its genesis decades ago but has festered into a growing problem over the past several years.

I will leave to others to go into detail about the long history of the export subsidies in our tax law that gave rise to this conference report, but the unusual nature of this bill and its difficulty in passing the Congress are reflections of the complexity of this issue.

The crux of the difficulty of the bill is that the rulings of the World Trade Organization on the trade-legality of our export tax subsidies put the Congress in a very tough position. In essence, we found ourselves needing to repeal these export subsidies, known as the Foreign Sales Corporation (FSC) provision and its replacement regime known as the Extraterritorial Income (ETI) exclusion.

By repealing these provisions, which we must do in order to honor our trade obligations, we effectively raise taxes by almost $6 billion per year on thousands of U.S. businesses that manufacture goods for export.

Leaving it at this. Mr. President, is simply unacceptable. Why should we have to convert a provision designed to help U.S. manufacturers compete in an ever-increasingly difficult global marketplace to a situation where they suffer a competitive disadvantage?

Yet, this is exactly the problem the Congress faces now that it is forced to repeal the export tax benefits.

When confronted with a similar problem in 2000 after the WTO ruled the FSC provision to be in violation of international trade rules, Congress passed the ETI in its place. With the ETI, we were able largely to replicate the benefits of the FSC regime, so that exporting taxpayers paid few if any extra taxes with the repeal of FSC. Unfortunately, the WTO subsequently ruled that the ETI provision also was an illegal trade subsidy that also must be repealed.

So, the conundrum facing the Congress with this situation was to find a way to enact other tax cut benefits for exporting manufacturers, to offset the increase from repealing ETI, without violating the WTO rules.

Unfortunately, Madam President, this has proven impossible, so both the Senate and House bills attempted to find rough justice for business taxpayers by finding other ways to deliver tax benefits besides basing them on exports. Such attempts gave rise to the political and practical difficulties of this bill, including the fact that it took many months of hard effort to reach the point we are today.

For example, my own bill to address the FSC/ETI problem was S. 1475, the Promote Growth and Jobs in the USA Act, which I introduced in July 2003. This bill would have delivered rough justice tax relief in two ways.

First, it would simplify and rationalize the international tax rules that currently harm the ability of U.S. firms to compete globally, and second, it would provide incentives for companies to increase their ability to produce goods by acquiring new equipment and engaging in more research and development.

Other FSC/ETI solution bills were also introduced. On the same day I introduced S. 1475, Chairman THOMAS introduced H.R. 2896, the American Jobs Creation Act. The two bills were similar in many ways, and both included international tax reforms. The Thomas bill, however, included a number of other provisions designed to help U.S. businesses create jobs and better compete.

Another bill, introduced last year by Congressmen CRANE, RANGEL, and MANZULLO, offered a different direction still. This bill provided a deduction equal to 10 percent of a company's production activities.

In the Senate, Senators GRASSLEY and BAUCUS introduced a bill that included some of the best elements of all the other bills. Even though I preferred the solution set forth in my bill, I cosponsored the Grassley-Baucus bill because it represents a solid and reasonable solution to the problem. This bill, as modified, became the legislation reported by the Finance Committee and passed by the Senate.

After a great deal of travail and adjustments, the House also passed a FSC/ETI bill, and it was quite similar in many respects to the first Thomas American Jobs Creation Act. These are the bills the conference committee had to combine into one.

Madam President, I know that you and your colleague, Congressman BURR, and others from North California and South Carolina and all over the South have worked long and hard. Also, Senator MCCONNELL, Senator BUNNING, and others from Kentucky have long worked to try to resolve these problems. I want to pay tribute to you folks for bringing this about. You deserve a lot of credit. Let's hope we can pass this bill.

I admit it is not everything that some wanted it to be, but it is certainly a step in the right direction, and it wouldn't have occurred except for the distinguished Senator from North Carolina, Mrs. DOLE, Congressman BURR, and others who have carried this ball very effectively up through this point.

I hope that we do not filibuster this bill. I hope nobody will filibuster this bill because it is a bill that just has to pass. If it does, much of the credit should go to the people I have just mentioned. There are others as well who should be mentioned. I don't mean to leave them out. But those in particular I know have been working assiduously on this for many years.

The result, as we know, is a bill that is far from perfect. Its enactment will result in a net tax increase for some exporting companies that now use the ETI provision, and in a net tax cut for many other U.S. manufacturing firms that may have not taken advantage of the ETI exclusion.

And while the bill includes many important other provisions, it leaves out some very important provisions that I advocated. For example, I am personally very disappointed that the House conferees voted against including my bill, the CLEAR ACT, in this conference report. This bill, which has passed the Senate at least three times and also has passed the House, would transform the auto industry by granting strong tax incentives for consumers who buy alternative fueled and advance technology vehicles, such as hybrid electric cars and, ultimately hydrogen cars.

From a broader point of view, most of my fellow Senate conferees and I would have liked to see the entire set of energy tax provisions from the Senate-passed bill included in the conference report. I believe it was a mistake to omit these important provisions.

I also very much regret that the House conferees refused to adopt my amendment to bolster our research tax credit. While it is true that the research credit was extended for a short time in the most recently passed tax bill dealing with individual tax cuts, that legislation left out an important element contained in the Senate FSC/ETI bill designed to improve the incentives this provisions gives for companies to engage in R&D activities.

Nevertheless, the conference report before us is worthy of our support, as we must honor our obligations under the World Trade Organization.

Of more immediate importance is the fact that the Europeans are levying an increasing level of trade sanctions against certain of our products exported to the EU. This is currently 12 percent and is growing by one percentage point per month. It is definitely having a very serious negative effect on certain U.S. industries and could amount to more than $4 billion in total cost, unnecessary cost to our country if this bill is not passed.

Moreover, the trade sanctions are authorized to continue to increase until next March, when they will have reached 17 percent. After this, the EU may authorize even more serious sanctions against us that would surely harm our economic growth.

If we do not succeed in passing this conference report before sine die adjournment of the 108th Congress, we must start the process all over again next year.

Would this result in a better bill? Perhaps. But that is far from certain. What is more likely is that the resolution to this issue would be delayed for many more months, giving the trade sanctions more time to damage our economy and harm U.S. businesses.

Let me take a few minutes to discuss some of the specific provisions that are in the conference report and why I we should enthusiastically support them and why I support them.

Overall, this conference report has a good balance to it.

In addition to the vital repeal of the ETI provision and the quite reasonable transition relief it provides for current ETI users, the bill offers significant provisions for both small businesses and large multinational firms.

Mixed in is a generous portion of important tax relief for business interests of all kinds.

Also included in the conference report is significant relief specifically for small businesses.

Foremost in this category are the five sections that would simplify and reform the taxation of S corporations.

These are changes I have long fought for and sought with several of my colleagues and I am gratified to see them included by the conference.

Other provisions important to the balance of this bill are those designed to simplify and improve the rules by which this Nation taxes international business transactions.

Quite simply, our outdated, international tax rules are appalling.

Whether large, medium or small, U.S. businesses that decide to expand their markets beyond the borders of the United States confront a set of tax rules that are mind-numbingly complex. Far worse, these rules often result in double taxation and leave our companies on the downside of a tilted playing board when compared with competitors based in most other industrialized nations.

The bill before us includes about two dozen provisions that will improve the tax law for U.S. companies that have expanded their markets overseas.

As a senator who has long been interested in seeing this type of reform enacted—in fact I have introduced bills to do this since the mid-1990s—this is a particularly gratifying day.

Some of my colleagues have incorrectly concluded that improving our rules on international taxation will give an incentive to U.S. companies to move their jobs overseas. This is unfortunate, Madam President. Cross-border investing is not only a necessity of our modern world, it is usually beneficial to both nations. Most U.S. companies that invest in expansion into markets in other nations do so to compete effectively with other suppliers in those markets and here at home.

A fact of life of our modern economy is that our U.S.-based business enterprises face competition from all parts of the globe. It is unrealistic to think that an American business can simply focus on markets here at home and thrive. Instead, most of today's businesses must be mindful of both markets and material and labor supplies around the world if they are to stay in business very long.

While no one likes to see U.S. jobs move overseas, we should be more concerned about creating and maintaining in the U.S. the kind of environment that attracts businesses. Part of that environment is ensuring that our tax system does not drive businesses offshore to other nations that tax them in a more favorable fashion. This bill moves our tax system a big step in that direction, and I am pleased to see these changes finally reach the point where they are about to become law.

Let me turn to the tobacco issues associated with this conference report.

At the center of the tobacco buyout is the tobacco farmer. The tobacco price support and tobacco quota programs have helped to secure a reasonable living for many family farmers.

At the same time, breaking the nicotine dependency of U.S. citizens and especially children requires us to address the dependency of tobacco growers on the tobacco industry and on the government programs.

It will not be an easy transition for many tobacco growers, and Congress is strongly on record as supporting measures to help these families survive it.

This proposal does a good job of getting the Government out the farming business while making temporary assistance available to farmers as they adjust to the free market. And, there is no cost to the Government.

As far as the provision requiring the Food and Drug Administration to regulate tobacco, let me say that I fully support measures to end tobacco use in the United States.

I can think of few public health dangers worse than tobacco, and this is especially true for young people.

I have heard from many concerned parents and health advocates in Utah who point out the need to take action against the devastating health consequences of tobacco use.

In many aspects, the DeWine-Kennedy language was written to achieve that goal, and in that spirit I supported it in conference.

In fact, much of the bill is taken from a measure that I authored several years ago with Senator DIANNE FEINSTEIN.

That being said, I am concerned about some aspects of the way the bill was written, and especially the impact of this language on the resources of the FDA.

First, the Committee of jurisdiction, the HELP Committee, should have the opportunity to consider this legislation—allowing the FDA to regulate tobacco—before we vote. Having been the Chairman of that Committee for several years, I know full well the complexities of the Federal Food, Drug and Cosmetic Act. Three hours of debate on the Senate floor was not enough time to consider legislation that made such dramatic changes to current law.

We also must be clear about the impact that such legislation would have on the FDA. Does it have adequate resources to regulate tobacco and still keep up with its other, extremely important responsibilities? I question whether it does. If we are not willing to give them the resources, then it is easy to see why that part of the request by Senators DeWine, Kennedy, myself, and others should be delayed until this matter is addressed.

While I recognize that user fees were included in the legislation, I am not convinced that those fees would have provided the FDA with sufficient resources to regulate tobacco. These concerns bear further examination.

They need committee hearings. They need to be examined thoroughly.

Finally, I want to touch on some of the revenue offsets included in the conference report.

I support the principle of keeping this revenue neutral, and I congratulate the conferees for doing so.

This was a particular sticky problem with the House Members, so I especially recognize their hard work in bowing to the Senate's demand that this bill be fully offset. I am very pleased to see that several revenue offset provisions that were in the Senate bill are not part of the conference report.

One of these is the codification of the economic substance doctrine. I believe enactment of this provision would have led to a great deal of unnecessary conflicts between taxpayers and the Internal Revenue Service and would have unfairly penalized companies for engaging in legitimate tax planning techniques.

One provision that did not make it into the conference report raises revenue in connection with the donation of used vehicles. This may appear to be a reasonable proviso, particularly in light of some of the alleged abuse surrounding the charitable donation of used vehicles. I am concerned about the impact of this change on charitable giving. A chilling effect on the donation of these used cars could leave many worthy charities short of vital funds needed to perform their valuable services to needy citizens in Utah and elsewhere. I would keep a watchful eye on the implementation of this change in the law to make sure it doesn't harm the charities. It may well be that we need to revisit this area of the law in the future.

I had one of my finest constituents call me last night—it may have been the night before, things have been moving so fast here—she said it would really hurt their kidney foundation partners, which have raised hundreds of thousands of dollars in donations of used vehicles. She recognizes we have to do it right so that the Government is protected and our tax system is not abused, but I would hate to see her not have these moneys coming in for that important foundation, and others as well.

In conclusion, the conference report before us represents a good bill that deserves our support. As I have indicated, the bill is far from perfect, but given the difficult political circumstances surrounding this bill, it is remarkable that we were able to bring to the Senate floor a product as good as it really is. I urge colleagues to support the conference agreement.

### MEDICARE PRESCRIPTION DRUG COVERAGE

Madam President, finally, I have to respond to the outrageous charges made by colleagues on the other side of the aisle regarding the Medicare statement I delivered on the Senate floor yesterday. I was disturbed by several remarks—especially that seniors have flatly rejected the Medicare prescription drug benefit. That may be the hope of some people on the other side, but that is not reality.

How is that even possible when the drug benefit doesn't even go into effect until January 1, 2006? That is pure, unmitigated bunk. I am offended that this argument is even being made on the floor of the Senate by my colleagues because it is absolutely not true. It is being made to scare our seniors. And that is wrong. How is that possible when many Medicare beneficiaries are participating in the Medicare drug discount card and have seen savings in their drug costs up to 20 percent per drug? What is being said is just not true. I don't see that as an outright rejection. My colleagues need to be careful about their charges, especially when they don't have facts to back them up.

I take issue with the assertion that our prescription drug law is only a drug law in name. What do they mean by that? Let me remind the Senator from Illinois that because of this new Medicare prescription drug law, 40 million Medicare beneficiaries will have drug coverage if they want it. They will have the choice. The bill provides generous subsidies to low-income Medicare beneficiaries, who today cannot afford to purchase drugs; today they don't have the help. They are talking like this bill does nothing—the bill which spends $400 billion-plus to improve Medicare for our seniors and the disabled.

Prior to enactment of the Medicare Modernization Act, these beneficiaries had to make tough choices between buying prescription drugs and putting gas in their cars or buying prescription drugs and putting food on the table or buying prescription drugs and paying their rent. Once a Medicare drug plan goes into effect on January 1, 2006, those Medicare beneficiaries will no longer have to worry about this matter that they have to worry about now. To scare our seniors into thinking these benefits are not going to be great for them—it is incomprehensible to me that anybody has the gall to make those kinds of claims.

Here is another point that needs to be raised regarding this matter: If there were any proposals that deserve to be recognized as offering a drug benefit in name only, it is the two Democratic plans of 2 years ago, which were supported by 50 and 45 Democrats respectively, including the Democrat leader and Senator KERRY, their candidate for President. My colleague, Senator GRASSLEY, described these plans a few days ago. Let me take a few minutes to recap.

The first Democratic plan had a drug benefit that lasted just 6 years; that was the end of it. Talk about offering a drug benefit in name only. The second plan didn't even offer a benefit to the vast majority of beneficiaries. Seventy percent of beneficiaries would not have received any basic coverage, and they are coming on the floor and saying this $400 billion-plus plan does nothing? Give me a break. A plan that shuts out the vast majority, 70 percent, of beneficiaries—how can you call that a drug benefit? Those were their plans.

Guess what those 70 percent got. You are not going to believe this. They got a 5-percent discount on their drugs in their plan. Once they spent $3,300 out of pocket, they could qualify for catastrophic coverage. That was their plan. And they are criticizing this plan, which was bipartisan, overwhelmingly passed?

Some have taken issue with the Medicare reform bill, saying that the "benefit" stops after an initial coverage amount. I remind my colleagues on the other side of the aisle that their basic benefit would have never even started for 70 percent of beneficiaries—for 70 percent. They would have been left out by their plan, and they are criticizing this plan? Talk about a donut hole. These beneficiaries didn't even get a donut.

The Congressional Budget Office estimated that 66 percent of beneficiaries would not even meet the $3,300 threshold. Again, for these folks, the only help they would get was a 5-percent discount. And they are criticizing our drug discount card where they are getting an average of 20 percent and in some cases even more?

I was also extremely disappointed by the arguments by the Senator from Illinois and the Senator from California against what some have termed the "non-interference" provision. As I outlined, this provision has been included in the most prominent Democrat initiatives, starting with the Clinton Health Security Act a decade ago. Despite that fact—and it was in their bills—here we are listening to arguments against this bill. Apparently, what was good in a Democratic administration is very bad in a Republican one. They ought to be shouting for joy that we are putting some of their provisions into this bill. The problem is, these were not their provisions; they were all of our provisions, those of us who worked in a bipartisan way.

What was good in a Democrat Senate is bad in a Republican Senate—during an election year especially. It is almost as if my colleagues were not listening to what I said the other day. The argument that there is no authority for the Federal Government to bargain with pharmaceutical companies is getting to be a tired, wornout, old argument. Again, I will repeat myself from yesterday. First, the Democrat-sponsored bill from 2000, introduced by the Senator from South Dakota and cosponsored by 33 Democrats, had a specific provision which stated the following:

> In administering the prescription drug benefit program established under this part, the secretary may not [this is the Democrat language in their bill, which had almost every Democrat on it] (1) require a particular formulary or institute a price structure for benefits; (2) interfere in any way with negotiations between private entities and drug manufacturers or wholesalers; or (3) otherwise interfere with the competitive nature of providing a prescription drug benefit through private entities.

Again, this provision is from the bill introduced by Senator DASCHLE, which was cosponsored by 33 Democrats, including not only Senator KERRY, their candidate for President, but also Senators DURBIN and BOXER, who spoke against it on the floor yesterday. It takes time to do it correctly. CMS, the agency in charge of the Medicare program, needs time to implement the MMA regulations, accept bids from plans that wish to participate in the Medicare advantage programs, and, most important, it takes time to educate Medicare beneficiaries about the options that will be offered to them.

Let me remind all of my colleagues that even the Democrat proposals that have been considered in the past did not have the Medicare prescription drug programs go into effect immediately. So that is just a ludicrous charge.

In addition, I remind my colleagues that both the Democratic plans in consideration in December of 2002 didn't go into effect until 2005. I suspect that the authors of these plans recognized the same thing that we did, that it takes time to get a new, comprehensive drug program up and running. That is why the drug plan will not be available until January 1, 2006.

So, there is no subterfuge behind the 2006 date in the MMA. Moreover, at least the MMA offers immediate assistance through the drug card program. Their plans offered nothing until 2005, and then very little after that. And cost us a bundle more. They were not even well thought out, in my opinion.

I would also like to respond to the comments of my colleague from California comments about the Veterans Administration system and the deficiencies which I described yesterday morning. If my colleague from California is surprised at the Republicans not using the VA model then my only guess is she is even more surprised that her own party did not. No, they wanted to have private plans negotiate with drug companies, the same approach taken in the MMA, the Medicare reform bill.

The VA system was not a model for any Medicare prescription drug plans considered on the Senate floor, advanced by either Democrats or Republicans.

Finally, let me address the idea of importing cheap drugs from Canada. First, nobody has a greater desire than I do to make prescription drugs more affordable, particularly for our seniors and the disabled who depend so heavily upon pharmaceuticals for their quality of life. I co-authored the 1984 bill, the Hatch-Waxman Act, which in essence created the modern generic drug industry, brought generic drugs to the marketplace to become the force for competition and affordability that they are today. It has been called the most important consumer legislation in the last century by some. It has saved at least $10 billion every year since 1984. That law was written by a conservative Republican in the Senate, myself, and a liberal Democrat in the House, Congressman HENRY WAXMAN, because we were willing to put differences aside, get together and do what was right.

With regard to drug importation, my colleagues seem to forget that the MMA does include a provision to permit the importation of prescription drugs from Canada, once a program is in place that is approved and certified for, guess what, safety and cost by the Secretary of the Department of Health and Human Services.

That sounds logical to me. We want those drugs to be safe and we want to know that we can afford to implement this program.

The bill also calls for the Secretary to establish a 13-member task force that will study proposals to make reimportation safe and cost effective. HHS Secretary Tommy Thompson has indicated that the panel's recommendations will be completed by the end of this year.

Up to 80 percent of imported drugs coming through our ports today, are knockoffs, out-of-date drugs or placebos.

Can you imagine what could happened if drugs tainted by terrorists come into this country? Drugs filled with gradual poison, or even instant poison? Our nation must be concerned about these things because they impact the safety of our citizens.

We should not overlook the fact that the FDA has documented many cases of what appeared to be FDA approved imported drugs that were in fact contaminated or counterfeit, contained the wrong product or incorrect dose, or were accompanied by incorrect directions or had outlived their expiration date. These drugs would be at minimum ineffective and could actually be harmful or even fatal.

The FDA is also concerned with the safety of allowing companies which are not licensed by States to practice pharmacy to sell prescription drugs without any limitation on the amount or frequency of drug imports permitted for individuals. In addition, reimportation legislation as it is written would allow risky drugs that are currently available in the U.S. only under strict safety rules or controls, to be reimported in any amount or frequency to anyone, even those who are at high risk to be seriously injured by the medication.

The FDA underscored these concerns in the Judiciary Committee's hearings on reimportation last July. The Agency stressed that opening our tightly regulated closed system of prescription drug distribution will open the door counterfeit and otherwise adulterated and misbranded drugs being widely distributed to unwitting American public. Mr. William K. Hubbard, Associate Commissioner for Policy and Planning for the FDA testified at this hearing and I would like to take this opportunity to read some of his testimony to my colleagues.

FDA remains concerns about the public health implications of unapproved prescription drugs from entities seeking to profit by getting around U.S. legal standards for drug safety and effectiveness. Many drugs obtained from foreign sources that either purport to be or appear to be the same as U.S. approved prescription drugs are in fact of unknown quality. Consumers are exposed to a number of potential risks when they purchase drugs from foreign sources or from sources that are not operated by pharmacies properly licensed under State pharmacy laws.

Patients are also at greater risk because there is no certainty what they are getting when they purchase some of these drugs. Although some purchasers of drugs from foreign sources may receive genuine product, others may unknowingly buy counterfeit copies that contain only inert ingredients, legitimate drugs that have been outdated and have been diverted to unscrupulous or dangerous sellers, subpotent or superpotent products that were improperly manufactured. Furthermore in the case of foreign based sources, if the consumer has an adverse drug reaction or any other problem, the consumer may have little or no recourse either because the operator of the pharmacy often is not known, or the physical location of the seller is unknown, or beyond the consumer's reach.

FDA has only limited ability to take action against these foreign operators.

These safety concerns are real. I strongly believe if we truly care about seniors and other patients who depend upon prescription drugs, we should not expose them to what currently amounts to pharmaceutical Russian roulette.

The FDA is working with some of my colleague on legislation that would give the FDA greater resources, limit the scope of imports, and provide greater power to the FDA to police imports. In recent comments, former Commissioner Mark McClellan, now head of CMS, has said these measures would give the agency the ability to assure the safety of prescription drugs imported from Canada.

In addition to these safety concerns, however, I am also concerned that reimported drugs pose a threat to the innovation that Americans and the rest of the world have come to expect from our pharmaceutical industry, the greatest industry in the world. Canada and other countries with lower drug prices generally import superior American products, but impose price controls to keep those costs down.

It may cost as much as $1 billion to produce a new drug, test it, win FDA approval, educate doctors, and make the drug available to patients. No pharmaceutical company can or would go through this immensely expensive process without a chance to recover some of those costs, which will not be possible if we impose, in America, however incorrectly, Canada's style of price controls.

But, wait, it not only costs $1 billion to create one of these drugs—6,000 experimentations that failed to finally arrive at a drug that is efficacious. And, in most cases, about three-quarters of the patent life is also consumed by that process. So the companies, to recoup that $1 billion and make a profit, they have maybe 5 years, in some cases, maybe less, to recoup their profits. That is the reason why drug prices are so high. These safety concerns are real and I strongly believe if we truly care about seniors and other patients who depend upon prescription drugs, we should not expose them to what currently amounts to pharmaceutical Russian roulette.

I do not believe that sacrificing the safety and future supply of our drugs by reimportation is the right answer to the high cost of prescription drugs.

I hope I have cleared up some of the misunderstandings that Medicare beneficiaries have about the MNA law.

Again, we gain nothing by spreading untruths about the Medicare bill. I have been discouraged with some of the comments made by some of our colleagues who know better, or should know better. They need to review the bills that they cosponsored and wanted to pass on the Senate floor. In my opinion, those bills did not do nearly as much for seniors as the MMA. Frankly, those bills were more costly, and provided seniors with less benefits. The MMA law passed with bipartisan support in both Houses. The only thing that results from charges which have been made on this floor, is confusion of Medicare beneficiaries, the very people all of us are trying to help. I think that is regrettable.

It is astounding to me that some of our colleagues are scaring our seniors to death when we are spending $400-plus billion to provide them with better Medicare coverage. The MMA helps the truly poor so they don't have to worry about donut holes. In my opinion, the MMA is something all of us should support.

What gets me upset are some of the arguments being made on the floor that are not only erroneous but, I think, are misleading. I believe many are just being made for political purposes.

I think one Senator called my argument flimflam—yesterday. I defy anybody to refute the principles I have discussed here today and the remarks I have made here today. You can differ with them, you can disagree with them, but I don't think you can disagree with the facts.

It is time for all of us to start helping seniors by helping them to understand this bill so they can benefit from it. Deep down, I think one reason some oppose this bill so much is because it represents liberty and freedom in the case of the health savings accounts. HSAs was one of the most hard-fought provisions in the entire bill by the other side. I believe the opponents of the bill do not think the American people can save for their own health care. They don't trust the American people to save for their own health care. They believe the Government is the last answer to everything. They believe without the Federal Government telling them how to live, what to do, and what they can consume that they can't help themselves.

Can you imagine a young person who took advantage of that health savings account? That young person would have to assume the burden of paying for all of these Federal programs in health care. If that young person saved $1,000 a year tax free for his or her entire working life up to 56 or perhaps 70, because we are all living longer these days, that young person would have hundreds of thousands of dollars, if not a million, to take care of his or her own health care.

That is the way it ought to be. Isn't that the American way? Shouldn't we try to take care of ourselves first and then help others?

I believe the Federal Government should help those who cannot help themselves. Where I draw the line is I don't believe that the Federal Government should help those who could help themselves but won't. I think there is a difference between the two. But there is nobody more compassionate than I in helping those who truly need the help.

I wanted to set the record straight. I am disappointed in some of the remarks which have been made on the floor against the MMA. Some of those remarks have been overly excessive and I hope that type of rhetoric will be discontinued.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana has 90 minutes.

Ms. LANDRIEU. Madam President, I see my colleague from Alabama who has been waiting patiently, as I have, throughout the day to speak. He only wants to speak for 5 minutes. I yield 5 minutes of my time, and then I will reserve my right to speak for the 85 minutes remaining.

Thank you.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, I thank the Senator from Louisiana for her courtesy. I will contain my time to 5 minutes and ask that I be notified at 4 minutes.

I wish to say while the distinguished chairman of the Judiciary Committee is here that he deserves great credit for the Justice For All Act. I had serious objections to some of the provisions in that bill in committee and objected to it, and thought we would never see the bill pass. I declared it at one point a bad bill. But Senator HATCH believed there was a problem with DNA analysis in America, and so did I. He believed there was a problem that could be improved with death penalty representation, and so did I. He worked with Senator LEAHY and Chairman SENSENBRENNER and Congressman DELAHUNT in the House, and others, and was able to deal with the problem in the legislation.

I am pleased we were able to see that bill cleared today. I think it is a bill that will be effective in dealing with the problems that we know exist in two of those areas.

Mr. HATCH. Madam President, if the Senator will yield, I thank the Senator for his comments. I thank him for his energetic good work on this bill. He and Senator CORNYN in particular helped to improve this bill, and we should all be proud of it.

I thank the Senator.

Mr. SESSIONS. I thank the Senator.

One of the problems we had was that the legislation restricted States from putting the DNA of those arrested into the system. We offered an amendment in committee to fix that. That has been fixed now. States can put into the system DNA of people who have been arrested but not convicted. In reality, history teaches us that many people kill more than once. We watch those "Cold Case File" shows, and you see people are arrested and not convicted. Later on they are arrested when they commit the second, third, or fourth murder. That is too often a pattern, unfortunately.

The bill allows forensic science spending now for other analyses if there is no DNA backlog. DNA represents 5 percent of the forensic scientific analysis done in these criminal cases. It is a critical and wonderful tool, but it is not the only tool to be used. We have a little more flexibility in the bill than we did before.

I was concerned—and I think others were—that the money that would be spent for training people to try death penalty cases would be spent by a governmental entity that is responsible to the people, not being given directly to an unaccountable special interest group. They did this in States around the country that have an ideological opposition to the death penalty. For some of them, that is their No. 1 goal. We have had problems in the past when those organizations received money. The Congress ended that in 1996. I think that was a good decision. We fixed that in this bill.

There are some marvelous lawyers who dedicate themselves to representation of convicts or people charged with capital murder. I respect them. I respect people who do not agree with the death penalty. I have concluded it is an appropriate penalty, but regardless, it is the law of the majority of the States of this country, and good representation is required. We ought to do it in the right way.

We made progress. Historically, judges appoint lawyers in criminal cases. That would have put the original language, put the training and payment and selection of attorneys, in an outside entity's hands. The commission would be set up in the States that include judges, former prosecutors, not current prosecutors, and certainly defense lawyers to help select and train trial attorneys. It also says 75 percent of the money should be spent on training for the trial, which is the heart of the process.

The appeal follows afterward, and we need fair, good trials, so we will focus most of the money on getting a fair trial so the appeals are less important. They are less important when the trial is done right to begin with than if it is messed up. It provides training for prosecutors because prosecutors sometimes also fail to handle the cases correctly, and good training can help them conduct a fairer trial with fewer problems.

This is a bill I can support. I was pleased to be able to do so. I thank Senator DEWINE and others who helped make this bill possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I appreciate the opportunity to speak for the next hour and a half, and, depending on whether other Senators want to speak later in the night and what the agreements are, I may want to speak even longer because the subject I want to speak about is extremely important to my constituents and to many constituents around the country.

I spent a couple of hours in the Senate yesterday speaking about the tax bill, the $137 billion tax relief bill the Senate and House have been negotiating now for 2 years. Not just the last few months, not just this Congress, but for 2 years the Congress has been putting together a tax relief bill because we basically were forced to put a bill together because of a decision made by the World Trade Organization, of which we belong and encourage, that said part of our Tax Code was not in order.

I am not on the Finance Committee. The Presiding Officer and I serve together on the Appropriations Committee. I am not a member of the Finance Committee. The Finance Committee, 2 years ago, began to put a bill together to address that situation. It was about a $50 billion problem. That is a lot of money.

What happens around here is every time we open the Tax Code, it is very tempting for everyone else to try to get in the bill because if you can get in the bill, you can get money out of the Treasury. You could ask for additional tax relief. You could correct something that you think was an injustice to your business, whether you are a big business or a small business, an international business or a domestic business. You could ask for all sorts of help.

What happened was this bill started out as a very specific $50 billion fix for something that most everyone—not everyone but most everyone, including myself—thought we should fix. It has turned into a $137 billion tax relief bill. That is the truth. That is very troublesome.

That is not even why I am speaking. There are things in this bill that are good and bad, and Senators have had all sorts of ideas and expressions of their opinion, including an eloquent speech about an important provision by the Presiding Officer for leaving out the regulations on tobacco, putting in the buyout provisions from the farmers but leaving out the companion regulation that was in the bill when it left the Senate.

Other Senators have come to the Senate today to speak about different issues. I come to the Senate not saying those are not important. But there is one issue in my mind and in the minds of many of my constituents in Louisiana and around the country that transcends all of these issues and which is in a total category by itself. It is an issue that doesn't have anything to do with corporations or business; it just has to do with fairness, justice, truth, loyalty, and honesty.

The truth is that in 2 years, putting this bill together that went from $50 billion to $75 billion to $100 billion to now $137 billion, we forgot one group of people. Just one group I think was forgotten. This is the bill, $137 billion—pages and pages of the bill. It is like two big phone books. Two years we put a bill together. Almost every kind of business one can think of is in this bill, from energy companies to chemical companies to farmers to hospitals, health insurance; good companies that deserve help—I am not saying they don't—and good tax provisions. But the one group that is left out—if you read the bill from the beginning to the end, read it upside down, backward, in any language, you will not find one group of people in the bill. I hate to say who that group is because the people in America do not believe we could do this. We left out our troops. We left out the men and women on the front line.

This is my problem. They are so far away in Iraq on the front line that we cannot see them or we will not see them or we do not want to hear them, maybe, because they are on the front line and they do not have time to be at the Capitol lobbying for themselves, and so we just left them out.

When the House Members or Senate Members come to the Senate and say they cannot understand why we are not rushing through on this bill and why some Senators are holding it up, I will tell them why. This Senator thinks it is a shame, unconscionable, to work for 2 years and put a $137 billion bill together that helps everyone—and you could argue for good, for bad—yet leave our troops out.

Some of us, including the Presiding Officer, Republicans and Democrats—had put in the bill when it was in the Senate a very small but important provision that only cost $2 billion of the $137 billion—just $2 billion for our troops. Our troops are taking 100 percent of the risk. Our troops are bearing 100 percent of the sacrifice. We only asked for less than 2 percent, and we got nothing.

So this Senator is going to stay on this floor for as many hours as I can to tell the truth about this, and perhaps these words will reach to somewhere or people will be inspired or encouraged to take the political actions necessary to make sure these troops do not get left out next time or before we finish.

Let me read you some of the e-mails I am getting because we put this up on our Web page, and I have been doing interviews since I found out about this Wednesday night, as many as I can. I am going to continue to speak and debate and talk to anybody who wants to interview me about it.

I know some of these e-mails get a little political, but I think it is OK for me to read them here. But these are e-mails. I am happy to have them in the RECORD. I am not going to read all the political ones. I am trying to pick a mix of them. But I would like to start with this one to show the potential of this issue:

> As a Texas Republican voter, you inspired me, and now I will take a harder look at Democrats running for any office because I'm a retired military service member. I have pretty much believed the services were better represented by Republicans, and I voted that way. You showed me that my basic ideas may have been flawed, and I will now look wholeheartedly into that. Thank you for such a beautiful speech demanding that the military be represented in that bill. You really moved me and may have switched my party affiliation with that direct and memorable speech.

Madam President, my office is being flooded with e-mails like this, but let me read you another one from a Democrat:

> Dear Mary, I'm writing to tell you about how proud I am of work you did on the floor today. As I write, you continue to articulate a logical and, for most of us, a compelling argument as to why the National Guard and Reserve should be treated as first class citizens rather than second class citizens in the tax bill pending before the Senate. Well done. Can I convince you to move to North Carolina?

This is not about me. I am reading these not because I want people to know or because I want to brag about this issue. I want the Members of this body, and particularly the House leadership, the House Republican leadership, that took this out of the bill, I want them to know, Chairman THOMAS, Speaker HASTERT, and Congressman DELAY, how strongly Americans of all parties feel about what was done to our men and women in the armed services.

Let me be just very clear. The Republican leadership in this body supported this effort. I want to be very out front about that. The Republican leadership in this body, along with the Democratic leadership, supported this provision. And it went over to the House. Only in conference, at the direction of the Republican chairman, Chairman THOMAS, was it taken out.

Now let me say this: I am so tired of seeing our troops in the pictures, in the photographs, riding with us in parades, waving the flag, taking the pictures, but when it comes time to put them in the budget, to give them relief, to put them in the tax credits, they are nowhere to be found—only in political propaganda and pictures. And this Senator and my constituents have had enough.

I want to talk about why this is important. This picture is up here because I want to demonstrate that one thing in the bill—and I am not trying to pick on the ceiling fan importers. I am sure it is a very legitimate request. But we have a tax provision to give help to those companies that import fans from China. Meanwhile, our troops do not get in the bill.

Now, if anybody needed a fan, our troops need one because it is hot in Iraq. It is about 105 degrees. If there were any way for me to get some of these fans to them, I would put an amendment on the bill. But the fans are in. The troops are out.

Now, another reason this is important is because the Members who are on the Armed Services Committee and many Senators who have served in the military understand this. I served on the Armed Services Committee for a while. I was very proud to do it. And I plan, hopefully, one day to be on the Defense Subcommittee on Appropriations so I can continue to fight for them and to articulate some of these views.

But I am not sure the country understands how much we are relying on our Reserve forces. We have a total of about 1.6 million Active troops and we have 1.2 million Reserve troops. So it is about 60/40.

Now, in 1953, not that long ago, during the Berlin crisis, we only called up 148,000 Reserve troops. In the Cuban missile crisis, we called up approximately 14,000 Reserve troops. To fight in the Vietnam war, we only called up 37,000 Reserve troops. This comes to a total of 200,000. So for almost 35 years, we only called up 200,000 Reserve troops. So our Reserve was operating in a place where the men and women could sign up, go do their weekend work, get a pretty decent paycheck for that, get training, and serve their country.

These Guard and Reserve, some of them are retired Active military, but many of them are policemen and firemen and women who want to serve and are happy to be that citizen soldier, that part-time soldier. Their goals have not changed, but our country's needs have changed. We made the decision in the 1990s to say, to save taxpayer money, to make our forces better and stronger, we are going to rely more on our Reserve and less on our Active Duty, and we cut our Active strength, therefore relying more on our Guard and Reserve.

The only problem with that is we keep forgetting them. We send them to the front line, we deploy them year after year, and then we forget about them. We are not sending them the pay they need, the benefits they need, the equipment they need. I am wondering, what is going on?

In the Persian Gulf war we had to call up 238,000 Reserve troops. In Haiti, we called up 3,000 Reserve troops; in Bosnia, 29,000; Operation Southern Watch, 2,000; Kosovo, 6,000; and the war in Iraq, 410,000 Guard and Reserve—currently about 5,000 of them are from my State of Louisiana.

Just 2 weeks ago, I went to Leesville, LA, the proud home of Fort Polk, where many of our troops train. It is a joint training base. I was with my mayors and my Governor, and we saluted our troops. We prayed with our troops. We were with them. We sent them off. The 256th Infantry Brigade is getting deployed. This is affecting thousands of families around Louisiana. This is not just happening in Louisiana. This is happening in the State of the Senator from Ohio, in Chairman GRASSLEY's State of Iowa, in Texas and California. Thousands of families are being separated, husbands from wives, wives from husbands, fathers from children, to go fight on the front line.

So you can see the increase and the frequently that we have called them up, so you would think that if we are calling them up more, we would help them more. But we help them less. You would think that if we have a tax bill going through, this is the group of people who should be on the front page. But they are not on any page. They are not on the front page. They are not in the middle. They are not on the last page. They did not even write a note to say: Sorry we couldn't help you this time. Maybe we can help you next time. Not even a PS.

I have been proud to support tax relief since I have been here for 8 years. I haven't supported all the tax relief packages, but I believe people deserve tax relief. I wish we could live in a world with no taxes. As soon as we figure out how to do that, that would make everybody happy. I am not sure how to do it, but I am sure somebody will think of an idea someday because we sure eliminate taxes right and left for everybody.

We have been spending the last 4 years providing tax relief, $2.1 trillion. This is direct tax relief, either special benefits, including military families and the earned-income tax credit, ideas like their combat pay or their severance pay would not be taxed. Tax benefits to our military basically amounted to $1.37 billion. Everybody else gets $2.1 trillion. But the guys and gals on the front line get $1.37 billion.

Someone will say: Surely, Senator, some of the $2.1 trillion will go to the military families. And, yes, that will happen. Middle-class families generally are in here, and our troops are also middle-class families. The Republican side will disagree with this, but what the Democratic side says is, since so much of this tax relief is targeted to families earning over $100- or $200,000, I would argue that very little of this money is going to get to military families. Why? Because most of these families only make $50,000. The average is $30,000 in the active lower ranks. Very few people in the military make over $150,000. So who are we helping? Not the guys fighting the war. Not the guys taking the bullets.

The reason I am particularly offended on behalf of the soldiers is that we can afford to help them. If we didn't have the money, if we just couldn't afford it, then I would go to them and say: Look, you all know more about sacrifice than anybody. It is in the code of the military. Sacrifice, it is what they do; it is what they are. So everybody has to sacrifice. But the fact is, not everybody is sacrificing because everybody else is not sacrificing anything. They are getting extra. And only the military is being asked to sacrifice, not just their life but their paychecks.

I guess what really is upsetting, as I learn more about this and as I read the materials that are sent out by our own Government, this is the "family readiness paradigm." It is www.defenselink.military, I think from the Pentagon. Secretary Rumsfeld is quoted and President George Bush on this chart. I want to quote what the President said:

> The National Guard and Reserve are a vital part of America's national defense. [They] display values that are central to our nation: character, courage, and sacrifice, [and demonstrate] the highest form of citizenship. And while you may not be full-time soldiers, you are full-time patriots.

That is lovely. It is wonderful. Except these words are not backed up with actions because actions would have put the patriots in the bill and said: You deserve a portion of this tax cut because the Guard and Reserve that go to the front lines are taking a 41 percent pay cut, according to the Government Accountability Office study.

And why is that? Because the Guard and Reserve are citizen soldiers. They work in regular life as truck drivers and architects and doctors and nurses. They might make $60-, $70-, $100-, $150,000. But when they are activated and they go to the front line, they leave their civilian paycheck at home and they pick up their Army, Navy, or Marine paycheck. And it is only $30,000 or $35,000 or $40,000. Some of these families are taking a 50-percent pay cut.

So while they are on the front lines taking the bullets, their families are back home. I have a letter from one of the families in Louisiana that said: Thank you, Senator, for fighting for us. We live on a very modest and meager income. I have been pouring water in my children's cereal to make ends meet because the grocery bill is getting pretty high.

I have to go home and tell that lady in Hammond that we couldn't find $1 in the bill to help her with her grocery bill. This is particularly upsetting to me.

The chart says "Self-reliant families." I like that word "self-reliant." I think it is important for us to be self-reliant, to be strong, to not be overly dependent. I believe in self-sufficiency and economic independence and pulling yourself up by your bootstraps. But why is it that we have to put a chart up for our Guard and Reserve asking them to be self-reliant, when this bill doesn't represent self-reliance? This bill represents companies and individuals who came to the Government to ask for help and aid, not self-reliance.

But in the charts that we send out to these families as they wave their loved ones goodbye, we tell them: Forget about being in the bill. Here is your brochure that talks about self-reliance. And if you need help, call the outreach family readiness coordinator. Maybe we can help you organize your finances because we know your situation is tough.

That is wonderful, except what they really would need from us is a whole paycheck. I am not asking for a bonus for them. I am not asking for any special tax break. Just make their paycheck whole. Just keep their paycheck whole. The way we did that in the Senate FSC-ETI bill was by giving the employers in this country, the patriotic employers who are basically subsidizing their salaries by saying: Harry is leaving us tomorrow. We can't let his family have to live on $30,000 less.

So here is a small business. I can just see them now getting together in the coffee room: Harry has to go. Can we make it? Can we help him? Can we keep his pay going because he is going to be gone for a year?

That small business digs deep. Harry goes to the front line. They keep sending him a check—even though he is not at work for them, he is at work for us—and keeping that paycheck whole for that family.

And all of us in the Senate thought that was the right thing to do. These are patriotic businesses. Let's give them a tax credit, at least half, so those small businesses that are doing this could be rewarded. They could be recognized, voluntarily. They don't have to pay their active duty Guard and Reserve employees. But if they are doing it, they should get a 50-percent tax credit.

So, in essence, our amendment was creating a partnership between all the small businesses in America, patriotic businesses and large corporations that are keeping the front line going.

But Chairman THOMAS decided in his committee that this bill and the things in it represented a higher priority than keeping the paychecks whole for the men and women taking the bullets for us on the front line. I am still waiting to hear from Chairman THOMAS about why he thought that or what it is that I have missed. I haven't heard a thing.

I would like to read the letter I sent to the President. I put it in the RECORD yesterday. I will read the letter I sent to the President because I want to say again, as I said yesterday, I don't think the President of the United States knows about this. I think if he did, he wouldn't have let it happen. I want to read my letter again. I hope to get a response. I just sent it to him yesterday about 24 hours ago.

> Mr. President:
>
> I am writing to bring a grave injustice to your personal attention. During the Senate consideration of the FSC/ETI legislation, the Members of the Senate added a modest provision to assist our troops. GAO studies have concluded that 41 percent of our Guardsmen and Reservists called to serve their country on the front line must take a pay cut to do so. Fortunately, some companies around the country have stepped up to the plate and taken the patriotic step to make up the pay-gap of these brave men and women. The provisions that we added in the Senate would have provided a tax credit of up to 50 percent to cover the cost of these companies who make up the difference. In doing so, we hoped both to acknowledge the patriotism of the existing companies and at the same time encourage more employers to take this step.
>
> Mr. President, no doubt that you have traveled the country and you have confronted the same stories I have from some of the military families struggling to make ends meet. We have had to ask an awful lot of our Guard and Reserve. They ask so little from us. So trying to take this worry off the minds of our men and women on the front lines seems to me to be the least that we could do. So it is with deep embarrassment for our Government that I must report that this very modest release for our troops was stripped from the conference report by Congressman Thomas and the leadership of the U.S. House.
>
> While I am certain that representatives of your administration participated in this conference, I presume that you did not have personal knowledge of this decision to cut support for our military families. Regrettably, this decision has placed all of us in a very difficult position. While I endorse many aspects of this bill, I simply cannot support a measure that places so many lesser priorities ahead of our most important priority.

It goes on to say that I respectfully request that the President exert his significant influence to correct this at the earliest possible time. It could be by vetoing this bill and sending it back and telling us in a veto order to fix it, which has been done before and could be done. That is unlikely. It is very difficult to do, but I think these are difficult times. Or the President and the House leadership could admit they made a mistake and promise, in writing or in other ways, to include it in the next bill through here. This letter was signed by myself and Senator JAMES JEFFORDS from Vermont.

Many other Senators signed a letter to the conference. For the record, I want to make sure that people understand that Senators MURRAY, JOHNSON, CANTWELL, CORZINE, BOXER, KERRY, DURBIN, DODD, PRYOR, REID, LINCOLN, BOND, GRAHAM, DAYTON, and many others signed onto a letter to the conference committee when this bill was being decided. It is addressed to Senators GRASSLEY and BAUCUS, who are very supportive of this measure. It was also sent to Representative BILL THOMAS and Representative CHARLES RANGEL. I do know that CHARLES RANGEL, the Democratic ranking member of the Ways and Means Committee, supported this. It was a decision made by the House Republican leadership, and it was a bad decision. It is a decision that needs to be changed at the earliest possible time.

Madam President, one other thing that is very disturbing to me and particularly hard or difficult to articulate is that I have met so many men and women in uniform. I have met so many men and women in uniform, and they trust us to represent them and to do our best by them. When they are on the front lines, they don't have time to have lobbyists here.

They have many Members of this Senate who have put in additional benefits—I see the chairman of the Appropriations Committee here, who has worked very hard for our men and women in uniform—and we have put in time and time again help for them. So we have tried to respond in the Senate. But they trust us to look out for them.

In this bill, when it left the Senate, this provision was in the bill. When it went to conference, it was taken out. Again, there are many other items that were not included. I understand that. I am not arguing that anything in this bill is not worth our attention, because some Member felt strongly about it or it would not have been in the bill. I am not arguing about what is in the bill. I am arguing about the one provision that I know about that was left out of the bill. It is not Senator LANDRIEU's provision; it is a provision for our Guard and Reserve, to keep their paychecks whole so they can save for their future, so they can send their children to college, so they can fight and keep their minds on the front line and not have to worry about the homefront. I am wondering why they were taken out.

Again, I feel obligated and very motivated to try to spend some time in the last days, as we wind down the session, to speak about a grave injustice. That injustice is that we have 1.2 million Guard and Reserve in our country, representing about 40 percent of our total force. They are fighting on the front line in Iraq, in Afghanistan, in places all over the globe. You can see on this chart that these are percentages of our Guard and Reserve that have been activated. Thirty-six percent of my Guard and Reserve—I think I have close to 12,000 Guard and Reserve units in Louisiana—are on the front lines. If you look at Washington State on the chart, it is 46 percent. Over here in Florida, it is 47 percent. You can see the States and the percentages of the Guard and Reserve.

Every one of these percentages represents thousands and thousands of families who are being called up to go to the front line. What could be more central to our security than the troops going to the front line? Why would this Congress, led by the House Republican leadership, spend 2 years putting together a tax relief bill and leave them out so that they have to take a pay cut while everybody else gets a bonus or they take a pay cut and everybody else gets extra financial help or everybody else gets their tax bill lowered, but they have to pay the same taxes, and they get not even a whole paycheck?

The Senator from Iowa came down earlier to the floor of the Senate and made a couple of comments about this conference. I just have to respond, and I know he is not here, but it will be in the RECORD. He will be here tomorrow, and we can talk face to face about this. I have the utmost respect for the Senator from Iowa, the chairman of the Finance Committee. It has been very difficult for him to put this bill together, I know. The ranking member from Montana has been very helpful in putting this bill together.

I do want to take issue with something the Senator from Iowa said. He said it has been a long road to what I hope will be a final passage of this legislation. American workers, especially those in the manufacturing sector, put in the work necessary to make the U.S. the most productive economy in the world. We Senators should employ the same work ethic. We have to match our constituents' work productivity. We cannot delay this matter any longer. We cannot leave the jobsite without finishing our work.

I understand we want to get this bill finished, but I think spending some time talking about the soldiers on the front line, who were left out, is something that is important to do so we can either get this fixed before the end of the time for this bill to have to be considered or we can cause the focus to be such that it can be fixed in the next tax bill that passes this body.

He goes on to say that in his opinion it was a very open conference. Now, that may be his opinion, but from what we understand from Members who were there, basically the House Republican leadership laid down their mark, and out of a $137 billion bill there was only $182 million worth of amendments that were changed from the Republican leadership written bill. So of $137 billion, only $182 million—only seven items of this entire bill, which could be on one page—were added or changed from the House mark. So the House leadership wrote the bill and they left the troops out.

In the conference, the seven items, it could have been any seven, but it was rural carriers, letter carriers, were added at a cost of $33 million. The SUV loophole was closed. The National Health Service Corps loan repayment was put in that added $72 million to the cost; small issue bonds; electric cooperatives; marginal stripper wells; and whatever the blue ribbon task force on tax reform was, it is no longer existing because it was taken out.

So out of $137 billion, there were seven items, for a total of $182 million, that were changed.

When the argument is made that it was a very open process and the Senate put in some things and the House put in some things and it was all open and everybody talked and everybody negotiated, it is not true. What is true is for 2 years in many meetings, in many hearings, in many speeches, over many hours, a bill was put together and time and time again in those meetings and on this floor and in the committee, letters were sent to the Republican House leadership, please do not forget the troops. But when the final print was done, when the bill was printed for distribution, they were left out.

I have stated until this issue is addressed, I am going to vote against this bill. I have not had one person in Louisiana call me and say: Senator, how could you possibly vote against my tax relief that is in this bill? Because the people in Louisiana are very patriotic and they do not think anyone should stand in the front of the line, except the troops. Time and time again, the people of Louisiana show their respect in real and significant ways to our troops. So while there are tax credits in here for the oil and gas industry and for shipbuilders and for fishermen, and many things that are important to my State—and I want them to know I support those industries—I also know and can say with confidence there is not an industry or a business or a person in my State that thinks they should be ahead of the Guard and the National Reserve, not one.

I promise that if anyone from Louisiana calls me to tell me they do think they should be ahead, I will be happy to admit I was wrong.

Our troops depend on us in many ways, and in the middle of a war when we are fighting one, as we are, with a lot of rancor and different views and different opinions, it is important when we can send our words of support that our actions match those words and that in every way we can tell our troops, because it has been a difficult time, we are in an election year, there are different opinions about the way this war is being prosecuted, but I would think at this time in particular we would want to send, by our action, not our words, real support for our troops.

What could we send more than a paycheck? When we do not take the opportunity to put the paycheck in this tax bill—and maybe people will come and say, Senator, we put all of the help for the Army and the Navy and the Reserve in the Defense bill,—let me say what will happen when we leave them out of this tax bill: We end up having to argue in the Defense appropriations bill whether we want to spend money for their helmets, their rifles, their covered Humvees or do we want to spend the money for their paychecks. Why are we making them choose between a helmet and a paycheck?

That is what happens when we just focus on the Defense appropriations bill and divvy up the money. It is not fair to them. It is not right. It is not what we should do. When we have a tax bill moving through that could provide obviously $2 billion of the $137 billion we are giving, we could have given them tax relief. If there was a health care bill coming through, which there has been, we could provide health care provisions out of the general health care bill for our troops. Then in the Defense bill, we do our best to allocate those moneys as fairly as we can.

So that is why I am particularly upset, because I have been in those discussions on the Appropriations Committee and I know how tough it is. Do we give a 10-percent pay increase or do we invest in operations and maintenance on the bases? There is never enough money to go around. For what our troops are doing for us and the times our country is in and the challenges we face, we should not make them have to make those choices when we obviously have other options.

Let me read a couple of other e-mails I have received from people who feel strongly about this, because I think it is important.

I am a retired Army Reservist who was activated and deployed to the Gulf during Desert Shield/Storm. Because the company where I had worked for 16 years at the time was going through financial difficulties the best they could do was to continue with my family health plan, and I really appreciated that especially in their predicament.

Now, think about this. This is a guy going to the front line and he is especially appreciative that his company has decided, out of their patriotism and generosity, to keep his family receiving health care. They are not making his paycheck whole and he is not even angry about it. That is how men and women in uniform are. They do not even want to ask for help because they believe in self-reliance. They believe in sacrifice. But they also believe in fairness and honesty. It is not fair to leave them out of the bill. They deserve more. They deserve our truthfulness, our honesty, our hard work and our fairness, and we let them down.

He goes on to write:

> Other reservists serving with me but who came from stronger financial private or public work settings enjoyed all prior pay and perks; most soldiers found themselves somewhere in between those two positions.

So he is saying he went over there with very little. Some went over there with the ability of their employers to keep their pay whole, but most people fell in the middle, he says.

> Your proposal about the Administration and Congress backing up the rhetoric with real money would benefit employers, employees and in the long run the services in their retention efforts.

I want to talk about retention.

I don't know how many times the generals have to come before us to speak about retention. I don't know how many times some of us on the Armed Services Committee have to come to this Chamber to say we are having a tough time recruiting for our armed services, not because we don't have brave men and women, not because they don't want to serve, but when the compensation and the pay packages get so out of line with what people can make in the civilian world, it puts a lot of pressure on them. Believe me, I have talked with these soldiers. With tears in their eyes, sometimes, they tell me: Senator if it were up to me I would go and you wouldn't have to pay me a thing. This isn't about me. But I can't bear having to watch my wife take a second job or not be able to be home with our two children because I'm away. Please tell them I am not asking for myself. I am asking for my spouse. I am asking for my children.

I want to speak for them. Could we not just keep their paycheck whole? A report last month let us know—I will supply it for the Record—that the Guard and Reserve, for maybe the first time in a long time, I don't know exactly the number of years, but for the first time in many years, fell short of its goal. It fell short by 5,000 in its recruitment.

You might understand why. It is not because Americans are not patriotic. It is because of this issue. It is about pay. It is about benefits. It is about whether our Government cares enough for the soldier to take care of their family when they are away. The soldiers would fight for nothing. They don't eat very well over there, and they don't care about it. But they do care about their families and their children back home. We should care as much as they do. We can help by keeping that paycheck whole, sending it home for our soldiers on the front line. But we did not do that when we put this bill together.

As I said, I am sorry to have to report to the President that is the case because I don't think he has any personal knowledge. Maybe he will have gotten the letter in the last 24 hours. He has been very busy. I know it is a very busy time. But I know somewhere in the White House they are reading that letter, and I am looking forward to them letting me know what they think about it. Do they think it was a good idea? Do they think we could fix it shortly in a different bill? Do they think we could find $2 billion to keep those paychecks whole?

Here's another e-mail—

> Let me start by saying that I do not reside in your State but I still listened to you on C–SPAN and I loved it. Yes, the very people who we depend on for our national security cannot make ends meet. This is something many people do not understand, because they have never been affiliated with the military. Painful to note, billions of our tax dollars go to help overseas, but not for our troops' loved ones. I, along with the other girls, we get together for our weekly quilting group. And we opened up other people's eyes about this subject matter many months ago. I don't know that we can get them to vote any differently, but it sure felt good to hear you tell the truth.

I am not reading this for my own benefit. I am saying that there are many people around the country—one of the girls, probably an older woman, I would imagine—who quilts with a group of friends. They, evidently, talk about this. They know about military families. They are probably part of a group somewhere in this community that collects cans of food and other helps for the families at home. There is a great support network in this country.

Why can't the Government be part of the support group? I don't understand it. The Government has more money than everybody put together, and we can't find a half a billion? $250 million? We can't find a few thousand dollars in the tax bill? And we have Americans sitting around their kitchen tables collecting food for our troops on the front line?

In one way it is a wonderful thought. In another way it is awful to think about. I am happy Americans are supporting the troops. Our Government should do the same, and not just in the photographs, and not just in the pictures but in the budget.

I am going to have a lot more to say about this subject. Again, for people watching, as I wrap up and put us into a quorum call for the next little bit, I want to say again, the underlying bill is an important bill, and it needs to be passed. This Congress has worked on it for 2 years. There are many important provisions in this bill. But for the life of me I cannot understand how we have 150,000 troops in Iraq, why we left them out. About 40 percent of them are Reserve.

When they go to that front line they don't take a whole paycheck with them. We could have helped make it whole, but we chose other priorities. I don't know a higher priority than supporting our troops. Again, not just in the pictures, not just in the photographs, not just in the parades but in the budget, in our actions not just our words.

Mr. STEVENS. Madam President, I have received this letter from Tom Ridge, who is the Secretary of the Department of Homeland Security.

I ask unanimous consent that it be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Department of
Homeland Security,
*Washington, DC, October 9, 2004.*

Hon. Ted Stevens,
*Chairman, Committee on Appropriations,*
*U.S. Senate, Washington, DC.*

Dear Mr. Chairman: Earlier today the House of Representatives overwhelmingly passed the FY 2005 Homeland Security Appropriations Conference Report. I urge the Senate to pass the final legislation expeditiously, so that DHS can continue the important mission of securing the homeland.

While the Continuing Resolution currently enacted allows DHS to continue its operations in support of the existing security of our Homeland, we urgently need the additional spending authority and new initiatives contained in the Conference Report on the Department's FY 2005 Appropriation. During this increased period of risk, DHS must continue to improve capabilities in several critical areas including enhancing law enforcement, strengthening our borders, and improving transportation security, I remain concerned about operating under a lengthy Continuing Resolution. For example, under the Continuing Resolution, DHS would not have the funding to maintain the current on-board strength of the Federal Air Marshals; development and deployment work on the legislatively required 2005 deadlines for US Visit will be slowed; the Border Patrol will be unable to continue the critical work to upgrade and update the surveillance technology used on our land borders; and additional Detention and Removal programs and bed space will not be provided. Additionally, necessary program enhancements such as the Container Security Initiative, Radiation Portal Monitors, targeting systems, and critically needed aviation security technology are also on hold. Finally, FEMA's Disaster Relief Fund is in need of supplemental funding as soon as possible.

I appreciate the Senate's continued commitment and diligence in passing these critical pieces of legislation. If there is anything I or my staff can do to assist in expediting this process, please contact me or Under Secretary Janet Hale.

Sincerely,

Tom Ridge,
*Secretary.*

## UNANIMOUS-CONSENT AGREEMENT—S. 2845

Mr. STEVENS. Madam President, I brought this to the Senate floor because, as I stated previously, I was informed that tonight the moneys for distribution in the hurricane area that FEMA supports will expire. We have to pass the MilCon bill and we have to pass the Homeland Security bill as rapidly as possible.

We do not have copies of the intelligence bill that was passed. All of us have had requests for it.

I ask unanimous consent that the intelligence reform bill, S. 2845, be printed as passed so we may distribute copies of that and so that the conference committee can have copies of that bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. I don't see anyone wanting to speak. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that the Senator from Ohio, Senator DEWINE, be recognized for up to 12 minutes.

Ms. LANDRIEU. Reserving the right to object, only for the purposes of his statement, and then I would like to be recognized. Otherwise, I will object.

Mr. REID. Otherwise what?

Ms. LANDRIEU. I am going to object. Only to be recognized for the purposes of reading a statement, after which the Senator from Louisiana be recognized; otherwise, I will object.

Mr. REID. I will not agree to that.

The PRESIDING OFFICER. Is there objection?

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, I rise this evening to thank——

Ms. LANDRIEU. We are in a quorum call.

Mr. REID. There was an objection.

The PRESIDING OFFICER. We were out of a quorum call.

Ms. LANDRIEU. I note the absence of a quorum.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Ms. LANDRIEU. We were in a quorum call.

Mr. REID. There was a request for the Senator from Ohio to be recognized. The Senator from Louisiana asked that it be modified so she would be recognized afterwards. I said I wouldn't agree to that.

The PRESIDING OFFICER. The Senator is correct. But the Senator then yielded the floor. The Senator from Ohio sought recognition and had been recognized.

The Senator from Ohio.

(The remarks of Mr. DEWINE are printed in today's RECORD under "Morning Business.")

Mr. DEWINE. Madam President, I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Madam President, I ask unanimous consent that I be allowed to speak for 12 minutes and that immediately after I speak Senator LANDRIEU be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

### JUSTICE FOR ALL ACT

Mr. DEWINE. Madam President, several hours ago, Senator HATCH came to the floor to discuss the DNA bill that we have been able to pass. I congratulate him for the fine work on that bill. A number of people have worked on that bill.

I became interested in this issue a number of years ago. I have been interested in the whole area of crime technology, frankly, going back to my work as county prosecuting attorney in Greene County, OH, many years ago.

In those days, we did not have DNA. We did not have a lot of the technology we have today. I have been able to watch over the years, as I know the current occupant of the chair has, the great development of technology which has revolutionized what we can do today in law enforcement to solve crime. It has been one of the things I have worked on since I have been in public office—first, my time in the State legislature, then in the House of Representatives, and when I was Lieutenant Governor of the State of Ohio, and now, in the last decade, in the Senate.

I specifically became interested in what turned out to be this bill we have been talking about today, the DNA bill, several years ago when I met with the BCI back in Ohio, which is our State lab and State bureau, and went out there to find out some of the things that needed to be done. I had a long discussion with them in London, OH, about the real problem we have in Ohio and the problem we have across this country.

It is a problem of what we call rape kits; where there is a rape victim, the police go in, they take evidence from that victim, and then many times, tragically, I have learned—I know my colleague who is in the chair understands this—these rape kits are stored, they are never processed, and that information never gets into any central database. There is a tremendous backlog of this across this country.

Because of this, to try to help clear up this backlog, I introduced S. 149, the Rape Kits and DNA Evidence Backlog Elimination Act of 2003. About the same time, roughly the same time, Senator BIDEN introduced a bill which had the same intent to deal with this problem. Chairman HATCH asked me later on to combine my bill with his and those of other Members to create the bill we have today. When he asked me to do that, I gladly agreed.

Today, we all proudly stand as cosponsors of this bipartisan legislation. I know my colleague in the chair has worked on this legislation. I think it is a piece of legislation that all Americans can be proud of and that will help Americans be safer. The provisions of my original bill that are included in the legislation we passed today will protect innocent victims and will, in fact, put criminals behind bars. It will do both.

This bill includes my language to authorize over $1 billion to eliminate the backlog of over half a million rape kits that are sitting on the shelves of evidence lockers in police stations across this Nation.

Let me emphasize again that there are over half a million rape kits that have not been tested and therefore have not been put into a central database. How many of these rape kits contain evidence that would take a rapist off the streets? Well, we can't be sure, but we do know statistically that approximately one in eight of all kits currently tested in Ohio do, in fact, result in a match in our DNA database to a rapist. That is an unbelievable figure, one in eight will result in this statistical match.

In fact, approximately the same number will link the rape to another crime scene, giving our law enforcement officers one more piece of critical evidence that may, in fact, lead to the arrest of a criminal and the prevention of future crimes.

If you add these two figures together, you can see that nearly one in four of all rape kits tested will result in key evidence for law enforcement. That is a staggering statistic and demonstrates the power of modern technology when, in fact, it is used to fight crime.

This bill also includes my language that will expand the number of criminals that we put in our Federal DNA database. Very simply, this language will expand the current reporting requirement to include all Federal felons, not just a few specific felons as required under current law. Of course, the more information that goes into the DNA database, the more likely it becomes that we will match evidence from the crime scene to the DNA profile of the criminal in the database.

Additionally, this language will permit States to cross-reference DNA information from people under State indictment with the current Federal database. For example, if a criminal is arrested and indicted in New York, and the New York law enforcement officers enter the DNA information in their State database, this law permits New York to share this information with the Federal database so all participating States can access the information.

This means that a police officer could link DNA evidence from a crime in Ohio to an arrestee in New York. Again, by realizing the full potential of available technology, we will identify more criminals, prevent more crimes, and protect more innocent victims.

Finally, this bill includes my language that will extend the period of time in which law enforcement officers can utilize DNA evidence to solve crimes. Under current law, the statute of limitations for all Federal offenses starts when the crime is committed.

Under my language, if DNA evidence is found at the crime scene, the statute of limitations for most crimes does not start to run until the DNA evidence is matched to a criminal in the database. This means that criminals will not be able to escape justice merely because they were able to avoid capture for a specific period of time.

This bill also contains the Crime Victims Act for which I am an original cosponsor. This act provides victims with the right to be heard and considered during Federal criminal prosecutions.

As I know everyone here agrees, we owe it to rape victims, crime victims in our society as a whole, to do all we can to apprehend violent criminals. This bill takes a significant step in that direction.

I thank Senator HATCH for his excellent leadership, being so steadfast in doggedly pursuing the agreement necessary in the Senate to pass this bill. Passage of this bill is a testament to his leadership as chairman of our committee. I also thank Senators LEAHY, BIDEN, and FEINSTEIN for working tirelessly to achieve this momentous outcome.

I thank Chairman SENSENBRENNER, as well as Representative DELAHUNT in the House for their outstanding leadership that resulted in a nearly unanimous vote of support by that body.

Our great Nation will be safer and our confidence in our standing judicial system will be reinforced as a result of this timely and much needed legislation.

I would also like to thank the many staff who worked on this bill. Specifically, I would like to recognize the Chief Counsels of the Senate and House Judiciary Committees for their commitment to get this bill done: Bruce Artim and Phil Kiko. I also thank Brett Tolman, who crafted a key compromise in the bill that allowed the parties to come together; Katy Crooks, who worked tirelessly to better this bill; Jay Apperson and Mark Agrast, who brought their outstanding wisdom to the process, Julie Katzman, Neil McBride, Jon Meyer, Christine Leonard, Louisa Terrell, Bruce Cohen, Tara Magner, David Brog, Ted Lehman and David Hantman for their strong knowledge of critical issues; and my exceptional legislative team that worked so very hard on this for me and the people of Ohio: Paul Palagyi, Peter Levitas, Robin Blackwell, Ann O'Donnell and my Crime Counsel Robert Steinbuch. And my former Crime Counsel Evelyn Fortier.

The PRESIDING OFFICER (Mr. HATCH). Under the previous order, the Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, under the previous order, I asked to be recognized after the remarks of Senator DEWINE. I really appreciate the leadership trying to work out our schedule. It has been a long couple of days. It is getting late into the night. I really appreciate everybody trying to work forward to getting some of these bills passed. But as I said, one of the most important bills that we have remaining to pass is a $137 billion tax relief bill.

There are many good provisions in this bill. There are many industries, large and small, in Louisiana that are going to be helped by it. I would have liked to have voted for the bill. There are energy tax breaks. There are shipping interests that are bolstered and supported in here, which means a lot of jobs to Louisiana. I would have wanted to vote for this bill.

I am not going to be able to vote for the bill, and won't vote for the bill unless we have some specific action on one provision—not the Landrieu provision, as some of the others have said, not an individual, personal Landrieu provision, but the provision for the Guard and Reserve, the men and women on the front line fighting for us whom every Republican and every Democrat in this body voted to support. Everyone, all of the Senators, from both parties, by unanimous vote, voted to send that provision over to the House to give modest tax relief to businesses, the small businesses and medium- and large-size businesses that are keeping those paychecks going to the front line.

We thought it was a good idea to take $2 billion of the $137 billion to provide some tax relief for those employers so that the Guard and Reserve that make up 40 percent of our armed services that are picking up more of the burden and are taking all the bullets on the front line, whether it is in Iraq or Afghanistan or somewhere else, so their paychecks could be made whole.

I want people to understand. The Senate of the United States felt strongly about that. But we sent the provision over. And when it got over to the House, it was summarily, unjustly, unconscionably cut out by the House Republican leadership. And it is a shame.

So over the course of the last few days, as we have tried to have debates about this bill in the morning and the afternoon and into the evening, I have spoken about this issue. The reason this poster is up is because it is a visual of what is in the bill and what is out of the bill. Ceiling fans are in the bill. Ceiling fans are really important in Louisiana. I know they are to the Senator from Nevada because we are from States that are very hot. We like air-conditioning, and we like ceiling fans. I am not picking on the ceiling fan industry. It is an important industry, and I am sure there is a good reason. I can't articulate what it is because it wasn't my provision. But someone could probably give a good explanation as to why the ceiling fan industry is getting a tax break.

But the Guard and Reserve, going to Iraq, taking the bullets, fighting on the front line, were left out of the bill, and ceiling fans are in the bill.

That is the truth. It is a shame. Many of us believe strongly that this injustice needs to be corrected.

I see the Senator from Iowa, Mr. HARKIN, has raised other issues that he feels very strongly about that were either not addressed appropriately or properly in either this bill or several others. I want my constituents to know, and I would like my colleagues to know, I do not want to make these schedules difficult. I do not. I understand the pressures that are on the Members of this body.

But I also understand the pressures that are on the families who have their father or mother or brother or sister or husband or wife on the front line. I understand the pressures of these families. So do many other colleagues in this Chamber. If we can do something to help them, then we should. Maybe we cannot get them in this bill. But I have had conversations with the good leadership on the Republican and Democratic side, who are working as we speak to find a way to help the Guard and Reserve so they are not left out of this $137 billion tax bill with over 509 items. But they are not an item, they are not a line, they are not a paragraph or diddly-squat in the bill. So we are talking about how we could possibly get them included in some other bill that might pass before we go home for the election.

I can promise you, in the elections that we are getting ready to have, Members of Congress, Members of the Senate, the President, and the challenger for the Presidency, our nominee, Senator KERRY—everybody is going to be taking pictures with the troops. I guess that is appropriate. But this Senator thinks that is enough of the pictures. Could we please put them in the budget?

I am not up for reelection this year, so this is not a campaign speech. The people in Louisiana have been supporting our troops. Our Guard and Reserve are the best in the Nation. Maybe a Senator would argue, but we have awards to prove it. We win awards. We are about the best—in the top 5 in the Nation. I know these men and women. They don't ask for much. They don't ask to be on the front of every tax break and giveaway. They are willing to sacrifice. But for Heaven's sake, we are going to pass a tax bill and give everybody in America $137 billion and leave them out? I don't think that is right. I don't think my colleagues think it is right or just.

I hope that sometime over the next 3 or 4 days that we are here—I know it is Saturday night. I have two small children. I had to make arrangements so I could be on the floor. I have a husband at home. I know everybody is going to go to church tomorrow, and people were at synagogue today and yesterday. I understand that. But I think we need to spend a little time talking about this issue. Why were they left out? How could we afford $137 billion and not afford a tax cut for them? Was it too complicated to figure out?

There are a lot of complicated things in here. It would make people's eyes twist if I explained how we were giving tax credits to foreign corporations so they could close down here and go to the Bahamas and open a post office box and get a tax check. There are more complicated things in here than saying to businesses in America: Thank you for being patriotic and for voluntarily sending that paycheck to the front line, closing the gap between what the reservists make as part of the Reserve and what they made for your company. We would like to honor that and give you a tax credit. You can pick up 50 percent of the burden, and the Government can pick up the other half.

Evidently, this is too much for us to pick up. It is not too much for me to stand here. I know the hour is getting late. The Senator from Iowa wants to speak. I just say again that I am going to get to the floor over the course of the next few days and I will speak about this issue. I thank the leadership for working in a cooperative manner to allow that to happen because I am still hopeful that we can fix this bill. Maybe the President will veto the bill when he finds out it is not in there. Maybe it could be fixed in a different way. Maybe another bill could be attached. I know if there is a way the leadership in this body wants to fix this, they could. I think the men and women on the front line deserve our best effort in that regard.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### TOBACCO REGULATION

Mr. HARKIN. Mr. President, first of all, I want to thank a number of people. I thank Senator DEWINE for his dynamic and great leadership on the issue of FDA regulation of tobacco products. He has been in the forefront of this fight for a long time. I thank him for his leadership, working again with Senator KENNEDY on this issue and so many others on both sides of the aisle to get that position established by the Senate, which we did, and that was that we would have a tobacco buyout but also FDA regulation of tobacco, finally. We spoke on that, but, of course, the House didn't go along, and we find ourselves now with this great big tax bill of around 630 pages we have on our desk. Guess what. No FDA regulation of tobacco.

I thank Senator DEWINE and I thank Senator LANDRIEU for her strong and dynamic leadership in being here on a Saturday night to continue to make the point about what happened to our guardsmen and reservists in the United States. It is unconscionable what the House and the President did on this issue. We ought to put the blame where it really lies; it is at the White House. That is where it lies. I might say the House, but they are just doing what the White House wants them to do. They are just a rubberstamp for the White House. It is the White House that called the shots on that one.

I thank Senator LANDRIEU for sticking up for our people in uniform, for those all over the country who have been shortchanged by this so-called tax bill.

Mr. President, I want to take some time here to speak about tobacco and how unconscionable it is that this bill does not have FDA regulation of tobacco included. Over the last several days, we have heard a great deal about the dangers of smoking and the devastation caused to millions of families every year. With the results of the conference report on Wednesday, I fear colleagues have not been listening to the details of the public health crisis our Nation faces regarding tobacco and smoking.

Let me repeat them loudly and clearly so Members understand what they are opposing and why we so urgently need FDA regulation of tobacco.

One, smoking kills more than 450,000 Americans every year.

Over the last 10 years, smoking has claimed more than 4.4 million lives.

Smoking is the leading cause of preventable death in this country.

Smoking causes heart disease, cancer, emphysema, and a host of other related illnesses.

Two-thousand kids start smoking every day, and, ultimately, one in three will die of smoking-related causes.

Smoking-related medical expenditures have indirect costs resulting from lost work activity.

There are 250 chemicals in tobacco smoke that are toxic or cause cancer in humans.

Tobacco use accounts for at least 30 percent of all cancer deaths.

Smoking causes nearly 87 percent of all lung cancers, which is the leading cause of cancer deaths.

Last year, nearly 70,000 women died from lung cancer in the United States. That is more deaths than from breast cancer and all gynecological cancers combined—70,000 women.

If these facts don't paint a stark picture of the urgency for FDA regulation of tobacco, I don't know what will. You know, when there is an outbreak of food poisoning in a local school, we move Heaven and Earth to find the source and take appropriate action to make sure our kids don't get sick again. But somehow, when it comes to protecting our kids from a known toxin—tobacco—we find our hands tied. Why? Well, it is because of big tobacco. There is too much at stake in terms of profit loss for tobacco companies to allow this regulation to go through. They have been fighting it for years.

I introduced the first-ever comprehensive bipartisan FDA regulation with, I might say, Senator BOB GRAHAM and former Senator John Chafee of Rhode Island.

That bill was introduced almost 6 years ago. I heard the same reasons then that I do now on how unnecessary FDA regulation is. Quite frankly, our bill went much further and was much tougher than this one. Creating a more sensible policy for tobacco has been a goal of mine for many years. It was in 1977, in my second term in the House of Representatives, over 21 years ago, that I first introduced legislation calling for repeal of the tax deductibility of tobacco advertising and marketing.

Unfortunately, victories in the tobacco wars for consumers and for our kids have come few and far between. Tobacco wins every time.

With the mounting evidence we have today about the absolute dangers of smoking, it is paramount we pass a comprehensive plan that would once and for all change how this Nation deals with tobacco and dramatically cut the number of our kids addicted to this deadly product.

That said, I am afraid the power of big tobacco has once again superseded the need to protect public health. The fact is we know now that 90 percent of current smokers became hooked on tobacco as kids. That should sound alarms that something needs to be done to stop this from happening, and to prevent senseless disease and death that is linked with this addiction. This is a drug addiction. Tobacco is a drug. It is addictive, just like methamphetamine, cocaine, and heroin. It is addictive and it kills you.

For too long, kids have been getting an unfiltered message from the tobacco industry: Smoking is cool. Smoking is harmless. Smoking is glamorous. Smoking is for active young people and will make you look more attractive.

Today, big tobacco companies spend more than $11.5 billion a year in advertising and marketing their products. Children are exposed to messages that are deliberately designed to attract a new generation to the smoking habit. The motivations are clear: Anything to make more money for big tobacco.

Now we hear from tobacco companies all the time that, oh, no, their advertising is to get people to shift brands, go from one brand to the other. Well, I will illustrate here very shortly that is not what they are up to.

Many think regulation is unwarranted after some of the restrictions that were agreed to as part of the master settlement agreement a few years ago. The good old MSA, the master settlement agreement. Yes, there are billboard restrictions and a few things such as that, but now we have much more sophisticated mechanisms.

Let me refresh some memories. Here is Joe Camel, a smooth character, Joe, flying his jet airplane with the afterburners going. He has a beautiful young woman looking over her shoulder, looking at Joe Camel with his Camel cigarette.

Who is this appealing to? Kids.

Now, there is another Joe Camel here. Here is Joe Camel, with Camel Lights, cool Joe. He has his red convertible and black T-shirt and Levi's, and Joe is cool. Joe Camel is a neat guy.

Well, we forced big tobacco to get rid of Joe. They did. We do not see Joe Camel any longer so we can take old Joe down. Joe Camel is gone. I want to refresh memories. I want to refresh memories, because there was a time—and I will repeat this, there was a time—a study was done that kids in America recognized Joe Camel more than they recognized Mickey Mouse. It is true. But we got rid of Joe Camel.

One might ask, what now do you need? I will show my colleagues why we need to have FDA regulation, because tobacco has gotten smart. They are now spending more than ever on predatory marketing since the MSA was agreed to. Big tobacco is spending 60 percent more on marketing than they were before the master settlement agreement.

Again, are they trying to get people to switch? Let us take a look. Here is Liquid Zoo. Now, I had a pack of those with me when we were in conference. I was one of the conferees arguing to keep the FDA regulation that we had in the Senate, and I had strawberry flavor. This was Liquid Zoo, strawberry flavor. When you smell it, why, you would swear you were in a strawberry patch. It smelled wonderful. It smelled like strawberries.

This is the tobacco. Liquid Zoo-flavored cigarettes are an exotic blend of strawberry-flavored tobaccos for a sweet, fresh taste and aroma.

Do they really think they are trying to get someone to switch from Marlboros or Winstons or Camels to that? That is going right to our kids. That is what this is about.

Then we have Kool Rapper here. We have another one. Here is the Kool Rapper. Here is a rapper. He is cool. He has his mike and he is spinning the disk or CD or whatever it is there, and everyone is dancing and that is called Kool Rapper.

Now, do my colleagues think they are trying to go after adults with that? Do my colleagues think they are trying to go after 40 and 50-year-old people to get them to switch from Marlboro or Winston or Camel to that? No. This is for kids. They are getting to young people. They are spending 60 percent more on marketing now than they did before the master settlement agreement, and we took away Joe Camel on billboards, but now they are spending 60 percent more and this is where it is going.

Because what do they know? They know 90 percent of all tobacco smokers today started when they were young. They get them hooked early.

I have another Kool Rapper here. This is just, again, special edition packs. Now, they do not any longer have the little coupons where you can get gear and all that kind of stuff. That is gone, but now they have special edition packs: Celebrate the sound track to the streets. It does not take a genius to figure out who they are targeting with that.

So big tobacco has found tricks and dodges to circumvent the law, and they have been very effective. From the birth of Joe Camel to the birth of Liquid Zoo and Kool Rapper, we have seen broken promises and bad faith again and again from big tobacco.

Giving the FDA the power it needs to end these false messages is exactly what is needed to stop big tobacco's exploitation of our kids. The only message our young kids should hear about tobacco is the truth: Smoking is a killer. It is a drug. It is addictive. It causes cancer. It causes emphysema. It causes a lot of other illnesses. That message needs to come through loudly and clearly. Since industry will not convey that message, we need strong FDA regulation to make it happen.

Instead, what do we do here now with this big tax bill we have? We allow big tobacco to further confuse kids when it comes to the actual safety of cigarettes.

This morning I got up and I had my Cheerios. I actually had a bowl of Cheerios this morning. Now, the bowl of Cheerios I ate this morning had to go through a multistep process set up by the Food and Drug Administration to earn its health claims that it is heart healthy and lowers cholesterol. It had to go through certain steps.

Somehow tobacco, a known health risk, does not have to go through any of those steps whatsoever. In fact, tobacco companies are free to add anything they want to their product without having to inform consumers or without any regard to the health effects of those additives.

For example, tobacco companies have added ammonia to their products. I do not know if my colleagues have ever smelled ammonia, but they get an idea of what it is like. They add ammonia to tobacco products on the ground that it improves "tobacco satisfaction." They add the ammonia in order to create a "free base" form of nicotine that creates the highly addictive quick delivery form of nicotine to the brain. It goes from your lungs to your brain in 8 to 10 seconds when they add ammonia. We know this. So tobacco companies add ammonia so that you get a bigger kick right away, in 8 to 10 seconds. Adding ammonia to cigarettes is analogous to what crack cocaine was to cocaine—it just gives you a faster high, it goes to your brain quicker. But guess what. The tobacco companies do not have to tell you that. They just tell you have a Kool Wrapper there. They don't have to tell you anything else.

The industry claims that many of its ingredients are benign flavoring agents like strawberry that are on the FDA GRAS list. That stands for Generally Recognized As Safe. The tobacco companies say we put these ingredients in and they are benign; however, those ingredients such as chocolate, licorice, and other flavors are not safe when they are combusted, and they often create toxic chemicals when they are inhaled by the smoker. So, yes, maybe licorice is safe to eat, but when you combust it, then it creates toxics that you inhale. The industry will not tell you that either.

No other industry in America is allowed to add ingredients to their products without first having them tested and approved by the Federal Drug Administration for safety. For example, Kraft Foods, a subsidiary of Altria Group along with Philip Morris, could not add ammonia to Kraft macaroni and cheese on the grounds that it improves cheese satisfaction for its customers. Why can't they add ammonia to macaroni and cheese? They can't add ammonia to macaroni and cheese because it is not on the FDA list of products that are generally recognized as safe. They can add ammonia to cigarettes; they can't add it to Kraft macaroni and cheese. The FDA has more authority to regulate macaroni and cheese than it does cigarettes. Imagine that.

I have this to show what I mean by that. Here is something called Omni cigarettes. Here is what it reads:

> Omni is the first premium cigarette created to significantly reduce carcinogenic PAHs and nitrous amines, which are the major causes of lung cancer in smoking."

That is what they say.

Says who? The tobacco company says that. But we have no way of verifying that. They can make all the claims they want, like low tar, light, less carcinogenic, but we the public have no way to verify that because the Federal Food and Drug Administration has no authority to regulate tobacco or to go in and tell us what is in there or to make the tobacco companies verify what they say.

I have an Eclipse one here, too. Here is an Eclipse. This is interesting:

> The best choice for smokers who worry about their health is to quit. Here is the next best choice. Are you ready for Eclipse? Get the facts.
>
> I have the support of my wife..if I'm going to smoke, she'd prefer I smoke Eclipse.
>
> A better way to smoke.

Talk about a warped message:

> Omni, there is no better way to smoke.

A better way to smoke? There is a better way to get cancer. There is a better way to get emphysema. This cigarette will give it to you faster. They don't tell you that, but that is what is happening.

During debate in the conference committee, one of my colleagues on the House side mentioned that the Founding Fathers would be shocked if they knew that Congress was trying to regulate an industry that was in part responsible for the early prosperity of our country. It is more likely that they are rolling over in their graves at the fact that we have known for more than 30 years that tobacco kills and that we have not done one thing about it. They didn't know it in the 1700s. They didn't know, but we know now.

The Congress is now considering, one more time, giving immunity to big tobacco and turning a blind eye to their responsibility to protect our kids and the public health. That is what is not in this tax bill. There are tax breaks for all kinds of things. There are tax breaks in here for gamblers who come from foreign countries to gamble here. Imagine that, they need a tax break. There is a tax break in here for people who import ceiling fans from China.

Lord only knows what else is in this tax bill. No one has really read it. No one knows what all these numbers and staff mean. There is a tax break here and a tax gimmick there; a tax break here and a tax gimmick there.

When this bill was before the Senate, this Senate added a provision that did two things. It allowed for a buyout of tobacco farmers' quotas—which I have been in favor of for years, by the way. Coupled with that is FDA regulation of tobacco.

Again, as someone who sits on the Agriculture Committee and also on the HELP Committee, I have been involved in both sides. I have espoused for a long time that we have a tobacco buyout, that we buy out these quotas. Why should we do that? These quotas were put on 60 or 70 years ago. They have been built into the price of the land. I can't go back and undo that. It is a fact of life. Many farmers in tobacco growing States—some of them are small farmers. All they have is that quota. They don't have anything else. The land is really not worth that much. So it is like taking away their income base. So I have always said we need to buy these quotas out and get rid of this tobacco program for once and for all. On the HELP Committee side, I have also said, if we are going to do that, then we ought to have FDA jurisdiction over tobacco.

This debate went on and on for years, and final we agreed. I might say that Philip Morris was one of those who agreed with us. I commend them for that. So we got it through the Senate.

It goes to the House. Guess what the House did. The tobacco buyout that we passed in the Senate, the money that is going to go to those tobacco farmers did not come from the taxpayers. It came from the tobacco companies. Of course, the tobacco companies will pass that on to tobacco smokers, so the smokers were going to pay for the buyout of the quotas. That is as it should be. Why should the taxpayers pay for it? We agreed on that. Philip Morris agreed on that. We agreed that we would have FDA jurisdiction.

Here is what the House did. They broke that agreement. First of all, the House of Representatives, and I am sure with the approval of the Bush White House because they wouldn't have done it unless the White House agreed, they made the buyout of the quotas paid for by the taxpayers of the country. All of you who do not smoke, you are now going to pay to buy out those tobacco farmers. That is what was in the House bill, plus they took away the FDA jurisdiction over tobacco.

In the final analysis, they put back in the companies paying for the buyout, but they left out the FDA regulation of tobacco. So here we are. No FDA regulation. That is what is not in this FSC bill.

It was my understanding the purpose of this bill was to repeal an illegal export subsidy. Now it has morphed into a big special interest giveaway that will help everyone from restaurant owners to makers of bows and arrows, tackle boxes, sonar fishfinders, NASCAR track owners, Alaskan whalers, foreign gamblers, as I mentioned, who win at U.S. horse and dog tracks.

I want to repeat that.

In this bill, there are provisions to give tax breaks to foreign gamblers who win at U.S. horse and dog tracks. Those interests trump the 2,000 kids hooked on smoking every day by the big tobacco companies. Imagine that.

What are our priorities around here? What is the priority of the White House? I am telling you it could never have happened unless the President signed off on it.

You go out there, Mr. President. You have some more days before the election. Go out there and tell the American people how you pulled the rug from underneath FDA regulations of tobacco, how you sided with the big tobacco companies to get our kids hooked on tobacco every day—2,000 every day. Go out and look those mothers and fathers in the eye and tell them your priority is the big tobacco companies and not their kids.

Yes. This would never have been done if the White House had not OK'd taking FDA jurisdiction away. Shame on the White House.

We had the opportunity here to pass this legislation once and for all, and to stamp out youth smoking in this country and protect kids from joining the ranks of the 450,000 who die from smoking each year. The tobacco industry has been engaged in a systematic campaign of distortion and deceit to hook kids and hide the facts from the American people for far too long.

I met a fifth grader, Ted Stanton, from Des Moines, IA, a few months ago who reminded me how important regulation is. Ted won a statewide poster contest sponsored by the American Academy of Family Physicians for his efforts to raise awareness about smoking. He is a fifth grader. What happened was Ted has had to watch his dad struggle with the habit of smoking for years. He drew a poster. His poster is an attempt to warn kids about smoking.

Here is his poster and here is why he won the prize. "Invest in your future." He has the date 2054. "Pay to the order of big tobacco companies $73,000." That is $4 a pack every day times 50 years. In other words, you smoke a pack a day for 53 years and you will pay big tobacco companies $73,000.

I thought Ted Stanton, a fifth grader, really pointed it out. That is what you are doing when you start smoking. You are going to smoke for 50 years, if you are a teenager, a pack a day, $73,000.

We do have some kids like Ted and others who realize they are being targeted by big tobacco, but they are defenseless. What are we doing to help them? What we are doing is protecting big tobacco—the same guys who conspired years ago to hide the truth about tobacco and instead pushed their deadly products on our most valued treasure, our kids.

It is disgraceful that this body has not acted yet. It is disgraceful that we are getting half of the deal we had worked on for years, the tobacco buyout of the quotas. Guess what happened. The way they worked this tobacco quota buyout is you are going to buy out the quotas, but now tobacco will be growing cheaper. Now the tobacco companies will be able to buy tobacco cheaper than they had before, making more money, hooking more kids, without FDA authority.

The reason I say that is because when we passed the bill in the Senate, we had a provision that provided for a licensing program that would prohibit more and more people growing tobacco in this country. The House took that out. So we got the worst of all possible worlds—no FDA regulation, a buyout of the quotas, more people will be able to grow tobacco, and the tobacco companies will get it cheaper and make more money to hook our kids. What a deal. Yet we can take care of foreign gamblers who come to bet on horses. But we can't take care of our kids. Shame on us.

(Mr. HATCH assumed the Chair.)

I know the hour is getting late. I see the occupant of the Chair, someone for whom I have great respect, the Senator from Utah.

I will state publicly that the senior Senator from Utah has also been in the forefront of the fight against tobacco. He always has been. I compliment him for that. I know he feels as strongly about antismoking and stopping kids from smoking as I do, or as Senator DEWINE does, or Senator KENNEDY, or anybody else does. The Senator from Utah has been stalwart in his support for getting FDA regulation of tobacco. I thank him for that. I encourage him to keep up his leadership on that because we have not yet fired the last shot. We are going to be back.

I wish the President of the United States, using the bully pulpit of the White House, had come out in an address to the Nation and said we need FDA regulations for tobacco, we need to stop our kids from getting hooked, and call upon the House and the Senate and say he will not sign this bill, he will veto this bill unless we protect our kids.

Think of what would have happened if the President of the United States had said that. We would have a tax bill here, but we would have FDA regulation of tobacco in here. I am sorry the President missed a golden opportunity and thus we have missed a golden opportunity. Thus, tomorrow and the day after, and next month, and next month, and next year, thousands of kids every day might pick up a pack of Liquid Zoo, because it smells nice. It tastes like strawberries. They will say, There is no harm in that, plus it makes me look glamorous. That is what all the ads say.

Think about it. That is what is going to happen. Shame on us.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I see the occupant of the chair, and I know he wants to go home. But I said to the managers I can be interrupted when they are ready to wrap up. I want the occupant to know I am not holding him here.

I will talk about one other item that is not in this FSC bill that we got stiffed on. We passed it four times in the Senate and twice in the House. I am talking about overturning the regulations that this administration put out that will deny overtime rights to over 6 million people.

Again, just last week, in a replay of what happened a year ago, the Bush administration used the conference to kill my provision to stop the Department of Labor's new rule on overtime pay that if allowed to stand will strip 6 million people of their right to time and a half overtime.

The bill before the Senate today serves the simplest of purposes. This tax bill has everything in it for everyone, but what is not in it is protection for the workers of America, protection for those who make over $23,660 a year. Actually, for some below because of little gimmicks that can be used to deny them their right to overtime.

Again, this is simply a matter of fairness. People believe if they put in more than 40 hours of work a week, they are giving up premium time, time with their family. I had a woman who wrote me and said: Look, I go home from work and my second job starts. I go home, take care of my kids, I get dinner ready, help them with their homework, and then I have to do washing, and this and that. But my time with my family is my premium time. If I am asked to give up my premium time with my family to work on my job, I ought to get premium pay.

What the Bush administration has done is said: No, sorry, we will ask you to work overtime and we will not pay you one cent more.

Again, a little history. It has been sacrosanct since 1938, the Fair Labor Standards Act. If you work over 40 hours a week, you get time-and-a-half pay. It has been that way since 1938. We have modified it a little bit here, a little bit there, but every single time we have changed the Fair Labor Standards Act, we have enlarged the pool of people who get covered by time and a half. This is the first time where up to 6 million people will lose their right to overtime pay.

Now, some will say but they raised the base to $23,660. In other words, anyone who earns under that is automatically eligible for overtime. Quite frankly, most people working there are already eligible because they are not salaried, they are hourly workers. While that is fine, we should raise the base. The administration then went and took away overtime pay rights for anyone making over $23,660 a year. If you are making $23,661, you are in a separate category. Just barely over—well, that is poverty wages—and you still are not eligible for time and a half overtime.

I also say every time since 1938 when we have changed the Fair Labor Standards Act, it has come to Congress. We go through the committees, the committees have hearings, we bring in witnesses, they draft a bill, it is debated in the Senate, and it finally goes to the President. That is the way it ought to be. That is transparent; it is open; everyone gets their say. We can debate it and amend it. We, the elected representatives of the people, get to debate and amend it—a strange concept, I guess, to this administration.

What this administration did 1½ years ago, sort of in the stealth of night without having one public hearing, they promulgated these new rules on overtime.

Some might say: Well, they have had hearings since then. Yes, thanks a lot, after the horse is out of the barn and they closed the door. Fine. But that is not the way it should have been.

So now we have a situation where they finalize the rules on August 23. We have never really debated or amended that in the Senate. I have on four different occasions in the Senate offered amendments to overturn those rules, to go back to square one, to start over. Let's do it the right way. We have passed them here, but the administration says no every time.

I watched the debate last night, and I heard the President talking about domestic policies and jobs and economic growth. And I thought, wait a minute, he even talked about overtime. He said people are working overtime. I heard him say it last night. I thought, they are working overtime, but what the administration wants to do is take away their overtime pay.

That is exactly what is happening. We have facts. We have the data. People are now being denied time and a half overtime for working over 40 hours a week because they are being "reclassified." Guess who is getting hit first. Women. Why do I say that? Many women raise families, start later in life, and start at lower income jobs. Many of these are salaried positions. Because they are on a salary, they will be reclassified. As they get reclassified, they will be exempt from the overtime laws. If overtime is free to the employer, it will be overused.

This chart shows a study by the Center for Women's Work at Rutgers University. The chart shows those who are eligible for overtime, in the green, are protected; the red are not protected. Those protected by overtime work are about 20 percent of workers working 40 hours a week. If they are protected, chances are 20 percent of these people work over 40 hours a week. If they are not protected by overtime, 44 percent of these people work over 40 hours a week—twice as many. So now we will take away this protection from this 20 percent. Then they will be working overtime, and they will not get paid for it.

Right now, if they are covered by overtime protection, only 5 percent work over 50 hours a week. If they are not covered by overtime, 15 percent, three times as many people not covered by overtime laws work over 50 hours a week.

That says it right there. If the employer does not have to pay you time and a half, work them more, and they will not hire any new workers.

It is interesting to note—the occupant of the chair will find this interesting—in 1933, 5 years before the Fair Labor Standards Act was signed into law, the Senate voted 53 to 30 to set a cap on the number of hours in a workweek. Was the cap 50 hours? Was it 40 hours? No, it was 30 hours. Imagine in 1933, this Senate, in this Chamber, voted 53 to 30 to say that the workweek would be 30 hours. You could not pass 60 hours here now. Imagine that. In 1933, this Senate voted 53 to 30 to set a 30-hour workweek. Amazing. The compromise was reached 5 years later at 40 hours a week, and that is what it has been ever since.

Again, we know what the intent of this proposed rule is. The intent of this proposed rule is to allow employers to work employees longer than 40 hours a week and not have to pay them time and a half. And we have a final rule on that, a final rule. These are going to be low- to middle-income workers. They are not organized. They do not have a strong voice. So the administration feels they can run roughshod over their rights.

For the life of me, I cannot understand this. People work hard. Many families are working two jobs where the husband and wife are both working, trying to make ends meet, trying to save a little money to put away for the kid's college education, maybe to buy a better house, move up the ladder a little bit. For those who work overtime, 25 percent of their income comes from overtime.

I see the managers are here to wrap up. I will just conclude by saying that, again, just as it is a shame and a shame on us that we do not have FDA control of tobacco, shame on us also, and shame on this administration, for taking away the overtime rights of 6 million people in this country.

With that, I yield the floor.

Mr. HATCH. Mr. President, I express my strong support for the conference report to accompany the American Jobs Creation Act. In order to protect our domestic manufacturers, strengthen our economy, better help U.S.-based multinational firms compete globally, and honor our trade obligations, the Senate must pass this critically important and overdue legislation before recessing for the elections.

I wish to start by congratulating the chairman of the conference committee on this bill, Congressman BILL THOMAS, and the cochairman, Senator CHUCK GRASSLEY, for their leadership and exceptional cooperation in finishing the conference on this bill in time to bring it to the House and Senate floor this week. Many thought completion of this task would be difficult or impossible, given the large differences in the Senate and House versions and the time constraints the conference committee faced.

The innovative conference process developed by the chairman and cochairman made success possible. Conferencing a large and diverse pair of tax bills in the usual fashion could have taken many weeks and led to a likely failure to finish this bill before sine die adjournment of the 108th Congress. Again, I recognize the extraordinary achievement of this conference committee and thank its leaders and my fellow conferees for their hard and dedicated work.

This conference report represents what we hope will be the culmination of a very lengthy and fascinating issue that had its genesis decades ago but has festered into a growing problem over the past several years.

I will leave to others to go into detail about the long history of the export subsidies in our tax law that gave rise to this conference report, but the unusual nature of this bill and its difficulty in passing the Congress are reflections of the complexity of this issue.

The crux of the difficulty of the bill is that the rulings of the World Trade Organization on the trade-legality of our export tax subsidies put the Congress in a very tough position. In essence, we found ourselves needing to repeal these export subsidies, known as the Foreign Sales Corporation, FSC, provision and its replacement regime known as the Extraterritorial Income, ET, exclusion.

By repealing these provisions, which we must do in order to honor our trade obligations, we effectively raise taxes by almost $6 billion per year on thousands of U.S. businesses that manufacture goods for export.

Leaving it at this is simply unacceptable. Why should we have to convert a provision designed to help U.S. manufacturers compete in an ever-increasingly difficult global marketplace to a situation where they suffer a competitive disadvantage?

Yet, this is exactly the problem the Congress faces now that it is forced to repeal the export tax benefits.

When confronted with a similar problem in 2000 after the WTO ruled the FSC provision to be in violation of international trade rules, Congress passed the ETI in its place. With the ETI, we were able largely to replicate the benefits of the FSC regime, so that exporting taxpayers paid few if any extra taxes with the repeal of FSC. Unfortunately, the WTO subsequently ruled that the ETI provision also was an illegal trade subsidy that also must be repealed.

So, the conundrum facing the Congress with this situation was to find a way to enact other tax cut benefits for exporting manufacturers, to offset the increase from repealing ETI, without violating the WTO rules.

Unfortunately, this has proven impossible, so both the Senate and House bills attempted to find rough justice for business taxpayers by finding other ways to deliver tax benefits besides basing them on exports. Such attempts gave rise to the political and practical difficulties of this bill, including the fact that it took many months of hard effort to reach the point we are today.

For example, my own bill to address the FSC/ETI problem was S. 1475, the Promote Growth and Jobs in the USA Act, which I introduced in July 2003. This bill would have delivered rough justice tax relief in two ways.

First, it would simplify and rationalize the international tax rules that currently harm the ability of U.S. firms to compete globally, and second, it would provide incentives for companies to increase their ability to produce goods by acquiring new equipment and engaging in more research and development.

Other FSC/ETI solution bills were also introduced. On the same day I introduced S. 1475, Chairman THOMAS introduced H.R. 2896, the American Jobs Creation Act. The two bills were similar in many ways, and both included international tax reforms. The Thomas bill, however, included a number of other provisions designed to help U.S. businesses create jobs and better compete.

Another bill, introduced last year by Congressmen CRANE, RANGEL, and MANZULLO, offered a different direction still. This bill provided a deduction equal to 10 percent of a company's production activities.

In the Senate, Senators GRASSLEY and BAUCUS introduced a bill that included some of the best elements of all the other bills. Even though I preferred the solution set forth in my bill, I cosponsored the Grassley-Baucus bill because it represents a solid and reasonable solution to the problem. This bill, as modified, became the legislation reported by the Finance Committee and passed by the Senate.

After a great deal of travail and adjustments, the House also passed a FSC/ETI bill, and it was quite similar in many respects to the first Thomas American Jobs Creation Act. These are the bills the conference committee had to combine into one.

The result, as we all know, is a bill that is far from perfect. Its enactment will result in a net tax increase for some exporting companies that now use the ETI provision, and in a net tax cut for many other U.S. manufacturing firms that may have not taken advantage of the ETI exclusion.

And while the bill includes many important other provisions, it leaves out some very important provisions that the Senate conferees agreed with me should be in there. Unfortunately, the House conferees disagreed and they were omitted from the final product.

For example, I am personally very disappointed that the House conferees voted against including the CLEAR ACT in this conference report. This bill, which has passed the Senate at least three times and also has passed the House, would transform our auto industry by granting strong tax incentives for consumers who buy alternative fueled and advance technology vehicles, such as hybrid electric cars.

Moreover, it would move us to a more responsible age of cleaner air and less fuel dependency on the Middle East by simultaneously breaking down the three barriers that keep our nation from adopting the already-existing technology to help us meet these goals—the higher cost of such vehicles, the higher cost of alternative fuel, and the lack of a refueling infrastructure.

From a broader point of view, most of my fellow Senate conferees and I would have liked to see the entire set of energy tax provisions from the Senate-passed bill included in the conference report. It was a mistake to omit these important provisions.

I also very much regret that the House conferees refused to adopt the amendment I offered, accepted by the Senate conferees, which would have bolstered our research tax credit. While it is true that the research credit was extended for a short time in the most recently passed tax bill dealing with individual tax cuts, that legislation left out an important element that was contained in the Senate FSC/ETI bill designed to improve the incentives this provision gives for companies to engage in R&D activities.

Nevertheless, the conference report is worthy of our support. As I mentioned, as a nation we must honor the obligations under the World Trade Organization. Of more immediate importance is the fact that the Europeans are levying an increasing level of trade sanctions against certain of our products exported to the E. U. This level is currently at 12 percent and is growing by one percentage point per month and is definitely having a very serious negative effect on certain U.S. industries.

Moreover, the trade sanctions are authorized to continue to increase until next March, when they will have reached 17 percent. After this, the E. U. may authorize even more serious sanctions against us that would surely harm our economic growth.

As all of my colleagues well know, if we do not succeed in passing this conference report before sine die adjournment of the 108th Congress, we must start the process all over again next year.

Will this result in a better bill?

Perhaps, but such an outcome is far from certain. What is more likely is that the resolution to this issue would be delayed for many more months, giving the trade sanctions more time to damage our economy and harm U.S. businesses.

Now, I take a few minutes to discuss some of the specific provisions that did make it into the conference report and why I believe my colleagues should enthusiastically support them.

First, let me express my satisfaction that this conference report has a good balance to it. In addition to the vital repeal of the ETI provision and the quite reasonable transition relief it provides for current ETI users, the bill offers significant provisions for both small businesses and large multinational firms. Mixed in is a generous portion of important tax relief for business interests of all kinds.

Central among these relief provisions is the manufacturing deduction. This provision is designed to lower the tax burden of any business entity that engages in production activities in the United States. I am happy to see that the Senate provision allowing this deduction to be taken by unincorporated businesses was retained in conference.

Also included in the conference report is a significant section of relief designed specifically for small businesses. Foremost in this category are the five sections that would simplify and reform the taxation of S corporations. These are changes I have long sought. Along with my colleagues, Senators BREAUX, SMITH, and LINCOLN, we have attempted to get these and other S corporation improvements passed for several years now. I am gratified to see them included in the conference report.

Other provisions that are very important to the balance of this bill are those designed to simplify and improve the rules by which this Nation taxes international business transactions. Quite simply, the current state of our international tax rules is appalling. This part of our Tax Code generally dates back to the early 1960s, and was designed for a different world from the one in which we live now.

U.S. businesses, whether large, medium, or smaller, that decide to expand their markets beyond the borders of the United States confront a set of tax rules that are not only mindnumbingly complex, but far worse result in double taxation and often leave them on the down side of a tilted playing board when compared with competitors based in most other industrialized nations.

Our rules governing the foreign tax credit, for example, which are designed to eliminate the double taxation of income, often are ineffective, some blatantly so. A provision added to the Internal Revenue Code in 1986 reduces the foreign tax credit by 10 percent to the extent it reduces the alternative minimum tax. There is little or no justification for this double taxation that I can see, and this conference report repeals this unfair provision.

The bill includes about two dozen provisions that will help improve the tax law for our companies that have expanded their markets overseas. I have long been interested in getting this type of reform passed by the Congress, having introduced bills to do this since the mid-1990s. It is gratifying to finally see this long overdue relief come to pass.

Some of my colleagues have incorrectly concluded that improving our rules on international taxation will give an incentive to U.S. companies to move their jobs overseas. This is unfortunate. Cross-border investing is not only a necessity of our modern world, it is usually beneficial to both nations. Most U.S. companies that invest in expansion into markets in other nations do so to compete effectively with other suppliers in those markets and here at home.

A fact of life of our modern economy is that our U.S.-based business enterprises face competition from all parts of the globe. It is unrealistic to think that an American business can simply focus on markets here at home and thrive. Instead, most of today's businesses must be mindful of both markets and material and labor supplies around the world if they are to stay in business very long.

While no one likes to see U.S. jobs move overseas, we should be more concerned about creating and maintaining in the United States the kind of environment that attracts businesses. Part of that environment is ensuring that our tax system does not drive businesses offshore to other nations that tax them in a more favorable fashion. This bill moves our tax system a big step in that direction, and I am pleased to see these changes finally reach the point where they are about to become law.

I now say a few words about the issues regarding tobacco associated with this conference report. I have not forgotten that at the center of the tobacco buyout is the tobacco farmer. I understand that the tobacco price support and tobacco quota programs have helped to secure a reasonable living for many family farmers.

I have also come to the understanding that breaking the dependency of U.S. citizens and especially children on nicotine requires us to address the dependency of tobacco growers on the tobacco industry and on the government programs. It will not be an easy transition for many tobacco growers, and we need to help these families to survive it.

Contrary to the belief of some, the United States Department of Agriculture, USDA, does not provide a direct subsidy to tobacco growers. However, the USDA does maintain artificially high prices for tobacco leaf by managing the loan, or-price support, program for tobacco growers which serves to maintain artificially high prices for tobacco and cigarettes in this country.

The USDA also manages the tobacco quota system to keep down the amount of tobacco grown each year. This, again, keeps the price of tobacco and cigarettes high. All direct and administrative costs for these two programs are reimbursed to the USDA by tobacco farmers and their trade association. There is no net cost to the government as a result of the tobacco program. In fact, smokers carry most of the burden of the tobacco program through higher costs for the tobacco products they purchase.

Shifting tobacco farming away from tight government management toward the free market has risks for our farmers. This proposal does a good job of getting the government out the farming business while making temporary assistance available to farmers as they adjust to the free market. And, it is at no cost to our government.

As far as the provision requiring the Food and Drug Administration to regulate tobacco, let me say that I fully support measures to end tobacco use in the United States.

I can think of few public health dangers worse than tobacco, and this is especially true for young people.

I have heard from many concerned parents and health advocates in Utah who point out the need to stop the devastating health consequences of tobacco use.

In many aspects, the DeWine/Kennedy language was written to achieve that goal, and in that spirit I supported it in conference. In fact, much of the bill is taken from a measure that I authored several years ago with Senator DIANNE FEINSTEIN.

That being said, I am concerned about some aspects of the way the bill was written, and especially the impact of this language on the resources of the Food and Drug Administration.

First, the Committee of jurisdiction, the HELP Committee, should have the opportunity to consider this legislation before it is brought to the full Senate for a vote the next time. Having been the chairman of that committee for several years, I know full well the complexities of the Federal Food, Drug and Cosmetic Act. Three hours of debate on the Senate floor was not enough time to consider legislation that made such dramatic changes to current law.

I also want to make sure that we in the Congress are clear about the impact that such legislation would have on the Food and Drug Administration and whether or not the FDA has adequate resources to regulate tobacco, and, in addition, keep up with its other, extremely important responsibilities, such as the approval of drugs, medical devices, and protecting our food supply.

While I understand that user fees were included in the legislation, I am not convinced that those user fees would have provided the FDA with sufficient resources to regulate tobacco. I am someone who has fought to provide FDA with adequate resources and have led the fight on unifying the FDA campus. I do not want anything to jeopardize the progress we have made in those areas so before we consider similar legislation again. I believe it is imperative to work closely with the FDA to find out exactly how much money is necessary for the agency to regulate tobacco, and whether or not the agency is capable of overseeing the regulation of tobacco.

Again, let me make one thing perfectly clear—I believe that tobacco should be regulated, however, it needs to be a well-thought-out process. Therefore, allowing the proper committees of jurisdiction to review and consider the legislation and consultation with the FDA must take place before similar legislation is voted upon by the full Senate and House of Representatives before we consider another measure.

Finally, I want to touch on some of the revenue offsets included in the conference report. I want to make it clear that I support the principle of keeping this bill revenue neutral, and I congratulate the conferees for doing so. This was a particularly sticky problem with the House Members, so I especially recognize their hard work in bowing to the Senate's demands that this bill be fully offset.

I am very pleased to see that several revenue offset provisions that were in the Senate bill are not part of the conference report. One of these is the codification of the economic substance doctrine. I believe enactment of this provision would have led to a great deal of unnecessary conflicts between taxpayers and the Internal Revenue Service, and would have unfairly penalized companies for engaging in legitimate tax planning techniques.

One provision that did make it into the conference report raises revenue in connection with the donation of used vehicles. In essence, the provision requires that taxpayers wait to take a deduction for the donation of a used vehicle until the donee charity has sold the item in an auction. Then, the deduction is limited to the actual purchase price.

While this may appear to be a reasonable requirement, particularly in light of some of the alleged abuse surrounding the charitable donation of used vehicles, I am concerned that these changes will result in far fewer used vehicles being donated to charities. Some charities, such as the National Kidney Foundation of Utah, rely heavily on such donation programs for a great deal of their funding. A chilling effect on the donation of these used cars could leave many worthy charities short of vital funds needed to perform their invaluable services to needy citizens in Utah and elsewhere.

I will keep a watchful eye over the implementation of this change in the law, to make certain it does not harm the charities that have relied on donated vehicles for funding. While I agree that we should preclude any real abuse of the law, I do not think we should create a burdensome new requirement that would discourage charitable giving. It may well be that we need to revisit this area of the law in the future.

In conclusion, the conference report before us represents a good bill that deserves our support.

As I have tried to indicate in these remarks, the bill is far from perfect. But given the very difficult political and other circumstances surrounding the issues this bill addresses, it is remarkable we were able to bring to the Senate floor a product that is as good as it is. I urge my colleagues to support the conference agreement.

### SECTION 422

Mr. SMITH. Mr. President, I would like to ask if the Chairman of the Committee on Finance would entertain additional questions regarding the American Jobs Creation Act of 2004.

Mr. GRASSLEY. Mr. President, I would be glad to take questions from the Senator from Oregon.

Mr. SMITH. I ask for additional clarification regarding the conferees' intent with respect to the rule in section 422 of the American Jobs Creation Act of 2004 that disallows deductions for expenses "properly allocated and apportioned to the deductible portion." I would ask for clarification of the type of expenses that may be "properly allocated and apportioned". Would it be reasonable to say that properly allocable and apportioned expenses would not include general and administrative costs not directly related to generating the income being repatriated and such indirect expenses as research and development costs, interest, state and local income taxes, sales and marketing costs, depreciation, and amortization.

Mr. GRASSLEY. Yes, your understanding is correct. I would add that directly related expenses would include, but is not limited to, stewardship costs and directly related legal and accounting fees.

Mr. SMITH. Thank you Mr. Chairman. Under the conference report's provision on the temporary dividends received deduction, the amount that may be brought back to the United States may be determined by the reference to the "applicable financial statement". In general, this term looks to the most recently certified financial statement filed on or before June 30, 2003. In the case of a taxpayer that subsequently re-filed or restated its pre-July 1, 2003 certified financial statement, it is not clear how this would be determined. Is it the legislative intent to lock in the earnings permanently reinvested amount from the most recent pre-June 30, 2003 financial statement, which had been certified, regardless of any subsequent restatement?

Mr. GRASSLEY. The applicable financial statement is the most recent statement that had been certified, and filed with the Securities and Exchange Commission if required, on or before June 30, 2003. However, in the event of a subsequent restatement of a financial statement that had been certified, and filed if required, on or before June 30, 2003, if the subsequent restatement contains a lower permanently reinvested amount, then the lower amount shall apply.

Mr. SMITH. I thank the chairman for this clarification.

### IRS

Mr. SANTORUM. Mr. President, I read with great interest an exchange of letters in the House between my colleague from Pennsylvania, Mr. ENGLISH and the chairman of the Committee on Ways and Means, regarding regulations issued by the Internal Revenue Service under section 263(g) of the Internal Revenue Code in the context of the Conference Report on H.R. 4520.

The issue raised in their discussion relates to the IRS decision in regulations published on January 17, 2001, to expand its authority under that section. Without at this point questioning the IRS interpretation of the law, the colloquy notes that the IRS has in some case imposed its new interpretation retroactively. The colloquy urges the Department of Treasury to take the position that the new interpretation should be applied only on a prospective basis.

I rise to agree with my friends in the House. Our practice in Congress is to give taxpayers notice when we intend to change the law in ways that could affect ongoing transactions that were undertaken in reliance on the law as it existed. Certainly Treasury can and should follow the same rules.

I hope the Treasury Department will take note and act accordingly.

### BUSINESS AIRCRAFT

Mr. BROWNBACK. I want to thank the distinguished chairman of the Committee on Finance, as well as the chairman of the Ways & Means Committee, Mr. THOMAS, and all the conferees on H.R. 4520, for retaining the provision allowing business aircraft purchased this year to qualify for bonus depreciation if the aircraft is delivered and placed in service in 2005.

This provision is important to the hard-working Kansans who build these aircraft. Provisions such as this will help to further bolster our rebounding economy with respect to expensive and complicated equipment like business aircraft. Without bonus depreciation, there is a risk of a shortage of orders for delivery next year with a resulting impact on employment.

It would have been better if this legislation had been enacted earlier this year, but, even now, this provision will allow manufacturers several extra weeks to take orders for delivery by the end of 2005. That should help to ensure that there will be planes to build in 2005.

I ask the chairman a technical question on the effective date of this provision.

Mr. GRASSLEY. I thank the Senator from Kansas for his kind words, and would be happy to respond

Mr. BROWNBACK. The effective date of the placed-in-service-extension, section 336 of the conference report, states that the amendments "shall take effect as if included in the amendments made by section 101 of the Job Creation and Worker Assistance Act of 2002." I believe that this means only that, if a purchaser orders a plane for delivery in 2005, the limitations on the amount of the deposit, time for construction and purchase price must be met. It does not mean that taxpayers who did not or will not take delivery and place the aircraft in service after December 31, 2004, would retroactively be subjected to these limitations. The limitations apply only if a taxpayer wishes to take advantage of the extended placed-in service period. Does the Chairman agree with this interpretation?

Mr. GRASSLEY. The Senator is correct. The new provision is not intended to apply to aircraft placed in service before January 1, 2005 and does not limit or deny bonus depreciation for aircraft or any other asset that would qualify under the general rules. I would refer the senator to page 30 of the Conference Report. On that page, the conferees clearly state that this provision "will modify the treatment only of property placed in service during calendar year 2005."

Mr. BROWNBACK. I ask the chairman for a further clarification. Section 336 of the conference report includes amendment of clause (iv) of Internal Revenue Code section 168(k)(2)(A) to apply the additional year to place an asset in service to assets described in subparagraphs (B) and (C). Subparagraph (B) of the Code applies to certain property having longer production periods. Section 336 of the bill adds subparagraph (C). I would like to be sure that, by using the word "and", the conferees did not intend that a business aircraft would have to be described in both the existing subparagraph (B) and the new subparagraph (C) in order to qualify for the additional year to place the aircraft in service. As the chairman knows, the standards for qualification are substantially different under the two subparagraphs.

Mr. GRASSLEY. I agree that the drafting is not as clear as it might have been. However, it is very clear from all the legislative history that, by adding the new subparagraph, we intended to add a new class of property, business aircraft, to those assets which qualify for the additional year to be placed in service. We did not intend that aircraft which qualify under subparagraph (C) must also qualify under subparagraph (B).

Mr. BROWNBACK. I would like to ask the chairman to address one final point. As the chairman knows, an amendment added to the Senate bill during floor debate temporarily reversed a Tax Court decision, affirmed by the Eighth Circuit Court of Appeals, concerning the limitation of business deductions for personal entertainment use of a business aircraft. This provision was drastically expanded and made permanent in the conference report. I am very concerned that this provision will have a substantial negative impact on the sales of new aircraft because, much of the business deduction for a new aircraft in its first few years is depreciation. In the same bill that Congress extends the period to place an aircraft in service and still qualify for bonus depreciation, Congress also reverses current law and limits depreciation and other business deductions, even when an employee has income imputed to him for any personal use of the aircraft.

I can understand that the facts of the tax court case that was intended to be reversed involved a high percentage of nonbusiness use. However, it would seem to me that some sort of de minimis amount of personal travel treated as taxable compensation should be allowed without reducing otherwise applicable business deductions. I can also understand limiting deductions for incremental operating costs incurred for a personal flight, but the aircraft depreciates whether it is in the air or on the ground. I do not see the rationale for this extraordinary provision in the conference agreement far beyond the scope of the original Senate provision. The section which the conference report amends concerns entertainment facilities such as hunting and fishing lodges which have no other use than for business or personal entertainment. An aircraft is purchased by a business because they have a business need to be served. It is not the same thing as a hunting lodge. It is difficult for me to believe that, if a court addressed the specific question of whether a business aircraft were an "entertainment facility" under present law, that it would rule against the taxpayer.

I hope that the chairman would be willing to consider a de minimis rule or other modification to limit the scope of this limitation in future tax legislation to allow occasional personal use without limiting otherwise deductible business expense deductions relating to the ownership and use of a business aircraft.

Mr. GRASSLEY: I appreciate the Senator's concerns and will keep them in mind in the future, although I would not anticipate repeal of the full provision included in this conference report.

SECTION 422

Mr. SMITH. Mr. President, I ask if the chairman of the Committee on Finance would entertain additional questions regarding the American Jobs Creation Act of 2004.

Mr. GRASSLEY. Mr. President, I would be glad to take a question from the Senator from Oregon.

Mr. SMITH. Mr. President, I have a question about how to interpret one of the rules contained in section 422 of the conference agreement for the American Jobs Creation Act. Would the chairman please clarify what the rule that disallows deductions for expenses "properly allocated and apportioned to the deductible portion" of the dividend is intended to cover?

Mr. GRASSLEY. I thank the Senator from Oregon for his question. The rule and the statement of managers contain some ambiguity as to which deductions are disallowed. The intent of the rule is to disallow only deductions for expenses that relate directly to generating the dividend income in question.

Mr. SMITH. I thank the chairman.

Mr. MCCONNELL. The tobacco buyout is very important to Kentucky, and it is also important that the provisions of the buyout included in the conference report are interpreted and implemented properly. The conference report provides financial assistance for producers in return for the termination of tobacco marketing quotas and related price support. For kinds of tobacco other than fluecured and burely tobacco, the payments to producers will reflect "the basic tobacco farm acreage allotment for the 2002 marketing year established by the secretary for quota tobacco produced on the farm."

My understanding is that for this calculation, the secretary will take into account non-disaster transfer of allotments that were made for the 2002 marketing year. As the Chairman of the Agriculture Committee, is that correct?

Mr. COCHRAN. Yes. For producer payments, such transfers for these crops will be taken into account as they are for the other tobaccos. The payments will be based on the actual amount available on the farm after those transfers.

Mr. MCCONNELL. I thank the Chairman of the Agriculture Committee for clarifying this point for me on this important aspect of the conference report.

Mr. LAUTENBERG. Mr. President, I rise to discuss the FSC/ETI conference report. What the Republican Leadership did to this bill in conference is downright shameful.

In July, I supported an amendment Senators DEWINE and KENNEDY offered to this bill that combined a tobacco buyout with a provision giving the Food and Drug Administration regulatory authority over tobacco.

The Senate passed the FDA amendment by a vote of 78-15. That is a strong show of support.

But something strange happened in conference. The FDA portion disappeared. So in this conference report we have the buyout, but not FDA authority over tobacco products. That is unacceptable.

It is nothing more than a sweetheart deal for tobacco companies. They get cheaper tobacco and continue to avoid FDA regulation.

I have a long history of working on tobacco control. As a former smoker, this is a personal issue to me. And the more I learn about that menace the happier I am for myself and my loved ones.

I have worked hard in the Senate to protect Americans—especially children—from the deadly effects of cigarettes and other tobacco products.

In 1987, long before tobacco control became a mainstream issue, I worked with then Congressman DURBIN to author the law banning smoking on airplanes. That law brought about a seachange in our society's attitudes about smoking.

Once non-smokers could experience a smoke-free environment—in this instance, the cabin of an airplane—they began to demand it.

I also wrote the law banning smoking in all federally-funded places that serve children. And I have long supported FDA jurisdiction over this deadly addiction.

I am deeply disappointed that the Republican leadership is putting politics ahead of the health of our children by opposing FDA authority over tobacco.

Make no mistake: tobacco addiction is still a huge problem in America. Tobacco continues to be the number one cause of preventable death and disease in our Nation. Each year, tobacco claims an estimated 440,000 lives prematurely here in the United States.

According to the Centers for Disease Control, if current tobacco use patterns continue in the United States, over five million children alive today will die prematurely from a smoking-related disease. That is because nearly 4,000 young people try cigarettes for the first time each and every day—a statistic I find mind-boggling.

In addition to the terrible human costs, there are massive economic costs to our Nation. It is estimated that direct medical expenditures attributed to smoking now total more than 75 billion dollars per year.

Despite all of this, the FDA has not been able to take actions to reduce tobacco's harm on society.

A pro-tobacco Congressman recently said:

> Tobacco faces enough federal regulation.

But that is a joke. Cigarettes are essentially unregulated. When you go in a grocery store, the only consumable product you can't find a listing of the ingredients for is what's in cigarettes.

The Republican leadership is throwing away an historic opportunity to give the FDA the legal authority it needs to protect the public's health.

Today, we have worthless health warnings on cigarettes, no control over what tobacco companies claim about the relative health effects of their products, no authority to curtail marketing tobacco to kids, and no ability to order the industry to remove especially hazardous ingredients.

The bottom line is: FDA authority will protect kids and save lives.

The 1998 legal settlement between the States and the tobacco companies prohibited the companies from taking "any action, directly or indirectly, to target youth . . . in the advertising, promotion or marketing of tobacco products."

But the tobacco companies are ignoring these promises.

Since the settlement, the tobacco companies have actually increased their marketing expenditures by 66 percent. According to the Federal Trade Commission, the tobacco industry spends more than $11.2 billion per year—over $30.7 million a day—marketing its deadly products just in the United States alone, often targeting youth.

For example, in 2002, Brown & Williamson unveiled a new marketing promotion for their Kool brand of cigarettes called Kool Mixx. This advertising campaign was designed with one simple goal: target young African-Americans and addict them to nicotine.

The "Kool Mixx" campaign included new cigarette packages with images of young DJs and dancers:

It is an outrageous attempt to addict youth.

Brown & Williamson doesn't even bother to be subtle when it comes to targeting African-American youth in this campaign.

The press release from Brown & Williamson announcing the campaign contained almost comical sentences revealing their racial targeting.

This is what the company's press release said:

> Kool understands the vibrant urban world of the trendsetting, multicultural smoker.

It goes on to say:

> Kool keeps it real and remains linked to the latest urban trends.

This campaign to addict young African Americans to cigarettes doesn't stop at product packaging and slick ads. Kool is sponsoring a nationwide "DJ Competition" in cities such as New York, Atlanta, Washington, St. Louis, and Chicago.

It seems that "Kool Mixx" is the new "Joe Camel" for minority teenagers.

This overt racial targeting of youth shows that the tobacco industry has not really changed its ways since its settlement with the State attorneys general.

The big tobacco companies have reverted back to the same atrocious behavior we all saw before they promised they would become good "corporate citizens."

Here is something even more outrageous difficult as that is to believe: one of the tobacco industry's new tactics is the introduction of candy-flavored cigarettes and other sweet-flavored tobacco products.

R.J. Reynolds—the same company that once marketed cigarettes to kids with the infamous cartoon character, Joe Camel has launched a series of flavored cigarettes.

One flavor is a pineapple and coconut cigarette called "Kauai Kolada"; another is a citrus-flavored cigarette called "Twista Lime."

These names sound more like bubble gum flavors than deadly cigarettes—which is the point.

These new marketing techniques aimed at kids are especially troubling, given that over 550,000 children will become regular smokers this year alone.

FDA regulation is critical for many reasons. One reason—as we see with these candy-flavored cigarettes—is to keep kids away from these deadly products. Another reason we need FDA regulation is to make sure that preventable dangers in cigarettes are removed.

There are thousands of products for sale in America that people consume, but tobacco products are the only ones—the only ones—which don't have their ingredients disclosed.

That is amazing when you consider that cigarettes are by far the most deadly product you can buy in a grocery store.

Right now, the FDA can regulate a box of macaroni and cheese, but not a pack of cigarettes. If you wanted to know the ingredients of macaroni and cheese, they're listed on the package. But for cigarettes, there is no information whatsoever on the ingredients, toxins, chemicals, etc. It makes no sense.

When a smoker lights a cigarette, the burning ingredients create other chemicals. Some of these are carcinogenic. But tobacco manufacturers are not required by law to disclose the ingredients of their products to the public, including the toxic and cancer-causing ingredients.

A Surgeon General's report in 1989 reported that cigarettes contain 43 known carcinogens.

I wonder how many smokers realize that one of these chemicals is arsenic. I bet most smokers don't know that.

It boils down to this: by stripping out the FDA regulatory authority over tobacco products, we are failing our children. We are putting their health in jeopardy.

This conference report provides billions of dollars to tobacco farmers and boosts tobacco industry profits, but it does absolutely nothing nothing to reduce tobacco's terrible human and economic toll.

I don't know how any Member of this body who is truly concerned about children's health can, in good conscience, support this bill without the FDA provision.

We had a deal: everyone knew it: the tobacco buyout in exchange for FDA regulation. The Republican leadership broke that deal.

I urge my colleagues to oppose this conference report until we give the FDA the authority it needs to regulate tobacco as it does other products.

Mr. FRIST. Mr. President, it has been a long day, and I thank those Senators who have been here, and especially the presiders who we have had throughout the evening. We now have two appropriations conference reports at the desk ready for consideration. They are military construction appropriations and the homeland security appropriations, obviously two enormously important pieces of legislation, especially given the disaster relief package that is part of the military construction legislation.

It had been my hope to act on these as quickly as possible. I understand there are objections to these and that we will need to file cloture motions to bring these to a vote. I understand there is an issue relating to the military construction bill, but I am unaware of any issue with the appropriations bill relating to homeland security.

Homeland security clearly has important resources that address just what the title says; that is, the safety and security of the American people. I believe the American people, indeed, deserve that we act on this bill in a timely way and in an expeditious way, but it looks like we are being stopped from doing so.

I will file the cloture motions on both of these measures, but I would ask my colleagues on the other side of the aisle who are objecting to proceeding to please consider their objections overnight and allow us to proceed. I urge them, do not force a cloture vote on the homeland security bill, which addresses the security and safety of the American people. I ask that they consider allowing us to vitiate this cloture and move forward tomorrow.

## MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005—CONFERENCE REPORT

Mr. FRIST. Mr. President, I move to proceed to the conference report to accompany H.R. 4837, the military construction appropriations bill.

The PRESIDING OFFICER. Without objection, the motion is agreed to. The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4837), making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The Senate proceeded to consider the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of today, October 9, 2004.)

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 4837, a bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

Bill Frist, Kay Bailey Hutchison, Ted Stevens, Thad Cochran, Wayne Allard, Chuck Grassley, Norm Coleman, Lamar Alexander, Pat Roberts, Sam Brownback, Mitch McConnell, George Allen, Craig Thomas, Orrin Hatch, Richard Lugar, Mike DeWine, Gordon Smith.

## DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2005—CONFERENCE REPORT

Mr. FRIST. Mr. President, I now move to proceed to the conference report to accompany H.R. 4567, the homeland security appropriations bill.

The PRESIDING OFFICER. Without objection, the motion is agreed to. The clerk will report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4567), making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same signed by a majority of the conferees on the part of both Houses.

The Senate proceeded to consider the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of today, October 9, 2004.)

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 4567, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.

Bill Frist, Thad Cochran, Ted Stevens, Kay Bailey Hutchison, Wayne Allard, Chuck Grassley, Norm Coleman, Lamar Alexander, Pat Roberts, Sam Brownback, Mitch McConnell, George Allen, Craig Thomas, Orrin Hatch, Richard Lugar, Mike DeWine, Gordon Smith.

Mr. FRIST. Mr. President, I now ask unanimous consent that the two live quorums with respect to these conference reports be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. FRIST. Mr. President, I now ask unanimous consent that the Senate begin a period of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HONORING OUR ARMED FORCES

### ARMY SPECIALIST ALLEN JEFFREY "A J." VANDAYBURG

Mr. DEWINE. Mr. President, I rise this evening to say thank you to the men and women serving in our Armed Forces. Too often, we don't take the time to show our appreciation and tell them what their service means to us. They are there for us each day, dedicated to protecting all that we hold dear. They are there for us, making our world more secure. They are there for us, making our world a better place—a safer place. They are there for us, protecting our freedom.

That freedom, though, as we know so well, does not come without a price. It does not come without sacrifice. As General Douglas MacArthur once said:

> The soldier, above all other men, is required to perform the highest act of religious teaching—sacrifice. . . . The soldier who is called upon to offer and to give his life for his country is the noblest development of mankind.

This evening, I rise to honor a Mansfield, OH, serviceman who selflessly gave his life while saving those of his comrades. Army SP Allen Jeffrey Vandayburg—"A.J." to his family and friends—earned the Bronze Star Medal with Valor for his final act of bravery—an act that ultimately saved the lives of the men and women serving with him.

On April 9, 2004, in Barez , Iraq, A.J. and other members of the Army's 1st Infantry Division—the "Big Red One"—found themselves in the middle of a fierce firefight with Iraqi insurgents. A.J. was manning the gunner position of his Bradley fighting vehicle when his unit was fired upon. According to an official Army report, A.J. fought valiantly, drawing enemy fire to himself. The report detailed the following:

> Vandayburg's unparalleled reflexes allowed him to destroy an [enemy] who was attempting to fire a rocket propelled grenade within 50 meters of his vehicle. Vandayburg had to swivel the entire turret, acquire the target, and destroy the enemy before the rocket-propelled grenade could be fired.

A.J. prevented that grenade from hitting his convoy. He saved many lives that day—an act that ultimately took his own life. His valiant efforts prompted the insurgents to focus their fire on his vehicle. A.J. was killed in the onslaught. He was just 20 years old.

A.J. was truly a great soldier—a courageous young man who put the safety of others above his own. We will never be able to repay A.J. for what he has done, and we will never be able to honor him the way he truly deserves. We can, however, remember this American hero as he was—as a strong, independent young man who did a great deal of good in this world.

In his all too brief 20 years, A.J. touched many lives. His mother, Chantil, fondly recalls that "everybody loved him." It was his smile; it was hard to stay mad at him." A.J.'s father, Allen, remembers that he was the kind of kid who could walk into a room and just light it up.

A.J. loved his family very much. In the summers, A.J. always looked forward to their family vacation to Myrtle Beach, SC. A.J. loved kids. Family friend, Kim Loveland, recalled that she would pay A.J. to watch her children, only to have him turn around and use the money to buy the kids candy.

A.J. went to Mansfield High School, where he played golf and baseball. He was known as a "good guy" who had a lot of good friends. After graduation in 2001, A.J. enlisted in the Army. He would eventually serve in Kosovo, Germany, Kuwait, and Iraq. Allen and Chantil Vandayburg treasure the picture they have of their son with children in Kosovo. Allen likes to call A.J. "a warrior who also had a soft side."

A.J. was a lot like his father. Allen is a 25-year veteran of the Mansfield Police Department. A.J. learned from his dad the value of public service and how to trust your comrades—lessons he would bring with him overseas. A.J.'s parents knew that their son believed in what he was doing in Iraq. A.J. e-mailed them as often as he could and would tell them not to worry—that he trusted his fellow soldiers and knew they would look out for him. In his final battle, it was A.J. who paid the ultimate sacrifice for his comrades and for Iraqis he did not know.

A friend of A.J.'s, Nathan Pival, who is serving in Afghanistan, posted the following message on a Web site honoring A.J.:

> A.J.—I found out what happened to you my first week in Afghanistan. To say the least, I felt like a piece of me died, too. I mean, who would have thought that you and me would end up in the Army after high school? I know you didn't find out I was in the service until you tried to call my cell when I was in Basic, but I want you to know that you were the person that helped to convince me that the military would help me out. It has helped me. . . . You are a hero, and you did the right thing, and that is what matters. I believe in a higher purpose, so I know I will see you again some day, but I'm still pretty upset that I am going to have to wait so long to tell my Army stories to my buddy who motivated me to join. If it wasn't for you, I'd probably . . . be going nowhere. I'm sorry I couldn't be there for you man. See you again someday.

A.J.'s family found solace in the final act of devotion from one brother to another. Though he described it as "the hardest thing I've ever had to do," A.J.'s brother Chris, a Marine, crossed military branches to escort his brother's body from Dover Air Force Base to their home in Mansfield.

Hundreds of people came to support the Vandayburg family at A.J.'s memorial service. Hundreds more lined the funeral route. The outpouring of support was a truly moving display. At the memorial service, Reverend David Root spoke to the standing-room-only crowd. He said:

> [A.J.] was special and that is why you are all here. He chose to take the tough road. He knew the risks. . . . He changed the history of this country.

A.J. Vandayburg was indeed special. He will be remembered always for his bravery, compassion, and sacrifice. He will be remembered as a hero.

I close my remarks with the heartfelt words of A.J.'s 11-year-old sister, Taylor. Her words speak volumes about A.J., her hero—and A.J., her big brother:

> Bubby, you are my biggest hero, and I will always love you, but that does not mean I am still not mad at you for leaving, 'cause I am. But, I will always and forever love you. I miss you so much. You are loved and missed so much by me, Mom, Dad, and Chris. . . . You are my hero and my bubby and I love you so much. I am not saying goodbye because you are not gone. You are still with me, and you are the biggest and bravest soldier I know and I know God has a plan for you, but I had one for you to be right here beside me. You still are. I love you so much.

### ABUSE OF FOREIGN DETAINEES

Mr. LEAHY. Mr. President, as we near the end of this session, I am disappointed to report that Congress seems content to let the issue of foreign prisoner abuse linger without effective congressional oversight. Some have argued that continuing to investigate this matter will drag it out, and have the effect of preventing us from putting the scandal behind us. I disagree. We have to uncover the full truth in order to ensure that such abuses are not repeated. I am sorry to report that each week brings new allegations that reveal how much we still do not know.

Last week, I spoke on this floor about a recent Los Angeles Times article that raised troubling new allegations about the abuse of Afghan detainees in Gardez, including the death of one detainee that was never reported up the chain of command. The article revealed what appears to be a complete disregard for established Army procedure among certain units in Afghanistan.

I sent a letter to Defense Secretary Donald Rumsfeld on October 1, 2004, asking him several questions about the allegations raised in the news article. I asked Secretary Rumsfeld to explain how the special forces base at Gardez was allegedly allowed to operate with no recordkeeping requirements or standing operating procedures—an allegation that was corroborated by a U.S. Army investigator in Afghanistan. I asked whether any official policy allowed special forces units to suspend normal recordkeeping requirements while operating in Afghanistan or Iraq. I asked if there is an official policy to allow special forces units to detain prisoners in local Afghan jails or other undisclosed facilities. I asked Secretary Rumsfeld for a prompt response and hope that he delivers one soon.

Even without the answers to these questions, we now know that senior officials in the White House, the Justice Department, and the Pentagon set in motion a systematic effort to minimize, distort, and even ignore our international agreements on torture and the treatment of prisoners. I am dismayed to report that some Members of Congress are now attempting to make it much easier for the administration to circumvent our treaty obligations. The 9/11 Recommendations Implementation Act, H.R. 10, was recently introduced by the House Republican leadership. Sections 3032 and 3033 of that bill would make it official U.S. policy to exclude certain non-citizens from the protection of the Convention Against Torture, a treaty to which the United States is a party. To enact such language after the abuses that took place at Abu Ghraib and other locations would further undermine the once distinguished reputation of the United States as a world leader on human rights.

Reports of the administration's support of these provisions are conflicting. Last week, Speaker HASTERT's office claimed that the Justice Department "wants and supports" the provisions. The Justice Department declined to offer an official endorsement of sections 3032 and 3033, but claimed that it favored any "provisions that will better secure our borders and protect the American people from terrorists." In an attempt to reconcile these statements, Senator KENNEDY and I sent Attorney General Ashcroft a letter on October 1 urging him to repudiate the Department's support for these sections. We were pleased to learn this week that the White House went on record in opposition to the provisions, but we still await a reply from the Attorney General definitively stating the position of the Department of Justice.

Next Friday, October 15, is the deadline imposed by a Federal judge for the administration to turn over or identify all documents relating to the treatment of prisoners held by the United States at military bases and other detention facilities overseas. In his order, Judge Hellerstein stated: "No one is above the law: not the executive, not the Congress, not the judiciary." I could not agree more. Unfortunately, this administration has continually ignored my requests for these documents—I will not be surprised if it refuses to comply with this court order. I would note that the original Freedom of Information Act request for these documents was submitted in October 2003, a year ago. Any embarrassment their release may cause now—less than 3 weeks before the Presidential election—is due to the administration's own stonewalling.

As the 108th Congress comes to a close, many questions about the prison abuse scandal will undoubtedly remain unanswered. Several Pentagon investigations are now complete, but none of them paint a complete and unbiased assessment of the prisoner abuse scandal. This Senate, and in particular the Judiciary Committee and Governmental Affairs Committee, failed to fulfill its oversight responsibilities. I have said many times there needs to be a thorough, independent investigation of the actions of those involved, from the people who committed abuses, to the officials who set these policies in motion. Perhaps in the new year, with a new Congress, the administration in power will be ready to seek the full truth about this scandal and begin the process of restoring honor to our nation.

I ask unanimous consent that the letters to Secretary Rumsfeld and Attorney General Ashcroft, both dated October 1, 2004, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, October 1, 2004.*

HON. DONALD RUMSFELD,
*Secretary of Defense,*
*Washington, DC.*

DEAR SECRETARY RUMSFELD: As you know, I am deeply troubled by the revelations of abuse of prisoners in U.S. custody overseas. I have closely monitored the numerous ongoing and completed investigations instigated by the Pentagon, but remain skeptical that these investigations will uncover the full truth. Each of these probes is limited in scope or authority and, therefore, none will comprehensively investigate the abuse of detainees. Each week brings new allegations that reveal how much we still do not know.

I am particularly disturbed by a story published in the Los Angeles Times on September 21, 2004. This article raises troubling new allegations about the abuse of Afghan detainees in Gardez, but also reveals what appears to be a complete disregard for established Army procedure among certain units in Afghanistan. According to the news report, based in part on a report written by Afghan prosecutors for the Afghan Attorney General, U.S. Army Special Forces arrested eight Afghan soldiers in March 2003 at the request of the provincial governor. The prosecutors' report and an internal memorandum prepared by a United Nations delegation both allege American mistreatment of the detainees including repeated beatings, immersion in cold water, electric shocks, being hung upside down, and having toenails torn off. One detainee, Jamal Naseer, reportedly died as a result of the torture. The U.S. Army Criminal Investigation Command (CID) recently opened a criminal probe into Naseer's death.

This incident is very troubling, but it points to a much larger problem. CID received a tip about Naseer's death earlier this year, but stated that it could not investigate the matter due to a lack of information. Christopher Coffey, an Army detective based at Bagram air base, told the L.A. Times: "We're trying to figure out who was running the base. We don't know what unit was there. There are no records. The reporting system is broke across the board. Units are transferred in and out. There are no SOPs [standard operating procedures] . . . and each unit acts differently."

Apparently, because these units failed to follow Army procedure, Naseer's death was never reported up the chain of command. Yet, Lt. Gen. Mikolashek's report on detainee operations inspection, released in July of this year, conclusively stated that the team "that visited Iraq and Afghanistan discovered no incidents of abuse that had not been reported through command channels; all incidents were already under investigation." We now know that this statement cannot be accurate. What we do not know is whether and how many other deaths, let alone cases of abuse, may have gone unreported.

I also have new questions about the Defense Department's involvement in the "ghost detainee" matter. The Fay-Jones report revealed that the ghost detainee problem in Iraq was far more pervasive than the Defense Department had previously acknowledged, but that report placed much of the blame on the CIA. The L.A. Times story, however, accuses U.S. Special Forces commanders in Afghanistan of using local jails to hide prisoners off of the official roles.

In order to better understand the situation in Afghanistan, and the role of the Department in monitoring the actions of forces on the ground, I ask that you respond to the following questions by October 8, 2004.

1. Please explain how the Special Forces base at Gardez was allowed to operate with no recordkeeping requirements or Standing Operating Procedures (SOPs).

2. Did any official policy allow Special Forces units to suspend normal recordkeeping requirements or chain of command

reporting while operating in Afghanistan or Iraq?

3. Did any official policy allow Special Forces units to detain prisoners in local Afghan jails, or in any other undisclosed facilities?

4. Mr. Coffey's quote above suggests that an unknown number of detention centers have operated or are now operating in Afghanistan with total impunity. In light of the allegations raised in the L.A. Times story, what actions is the Pentagon taking to investigate the situation and resolve the problems?

5. In the absence of recordkeeping and SOPs, do you agree that none of the ongoing or completed Pentagon investigations can claim to have uncovered all allegations of abuse?

6. Are any other government entities, such as the CIA or other intelligence agencies, involved in the operation of these detention centers or in the treatment or interrogation of prisoners? If so, please describe the agencies and their role. If the answer to this or any other question contained in this letter is classified, please submit your answer in classified form and make it available to appropriately cleared staff.

As stated above, I request that you answer these questions by October 8, 2004. Thank you for your prompt attention to this matter.

Sincerely,

PATRICK LEAHY,
*Ranking Member.*

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U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, October 1, 2004.*

Hon. John D. Ashcroft,
*Attorney General, Department of Justice,*
*Washington, DC.*

DEAR ATTORNEY GENERAL ASHCROFT: We write to express our deep concern about the report in yesterday's Washington Post that the Department supports the "rendition" of detainees to nations where they are likely to be tortured.

The United States is a party to the Convention Against Torture, which provides that "No State Party shall expel, return or extradite a person to another State where there are substantial grounds for believing he would be in danger of being subjected to torture." Since 9/11, there have been numerous reports that detainees in the custody of U.S. military or intelligence officials have been transferred for interrogation to governments known to torture prisoners. According to such reports, detainees who refuse to cooperate with U.S. interrogators have been "rendered" to foreign intelligence services in Saudi Arabia, Jordan, Morocco, Syria, and other countries that practice torture. One report stated that Deputy Attorney General Thompson approved the rendition to Syria of a Canadian citizen, who was confined in a small dark cell for a year and beaten on his palms, wrists, and back with an electric cable. Syrian officials later released him, telling reporters they found no link to Al Qaeda.

Until now, Administration officials have denied any involvement in this practice. At a Senate Armed Services Committee hearing on May 11, Undersecretary of Defense for Intelligence Stephen Cambone testified that "to the best of [his] knowledge" the Administration was fully complying with all legal requirements and that all reports of U.S. officials engaging in the practice of rendition were false.

Yesterday's report, however, states that the Department is urging House Republicans to include provisions in the 9/11 intelligence reform legislation authorizing the practice of renditions. Sections 3032 and 3033 of the bill, H.R. 10, would require the Secretary of Homeland Security to issue new regulations to exclude certain non-citizens from the protection of the Convention Against Torture. The changes would increase the burden of proof on any person being deported or rendered to establish "by clear and convincing evidence that he or she would be tortured," and would deny the jurisdiction of courts to review the new regulations or claims brought under the Convention Against Torture by aliens at ports of entry.

These changes would violate longstanding U.S. law and policy, undermine basic humanitarian and human rights standards, expose U.S. soldiers and citizens traveling abroad to greater danger, and further weaken America's standing in the world.

Yet the spokesman for House Speaker Hastert is quoted in the report as saying that the Department "really wants and supports" these provisions. Department spokesman Mark Corallo was also quoted as saying, "We can't comment on any specific provision, but we support those provisions that will better secure our borders and protect the American people from terrorists."

No Department official should express support, either openly or behind the scenes, for provisions that so clearly violate fundamental human rights. Torture defies our laws and stains our ideals. The abuses at Abu Ghraib prison have been a major setback in the war on terrorism. An essential part of winning that war and protecting the country for the future is respect for the ideals that America stands for at home and throughout the world.

The Department has already undermined those ideals by issuing legal memoranda attempting to weaken the definition of torture and eliminate restraints imposed by U.S. laws and international treaties on the conduct of Executive Branch officials. We urge you to repudiate immediately and without qualification the Department's support for sections 3032 and 3033 in the House legislation, and to put an immediate halt to any Administration involvement in the illegal practice of rendition.

Sincerely,

EDWARD M. KENNEDY,
*U.S. Senator.*
PATRICK LEAHY,
*Ranking Member.*

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## MEDICARE MODERNIZATION ACT

Mr. HATCH. Mr. President, I have to respond to the outrageous charges made by my colleagues on the other side of the aisle regarding the Medicare statement I delivered yesterday.

I was disturbed by several remarks, especially that seniors have flatly rejected the Medicare prescription drug benefit. How is that even possible when the drug benefit doesn't even go into effect until January 1, 2006?

How is that possible when many Medicare beneficiaries are participating in the Medicare Drug Discount Card and have seen savings in their drug costs up to 20 percent per drug? I do not see that as an outright rejection at all.

My colleagues need to be careful about their charges, especially when they do not have the facts to back them up. I also take issue with my colleague's assertion that our prescription drug law is only a drug law in name. What does he mean by that?

Let me remind the Senator from Illinois that because of this new Medicare prescription drug law, 40 million Medicare beneficiaries will have drug coverage if they want it. The bill provides generous subsidies to low-income Medicare beneficiaries who, today, cannot afford to purchase drugs.

Prior to enactment of the Medicare Modernization Act, these beneficiaries had to make tough choices between buying their prescription drugs and putting gas in their cars. Or buying prescription drugs or putting food on the table. Or buying prescription drugs or paying their rent. Once the Medicare prescription drug plan goes into effect on January 1, 2006, those Medicare beneficiaries will no longer have to worry. And another point that needs to be raised regarding this matter—if there were any proposals that deserve to be recognized as offering a drug benefit in name only, it's the two Democratic plans of two years ago—plans supported by 50 and 45 Democrats respectively, including the Democratic Leader and Senator KERRY.

My colleague, Senator GRASSLEY, described those plans a few days ago, but let me take a few minutes to recap. The first Democratic plan had a drug benefit that lasted just six years. Talk about offering a drug benefit in name only.

The second plan didn't even offer a benefit to the vast majority of beneficiaries. Seventy percent of beneficiaries would not have received any basic coverage. A plan that shuts out the vast majority of beneficiaries—how can you call that a drug benefit? Guess what those 70 percent got.

You are not going to believe this—a five percent discount on their drugs. Once they spent $3,300 out of pocket, they could qualify for catastrophic coverage.

Some have taken issue with the MMA, saying that the "benefit" stops after an initial coverage amount. I would like to remind my colleagues on the other side of the aisle that their basic benefit would have never even started for 70 percent of beneficiaries! Talk about a doughnut hole; these beneficiaries didn't even get a doughnut!

The Congressional Budget Office estimated that 66 percent of beneficiaries wouldn't meet the $3,330 threshold—again, for these folks, the only help they would get was a five percent discount! A five percent discount!

I was also extremely disappointed by the arguments made by the Senator from Illinois and the Senator from California against what some have termed the "non-interference" provision. As I outlined, this provision has been included in the most prominent Democrat initiatives, starting with the Clintons' Health Security Act over a decade ago. Despite that fact, here we are again listening to arguments against it. Apparently, what was good in a Democratic administration is bad in a Republican one.

And what was good in a Democratic Senate is bad in a Republican Senate during an election year. It is almost as if my colleagues were not listening to what I said. The argument that there is no authority for the federal government to bargain with the pharmaceutical companies is getting to be a tired argument. Again, let me repeat myself from yesterday.

First, the Democrat-sponsored bill from 2000, introduced by Senator Tom Daschle and supported and cosponsored by 33 Senate Democrats, had a specific provision which stated the following:

> In administering the prescription drug benefit program established under this part, the Secretary may not (1) require a particular formulary or institute a price structure for benefits; (2) interfere in any way with negotiations between private entities and drug manufacturers, or wholesalers; or (3) otherwise interfere with the competitive nature of providing a prescription drug benefit through private entities.

Again, this provision is from S. 2541, the Medicare Expansion for Needed Drugs, a bill that was introduced by Senator DASCHLE and cosponsored by 33 Democrats, including not only Senator KERRY but also Senator DURBIN and Senator BOXER who spoke against it on the floor yesterday.

Now, it is every Senator's right to change his or her mind, but you would think we would hear some discussion about the basis for this flip-flop. Instead, there is much dialogue about the so-called "evil" pharmaceutical companies, and virtually no admission that many Democrats, many prominent Democrats, have been on record in favor of the provision they now castigate.

And what is even more outrageous is the fact that they are the ones who first came up with the concept.

When I hear my colleague from California talk about how the Medicare drug law does not do much for seniors, let me just remind my colleagues on both sides of the aisle that she is sadly mistaken.

On the contrary, the Medicare prescription law improves health care coverage for Medicare beneficiaries by first, giving them the option to have prescription drug coverage, something that they do not have today and something Medicare beneficiaries have wanted for close to 40 years!

In addition, the MMA provides beneficiaries new preventive health benefits including a first-time, Welcome to Medicare Physical Examination, cardiovascular and diabetes screening and improved payments for mammography.

It also provided rural health care providers with increased reimbursement so they may continue to provide Medicare beneficiaries living in rural areas with quality health care. I don't know about California or Illinois, but that is most welcome in Utah!

It also provides beneficiaries with a choice in coverage. Seniors will be able to choose the drug benefit that best suits their needs, rather than be forced in a one-size fits all government plan which is what many of my colleagues on the other side of the aisle support.

Another important provision in the bill helps all Americans by offering them Heath Savings Accounts, HSAs. HSAs are tax-advantaged savings accounts which may be used to pay for medical benefits. The inclusion of these new accounts is a significant part of the Medicare law.

Allowing individuals to take charge of their own savings for future health care expenses is an important and necessary change in the direction of our health care policy, and is one that I support strongly.

Another point raised by my colleague from California is the doughnut hole. I think she called the doughnut hole a "benefit shutdown." I agree that the MMA law is not perfect and, yes, this is an area I wish we could have improved upon. But calling it a "benefit shutdown" is not only wrong, it is deceptive.

The reason it is wrong to call the doughnut hole a "benefit shutdown" is that it would not affect the majority of seniors, and since our first responsibility is to take care of the very poor beneficiaries, that is entirely fitting. In fact, the Congressional Budget Office told us that only one-quarter of Medicare beneficiaries will have spending that actually reaches the non-coverage window of the doughnut hole.

Finally, let me remind my colleague from California that the Medicare prescription drug amendment the Democrats brought to the floor in 2002 sunsetted the Medicare prescription drug program. My good friend from Iowa, Senator GRASSLEY, the Chairman of the Senate Finance Committee was talking about this irony the other day on the floor.

Let me recap what Senator GRASSLEY said.

When we were considering the Medicare Tripartisan bill on the Senate floor on 2002, the first Graham-Kennedy Medicare proposal was not permanent. Let me read the language from their proposal:

"No obligations shall be incurred, no amounts shall be appropriated and no amounts expended, for the expenses incurred for providing coverage of outpatient drugs after December 31, 2010."

Isn't that just remarkable? And they are calling the MMA a drug plan in name only? Who are they trying to kid?

The fact that the Graham-Kennedy proposal offered a drug benefit that ended 6 years after it started is unbelievable. But they sunsetted the benefit to hide the true cost of their proposal.

At the time, the Congressional Budget Office said it would cost over $100 billion each year to extend the Graham-Kennedy drug benefit past the sunset—$100 billion a year without a plan to pay for this enormous cost!

And the argument made about the MMA not going into effect until after the election is just more election year political jabber. That is a ridiculous charge, one that does not even warrant a response. But I will respond to it by saying that it takes time to put together a benefit that will cover over 40 million Americans.

It takes time to do it correctly. The agency in charge of the Medicare program needs time to implement the MMA regulations, accept bids from plans that wish to participate in the Medicare Advantage programs and, most important, it takes time to educate Medicare beneficiaries about the options that will be offered to them.

And let me remind all of you that even the Democrat proposals that have been considered in the past did not have the Medicare prescription drug programs go into effect immediately, so that is just a ludicrous charge.

In addition, I will remind my colleagues that both the Democratic plans under consideration in the summer of 2002 didn't go into effect until 2005 because they recognized the same thing we did—that it will take some time to get a new program like this up and running.

And so, there's no subterfuge behind the 2006 date in the MMA. Moreover, at least the MMA offers immediate assistance through the drug card program. Their plans offered nothing until 2005 and then very little after that!

I would also like to respond to my colleague from California's comments about the Veterans Administration system and the deficiencies of which I described this yesterday morning. If she's surprised at the Republicans for not using the VA model, then my only guess is that she's even more surprised that her own party didn't.

No—they wanted to have private plans negotiate with drug companies—the same approach taken in the MMA. The VA system was not a model for any Medicare prescription drug plans considered on the Senate floor.

Finally, let me address the idea of importing cheap drugs from Canada.

First, nobody has a greater desire than I to make prescription drugs more affordable, particularly for our seniors and the disabled, who depend so heavily upon pharmaceuticals for their quality of life. I co-authored the 1984 bill which, in essence, brought generic drugs to the marketplace to become the force for competition and affordability that they are today.

My colleagues seem to forget that the MMA does include a provision to permit the importation of prescription drugs from Canada once a program is in place that is approved and certified for safety and cost by the Secretary of the Department of Health and Human Services (HHS). The law also calls for the Secretary to establish a 13-member task force that will study proposals to make re-importation safe and cost effective.

HHS Secretary Tommy Thompson has stated he is hopeful the panel's study will be completed by the end of this year. We shouldn't overlook the fact that the FDA has documented many cases of what appeared to be FDA-approved imported drugs that in fact were contaminated or counterfeit, contained the wrong product or incorrect dose, were accompanied by inadequate directions, or had outlived their expiration date.

These drugs would be at a minimum ineffective, and could actually be harmful or fatal.

The FDA is also concerned with the safety of allowing companies which are not licensed by states to practice pharmacy to sell prescription drugs without any limitation on the amount or frequency of drug imports permitted for individuals.

In addition, reimportation legislation as it is written would allow risky drugs that are currently available in the U.S. only under strict safety controls to reimported at any amount or frequency to anyone—even those who are at high risk to be seriously injured by the medication.

The FDA underscored these concerns in the Judiciary Committee's hearing on drug importation last July. The agency stressed that opening our tightly regulated. closed system of prescription drug distribution will open the door to counterfeit and otherwise adulterated or misbranded drugs being widely distributed to an unwitting American public.

Mr. William K. Hubbard, the Associate Commissioner for Policy and Planning for the FDA testified before the Senate Judiciary Committee on this important matter. I would like to take this opportunity to read some of his testimony to my colleagues:

> FDA remains concerned about the public health implications of unapproved prescription drugs from entities seeking to profit by getting around U.S. legal standards for drug safety and effectiveness. Many drugs obtained from foreign sources that either purport to be or appear to be the same as U.S. approved prescription drugs are, in fact, of unknown quality. Consumers are exposed to a number of potential risks when they purchase drugs from foreign sources or from sources that are not operated by pharmacies properly licensed under state pharmacy laws.
>
> Patients also are at greater risk because there is no certainty about what they are getting when they purchase some of these drugs. Although some purchasers of drugs from foreign sources may receive genuine product, others may unknowingly buy counterfeit copies that contain only inert ingredients, legitimate drugs that are outdated and have been diverted to unscrupulous resellers, or dangerous sub-potent or super-potent products that were improperly manufactured. Furthermore, in the case of foreign-based sources, if a consumer has an adverse drug reaction or any other problem, the consumer may have little or no recourse either because the operator of the pharmacy often is not known, or the physical location of the seller is unknown or beyond the consumer's reach. FDA has only limited ability to take action against these foreign operators.

These safety concerns are real, and I strongly believe that if we truly care about seniors and other patients who depend upon prescription drugs, we should not expose them to what currently amounts to pharmaceutical Russian roulette.

Now the FDA is working with some of my colleagues on legislation that would give the FDA greater resources, limit the scope of imports, and provide greater power to the FDA to police imports. In recent public comments, former Commissioner Mark McClellan has said these measures would give the agency the ability to assure the safety of prescription drugs imported by Canada.

In addition to these safety concerns, however, I am also concerned that reimported drugs pose a threat to the innovation Americans—and the rest of the world—have come to expect from our pharmaceutical industry. Canada and other countries with lower drug prices generally import superior American products, but impose price controls to keep costs down.

However, it can cost as much as $1 billion to produce a new drug, test it, win FDA approval, educate doctors, and make the drug available to patients. No pharmaceutical company could go through this immensely expensive process without a chance to recover some of its costs, which will not be possible if we impose in America—however indirectly—Canadian-style price controls. I do not believe that sacrificing the safety and future supply of our drugs by reimportation is the right answer to the high cost of prescription drugs.

I hope that I have cleared up any misunderstandings that-Medicare beneficiaries have about the MMA law. Again, we gain nothing by spreading mistruths about the Medicare bill.

The only thing that results from those types of charges is confusion of Medicare beneficiaries—the very people who all of us are trying to help. And that is regrettable.

## ANTISEMITISM

Mr. SMITH. Mr. President, I speak about antisemitisim, an ancient pestilence that has torn at the fabric of society for too long. Specifically, I have become concerned with the dissemination of antisemitic attitudes through political cartoons.

Last month, on the eve of Rosh Hashanah, I stood in this chamber along with a bipartisan group of my colleagues to speak about the cancerous effect that antisemitism continues to have on humanity. As I stated then, it is of the highest priority for our Nation to stand up against this venomous invective and bigotry directed at the Jewish people.

It is an unfortunate reality that some newspapers in the Arab world blatantly promote antisemitism. For my remarks, I had prepared several posters of cartoons that appeared in Arabic-language newspapers to illustrate to my colleagues their insidious nature, but in the end, I found them too unsettling to display.

What I find disconcerting, however, is the fact that this sentiment is creeping into political cartoons both in Europe as well as here in the United States. Newspapers across the country and the world have published cartoons that have gone beyond reasonable differences of opinion and expanded into the realm of antisemitism.

For example, I have seen a cartoon of a man lying on the ground, bleeding and clutching a small Palestinian flag. Impaled in his back is a large American flag with its stars arranged to form the Star of David. This graphic image, insinuating that an Israeli-controlled America has killed the state of Palestine, is appalling.

In Italy, the Newspaper La Stampa ran a cartoon depicting an Israeli tank rumbling toward a baby Jesus, who is crying "Surely they don't want to kill me again?!" This is not a criticism of policy or leadership. This is nothing other than an antisemitic attack thinly veiled as political parody.

In the Greek Newspaper Ethnos, a cartoon appeared showing two Israeli soldiers stabbing captive Arabs. One of the Israeli soldiers is depicted as saying to the other "Don't feel guilty, brother. We were not in Auschwitz and Dachau to suffer but to learn!" How can that be construed as anything other than bigotry? This kind of hatred is simply unacceptable, and I urge my colleagues in the Senate, as well as leaders across the world, to make every effort to end this terrible plague of hatred.

## RELATIONS WITH KYRGZSTAN

Ms. LANDRIEU. Mr. President, I make special note of the visit to the United States by the distinguished President of the Republic of Kyrgystan, Askar Akaev. President Akaev was in the our country for the opening of the session of the United Nations and also traveled to Utah to discuss the reforms taking place in his country and to talk about the efforts his nation is taking in the war on terrorism. Today we face a global war against terror, a war we cannot win alone. It is in that spirit that we should recognize and support democracies worldwide, particularly those burgeoning democracies for which freedom is a new concept. The Republic of Kyrgyzstan, is just such an example.

A small country of 5 million in Central Asia, the Kyrgyz Republic has been one of the most progressive countries in the region, especially amongst the countries which once made up the former Soviet Union. Plagued by an inflation rate of 88% in the year 1994, Kyrgyzstan under the leadership of President Akaev was successful in carrying out a number of market reforms, which allowed it to lower that inflation rate to 15 percent in just three years.

President, Askar Akaev was first elected in October of 1990 and is internationally recognized for his promotion of science, human rights and democracy world wide. He has received many International Awards, including the Grand Cross of the Order of Liberty and Unity from the Association for Unity Latin America in 1995, the Prize of Javaharlal Neru's International Foundation for Unity also in 1995, the Prize of Crans Montana World Forum in 1996 and the North American-Kyrgyz Business Councils International Leadership Award in 1997. More recently, however, President Akaev's wife and first lady, Mairam Akaeva was awarded an honorary doctorate by Utah Valley State College during a trip to the United States late last month. She is also internationally known for her efforts with women and children, spreading the value of education, which is highly regarded in the Kyrgyz Republic, which enjoys a literacy rate of 98 percent.

I thank President Akaev's commitment to the war on terrorism and express our gratitude for providing a military base for our troops in his country. There are a number of companies with operations in the region that have helped supply our troops with what they need to prevail.

As we continue to search for allies in this critical region of the world, it is important to commend those who are trying and slowly succeeding with new found freedoms and economic opportunities.

## BULLETPROOF VEST PARTNERSHIP GRANT PROGRAM

Mr. LEAHY. Mr. President, I am pleased that late last night the House of Representatives passed H.R. 2714 with the Leahy-Hatch amendment to reauthorize the highly successful Department of Justice Bulletproof Vest Partnership Grant Program. I thank the Chairman of the Senate Judiciary Committee, Senator HATCH, for joining me on this amendment. This bipartisan legislation now goes to the president for his signature into law.

Our amendment contains the same legislative language as the Campbell-Leahy-Hatch Bulletproof Vest Partnership Grant Act of 2003, S. 764. The Bulletproof Vest Partnership Grant Act passed the Senate by unanimous consent on July 15, 2003, and has been awaiting consideration by the House of Representatives since then.

This measure marks the third time that I have had the privilege of teaming with my friend and colleague Senator CAMPBELL to work on the Bulletproof Vest Partnership Grant Program. We authored the Bulletproof Vest Grant Partnership Act of 1998, which responded to the tragic Carl Drega shootout in 1997 on the Vermont-New Hampshire border, in which two State troopers who did not have bulletproof vests were killed. The federal officers who responded to the scenes of the shooting spree were equipped with life-saving body armor, but the state and local law enforcement officers lacked protective vests because of the cost.

Two years later, we successfully passed the Bulletproof Vest Partnership Grant Act of 2000, and now we will go 3-for-3 this time around. Senator CAMPBELL brings to our effort invaluable experience in this area and during his time in the Senate he has been a leader in the area of law enforcement. As a former deputy sheriff, he knows the dangers law enforcement officers face when out on patrol. I am pleased that we have been joined in this effort by 12 other Senate cosponsors, including Senator HATCH.

Our bipartisan legislation will save the lives of law enforcement officers across the country by providing more help to state and local law enforcement agencies to purchase body armor. Since its inception in 1999, this highly successful Department of Justice program has provided law enforcement officers in 16,000 jurisdictions nationwide with nearly 350,000 new bulletproof vests. In Vermont, 60 municipalities have been fortunate to receive funding for the purchase of 1,905 vests.

The Bulletproof Vest Partnership Grant Act of 2003 will further the success of the Bulletproof Vest Partnership Grant Program by re-authorizing the program through fiscal year 2007. Our legislation would continue the Federal-State partnership by authorizing up to $50 million per year for matching grants to state and local law enforcement agencies and Indian tribes at the Department of Justice to buy body armor.

We know that body armor saves lives, but the cost has put these vests out of the reach of many of the officers who need them. This program makes it more affordable for police departments of all sizes. Few things mean more to me than when I meet Vermont police officers and they tell me that the protective vests they wear were made possible because of this program. This is the least we should do for the officers on the front lines who put themselves in danger for us every day. I want to make sure that every police officer who needs a bulletproof vest gets one.

## HONORING FAVORITE TEACHERS

Mr. DAYTON. Mr. President, nearly 4,000 Minnesotans honored their favorite teacher at my Minnesota State Fair booth this summer. I would like to honor these teachers further by submitting their names to the CONGRESSIONAL RECORD.

Forest Lake Senior High School—Alan Anderson, Charles Anderson, Ann Astrup, Rena Benedict, Lee Anne Brockman, John Buck, Jamie Bullock, Julie Busby, Tiffany Busby, Sara Cameron, Julianne Carver, Charles Chalberg, Benjamin Chamberlain, Jenny Coates, Michael Coffee, Colleen Collins, Coleen Colton, Mary Colvin, Anne Dahl, Robert Dettmer, Judy Dittberner, Diane Dugas, Terryl Eikren, Nancy Ellias, Patrick Ellias, Chad Erichsrud, Megan Espe-Och, Alesa Fabini, Benjamin Fisher, Daniel Forsythe, Kristin Gorczynski, Charles Gunderson, Heather Guy, Richard Hahn, Larry Harris, Sara Hartman, Elizabeth Haven, Henry Hebert, Holli Hebl, Dana Herman, James Herman, Judy Hill, Thomas Hipkins, Kristine Hovland, Jennifer Hreha, Susan Jarrett, Ryan Johnson, Joseph Jurasin, Maria Kaiser, Paul Karlsson, Janelle Kendrick, Anthony Kowalewski, Gail Law, Bruce Leventhal, Jeffrey Lewis, Marcus Lewton, James Lindstrom, David Livermore, Laura Livermore, Robyn Madson, Christine Magnan, Robert Marzlof, Larry Matzdorf, Tracy Maxwell, Victoria McDougall, William McElrath, Kenneth Mikolajcyk, Michael Miron, Kristen Nellis, Timothy Newcomb, Thomas Newell, Kelly Nicholls, William Olson, Marilyn Orlich, Nancy Sonnon-Pechmann, Kristina Prescott, Cynthia Riesgraf, Nicolle Ristow, Lyn Ruetten, Ryan Rutten, Barbara Schellinger, Laura Schuster, Theresa Snodie, Kristen Soderlund, Suzanne Stennes-Rogness, Dorothy Sunne, Brenda Swanson, Larry Syverson, Sandra Teichner, Donald Thompson, Larry Tietje, Ronald Tungseth, Bradley Ward, Paul Wieland, Jeffrey Wilson, and Kelly Wing.

Century Junior High School—Mark Allaman, Sherri Alm, Penny Baker, Karleen Boettner, Susan Brown, Nancy Calkins, Katrina Callan, Patricia Cheyne, David Daniels, Steven Ekdahl, Reid Fore, Tiffany Freeman, Kristina Granias, Kristin Gustafson, Joel Hall, Michael Hall, Megan Halverson, Kathleen Hellen, Jennifer Hesse, Richard Hofstede, Kay Jackson, Bonnie Johnson, Brian Johnson, Kathryn Johnson, Paul Kendrick, Glen King, Joy Kleppe, Carolyn Kluk, David Kryzer, Maury, Laqua, Tracy Larson, Karen Lewis, Susan Lidstrom, Stephanie Lourey, William Loushine, Jeri Lovett, Michelle Lynch, Alice Lysaker, Geoff McLaughlin, Lance Meier, Joen Moen-Pearson, Kelly Nuss, Deborah Paul, James Pearson, Pauletter Perkovich, Linnea Peterson, Lynn Randazzo, Brian Rigwald, Pamela Robson, Carol Rupar, Alecia Sand, Justin Sheider, Pamela Schultze, Jan Stauffer, Sandra Swenson, Vicky Trampe, Christopher Vogel, Scott Walcker, David Walker, Louise Walker, Lois Weber, Cynthia Weiss, and Edward Zweber.

Southwest Junior High School—Janelle Bernauer, Donald Bjerke, Margaret Burns-Hook, Linda Caddy, Amanda Colby, Thomas Cooper, Shawn Everson, Carland Gaustad, Travis Gjerning, Bruse Hafften, Lou Ann Hanson, Debra Hecker, Annerre Hegler, Jeffry Henry, Dennis Hughes, Crystal Ivanish, Paul Jacobs, Daniel Kne, Sheree Koehler, Joanne Leavens, Kimberly MacDonald, Thomas Malerich, Jennifer Mayer, Cheryl McMahan, Lee McNiesh, Daniel Monroe, Benjamin Munsch, Katherine Nagel, James Noll, Kathleen Norquist, Kristin Pariseau, Greg Patchin, Susan Peterson, Arwen Peopard, William Porter, Rosalie Quale, Philip Raaen, Katie Siebert, James Stromber, William Sullivan, Philip Sundblad, Matthew Thelander, Lawrence Underkoffler, Cynthia Walker, Mary Windsor, Heidi Wollschlager.

Forest Lake Area Learning Center—Deborah Anderson, Laura Anton, Ronald Burris, James Caldwell, Eugenia Cerghizan, Shawn Dylla, Richard Elliot, Heidi Errickson-Grahek, Mary Pat Flandrick, Amy France, Theresa Gieschen, Loren Lynch, George Malone, Michael Meier, Brian Roy, Britt Schachtele, Lisa Sodren, Seth Webster, Alliseon Whittlef.

Columbus Elementary—Christine Brewster, Nancy Bulinski, Steven Carr, Jodie Classen, Kathleen Damon, Sharon Deraad, Terry Burei, James Focht, Kathleen Gross, Danna Grundei, Robert Holewa, Mary Johnson, Alison Linderman, Paulette Miller, Jill Nuebel, Heidi Sapa, Cynthia Solberg, Claudia Stepnick, Frederic Tatting, Kathleen Vail, Mary Vangen, Kimberly Webb, Daniel Winkelman, Barbara Zawadski, and Lois Zemke.

Forest Lake Elementary—Krista Armitage, Donna Benson, Carol Carlson, Daniel Cavanaugh, Christine Davis, Gary Downing, Kelly Duncan, Dianna Heineman, Georgia Heisserer, Mary Holland, Diane Iverson, Michael Jensen, Katherine Jurasin, Clare Kazmierczak, Mary Kryzer, Carol Luschke, Cheri Larson, Julie Larson, Janice Lee, Catherine Massey, Jeanette Maxfield, Jan Mrozinski, Mary Pooch, David Seaburg, Sandra Severson, Joy Sietsema, Nancy Smiley, Mark Smith, Diane Talbot, Michelle Zimmer.

Forest View Elementary—Bruce Abbe, Paul Alexander, Leslie Bergerson, Arlene Bevin, Terry Burk, Margret Cosary, Laurie Ehlers, Brenda Ely, Linda Foster, Jennifer Franklin, Susan Hansen, Sara Heckel, Kale Henry, Patricia Hoglund, Karl Holle, Amy Huset, Malcom Johnson, Michelle Johnson, Christopher Kotys, Kelly Lessman, Michelle Lewis, Julie Myles, Carol Nygaard, Julie Ohman, Jill Genaw-Olson, Kimberly Rogers, Linda Rygh, Patricia Sargent, David Sauer, Darci Sauvageau, Donna Sobiech, Ryan Soukup, Barbara Teawalt, Cynthia Turry, Amy VanBergen, Marlene Wolinski.

Lino Lakes Elementary—Wendy Amon, Kristin Buckner, Jennifer Currier, Constance Durei, Mary Fortner, Lynn Furnstahl, Diane Giorgi, Amy Greenfield, Katherine Hansen, Mary Beth Higgins, Jeffrey Johnson, Kelly Johnson, Nichole Laven, Renee Loberg, Barbara Lundborg, Brittany Lynch, George Martin, Donna Newell, Bonita Peck, Kristina Quan, Jill Schmidt, Pamela Soukkala, Rosemary Valentine, Barbara Voedisch, Darla Wright.

Linwood Elementary—Christine Amsler, Connie Atchison, Sandra Burton, Mary Seidel-Cox, Cynthia Cunningham, Shelley Guptil, Lisa Guzy, Agnes Hall, Beth Hartway, Diane Hipkins, Christine Hudspeth, Gae Jarvis, Michael Knox, Jami Larson, Judith Marleau, Elizabeth Miller, Susan Montgomery, Susan Mullen, Kimberly Nowicki, Monica O'Rourke, Deanna Pesek, Erin Peterson, Heather Peterson, Janice Schwister, Cynthia Prestegaard, Karen Ralidak, Kathryn Robinson, Kathryn Schwister, Ann Severson, Sandra Ternti, and Scott Urness.

Scandia Elementary—Diane Anderson, Joan Arnholt, Laurie Bauer, Kathleen Beach, Barbara Carlson, Jean Clausen, Holly Engvall, Kathleen Garry, Sandra Holcomb, Jan Hughes, Jenna Joelson, Frances Klausen, Cynthia Kramer, Gregory Krentz, Marilyn Larson, Rebecca Magnuson, Jacqueline McMahon, Molly Nemec, Joyce Partyka, Maureen Schwab, Geraldine Seaburg, John Severson, Ellen St. Sauver, Jeremy Swensen, Sandra Valleen, Marlene Wirth, Carol Young, Emily Ziemer.

Wyoming Elementary—Marsha Baer, Michele Bahnmiller, Cheryl Binder, Terri Buerkle, Gail Chalbi, Richard Clayton, Daniel Cremsino, Mary DeFord, Mary Ellen Dellwo, Diane Dummer, Kathleen Edwards, Carol Geiger, Connie Glowacki, Mary Gookins, Joan Harms, Jill Johnson, John Kay Kery Kruger, James Lundborg, Mary Malrick, Lisa Mansell, Kristin Maser, Debra Matheson, Kathleen Mcmorrow, Penny O'Brien, Christine Pietsch, Carrie Pulczinski, Rochelle Quillen, Crystal Rademacher, Diane Reyzlaff, Karen Richards, Cheryl Runquist, Kelly Schuder, Julie Sorensen, Andrew Stoyke, Pamela Thomas, Diana Urness, Jacqueline Wright, Kathleen Wright.

Central Montessori—Laurie Chelgren, Gina Eberspacher, Tara Hahnm Christine Hebert, Sandra Learned, Sylvia Nelson, Vicki Peopard, Joyce Reed, Christina Sparby, Mary Tenjack.

Forest Lake School District—Joy Ballou-Jantzen, Joseph Bauer, Elizabeth Benshoof, Lisa Berg, Jame Bona, Kathleen Briguet, Heidi Christian, Lori Dahlquist, Charles Dodson, Tammy Dunrun, Berni Ester, Diane Fairchild, Edward Gibson, Mary Guler, Lisa Houska, Kelli Kaetterhenry, Alexandra Kaslow-Briggs, Loretta Monson, Charles Moses, Heide Muhs, Alissa Nelson, Gayla Peterson, Rachel Peterson, Wendy Pickar, Cynthia Saarela, Priscilla Scherman, Lynn Schwiebert, Nicole Shabelski, Jill Somrock, Donald Spears, Kathryn Stading, Joel-Lynn Tinklenberg, Jennifer Tolzmann, and Callie Tresco.

## MESSAGE FROM THE HOUSE

At 10:02 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agreed to the amendment of the Senate to the bill (H.R. 1533) to amend the securities laws to permit church plans to be invested in collective trash trusts.

The message also announced that the House agreed to the amendment of the Senate to the bill (H.R. 2608) to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes.

The message further announced that the House agreed to the amendment of the Senate to the bill (H.R. 2714) to reauthorize the State Justice Institute.

The message also announced that the House agreed to the amendment of the Senate to the bill (H.R. 4175) to increase, effective as of December 1, 2004, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain-connected disabled veterans, and for other purposes.

The message further announced that the House passed the following bills, without amendment:

S. 524. An act to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the for in 1862, and for other purposes.

S. 1368. An act to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 2195. An act to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relative to steroids and steroid precursors.

S. 2864. An act to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted.

S. 2883. An act to authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights in honor of breast cancer awareness month.

S. 2896. An act to modify and extend certain privatization requirements of the Communications Satellite Act of 1962.

The message also announced that the House passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2760. An act to limit United States assistance for Ethiopia and Eritrea if those countries are not in compliance with the terms and conditions of agreements entered into by the two countries to end hostilities and provide for a demarcation of the border between the two countries, and for other purposes.

H.R. 4917. An act to amend title 5, United States Code, to authorize appropriations for the Administrative Conference of the United States for fiscal years 2005, 2006, and 2007, and for other purposes.

H.R. 5245. An act to extend the liability indemnification regime for the commercial space transportation industry.

H.R. 5294. An act to amend the John F. Kennedy Center Act to reauthorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes.

H.R. 5295. An act to amend part III of title 5, United States Code, to provide for the establishment of programs under which supplemental dental and vision benefits are made available to Federal employees, retirees, and their dependents, to expand the contracting authority of the Office of Personnel Management, and for other purposes.

The message further announced that the House passed the bill (S. 2292) to require a report on acts of anti-Semitism around the world, with amendments.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes, requests a conference asked by the Senate on the disagreeing votes of the two Houses thereon and appoints the following members as the managers of the conference on the part of the House:

From the Committee on Education and the Workforce, for consideration of the house bill and the Senate amendment, and modifications committed to conference: Messrs. BOEHNER, CASTLE, EHLERS, KELLER, WILSON of South Carolina, GEORGE MILLER of California, Ms. WOOLSEY, and Mr. OWENS.

From the Committee on Energy and Commerce, for consideration of section 101 and title V of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, BILIRAKIS, and DINGELL.

From the Committee on the Judiciary, for consideration of section 205 of the House bill, and section 101 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas, and CONYERS.

The message further announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1047) to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

## ENROLLED BILLS SIGNED

The message also announced that Speaker has signed the following enrolled bills:

S. 1791. An act to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes.

S. 2178. An act to make technical corrections to laws relating to certain units of the National Park System and to the National Park programs.

S. 2511. An act to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, New Mexico, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 3:14 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 514. Concurrent resolution directing the Clerk of the House of Representatives to make a technical correction in the enrollment of the bill H.R. 4200.

H. Con. Res. 518. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The message further announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4567) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4837) making appropriations, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

At 3:46 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 519. Concurrent resolution correcting the enrollment of H.R. 5107.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2949. A bill to amend the Low-Income Home Energy Assistance Act of 1981 to reauthorize the Act, and for other purposes.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER:

S. 2969. A bill entitled the "Fair Gift Card Act"; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. SNOWE:

S. 2970. A bill to redesignate the project for navigation, Saco River, Maine, as an anchorage area; to the Committee on Environment and Public Works.

By Ms. CANTWELL:

S. 2971. A bill to permanently increase the maximum annual contribution allowed to be made to Coverdell education savings accounts; to the Committee on Finance.

By Ms. CANTWELL:

S. 2972. A bill to amend the Internal Revenue Code of 1986 to permanently increase the maximum annual contribution allowed to be made to Coverdell education savings accounts, and to provide for a deduction for contributions to education savings accounts; to the Committee on Finance.

By Mr. CORZINE (for himself, Mrs. BOXER, Mrs. MURRAY, Mr. SCHUMER, Mr. LAUTENBERG, and Mr. LEAHY):

S. 2973. A bill to clarify the applicability of State law to national banks, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HARKIN (for himself and Mrs. LINCOLN):

S. Res. 454. A resolution expressing the sense of the Senate that the 108th Congress should provide the necessary funds to make disaster assistance available for all customarily eligible agricultural producers as emergency spending and not funded by cuts to the farm bill; considered and agreed to.

## ADDITIONAL COSPONSORS

### S. 1700

At the request of Mr. LEAHY, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1700, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

### S. 2338

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 2338, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

### S. 2395

At the request of Mr. CONRAD, the names of the Senator from Connecticut (Mr. DODD) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 2395, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

### S. 2571

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 2571, a bill to clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHUMER:

S. 2969. A bill entitled the "Fair Gift Card Act", to the Committee on Banking, Housing, and Urban Affairs.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Gift Card Act".

### SEC. 2. DEFINITIONS.

In this Act:

(1) GIFT CERTIFICATE, STORE GIFT CARD, OTHER PREPAID CARDS.—The terms "gift certificate", "store gift card", and "general-use prepaid card" have the following meanings:

(A) GIFT CERTIFICATE.—The term "gift certificate" means a written promise that is—

(i) usable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo;

(ii) issued in a specified amount and cannot be increased;

(iii) purchased on a prepaid basis in exchange for payment; and

(iv) honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

(B) STORE GIFT CARD.—The term "store gift card" means a plastic card or other electronic payment device that is—

(i) usable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo;

(ii) issued in a specified amount and may or may not be increased in value or reloaded;

(iii) purchased on a prepaid basis in exchange for payment; and

(iv) honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

(C) GENERAL-USE PREPAID CARD.—

(i) IN GENERAL.—The term "general-use prepaid card" means a card or other electronic payment device issued by a bank or financial institution, or by a licensed money transmitter that is—

(I) usable at multiple, unaffiliated merchants or service providers, or at automated teller machines;

(II) issued in a requested amount whether or not that amount may be, at the option of the issuer, increased in value or reloaded if requested by the holder;

(III) purchased or loaded on a prepaid basis; and

(IV) honored, upon presentation, by merchants for goods or services, or at automated teller machines.

(ii) EXCEPTION.—The term "general-use prepaid card" does not include a debit card that is linked to a demand deposit or share draft account.

(D) EXCLUSION.—The terms "gift certificate", "store gift card", and "general-use prepaid card" do not include a written promise, plastic card, or other electronic device that is—

(i) used solely for telephone services; or

(ii) associated with a demand deposit, checking, savings or similar account in the name of the individual at a bank or financial institution, and that provides payment solely by debiting such account.

(2) DEBIT CARD.—The term "debit card" has the meaning given that term under section 603(r)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681a(r)(3)).

(3) FINANCIAL INSTITUTION.—The term "financial institution" has the meaning given that term under section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

(4) DORMANCY FEE; INACTIVITY CHARGE OR FEE.—The terms "dormancy fee" and "inactivity charge or fee" mean a fee, charge, or penalty for non use or inactivity of a gift certificate, store gift card, or prepaid general-use card.

(5) SERVICE FEE.—The term "service fee" means a periodic fee, charge, or penalty for holding or use of a gift certificate, store card, or prepaid general use card.

(6) LICENSED MONEY TRANSMITTER.—The term "licensed money transmitter" means a person who sells or issues payment instruments or engages in the business of receiving money for transmission or transmitting money within the United States or to locations abroad by any and all means, including but not limited to payment instrument, wire, facsimile or electronic transfer.

### SEC. 3. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH GIFT CARDS.

(a) IMPOSITION OF FEES OR CHARGES.—

(1) IN GENERAL.—Except as provided for in paragraphs (2), (3), and (4) it is unlawful for any person to impose with respect to a gift certificate, store gift card, or general-use prepaid card a dormancy fee, inactivity charge or fee or a service fee.

(2) EXCEPTION.—A dormancy fee, inactivity charge or fee, or service fee described in paragraph (1) may be charged with respect to a gift certificate, store gift card, or general-use prepaid card if—

(A) at the time the charge or fee is assessed the certificate or card has a remaining value of $5 or less;

(B) the charge or fee does not exceed $1;

(C) there has been no activity with respect to the certificate or the card for at least 24 consecutive months;

(D) the holder of the certificate or the card may reload or add value to the certificate or the card; and

(E) the requirements of paragraph (3) are met.

(3) REQUIREMENTS.—The requirements of this paragraph are that—

(A) the certificate or card clearly and conspicuously states in 10-point font—

(i) that a charge or fee described in paragraph (1) may be charged; and

(ii) the amount of the charge or fee, how often the charge or fee may be assessed, and that the charge or fee may be assessed for inactivity; and

(B) the issuer of the certificate or card informs the purchaser of the charge or the fee before the certificate or card is purchased, regardless of whether the certificate or card is purchased in person, over the Internet, or by telephone.

(4) EXCLUSION.—The prohibitions and requirements contained in this subsection shall not apply to gift certificates that—

(A) are distributed pursuant to an award, loyalty, or promotional program and with respect to which there is no money or other value exchanged; or

(B) expire not later than 30 days after the date they are sold and are sold below the face value of the certificate to an employer, or to a nonprofit or charitable organization for fundraising purposes.

(b) LIMITATIONS ON EXPIRATION DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), it is unlawful for any person to sell or issue a gift certificate, store gift card, or general-use prepaid card that is subject to an expiration date.

(2) EXCEPTIONS.—A gift certificate, store gift card, or general-use prepaid card may contain an expiration date if the expiration date is not less than 5 years from the date the card is purchased. Expiration terms must be prominently disclosed in at least 10-point font and in all capital letters.

### SEC. 4. RELATION TO STATE LAWS

The Act and any regulations or standards established pursuant to this Act shall not supersede any State law or regulation with respect to charges, fees, and expiration dates of gift certificates, store gift card, or general-use prepaid cards.

### SEC. 5. ENFORCEMENT.

(a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ACTIONS BY THE COMMISSION.—The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(c) INDIVIDUAL CAUSE OF ACTION.—Nothing in this Act shall be construed to limit an individual's rights to enforce a State law relating to unfair or deceptive acts or practices.

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By Ms. CANTWELL:

S. 2971. A bill to permanently increase the maximum annual contribution allowed to be made to Coverdell education savings accounts; to the Committee on Finance.

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By Ms. CANTWELL:

S. 2972. A bill to amend the Internal Revenue Code of 1986 to permanently increase the maximum annual contribution allowed to be made to Coverdell education savings accounts, and to provide for a deduction for contributions to education savings accounts; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise today to talk about increasing educational opportunities by improving a tax-free way to save for college. A college education is invaluable in today's workforce, requiring new skills and a post-secondary education to stay competitive in our global economy. That's why I am introducing two pieces of legislation that will help make paying for college easier:

The Education Savings for Students Act and College Savings Act both expand current Coverdell education savings accounts by permanently increasing the annual contribution amount to $5,000.

The College Savings Act would allow families to deduct from income the amount they contribute to their education savings account. The Education Savings Act keeps the current conditions under Coverdells that investment earnings grow tax-free and withdrawals from their account are tax-exempt when their child goes to school, but permanently increases the minimum annual contribution from $2,000 to $5,000.

Both bills provide a financial incentive to put away money for college where parents have the ability to save now through deductible contributions or bank on projected savings through tax-deferred earnings and withdrawals.

It's incredible how fast kids grow. One day they're in kindergarten, and the next day they're packing up and leaving for college. What's even more incredible is that higher education costs grow just as fast as they do.

I understand that parents have a lot to worry about, especially when their children are young. But with rising college costs, parents must also be concerned about how to pay for their child's college education. Mounting tuition costs and prices for books and materials, plus room and board have made colleges and universities less affordable for most families.

College is expensive. There are many parents whose children have aimed to go to college, but soon discover they can't afford it because of rising costs.

In 2002, the National Center for Public Policy and Higher Education reported national trends which—if remain unaddressed—will have adverse consequences for expanding students' opportunities to pursue a higher education and future career.

This report found that over the last two decades, the cost of attending two- and four-year public and private colleges have not only grown more rapidly than inflation, but faster than family incomes, increasing the share of family income that is needed to pay for tuition and other college expenses. From 1991 through 2001, tuition at four-year public colleges and universities rose faster than family income in 41 states, including my home State of Washington.

The Washington State Higher Education Coordinating Board reports that, over the last ten years, tuition and fees have far outpaced family income, increasing 89 percent compared to 51 percent in per capita personal income in my state. In comparison, the cost of most consumer goods increased an average of 20 percent during the same time. And, per capita personal income in Washington increased 51 percent during this period.

As a result, more students and families at all income levels are borrowing more money than ever before to pay for college. In 1981, loans accounted for 45 percent and grants for 52 percent of federal student financial aid. In 2000, loans represented 58 percent of Federal student financial aid, and grants represented 41 percent.

Unfortunately, the steepest increases in college and university tuition have been imposed during times of greatest economic hardship. Just in the past three years, our economy has experienced a loss of 1.8 million private sector jobs and 2.7 million manufacturing jobs. It is my priority that we prepare our workers for the jobs of today and the careers of the future. If we want to maintain our economic competitiveness, we need to make college more affordable. We must keep up with the demand for skilled workers across all sectors of the economy.

In February, the Bureau of Labor Statistics reported that six of the ten fastest-growing occupations in the U.S. economy require an associate's degree or bachelor's degree, and that all ten of these careers will require some type of skills training. By 2010, 40 percent of all job growth will require some form of post-secondary education.

Workers with a college degree make 75 percent more than those without. A college education pays tremendous dividends—not just to individuals, but also to their entire communities. On average, a one-year increase in a metropolitan area's educational level raises wages by three to five percent.

Affordability is key to expanding opportunities to go to college. Let's face it, we're not all going to pay for college by winning the lottery. Saving for college early and often will help lift the pressures off of parents who are feeling the financial squeeze of increased tuition and fees.

For these families, Coverdell Education Savings plans provide a needed relief for the middle class. The purpose of education savings plans are to increase saving by increasing net returns. Today, parents can put up to $2,000 a year into a Coverdell Education Savings account. The actual contribution is not tax deductible, but all earnings in this account are free from taxes when they are withdrawn to pay for school.

However, the current $2,000 annual limit on Coverdell contributions will be repealed in 2010 unless Congress acts to extend it. If we don't extend the contribution level, the maximum contribution will drop to $500.

While the current tax benefit makes it easier to save for college, the Education Savings Act would increase the annual contributions from $2,000 to $5,000 and making this change permanent ensures greater savings for families. By increasing the amount parents can put aside for their children's college savings, middle-income parents will be able to more easily save for their child's college education.

Say for example, parents start saving when their child turns eight years old. If they put away just $100.00 a month—at an interest rate of savings of four percent—by the time their kid turns 18, their account would have earned more than $12,400 in interest. Parents will save over $3,100 in taxes when that child is old enough to go to school.

In addition to projected savings, parents also have the option to save now. The College Savings Act would offer families the ability to deduct their contributions each year—

Both of these bills, the College Savings Act and the Education Savings Act are financial incentives for people to save by allowing families to deduct the amount they contribute and take tax-free earnings when their child is ready to go to school, would further lessen the financial burden that parents bear by saving money early and often.

Permanently expanding the Coverdell maximum contribution from its current threshold of $2,000 to $5,000 a year and allowing this contribution to be tax deductible is a common-sense savings vehicle that keeps future college costs from spinning out of control. Increasing contribution caps will make school more affordable at a time when a college education and advanced job training is becoming more and more important for economic success.

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By Mr. CORZINE (for himself, Mrs. BOXER, Mrs. MURRAY, Mr. SCHUMER, Mr. LAUTENBERG, and Mr. LEAHY):

S. 2973. A bill to clarify the applicability of State law to national banks, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

Mr. CORZINE. Mr. President, I rise today to introduce legislation along with Senators BOXER, MURRAY, SCHUMER, LAUTENBERG, and LEAHY the Preservation of Federalism in Banking Act, to clarify the relationship between state consumer protection laws and national banks.

This legislation responds to a sweeping new rule issued by the Office of the Comptroller of the Currency, the agency that regulates national banks. The OCC's new rule gives the agency unprecedented authority to pre-empt State laws, thereby shielding national banks and their non-bank and State-chartered bank affiliates from many important consumer protections. It also potentially limits the ability of States to enforce many related laws. The most important immediate consequence of the OCC rule has been the preemption of State anti-predatory lending laws.

I feel strongly about the need to address predatory lending, which can trap people in endless cycles of debt and escalating fees. Many States, such as my own state of New Jersey, have enacted tough laws to deal with the problem. Unfortunately, the OCC's ruling substantially undermines these laws by regulatory fiat. That will leave many consumers unprotected, and it shifts too many responsibilities to a single agency here in Washington that is not equipped to handle them. After all, according to its own website, the OCC "does not have the mandate to engage in consumer advocacy".

Although the OCC has a long and successful record of regulating for safety and soundness, it has little experience dealing with abusive local practices, such as predatory lending. Believe it or not, the OCC actually is proposing to handle all consumer complaints through a single 22-person call center in Houston. This is totally unrealistic. Each year, State officials receive thousands of related complaints, which usually are very local in nature. These officials are at the forefront of the enforcement effort, identifying and combating new practices as they arise. The OCC's system simply could not fill this role without major changes.

The OCC rule also raises concerns about regulatory charter competition, the viability of a broad range of state laws, and the ability of consumers and state officials to seek remedies in court.

The OCC rule has provoked strong opposition from governors, attorneys general, banking supervisors, and many consumer advocacy groups, not to mention the public. The OCC received over 2,600 letters in response to its rules, and more than 90 percent opposed them.

The Preservation of Federalism in Banking Act is a limited and reasonable response to the OCC rule. The bill will clarify the state consumer protection laws with which banks and their affiliates must comply. It also will protect financial institutions from overreaching state laws that seek to directly regulate the core activities of national banks.

While the OCC has long had the statutory responsibility to regulate the activities of national banks, it has never denied the ability of states to protect their citizens. The OCC historically has used its authority under the National Bank Act in a reasonable way to shield national banks from state banking laws that intrude on the OCC's congressionally-granted powers. While we should continue to support the appropriate use of the agency's authority, it is important that we immediately intervene to reverse the OCC's regulatory overreach and prevent the agency from preempting all state consumer protection laws and state authority to enforce related laws.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

## S. 2973

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Preservation of Federalism in Banking Act".

### SEC. 2. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS CLARIFIED.

(a) IN GENERAL.—Chapter 1 of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136B (12 U.S.C. 25a) the following new section:

### "SEC. 5136C. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.

"(a) STATE CONSUMER LAWS OF GENERAL APPLICATION.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law, any State consumer law of general application (including any law relating to unfair or deceptive acts or practices and any consumer fraud law) shall apply to any national bank.

"(2) NATIONAL BANK DEFINED.—For purposes of this section, the term 'national bank' includes any Federal branch established in accordance with the International Banking Act of 1978.

"(b) STATE BANKING LAWS ENACTED PURSUANT TO FEDERAL LAW.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law and except as provided in paragraph (2), any State law that—

"(A) is applicable to State banks; and

"(B) was enacted pursuant to or in accordance with, and is consistent with, an Act of Congress, including the Gramm-Leach-Bliley Act and the Consumer Credit Protection Act, that permits States to exceed or supplement the requirements of any comparable Federal law,

shall apply to any national bank.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any State law if—

"(A) the State law discriminates against national banks; or

"(B) the State law is inconsistent with other provisions of Federal law, but only to the extent of the inconsistency (as determined in accordance with the other provision of Federal law).

"(c) NO NEGATIVE IMPLICATIONS FOR APPLICABILITY OF OTHER STATE LAWS.—No provision of this section shall be construed as altering or affecting the applicability, to national banks, of any State law which is not described in subsection (a) or (b).".

(b) DENIAL OF PREEMPTION NOT A DEPRIVATION OF A CIVIL RIGHT.—The preemption of any provision of the laws of any State with respect to any national bank shall not be treated as a right, privilege, or immunity for purposes of section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983).

(c) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title LXII of the Revised Statutes of the United States, is amended by inserting after the item relating to section 5136B the following new item:

"5136C. State law preemption standards for national banks and subsidiaries clarified.".

### SEC. 3. VISITORIAL STANDARDS.

Section 5136C of the Revised Statutes of the United States (as added by section 2(a) of this Act) is amended by adding at the end the following new subsection:

"(d) VISITORIAL POWERS.—No provision of this title which relates to visitorial powers or otherwise limits or restricts the supervisory, examination, or regulatory authority to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring any action in any court of appropriate jurisdiction—

"(1) to enforce any applicable Federal or State law, as authorized by such law; or

"(2) on behalf of residents of such State, to enforce any applicable provision of any Federal or State law against a national bank, as authorized by such law, or to seek relief and recover damages for such residents from any violation of any such law by any national bank.".

### SEC. 4. CLARIFICATION OF LAW APPLICABLE TO STATE-CHARTERED NONDEPOSITORY INSTITUTION SUBSIDIARIES.

Section 5136C of the Revised Statutes of the United States (as added and amended by this Act) is amended by adding at the end the following new subsection:

"(e) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES OF NATIONAL BANKS.—

"(1) IN GENERAL.—No provision of this title shall be construed as preempting the applicability of State law to any State-chartered nondepository institution subsidiary of a national bank, except to the extent that the preemption is explicitly provided by an Act of Congress.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution' and 'subsidiary' have the same meanings as in section 3 of the Federal Deposit Insurance Act.".

### SEC. 5. DATA COLLECTION AND REPORTING.

(a) COLLECTING AND MONITORING CONSUMER COMPLAINTS.—

(1) IN GENERAL.—The Comptroller of the Currency shall record and monitor each complaint received directly or indirectly from a consumer regarding a national bank or any subsidiary of a national bank and record the resolution of the complaint.

(2) FACTORS TO BE INCLUDED.—In carrying out the requirements of paragraph (1), the Comptroller of the Currency shall include—

(A) the date on which the consumer complaint was received;

(B) the nature of the complaint;

(C) when and how the complaint was resolved, including a brief description of the extent, and the results, of the investigation made by the Comptroller into the complaint, a brief description of any notices given and inquiries made to any other Federal or State officer or agency in the course of the investigation or resolution of the complaint, a summary of the enforcement action taken upon completion of the investigation, and a summary of the results of subsequent periodic reviews by the Comptroller of the extent and nature of compliance by such national bank or subsidiary with the enforcement action; and

(D) if the complaint involves any alleged violation of a State law (whether or not Federal law preempts the application of such State law to such national bank) by such bank, a cite to and a description of the State law that formed the basis of the complaint.

(b) REPORT TO THE CONGRESS.—

(1) PERIODIC REPORTS REQUIRED.—The Comptroller of the Currency shall submit a report semi-annually to the Congress on the consumer protection efforts of the Office of the Comptroller of the Currency.

(2) CONTENTS OF REPORT.—Each report submitted under paragraph (1) shall include the following:

(A) The total number of consumer complaints received by the Comptroller during the period covered by the report with respect to alleged violations of consumer protection laws by national banks and subsidiaries of national banks.

(B) The total number of consumer complaints received during the reporting period that are based on each of the following:

(i) Each title of the Consumer Credit Protection Act (reported as a separate aggregate number for each such title).

(ii) The Truth in Savings Act.

(iii) The Right to Financial Privacy Act of 1978.

(iv) The Expedited Funds Availability Act.

(v) The Community Reinvestment Act of 1977.

(vi) The Bank Protection Act of 1968.

(vii) Title LXII of the Revised Statutes of the United States.

(viii) The Federal Deposit Insurance Act.

(ix) The Real Estate Settlement Procedures Act of 1974

(x) The Home Mortgage Disclosure Act of 1975.

(xi) Any other Federal law.

(xii) State consumer protection laws (reported as a separate aggregate number for each State and each State consumer protection law).

(xiii) Any other State law (reported separately for each State and each State law).

(C) A summary description of the resolution efforts by the Comptroller for complaints received during the period covered, including—

(i) the average amount of time to resolve each complaint;

(ii) the median period of time to resolve each complaint;

(iii) the average and median time to resolve complaints in each category of complaints described in each clause of subparagraph (B); and

(iv) a summary description of the longest outstanding complaint during the reporting period and the reason for the difficulty in resolving such complaint in a more timely fashion.

(3) DISCLOSURE OF REPORT ON OCC WEBSITE.—Each report submitted to the Congress under this subsection shall be posted by the Comptroller of the Currency in a timely fashion, and maintained on the website of the Office of the Comptroller of the Currency on the World Wide Web.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 454—EXPRESSING THE SENSE OF THE SENATE THAT THE 108TH CONGRESS SHOULD PROVIDE THE NECESSARY FUNDS TO MAKE DISASTER ASSISTANCE AVAILABLE FOR ALL CUSTOMARILY ELIGIBLE AGRICULTURAL PRODUCERS AS EMERGENCY SPENDING AND NOT FUNDED BY BUTS TO THE FARM BILL

Mr. HARKIN (for himself and Mrs. LINCOLN) submitted the following resolution; which was considered and agreed to:

S. RES. 454

Whereas, agriculture has been the cornerstone of every civilization throughout history and remains the driving force behind the nation's economy;

Whereas, American farmers and ranchers help keep food affordable in this country and also help to feed the world;

Whereas, America's farmers and ranchers produce the food and fiber that is so vital to our economy while protecting our soil, helping to keep our waters clean, and reducing air pollution across the country;

Whereas, all sectors of our country rely in some way on a successful, strong and vibrant agriculture industry;

Whereas, it is the nature of agriculture that farmers and ranchers will suffer production losses because of the vagaries of weather;

Whereas, Congress has responded to natural disasters by providing assistance to those affected including the nation's farmers and rancher to help restore financial stability in times of such losses; and

Whereas, Congress has traditionally provided such assistance on an emergency basis without cutting programs to the class of those suffering.

*Resolved*, That it is the Sense of the Senate that the 108th Congress should provide the necessary funds to make disaster assistance available for all customarily eligible agricultural producers as emergency spending and not funded by cuts to the farm bill.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 4045. Mr. MCCONNELL (for himself and Mr. REID) proposed an amendment to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

SA 4046. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2656, to establish a National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon; which was referred to the Committee on Energy and Natural Resources.

SA 4047. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 1630, to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes; which was ordered to lie on the table.

SA 4048. Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill S. 2485, to amend title 38, United States Code, to improve and enhance the authorities of the Secretary of Veterans Affairs relating to the management and disposal of real property and facilities, and for other purposes.

SA 4049. Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill H.R. 3936, to amend title 38, United States Code, to increase the authorization of appropriations for grants to benefit homeless veterans, to improve programs for management and administration of veterans' facilities and health care programs, and for other purposes.

## TEXT OF AMENDMENTS

**SA 4045.** Mr. MCCONNELL (for himself and Mr. REID) proposed an amendment to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

Page 2, line 10, strike "primarily"

Page 5, line 20 and 21, strike "Ranking Member" and insert "Vice Chairman"

Page 4, lines 9 through 13, strike.

At the end of Section 101(b)(1) insert the following: "The jurisdiction of the Committee on Homeland Security and Governmental Affairs in this paragraph shall supersede the jurisdiction of any other committee of the Senate provided in the rules of the Senate.".

**SA 4046.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2656, to establish a National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon; which was referred to the Committee on Energy and Natural Resources; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Ponce de Leon Discovery of Florida Quincentennial Commission Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) COMMISSION.—The term "Commission" means the National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon established under section 3(a).

(2) GOVERNOR.—The term "Governor" means the Governor of the State of Florida.

(3) QUINCENTENNIAL.—The term "Quincentennial" means the 500th anniversary of the discovery of Florida by Ponce de Leon.

**SEC. 3. ESTABLISHMENT OF COMMISSION.**

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon".

(b) DUTIES.—The Commission shall plan, encourage, coordinate, and conduct the commemoration of the Quincentennial.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 10 members, including—

(A) 2 members, to be appointed by the President, on the recommendation of the Majority Leader and the Minority Leader of the Senate;

(B) 2 members, to be appointed by the President, on the recommendation of the Speaker of the House of Representatives and the Minority Leader of the House of Representatives; and

(C) 4 members, to be appointed by the President, taking into consideration the recommendations of the Governor, the Director of the National Park Service, and the Secretary of the Smithsonian Institution.

(2) CRITERIA.—A member of the Commission shall be chosen from among individuals that have demonstrated a strong sense of public service, expertise in the appropriate professions, scholarship, and abilities likely to contribute to the fulfillment of the duties of the Commission.

(3) DATE OF APPOINTMENTS.—Not later than 60 days after the date of enactment of this Act, the members of the Commission described in paragraph (1) shall be appointed.

(d) TERM; VACANCIES.—

(1) TERM.—A member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(e) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(f) MEETINGS.—The Commission shall meet annually at the call of the co-chairpersons described under subsection (h).

(g) QUORUM.—A quorum of the Commission for decision making purposes shall be 5 members, except that a lesser number of members, as determined by the Commission, may conduct meetings.

(h) CO-CHAIRPERSONS.—The President shall designate 2 of the members of the Commission as co-chairpersons of the Commission.

**SEC. 4. DUTIES.**

(a) IN GENERAL.—The Commission shall—

(1) plan and develop activities appropriate to commemorate the Quincentennial including a limited number of proposed projects to

be undertaken by the appropriate Federal departments and agencies that commemorate the Quincentennial by seeking to harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(2) consult with and encourage appropriate Federal departments and agencies, State and local governments, Indian tribal governments, elementary and secondary schools, colleges and universities, foreign governments, and private organizations to organize and participate in Quincentennial activities commemorating or examining—

(A) the history of Florida;

(B) the discovery of Florida;

(C) the life of Ponce de Leon;

(D) the myths surrounding Ponce de Leon's search for gold and for the "fountain of youth";

(E) the exploration of Florida; and

(F) the beginnings of the colonization of North America; and

(3) coordinate activities throughout the United States and internationally that relate to the history and influence of the discovery of Florida.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the President and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a comprehensive report that includes specific recommendations for—

(A) the allocation of financial and administrative responsibility among participating entities and persons with respect to commemoration of the Quincentennial; and

(B) the commemoration of the Quincentennial and related events through programs and activities, including—

(i) the production, publication, and distribution of books, pamphlets, films, electronic publications, and other educational materials focusing on the history and impact of the discovery of Florida on the United States and the world;

(ii) bibliographical and documentary projects, publications, and electronic resources;

(iii) conferences, convocations, lectures, seminars, and other programs;

(iv) the development of programs by and for libraries, museums, parks and historic sites, including international and national traveling exhibitions;

(v) ceremonies and celebrations commemorating specific events;

(vi) the production, distribution, and performance of artistic works, and of programs and activities, focusing on the national and international significance of the discovery of Florida; and

(vii) the issuance of commemorative coins, medals, certificates of recognition, and stamps.

(2) ANNUAL REPORT.—The Commission shall submit an annual report that describes the activities, programs, expenditures, and donations of or received by the Commission to—

(A) the President; and

(B) the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(3) FINAL REPORT.—Not later than December 31, 2013, the Commission shall submit a final report that describes the activities, programs, expenditures, and donations of or received by the Commission to—

(A) the President; and

(B) the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(c) ASSISTANCE.—In carrying out this Act, the Commission shall consult, cooperate with, and seek advice and assistance from appropriate Federal departments and agencies, including the Department of the Interior.

(d) COORDINATION OF ACTIVITIES.—In carrying out the duties of the Commission, the Commission, in consultation with the Secretary of State, may coordinate with the Government of Spain and political subdivisions in Spain for the purposes of exchanging information and research and otherwise involving the Government of Spain, as appropriate, in the commemoration of the Quincentennial.

**SEC. 5. POWERS OF THE COMMISSION.**

(a) IN GENERAL.—The Commission may provide for—

(1) the preparation, distribution, dissemination, exhibition, and sale of historical, commemorative, and informational materials and objects that will contribute to public awareness of, and interest in, the Quincentennial, except that any commemorative coin, medal, or postage stamp recommended to be issued by the United States shall be sold only by a Federal department or agency;

(2) competitions and awards for historical, scholarly, artistic, literary, musical, and other works, programs, and projects relating to the Quincentennial;

(3) a Quincentennial calendar or register of programs and projects;

(4) a central clearinghouse for information and coordination regarding dates, events, places, documents, artifacts, and personalities of Quincentennial historical and commemorative significance; and

(5) the design and designation of logos, symbols, or marks for use in connection with the commemoration of the Quincentennial and shall establish procedures regarding their use.

(b) ADVISORY COMMITTEE.—The Commission may appoint such advisory committees as the Commission determines necessary to carry out the purposes of this Act.

**SEC. 6. ADMINISTRATION.**

(a) LOCATION OF OFFICE.—

(1) PRINCIPAL OFFICE.—The principal office of the Commission shall be in St. Augustine, Florida.

(2) SATELLITE OFFICE.—The Commission may establish a satellite office in Washington, D.C.

(b) STAFF.—

(1) APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR.—

(A) IN GENERAL.—The co-chairpersons, with the advice of the Commission, may appoint and terminate a director and deputy director without regard to the civil service laws (including regulations).

(B) DELEGATION TO DIRECTOR.—The Commission may delegate such powers and duties to the director as may be necessary for the efficient operation and management of the Commission.

(2) STAFF PAID FROM FEDERAL FUNDS.—The Commission may use any available Federal funds to appoint and fix the compensation of not more than 4 additional personnel staff members, as the Commission determines necessary.

(3) STAFF PAID FROM NON-FEDERAL FUNDS.—The Commission may use any available non-Federal funds to appoint and fix the compensation of additional personnel.

(4) COMPENSATION.—

(A) MEMBERS.—

(i) IN GENERAL.—A member of the Commission shall serve without compensation.

(ii) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(B) STAFF.—

(i) IN GENERAL.—The co-chairpersons of the Commission may fix the compensation of the director, deputy director, and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) MAXIMUM RATE OF PAY.—

(I) DIRECTOR.—The rate of pay for the director shall not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(II) DEPUTY DIRECTOR.—The rate of pay for the deputy director shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(III) STAFF MEMBERS.—The rate of pay for staff members appointed under paragraph (2) shall not exceed the rate payable for grade GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(c) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(1) IN GENERAL.—On request of the Commission, the head of any Federal agency or department may detail any of the personnel of the agency or department to the Commission to assist the Commission in carrying out this Act.

(2) REIMBURSEMENT.—A detail of personnel under this subsection shall be without reimbursement by the Commission to the agency from which the employee was detailed.

(3) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(d) OTHER REVENUES AND EXPENDITURES.—

(1) IN GENERAL.—The Commission may procure supplies, services, and property, enter into contracts, and expend funds appropriated, donated, or received to carry out contracts.

(2) DONATIONS.—

(A) IN GENERAL.—The Commission may solicit, accept, use, and dispose of donations of money, property, or personal services.

(B) LIMITATIONS.—Subject to subparagraph (C), the Commission shall not accept donations—

(i) the value of which exceeds $50,000 annually, in the case of donations from an individual; or

(ii) the value of which exceeds $250,000 annually, in the case of donations from a person other than an individual.

(C) NONPROFIT ORGANIZATION.—The limitations in subparagraph (B) shall not apply in the case of an organization that is—

(i) described in section 501(c)(3) of the Internal Revenue Code of 1986; and

(ii) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

(3) ACQUIRED ITEMS.—Any book, manuscript, miscellaneous printed matter, memorabilia, relic, and other material or property relating to the time period of the discovery of Florida acquired by the Commission may be deposited for preservation in national, State, or local libraries, museums, archives, or other agencies with the consent of the depositary institution.

(e) POSTAL SERVICES.—The Commission may use the United States mail to carry out this Act in the same manner and under the same conditions as other agencies of the Federal Government.

(f) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines to be necessary.

**SEC. 7. STUDY.**

The Secretary of the Interior shall—

(1) in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)), conduct a study to assess the suitability and feasibility of designating an area in the State of Florida as a unit of the National Park System to commemorate the discovery of Florida by Ponce de Leon; and

(2) not later than 3 years after the date on which funds are made available to carry out the study, submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes—

(A) the findings of the study; and

(B) any conclusions and recommendations of the Secretary of the Interior with respect to the study.

**SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Subject to subsection (b), there is authorized to be appropriated to carry out the purposes of this Act $250,000 for each of fiscal years 2005 through 2013.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under this section for any fiscal year shall remain available until December 31, 2013.

**SEC. 9. TERMINATION OF AUTHORITY.**

The authority provided by this Act terminates effective December 31, 2013.

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**SA 4047.** Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 1630, to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 9, strike "June" and insert "July".

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**SA 4048.** Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill S. 2485, to amend title 38, United States code, to improve and enhance the authorities of the Secretary of Veterans Affairs relating to the management and disposal of real property and facilities, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Programs Improvement Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Reference to title 38, United States Code.

TITLE I—ASSISTANCE TO HOMELESS VETERANS

Sec. 101. Authorization of appropriations.

TITLE II—VETERANS LONG-TERM CARE PROGRAMS

Sec. 201. Assistance for hiring and retention of nurses at State veterans' homes.
Sec. 202. Treatment of Department of Veterans Affairs per diem payments to State homes for veterans.
Sec. 203. Extension of authority to provide care under long-term care pilot programs.
Sec. 204. Prohibition on collection of copayments for hospice care.

TITLE III—MEDICAL CARE

Sec. 301. Sexual trauma counseling program.
Sec. 302. Centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries.
Sec. 303. Enhancement of medical preparedness of Department of Veterans Affairs.

TITLE IV—MEDICAL FACILITIES MANAGEMENT AND ADMINISTRATION

Subtitle A—Major Medical Facility Leases

Sec. 401. Major medical facility leases.
Sec. 402. Authorization of appropriations.
Sec. 403. Authority for long-term lease of certain lands of University of Colorado.

Subtitle B—Facilities Management

Sec. 411. Department of Veterans Affairs Capital Asset Fund.
Sec. 412. Annual report to Congress on inventory of Department of Veterans Affairs historic properties.
Sec. 413. Authority to acquire and transfer real property for use for homeless veterans.
Sec. 414. Limitation on implementation of mission changes for specified Veterans Health Administration facilities.
Sec. 415. Authority to use project funds to construct or relocate surface parking incidental to a construction or nonrecurring maintenance project.
Sec. 416. Inapplicability of limitation on use of advance planning funds to authorized major medical facility projects.
Sec. 417. Improvements to enhanced-use lease authority.
Sec. 418. First option for Commonwealth of Kentucky on Department of Veterans Affairs Medical Center, Louisville, Kentucky.
Sec. 419. Transfer of jurisdiction, General Services Administration property, Boise, Idaho.

Subtitle C—Designation of Facilities

Sec. 421. Thomas E. Creek Department of Veterans Affairs Medical Center.
Sec. 422. James J. Peters Department of Veterans Affairs Medical Center.
Sec. 423. Bob Michel Department of Veterans Affairs Outpatient Clinic.
Sec. 424. Charles Wilson Department of Veterans Affairs Outpatient Clinic.
Sec. 425. Thomas P. Noonan, Jr. Department of Veterans Affairs Outpatient Clinic.

TITLE V—PERSONNEL ADMINISTRATION

Sec. 501. Pilot program to study innovative recruitment tools to address nursing shortages at Department of Veterans Affairs health care facilities.
Sec. 502. Technical correction to listing of certain hybrid positions in Veterans Health Administration.
Sec. 503. Under Secretary for Health.

TITLE VI—OTHER MATTERS

Sec. 601. Extension and codification of authority for recovery audits.
Sec. 602. Inventory of medical waste management activities at Department of Veterans Affairs health care facilities.
Sec. 603. Inclusion of all enrolled veterans among persons eligible to use canteens operated by Veterans' Canteen Service.
Sec. 604. Annual reports on waiting times for appointments for specialty care.
Sec. 605. Technical clarification.

**SEC. 2. REFERENCE TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

## TITLE I—ASSISTANCE TO HOMELESS VETERANS

**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Section 2013 is amended in paragraph (4) by striking "$75,000,000" and inserting "$99,000,000".

## TITLE II—VETERANS LONG-TERM CARE PROGRAMS

**SEC. 201. ASSISTANCE FOR HIRING AND RETENTION OF NURSES AT STATE VETERANS' HOMES.**

(a) IN GENERAL.—(1) Chapter 17 is amended by inserting after section 1743 the following new section:

**"§ 1744. Hiring and retention of nurses: payments to assist States**

"(a) PAYMENT PROGRAM.—The Secretary shall make payments to States under this section for the purpose of assisting State homes in the hiring and retention of nurses and the reduction of nursing shortages at State homes.

"(b) ELIGIBLE RECIPIENTS.—Payments to a State for a fiscal year under this section shall, subject to submission of an application, be made to any State that during that fiscal year—

"(1) receives per diem payments under this subchapter for that fiscal year; and

"(2) has in effect an employee incentive scholarship program or other employee incentive program at a State home designed to promote the hiring and retention of nursing staff and to reduce nursing shortages at that home.

"(c) USE OF FUNDS RECEIVED.—A State may use an amount received under this section only to provide funds for a program described in subsection (b)(2). Any program shall meet such criteria as the Secretary may prescribe. In prescribing such criteria, the Secretary shall take into consideration the need for flexibility and innovation.

"(d) LIMITATIONS ON AMOUNT OF PAYMENT.—(1) A payment under this section may not be used to provide more than 50 percent of the costs for a fiscal year of the employee incentive scholarship or other employee incentive program for which the payment is made.

"(2) The amount of the payment to a State under this section for any fiscal year is, for each State home in that State with a program described in subsection (b)(2), the amount equal to 2 percent of the amount of payments estimated to be made to that State, for that State home, under section 1741 of this title for that fiscal year.

"(e) APPLICATIONS.—A payment under this section for any fiscal year with respect to any State home may only be made based upon an application submitted by the State seeking the payment with respect to that State home. Any such application shall describe the nursing shortage at the State home and the employee incentive scholarship program or other employee incentive program described in subsection (c) for which the payment is sought.

"(f) Source of Funds.—Payments under this section shall be made from funds available for other payments under this subchapter.

"(g) Disbursement.—Payments under this section to a State home shall be made as part of the disbursement of payments under section 1741 of this title with respect to that State home.

"(h) Use of Certain Receipts.—The Secretary shall require as a condition of any payment under this section that, in any case in which the State home receives a refund payment made by an employee in breach of the terms of an agreement for employee assistance that used funds provided under this section, the payment shall be returned to the State home's incentive program account and credited as a non-Federal funding source.

"(i) Annual Report From Payment Recipients.—Any State home receiving a payment under this section for any fiscal year, shall, as a condition of the payment, be required to agree to provide to the Secretary a report setting forth in detail the use of funds received through the payment, including a descriptive analysis of how effective the incentive program has been on nurse staffing in the State home during that fiscal year. The report for any fiscal year shall be provided to the Secretary within 60 days of the close of the fiscal year and shall be subject to audit by the Secretary. Eligibility for a payment under this section for any later fiscal year is contingent upon the receipt by the Secretary of the annual report under this subsection for the previous fiscal year in accordance with this subsection.

"(j) Regulations.—The Secretary shall prescribe regulations to carry out this section. The regulations shall include the establishment of criteria for the award of payments under this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after section 1743 the following new item:

"1744. Hiring and retention of nurses: payments to assist States.".

(b) Implementation.—The Secretary of Veterans Affairs shall implement section 1744 of title 38, United States Code, as added by subsection (a), as expeditiously as possible. The Secretary shall establish such interim procedures as necessary so as to ensure that payments are made to eligible States under that section commencing not later than June 1, 2005, notwithstanding that regulations under subsection (j) of that section may not have become final.

### SEC. 202. TREATMENT OF DEPARTMENT OF VETERANS AFFAIRS PER DIEM PAYMENTS TO STATE HOMES FOR VETERANS.

Section 1741 is amended by adding at the end the following new subsection:

"(e) Payments to States pursuant to this section shall not be considered a liability of a third party, or otherwise be used to offset or reduce any other payment made to assist veterans.".

### SEC. 203. EXTENSION OF AUTHORITY TO PROVIDE CARE UNDER LONG-TERM CARE PILOT PROGRAMS.

Subsection (h) of section 102 of the Veterans Millennium Health Care and Benefits Act (38 U.S.C. 1710B note) is amended—

(1) by inserting "(1)" before "The authority of"; and

(2) by adding at the end the following new paragraph:

"(2) In the case of a veteran who is participating in a pilot program under this section as of the end of the three-year period applicable to that pilot program under paragraph (1), the Secretary may continue to provide to that veteran any of the services that could be provided under the pilot program. The authority to provide services to any veteran under the preceding sentence applies during the period beginning on the date specified in paragraph (1) with respect to that pilot program and ending on December 31, 2005.".

### SEC. 204. PROHIBITION ON COLLECTION OF COPAYMENTS FOR HOSPICE CARE.

Section 1710B(c)(2) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) to a veteran being furnished hospice care under this section; or".

## TITLE III—MEDICAL CARE

### SEC. 301. SEXUAL TRAUMA COUNSELING PROGRAM.

(a) Permanent Authority for Program.—Section 1720D(a) is amended—

(1) in paragraph (1), by striking "During the period through December 31, 2004, the" and inserting "The"; and

(2) in paragraph (2), by striking ", during the period through December 31, 2004,".

(b) Extension To Cover Active Duty for Training.—Such section is further amended by inserting "or active duty for training" in paragraph (1) before the period at the end.

### SEC. 302. CENTERS FOR RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES ON COMPLEX MULTI-TRAUMA ASSOCIATED WITH COMBAT INJURIES.

(a) In General.—(1) Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following new section:

**"§ 7327. Centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries**

"(a) Purpose.—The purpose of this section is to provide for the improvement of the provision of health care services and related rehabilitation and education services to eligible veterans suffering from complex multi-trauma associated with combat injuries through—

"(1) the development of improved models and systems for the furnishing by the Department of health care, rehabilitation, and education services to veterans;

"(2) the conduct of research to support the provision of such services in accordance with the most current evidence on multi-trauma injuries; and

"(3) the education and training of health care personnel of the Department with respect to the provision of such services.

"(b) Designation of Centers.—(1) The Secretary shall designate an appropriate number of cooperative centers for clinical care, consultation, research, and education activities on combat injuries.

"(2) Each center designated under paragraph (1) shall function as a center for—

"(A) research on the long-term effects of injuries sustained as a result of combat in order to support the provision of services for such injuries in accordance with the most current evidence on complex multi-trauma;

"(B) the development of rehabilitation methodologies for treating individuals with complex multi-trauma; and

"(C) the continuous and consistent coordination of care from the point of referral throughout the rehabilitation process and ongoing follow-up after return to home and community.

"(3) The Secretary shall designate one of the centers designated under paragraph (1) as the lead center for activities referred to in that paragraph. As the lead center for such activities, such center shall—

"(A) develop and provide periodic review of research priorities, and implement protocols, to ensure that projects contribute to the activities of the centers designated under paragraph (1);

"(B) oversee the coordination of the professional and technical activities of such centers to ensure the quality and validity of the methodologies and statistical services for research project leaders;

"(C) develop and ensure the deployment of an efficient and cost-effective data management system for such centers;

"(D) develop and distribute educational materials and products to enhance the evaluation and care of individuals with combat injuries by medical care providers of the Department who are not specialized in the assessment and care of complex multi-trauma;

"(E) develop educational materials for individuals suffering from combat injuries and for their families; and

"(F) serve as a resource for the clinical and research infrastructure of such centers by disseminating clinical outcomes and research findings to improve clinical practice.

"(4) The Secretary shall designate centers under paragraph (1) upon the recommendation of the Under Secretary for Health.

"(5) The Secretary may designate a center under paragraph (1) only if the center meets the requirements of subsection (c).

"(c) Requirements for Centers.—To be designated as a center under this section, a facility shall—

"(1) be a regional lead center for the care of traumatic brain injury;

"(2) be located at a tertiary care medical center and have on-site availability of primary and subspecialty medical services relating to complex multi-trauma;

"(3) have, or have the capacity to develop, the capability of managing impairments associated with combat injuries;

"(4) be affiliated with a school of medicine;

"(5) have, or have experience with, participation in clinical research trials;

"(6) provide amputation care and rehabilitation;

"(7) have pain management programs;

"(8) provide comprehensive brain injury rehabilitation; and

"(9) provide comprehensive general rehabilitation.

"(d) Additional Resources.—The Secretary shall provide each center designated under this section such resources as the Secretary determines to be required by such center to achieve adequate capability of managing individuals with complex multi-trauma, including—

"(1) the upgrading of blind rehabilitation services by employing or securing the services of blind rehabilitation specialists;

"(2) employing or securing the services of occupational therapists with blind rehabilitation training;

"(3) employing or securing the services of additional mental health services providers; and

"(4) employing or securing additional rehabilitation nursing staff to meet care needs.

"(e) Cooperation With Department of Defense.—(1) The Secretary of Veterans Affairs may assist the Secretary of Defense in the care of members of the Armed Forces with complex multi-trauma at military treatment facilities by—

"(A) making available, in a manner that the Secretary of Veterans Affairs considers appropriate, certified rehabilitation registered nurses of the Department of Veterans Affairs to such facilities to assess and coordinate the care of such members; and

"(B) making available, in a manner that the Secretary of Veterans Affairs considers appropriate, blind rehabilitation specialists of the Department of Veterans Affairs to such facilities to consult with the medical staff of such facilities on the special needs of such members who have visual impairment as a consequence of combat injury.

"(2) Assistance shall be provided under this subsection through agreements for the sharing of health-care resources under section 8111 of this title.

"(f) AWARD OF FUNDING.—Centers designated under this section may compete for the award of funding from amounts appropriated for the Department for medical and prosthetics research.

"(g) DISSEMINATION OF INFORMATION.—(1) The Under Secretary for Health shall ensure that information produced by the centers designated under this section that may be useful for other activities of the Veterans Health Administration is disseminated throughout the Administration.

"(2) Information shall be disseminated under this subsection through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means.

"(h) NATIONAL OVERSIGHT.—The Under Secretary for Health shall designate an appropriate officer to oversee the operation of the centers designated under this section and provide for periodic evaluation of the centers.

"(i) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Department of Veterans Affairs for the centers designated under this section amounts as follows:

"(A) $7,000,000 for fiscal year 2005.

"(B) $8,000,000 for each of fiscal years 2006 through 2008.

"(2) In addition to amounts authorized to be appropriated by paragraph (1) for a fiscal year, the Under Secretary for Health may allocate to each center designated under this section, from other funds authorized to be appropriated for such fiscal year for the Department generally for medical and for medical and prosthetic research, such amounts as the Under Secretary for Health determines appropriate to carry out the purposes of this section.".

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7326 the following new item:

"7327. Centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries.".

(b) DESIGNATION OF CENTERS.—The Secretary of Veterans Affairs shall designate the centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries required by section 7327 of title 38, United States Code (as added by subsection (a)), not later than 120 days after the date of the enactment of this Act.

(c) ANNUAL REPORTS.—(1) Not later than eighteen months after the date of the designation of centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries required by section 7327 of title 38, United States Code (as so added), and annually thereafter through 2008, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the status and activities of such centers during the one-year period beginning on the date of such designation, for the first such report, and for successive one-year periods, for subsequent reports.

(2) Each such report shall include, for the period covered by such report, the following:

(A) A description of the activities carried out at each center, and the funding provided for such activities.

(B) A description of any advances made in the participating programs of each center in research, education, training, and clinical activities on complex multi-trauma associated with combat injuries.

(C) A description of the actions taken by the Under Secretary for Health pursuant to subsection (g) of that section (as so added) to disseminate throughout the Veterans Health Administration information derived from such activities.

### SEC. 303. ENHANCEMENT OF MEDICAL PREPAREDNESS OF DEPARTMENT OF VETERANS AFFAIRS.

(a) PEER REVIEW PANEL.—In order to assist the Secretary of Veterans Affairs in selecting facilities of the Department of Veterans Affairs to serve as sites for centers under section 7328 of title 38, United States Code, as added by subsection (c), the Secretary shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the selection of such facilities. The panel shall be established not later than 90 days after the date of the enactment of this Act and shall include experts in the fields of toxicological research, infectious diseases, radiology, clinical care of veterans exposed to such hazards, and other persons as determined appropriate by the Secretary. Members of the panel shall serve as consultants to the Department of Veterans Affairs. Amounts available to the Secretary for Medical Care may be used for purposes of carrying out this subsection. The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(b) PROPOSALS.—The Secretary shall solicit proposals for designation of facilities as described in subsection (a). The announcement of the solicitation of such proposals shall be issued not later than 60 days after the date of the enactment of this Act, and the deadline for the submission of proposals in response to such solicitation shall be not later than 90 days after the date of such announcement. The peer review panel established under subsection (a) shall complete its review of the proposals and submit its recommendations to the Secretary not later than 60 days after the date of the deadline for the submission of proposals. The Secretary shall then select the four sites for the location of such centers not later than 45 days after the date on which the peer review panel submits its recommendations to the Secretary.

(c) REVISED SECTION.—(1) Subchapter II of chapter 73 is amended by inserting after section 7327, as added by section 302(a)(1) of this Act, a new section with—

(A) a heading as follows:

**"§ 7328. Medical preparedness centers"**; and

(B) a text consisting of the text of subsections (a) through (h) of section 7325 of title 38, United States Code, and a subsection (i) at the end as follows:

"(i) FUNDING.—(1) There are authorized to be appropriated for the centers under this section $10,000,000 for each of fiscal years 2005 through 2007.

"(2) In addition to any amounts appropriated for a fiscal year specifically for the activities of the centers pursuant to paragraph (1), the Under Secretary for Health shall allocate to the centers from other funds appropriated for that fiscal year generally for the Department medical care account and the Department medical and prosthetic research account such amounts as the Under Secretary determines necessary in order to carry out the purposes of this section.".

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7327, as added by section 302(a)(2) of this Act, the following new item:

"7328. Medical preparedness centers.".

## TITLE IV—MEDICAL FACILITIES MANAGEMENT AND ADMINISTRATION

### Subtitle A—Major Medical Facility Leases

### SEC. 401. MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may enter into contracts for major medical facility leases at the following locations, in an amount for each facility lease not to exceed the amount shown for that location:

(1) Wilmington, North Carolina, Outpatient Clinic, $1,320,000.

(2) Greenville, North Carolina, Outpatient Clinic, $1,220,000.

(3) Norfolk, Virginia, Outpatient Clinic, $1,250,000.

(4) Summerfield, Florida, Marion County Outpatient Clinic, $1,230,000.

(5) Knoxville, Tennessee, Outpatient Clinic, $850,000.

(6) Toledo, Ohio, Outpatient Clinic, $1,200,000.

(7) Crown Point, Indiana, Outpatient Clinic, $850,000.

(8) Fort Worth, Texas, Tarrant County Outpatient Clinic, $3,900,000.

(9) Plano, Texas, Collin County Outpatient Clinic, $3,300,000.

(10) San Antonio, Texas, Northeast Central Bexar County Outpatient Clinic, $1,400,000.

(11) Corpus Christi, Texas, Outpatient Clinic, $1,200,000.

(12) Harlingen, Texas, Outpatient Clinic, $650,000.

(13) Denver, Colorado, Health Administration Center, $1,950,000.

(14) Oakland, California, Outpatient Clinic, $1,700,000.

(15) San Diego, California, North County Outpatient Clinic, $1,300,000.

(16) San Diego, California, South County Outpatient Clinic, $1,100,000.

### SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2005 for the Medical Care account, $24,420,000 for the leases authorized in section 401.

### SEC. 403. AUTHORITY FOR LONG-TERM LEASE OF CERTAIN LANDS OF UNIVERSITY OF COLORADO.

Notwithstanding section 8103 of title 38, United States Code, the Secretary of Veterans Affairs may enter into a lease for real property located at the Fitzsimmons Campus of the University of Colorado for purposes of a medical facility (as that term is defined in section 8101 of title 38, United States Code), for a period of up to 75 years.

## Subtitle B—Facilities Management

### SEC. 411. DEPARTMENT OF VETERANS AFFAIRS CAPITAL ASSET FUND.

(a) ESTABLISHMENT OF FUND.—(1) Subchapter I of chapter 81 is amended by adding at the end the following new section:

**"§ 8118. Authority for transfer of real property; Department of Veterans Affairs Capital Asset Fund**

"(a)(1) The Secretary may transfer real property under the jurisdiction or control of the Secretary (including structures and equipment associated therewith) to another department or agency of the United States, to a State (or a political subdivision of a State), or to any public or private entity, including an Indian tribe. Such a transfer may be made only if the Secretary receives compensation of not less than the fair market value of the property, except that no compensation is required, or compensation at less than fair market value may be accepted, in the case of a transfer to a grant and per diem provider (as defined in section 2002 of this title). When a transfer is made to a grant and per diem provider for less than fair market value, the Secretary shall require in the terms of the conveyance that if the property transferred is used for any purpose other than a purpose under chapter 20 of this title, all right, title, and interest to the property shall revert to the United States.

"(2) The Secretary may exercise the authority provided by this section notwithstanding sections 521, 522, and 541 through 545 of title 40. Any such transfer shall be in accordance with this section and section 8122 of this title.

"(3) The authority provided by this section may not be used in a case to which section 8164 of this title applies.

"(4) The Secretary may enter into partnerships or agreements with public or private entities dedicated to historic preservation to facilitate the transfer, leasing, or adaptive use of structures or properties specified in subsection (b)(3)(D).

"(5) The authority of the Secretary under paragraph (1) expires on the date that is seven years after the date of the enactment of this section.

"(b)(1) There is established in the Treasury of the United States a revolving fund to be known as the Department of Veterans Affairs Capital Asset Fund (hereinafter in this section referred to as the 'Fund'). Amounts in the Fund shall remain available until expended.

"(2) Proceeds from the transfer of real property under this section shall be deposited into the Fund.

"(3) To the extent provided in advance in appropriations Acts, amounts in the Fund may be expended for the following purposes:

"(A) Costs associated with the transfer of real property under this section, including costs of demolition, environmental remediation, maintenance and repair, improvements to facilitate the transfer, and administrative expenses.

"(B) Costs, including costs specified in subparagraph (A), associated with future transfers of property under this section.

"(C) Costs associated with enhancing medical care services to veterans by improving, renovating, replacing, updating, or establishing patient care facilities through construction projects to be carried out for an amount less than the amount specified in 8104(a)(3)(A) for a major medical facility project.

"(D) Costs, including costs specified in subparagraph (A), associated with the transfer, lease, or adaptive use of a structure or other property under the jurisdiction of the Secretary that is listed on the National Register of Historic Places.

"(c) The Secretary shall include in the budget justification materials submitted to Congress for any fiscal year in support of the President's budget for that fiscal year for the Department specification of the following:

"(1) The real property transfers to be undertaken in accordance with this section during that fiscal year.

"(2) All transfers completed under this section during the preceding fiscal year and completed and scheduled to be completed during the fiscal year during which the budget is submitted.

"(3) The deposits into, and expenditures from, the Fund that are incurred or projected for each of the preceding fiscal year, the current fiscal year, and the fiscal year covered by the budget.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8117 the following new item:

"8118. Authority for transfer of real property; Department of Veterans Affairs Capital Asset Fund.".

(b) INITIAL AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Veterans Affairs Capital Asset Fund established under section 8118 of title 38, United States Code (as added by subsection (a)), the amount of $10,000,000.

(c) TERMINATION OF NURSING HOME REVOLVING FUND.—(1) Section 8116 is repealed.

(2) The table of sections at the beginning of chapter 81 is amended by striking the item relating to section 8116.

(d) TRANSFER OF UNOBLIGATED BALANCES TO CAPITAL ASSET FUND.—Any unobligated balances in the nursing home revolving fund under section 8116 of title 38, United States Code, as of the date of the enactment of this Act shall be deposited in the Department of Veterans Affairs Capital Asset Fund established under section 8118 of title 38, United States Code (as added by subsection (a)).

(e) PROCEDURES APPLICABLE TO TRANSFERS.—(1) Paragraph (2) of section 8122(a) is amended to read as follows:

"(2) Except as provided in paragraph (3), the Secretary may not during any fiscal year transfer to any other department or agency of the United States or to any other entity real property that is owned by the United States and administered by the Secretary unless the proposed transfer is described in the budget submitted to Congress pursuant to section 1105 of title 31 for that fiscal year.".

(2) Section 8122(d) is amended—

(A) by inserting "(1)" before "Real property"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary may transfer real property under this section, or under section 8118 of this title, if the Secretary—

"(A) places a notice in the real estate section of local newspapers and in the Federal Register of the Secretary's intent to transfer that real property (including land, structures, and equipment associated with the property);

"(B) holds a public hearing;

"(C) provides notice to the Administrator of General Services of the Secretary's intention to transfer that real property and waits for 30 days to elapse after providing that notice; and

"(D) after such 30-day period has elapsed, notifies the congressional veterans' affairs committees of the Secretary's intention to dispose of the property and waits for 60 days to elapse from the date of that notice.".

(3) Section 8164(a) is amended by inserting "8118 or" after "rather than under section".

(4) Section 8165(a)(2) is amended by striking "nursing home revolving fund" and inserting "Department of Veterans Affairs Capital Asset Fund established under section 8118 of this title".

(f) CONTINGENT EFFECTIVENESS.—Subsection (d) and the amendments made by subsection (c) shall take effect at the end of the 30-day period beginning on the date on which the Secretary of Veterans Affairs certifies to Congress that the Secretary is in compliance with subsection (b) of section 1710B of title 38, United States Code.

(g) ANNUAL UPDATE.—Following a certification under subsection (f), the Secretary shall submit to Congress an annual update on that certification.

### SEC. 412. ANNUAL REPORT TO CONGRESS ON INVENTORY OF DEPARTMENT OF VETERANS AFFAIRS HISTORIC PROPERTIES.

(a) IN GENERAL.—Not later than December 15 of 2005, 2006, and 2007, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the historic properties administered or controlled by the Secretary.

(b) INITIAL REPORT.—In the initial report under subsection (a), the Secretary shall set forth a complete inventory of the historic structures and property under the jurisdiction of the Secretary. The report shall include a description and classification of each such property based upon historical nature, current physical condition, and potential for transfer, leasing, or adaptive use.

(c) SUBSEQUENT REPORTS.—In reports under subsection (a) after the initial report, the Secretary shall provide an update of the status of each property identified in the initial report, with the proposed and actual disposition, if any, of each property. Each such report shall include any recommendation of the Secretary for legislation to enhance the transfer, leasing, or adaptive use of such properties.

### SEC. 413. AUTHORITY TO ACQUIRE AND TRANSFER REAL PROPERTY FOR USE FOR HOMELESS VETERANS.

(a) AUTHORITY.—Upon identification of a parcel of real property meeting the description in subsection (b), the Secretary of Veterans Affairs may acquire that property (with the structures and improvements thereon) or, in the case of property owned by the United States and administered by another Federal department or agency, may accept administrative jurisdiction over that property, with the expectation of promptly transferring that property to a homeless assistance provider identified under paragraph (2) of subsection (b), subject to the condition that the primary purpose for which the property shall be used is to provide housing for homeless veterans.

(b) SPECIFIED PROPERTY.—A parcel of real property referred to in subsection (a) is a parcel in the District of Columbia—

(1) that the Secretary determines to be suitable for use for housing for homeless veterans; and

(2) for which there is an identified homeless assistance provider that is prepared to acquire the property for such purpose from the Secretary promptly upon the acquisition of the property by the Secretary.

(c) TRANSFER OF PROPERTY.—Upon acquiring real property under subsection (a), the Secretary shall immediately transfer all right, title, and interest of the United States (other than the reversionary interest retained under subsection (e)) to the homeless assistance provider identified under subsection (b)(2). Such transfer shall be for such consideration as the Secretary determines appropriate.

(d) Terms and Conditions.—The acquisition and transfer of real property under this section shall be made upon such terms and conditions as the Secretary may specify not inconsistent with other applicable provisions of law.

(e) Reverter.—The terms of the transfer shall provide that if the property is no longer used for the purpose for which conveyed by the Secretary, title to the property shall revert to the United States.

### SEC. 414. LIMITATION ON IMPLEMENTATION OF MISSION CHANGES FOR SPECIFIED VETERANS HEALTH ADMINISTRATION FACILITIES.

(a) Limitation.—The Secretary of Veterans Affairs may not implement a mission change for a medical facility of the Department of Veterans Affairs specified in subsection (c) until—

(1) the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a written notice of the mission change; and

(2) the period prescribed by subsection (b) has elapsed.

(b) Congressional Review Period.—(1) The period referred to in subsection (a)(2) is the period beginning on the date of the receipt of the notice under subsection (a)(1) by the committees specified in that subsection and ending on the later of—

(A) the end of the 60-day period beginning on the date on which the notice is received by those committees; or

(B) the end of a period of 30 days of continuous session of Congress beginning on the date on which the notification is received by those committees or, if either House of Congress is not in session on such date, the first day after such date that both Houses of Congress are in session.

(2) For the purposes of paragraph (1)(B)—

(A) the continuity of a session of Congress is broken only by an adjournment of Congress sine die; and

(B) any day on which either House is not in session because of an adjournment of more than three days to a day certain is excluded in the computation of any period of time in which Congress is in continuous session.

(c) Specified Facilities.—A facility referred to in subsection (a) as being specified in this subsection is any of the following facilities of the Department of Veterans Affairs:

(1) The Department of Veterans Affairs medical centers in Boston, Massachusetts.

(2) The Department of Veterans Affairs medical centers in New York City, New York.

(3) The Department of Veterans Affairs medical center in Big Spring, Texas.

(4) The Carl Vinson Department of Veterans Affairs Medical Center, Dublin, Georgia.

(5) The Department of Veterans Affairs medical center in Montgomery, Alabama.

(6) The Department of Veterans Affairs medical center in Louisville, Kentucky.

(7) The Department of Veterans Affairs medical center in Muskogee Oklahoma, and the outpatient clinic in Tulsa, Oklahoma.

(8) The John J. Pershing Department of Veterans Affairs Medical Center, Poplar Bluff, Missouri.

(9) The Department of Veterans Affairs medical center in Ft. Wayne, Indiana.

(10) The Department of Veterans Affairs Medical Center in Waco, Texas.

(11) The Jonathan M. Wainwright Department of Veterans Affairs Medical Center, Walla Walla, Washington.

(d) Covered Mission Changes.—For purposes of this section, a mission change for a medical facility shall consist of any of the following:

(1) Closure of the facility.

(2) Consolidation of the facility.

(3) An administrative reorganization of the facility covered by section 510(b) of title 38, United States Code.

(e) Required Content of Notice of Mission Change.—Written notice of a mission change for a medical facility under subsection (a) shall include the following:

(1) An assessment of the effect of the mission change on the population of veterans served by the facility.

(2) A description of the availability and quality of health care, including long-term care, mental health care, and substance abuse programs, available in the area served by the facility.

(3) An assessment of the effect of the mission change on the economy of the community in which the facility is located.

(4) An analysis of any alternatives to the mission change proposed by—

(A) the community in which the facility is located;

(B) organizations recognized by the Secretary under section 5902 of title 38, United States Code;

(C) organizations that represent Department employees in such community; or

(D) the Department.

(f) Medical Facility Consolidation.—For the purposes of subsection (d)(2), the term "consolidation" means an action that closes one or more medical facilities within a geographic service area for the purpose of relocating those activities to another medical facility or facilities.

(g) Coordination of Provisions.—In the case of a mission change covered by subsection (a) that is also an administrative reorganization covered by section 510(b) of title 38, United States Code, both this section and such section 510(b) shall apply with respect to the implementation of that mission change.

### SEC. 415. AUTHORITY TO USE PROJECT FUNDS TO CONSTRUCT OR RELOCATE SURFACE PARKING INCIDENTAL TO A CONSTRUCTION OR NONRECURRING MAINTENANCE PROJECT.

Section 8109 is amended by adding at the end the following new subsection:

"(j) Funds in a construction account or capital account that are available for a construction project or a nonrecurring maintenance project may be used for the construction or relocation of a surface parking lot incidental to that project.".

### SEC. 416. INAPPLICABILITY OF LIMITATION ON USE OF ADVANCE PLANNING FUNDS TO AUTHORIZED MAJOR MEDICAL FACILITY PROJECTS.

Section 8104 is amended by adding at the end the following new subsection:

"(g) The limitation in subsection (f) does not apply to a project for which funds have been authorized by law in accordance with subsection (a)(2).".

### SEC. 417. IMPROVEMENTS TO ENHANCED-USE LEASE AUTHORITY.

Section 8166(a) is amended by inserting "land use," in the second sentence after "relating to".

### SEC. 418. FIRST OPTION FOR COMMONWEALTH OF KENTUCKY ON DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, LOUISVILLE, KENTUCKY.

(a) Requirement.—Upon determining to convey, lease, or otherwise dispose of the Department of Veterans Affairs Medical Center, Louisville, Kentucky, or any portion thereof, the Secretary of Veterans Affairs shall engage in negotiations for the conveyance, lease, or other disposal of the Medical Center or portion thereof solely with the Commonwealth of Kentucky.

(b) Duration of Requirement.—The requirement for negotiations under subsection (a) shall remain in effect for one year after the date of the determination referred to in that subsection.

(c) Scope of Negotiations.—The negotiations under subsection (a) shall address the use of the medical center referred to in subsection (a), or portion thereof, by the Commonwealth of Kentucky for the primary purpose of the provision of services for veterans and related activities, including use for a State veterans' home.

### SEC. 419. TRANSFER OF JURISDICTION, GENERAL SERVICES ADMINISTRATION PROPERTY, BOISE, IDAHO.

(a) Transfer.—The Administrator of General Services shall transfer to the Secretary of Veterans Affairs, under such terms and conditions as the Administrator and the Secretary agree, jurisdiction, custody, and control over the parcel of real property, including any improvements thereon, consisting of approximately 2.3 acres located at the General Services Administration facility immediately north of the Army Reserve facility in Boise, Idaho.

(b) Utilization.—The Secretary of Veterans Affairs shall utilize the property transferred under subsection (a) for purposes relating to the delivery of benefits to veterans.

## Subtitle C—Designation of Facilities

### SEC. 421. THOMAS E. CREEK DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

(a) In General.—The Department of Veterans Affairs medical center in Amarillo, Texas, shall after the date of the enactment of this Act be known and designated as the "Thomas E. Creek Department of Veterans Affairs Medical Center".

(b) References.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the Thomas E. Creek Department of Veterans Affairs Medical Center.

### SEC. 422. JAMES J. PETERS DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

(a) In General.—The Department of Veterans Affairs medical center in the Bronx, New York, shall after the date of the enactment of this Act be known and designated as the "James J. Peters Department of Veterans Affairs Medical Center".

(b) References.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the James J. Peters Department of Veterans Affairs Medical Center.

### SEC. 423. BOB MICHEL DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.

(a) In General.—The Department of Veterans Affairs outpatient clinic located in Peoria, Illinois, shall after the date of the enactment of this Act be known and designated as the "Bob Michel Department of Veterans Affairs Outpatient Clinic".

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the outpatient clinic referred to in subsection (a) shall be considered to be a reference to the Bob Michel Department of Veterans Affairs Outpatient Clinic.

### SEC. 424. CHARLES WILSON DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.

(a) IN GENERAL.—The Department of Veterans Affairs outpatient clinic located in Lufkin, Texas, shall after the date of the enactment of this Act be known and designated as the "Charles Wilson Department of Veterans Affairs Outpatient Clinic".

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the outpatient clinic referred to in subsection (a) shall be considered to be a reference to the Charles Wilson Department of Veterans Affairs Outpatient Clinic.

### SEC. 425. THOMAS P. NOONAN, JR. DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.

(a) IN GENERAL.—The Department of Veterans Affairs outpatient clinic in Sunnyside, Queens, New York, shall after the date of the enactment of this Act be known and designated as the "Thomas P. Noonan, Jr. Department of Veterans Affairs Outpatient Clinic".

(b) REFERENCES.—Any reference in any law, map, regulation, document, paper, or other record of the United States to the outpatient clinic referred to in subsection (a) shall be considered to be a reference to the Thomas P. Noonan, Jr. Department of Veterans Affairs Outpatient Clinic.

## TITLE V—PERSONNEL ADMINISTRATION

### SEC. 501. PILOT PROGRAM TO STUDY INNOVATIVE RECRUITMENT TOOLS TO ADDRESS NURSING SHORTAGES AT DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITIES.

(a) PILOT PROGRAM.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall designate a health care service region, or a section within such a region, in which health care facilities of the Department of Veterans Affairs are adversely affected by a shortage of qualified nurses.

(2) The Secretary shall conduct a pilot program in the region or section designated under paragraph (1) to determine the effectiveness of the use of innovative human capital tools and techniques in the recruitment of qualified nurses for positions at Department health care facilities in such region or section and for the retention of nurses at such facilities. In carrying out the pilot program, the Secretary shall enter into a contract with a private sector entity for services under the pilot program for recruitment of qualified nurses.

(b) PRIVATE SECTOR RECRUITMENT PRACTICES.—For purposes of the pilot program under this section, the Secretary shall identify and use recruitment practices that have proven effective for placing qualified individuals in positions that are difficult to fill due to shortages of qualified individuals or other factors. Recruitment practices to be reviewed by the Secretary for use in the pilot program shall include—

(1) employer branding and interactive advertising strategies;

(2) Internet technologies and automated staffing systems; and

(3) the use of recruitment, advertising, and communication agencies.

(c) STREAMLINED HIRING PROCESS.—In carrying out the pilot program under this section, the Secretary shall, at health care facilities of the Department in the region or section in which the pilot program is conducted, revise procedures and systems for selecting and hiring qualified nurses to reduce the length of the hiring process. If the Secretary identifies measures to streamline and automate the hiring process that can only be implemented if authorized by law, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives recommendations for such changes in law as may be necessary to enable such measures to be implemented.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the extent to which the pilot program achieved the goal of improving the recruitment and retention of nurses in Department of Veterans Affairs health care facilities.

### SEC. 502. TECHNICAL CORRECTION TO LISTING OF CERTAIN HYBRID POSITIONS IN VETERANS HEALTH ADMINISTRATION.

Section 7401(3) is amended—

(1) by striking "and dental technologists" and inserting "technologists, dental hygienists, dental assistants"; and

(2) by striking "technicians, therapeutic radiologic technicians, and social workers" and inserting "technologists, therapeutic radiologic technologists, social workers, blind rehabilitation specialists, and blind rehabilitation outpatient specialists".

### SEC. 503. UNDER SECRETARY FOR HEALTH.

Section 305(a)(2) is amended—

(1) in the matter preceding subparagraph (A), by striking "shall be a doctor of medicine and"; and

(2) in subparagraph (A), by striking "and in health-care" and inserting "or in health-care".

## TITLE VI—OTHER MATTERS

### SEC. 601. EXTENSION AND CODIFICATION OF AUTHORITY FOR RECOVERY AUDITS.

Section 1703 is amended by adding at the end the following new subsection:

"(d)(1) The Secretary shall conduct a program of recovery audits for fee basis contracts and other medical services contracts for the care of veterans under this section, and for beneficiaries under sections 1781, 1782, and 1783 of this title, with respect to overpayments resulting from processing or billing errors or fraudulent charges in payments for non-Department care and services. The program shall be conducted by contract.

"(2) Amounts collected, by setoff or otherwise, as the result of an audit under the program conducted under this subsection shall be available for the purposes for which funds are currently available to the Secretary for medical care and for payment to a contractor of a percentage of the amount collected as a result of an audit carried out by the contractor.

"(3) The Secretary shall allocate all amounts collected under this subsection with respect to a designated geographic service area of the Veterans Health Administration, net of payments to the contractor, to that region.

"(4) The authority of the Secretary under this subsection terminates on September 30, 2008.".

### SEC. 602. INVENTORY OF MEDICAL WASTE MANAGEMENT ACTIVITIES AT DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITIES.

(a) INVENTORY.—The Secretary of Veterans Affairs shall establish and maintain a national inventory of medical waste management activities in the health care facilities of the Department of Veterans Affairs. The inventory shall include the following:

(1) A statement of the current national policy of the Department on managing and disposing of medical waste, including regulated medical waste in all its forms.

(2) A description of the program of each geographic service area of the Department to manage and dispose of medical waste, including general medical waste and regulated medical waste, with a description of the primary methods used in those programs and the associated costs of those programs, with cost information shown separately for in-house costs (including full-time equivalent employees) and contract costs.

(b) REPORT.—Not later than June 30, 2005, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on medical waste management activities in the facilities of the Department of Veterans Affairs. The report shall include the following:

(1) The inventory established under subsection (a), including all the matters specified in that subsection.

(2) A listing of each violation of medical waste management and disposal regulations reported at any health care facility of the Department over the preceding five years by any Federal or State agency, along with an explanation of any remedial or other action taken by the Secretary in response to each such reported violation.

(3) A description of any plans to modernize, consolidate, or otherwise improve the management of medical waste and disposal programs at health care facilities of the Department, including the projected costs associated with such plans and any barriers to achieving goals associated with such plans.

(4) An assessment or evaluation of the available methods of disposing of medical waste and identification of which of those methods are more desirable from an environmental perspective in that they would be least likely to result in contamination of air or water or otherwise cause future cleanup problems.

### SEC. 603. INCLUSION OF ALL ENROLLED VETERANS AMONG PERSONS ELIGIBLE TO USE CANTEENS OPERATED BY VETERANS' CANTEEN SERVICE.

The text of section 7803 is amended to read as follows:

"(a) PRIMARY BENEFICIARIES.—Canteens operated by the Service shall be primarily for the use and benefit of—

"(1) veterans hospitalized or domiciled at the facilities at which canteen services are provided; and

"(2) other veterans who are enrolled under section 1705 of this title.

"(b) OTHER AUTHORIZED USERS.—Service at such canteens may also be furnished to—

"(1) personnel of the Department and recognized veterans' organizations who are employed at a facility at which canteen services are provided and to other persons so employed;

"(2) the families of persons referred to in paragraph (1) who reside at the facility; and

"(3) relatives and other persons while visiting a person specified in this section.".

### SEC. 604. ANNUAL REPORTS ON WAITING TIMES FOR APPOINTMENTS FOR SPECIALTY CARE.

(a) ANNUAL REPORTS.—Not later than January 31 each year through 2007, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on waiting times for appointments for specialty health care from the Department of Veterans Affairs under chapter 17 of title 38, United States Code, during the preceding year.

(b) REPORT ELEMENTS.—Each report under subsection (a) shall specify, for the year covered by the report, the following:

(1) A tabulation of the number of veterans whose appointment for specialty health care furnished by the Department was more than three months after the date of the scheduling of such appointment, and the waiting times of such veterans for such appointments, for each category of specialty care furnished by the Department, broken out by Veterans Integrated Service Network.

(2) An identification of the categories of specialty care furnished by the Department for which there were delays of more than three months between the scheduling date of appointments and appointments in each Veterans Integrated Service Network.

(3) A discussion of the reasons for the delays identified under paragraph (2) for each category of care for each Veterans Integrated Service Network so identified, including lack of personnel, financial resources, or other resources.

(c) CERTIFICATION ON REPORT INFORMATION.—The Comptroller General of the United States shall certify to the committees of Congress referred to in subsection (a) whether or not each report under this section is accurate.

### SEC. 605. TECHNICAL CLARIFICATION.

Section 8111(d)(2) is amended by inserting before the period at the end of the last sentence the following: "and shall be available for any purpose authorized by this section".

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**SA 4049.** Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill H.R. 3936, to amend title 38, United States Code, to increase the authorization of appropriations for grants to benefit homeless veterans, to improve programs for management and administration of veterans' facilities and health care programs, and for other purposes; as follows:

*Amend the title so as to read:* "A bill to amend title 38, United States Code, to increase the authorization of appropriations for grants to benefit homeless veterans, to improve programs for management and administration of veterans' facilities and health care programs, ahd for other purposes.".

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## DEPARTMENT OF VETERANS AFFAIRS REAL PROPERTY AND FACILITIES MANAGEMENT IMPROVEMENT ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 718, S. 2485.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2485) to amend title 38, United States Code, to improve and enhance the authorities of the Secretary of Veterans Affairs relating to the management and disposal of real property and facilities, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert part shown in italic.)

S. 2485

### [SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

[(a) SHORT TITLE.—This Act may be cited as the "Department of Veterans Affairs Real Property and Facilities Management Improvement Act of 2004".

[(b) REFERENCES TO TITLE 38 UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

### [SEC. 2. AUTHORITY TO USE PROJECT FUNDS TO CONSTRUCT OR RELOCATE SURFACE PARKING INCIDENTAL TO A CONSTRUCTION OR NON-RECURRING MAINTENANCE PROJECT.

[Section 8109 is amended by adding at the end the following new subsection:

["(j) Funds in a construction account or capital account that are available for a construction project or non-recurring maintenance project may be used for the construction or relocation of a surface parking lot incidental to such project.".

### [SEC. 3. IMPROVEMENTS OF ENHANCED-USE LEASE AUTHORITIES.

[(a) BUSINESS PLAN CRITERIA.—Section 8162 is amended—

[(1) in subsection (a)(2)(B), by striking "the Under Secretary for Health for applying the consideration under such a lease to the provision of medical care and services" and inserting "one of the Under Secretaries for applying the consideration under such a lease to the programs and activities of the Department"; and

[(2) in subsection (b)(4)(A), by striking "on the leased property".

[(b) CONSIDERATION OF PROPOSALS FOR LEASES.—(1) Section 8163 is amended—

[(A) in subsection (a), by striking the first sentence and inserting the following new sentence: "If the Secretary proposes to enter into an enhanced-use lease with respect to certain property, the Secretary shall conduct a public hearing before entering into the lease.";

[(B) in subsection (b), by striking "of the proposed designation and of the hearing" in the matter preceding paragraph (1) and inserting "on the proposed lease and the hearing to the congressional veterans' affairs committees and to the public"; and

[(C) in subsection (c)—

[(i) in paragraph (1)—

[(I) by striking "to designate the property involved" and inserting "to enter into an enhanced-use lease of the property involved"; and

[(II) by striking "to so designate the property" and inserting "to enter into the lease";

[(ii) in paragraph (2), by striking "90-day" and inserting "45-day"; and

[(iii) by striking paragraph (4).

[(2)(A) The heading of such section is amended to read as follows:

**["§ 8163. Proposals for property to be leased".**

[(B) The table of sections at the beginning of chapter 81 is amended by striking the item relating to section 8163 and inserting the following new item:

["8163. Proposals for property to be leased.".

[(c) DISPOSAL AUTHORITY.—Section 8164 is amended—

[(1) in subsection (a)—

[(A) by striking "by requesting the Administrator of General Services to dispose of the property pursuant to subsection (b)"; and

[(B) by striking the last sentence;

[(2) in subsection (b)—

[(A) by striking "and the Administrator of General Services jointly determine" and inserting "determines"; and

[(B) by striking "and the Administrator consider" and inserting "considers"; and

[(3) in subsection (c), by striking "90 days" and inserting "45 days".

[(d) USE OF PROCEEDS.—Section 8165 is amended—

[(1) in subsection (a)—

[(A) in paragraph (1), by striking "Funds received" and inserting "Except as provided in paragraph (2), funds received";

[(B) by redesignating paragraph (2) as paragraph (3);

[(C) by inserting after paragraph (1) the following new paragraph (2):

["(2) Funds received by the Department under an enhanced-use lease implementing a business plan proposed by the Under Secretary for Benefits or the Under Secretary for Memorial Affairs and remaining after any deduction from such funds under subsection (b) shall be credited to applicable appropriations of the Veterans Benefits Administration or National Cemetery Administration, as the case may be."; and

[(D) in paragraph (3), as so redesignated, by striking "nursing home revolving fund" and inserting "Capital Asset Fund established under section 8122A of this title";

[(2) in subsection (b)—

[(A) by inserting "(1)" after "(b)"

[(B) in paragraph (1), as so designated, by striking "for that fiscal year"; and

[(C) by adding at the end the following new paragraph:

["(2) The Secretary may also deduct from the proceeds of any enhanced-use lease an amount to reimburse applicable appropriations of the Department for any expenses incurred by the Secretary in the development of additional enhanced-use leases. Amounts so deducted shall be utilized to reimburse such appropriations."; and

[(3) by striking subsection (c).

### [SEC. 4. DISPOSAL OF REAL PROPERTY OF THE DEPARTMENT OF VETERANS AFFAIRS.

[(a) IN GENERAL.—(1) Subchapter II of chapter 81 is amended by inserting after section 8122 the following new section:

**["§ 8122A. Disposal of real property**

["(a) IN GENERAL.—(1) To the extent provided in advance in appropriations Acts, the Secretary may, in accordance with this section and sections 8122 and 8164 of this title, dispose of real property of the Department, including land and structures and equipment associated with such property, that is under the jurisdiction or control of the Secretary by—

["(A) transfer to or exchange with another department or agency of the Federal Government;

["(B) conveyance to or exchange with a State or a political subdivision of a State, an Indian tribe, or other public entity; or

["(C) conveyance to or exchange with any private person or entity.

["(2) The Secretary may exercise the authority in paragraph (1) notwithstanding the following provisions of law:

["(A) Sections 521, 522, and 541 through 545 of title 40.

["(B) Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

["(3) In any transfer, exchange, or conveyance of real property under this subsection, the Secretary shall obtain consideration in an amount equal to the fair market value of the property, as determined by the Secretary.

["(b) TREATMENT OF PROCEEDS.—Proceeds from the transfer, exchange, or conveyance of real property under subsection (a) shall be deposited in the Capital Asset Fund under subsection (c).

["(c) CAPITAL ASSET FUND.—There is established on the books of the Treasury of the United States a revolving fund known as the Capital Asset Fund (in this section referred to as the 'Fund').

["(d) ELEMENTS OF FUND.—The Fund shall consist of the following:

["(1) Amounts authorized to be appropriated to the Fund.

["(2) Proceeds from the transfer, exchange, or conveyance of real property under subsection (a) that are deposited in the Fund under subsection (b).

["(3) Funds to be deposited in the Fund under section 8165(a)(3) of this title.

["(4) Any other amounts specified for transfer to or deposit in the Fund by law.

["(e) USE OF AMOUNTS IN FUND.—Subject to the provisions of appropriations Acts, amounts in the Fund shall be available for purposes as follows and in the following order of priority:

["(1) For costs of the Department in disposing of real property, including costs associated with demolition, environmental clean-up, maintenance and repair, improvements to facilitate disposal, and associated administrative expenses.

["(2) For costs of the Department associated with proposed disposals of real property of the Department.

["(3) For costs of non-recurring capital projects of the Department.

["(f) REPORTS.—The Secretary shall include with the budget justification documents submitted to Congress each year with the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31) a report setting forth the following:

["(1) A statement of each disposal of real property to be undertaken in such fiscal year that is valued in excess of the major medical facility project threshold specified in section 8104(a)(3)(A) of this title.

["(2) A description of each disposal of real property that was completed in the fiscal year ending in the year before such report is submitted.".

[(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8122 the following new item:

["8122A. Disposal of real property.".

[(b) CONFORMING AMENDMENT.—Section 8164(a) is amended in the second sentence by inserting "or 1822A" after "section 8122".

[(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Veterans Affairs for fiscal year 2005, $10,000,000 for deposit in the Capital Asset Fund under section 1822A(c) of title 38, United States Code (as added by subsection (a)).

### [SEC. 5. MODIFICATION OF OTHER REAL PROPERTY DISPOSAL AUTHORITIES.

[(a) GENERAL LIMITATIONS ON DISPOSAL.—Paragraph (2) of subsection (a) of section 8122 is amended to read as follows:

["(2) Except as provided in paragraph (3) of this subsection, the Secretary may not during any fiscal year dispose of real property owned by the United States and under the jurisdiction and control of the Secretary that has an estimated value in excess of the major medical facility project threshold specified in subsection 8104(a)(3)(A) of this title unless—

["(A) the disposal is described in the budget justification documents submitted to Congress each year with the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31);

["(B) the Department receives consideration for the real property equal to the fair market value of the property, as determined by the Secretary; and

["(C) the net proceeds of the disposal are deposited in the Capital Asset Fund under section 8122A(c) of this title.".

[(b) DISPOSAL PROCEDURES.—Subsection (d) of such section is amended—

[(1) by inserting "(1)" after "(d)"; and

[(2) by adding at the end the following new paragraphs:

["(2)(A) In the case of property (including land and structures and equipment associated with such property) that has an estimated value less than the major medical facility project threshold specified in section 8104(a)(3)(A) of this title, the Secretary may dispose of the property if—

["(i) the Secretary notifies the Administrator of General Services of an intent to dispose of the property; and

["(ii) a period of 30 days elapses after notice under clause (i) during which period no other department or agency of the Federal Government expresses an interest in assuming jurisdiction of the property under the condition of paying the Secretary the fair market value of the property, as determined by the Secretary, of the property.

["(B) In disposing of property under subparagraph (A), the Secretary shall publish a notice of sale in the real estate section of a local newspaper of general circulation serving the market in which the property is located.

["(3) In the case of property (including land and structures and equipment associated with such property) that has an estimated value in excess of the major medical facility project threshold specified in section 8104(a)(3)(A) of this title, the Secretary may dispose of the property if—

["(A) the Secretary complies with subsection (a)(2) with respect to the property;

["(B) the Secretary—

["(i) notifies the Administrator of General Services of an intent to dispose of the property;

["(ii) publishes in the Federal Register notice of an intent to dispose of the property; and

["(iii) notifies the committees of an intent to dispose of the property;

["(C) a period of 30 days elapses after notice under subparagraph (B)(i) during which period no other department or agency of the Federal Government expresses an interest in assuming jurisdiction of the property under the condition of paying the Secretary the fair market value of the property, as determined by the Secretary, of the property; and

["(D) a period of 60 days elapses after notice under subparagraph (B)(iii).".

### [SEC. 6. TERMINATION OF NURSING HOME REVOLVING FUND.

[(a) TERMINATION.—(1) Section 8116 is repealed.

[(2) The table of sections at the beginning of chapter 81 is amended by striking the item relating to section 8116.

[(b) CONFORMING AMENDMENT.—Section 8165(a)(3), as redesignated by section 3(d)(1)(D) of this Act, is further amended by striking "nursing home revolving fund" and inserting "Capital Asset Fund under section 1822A of this title".

[(c) TRANSFER OF UNOBLIGATED BALANCES TO CAPITAL ASSET FUND.—Any unobligated balances in the nursing home revolving under section 8116 of title 38, United States Code, as of the date of the enactment of this Act shall be deposited in the Capital Asset Fund under section 8122A of title 38, United States Code (as added by section 4(a) of this Act).

### [SEC. 7. INAPPLICABILITY OF LIMITATION ON USE OF ADVANCE PLANNING FUND TO AUTHORIZED MAJOR MEDICAL FACILITY PROJECTS.

[Section 8104 is amended by adding at the end the following new subsection:

["(g) The limitation specified in subsection (f) shall not apply to projects for which funds have already been authorized by law in accordance with subsection (a)(2).".

### [SEC. 8. LEASE OF CERTAIN NATIONAL CEMETERY ADMINISTRATION PROPERTY.

[(a) IN GENERAL.—Chapter 24 is amended by adding at the end the following new section:

**["§ 2412. Lease of land and buildings**

["(a) LEASE AUTHORIZED.—The Secretary may lease any undeveloped land and unused or underutilized buildings, or parts or parcels thereof, belonging to the United States and part of the National Cemetery Administration.

["(b) TERM.—The term of a lease under subsection (a) may not exceed 10 years.

["(c) LEASE TO PUBLIC OR NONPROFIT ORGANIZATIONS.—(1) A lease under subsection (a) to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5).

["(2) Notwithstanding section 1302 of title 40 or any other provision of law, a lease under subsection (a) to any public or nonprofit organization may provide for the maintenance, protection, or restoration of the leased property by the lessee, as a part or all of the consideration for the lease.

["(d) NOTICE.—Before entering into a lease under subsection (a), the Secretary shall give appropriate public notice of the intention of the Secretary to enter into the lease in a newspaper of general circulation in the community in which the lands or buildings concerned are located.

["(e) NATIONAL CEMETERY ADMINISTRATION FACILITIES OPERATION FUND.—(1) There is established on the book of the Treasury an account to be known as the 'National Cemetery Administration Facilities Operation Fund' (in this section referred to as the 'Fund').

["(2) The Fund shall consist of the following:

["(A) Amounts authorized to be appropriated to the Fund.

["(B) Proceeds from the lease of land or buildings under this section.

["(C) Proceeds of agricultural licenses of lands of the National Cemetery Administration.

["(D) Any other amounts authorized for deposit in the Fund by law.

["(3) Amounts in the Fund shall be available to cover costs incurred by the National Cemetery Administration in the operation and maintenance of property of the Administration.

["(4) Amounts in the Fund shall remain available until expended.".

[(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

[“2412. Lease of land and buildings.”.]

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Department of Veterans Affairs Real Property and Facilities Management Improvement Act of 2004”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—REAL PROPERTY AND FACILITIES MATTERS

Subtitle A—Real Property and Facilities Administration

Sec. 101. Restatement and enhancement of real property disposal authorities.
Sec. 102. Improvements of enhanced-use lease authorities.
Sec. 103. Authority to use project funds to construct or relocate surface parking incidental to a construction or non-recurring maintenance project.
Sec. 104. Limitation on implementation of mission changes for Veterans Health Administration health care facilities.
Sec. 105. Termination of nursing home revolving fund.
Sec. 106. Inapplicability of limitation on use of advance planning fund to authorized major medical facility projects.
Sec. 107. Lease of certain National Cemetery Administration property.

Subtitle B—Transfers of Property

Sec. 111. Transfer of jurisdiction, General Services Administration property, Boise, Idaho.

Subtitle C—Designation of Facilities

Sec. 121. Designation of Department of Veterans Affairs Medical Center, Bronx, New York, as James J. Peters Department of Veterans Affairs Medical Center.
Sec. 122. Designation of Prisoner of War/Missing in Action National Memorial, Riverside National Cemetery, Riverside, California.

Subtitle D—Other Matters

Sec. 131. First option for Commonwealth of Kentucky on Louisville Department of Veterans Affairs Medical Center, Kentucky.

TITLE II—BENEFITS MATTERS

Sec. 201. Prohibition on collection of copayments for hospice care.
Sec. 202. Expansion and permanent extension of authority for counseling and treatment for sexual trauma.
Sec. 203. Treatment of Department of Veterans Affairs per diem payments to State homes for veterans.
Sec. 204. Care for newborn children of women veterans receiving maternity care.
Sec. 205. Centers for research, education, and clinical activities on blast injuries of veterans.
Sec. 206. Extension of various authorities relating to veterans benefits.
Sec. 207. Annual reports on waiting times for appointments for health care and services.

### SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

## TITLE I—REAL PROPERTY AND FACILITIES MATTERS

## Subtitle A—Real Property and Facilities Administration

### SEC. 101. RESTATEMENT AND ENHANCEMENT OF REAL PROPERTY DISPOSAL AUTHORITIES.

(a) RESTATEMENT AND ENHANCEMENT OF GENERAL PROPERTY DISPOSAL AUTHORITIES.—Subchapter II of chapter 81 is amended by inserting after section 8122 the following new section:

**“§ 8122A. Disposal of real property**

“(a) AUTHORITY TO DISPOSE OF REAL PROPERTY.—To the extent provided in advance in appropriations Acts, the Secretary may dispose of real property of the Department, including land and structures and equipment associated with such property, that is under the jurisdiction or control of the Secretary by—

“(1) transfer to or exchange with another department or agency of the Federal Government;

“(2) conveyance to or exchange with a State or a political subdivision of a State, an Indian tribe, or another public entity; or

“(3) conveyance to or exchange with any private person or entity.

“(b) INAPPLICABILITY OF CERTAIN DISPOSAL REQUIREMENTS.—The Secretary may exercise the authority in subsection (a) without regard to the following provisions of law:

“(1) Sections 521, 522, and 541 through 545 of title 40.

“(2) Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

“(c) LIMITATION ON DETERMINATION OF PROPERTY TO BE EXCESS.—Real property under the jurisdiction of the Secretary may not be declared excess by the Secretary and disposed of by the General Services Administration or any other entity of the Federal Government unless the Secretary determines that the property is no longer needed by the Department in carrying out its functions and is not suitable for use for the provision of services to homeless veterans by the Department or by another entity under an enhanced-use lease of such property under section 8162 of this title.

“(d) DISPOSAL PROCEDURES.—(1) Except as provided in paragraph (3), the Secretary may not during any fiscal year dispose of real property (including land and structures and equipment associated with such property) owned by the United States and administered by the Secretary that has an estimated value in excess of the major medical facility project threshold specified in section 8104(a)(3)(A) of this title unless—

“(A) the disposal is described in the budget justification documents submitted to Congress with the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31);

“(B) the Secretary—

“(i) notifies the Administrator of General Services of an intent to dispose of the property;

“(ii) publishes in the Federal Register notice of an intent to dispose of the property; and

“(iii) notifies the committees of an intent to dispose of the property;

“(C) a period of 30 days elapses after notice under subparagraph (B)(i) during which period no other department or agency of the Federal Government expresses an interest in assuming jurisdiction of the property under the condition of paying the Secretary the fair market value of the property, as determined by the Secretary, of the property; and

“(D) a period of 60 days elapses after notice under subparagraph (B)(iii).

“(2) Except as provided in paragraph (3), the Secretary may dispose of real property (including land and structures and equipment associated with such property) owned by the United States and administered by the Secretary that has an estimated value less than the major medical facility project threshold specified in section 8104(a)(3)(A) of this title if—

“(A) the Secretary notifies the committees and the Administrator of General Services of an intent to dispose of the property;

“(B) the Secretary publishes a notice of sale in the real estate section of a local newspaper of general circulation serving the market in which the property is located; and

“(C) a period of 30 days elapses after notice under subparagraph (A) during which period no other department or agency of the Federal Government expresses an interest in assuming jurisdiction of the property under the condition of paying the Secretary the fair market value of the property, as determined by the Secretary, of the property.

“(3)(A) Notwithstanding paragraphs (1) and (2) or any other provision of law relating to the disposition of real property by the United States and subject to subparagraph (B), the Secretary may transfer to a State for use as the site of a State nursing-home or domiciliary facility real property owned by the United States and administered by the Secretary that the Secretary determines to be excess to the needs of the Department.

“(B) A transfer of real property may not be made under this paragraph unless—

“(i) the Secretary has determined that the State has provided sufficient assurance that it has the resources (including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of this title and section 1741 of this title) necessary to construct and operate a State home nursing or domiciliary care facility; and

“(ii) the transfer is made subject to the conditions that—

“(I) the property be used by the State for a nursing-home or domiciliary care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of this title; and

“(II) if the property is used at any time for any other purpose, all right, title, and interest in and to the property shall revert to the United States.

“(C) A transfer of real property may not be made under this paragraph until—

“(i) the Secretary submits to the committees, not later than June 1 of the year in which the transfer is proposed to be made (or the year preceding that year), a report providing notice of the proposed transfer; and

“(ii) a period of 90 consecutive days elapses after the report is received by the committees.

“(D) A transfer under this paragraph shall be made under such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

“(e) CONSIDERATION.—In any transfer, exchange, or conveyance under the authority in this section (other than a transfer described in subsection (d)(3)), the Secretary shall obtain consideration in amount equal to the fair market value of the property, as determined by the Secretary.

“(f) TREATMENT OF PROCEEDS.—Proceeds from the transfer, exchange, or conveyance of real property under this section shall be deposited in the Capital Asset Fund under section 8122B of this title.

“(g) REPORTS.—The Secretary shall include with the budget justification documents submitted to Congress each year with the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31) a report setting forth the following:

"(1) A statement of each disposal of real property to be undertaken in such fiscal year that is valued in excess of the major medical facility project threshold specified in section 8104(a)(3)(A) of this title.

"(2) A description of each disposal of real property that was completed in the fiscal year ending in the year before such report is submitted.".

(b) CAPITAL ASSET FUND.—Subchapter II of chapter 81, as amended by subsection (a), is further amended by inserting after section 8122A the following new section:

**"§8122B. Capital Asset Fund**

"(a) CAPITAL ASSET FUND.—There is established on the books of the Treasury of the United States a revolving fund known as the Capital Asset Fund (in this section referred to as the 'Fund').

"(b) ELEMENTS OF FUND.—The Fund shall consist of the following:

"(1) Amounts authorized to be appropriated to the Fund.

"(2) Proceeds from the transfer, exchange, or conveyance of real property under subsection (a) of section 8122A of this title that are deposited in the Fund under subsection (f) of such section.

"(3) Funds to be deposited in the Fund under section 8165(a)(3) of this title.

"(4) Any other amounts specified for transfer to or deposit in the Fund by law.

"(c) USE OF AMOUNTS IN FUND.—Subject to the provisions of appropriations Acts, amounts in the Fund shall be available for purposes as follows and in the following order of priority:

"(1) For costs of the Department in disposing of real property under sections 8122A and 8164 of this title, including costs associated with demolition, environmental clean-up, maintenance and repair, improvements to facilitate disposal, and associated administrative expenses.

"(2) For costs of the Department associated with proposed disposals of real property of the Department under such sections.

"(3) For costs of non-recurring capital projects of the Department.".

(c) REPEAL OF SUPERSEDED AUTHORITIES.—(1) Section 8122 is amended—

(A) in subsection (a)—

(i) by striking "(1)"; and

(ii) by striking paragraphs (2) and (3); and

(B) by striking subsection (d).

(2) The heading of such section is amended by striking "**and dispose of**".

(d) CONFORMING AMENDMENT.—Section 8164(a) is amended by striking "section 8122" and inserting "section 8122A".

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 81 is amended—

(1) in the item relating to section 8122, by striking "and dispose of"; and

(2) by inserting after the item relating to section 8122 the following new items:

"8122A. Disposal of real property.
"8122B. Capital Asset Fund.".

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Veterans Affairs for fiscal year 2005, $10,000,000 for deposit in the Capital Asset Fund under section 1822B of title 38, United States Code (as added by subsection (b)).

### SEC. 102. IMPROVEMENTS OF ENHANCED-USE LEASE AUTHORITIES.

(a) BUSINESS PLAN CRITERIA.—Section 8162 is amended—

(1) in subsection (a)(2)(B), by striking "the Under Secretary for Health for applying the consideration under such a lease to the provision of medical care and services" and inserting "one of the Under Secretaries for applying the consideration under such a lease to the programs and activities of the Department"; and

(2) in subsection (b)(4)(A), by striking "on the leased property".

(b) INAPPLICABILITY OF CERTAIN DISPOSAL REQUIREMENTS.—Section 8164 is amended—

(1) by redesignating subsections (b) and (c) as subsection (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The Secretary may dispose of property under this section without regard to the following provisions of law:

"(1) Sections 521, 522, and 541 through 545 of title 40.

"(2) Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).".

(c) USE OF PROCEEDS.—Section 8165(a) is amended—

(1) in paragraph (1), by striking "Funds received" and inserting "Except as provided in paragraph (2), funds received";

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) Funds received by the Department under an enhanced-use lease implementing a business plan proposed by the Under Secretary for Benefits or the Under Secretary for Memorial Affairs and remaining after any deduction from such funds under subsection (b) shall be credited to applicable appropriations of the Veterans Benefits Administration or National Cemetery Administration, as the case may be."; and

(4) in paragraph (3), as so redesignated, by striking "nursing home revolving fund" and inserting "Capital Asset Fund under section 8122B of this title".

### SEC. 103. AUTHORITY TO USE PROJECT FUNDS TO CONSTRUCT OR RELOCATE SURFACE PARKING INCIDENTAL TO A CONSTRUCTION OR NON-RECURRING MAINTENANCE PROJECT.

Section 8109 is amended by adding at the end the following new subsection:

"(j) Funds in a construction account or capital account that are available for a construction project or non-recurring maintenance project may be used for the construction or relocation of a surface parking lot incidental to such project.".

### SEC. 104. LIMITATION ON IMPLEMENTATION OF MISSION CHANGES FOR VETERANS HEALTH ADMINISTRATION HEALTH CARE FACILITIES.

Section 8110 is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) The Secretary may not implement a mission change for a medical facility (other than a mission change prescribed by the Secretary in the Capital Asset Realignment for Enhanced Services (CARES) initiative) until 90 days after the date on which the Secretary submits to the committees written notice of the mission change.

"(2) For purposes of this subsection, a mission change for a medical facility shall consist of any of the following:

"(A) Closure of the facility.

"(B) Consolidation of the facility.

"(C) An administrative reorganization of the facility covered by section 510(b) of this title.

"(3) Written notice of a mission change for a medical facility under paragraph (1) shall include—

"(A) an assessment of the impact of the mission change on the population of veterans served by the facility;

"(B) a description of the availability and quality of health care, including long-term care, mental health care, and substance abuse programs, available in the area served by the facility;

"(C) an assessment of the impact of the mission change on the economy of the community in which the facility is located; and

"(D) an analysis of any alternatives to the mission change proposed by the community in which the facility is located, organizations recognized by the Secretary under section 5902 of this title, organizations that represent Department employees in such community, or the Department.

"(4) In the case of a mission change covered by paragraph (1) that is also an administrative reorganization covered by section 510(b) of this title, both this subsection and such section 510(b) shall apply with respect to the implementation of such mission change.".

### SEC. 105. TERMINATION OF NURSING HOME REVOLVING FUND.

(a) TERMINATION.—(1) Section 8116 is repealed.

(2) The table of sections at the beginning of chapter 81 is amended by striking the item relating to section 8116.

(b) TRANSFER OF UNOBLIGATED BALANCES TO CAPITAL ASSET FUND.—Any unobligated balances in the nursing home revolving under section 8116 of title 38, United States Code, as of the date of the enactment of this Act shall be deposited in the Capital Asset Fund under section 8122B of title 38, United States Code (as added by section 103(b) of this Act).

### SEC. 106. INAPPLICABILITY OF LIMITATION ON USE OF ADVANCE PLANNING FUND TO AUTHORIZED MAJOR MEDICAL FACILITY PROJECTS.

Section 8104 is amended by adding at the end the following new subsection:

"(g) The limitation specified in subsection (f) shall not apply to projects for which funds have already been authorized by law in accordance with subsection (a)(2).".

### SEC. 107. LEASE OF CERTAIN NATIONAL CEMETERY ADMINISTRATION PROPERTY.

(a) IN GENERAL.—Chapter 24 is amended by adding at the end the following new section:

**"§2412. Lease of land and buildings**

"(a) LEASE AUTHORIZED.—The Secretary may lease any undeveloped land and unused or underutilized buildings, or parts or parcels thereof, belonging to the United States and part of the National Cemetery Administration.

"(b) TERM.—The term of a lease under subsection (a) may not exceed 10 years.

"(c) LEASE TO PUBLIC OR NONPROFIT ORGANIZATIONS.—(1) A lease under subsection (a) to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5).

"(2) Notwithstanding section 1302 of title 40 or any other provision of law, a lease under subsection (a) to any public or nonprofit organization may provide for the maintenance, protection, or restoration of the leased property by the lessee, as a part or all of the consideration for the lease.

"(d) NOTICE.—Before entering into a lease under subsection (a), the Secretary shall give appropriate public notice of the intention of the Secretary to enter into the lease in a newspaper of general circulation in the community in which the lands or buildings concerned are located.

"(e) NATIONAL CEMETERY ADMINISTRATION FACILITIES OPERATION FUND.—(1) There is established on the book of the Treasury an account to be known as the 'National Cemetery Administration Facilities Operation Fund' (in this section referred to as the 'Fund').

"(2) The Fund shall consist of the following:

"(A) Amounts authorized to be appropriated to the Fund.

"(B) Proceeds from the lease of land or buildings under this section.

"(C) Proceeds of agricultural licenses of lands of the National Cemetery Administration.

"(D) Any other amounts authorized for deposit in the Fund by law.

"(3) Amounts in the Fund shall be available to cover costs incurred by the National Cemetery Administration in the operation and maintenance of property of the Administration.

"(4) Amounts in the Fund shall remain available until expended.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2412. Lease of land and buildings.".

## Subtitle B—Transfers of Property

### SEC. 111. TRANSFER OF JURISDICTION, GENERAL SERVICES ADMINISTRATION PROPERTY, BOISE, IDAHO.

(a) TRANSFER.—The Administrator of General Services shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs the parcel of real property, including any improvements thereon, consisting of approximately 2.3 acres located at the General Services Administration facility immediately north of the Army Reserve facility in Boise, Idaho.

(b) UTILIZATION.—The Secretary of Veterans Affairs shall utilize the property transferred under subsection (a) for purposes relating to the delivery of benefits to veterans.

## Subtitle C—Designation of Facilities

### SEC. 121. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, BRONX, NEW YORK, AS JAMES J. PETERS DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

The Department of Veterans Affairs medical center in the Bronx, New York, shall after the date of the enactment of this Act be known and designated as the "James J. Peters Department of Veterans Affairs Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the James J. Peters Department of Veterans Affairs Medical Center.

### SEC. 122. DESIGNATION OF PRISONER OF WAR/MISSING IN ACTION NATIONAL MEMORIAL, RIVERSIDE NATIONAL CEMETERY, RIVERSIDE, CALIFORNIA.

(a) FINDINGS.—Congress makes the following findings:

(1) The most reliable statistics regarding the number of members of the United States Armed Forces who have been held as prisoners of war or listed as missing in action indicate that more than 586,000 members of the Armed Forces have been taken prisoner since the American Revolution and more than 89,000 members have been listed as missing.

(2) The Department of Defense continues to locate and identify the remains of members of the Armed Forces who have been missing in action since the Korean and Vietnam Wars.

(3) The United States currently lacks a national memorial dedicated to the bravery and sacrifice of those members of the Armed Forces who have been held as prisoners of war and listed as missing in action.

(4) An appropriate memorial to former prisoners of war and members of the Armed Forces listed as missing in action, including those who remain unaccounted for, is under construction at Riverside National Cemetery in Riverside, California.

(5) The memorial will honor all those members of the Armed Forces who have been held as prisoners of war or listed as missing in action and is dedicated to the memory of those members who remain missing in action.

(b) DESIGNATION.—The memorial to former prisoners of war and members of the Armed Forces listed as missing in action that is under construction at Riverside National Cemetery in Riverside, California, is hereby designated as the Prisoner of War/Missing in Action National Memorial.

(c) EFFECT OF DESIGNATION.—The national memorial designated by this section is not a unit of the National Park System, and the designation of the national memorial shall not be construed to require or permit Federal funds (other than any funds provided for as of the date of the enactment of this Act) to be expended for any purpose related to the national memorial.

## Subtitle D—Other Matters

### SEC. 131. FIRST OPTION FOR COMMONWEALTH OF KENTUCKY ON LOUISVILLE DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, KENTUCKY.

(a) REQUIREMENT.—Upon determining to convey, lease, or otherwise dispose of the Louisville Department of Veterans Affairs Medical Center, Kentucky, or any portion thereof, the Secretary of Veterans Affairs shall engage in negotiations for the conveyance, lease, or other disposal of the Medical Center or portion thereof solely with the Commonwealth of Kentucky.

(b) DURATION OF REQUIREMENT.—The requirement for negotiations under subsection (a) shall remain in effect for one year after the date of the commencement of the negotiations.

(c) SCOPE OF NEGOTIATIONS.—The negotiations under subsection (a) shall address the utilization of the Medical Center, or portion thereof, by the Commonwealth of Kentucky for the primary purpose of the provision of services for veterans and related activities, but may address or result in the utilization of the Medical Center, or portion thereof, by the Commonwealth of Kentucky for other purposes.

## TITLE II—BENEFITS MATTERS

### SEC. 201. PROHIBITION ON COLLECTION OF COPAYMENTS FOR HOSPICE CARE.

Section 1710B(c)(2) is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) to a veteran being furnished hospice care under this section; or".

### SEC. 202. EXPANSION AND PERMANENT EXTENSION OF AUTHORITY FOR COUNSELING AND TREATMENT FOR SEXUAL TRAUMA.

(a) PERMANENT EXTENSION.—Subsection (a) of section 1720D is amended—

(1) in paragraph (1), by striking "During the period through December 31, 2004, the Secretary" and inserting "The Secretary"; and

(2) in paragraph (2), by striking ", during the period through December 31, 2004,".

(b) COUNSELING FOR RESERVES.—Such section is further amended—

(1) in subsection (a)—

(A) by redesignating paragraph (2), as amended by subsection (a)(2) of this section, as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph (2):

"(2) In operating the program under paragraph (1), the Secretary shall also provide counseling and appropriate care and services to former members of the Reserves who the Secretary determines require such counseling and care and services to overcome psychological trauma, which in the judgment of such a mental health professional, resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while such individual was a member of the Reserves not serving on active duty.";

(2) by striking "a veteran" each place it appears (other than subsection (b)(1)) and inserting "an individual";

(3) by striking "that veteran" each place it appears and inserting "that individual"; and

(4) in subsection (c), by inserting "and other individuals" after "veterans" each place it appears.

### SEC. 203. TREATMENT OF DEPARTMENT OF VETERANS AFFAIRS PER DIEM PAYMENTS TO STATE HOMES FOR VETERANS.

Section 1741 is amended by adding at the end the following new subsection:

"(e) Payments to States pursuant to this section shall not be considered a liability of a third party, or otherwise be utilized to offset or reduce any other payment made to assist veterans.".

### SEC. 204. CARE FOR NEWBORN CHILDREN OF WOMEN VETERANS RECEIVING MATERNITY CARE.

(a) AUTHORITY TO FURNISH.—Subchapter VIII of chapter 17 is amended by adding at the end the following new section:

**"§ 1786. Care for newborn children of women veterans receiving maternity care**

"The Secretary may furnish care to a newborn child of a woman veteran who is receiving maternity care furnished by the Department for up to 14 days after the birth of the child if the veteran delivered the child in a Department facility or in a non-Department facility pursuant to a Department contract for the delivery services.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by adding at the end following new item:

"1786. Care for newborn children of women veterans receiving maternity care.".

### SEC. 205. CENTERS FOR RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES ON BLAST INJURIES OF VETERANS.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 is amended by adding at the end the following new section:

**"§ 7327. Centers for research, education, and clinical activities on blast injuries**

"(a) PURPOSE.—The purpose of this section is to provide for the improvement of the provision of health care services and related rehabilitation and education services to eligible veterans suffering from multiple traumas associated with a blast injury through—

"(1) the conduct of research to support the provision of such services in accordance with the most current evidence on blast injuries;

"(2) the education and training of health care personnel of the Department; and

"(3) the development of improved models and systems for the furnishing of services by the Department for blast injuries.

"(b) ESTABLISHMENT.—(1) The Secretary shall establish and operate at least one, but not more than three, centers for research, education, and clinical activities on blast injuries.

"(2) Each center shall function as a center for—

"(A) research on blast injury to support the provision of services in accordance with the most current evidence on blast injuries, with such research to specifically address injury epidemiology and cost, functional outcomes, blast injury taxonomy and measurement system, and longitudinal outcomes;

"(B) the development of a rehabilitation program for blast injuries, including referral protocol, post-acute assessment, and coordination of comprehensive treatment services;

"(C) the development of protocols to optimize linkages between the Department and the Department of Defense on matters relating to research, education, and clinical activities on blast injuries;

"(D) the creation of innovative models for education and outreach on health-care and related rehabilitation and education services on blast injuries, with such education and outreach to target those who have sustained a blast injury and health care providers and researchers in the Veterans Health Administration, the Department of Defense, and the Department of Homeland Security;

"(E) the development of educational tools and products on blast injuries, and the maintenance of such tools and products in a resource clearinghouse that can serve as resources for the Veterans Health Administration, the Department of Defense, the Department of Homeland Security, and other departments and agencies of the Federal Government;

"(F) the development of interdisciplinary training programs on the provision of health care and rehabilitation care services for blast injuries that provide an integrated understanding of the continuum of care for such injuries to the broad range of providers of such services, including first responders, acute-care providers, and rehabilitation service providers; and

"(G) the implementation of strategies for improving the medical diagnostic coding of blast injuries in the Department to reliably identify veterans with blast injuries and track outcomes over time.

"(3) The Secretary shall designate a center or centers under this section upon the recommendation of the Under Secretary for Health.

"(4) The Secretary may designate a center under this section only if—

"(A) the proposal submitted for the designation of the center meets the requirements of subsection (c);

"(B) the Secretary makes the finding described in subsection (d); and

"(C) the peer review panel established under subsection (e) makes the determination specified in subsection (e)(3) with respect to that proposal.

"(5) The authority of the Secretary to establish and operate centers under this section is subject to the appropriation of funds for that purpose.

"(c) PROPOSAL REQUIREMENTS.—A proposal submitted for the designation of a center under this section shall—

"(1) provide for close collaboration in the establishment and operation of the center, and for the provision of care and the conduct of research and education at the center, by a Department facility or facilities (in this subsection referred to as the 'collaborating facilities') in the same geographic area that have a mission centered on the care of individuals with blast injuries and a Department facility in that area which has a mission of providing tertiary medical care;

"(2) provide that not less than 50 percent of the funds appropriated for the center for support of clinical care, research, and education will be provided to the collaborating facilities with respect to the center; and

"(3) provide for a governance arrangement among the facilities described in paragraph (1) with respect to the center that ensures that the center will be established and operated in a manner aimed at improving the quality of care for blast injuries at the collaborating facilities with respect to the center.

"(d) FINDINGS RELATING TO PROPOSALS.—The finding referred to in subsection (b)(4)(B) with respect to a proposal for the designation of a site as a location of a center under this section is a finding by the Secretary, upon the recommendation of the Under Secretary for Health, that the facilities submitting the proposal have developed (or may reasonably be anticipated to develop) each of the following:

"(1) An arrangement with an affiliated accredited medical school or university that provides education and training in disaster preparedness, homeland security, and biodefense.

"(2) Comprehensive and effective treatment services for head injury, spinal cord injury, audiology, amputation, gait and balance, and mental health.

"(3) The ability to attract scientists who have demonstrated achievement in research—

"(A) into the evaluation of innovative approaches to the rehabilitation of blast injuries; or

"(B) into the treatment of blast injuries.

"(4) The capability to evaluate effectively the activities of the center, including activities relating to the evaluation of specific efforts to improve the quality and effectiveness of services on blast injuries that are provided by the Department at or through individual facilities.

"(e) DEPARTMENTAL SUPPORT ON EVALUATION OF CENTER PROPOSALS.—(1) In order to provide advice to assist the Secretary and the Under Secretary for Health to carry out their responsibilities under this section, the official within the central office of the Veterans Health Administration responsible for blast injury matters shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the designation of centers under this section.

"(2) The panel shall consist of experts in the fields of research, education and training, and clinical care on blast injuries. Members of the panel shall serve as consultants to the Department.

"(3) The panel shall review each proposal submitted to the panel by the official referred to in paragraph (1) and shall submit to that official its views on the relative scientific and clinical merit of each such proposal. The panel shall specifically determine with respect to each such proposal whether or not that proposal is among those proposals which have met the highest competitive standards of scientific and clinical merit.

"(4) The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(f) AWARD OF FUNDING.—Clinical and scientific investigation activities at each center established under this section—

"(1) may compete for the award of funding from amounts appropriated for the Department for medical and prosthetics research; and

"(2) shall receive priority in the award of funding from such amounts insofar as funds are awarded from such amounts to projects and activities relating to blast injuries.

"(g) DISSEMINATION OF INFORMATION.—(1) The Under Secretary for Health shall ensure that information produced by the centers established under this section that may be useful for other activities of the Veterans Health Administration is disseminated throughout the Administration.

"(2) Information shall be disseminated under this subsection through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means. Such programs of continuing medical education shall receive priority in the award of funding.

"(h) SUPERVISION.—The official within the central office of the Veterans Health Administration responsible for blast injury matters shall be responsible for supervising the operation of the centers established under this section and shall provide for ongoing evaluation of the centers and their compliance with the requirements of this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Department of Veterans Affairs for the centers established under this section amounts as follows:

"(A) $3,125,000 for fiscal year 2005.

"(B) $6,250,000 for each of fiscal years 2006 through 2008.

"(2) In addition to amounts authorized to be appropriated by paragraph (1) for a fiscal year, the Under Secretary for Health shall allocate to each center established under this section, from other funds authorized to be appropriated for such fiscal year for the Department generally for medical and for medical and prosthetics research, such additional amounts as the Under Secretary for Health determines appropriate to carry out the purpose of this section.".

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7326, the following new item:

"7327. Centers for research, education, and clinical activities on blast injuries.".

(b) DESIGNATION OF CENTERS.—The Secretary of Veterans Affairs shall designate at least one center for research, education, and clinical activities on blast injuries as required by section 7327 of title 38, United States Code (as added by subsection (a)), not later than January 1, 2005.

(c) ANNUAL REPORTS.—(1) Not later than February 1 of each of 2006, 2007, and 2008, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the status and activities during the previous fiscal year of the center for research, education, and clinical activities on blast injuries established under section 7327 of title 38, United States Code (as so added). Each such report shall include the following:

(A) A description of the activities carried out at each center, and the funding provided for such activities.

(B) A description of the advances made at each of the participating facilities of each center in research, education and training, and clinical activities on blast injuries.

(C) A description of the actions taken by the Under Secretary for Health pursuant to subsection (g) of that section (as so added) to disseminate information derived from such activities throughout the Veterans Health Administration.

(D) The assessment of the Secretary of the effectiveness of the centers in fulfilling the purposes of the centers.

### SEC. 206. EXTENSION OF VARIOUS AUTHORITIES RELATING TO VETERANS BENEFITS.

(a) FIVE-YEAR EXTENSION OF REPORTS BY SPECIAL MEDICAL ADVISORY GROUP.—Section 7312(d) is amended by striking "December 31, 2004" and inserting "December 31, 2009".

(b) PILOT PROGRAMS RELATING TO LONG-TERM CARE.—Section 102(h) of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 38 U.S.C. 1710B note) is amended by striking "the date that is three years after the date of the commencement of that pilot program" and inserting "December 31, 2005".

### SEC. 207. ANNUAL REPORTS ON WAITING TIMES FOR APPOINTMENTS FOR HEALTH CARE AND SERVICES.

(a) ANNUAL REPORTS.—Subchapter III of chapter 17 is amended by inserting after section 1730 the following new section:

**"§ 1730A. Annual reports on waiting times for appointments for care and services**

"(a) ANNUAL REPORTS.—Not later than January 31 each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the waiting times of veterans for appointments for care and services from the Department under this chapter during the preceding year.

"(b) REPORT ELEMENTS.—Each report under subsection (a) shall specify, for the year covered by the report, the following:

"(1) A tabulation of the waiting time of veterans for appointments with the Department for each category of primary or specialty care or services furnished by the Department, broken out by particular Department facility and by Veterans Integrated Service Network.

"(2) An identification of the categories of specialty care or services for which there are *lengthy delays for appointments at particular Department facilities or throughout particular Veterans Integrated Service Networks, and, for each category so identified, recommendations for the reallocation of personnel, financial, and other resources to address such delays.''.*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1730 the following new item:*

*''1730A. Annual reports on waiting times for appointments for care and services.''.*

Amend the title so as to read: ''A bill to amend title 38, United States Code, to improve and enhance the authorities of the Secretary of Veterans Affairs relating to the management and disposal of real property and facilities, to improve and extend other benefits for veterans, and for other purposes.''.

Mr. SPECTER. Mr. President, I have sought recognition to comment on a substitute amendment I propose to make to S. 2485, the ''Veterans Health Programs Improvements Act of 2004,'' as part of my request that the bill, as so amended, be approved by the Senate. The underlying bill, S. 2485, was reported by the Senate Committee on Veterans' Affairs on July 20, 2004, and is explained in detail in Senate Report 108–358. My comments at this time are limited to explaining how the proposed substitute amendment, which reflects a bipartisan agreement between Senate and House Veterans' Affairs Committees on veterans' medical benefits-related issues, differs from the provisions of S. 2485, as reported.

The House has approved a number of bills—H.R. 1318, H.R. 4231, H.R. 4248, H.R. 4317, H.R. 4608, H.R. 4768, and H.R. 4836—that overlap with provisions drawn from various Senate bills that are contained in S. 2485, as reported. The language of the substitute amendment, in some cases, fine tunes language to harmonize these overlapping provisions without significant or substantive modification. Further, the substitute amendment adds provisions that are drawn from House-approved bills that had not been considered by the Senate. Among those provisions are measures which will assist the Department of Veterans Affairs—VA—and State veterans homes in procuring needed nursing services; provisions which authorize VA major medical facility leases and grant programs to assist providers of services to homeless veterans; and measures requiring VA reports on historic properties and medical waste management activities. Also included are VA facility ''naming'' provisions which, in addition to a measure already approved by the Veterans' Committee, would name VA facilities in Amarillo, TX; Peoria, IL; Lufkin, TX; and Sunnyside, Queens, NY. All of these additional provisions, and all clarifications and modifications to language contained in the reported bill, are outlined in the ''Explanatory Statement'' which I will append to this statement.

Each of the additions to S. 2485 that have resulted from negotiations with our colleagues in the House are all useful and productive. The bill as it would be modified by the managers' amendment, then, merits the Senate's approval.

I yield the floor and ask unanimous consent that the Explanatory Statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## EXPLANATORY STATEMENT ON S. 2485, AS AMENDED

S. 2485, as amended, (hereinafter, the ''Compromise Agreement'') reflects a negotiated agreement reached by the House of Representatives and Senate Committees on Veterans' Affairs concerning provisions from a number of bills considered by the House and the Senate during the 108th Congress. Legislative provisions contained in the compromise were derived from: H.R. 1318, H.R. 4231, H.R. 4248, H.R. 4317, H.R. 4608, H.R. 4658, H.R. 4768, H.R. 4836, and S. 2485, as reported by the Senate Committee on Veterans' Affairs on July 20, 2004 (hereinafter, ''S 2485, as reported'').

The House and Senate Committees on Veterans' Affairs have prepared the following explanation of the Compromise Agreement. Differences between the provisions of the Compromise Agreement and the related provisions originally contained in House or Senate bills are noted, except for clerical corrections, conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

## TITLE I—ASSISTANCE TO HOMELESS VETERANS

### SEC. 101—AUTHORIZATION OF APPROPRIATIONS

*Current Law*

Public Law 107-95, the Homeless Veterans Comprehensive Assistance Act of 2001, authorized appropriations of $75 million per year for a program to make grants to providers of comprehensive services for homeless veterans. The program expires on September 30, 2005.

*House Bill*

Section 2 of H.R. 4248, as reported on June 9, 2004, would increase the annual authorized appropriation for this program to $100 million and extends the program through September 30, 2008.

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Agreement*

Section 101 of the Compromise Agreement increases the authorization level to $99,000,000 and removes the section from the House Bill that would have extended this program through 2008.

## TITLE II—VETERANS LONG-TERM CARE PROGRAMS

### SEC. 201—ASSISTANCE FOR HIRING AND RETENTION OF NURSES AT STATE VETERANS HOMES

*Current Law*

Subchapter V, chapter 17 of title 38, United States Code, authorizes the Department of Veterans Affairs (hereinafter, ''VA'') to make payments to State homes for veterans receiving care in a State home.

*House Bill*

Section 5 of H.R. 4231, as amended, would amend subchapter V, chapter 17 of title 38, United States Code, to add a new section 1744 to authorize the Secretary of Veterans Affairs (hereinafter, ''the Secretary'') to make payments to States for the purpose of assisting State homes in the hiring and retention of registered nurses.

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Agreement*

Section 201 of the Compromise Agreement follows the House language.

### SEC. 202—TREATMENT OF DEPARTMENT OF VETERANS AFFAIRS PER DIEM PAYMENTS TO STATE HOMES FOR VETERANS

*Current Law*

Section 1741 of title 38, United States Code, establishes criteria for VA payments to State homes for veterans receiving care in a State home.

*House Bill*

The House Bill contains no comparable provision.

*Senate Bill*

Section 203 of S. 2485, as reported, would amend section 1741 of title 38, United States Code, to add a new subsection (e) to clarify that *per diem* payments made by VA to State veterans' homes would not be used to offset or reduce other third party payments made to assist veterans.

*Compromise Agreement*

Section 202 of the Compromise Agreement follows the Senate language.

### SEC. 203—EXTENSION OF AUTHORITY TO PROVIDE CARE UNDER LONG-TERM CARE PILOT PROGRAMS

*Current Law*

Section 102 of Public Law 106–117, The Veterans Millennium Health Care and Benefits Act, directed VA to carry-out three pilot programs over a three-year period to determine the feasibility and practicability of different models for providing long-term care. The authority for the pilot program expires on December 31, 2004.

*House Bill*

Section 107 of H.R. 4768, as amended, would extend VA's authority to provide health care services under the long-term care pilot programs authorized in Public Law 106–117 until December 31, 2005.

*Senate Bill*

Section 206 of S. 2485, as reported, would extend VA's authority to provide health care services under the long-term care pilot programs authorized in Public Law 106–117 until December 31, 2005.

*Compromise Agreement*

Section 203 of the Compromise Agreement follows the language of the House and Senate Bills.

### SEC. 204—PROHIBITION ON COLLECTION OF COPAYMENTS FOR HOSPICE CARE

*Current Law*

Section 1710B(c) of title 38, United States Code, requires certain veterans to pay a copayment for extended care services furnished under Section 1710B.

*House Bill*

The House Bills contain no comparable provision.

*Senate Bill*

Section 201 of S. 2485, as reported, would exempt all veterans being furnished hospice care under Section 1710B from copayment obligations that would otherwise apply.

*Compromise Agreement*

Section 204 of the Compromise Agreement follows the Senate language.

## TITLE-III MEDICAL CARE

### SEC. 301—SEXUAL TRAUMA COUNSELING PROGRAM

*Current Law*

Public Law 103-452 authorized VA to provide counseling services to servicemembers who were victims of sexual trauma while on active duty in service. This authority expires on December 31, 2004.

*House Bill*

H.R. 4248 would make permanent the program authorized under Public Law 103-452 to provide sexual trauma counseling services to former service-members.

*Senate Bill*

S. 2485, as reported, would make permanent the program authorized under Public Law 103-452, and expand the authority to include the treatment of former Members of the Reserves who were victims of sexual trauma while on active duty for training.

*Compromise Agreement*

Section 301 of the Compromise Agreement makes VA's authority to provide sexual trauma counseling services permanent and extends the authority to include former Reserves and Guard members who were victims of sexual trauma while on active duty for training.

### SEC. 302 CENTERS FOR RESEARCH, EDUCATION, AND CLINICAL ACTIVITY ON COMPLEX MULTI-TRAUMA ASSOCIATED WITH COMBAT INJURIES

*Current Law*

No similar provision exists under current law.

*House Bill*

The House Bills contained no comparable provision.

*Senate Bill*

Section 205 of S. 2485, as reported, would establish at VA, in collaboration with the Department of Defense, at least one, but not more than three, War-Related Blast Injury Centers. These centers would provide comprehensive rehabilitation programs, targeted education and outreach programs, and research initiatives.

*Compromise Agreement*

Section 203 of the Compromise Agreement authorizes centers for research, education, and clinical activities to improve the rehabilitation services available to veterans suffering from complex multi-trauma associated with combat injuries. The Compromise Agreement incorporates successful current VA practices, including cooperation with the Department of Defense, the treatment of traumatic brain injuries, and VA's conception for the future of combat-injury rehabilitation.

### SEC. 303—ENHANCEMENT OF MEDICAL PREPAREDNESS OF DEPARTMENT

*Current Law*

Public Law 107-287, the Department of Veterans Affairs Emergency Preparedness Act of 2002, requires the Secretary to establish four Medical Emergency Preparedness Research Centers. These centers have not been established.

*House Bill*

Section 202 of H.R 4768, as amended, would amend chapter 73, of title 38, United States Code to add a new section 7327, to direct the Secretary to take a series of specific actions to establish four Medical Emergency Preparedness Research Centers by dates certain.

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Agreement*

Section 303 of the Compromise Agreement follows section 202(a) through (c) of the House language, but does not include section 202(d) of the House bill that would have provided a rule of construction.

## TITLE IV—MEDICAL FACILITIES MANAGEMENT AND ADMINISTRATION SUBTITLE A—MAJOR MEDICAL FACILITY LEASES

### SEC. 401—MAJOR MEDICAL FACILITY LEASES

*Current Law*

Section 8104(a)(2) of title 38, United States Code, prohibits VA from obligating or expending more than $600,000 per year for a lease unless that lease has been specifically authorized by law.

*House Bill*

Section 101 of H.R. 4768 would authorize major medical facility leases in the following locations and amounts: (1) Greenville, North Carolina, Outpatient Clinic, $1,220,000; (2) Wilmington, North Carolina, Outpatient Clinic, $1,320,000; (3) Oakland, California, Outpatient Clinic, $1,700,000; (4) Toledo, Ohio, Outpatient Clinic, $1,200,000; (5) Crown Point, Indiana, Outpatient Clinic, $850,000; and (6) Denver, Colorado, Health Administration Center, $1,950,000; (7) Norfolk, Virginia, Outpatient Clinic, $1,250,000; (8) Summerfield, Florida, Marion County Outpatient Clinic, $1,230,000; (9) Knoxville, Tennessee, Outpatient Clinic, $850,000; (10) Fort Worth, Texas, Tarrant County Outpatient Clinic, $3,900,000; (11) Plano, Texas, Collin County Outpatient Clinic, $3,300,000; (12) San Antonio, Texas, Northeast Central Bexar County Outpatient Clinic, $1,400,000; (13) Corpus Christi, Texas, Outpatient Clinic, $1,200,000; (14) Harlingen, Texas, Outpatient Clinic, $650,000; (15) San Diego, California, North County Outpatient Clinic, $1,300,000; and (16) San Diego, California, South County Outpatient Clinic, $1,100,000.

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Agreement*

Section 401 of the Compromise Agreement follows the House language.

### SEC. 402—AUTHORIZATION OF APPROPRIATIONS

*Current Law*

Section 8104(a)(2) of title 38, United States Code, prohibits VA from obligating or expending more than $600,000 per year for a lease unless that lease has been specifically authorized by law.

*House Bill*

Section 101 of H.R. 4768 authorized $24,420,000 to carry out major medical facility leases.

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Agreement*

Section 402 of the Compromise Agreement follows the House language.

### SEC. 403—AUTHORITY FOR LONG-TERM LEASE IN DENVER, COLORADO

*Current Law*

Section 8104(a)(2) of title 38, United States Code, prohibits VA from obligating or expending more than $600,000 per year for a lease unless that lease has been specifically authorized by law.

*House Bill*

Section 101 of H.R. 4768 authorizes VA to enter into a long-term lease of up to 75 years for land to construct a new VA Medical Facility on the Fitzsimons Campus of the University of Colorado, Aurora, Colorado.

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Agreement*

Section 403 of the Compromise Agreement follows the House language. The authority provided in this section is permissive and intended by the Committees to foster good-faith negotiations between the partners to this agreement. In the event that the Secretary of Veterans Affairs determines the terms or conditions of the lease not to be in the best interest of the United States, the Secretary should propose an alternative strategy to Congress.

## Subtitle B—Facilities Management

### SEC. 411—DEPARTMENT OF VETERANS AFFAIRS CAPITAL ASSET FUND

*Current Law*

Under current law, the Secretary is authorized to dispose of property administered by VA and retain the proceeds from such a disposal, but only if: (1) the property is considered excess to the needs of VA; (2) there is no use for it in providing services to homeless veterans; and (3) the property is valued at less than $50,000 or, in cases where it is valued at more than $50,000, the disposal was proposed in the most recent budget submitted to Congress by the President. In the event property is so transferred, all proceeds must be deposited into the Nursing Home Revolving Fund. Funds in the Nursing Home Revolving Fund may only be used for the construction, acquisition, or alteration of nursing home facilities.

*House Bill*

Section 102 of the H.R. 4768 would amend chapter 81 of title 38, United States Code, to add a new section 8118 to provide the Secretary with new authority to transfer by sale, exchange or lease unneeded real property currently in VA's portfolio. It would establish a new "Capital Asset Fund" to finance actions taken to facilitate the transferring of real property, including demolition, environmental restoration, maintenance and repair, and historic preservation and administrative expenses. Section 102 would also establish "fair market value" as the basis for property transfers. Further, it would require the Secretary to include in each year's budget submission to Congress a report of both the uses of the Capital Asset Fund and descriptive information on each completed, pending and planned property disposal. Finally, Section 102 would repeal the Nursing Home Revolving Fund in section 8116 of title 38, United States Code.

All of the authorities extended to the Secretary, as outlined above, would be contingent upon the Secretary certifying that VA facilities maintain long-term care capacity as required by section 1710B(b) of title 38, United States Code.

*Senate Bill*

Section 101 of S. 2485, as reported, would authorize VA for 5 years to dispose of excess real property by sale, transfer or exchange to a Federal agency, a State or political subdivision of a State, or to any public or private entity. Such transfers would not be subject to restrictions currently in force. Further, the Committee bill would allow VA to retain the proceeds generated by such disposals of property in a new Capital Asset Fund rather than the Nursing Home Revolving Fund. Funds in the new account could be used to perform non-recurring maintenance, develop construction proposals, or dispose of other VA property.

*Compromise Agreement*

The Compromise Agreement follows the House language except that the contingencies upon which the House authorization rested are no longer included. Instead, the Compromise Agreement makes the transfer of funds from, and elimination of, the Nursing Home Revolving Fund contingent on the Secretary certifying that VA facilities maintain long-term care capacity as required by section 1710B(b) of title 38, United States Code. All other authorities would take effect immediately.

### SEC. 412—ANNUAL REPORT TO CONGRESS ON INVENTORY OF DEPARTMENT OF VETERANS AFFAIRS HISTORIC PROPERTY

*CurrentLaw*

No similar provision exists under current law.

*House Bill*

Section 103 of H.R. 4768 would require VA to establish a national inventory of historic VA properties and would require reports to Congress over several years on the status of such properties.

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Agreement*

The Compromise Agreement follows the House language.

### SEC. 413—AUTHORITY TO ACQUIRE AND TRANSFER REAL PROPERTY FOR USE FOR HOMELESS VETERANS

*Current Law*

Section 8103 of title 38, United States Code, authorizes the Secretary to acquire such land as is necessary for the purpose of providing medical services.

*House Bill*

The House Bills contains no comparable provision.

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Agreement*

The Compromise Agreement permits the Secretary to acquire land, in the District of Columbia, suitable for providing services to homeless veterans if the Secretary has identified a homeless assistance provider that is prepared to acquire the property from the Secretary promptly following the acquisition of the land by the Secretary.

### SEC. 414—LIMITATION ON IMPLEMENTATION OF MISSION CHANGES FOR SPECIFIED VETERANS HEALTH ADMINISTRATION FACILITIES

*Current Law*

Section 401 of Public Law 108-193, the "Veterans Health Care Authorities Extension and Improvement Act of 2003," requires VA to notify Congress of facility closings proposed under the Capital Asset Realignment for Enhanced Services initiative, and prohibits such closings from occurring until the lapse of 60 days following the notification or 30 days of continuous session of Congress, whichever is longer.

*House Bill*

The House Bills contains no comparable provision.

*Senate Bill*

Section 104 of S. 2485, as reported, would prohibit the Secretary from implementing a mission change for a medical facility (other than a mission change prescribed by the Secretary in his Capital Asset Realignment for Enhanced Services initiative Final Report) until 90 days after the date on which the Secretary submits to the Committees on Veterans' Affairs written notice of the mission change.

*Compromise Agreement*

Section 414 of the Compromise Agreement prohibits the Secretary from implementing a mission change until the lapse of 60 days following notification or 30 days of continuous session of Congress, whichever is longer, at VA Medical Centers in the following locations: Boston, Massachusetts; New York City, New York; Big Springs, Texas; Dublin, Georgia; Montgomery, Alabama; Louisville, Kentucky; Muscogee (including the outpatient clinic in Tulsa), Oklahoma; Poplar Bluff, Missouri; Ft. Wayne, Indiana; Waco, Texas; Walla Walla, Washington.

### SEC. 415—AUTHORITY TO USE PROJECT FUNDS TO CONSTRUCT OR RELOCATE SURFACE PARKING INCIDENTAL TO A CONSTRUCTION OR NON-RECURRING MAINTENANCE PROJECT

*Current Law*

Under current law, all money spent for the construction of VA parking lots must be derived from the Parking Revolving Fund which receives all of its deposits from fees charged for parking. VA may not spend "construction" funds on parking lots because those funds are not drawn from the Parking Revolving Fund.

*House Bill*

Section 104 of H.R. 4768 would authorize the use of funds in a construction or capital account for the relocation of a surface parking facility if the relocation is necessitated by a construction or non-recurring maintenance project.

*Senate Bill*

Section 103 of S. 2485, as reported, would authorize the use of funds in a construction or capital account for the relocation of a surface parking facility if the relocation is necessitated by a construction or non-recurring maintenance project.

*Compromise Agreement*

Section 415 of the Compromise Agreement follows the language of the House and Senate Bills.

### SEC. 416—INAPPLICABILITY OF LIMITATION ON USE OF ADVANCE PLANNING FUNDS TO AUTHORIZED MAJOR MEDICAL FACILITY PROJECTS

*Current Law*

Under current law, VA may not spent more than $500,000 from its Advanced Planning Fund for the development of a construction proposal unless it notifies Congress of its intention to do so and waits for a period of 30 days.

*House Bill*

Section 105 of H.R. 4768 would provide more flexibility to VA by eliminating the "notice and wait" provision if the project VA is planning has already been authorized by law.

*Senate Bill*

Section 105 of S. 2485, as reported, also would eliminate the "notice and wait" provision if the project VA is planning has already been authorized by law.

*Compromise Agreement*

Section 416 of the Compromise Agreement follows the language of the House and Senate Bills.

### SEC. 417—ENHANCEMENT TO ENHANCE-USE LEASE AUTHORITY

*Current Law*

Under current law, VA is authorized to lease real property administered by VA to non-Federal entities in cases where VA determines that such a lease will advance the mission of VA and enhance the use of the property. In making the determination to enter into such an "enhanced-use lease", VA may only consider the needs of the Veterans Health Administration as outlined in business plans set forth by the Under Secretary for Health. Further, Section 8166 of title 38, United States Code, provides the Secretary permissive authority to disregard State and local laws relating to building codes, permits or inspections that would regulate or restrict construction, alternation, repair, remodeling or improvement of VA property associated with an enhanced-use lease under section 8162 of title 38, United States Code.

*House Bill*

Section 106 of H.R. 4758 would add to existing exemptions from State and local laws for enhanced-use leases any land-use laws.

*Senate Bill*

Section 102 of S. 2485, as reported, would allow VA, as part of making a determination to enter into an enhanced-use lease, to consider the needs of the Veterans Benefits Administration or the National Cemetery Administration, as outlined in business plans developed by the respective Under Secretaries of those Administrations.

*Compromise Agreement*

Section 417 of the Compromise Agreement includes the language from the House Bill.

### SEC. 418—FIRST OPTION FOR COMMONWEALTH OF KENTUCKY ON DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, LOUISVILLE, KENTUCKY

*Current Law*

Under current law, VA generally may not transfer any property to a State unless VA receives compensation equal to the fair market value of the property and the transfer, as proposed, is described in the VA budget for the fiscal year within which the proposed transfer will take place. However, VA may transfer property to a State for use as a State nursing home or domiciliary.

*House Bill*

The House Bills contains no comparable provision.

*Senate Bill*

Section 131 of S. 2485, as reported, would require VA for one year, if it determines that it will convey, lease, or otherwise dispose of all or part of the Louisville VA Medical Center, to negotiate for the conveyance, lease, or other disposal of the Medical Center to the Commonwealth of Kentucky for its use to provide services for veterans or for other purposes. The bill would not relieve the Commonwealth from the burden of paying fair market value for the land.

*Compromise Agreement*

Section 418 of the Compromise Agreement follows the Senate language.

### SEC. 419—TRANSFER OF JURISDICTION, GENERAL SERVICES ADMINISTRATION PROPERTY, BOISE, IDAHO

*Current Law*

No similar provision exists under current law.

*House Bill*

The House Bills contains no comparable provision.

*Senate Bill*

Section 111 of S. 2485, as reported, would direct the transfer of certain land in Boise, Idaho, administered by the General Services Administration to VA.

*Compromise Agreement*

Section 419 of the Compromise Agreement follows the Senate language.

## Subtitle C—Designation of Facilities

### SEC. 421—THOMAS E. CREEK DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

*Current Law*

No similar provision exists under current law.

*House Bill*

H.R. 4836 would designate the Department of Veterans Affairs Medical Center in Amarillo, Texas, the "Thomas E. Creek Department of Veterans Affairs Medical Center".

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Agreement*

Section 421 of the Compromise Agreement follows the House language.

### SEC. 422—JAMES J. PETERS DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

*Current Law*

No similar provision exists under current law.

*House Bill*

The House Bills contain no comparable provision.

*Senate Bill*

Section 121 of S. 2485, as reported, would designate the Department of Veterans Affairs Medical Center in the Bronx, New York, the "James J. Peters Department of Veterans Affairs Medical Center"

*Compromise Agreement*

Section 422 of the Compromise Agreement follows the Senate language.

### SEC. 423—BOB MICHEL DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

*Current Law*

No similar provision exists under current law.

*House Bill*

H.R. 4608 would designate the Department of Veterans Affairs outpatient clinic in Peoria, Illinois, the "Bob Michel Department of Veterans Affairs Outpatient Clinic".

*Senate Bill*

S. 2596 would designate the Department of Veterans Affairs outpatient clinic in Peoria, Illinois, the "Bob Michel Department of Veterans Affairs Outpatient Clinic".

*Compromise Agreement*

Section 423 of the Compromise Agreement follows the language of the House and Senate Bills.

### SEC. 424.—CHARLES WILSON DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

*Current Law*

No similar provision exists under current law.

*House Bill*

H.R. 4317 would designate the Department of Veterans Affairs outpatient clinic in Lufkin Texas the "Charles Wilson Department of Veterans Affairs Outpatient Clinic".

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Agreement*

Section 424 of the Compromise Agreement follows the House language.

### SEC. 425—THOMAS P. NOONAN, JR. DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

*Current Law*

No similar provision exists under current law.

*House Bill*

H.R. 1318 would designate the Department of Veterans Affairs outpatient clinic in Sunnyside, Queens, New York, the "Thomas P. Noonan, Jr. Department of Veterans Affairs Outpatient Clinic".

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Bill*

Section 425 of the Compromise Agreement follows the House language.

## TITLE V—PERSONNEL ADMINISTRATION

### SEC. 501—PILOT PROGRAM TO STUDY INNOVATIVE RECRUITMENT TOOLS TO ADDRESS NURSING SHORTAGES AT DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITIES

*Current Law*

No similar provision exists under current law.

*House Bill*

Section 2 of H.R. 4231 would establish a pilot program within VA to study the use of outside recruitment, advertising and communications agencies, and the use of interactive and online technologies, to improve VA's program for recruiting nursing personnel.

*Senate Bill*

The Senate bill contains no comparable provision.

*Compromise Agreement*

Section 501 of the Compromise Agreement follows the House language.

### SEC. 502—CORRECTION TO LISTING OF CERTAIN HYBRID POSITIONS IN THE VETERANS HEALTH ADMINISTRATION

*Current Law*

Section 7401 of title 38, United States Code, authorizes VA to appoint medical care personnel, under title 5, United States Code, or title 38, United States Code, depending on the duties of such personnel.

*House Bill*

Section 4 of H.R. 4231, as amended, would authorize the appointment under title 38, United State Code, of blind rehabilitation specialists and blind rehabilitation outpatient specialists.

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Agreement*

Section 502 of the Compromise Agreement follows the House language.

### SEC. 503 UNDER SECRETARY FOR HEALTH

*Current Law*

Section 305(A)(2) of title 38, United States Code, requires that the Under Secretary for Health be a "doctor of medicine."

*House Bill*

Section 7 of H.R. 4231, as amended, would repeal the requirement that VA's Under Secretary for Health be a medical doctor.

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Agreement*

Section 503 of the Compromise Agreement follows the House language.

## TITLE VI—OTHER MATTERS

### SEC 601—EXTENSION AND CODIFICATION OF AUTHORITY FOR RECOVERY AUDITS

*Current Law*

Public Law 108-199, the "Fiscal Year 2004 VA-HUD and Independent Agencies Appropriations Act," requires VA to conduct a program of recovery audits for fee basis contracts and other medical services contracts for the care of veterans.

*House Bill*

The House Bill contains no comparable provision.

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Agreement*

Section 601 of the Compromise Agreement requires VA to enter into a contract with a private entity or entities to conduct a program of recovery audits for fee basis contracts and other medical services contracts for the care of veterans. The requirement expires on September 30, 2008.

The Committee is concerned that third-party health insurers are not following the regular process for handling third-party claim appeals throughout the Veterans Health Administration. The Committee encourages the Secretary to assist third-party insurers in processing disputed claims. Further, the Committee encourages the Secretary, should he deem it to be in the interest of the United States, to use an automated and electronic system of downloading information in a standardized format to ensure third-party insurer compliance with the rules and regulations of dispute resolution through the appeals process.

### SEC. 602—INVENTORY OF MEDICAL WASTE MANAGEMENT ACTIVITIES AT DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITIES

*Current Law*

No similar provision exists under current law.

*House Bill*

Section 401 of H.R. 4658 requires the Secretary to establish and maintain an inventory of medical waste management activities in VA medical facilities and submit a report on such activities by April 15, 2005.

*Senate Bill*

The Senate bill contains no comparable provision.

*Compromise Agreement*

Section 602 of the Compromise Agreement follows the House language, except that the required report would be due on June 30, 2005.

### SEC. 603—INCLUSION OF ALL ENROLLED VETERANS AMONG PERSONS ELIGIBLE TO USE CANTEENS OPERATED BY VETERANS' CANTEEN SERVICE

*Current Law*

Section 7803 of title 38, United States Code, defines those persons eligible to use the Veterans' Canteen Service.

*House Bill*

Section 201 of H.R 4768, as amended, would expand the definition of persons eligible to use the Veterans' Canteen Service to include all individuals enrolled in VA health care under section 1705 of title 38, United States Code, or such individuals' families, and persons employed at VA facilities.

*Senate Bill*

The Senate bill contains no comparable provision.

*Compromise Agreement*

Section 603 of the Compromise Agreement follows the House language.

### SEC. 604—ANNUAL REPORTS ON WAITING TIMES FOR APPOINTMENTS FOR SPECIALTY CARE

*Current Law*

No similar provision exists under current law.

*House Bill*

The House bills contain no comparable provision.

*Senate Bill*

Section 207 of S. 2485, as reported, would require VA to report annually on patient appointment waiting times, including specialty and primary care services.

*Compromise Agreement*

Section 604 of the Compromise Agreement requires the Secretary to report, not later than January 31 of each year through 2007, on veterans waiting more than 3 months for scheduled appointments in specialty care clinics and on the reasons for such delays. Further, the Compromise Agreement requires the Comptroller General to certify the accuracy of the report submitted under this section.

### SEC. 605—TECHNICAL CLARIFICATION

*Current Law*

Section 8111 of title 38, United States Code, requires the Secretary and the Secretary of Defense to enter into agreements and contracts for the mutually beneficial sharing of health care resources. Section 8111 also establishes a fund, known as the "DOD-VA Health Care Sharing Incentive Fund," to provide incentives to enter into such sharing initiatives.

*House Bill*

Section 6 of H.R. 4231, as amended, makes the established DOD-VA Health Care Sharing Incentive Fund available for any purpose authorized by section 8111.

*Senate Bill*

The Senate Bill contains no comparable provision.

*Compromise Agreement*

Section 605 of the Compromise Agreement follows the House language.

Mr. FRIST. Mr. President, I ask unanimous consent that the substitute amendment at the desk be agreed to, the committee amendment, as amended, be agreed to, the bill, as amended, be read a third time, and the Veterans' Affairs Committee then be discharged from further consideration of H.R. 3936, and the Senate proceed to its immediate consideration. I further ask consent that all after the enacting clause be stricken, and the text of S. 2485, as amended, be inserted in lieu thereof; the bill, as amended, be read a third timed and passed, the amendment to the title, as amended, be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

I ask unanimous consent that S. 2485 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4048) was agreed to.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment, as amended, was agreed to.

The bill (H.R. 3936), as amended, was read the third time and passed.

The amendment (No. 4049) was agreed to, as follows:

AMENDMENT NO. 4049

*Amend the title so as to read:* "A bill to amend title 38, United States Code, to increase the authorization of appropriations for grants to benefit homeless veterans, to improve programs for management and administration of veterans' facilities and health care programs, and for other purposes.".

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## GRANTING A FEDERAL CHARTER TO THE NATIONAL AMERICAN INDIAN VETERANS, INCORPORATED

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 788, S. 2938.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2938) to grant a Federal charter to the National American Indian Veterans, Incorporated.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, all with no intervening action or debate, and that any statements related to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2938) was read the third time and passed, as follows:

S. 2938

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. RECOGNITION AS CORPORATION AND GRANT OF FEDERAL CHARTER FOR NATIONAL AMERICAN INDIAN VETERANS, INCORPORATED.**

(a) IN GENERAL.—Part B of subtitle II of title 36, United States Code, is amended by inserting after chapter 1503 the following new chapter:

### "CHAPTER 1504—NATIONAL AMERICAN INDIAN VETERANS, INCORPORATED

"**Sec.**
"150401. Organization.
"150402. Purposes.
"150403. Membership.
"150404. Board of directors.
"150405. Officers.
"150406. Nondiscrimination.
"150407. Powers.
"150408. Exclusive right to name, seals, emblems, and badges.
"150409. Restrictions.
"150410. Duty to maintain tax-exempt status.
"150411. Records and inspection.
"150412. Service of process.
"150413. Liability for acts of officers and agents.
"150414. Failure to comply with requirements.
"150415. Annual report.

**"§ 150401. Organization**

"The National American Indian Veterans, Incorporated, a nonprofit corporation organized in the United States (in this chapter referred to as the 'corporation'), is a federally chartered corporation.

**"§ 150402. Purposes**

"The purposes of the corporation are those stated in its articles of incorporation, constitution, and bylaws, and include a commitment—

"(1) to uphold and defend the Constitution of the United States while respecting the sovereignty of the American Indian, Alaska Native, and Native Hawaiian Nations;

"(2) to unite under one body all American Indian, Alaska Native, and Native Hawaiian veterans who served in the Armed Forces of United States;

"(3) to be an advocate on behalf of all American Indian, Alaska Native, and Native Hawaiian veterans without regard to whether they served during times of peace, conflict, or war;

"(4) to promote social welfare (including educational, economic, social, physical, cultural values, and traditional healing) in the United States by encouraging the growth and development, readjustment, self-respect, self-confidence, contributions, and self-identity of American Indian veterans;

"(5) to serve as an advocate for the needs of American Indian, Alaska Native, and Native Hawaiian veterans, their families, or survivors in their dealings with all Federal and State government agencies;

"(6) to promote, support, and utilize research, on a nonpartisan basis, pertaining to the relationship between the American Indian, Alaska Native, and Native Hawaiian veterans and American society; and

"(7) to provide technical assistance to the 12 regional areas without veterans committees or organizations and programs by—

"(A) providing outreach service to those Tribes in need; and

"(B) training and educating Tribal Veterans Service Officers for those Tribes in need.

**"§ 150403. Membership**

"Subject to section 150406 of this title, eligibility for membership in the corporation, and the rights and privileges of members, shall be as provided in the constitution and by-laws of the corporation.

**"§ 150404. Board of directors**

"Subject to section 150406 of this title, the board of directors of the corporation, and the responsibilities of the board, shall be as provided in the constitution and bylaws of the corporation and in conformity with the laws under which the corporation is incorporated.

**"§ 150405. Officers**

"Subject to section 150406 of this title, the officers of the corporation, and the election of such officers, shall be as provided in the constitution and bylaws of the corporation and in conformity with the laws of the jurisdiction under which the corporation is incorporated.

**"§ 150406. Nondiscrimination**

"In establishing the conditions of membership in the corporation, and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, national origin, handicap, or age.

**"§ 150407. Powers**

"The corporation shall have only those powers granted the corporation through its articles of incorporation and its constitution and bylaws which shall conform to the laws of the jurisdiction under which the corporation is incorporated.

**"§ 150408. Exclusive right to name, seals, emblems, and badges**

"(a) IN GENERAL.—The corporation shall have the sole and exclusive right to use the names 'National American Indian Veterans, Incorporated' and 'National American Indian Veterans', and such seals, emblems, and badges as the corporation may lawfully adopt.

"(b) CONSTRUCTION.—Nothing in this section shall be construed to interfere or conflict with established or vested rights.

**"§ 150409. Restrictions**

"(a) STOCK AND DIVIDENDS.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

"(b) DISTRIBUTION OF INCOME OR ASSETS.—(1) No part of the income or assets of the corporation shall inure to any person who is a member, officer, or director of the corporation or be distributed to any such person during the life of the charter granted by this chapter.

"(2) Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation, or reimbursement for actual and necessary expenses, in amounts approved by the board of directors.

"(c) LOANS.—The corporation shall not make any loan to any officer, director, member, or employee of the corporation.

"(d) NO FEDERAL ENDORSEMENT.—The corporation shall not claim congressional approval or Federal Government authority by virtue of the charter granted by this chapter for any of its activities.

**"§ 150410. Duty to maintain tax-exempt status**

"The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

**"§ 150411. Records and inspection**

"(a) RECORDS.—The corporation shall keep—

"(1) correct and complete books and records of accounts;

"(2) minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors; and

"(3) at its principal office, a record of the names and addresses of all members having the right to vote.

"(b) INSPECTION.—(1) All books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

"(2) Nothing in this section shall be construed to contravene the laws of the jurisdiction under which the corporation is incorporated or the laws of those jurisdictions within which the corporation carries on its activities in furtherance of its purposes within the United States and its territories.

**"§ 150412. Service of process**

"With respect to service of process, the corporation shall comply with the laws of the jurisdiction under which the corporation is incorporated and those jurisdictions within which the corporation carries on its activities in furtherance of its purposes within the United States and its territories.

**"§ 150413. Liability for acts of officers and agents**

"The corporation shall be liable for the acts of the officers and agents of the corporation when such individuals act within the scope of their authority.

**"§ 150414. Failure to comply with requirements**

"If the corporation fails to comply with any of the restrictions or provisions of this chapter, including the requirement under section 150410 of this title to maintain its status as an organization exempt from taxation, the charter granted by this chapter shall expire.

**"§ 150415. Annual report**

"(a) IN GENERAL.—The corporation shall report annually to Congress concerning the activities of the corporation during the preceding fiscal year.

"(b) SUBMITTAL DATE.—Each annual report under this section shall be submitted at the same time as the report of the audit of the corporation required by section 10101(b) of this title.

"(c) REPORT NOT PUBLIC DOCUMENT.—No annual report under this section shall be printed as a public document.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 36, United States Code, is amended by insert after the item relating to chapter 1503 the following new item:

**"1504. National American Indian Veterans, Incorporated** 150401".

## MEASURE PLACED ON THE CALENDAR—S. 2949

Mr. FRIST. Mr. President, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 2949) to amend the Low-Income Home Energy Assistance Act of 1981 to reauthorize the Act, and for other purposes.

Mr. FRIST. Mr. President, I object to further proceedings on the measure at this time in order to place the bill on the calendar under the provisions of rule XIV.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

## ORDERS FOR SUNDAY, OCTOBER 10, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10:30 a.m. on Sunday, October 10. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of the conference report to accompany H.R. 4520, the FSC/ETI JOBS bill; provided that the time until 1 p.m. be equally divided between the two managers, with the exception of 20 minutes under the control of Senator BYRD, who will speak as in morning business.

Mr. REID. Mr. President, if I could ask the majority leader to modify his request to the Chair and include therein that Senators GRASSLEY and BAUCUS would be recognized from 12:30 to 1 o'clock, and Senator BYRD from 12:10 to 12:30, Senator LANDRIEU from 11:40 to 12:10, and that the remaining time be allocated to the minority, with Senator HARKIN for 5 minutes, Senator KENNEDY for 5 minutes, and Senator DORGAN for 5 minutes.

Mr. FRIST. Yes. And provided further that if cloture is invoked, Senator LANDRIEU be recognized immediately following the vote to speak for up to 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will resume consideration, in an unusual session on Sunday, of the FSC/ETI JOBS conference report. Under the previous order, we will vote at 1 p.m. on cloture of the FSC bill. I hope cloture is invoked and that we could then reach an agreement for a time certain for passage.

In addition, moments ago I filed cloture on two appropriations matters: Military Construction and Homeland Security. Both are very important bills. It was necessary to file cloture because of the obstruction that has played out over the last 2 days from the other side of the aisle. The votes will likely occur on Monday.

We have those three remaining issues prior to our adjournment. When we complete action on the FSC/ETI bill and the two appropriations bills, then we will have concluded our work that was set out by the Democratic leader and myself days ago; we will be finished.

It has been a tough several days, with a very unusual session today, a full day on Saturday, with votes. Because of these cloture votes, which have certain time limits, we are really forced to come back tomorrow in order to complete our business. It looks like we will be going into the holiday on Monday as well, which is mutually agreed upon between both sides of the aisle in order to complete our business. The bills before us, such as Homeland Security, we need to get through this body. A lot of people watching are wondering, why in the world can't the Senate move more quickly? I hope we can do so.

Right now, we will stay on course and we will enter tomorrow with the schedule that we have outlined, and I think we can make continued progress and complete our work, hopefully, Monday morning. We will continue to consider other legislative or executive items that can be cleared as we go forward.

Again, I thank Members for their participation over the course of yesterday, today, and tomorrow. This is all vitally important work. That is why we were here all day today and well into the evening tonight, and that is why we will be here tomorrow morning in this very unusual session.

I understand that the Chair has an announcement.

## CORRECTING THE ENROLLMENT OF H.R. 5107

The PRESIDING OFFICER. Pursuant to the previous order, the Senate having received from the House H. Con. Res. 519, to correct the enrollment of H.R. 5107, that concurrent resolution is agreed to, and the motion to reconsider is laid on the table.

The concurrent resolution (H. Con. Res. 519) was agreed to.

## ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:43 p.m., adjourned until Sunday, October 10, 2004, at 10:30 a.m.

# SENATE—*Sunday, October 10, 2004*

The Senate met at 10:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, You rule the Earth with goodness and Your mercies sustain us. We praise You on weekdays or weekends, for each heartbeat is a gift from Your bounty. Help us to so live that You will come and find us ready, because our hearts are at peace with You. Bless our legislative Members. Enlighten and illumine them that they may know You and Your precepts. Touch their lips that they may speak no words that grieve You. Give them hearts that are willing to serve. Comfort them in sadness and refresh them when fatigued. Strengthen them when tempted and guide them when they are perplexed. Whatever happens, remind us that You have traveled the road before us and enable us to live victoriously. We pray in Your Holy Name. Amen.

### PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### RECOGNITION OF MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, I welcome everybody this morning. It is unusual to have to meet on a Sunday, but in order to complete the Nation's business, we are doing just that. I know that it has interrupted a number of people's schedules, but we are forced to do so in order to complete business which does affect the safety and security of the American people.

This morning, we will continue debate on the conference report to accompany the FSC, or JOBS bill. We have controlled debate time until the cloture vote, which will occur at 1 p.m. today. If Senators desire to debate the conference report prior to that cloture vote, there will be a limited amount of time and therefore they should notify us early this morning of their request. We hope and expect cloture to be invoked at 1 today. If invoked, we would hope the Senate would then act expeditiously on the conference report.

As a reminder, not that many hours ago but when we closed last night, I filed cloture motions on the two conference reports to accompany the Military Construction appropriations bill and the Homeland Security appropriations bill. As I said last night, I regret having to file those cloture motions. However, there was an objection from the other side of the aisle. I understand the Homeland Security appropriations bill passed unanimously in the House of Representatives. I know of absolutely no issues in that conference report to cause this delay. Therefore, once again, I ask my colleagues to take that into consideration so we can proceed on this very important Homeland Security appropriations bill. That is money to be invested in our security and safety and it is time for us to act.

It is unfortunate that because of the action on the other side of the aisle we are holding up money that will be used to further secure this country.

Having said that, I hope the Members on the other side will rethink this objection and allow us to proceed. I further hope that we can get the disaster package passed in short order as well. It is time to pass this package. We are talking about money to respond to emergencies, to drought, to hurricanes. We are ready to deliver all of that money if we can remove the objections from the other side of the aisle.

Again, I remind my colleagues that the vote will occur at 1 on the cloture motion on FSC/ETI.

### RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### SUPPORTING GOALS OF RED RIBBON WEEK

### LIGHTS ON AFTERSCHOOL DAY

### NATIONAL CHILDHOOD LEAD POISONING PREVENTION WEEK

### CONGRATULATING SPACESHIPONE TEAM FOR ACHIEVING HISTORIC MILESTONE IN HUMAN SPACE FLIGHT

### AMERICAN MUSIC MONTH

### HONORING YOUNG VICTIMS OF SIXTEENTH STREET BAPTIST CHURCH BOMBING

### NATIONAL CHARACTER COUNTS WEEK

### RECOGNIZING SIGNIFICANT ACHIEVEMENTS OF PEOPLE AND GOVERNMENT OF AFGHANISTAN SINCE EMERGENCY LOYA JIRGA WAS HELD JUNE 2002 IN ESTABLISHING FOUNDATION AND MEANS TO HOLD PRESIDENTIAL ELECTIONS ON OCTOBER 9, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 455 through S. Res. 462, which were introduced earlier today, en bloc.

The PRESIDENT pro tempore. Is there objection?

Ms. LANDRIEU. Mr. President, reserving the right to object, I respectfully wish to raise the issue this morning to the leader because I know he has been trying very hard, along with our leader, Senator REID, to move this process along. I am here this morning because I want the leader to know that I want to work with him to do that. Since Wednesday night I have had, along with other Senators, an objection to the Guard and National Reserve being left out of the tax bill.

My question is to the leader, and I know he wants to move forward, but with the chairman of the Finance Committee, could he at least give some indication of his willingness to work through this day for the next couple of hours to see if we can take that matter up by voice vote, taking no time for debate, because it has been cleared? Would that be possible for him to consider as we move through the day?

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. FRIST. Mr. President, I am happy to consider it, as we have been considering it this morning, last night, and yesterday. We will continue to work with the Senator. There are no commitments to be made at this point because there are objections.

The PRESIDENT pro tempore. Is there objection to the request?

Ms. LANDRIEU. Reserving the right to object, I am prepared to not object to this request at this time this morning, but I want to let the leadership know, respectfully, the Republican leadership and the Democratic leadership, that I am prepared to stay here today and object throughout the day if this situation cannot be resolved some way on behalf of the Guard and Reserve officers. But I will not object at this time.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the titles of the resolutions en bloc.

The assistant legislative clerk read as follows:

A resolution (S. Res. 455) supporting the goals of Red Ribbon Week.

A resolution (S. Res. 456) designating October 14, 2004, as Lights On Afterschool Day.

A resolution (S. Res. 457) designating the week of October 24, 2004, through October 30, 2004, as National Childhood Lead Poisoning Prevention Week.

A resolution (S. Res. 458) congratulating the SpaceShipOne team for achieving a historic milestone in human space flight.

A resolution (S. Res. 459) designating November 2004 as American Music Month to celebrate and honor music performance, education, and scholarship in the United States.

A resolution (S. Res. 460) honoring the young victims of the Sixteenth Street Baptist Church bombing, recognizing the historical significance of the tragic event, and commending the efforts of law enforcement personnel to bring the perpetrators of this crime to justice on the occasion of its 40th anniversary.

A resolution (S. Res. 461) designating the week beginning October 17, 2004, as National Character Counts Week.

A resolution (S. Res. 462) recognizing the significant achievements of the people and Government of Afghanistan since the Emergency Loya Jirga was held in June 2002 in establishing the foundation and means to hold presidential elections on October 9, 2004.

There being no objection, the Senate proceeded to consider the resolutions, en bloc.

S. RES. 455

Ms. MURKOWSKI. Mr. President. I rise today in support of this resolution that commemorates the annual Red Ribbon Week. The purpose of Red Ribbon Week is to educate and advocate a commitment to a drug-free life style. Red Ribbon Week also remembers the contribution of one soldier in the war against drugs, DEA Special Agent Enrique "Kiki" Camerena. I am honored to seek the Senate's recognition and support again for the Annual Red Ribbon Campaign.

In my State of Alaska, Red Ribbon Week will be a Statewide celebration involving thousands of school children and those people and organizations who care about the welfare of our children and community. On October 22, the City of Anchorage of will celebrate with a series of Red Ribbon events coordinating with the Alaska Federation of Natives, the Alaska National Guard, the Alaska State Troopers, the Mayor of Anchorage, the Boys & Girls Clubs of Alaska, many PTA groups and many others across the community.

Throughout the week, Alaskans will be encouraged to show gratitude for all the lives that remain drug free, pledge to live a safe and drug-free life and remember those we have lost in the fight against drugs.

The Red Ribbon Week Campaign was started in 1988 by the Federation of Parents. It was organized as a 8-day event and was then chaired by President and Mrs. Reagan. The event began as a tribute to DEA Special Agent Enrique "Kiki" Camerena who was kidnapped, tortured, and murdered by drug traffickers in 1985. I suggest to those who advocate that drugs are a victimless crime talk to the widow and children of Agent Camerena. His sons, Erik and Enrique, Jr. continue to honor their father and work to help children and families that are victims of crimes. His death has become symbolic of the cost of illicit drugs.

The Red Ribbon which we put on is a symbol of zero tolerance for illegal drug use and a commitment to drug abuse prevention. The ribbon will be worn or displayed in the up coming Red Ribbon Week by millions of Americans in an act of unity and remembrance of Agent "Kiki" Camerena.

Illicit drugs, the abuse of drugs, and the business of illegal drugs are not a private matter. Drugs harm children. Drugs harm our communities. Illegal drugs only facilitate dependency, addiction and the breakdown of the families.

Alaska has the highest rates of domestic violence in the Nation and one of the highest rates of sexual assault in the Nation. According to the Anchorage Police Department in almost 80 percent of these cases alcohol and drugs were contributing factors to these crimes. In one rural area of Alaska, 97 percent of all the domestic cases involve drugs or alcohol.

We must encourage our children to make better choices by making the same commitment in our own lives. We as parents and leaders must set good examples.

Our children are growing up in a community that continues to send confusing and mixed signals. Our children are confronting difficult choices on a continuous basis. The popular idols in the media, the movies, television, and music often encourage them to make the wrong decisions. The Red Ribbon Campaign is one effort to help our children make the right decisions.

I urge my colleagues to join me in passing this resolution to help illustrate the Senate's commitment to ensure our children are safe and to encourage all people to live a healthy drug-free life.

S. RES. 456

Ms. STABENOW. Mr. President, I rise today in support of designating October 14, 2004 as Lights On Afterschool Day. Next Thursday will serve as a national celebration of afterschool programming, a day to celebrate the initiatives that offer quality afterschool programs in the lives of children, their families and their communities. On this day, communities around our Nation will engage in innovative afterschool programs and activities to ensure that the lights stay on and the doors stay open for all children after school.

Quality afterschool programs provide safe, engaging and fun learning experiences to help children and youth develop their social, emotional, physical, cultural and academic skills. Such programs also support working families by ensuring their children are safe and productive after the regular school day ends. Afterschool programs also build stronger communities by involving our students, parents, business leaders and adult volunteers in the lives of our young people, thereby promoting positive relationships among children, youth, families and adults. The welfare of our children is also advanced because of the engagement of the families, schools and diverse community partners.

More than 28 million children in the United States have parents who work outside the home, and 14.3 million of them have no place to go after school. In addition, many afterschool programs across the country are facing funding shortfalls so severe that they are being forced to close their doors and turn off their lights.

I implore my colleagues to support designating October 14, 2004, as Lights On Afterschool Day, and ask the President to issue a proclamation calling on the communities of this Nation to engage in innovative afterschool programs and activities for all children after school.

S. RES. 457

Mr. REED. Mr. President, today I, Senators COLLINS, MIKULSKI, BOND and over 35 cosponsors are supporting a resolution designating the week of October 24–30, 2004 as National Childhood Lead Poisoning Prevention Week.

The need to combat the severe threat of lead poisoning to our children's health has never been greater. It is estimated that 25 million homes nationwide have lead hazards. Many of those homes were built before 1950 when paint contained as much as 50 percent lead. Peeling chips and dust from deteriorating lead-based paint are the most common sources of childhood lead poisoning. According to the latest national health estimates, nearly half a million children under the age of 6 suffer from lead poisoning, with these children eight times more likely to come from low-income working families than wealthy families.

Unfortunately, except for severely poisoned children, there is no medical treatment for this disease. Even then, for severely poisoned children treatment may only reduce the level of lead present in the body, not reverse the harm already caused. Research shows that children with elevated blood lead levels are seven times more likely to drop out of high school and six times more likely to have reading disabilities. In addition, it costs an average of $10,000 more a year to educate a lead poisoned child.

We need to find the will and the resources to eradicate childhood lead poisoning in this country. Designating the week of October 24, 2004 through October 30, 2004 as "National Childhood Lead Poisoning Prevention Week" will help shine a light on this terrible problem, energize the Federal Government into playing a more active role in eliminating, and help improve local, State and Federal cooperation on this issue. With concerted effort, we can eliminate the tragedy of childhood lead poisoning so that no family in our country has to live in unsafe housing. I am committed to addressing this crisis, and I believe this resolution can encourage more communities to focus on solving this terrible problem.

### S. RES. 458

Mr. BINGAMAN. Mr. President, October 4, 2004, marked a historic milestone in human space flight. On that day, SpaceShipOne became the first privately funded space vehicle to escape from and safely return to Earth twice within 2 weeks, thereby winning the Ansari X Prize. The craft also broke the record for maximum altitude achieved by a plane, which was set by the X-15 in 1963. This is a truly landmark achievement, and its designer, Burt Rutan, as well as its test pilots Mike Melvill and Brian Binnie, are to be commended along with the rest of the SpaceShipOne team for their extraordinary courage and ingenuity.

The Ansari X Prize was established to jumpstart the space tourism industry, to inspire and educate students, to focus public attention and investment capital on this new business frontier, and to challenge explorers and rocket scientists around the world. It has already achieved each of these goals, and without a penny of Government funding. The $10 million prize was modeled after the $25,000 Orteig Prize won by transatlantic aviator and American legend Charles Lindbergh in 1927. It should be noted that the Defense Advanced Research Projects Agency, DARPA, uses a similar prize model to accomplish many of its mission-oriented breakthroughs. So perhaps given the success of this approach in unleashing the potential of America's brightest minds, we should use it to tackle other areas of research critical to our nation's future as well.

As for the cost, one of this competition's most amazing results is the potential of a dramatically reduced price tag for human space flight. The total investment in SpaceShipOne was reportedly just over $20 million from the drawing board to yesterday's success, which is currently far less than the cost of a single Government-sponsored human mission. More affordable technology will lead to applications that could only be imagined until now.

I eagerly look forward to the annual competition for an X Prize Cup, which begins in 2006 at White Sands Missile Range outside Las Cruces in my home State of New Mexico. This competition will build on the success of the original X Prize to foster the early evolution of commercial human space flight, and make the dream of space travel a reality that anyone can achieve.

To commemorate the tremendous talent and vision demonstrated by the SpaceShipOne team, today Senators McCAIN, HOLLINGS, BROWNBACK, DOMENICI and I are introducing this Senate resolution. I hope that other Members of the Senate will join us in honoring their remarkable accomplishments.

### S. RES. 459

Mr. DURBIN. Mr. President, I rise today in support of the resolution with my colleague, Senator LAMAR ALEXANDER, designating November, 2004, as American Music Month.

Of all the creative and artistic contributions our Nation has offered to the world in its short history, our music is perhaps the most definitively American aspect of our culture.

America's vast and profound repertoire of music expresses our country's vital cultural and social identities and empowers us to preserve our past and pursue our future; it transforms our wondrous and harsh experiences into potent messages that freely declare democratic choice and freedom of expression; it inspires social justice, enlivens collective action, and reflects our Nation's dynamic social movements.

Senator ALEXANDER and I ask our colleagues to join with us in recognizing American musical heritage as an expression of this country's democratic freedoms and indomitable spirit.

Several prominent music organizations and their members have been celebrating American Music Month in November for many years. The contributions of these groups, in music education, preservation, scholarship, promotion and performance, should be highlighted during American Music Month. They help us experience and appreciate our Nation's musical heritage.

The Society for American Music, first named in honor of Oscar G.T. Sonneck, early director of the music division in the Library of Congress and pioneer scholar of American music, strives to stimulate the appreciation, performance, creation, and study of American music and its cultures in all their diversity.

The MENC: The National Association for Music Education was established in 1907 to advance music education by encouraging the study and making of music to celebrate and preserve our cultural heritages. Today it includes a membership of more than 100,000 active music teachers, university faculty and researchers, college students preparing to be teachers, high school honor society members, and music afficianados.

The College Music Society actively promotes music teaching and learning, music research and dialogue, and diversity and interdisciplinary interaction among cultural institutions.

The Music Library Association provides a forum for study and action on issues that affect music libraries and assures that users of music materials are well served by their libraries.

The American Musicological Society was established in 1934 as a body of scholars devoted to the advancement of research in the various fields of music as a branch of learning and scholarship.

The organization Americans for the Arts, created in 1996 as a result of the merger of the National Assembly of Local Arts Agencies and the American Council for the Arts, is dedicated to representing and serving local communities and creating opportunities for every American to participate in and appreciate all forms of the arts.

The United States Marine Band was established by an Act of Congress in 1798 and represents America's oldest professional musical organization. Its primary mission is to provide music for the President of the United States and the Commandant of the Marine Corps. November 2004 marks the sesquicentennial of the birth of John Philip Sousa, director of the Marine Band from 1880 to 1892. Sousa brought "The President's Own" to unprecedented levels of excellence and shaped the band into a world-famous musical organization. The band continues to maintain Sousa's standard of excellence for the performance of America music today, through White House performances, public concerts, and national tours.

In June of 2004, the Illinois House of Representatives adopted a measure similar to that which we offer today. Approval by the Senate will be an important step toward the national recognition of this month of celebration. I urge the Senate to pass this resolution in a timely fashion so that we can properly honor American Music in all its forms.

### S. RES. 461

Mr. DOMENICI. Mr. President, I rise today to support, with my friend Senator DODD this resolution regarding National Character Counts Week." Our resolution says the week of October 17th of this year will be known across the country as National Character Counts Week.

Nearly a century ago President Theodore Roosevelt said the following about character:

> Character, in the long run, is the decisive factor in the life of an individual and of nations alike.

I submit that character truly does transcend time as well as religious, cultural, political, and socio-economic barriers. I believe our country is having a renewed focus on character and this sends a wonderful message to Americans, and will help those of us involved in character education reinvigorate our efforts to get communities and schools involved.

I say that because a number of years ago we started this approach to character education called "character counts." Senators Nunn, Dodd and I first submitted the resolution that has now passed the Senate on innumerable occasions. The resolution simply declares that for all of America, one week during the year will be known as National Character Counts Week.

Frankly, we hear a lot about how we should help our young people growing up in this often difficult society. However, I believe the key is finding those ideas and programs that work. We all understand that there are certain people who have the primary responsibility to care for our children like mothers, fathers, siblings, and grandparents. We are not in any way talking about negating that responsibility of raising a child with good values. However, we have found the teachers in our schools have been yearning for something they could teach our children that for some reason had been eliminated from both the public and private school agenda curriculum. It is sometimes referred to as character education.

I choose to speak about the "character counts" program that is being used in many public schools in our country, and certainly in my State of New Mexico where teachers embrace the six pillars of character. The values comprising the six pillars are everyday concepts that Americans across this land wish their children would have and hope America will keep. They are simply: trustworthiness, respect, responsibility, fairness, caring, and citizenship. They transcend political and social barriers and are central to the ideals on which this Nation was built.

I could speak for hours about the 200,000 New Mexico schoolchildren in public, private and parochial schools learning about good character. About 90 percent of the grade school children, and a significant portion of the others, are now participating in character education programs that simply and profoundly bring them into contact with each of these Pillars one month at a time.

So if one walks the halls of a grade school in Albuquerque, they might see a sign outside that says, "This Is Responsibility Month." And all the young people will be discussing the concept of responsibility in their classrooms, and they will put up posters saying, "responsibility counts." At the end of that month they may have an assembly where responsibility will be discussed by all the kids, and awards will be given to those demonstrating the most responsibility. The next month it might be "respect." The month after that it might be "caring."

I could go on for quite some time talking about "character counts" in New Mexico. The bottom line is that I believe it is working in New Mexico and other parts of the country. Consequently, I think we need to salute the efforts already underway and encourage even more character education across our country.

So today, Senator DODD and I are here to submit a resolution to accomplish just that and hopefully our renewed effort will bring together even more communities to ensure that character education is a part of every child's life.

I hope that my colleagues will support this effort.

Mr. DODD. Mr. President, today I join my friend and colleague from New Mexico, Senator DOMENICI, in support of a resolution declaring next week National Character Counts Week. Senator DOMENICI and I have worked together for many years on the issue of character education and hope that by designating a special week to this cause, students and teachers will come together to participate in character building activities in their schools. In 1994, Senator DOMENICI and I established the Partnerships in Character Education Pilot Project and have worked regularly since then to commemorate National Character Counts Week. I am pleased that we are continuing our efforts today to help expand States' and schools' abilities to make character education a central part of every child's education.

Our schools may be built with the bricks of English, math and science, but character education certainly is the mortar. Character education means teaching students about such qualities as caring, citizenship, fairness, respect, responsibility, trustworthiness, and other qualities that their community values.

Character education provides students a context within which to learn. If we view education simply as the imparting of knowledge to our children, then we will not only miss an opportunity, but will jeopardize our future. Character education is not a separate subject, but part of a seamless garment of learning. Taking this to heart, teachers and administrators at the Ivy Drive Elementary School in Bristol, CT, incorporate the fundamentals of character education into a school wide program. In its eighth year, the Character, Assets & Resiliency Education, C.A.R.E, program integrates several pillars of character into daily lessons and special events. This year Ivy Drive chose "swimming to success" as their theme to build on the previous year's "lets go fishing" giving each child the opportunity to focus on the fundamentals of character education.

Two Hartford, CT Elementary Schools, Burr Elementary and Kennelly Elementary, recently demonstrated outstanding community service through their character education program. Supervised by their teachers, students raised close to $1000 in financial support for the family of a fifth grade student who died of leukemia. In doing so, they implemented the character pillars of caring, citizenship, and diligence.

The New Haven Public Schools recently implemented a 4-year character education curriculum within a pre-existing social development program. Grades K–3 experience the "incredible years" curriculum, focusing on social skills and peer relations through service learning, community outreach, and teacher and parent training. A total of 700 character related lessons were taught in 2003–2004. Community service projects included visits to the central firehouse, local animal shelter and elderly care home.

Character education programs work. Schools across the country that have adopted strong character education programs report better student performance, fewer discipline problems, and increased student involvement within the community. Children want direction, they want to be taught right from wrong. The American public wants character education in our schools, too. Studies show that about 90 percent of Americans support schools teaching character education.

As all education policy should be, character education is bi-partisan. This year we have 31 cosponsors to our resolution, cosponsors on both sides of the aisle. Character education is also actively supported by a number of national education and youth organizations including 4–H and the Boys and Girls Clubs of America. Character education can and is being incorporated into children's lives in and outside of the classroom.

This measure provides a helping hand to our schools and communities to ensure those children's future are bright and filled with opportunities and success. Character education not only cultivates minds, it nurtures hearts.

While our children may be one quarter of our population, they are 100 percent of our future.

### S. Res. 462

Mr. HAGEL. Mr. President, I rise today in support of a resolution recognizing the landmark Presidential elections that took place in Afghanistan on Saturday, October 9, 2004.

My colleagues Senators LUGAR, BIDEN, LEAHY, MCCAIN, SUNUNU and DODD join me as original co-sponsors of this resolution.

The Government and people of Afghanistan deserve our praise and recognition for their achievements since the emergency Loya Jirga of June 2002. The process leading to this historic election has not always been easy. Warlords and Taliban members have sought to intimidate voters and disrupt the process. But the government of President Hamid Karzai and the people of Afghanistan have not been deterred. More than 10.5 million Afghan citizens have been reported registered to vote, reflecting the courage and commitment of Afghans to a democratic future. Over 40 percent of those registered are women.

The Afghanistan Freedom Support Act of 2002, P.L. 107–327, expressed the U.S. Congress's support for the development of democratic institutions and a fully representative government in Afghanistan that respects religious freedom and the rights of women. The Presidential election this week is a critical benchmark for America's commitment to a long-term partnership with Afghanistan for responsible governance and a more peaceful future.

America's interests in Afghanistan are linked to our wider regional objectives in the war on terrorism, and in promoting security and more open political and economic systems throughout the greater Middle East and Central Asia.

President Bush said on June 15, 2004, that "the world and the United States stand with [the people of Afghanistan] as partners in their quest for peace and prosperity and stability and democracy."

I ask the Senate to recognize the historic achievement of the Afghan people in holding Presidential elections this past Saturday, and to join the co-sponsors of this resolution and me in expressing our continued support for the people of Afghanistan.

Mr. FRIST. I ask unanimous consent that the resolutions be agreed; the preambles be agreed to; the motions to reconsider be laid upon the table, en bloc.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolutions (S. Res. 455 through S. Res. 462) were agreed to, en bloc.

The preambles were agreed to, en bloc.

The resolutions, with their preambles, read as follows:

### S. Res. 455

Whereas the Governors and Attorneys General of the States, the National Family Partnership, Parent Teacher Associations, Boys and Girls Clubs of America, and more than 100 other organizations throughout the United States annually cosponsor Red Ribbon Week during the week of October 23 through October 31;

Whereas a purpose of the Red Ribbon Campaign is to commemorate the service of Enrique "Kiki" Camarena, a Drug Enforcement Administration special agent who died in the line of duty while engaged in the battle against illicit drugs;

Whereas Red Ribbon Week is nationally recognized and celebrated, helping to preserve Special Agent Camarena's memory and further the cause for which he gave his life;

Whereas the objective of Red Ribbon Week is to promote drug-free communities through drug prevention efforts, education, parental involvement, and communitywide support;

Whereas drug and alcohol abuse contributes to domestic violence and sexual assaults, and places the lives of children at risk;

Whereas drug abuse is one of the major challenges our Nation faces in securing a safe and healthy future for our families and children; and

Whereas parents, youth, schools, businesses, law enforcement agencies, religious institutions, service organizations, senior citizens, medical and military personnel, sports teams, and individuals throughout the United States demonstrate their commitment to drug-free, healthy lifestyles by wearing and displaying red ribbons during this weeklong celebration: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals of Red Ribbon Week;

(2) encourages children and teens to choose to live a drug-free life; and

(3) encourages all people of the United States to promote drug-free communities and to participate in drug prevention activities to show support for healthy, productive, drug-free lifestyles.

### S. Res. 456

Whereas quality afterschool programs provide safe, challenging, engaging, and fun learning experiences to help children and youth develop their social, emotional, physical, cultural, and academic skills;

Whereas quality afterschool programs support working families by ensuring their children are safe and productive after the regular school day ends;

Whereas quality afterschool programs build stronger communities by involving students, parents, business leaders, and adult volunteers in the lives of young people, thereby promoting positive relationships among children, youth, families, and adults;

Whereas quality afterschool programs engage families, schools, and diverse community partners in advancing the welfare of children;

Whereas "Lights On Afterschool!", a national celebration of afterschool programs on October 14, 2004, promotes the critical importance of quality afterschool programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home, and 14,300,000 children have no place to go after school; and

Whereas many afterschool programs across the country are facing funding shortfalls so severe that they are forced to close their doors and turn off their lights: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates October 14, 2004, as "Lights On Afterschool! Day"; and

(2) requests that the President issue a proclamation calling on the communities of the Nation to engage in innovative afterschool programs and activities that ensure the lights stay on and the doors stay open for all children after school.

### S. Res. 457

Whereas lead poisoning is a leading environmental health hazard to children in the United States;

Whereas according to the Centers for Disease Control and Prevention, 434,000 preschool children in the United States have harmful levels of lead in their blood;

Whereas lead poisoning may cause serious, long-term harm to children, including reduced intelligence and attention span, behavior problems, learning disabilities, and impaired growth;

Whereas children from low-income families are 8 times more likely to be poisoned by lead than are children from high-income families;

Whereas children may be poisoned by lead in water, soil, or consumable products;

Whereas children most often are poisoned in their homes through exposure to lead particles when lead-based paint deteriorates or is disturbed during home renovation and repainting; and

Whereas lead poisoning crosses all barriers of race, income, and geography: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week of October 24, 2004, through October 30, 2004, as "National Childhood Lead Poisoning Prevention Week"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe such week with appropriate programs and activities.

### S. Res. 458

Whereas the Ansari X Prize was established with private capital to jumpstart the space tourism industry, inspire and educate students, focus public attention and investment capital on this new business frontier, and challenge explorers and rocket scientists around the world;

Whereas the $10,000,000 Ansari X Prize was modeled after the $25,000 Orteig Prize won by trans-Atlantic aviator Charles Lindbergh in 1927;

Whereas on October 4, 2004, SpaceShipOne, designed by Burt Rutan and flown first by Mike Melvill and later by Brian Binnie, won the Ansari X Prize by being the first privately funded space vehicle to depart from and safely return to Earth twice within 2 weeks;

Whereas SpaceShipOne broke the previous record for maximum altitude achieved by a plane, which was set by the X-15 in 1963;

Whereas the SpaceShipOne flights represent a historic accomplishment for humanity; and

Whereas future achievements in commercial space flight will be stimulated by an ongoing annual competition for an X Prize Cup, beginning in 2006 at White Sands Missile Range outside Las Cruces, New Mexico: Now, therefore be it

*Resolved*, That the Senate—

(1) congratulates the SpaceShipOne team led by Bert Rutan, and test pilots Mike Melvill and Brian Binnie, for their historic achievement in human space flight;

(2) recognizes the contributions of all members and supporters of the X Prize Foundation and the SpaceShipOne team, the efforts of which were instrumental in this accomplishment; and

(3) encourages the continuation of efforts towards practical commercial space flight through future X Prize Cup and other competitions.

### S. RES. 459

Whereas the music of the United States embodies the artistic reflection of the country's history and heritage and the promise of its ideals and values;

Whereas the music of the United States transcends culture, gender, race, class, and creed, and thrives freely as it is continually reinvented, rearranged, transformed, and infused by the personal experiences of men and women;

Whereas the music of the United States expresses the country's vital cultural and social identities and empowers the people of the United States to assert and preserve our pasts for a future, transforms the wondrous and harsh experiences of the people of the United States into potent messages that freely declare democratic choice and freedom of expression, inspires social justice, enlivens collective action, and reflects our Nation's dynamic social movements;

Whereas the National Federation of Music Clubs (NFMC) and its 17th president, Ada Holding Miller, building on their efforts to create American Music week in 1924 with the aid of Arthur Bodansky, conductor of the Metropolitan Opera, and Walter Damrosch, conductor of the New York Symphony Orchestra, established "American Music Month" and the "Parade of American Music" in February 1955 to recognize music and its importance to the social, cultural, historical, and educational development of the United States;

Whereas by action of the NFMC Board of Directors in 1998, the celebration of "American Music Month" was changed to the month of November in 1999 at the request of Sonneck Society for American Music;

Whereas the leading arts and education organizations of the United States, such as the Society for American Music, MENC: the National Association for Music Education, the College Music Society, the Music Library Association, the American Musicological Society, and Americans for the Arts, continue to strive to stimulate the appreciation, performance, creation, and study of music in the United States;

Whereas the month of November has witnessed the births of such artistic legends as Scott Joplin (1868), William Christopher "W. C." Handy (1873), Aaron Copland (1900), Coleman Hawkins (1904), and Mary Travers (1937) of the folk song trio Peter, Paul and Mary; the premiers of the New York Symphony (1878), the Philadelphia Orchestra (1900), Jerome Kern's musical, Show Boat, in Washington, DC (1927), Frede Grofé's Grand Canyon Suite in Chicago (1931), and the first broadcast of the newly-organized National Broadcasting Company (1926);

Whereas November 2004 marks the sesquicentennial of John Philip Sousa's birth on November 6, 1854, and is an occasion to celebrate his monumental contributions to the musical heritage of the United States;

Whereas John Philip Sousa's music continues to embody the unflagging spirit of the United States and, as a product of a renaissance in the art and technology of the United States, affirmed the previous generation's contagious patriotism and profound love of country even as they witnessed the brutalities of a Nation at war; his music was a fanfare about and for all men and women of this United States and his rousing melodies celebrated the best and worst of the diverse cultures and emerging histories of the United States; even today, Sousa's music conveys our Nation's indomitable spirit to the world; and

Whereas John Philip Sousa, as Director of the United States Marine Band from 1880 to 1892, brought "The President's Own" to unprecedented levels of excellence and shaped the band into a world-famous musical organization, and through White House performances, public concerts, and national tours, the Band continues to maintain Sousa's standard of excellence for the performance of the music of the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates November 2004 as "American Music Month" to celebrate music performance, education, and scholarship in the United States;

(2) recognizes that the musical heritage of the United States should be honored, celebrated, and preserved for future generations as expressions of this country's democratic freedoms and indomitable spirit; and

(3) requests the President to issue a proclamation calling on the people of the United States to observe "American Music Month" with appropriate ceremonies and programs to honor the contributions of the music educators, performers, scholars, conductors, composers and arrangers, librarians, archivists, and curators of the United States for their tireless efforts to foster greater understanding and preservation of the diverse music and cultures of the United States through active performance, education, and cultural engagement.

### S. RES. 460

Whereas the Sixteenth Street Baptist Church of Birmingham, Alabama, was constructed in 1911 and served as a center for African-American life in the city and a rallying point for the civil rights movement during the 1960s;

Whereas on Sunday, September 15, 1963, segregationists protesting the mandatory integration of Birmingham's public schools firebombed the Sixteenth Street Baptist Church;

Whereas the blast killed Addie Mae Collins, age 14, Denise McNair, age 11, Carole Robertson, age 14, and Cynthia Wesley, age 14, all members of the Church, while they were preparing for Sunday service;

Whereas September 15, 1963, has been called the darkest day in the history of Birmingham and one of the darkest days of the entire civil rights movement;

Whereas this act of terrorism raised national and international awareness of the African-American civil rights struggle and galvanized those dedicated to the cause of civil rights;

Whereas Congress passed the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241) and the Voting Rights Act of 1965 (Public Law 89-110, 79 Stat. 437) in the wake of the bombing;

Whereas the 4 men suspected of the bombing, Bobby Frank Cherry, Herman Cash, Thomas Blanton, and Robert Chambliss, were not immediately prosecuted because authorities believed it impossible to obtain a conviction in the heated racial climate of the mid-1960s;

Whereas Alabama Attorney General Bill Baxley successfully prosecuted Robert Chambliss 13 years after the bombing;

Whereas after the indictment and conviction of Robert Chambliss, the bombing investigation was closed;

Whereas the bombing investigation was reopened in 1995 due to the efforts of Federal Bureau of Investigation Special Agent Rob Langford and local African-American leaders;

Whereas in 2001 and 2002, a joint Federal and State task force, under the supervision of United States Attorney Douglas Jones and Alabama Attorney General William Pryor, successfully prosecuted Thomas Blanton and Bobby Frank Cherry with the assistance of State and local law enforcement personnel; and

Whereas the bombing, the prosecution of the offenders, and the cause of civil rights in general have become national and international concerns: Now, therefore, be it

*Resolved*, That the Senate, on the occasion of the 40th anniversary of the bombing of the Sixteenth Street Baptist Church of Birmingham, Alabama—

(1) honors the memory of Addie Mae Collins, Denise McNair, Carole Robertson, and Cynthia Wesley;

(2) recognizes the historical significance of the bombing and the enduring impact it has had on the cause of civil rights everywhere; and

(3) commends the efforts of the Alabama Attorney General's office for its successful prosecution of Robert Chambliss in 1977, the efforts of the joint Federal and State task force for the successful prosecution of Bobby Frank Cherry and Thomas Blanton in 2001 and 2002, and the efforts of all other law enforcement personnel who worked to bring the persons responsible for the bombing to justice.

### S. RES. 461

Whereas the well-being of the Nation requires that the young people of the United States become an involved, caring citizenry with good character;

Whereas the character education of children has become more urgent as violence by and against youth increasingly threatens the physical and psychological well-being of the people of the United States;

Whereas more than ever, children need strong and constructive guidance from their families and their communities, including schools, youth organizations, religious institutions, and civic groups;

Whereas the character of a nation is only as strong as the character of its individual citizens;

Whereas the public good is advanced when young people are taught the importance of good character and the positive effects that good character can have in personal relationships, in school, and in the workplace;

Whereas scholars and educators agree that people do not automatically develop good character and that, therefore, conscientious efforts must be made by institutions and individuals that influence youth to help young people develop the essential traits and characteristics that comprise good character;

Whereas, although character development is, first and foremost, an obligation of families, the efforts of faith communities, schools, and youth, civic, and human service organizations also play an important role in fostering and promoting good character;

Whereas Congress encourages students, teachers, parents, youth, and community leaders to recognize the importance of character education in preparing young people to play a role in determining the future of the Nation;

Whereas effective character education is based on core ethical values which form the foundation of democratic society;

Whereas examples of character are trustworthiness, respect, responsibility, fairness, caring, citizenship, and honesty;

Whereas elements of character transcend cultural, religious, and socioeconomic differences;

Whereas the character and conduct of our youth reflect the character and conduct of society, and, therefore, every adult has the responsibility to teach and model ethical values and every social institution has the responsibility to promote the development of good character;

Whereas Congress encourages individuals and organizations, especially those who have an interest in the education and training of the young people of the United States, to adopt the elements of character as intrinsic to the well-being of individuals, communities, and society;

Whereas many schools in the United States recognize the need, and have taken steps, to integrate the values of their communities into their teaching activities; and

Whereas the establishment of National Character Counts Week, during which individuals, families, schools, youth organizations, religious institutions, civic groups, and other organizations would focus on character education, would be of great benefit to the Nation: Now, therefore, be it

*Resolved*, That the Senate—

(1) proclaims the week beginning October 17, 2004, as "National Character Counts Week"; and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to—

(A) embrace the elements of character identified by local schools and communities, such as trustworthiness, respect, responsibility, fairness, caring, and citizenship; and

(B) observe the week with appropriate ceremonies, programs, and activities.

S. RES. 462

Whereas section 101(1) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7511(1)) declares that the "United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan";

Whereas on January 4, 2004, the Constitutional Loya Jirga of Afghanistan adopted a constitution that promises free elections with full participation by women and establishes a legislative foundation for democracy in Afghanistan;

Whereas on June 15, 2004, President Bush stated that "Afghanistan's journey to democracy and peace deserves the support and respect of every nation.... The world and the United States stand with [the people of Afghanistan] as partners in their quest for peace and prosperity and stability and democracy.";

Whereas the independent Joint Electoral Management Body in Afghanistan and thousands of its staff throughout Afghanistan have worked to register voters and organize a fair and transparent election process despite violent and deadly attacks on them and on the purpose of their work;

Whereas more than 10,500,000 Afghans have been reported registered to vote, demonstrating great courage and a deep desire to have a voice in the future of Afghanistan, and more than 40 percent of those reported registered to vote are women;

Whereas the presidential election campaign in Afghanistan officially began on September 7, 2004 and 18 candidates, including one woman, are seeking the presidency;

Whereas on October 9, 2004, the people of Afghanistan will vote in the first direct presidential election, at the national level, in Afghanistan's history at 5,000 polling centers located throughout Afghanistan, as well as polling centers in Pakistan and Iran;

Whereas the United States, the European Union, the Organization for Security and Cooperation in Europe, and the Asian Network for Free Elections will send monitors and support teams to join the more than 4,000 domestic election observers in Afghanistan for the presidential election;

Whereas the United States and many international partners have provided technical assistance and financial support for elections in Afghanistan; and

Whereas the International Security Assistance Force (ISAF), led by the North Atlantic Treaty Organization (NATO), and coalition forces will join the Afghan National Army and police in Afghanistan to help provide security during the presidential election: Now, therefore, be it

*Resolved that it is the sense of the Senate that—*

(1) the United States applauds the steadfast commitment of the people of Afghanistan to achieve responsive and responsible government through democracy;

(2) the United States strongly supports self-government and the protection of human rights and freedom of conscience for all men and women in Afghanistan; and

(3) the United States remains committed to a long-term partnership with the people of Afghanistan and to a peaceful future for Afghanistan.

## AUTHORIZING PRINTING OF REVISED EDITION OF SENATE RULES AND MANUAL

Mr. FRIST. I ask unanimous consent that the Senate proceed to the consideration of S. Res. 463.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 463) authorizing the printing of a revised edition of the Senate Rules and Manual.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 463) was agreed to, as follows:

S. RES. 463

*Resolved*,

**SECTION 1. REVISED EDITION OF THE SENATE RULES AND MANUAL.**

(a) REVISED EDITION.—The Committee on Rules and Administration of the Senate shall prepare a revised edition of the Senate Rules and Manual for the use of the 109th Congress.

(b) SENATE DOCUMENT.—The revised edition of the Senate Rules and Manual shall be printed as a Senate document.

(c) BINDING AND DISTRIBUTION.—In addition to the usual number of documents, 1,500 additional copies of the revised edition of the Senate Rules and Manual shall be bound and distributed, of which—

(1) 500 paperbound copies shall be for the use of the Senate; and

(2) 1,000 copies shall be delivered as may be directed by the Committee on Rules and Administration and bound as follows:

(A) 550 paperbound.

(B) 250 nontabbed black skiver.

(C) 200 tabbed black skiver.

## EXPRESSING SENSE OF SENATE WITH RESPECT TO PROSTATE CANCER INFORMATION

## NATIONAL VISITING NURSE ASSOCIATION MONTH

## NATIONAL RUNAWAY PREVENTION MONTH

## EXPRESSING SENSE OF CONGRESS THAT IT IS APPROPRIATE TO ANNUALLY OBSERVE PATRIOT DAY, SEPTEMBER 11

## RECOGNIZING AND HONORING MILITARY UNIT FAMILY SUPPORT VOLUNTEERS

Mr. FRIST. Mr. President, I ask unanimous consent that the resolutions at the desk be discharged from their respective committees and the Senate proceed to their consideration, en bloc.

The PRESIDENT pro tempore. The clerk will report the resolutions by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 389) expressing the sense of the Senate with respect to prostate cancer information.

A concurrent resolution (S. Con. Res. 8) designating the second week in May each year as National Visiting Nurse Association Week.

A resolution (S. Res. 430) designating November 2004 as National Runaway Prevention Month.

A concurrent resolution (H. Con. Res. 486) recognizing and honoring military unit family support volunteers for their dedicated service to the United States, the Armed Forces, and members of the Armed Forces and their families.

A concurrent resolution (H. Con. Res. 473) expressing the sense of Congress that it is appropriate to annually observe Patriot Day, September 11, with voluntary acts of service and compassion.

There being no objection, the Senate proceeded to consider the resolutions.

Mr. FRIST. I ask unanimous consent that the amendments at the desk be agreed to; the resolutions, as amended, if amended, be agreed to; the preambles, as amended, if amended, be agreed to; the title amendment, where applicable, be agreed to; and the motions to reconsider be laid upon the table, all en bloc.

The PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the resolution (S. Res. 389), which was agreed to, as follows:

S. RES. 389

Whereas in 2004, it is estimated that approximately 230,000 new cases of prostate cancer will be diagnosed in the United States, and nearly 30,000 men in the United States will die from prostate cancer;

Whereas prostate cancer is the second leading cause of cancer death in men in the United States;

Whereas more than $4,700,000,000 is spent annually in the United States in direct treatment costs for prostate cancer;

Whereas African-American men are diagnosed with and die from prostate cancer more frequently than men of other ethnic backgrounds;

Whereas increased education among health care providers and patients regarding the need for prostate cancer screening tests has resulted in the diagnosis of approximately 86 percent of prostate cancer patients before the cancerous cells have spread appreciably beyond the prostate gland, thereby enhancing the odds of successful treatment;

Whereas the potential complication rates for significant side effects vary among the most common forms of treatment for prostate cancer;

Whereas prostate cancer often strikes elderly people in the United States, men should have an opportunity to learn about the benefits and limitations of testing for prostate cancer detection and of treatment of prostate cancer, so that they can make an informed decision with the assistance of a clinician; and

Whereas Congress as a whole, and Members of Congress as individuals, are in unique positions to support the fight against prostate cancer, to help raise public awareness about the need to make screening tests available to all people at risk for prostate cancer, and to provide prostate cancer patients with adequate information to assess the relative benefits and risks of treatment options: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) national and community organizations and health care providers have played a commendable role in supplying information concerning the importance of screening for prostate cancer and the treatment options for patients with prostate cancer; and

(2) the Federal Government and the States should ensure that health care providers supply prostate cancer patients with appropriate information and any other tools necessary for prostate cancer patients to receive readily understandable descriptions of the advantages, disadvantages, benefits, and risks of all medically efficacious screening and treatments for prostate cancer, including brachytherapy, hormonal treatments, external beam radiation, chemotherapy, surgery, and watchful waiting.

There being no objection, the Senate proceeded to consider the concurrent resolution (S. Con. Res. 8).

The amendments (Nos. 4050 and 4051) were agreed to, as follows:

AMENDMENT NO. 4050

Strike all after the resolving clause and insert the following:

That it is the sense of Congress that there should be established a National Visiting Nurse Association Week.

AMENDMENT NO. 4051

Strike the preamble and insert the following:

Whereas visiting nurse associations ("VNAs") are non-profit home health agencies that, for more than 120 years, have been united in their mission to provide cost-effective and compassionate home and community-based health care to individuals, regardless of the individuals' condition or ability to pay for services;

Whereas there are approximately 500 visiting nurse associations, which employ more than 90,000 clinicians, provide health care to more than 4,000,000 people each year, and provide a critical safety net in communities by developing a network of community support services that enable individuals to live independently at home;

Whereas visiting nurse associations have historically served as primary public health care providers in their communities, and are today one of the largest providers of mass immunizations in the medicare program (delivering more than 2,500,000 influenza immunizations annually);

Whereas visiting nurse associations are often the home health providers of last resort, serving the most chronic of conditions (such as congestive heart failure, chronic obstructive pulmonary disease, AIDS, and quadriplegic) and individuals with the last ability to pay for services (more than 50 percent of all medicaid home health admissions are by visiting nurse associations);

Whereas any visiting nurse association budget surplus is reinvested in supporting the association's mission through services, including charity care, adult day care centers, wellness clinics, Meals-on-wheels, and immunization programs;

Whereas visiting nurse associations and other nonprofit home health agencies care for the highest percentage of terminally ill and bedridden patients;

Whereas thousands of visiting nurse association volunteers across the Nation devote time serving as individual agency board members, raising funds, visiting patients in their homes, assisting in wellness clinics, and delivering meals to patients.

Whereas the establishment of National Visiting Nurse Association Week would increase public awareness of the charity-based missions of visiting nurse associations and of their ability to meet the needs of chronically ill and disabled individuals who prefer to live at home rather than in a nursing home, and would spotlight preventive health clinics, adult day care programs, and other customized wellness programs that meet local community needs; and

Whereas the second week of May 2005 is an appropriate week to establish a national visiting Nurse Association Week: Now, therefore, be it

The concurrent resolution (S. Con. Res. 8), as amended, was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 8

Whereas visiting nurse associations ("VNAs") are nonprofit home health agencies that, for more than 120 years, have been united in their mission to provide cost-effective and compassionate home and community-based health care to individuals, regardless of the individuals' condition or ability to pay for services;

Whereas there are approximately 500 visiting nurse associations, which employ more than 90,000 clinicians, provide health care to more than 4,000,000 people each year, and provide a critical safety net in communities by developing a network of community support services that enable individuals to live independently at home;

Whereas visiting nurse associations have historically served as primary public health care providers in their communities, and are today one of the largest providers of mass immunizations in the medicare program (delivering more than 2,500,000 influenza immunizations annually);

Whereas visiting nurse associations are often the home health providers of last resort, serving the most chronic of conditions (such as congestive heart failure, chronic obstructive pulmonary disease, AIDS, and quadriplegia) and individuals with the least ability to pay for services (more than 50 percent of all medicaid home health admissions are by visiting nurse associations);

Whereas any visiting nurse association budget surplus is reinvested in supporting the association's mission through services, including charity care, adult day care centers, wellness clinics, Meals-on-Wheels, and immunization programs;

Whereas visiting nurse associations and other nonprofit home health agencies care for the highest percentage of terminally ill and bedridden patients;

Whereas thousands of visiting nurse association volunteers across the Nation devote time serving as individual agency board members, raising funds, visiting patients in their homes, assisting in wellness clinics, and delivering meals to patients;

Whereas the establishment of a National Visiting Nurse Association Week would increase public awareness of the charity-based missions of visiting nurse associations and of their ability to meet the needs of chronically ill and disabled individuals who prefer to live at home rather than in a nursing home, and would spotlight preventive health clinics, adult day care programs, and other customized wellness programs that meet local community needs; and

Whereas the second week of May 2005 is an appropriate week to establish as National Visiting Nurse Association Week: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of Congress that there should be established a National Visiting Nurse Association Week.

The title amendment (No. 4052) was agreed to, as follows:

AMENDMENT NO. 4052

Amend the title so as to read: "Expressing the sense of Congress that there should be established a National Visiting Nurse Association Week."

There being no objection, the Senate proceeded to consider the resolution (S. Res. 430), which was agreed to, as follows:

S. RES. 430

Whereas the prevalence of runaway and homeless youth in the United States is staggering, with studies suggesting that between 1,600,000 and 2,800,000 young people live on the streets of the United States each year;

Whereas running away from home is widespread, with 1 out of every 7 children in the United States running away before the age of 18;

Whereas youth that end up on the streets are often those who have been thrown out of their homes by their families, who have been physically, sexually, and emotionally abused at home, who have been discharged by State custodial systems without adequate transition plans, who have lost their parents through death or divorce, and who are too poor to secure their own basic needs;

Whereas effective programs supporting runaway youth and assisting young people in remaining at home with their families succeed because of partnerships created among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations, and businesses;

Whereas preventing young people from running away and supporting youth in high-risk situations is a family, community, and national responsibility;

Whereas the future well-being of the Nation is dependent on the value placed on young people and the opportunities provided for youth to acquire the knowledge, skills, and abilities necessary to develop into safe, healthy, and productive adults;

Whereas the National Network for Youth and its members advocate on behalf of runaway and homeless youth and provide an array of community-based support services that address the critical needs of such youth;

Whereas the National Runaway Switchboard provides crisis intervention and referrals to reconnect runaway youth to their families and to link young people to local resources that provide positive alternatives to running away; and

Whereas the National Network for Youth and the National Runaway Switchboard are co-sponsoring National Runaway Prevention Month to increase public awareness of the life circumstances of youth in high-risk situations and the need for safe, healthy, and productive alternatives, resources, and supports for youth, families, and communities: Now, therefore, be it

*Resolved*, That the Senate designates November 2004 as "National Runaway Prevention Month".

There being no objection, the Senate proceeded to consider the concurrent resolution (H. Con. Res. 486), which was agreed to.

There being no objection, the Senate proceeded to consider the concurrent resolution (H. Con. Res. 473), which was agreed to.

## AUTHORIZING PRINTING OF COMMEMORATIVE DOCUMENT IN MEMORY OF LATE PRESIDENT RONALD WILSON REAGAN

Mr. FRIST. I ask that the Chair now lay before the Senate the House message to accompany S. Con. Res. 135, providing for the printing of a commemorative document honoring former President Reagan.

The President pro tempore laid before the Senate a message from the House, as follows:

*Resolved*, That the resolution from the Senate (S. Con. Res. 135) entitled "Concurrent resolution authorizing the printing of a commemorative document in memory of the late President of the United States, Ronald Wilson Reagan", do pass with the following amendment:

Page 1, beginning on line 13, strike [Senate document, with illustrations and suitable binding] and insert "*House document, with illustrations and suitable binding, under the direction of the Joint Committee on Printing*".

Mr. FRIST. I ask unanimous consent that the Senate concur in the House amendment and the motion to reconsider be laid upon the table, and any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## SPECIAL OLYMPICS SPORT AND EMPOWERMENT ACT OF 2004

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the immediate consideration of H.R. 5131, which is at the desk.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5131) to provide assistance to Special Olympics to support expansion of the Special Olympics and development of educational programs and a Healthy Athletes Program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed; the motion to reconsider be laid upon the table; and any statements relating to the bill be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 5131) was read the third time and passed.

## COLUMBIA MEMORIAL SPACE SCIENCE LEARNING CENTER

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 57.

The PRESIDENT pro tempore. The clerk will report the joint resolution by title

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 57) expressing the sense of the Congress in recognition of the contributions of the seven Columbia astronauts by supporting establishment of a Columbia Memorial Space Science Learning Center.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. FRIST. I ask unanimous consent that the joint resolution be considered read a third time and passed; the motion to reconsider be laid upon the table; and any statements relating to the joint resolution be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The joint resolution (H.J. Res. 57) was read the third time and passed.

Mr. FRIST. Mr. President, I yield the floor.

Mr. REID. Mr. President, while the majority leader is on the floor, as the leader knows, we had a difficult time working things out last night and so I would ask that the 10 minutes we have used here this morning which would push the vote to right about 10 after 1, that we have these times locked in. I think that would be appropriate, so I ask unanimous consent that everything slide 10 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leader time is reserved.

## AMERICAN JOBS CREATION ACT OF 2004—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the conference report to accompany H.R. 4520, which the clerk will report.

The assistant legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4520), to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad, having met have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDENT pro tempore. Under the previous order, the time until 1 p.m. shall be equally divided between the managers. Within that time, there are specific times set aside for specific Senators: 11:40 to 12:10 p.m., the Senator from Louisiana; 12:10 to 12:30, the Senator from West Virginia, Mr. BYRD; 12:30 to 1 p.m., the Senator from Iowa, Mr. GRASSLEY, and the Senator from Montana, Mr. BAUCUS.

There are further exceptions to this in the Calendar before the Senators.

Who yields time?

The Senator from Kentucky.

Mr. BUNNING. Mr. President, I yield myself 10 minutes of allotted time. I so ask unanimous consent.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. BUNNING.

Mr. President, I rise today in support of the conference report on the American Job Creation Act of 2004. This conference report will provide needed incentives for U.S. manufacturers and will take the first step toward ending EU tariffs on our exporters.

Most importantly for Kentucky, this bill will finally bring the help that our tobacco growers have needed for years.

Because we are repealing the FSC/E.T.I. rules, the European Union must remove the sanctions—now 11 percent—which they have levied on many U.S. exports.

I have from employers back home about how they are struggling under the weight of these tariffs, which are hurting their exports and their plans to expand their businesses.

By passing this bill, we make our exports more competitive again, and we help our economy create new jobs.

It is a big win for my state and our Nation.

The tax centerpiece of this bill, of course, is a provision to provide help to America's manufacturing sector.

This sector of our economy has been under serious pressure since early 2000.

The jobs that manufacturing creates are good-paying jobs and we must do what we can to ensure that these jobs will be here in the future.

This bill creates a new deduction for domestic manufacturers employing American workers. That deduction cuts the tax rate for domestic manufacturers who employ American workers.

This will help keep jobs here at home and make our manufacturers more competitive in the world marketplace.

I am pleased that we were able to improve one aspect of this provision in conference. We were able to eliminate the "haircut" that would have cut the benefits available to many businesses that employ workers in the U.S. merely because those businesses also operate abroad.

I am glad that this bill recognizes the contributions to our economy made by companies such as Toyota, Nestlé, and Mazak that are in my state providing jobs to hard-working Kentuckians every day.

While I am pleased that the conference report before us includes many other provisions that will have a positive impact on my state's economy, including the horse, restaurant and railroad industries, I am disappointed that the conference did not include the Senate energy tax credits.

We have waited for a comprehensive energy bill for too long. America has energy needs we must address today, and so we put a few energy provisions in this bill.

Despite these clear needs and my best efforts, they were stripped in conference. This bill could have done more, but let me be clear about one thing—we will be back.

Despite this shortcoming, I am pleased that the Soybean Biodiesel and Corn Ethanol Tax provisions are in the conference report.

These tax provisions will encourage the use of alternative fuels which will help Kentucky farmers and biodiesel manufacturers while also increasing domestic energy production, boosting conservation, and lessening our dependence on foreign oil.

And most importantly, this is an historic day for Kentucky's tobacco growers. My growers will finally receive the relief they need and deserve. We finally have a buyout.

Since Daniel Boone first came through the Cumberland Gap, farming has been both the economic and cultural backbone of the commonwealth.

The family farm is the basis of Kentucky culture and these farms rely on tobacco.

For years, we in Kentucky have tried to diversify from the tobacco crop. We have had some success and some failures.

But in the end, we come back to tobacco because nothing brings a higher return.

The money farmers get from tobacco pays their mortgage and puts their kids through school and allows them to stay on the farm.

Outside of the western part of Kentucky, we do not have tens of thousands of acres of flat land.

We need a crop that grows on rolling hills and that thrives in our climate. Tobacco does that.

But many forces have conspired against tobacco in the last few years.

The previous administration declared war on tobacco and, by extension, tobacco farmers.

The Asian economic crisis hurt exports. The master settlement agreement and state tax increases dramatically raised the price of cigarettes.

And although American tobacco is still superior, the companies have invested so much overseas that the gap has narrowed between American tobacco and cheap foreign tobacco.

As most of my colleagues know, there are no direct payments to tobacco farmers, but we do have price supports and production controls.

Growers own quota which they can buy, sell or lease. The government administers this program to get growers a fair price for their tobacco and make sure they only sell what they are allowed to.

If you grow too much, you can't sell it. However, the tobacco program, which has served Kentucky so well, now hangs like a millstone around growers' necks.

Burley tobacco quotas have lost 46 percent of their value since 1998. We are looking at another 10 percent cut this year. We have lost a lot of growers, from 10,000 in 1988 to 32,000 in the year 2003. We have many who are barely holding on.

Many of the tobacco quota holders are elderly and can no longer work the land, so they lease their quota and that income becomes a major part of their retirement security. That quota is tied to the land. It has a direct effect on the property taxes Kentuckians pay.

The conference report we have before us today will buy out those tobacco programs. We will give our growers relief and end the Federal price support program. We will also have many growers whose average age is 62 retire and get out of the business. Dr. Will Snell of the University of Kentucky estimates that 70 to 75 percent of tobacco growers will get out of the business with the buyout. We will allow growers to pay off their debts and have more certainty about their future.

I am also happy we were able to bring the bill out of conference without the FDA provisions. The House made it very clear in conference they would not pass a bill with FDA regulations in it. I voted for FDA regulations on the Senate floor, but only as a means to get my growers a buyout. But in the end, FDA regulation provisions have become a hindrance to the buyout. A buyout without FDA is the best of both worlds for Kentuckians. My growers will get their relief but without the worry of having the FDA invade their farms.

In the conference, when we were forced to choose between my growers getting relief or killing the bill by adding FDA, I chose the buyout, and I would do so again in a heartbeat. That is how important this buyout is to Kentucky.

I strongly urge my colleagues to support this conference report.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. Senator GRASSLEY has 41 minutes 11 seconds.

The PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. I yield myself as much time as I may consume.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. GRASSLEY. Mr. President, there are several antifraud provisions in this conference report. Most of the focus in the media has been on the tax benefits of this legislation, but an extremely important aspect of the bill is how it closes giant corporate tax loopholes. This legislation, by closing them, obviously is going to bring revenue into the Federal Treasury that is otherwise just going into the treasuries of corporations.

This legislation includes Enron reforms that Members have been pushing for since Enron was exposed 3 years ago. Don't forget, for about 5 or 6 years before that, before the year 2001, Enron was doing their dirty work. But we finally got it exposed in 2001, and we have been taking some corrective action through corporate governance policies already passed by the Congress, and now we are taking action to close the abuse of the Tax Code by Enron-type executives.

It is a little ironic that many of those same Senators who have demagogged the Enron scandal are now opposing this bill. They seem to be more interested in something that is not in this bill than the very good public policy of cracking down on fraud that is actually in this bill. I am proud of the fact that many of these antifraud measures in this report stemmed from cases that were investigated and exposed by the very capable staff of the Senate Finance Committee. With that staff working for me and staff working for Senator BAUCUS, along with various whistleblowers and informants, and now with the House of Representatives passing this bill, we are about ready to shut down these Enron-type corporate tax abuses.

This has not been an easy process, but it is a real example of how our perseverance pays off. Back in July of 2001, the Finance Committee staff first discovered what has become known as a huge fraud upon the taxpayers, and that is the fuel tax evasion. This fraud is costing the taxpayers at least $10 billion. So. No. 1, Enron-type fraud, abusive tax shelters; now we are talking about fraud that comes from people not paying the fuel tax on gasoline and diesel fuel that would be then spent on the highways.

The Finance Committee had a very important hearing exposing this type of fuel fraud tax scam. The problem has come to light in more recent prosecutions. One involved an alleged terrorist cell that was skimming off fuel and selling it, using the money for God only knows what. It could have found its way into terrorist activity against the United States.

In another case, in July, prosecutors charged 19 workers at the Miami International Airport with falsely classifying jet fuel as contaminated to avoid paying the fuel tax. They would then sell it on the sly, stealing 2.7 million gallons of fuel.

Another tax scam that my staff uncovered involves what is known as service-in/lease-out, or SILO. These schemes were discovered by a Finance Committee major hearing, showing these fraudulent arrangements are put together by high-priced lawyers and accountants. In these scams, companies actually lease public works systems such as subways and sewers from cities, and then turn right around and lease them back to the same cities. The cities get upfront money, presumably under the argument that their municipal treasuries can use it, particularly in times when the economy is down. But here is what happens: The cities get a little bit of upfront money, but the companies get millions of dollars of tax writeoffs. So the taxpayer is left holding an empty bag under this scheme.

That sounds unbelievable, doesn't it? But it is true. The bill we are about to vote on puts a stop to this and saves the taxpayers over $27 billion.

Let me also note that we have provisions in this bill that address other abuses, significant abuses in the donation of intellectual property, as well as the donations of cars.

Corporations have been reducing their tax bills by hundreds of millions of dollars each year by taking intellectual property of little to no value and donating it to charity. This legislation ends this abuse by corporations while still encouraging the donation of legitimate intellectual property that has real value for actual development.

We also ended the shady tax practice of people providing some junker cars to a charity and claiming thousands for it off their individual income tax.

The reforms in this legislation will place no additional burden on the donor, will not reduce the amount going to charities from the donated car by a single dime, and will benefit all taxpayers by ending this abusive scheme.

There has been noise coming from a few that this reform shouldn't have been done on this bill. A lot of that noise is not coming from charities but from middlemen who are the ones who really make the profit off of this abuse.

To say we should have delayed this is nonsense. As my comments highlight, it is very difficult and also uncommon for us to have a legislative opportunity to address tax shelters and tax abuse.

This bill provides the most sweeping attack on abusive corporate tax shelters in an entire generation of this Congress. So we cannot pass up an opportunity to address an abusive corporate tax situation. It can very well be years before another opportunity presents itself to the Congress to deal with the problem of people not paying their fair share of taxes. Forget about the word "fair share"—just say paying taxes that are due.

These efforts to address abuses in charitable donations are part of an ongoing bipartisan Senate Finance Committee review of nonprofits, something the Democratic ranking member, Senator BAUCUS, and I are working on together.

I anticipate we will be addressing other areas in the future such as land donations and facade donations based on our investigations of the Nature Conservancy and other land donation organizations.

But I do want to say, since I named some of these organizations, that I think some of these organizations have gotten the message and are making attempts to correct some of the deficiencies in their own operations that abuse the Tax Code.

I am very pleased that in this bill we deal with a situation where executives take corporate aircraft for personal travel. Legislation in this bill will put significant limitations on corporations being able to write off such high living.

Again, based on the work of the Finance Committee, we were able to ground a good number of these high-flying corporate executives. The Finance Committee initially placed limitations to deal with abuses that were seen in the Virgin Islands and other U.S. territories. There were many people going down there to the Virgin Islands to not only get a tan but also to avoid the taxman.

I am pleased that, working with Treasury and working with the Ways and Means Committee of the other body, we were able to further tighten these limitations to address the tax problems we are seeing down there in the sunny islands of the Caribbean.

Finally, I am glad that in the conference committee we were able to adopt the Finance Committee's proposal championed by Senator NICKLES to end the SUV deduction for businesses. Senator NICKLES also was right when he said it would be an embarrassment if we couldn't deal with this abuse, and we did. That is around $50 billion of fraud which the Finance Committee uncovered, pursued, and that is in this bill. That doesn't count the billions of dollars which I considered abuse but which the House of Representatives must not have considered abuse because they wouldn't agree to putting it in this bill. But I am going to continue to deal with corporate abuse.

I made this statement to the leaders of the Ways and Means Committee in our conference committee. I offered amendments to go further than this conference report goes. The House conferees refused, but I made clear that where these corporate abuses aren't adequately handled and dealt with in this conference report, that come January I intend, if I am chairman of the committee, to pursue more closing of corporate tax abuses. If I am not chairman, Senator BAUCUS will be chairman, and I think, although I shouldn't speak for him, he is as committed to this as I am because we have had 2 good years of working together on this issue.

The taxpayers are getting their money's worth out of this Senate Finance Committee. They are entitled to get more of their money's worth out of Senate Finance Committee when we continue to clamp down on these corporate tax abuses.

The Constitution may say that revenue measures have to start in the House, but the fact is, they are being created in the Senate by closing loopholes and cracking down on fraud and abuse.

I thank the House of Representatives, and particularly the cooperative working arrangement we had on this conference report with Chairman THOMAS of the House Ways and Means Committee in getting as far as we have in closing down these corporate tax abuses.

The Senate Finance Committee has been so successful in rooting out tax fraud. We have more and more information coming to us over the transom about newer, more crooked and creative scams being cooked up out there in the underworld of tax shelters. All I can say to this underworld is, watch out, because we are coming after you.

I yield the floor.

The Senator from Ohio is yielded 10 minutes off the time which I have remaining.

The PRESIDENT pro tempore. The Senator from Ohio is recognized for 10 minutes.

Mr. DEWINE. Mr. President, I ask unanimous consent that during my discussion this morning I be able to display several packs of cigarettes and a container of macaroni and cheese which I have in front of me.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I urge my colleagues today at 1 o'clock to vote no on the cloture vote. The conference committee stripped out from this bill the FDA regulation of tobacco. I think it was a serious mistake. It really represents a missed opportunity—a greatly missed opportunity—for us to cut health costs in this country and to save lives.

All of us come to this floor so many times and talk about saving lives. We come all the time talking about what has happened with health care costs in this country.

There is nothing we could do which would be more important than to pass the FDA regulation of tobacco. There is nothing we could do that would be more important to save lives and to cut health care costs in this country. Yet, unbelievably, the conference committee stripped this provision out of the bill.

How long are we going to allow the tobacco companies to remain above the law and outside the law?

What am I talking about? I talked about this a little bit on the floor yesterday, but I want to explain it again.

When I say "above the law," I really mean above the law. Macaroni and cheese—everyone knows macaroni and cheese. Kids eat a lot of macaroni and cheese, at least mine do. The side packet has every piece of information anyone would want to know about it and a lot more: calories, fiber, sugar, dietary fiber, saturated fat. It is all on here. It includes citric acid, sodium phosphate; everything is listed. But the same company that makes the macaroni and cheese also makes Marlboros. Guess what. Pick up a pack of Marlboros and there is no information about the contents. Why? Because there is a loophole in the law: Marlboros are outside the law.

How about claims made by tobacco companies? Marlboro Lights—it means nothing. When you have yogurt and it says "light yogurt," it means something. You read on here "one-third less calories." It is regulated by the Government. Not tobacco.

What about the other claims by the cigarette companies? When they make a claim, it doesn't mean anything, unlike every other product in the stream of commerce today. Take Advance Premium Lights. The back says "All the taste, less of the toxins." One would assume that means they are safer. Who knows there are less toxins? No one checks this. The Government does not regulate it. It is a dangerous product, and the Government does not regulate it. How crazy is this? How long are we going to put up with this?

Eclipse, another product. I read from the back what they claim:

Scientific studies show compared to other cigarettes Eclipse may present less risk of cancer, bronchitis, possibly emphysema, reduces secondhand smoke by 80 percent, leaves no lingering odor in hair or clothes.

More health claims, yet nothing to back it up.

The worst thing the tobacco companies do, the worst thing we allow them to do, the worst thing this Congress continues to allow them to do is to target kids.

Skoal, a pinch better. Apple blend. Does anyone think longtime Skoal users are using apple blend? Give me a break. Who is using this? Who are they targeting? Entry-level users. They are after kids with apple blend.

Cigarettes: Liquid Zoo, vanilla flavor. Give me a break. Kool, Mocha Taboo. Who is that after? Kids. Camels, Beach Breezer. Or this one: Kauai Kolada. Do you think a 60-year-old longtime tobacco consumer of Camels is using this? Obviously not. Who is using this and who the tobacco companies are targeting is kids. That is who they want to use this entry-level drug. They want to get them hooked. They get them hooked on something like this: Mandarin Mint Camels. That is what they do.

We allow this to continue. The FDA regulation bill would have stopped it, the bill the conference committee inexplicably stripped out of this bill, a bill the Senate passed overwhelmingly and sent to the conference committee. The conferees turned their backs on children's health, turned their backs on public health, and stripped it out. That is the reason we all should vote no on this conference report.

We come to the Senate many times and we talk about health costs. We say we need to do something about health costs. Let me state the figures from my home State of Ohio. If we do not think the passage of this bill would have done a lot, the annual health care costs in Ohio for smoking, our annual health care costs, what it costs in Ohio, is $3.4 billion, and that is just my home State of Ohio alone. Our Medicaid costs, much paid for by taxpayers—Federal, State—$1.1 billion. That is not even talking about the cost in human life. The cost in human life, adults in Ohio who die each year prematurely because of tobacco, 18,900; kids 18 years of age and younger in Ohio who ultimately die prematurely from smoking, 314,000.

I have today with me letters from the American Heart Association, the American Lung Association, the Ohio Children's Hospital Association, the American Thoracic Society, and the Campaign for Tobacco-Free Kids which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CENTER FOR
TOBACCO-FREE KIDS,
*Washington, DC, October 8, 2004.*

Re opposition to FSC/ETI bill without FDA jurisdiction over tobacco.

Hon. MIKE DEWINE,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR DEWINE: We were profoundly disappointed by yesterday's decision by the House/Senate conference on the FSC legislation not to include provisions establishing FDA regulation of tobacco products. An historic opportunity to protect the nation's children and the nation's health was lost.

Enacting FDA regulation of tobacco products is the single most important thing Congress could do to reduce cancer, heart disease, emphysema, chronic bronchitis and a host of other diseases. It is the single most important thing Congress could do to improve the health of our children and protect our children from unscrupulous marketing by an industry that produces a product that kills one out of two long-term users. Close to 90% of all tobacco users start as children. First and foremost, it is our children who were ignored and who are the big losers by the decision not to include FDA in the FSC/ETI legislation.

The tragedy is not only that an opportunity to prevent disease has slipped through our fingers, but also that literally hundreds of thousands, if not millions of kids, once addicted, eventually will die of these tobacco-related diseases. And these deaths will be needless. They will occur because of the actions of the House/Senate Conferees who failed to include FDA in the original Conference draft and who voted not to add it the final bill. Tobacco use is also a leading cause of premature birth. If Congress had given FDA authority over tobacco products, Congress could have dramatically reduced the number of children born prematurely with serious medical problems due to tobacco use.

Rarely does Congress have the opportunity to take an action that will improve the lives and well being of millions of Americans. This was such an opportunity. Tobacco companies market candy flavored cigarettes, promote their products in a myriad of ways that make them more appealing to children, hide the truth about the dangers of their products and fail to take even the most minimal steps to reduce the number of Americans who die from tobacco use. By the decision not to include the FDA provisions adopted overwhelmingly by the Senate in this bill, Congress is doing nothing to stop them.

Not even our profound disappointment in yesterday's outcome, however, can diminish the gratitude we feel for your courageous efforts to pursue enactment of this legislation, against all odds, in the face of countless setbacks, always putting kids first. We commit to you that our struggle with you to achieve lasting protection of our kids and our society through regulation of tobacco products is not over.

Yesterday's vote by the FSC conference committee against FDA authority over tobacco is a big victory for the tobacco industry that will carry a heavy price in lives lost and kids addicted to tobacco. The nation will also pay a price in growing cynicism about government when Congress appears willing to trade tax breaks for kids' lives. We urge all Senators and Members of Congress to oppose the FSC Conference Report until the FDA provisions are included.

Sincerely,

MATTHEW L. MYERS,
*President.*

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OHIO CHILDREN'S HOSPITAL ASSOCIATION,
*Columbus, OH, October 7, 2004.*

Hon. MIKE DEWINE,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR DEWINE: I write today to express the terrible disappointment felt among Ohio's children's hospitals that Congress has lost an opportunity to protect the health of America's children. It is my understanding that your efforts to enact legislation granting the Food and Drug Administration authority to regulate the manufacturing and marketing of tobacco products has been thwarted by intense tobacco industry pressures. This is a shameful waste of a rare opportunity to take the bold action needed to reduce a staggeringly dangerous health risk that hurts kids and increases the cost of health care.

Ohio has been working hard to reduce youth smoking, and children's hospitals have long been at the frontlines of this battle to protect our children from the devastating toll that tobacco exacts. But, for every step forward we take (youth smoking in Ohio is down recently), we face a barrage of new and cunning attempts by the tobacco industry to regain its foothold with Ohio's children. The tobacco industry is spending more than ever to market its products in ways that appeal to children. As a depressing example, we now face the prospect of candy-flavored cigarettes.

Across the country, every day 2,000 more children become regular smokers, one-third of whom will die prematurely as a result.

FDA regulation of tobacco products represents the best tool for combating the tobacco industry's reckless assault on our children's health. We need the FDA to have the authority to subject tobacco products to the same rigorous standards we impose on other consumer products, including ingredient disclosure, truthful packaging and advertising, and manufacturing controls.

Senator DeWine, we greatly appreciate your work on behalf of Ohio's children, and we only wish that the Congress could have stepped up to its responsibilities to protect our children from the tobacco scourge.

Sincerely,

ANDREW CARTER,
*President.*

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AMERICAN THORACIC SOCIETY,
*San Diego, CA, October 7, 2004.*

Hon. MIKE DEWINE,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR DEWINE: Congress is about to give the Big Tobacco the one thing they want, continued access to the most attractive market for their deadly products—our children. Don't let Big Tobacco continue to peddle their products to our children.

The best way to protect our nation's children from the continuing disease and addiction caused Big Tobacco and their deadly products is by granting the Food and Drug Administration (FDA) the authority to regulate tobacco.

The bipartisan compromised reached in the Senate FSC bill would have granted the FDA the authority needed to regulate tobacco and reduce underage smoking throughout America. Unfortunately, during conference the supporters of Big Tobacco struck the one provision that would have given our children a fighting chance against the pervasive marketing power of tobacco companies.

If Congress fails to give FDA the authority to regulate tobacco, our children will pay the price. Children will pay the price through a lifetime of addiction to tobacco products. Children will pay through the diseases associated with tobacco addiction—lung disease, heart disease and cancer. Children will pay the price, literally, with their lives.

Senator DeWine, the 14,000 members of American Thoracic Society thank you for your tireless efforts to protect children from tobacco. Please don't stop now. Don't let the opportunity to protect our nation's children from tobacco addiction go up in smoke. We are counting on you and your colleagues to exhaust every legislative tool available to you to ensure that the FSC tax bill includes the provision granting FDA the authority to regulate tobacco.

Sincerely,

SHARON I.S. ROUNDS, MD,
*President, American Thoracic Society.*

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AMERICAN HEART ASSOCIATION,
*Dallas, TX, October 7, 2004.*

TO THE MEMBERS OF THE U.S. SENATE: On behalf of the American Heart Association's 22.5 million volunteers and advocates, I write you to express our deep dismay over the Foreign Sales Corporation (FSC) conference vote that failed to grant the Food and Drug Administration (FDA) authority to regulate tobacco products. This represents a squandered opportunity to protect the public against dangerous tobacco products, a failure to protect our children from the marketing of tobacco products, and also the adoption of the wrong tobacco buyout plan. How can Congress explain such neglect for our nation's health?

The original FDA legislation approved by the Senate and introduced by Senators Mike DeWine and Edward Kennedy had overwhelming support from both the public health community and tobacco grower groups. In the Senate, true champions of public health had fought for the success of this measure, while others worked to derail efforts to reduce the death and disease that result from tobacco use. A few members' blind and unwarranted opposition to regulation that would save lives will have a tragic result. Our chance to reduce tobacco related deaths and disease has gone up in smoke.

Tobacco use is responsible for more than 440,000 deaths each year, with more than one in three from heart disease or stroke. Each day, 4,000 youth try their first cigarette and 2,000 become regular daily smokers. This FDA legislation offered our best chance to reverse that trend and reduce the senseless death and disease that results from tobacco use.

And sadly, the buyout that was adopted in conference fails in many aspects. First, it provides far less assistance to hard-hit tobacco farmers than the earlier Senate-approved measure: $796 million less in North Carolina; $490 million less in Kentucky; and, $141 million less in Virginia, to name a few effected states. This buyout will only prolong the cycle of economic misery too many of these farmers face. It lacks incentives to encourage farmers to leave tobacco farming. It neither restricts the amount of tobacco that can be grown, nor does it limit where it can be grown. And without price controls, the result will be more hard times for tobacco growers trying to compete with cheap international tobacco.

The American people deserve an explanation for the failings of the current FSC legislation, and on behalf of our association and our volunteers, I hope the responsible votes are cast in opposition. As it stands, this bill is a raw deal for our nation's health, our youth and tobacco farmers.

M. CASS WHEELER,
*Chief Executive Officer.*

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AMERICAN LUNG ASSOCIATION,
*October 7, 2004.*

Hon. MIKE DEWINE,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR DEWINE: How can the Congress give $10 billion to tobacco growers without requiring anyone to exit the tobacco farming business and fail to do anything for public health? This is unconscionable.

Over 440,000 people die prematurely from tobacco-related illness each year and two thousand children become addicted regular smokers every day. Nearly 90 percent of lung cancer and 80 to 90 percent of emphysema and chronic bronchitis are caused by tobacco use. Despite this deadly assault on lung health, tobacco products are the most unregulated consumer products on the market today.

Senator, the American Lung Association thanks you for your steadfast commitment to America's children. Your leadership on FDA regulation is laudable. Please implore your colleagues to change course and include the FDA oversight of tobacco in the FSC bill.

Tobacco companies continue to aggressively market their products to our children, cynically targeting "replacement smokers" for those who die or quit smoking. New flavored cigarettes including R.J. Reynolds' Camel Exotic Blends Kauai Koloda with "Hawaiian hints of pineapple and coconut" and Kool Caribbean Chill and Mocha Taboo are aimed at young people. The tobacco companies make health claims of "reduced carcinogens" or "less toxins" without any oversight of the veracity of the statements or their impact on health.

FDA regulation of tobacco would:

Ban flavored cigarettes.

Stop illegal sales of tobacco products to children and adolescents.

Require changes in tobacco products, such as the reduction or elimination of harmful chemicals, to make them less harmful or less addictive.

Restrict advertising and promotions that appeal to children and adolescents.

Prohibit unsubstantiated health claims about so-called "reduced risk" tobacco products that would have the effect of discouraging current tobacco users from quitting or encouraging new users to start.

Require the disclosure of the contents of tobacco products and tobacco industry research about the health effects of their products.

Require larger and more informative health warnings on tobacco products.

How many more children must become addicted to tobacco before Congress regulates cigarettes? Senator DeWine, do not allow the U.S. Congress to squander this opportunity to protect the public health and provide the Food and Drug Administration regulatory oversight over tobacco products.

Thank you again for your leadership.

Sincerely,

JOHN L. KIRKWOOD,
*President and CEO,*
*American Lung Association.*

Mr. DEWINE. They all make the point that the FDA provision that was in this bill would have saved lives, would have made a difference, would have protected our society.

Members may say: There are good things in this bill—I have to vote for this bill—good things for my State. I simply point out to them at some point we have to say enough is enough. At some point we have to say the status quo is not acceptable. At some point we have to look at the bigger picture than what is going on in this bill. Yes, there are good things for Ohio, there are good things for your State, but the statistics I cited, the tremendous health care costs in dollars and cents and human cost, have to be considered. At some point we have to take a stand.

We may not win this battle today, but we will be back. We will be back to finally regulate this one product that is escaping the law, the one product we are not regulating today, a product which, even when it is used as intended, is a dangerous product that kills many Americans. It must be regulated. It must be brought under the law. We must stop the tobacco companies from targeting our kids. We must stop them from going after children every single day, trying to make more children addicted, trying to kill more children. It is wrong. It is morally wrong.

This Congress, some day I hope in the not-too-distant future, will say we have had enough; we are not going to stand for it anymore; we are going to do what we have to do to save our children. The fringe benefit, besides saving lives, is going to be that we will dramatically slash health care costs in this country. I urge a "no" vote.

The PRESIDENT pro tempore. The Chair in his capacity as the Senator from Alaska suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

Ms. LANDRIEU. Reserving the right to object.

The PRESIDENT pro tempore. The Senator has control of 13 minutes 25 seconds. There is no right to object.

Ms. LANDRIEU. Thank you.

Mr. GRASSLEY. Mr. President, for this entire year I have come to the floor many times to tell my colleagues all the reasons this conference report is a must-pass piece of legislation. I have talked about trade and I have talked about tariffs. I have talked about the necessity of stopping outsourcing, lowering the cost of capital to our corporations so they can be more competitive in international competition, keeping jobs in America, reducing that cost of capital, as this bill does, by reducing the corporate tax rate for manufacturing in America—a direct incentive to produce here rather than producing overseas.

Now, that is what the main part of this bill is all about, but it has some other aspects to it. I want to talk about $24 billion—$24 billion—that may be gone forever if we do not pass this bill; $24 billion to go into the highway trust fund. I do not serve on the committee that expends the money from the highway trust fund. I do serve on the committee, the Finance Committee, that provides how much gas tax we should have and other moneys that go into the highway trust fund. But for those who do deal daily with the highway trust fund, this $24 billion is the biggest single increase in highway trust fund income in over 6 years.

Now, where does the $24 billion come from? It does not come from new taxes. Instead, we overhaul an outdated excise tax system to address our Nation's increased use of renewable fuels, such as ethanol.

In addition to overhauling the excise tax system that is outdated, we crack down on big-time fuel fraud to make sure that bad guys are not robbing our States of their much-needed highway money. But the only way we can get all of that money is if we pass this bill, and do it right now, because that will bring $24 billion into the trust fund—the only way.

You have to put the money into the trust fund today to build roads tomorrow. And you cannot start collecting any new money until we change these outdated rules that keep this $24 billion from going into the road fund. All of the Senators who are filibustering this bill are costing every State new highway dollars.

To put this in perspective, my home State of Iowa, as an example, under this bill could get an additional $900 million over 6 years, but only if we pass this bill this year. So anybody from the State of Iowa voting in the Congress of the United States ought to know if they vote no on this bill that they are costing the State of Iowa $900 million. Even if we postponed the rule changes until we pass a highway bill now, which is not going to be passed until next year, Iowa will still lose $140 million forever—never get that back.

How many roads can Iowa build with $900 million? How many bridges can we repair with $900 million? I do not know why any Senator would jeopardize the safety of every citizen in his State by failing to pass the highway trust fund.

There are other Senators who do not want to put money in the bank today so we can build the roads for tomorrow. Every Senator, of course, has their right to vote as they please, but every State also has the right to know what that vote will cost the highway bill and what it will cost their State.

Let's look at California. They are going to be big winners in this VEETC and fuel fraud reform that is in this legislation. The estimated increase in California's highway revenue is over $2 billion—$2 billion of new highway money. But the only way to get the full benefit of the estimate is to pass this bill now. So I would ask the California Senators to look at this legislation, put the money in the bank today, and then build roads tomorrow.

Illinois would be a big loser if Members of that delegation would vote no on cloture and no on this bill. The Illinois Department of Transportation knows exactly what they would lose if this bill does not pass. It is close to $3 billion. That $3 billion can be put in the trust fund today to build roads tomorrow.

I would hope no one comes whining to me as chairman of the Senate Finance Committee next year that we do not have enough money to fund the highway bill, especially when you have an opportunity—right here today—handed to you on a silver platter to put $24 billion into the highway trust fund, more money for your States. And you ought to consider that not a silver platter, you ought to see that as some sort of a golden platter, a golden opportunity. But we have Senators who are bound and determined to deny every State department of transportation $24 billion. We never get an opportunity like this to put a package of highway funding together. We may not get this opportunity again.

Vote no today, and every road, bridge, highway construction project is cheated. Vote no today and every highway job not only next year but until the year 2010 will be in jeopardy, running short of money. I do not know if we can ever get this kind of funding package put together again.

Let me suggest to you how tenuous it was on aspects of this. Disagreements between me and the House of Representatives a year ago last summer—not differences involving Democrats and Republicans, differences involving Republicans, between me and the House of Representatives—to get this put together so this money would come into the highway trust fund, so we would take care of this issue of fuel fraud.

The Vice President of the United States intervened to bring a compromise together a year ago last June because, quite frankly, I thought a year ago now we were going to have the highway bill passed, and this was going to be part of the highway bill, to bring this $24 billion into this road fund. You do not get opportunities like that very often. You do not get strokes of luck like that very often to get to where we are today.

Now, the other thing about being where we are today is this bill before us is not a highway bill. The highway bill should have passed, but I guess now it is going to go over until next year. That is not in my area of responsibility, so I am anticipating what other Senators would tell you. But we have the good fortune of people looking very broadly at what is good for America or not good for America, and feeling that this provision of $24 billion into the highway trust fund so we do not lose this revenue—and we have already lost some—we have this opportunity now. We can do it in this JOBS bill as opposed to the highway bill so we don't lose that revenue.

One other thing that is in dispute is why we don't have the regulation of tobacco in this bill. I don't know how the Senate Finance Committee that deals with taxes and trade and Medicare and Medicaid and Social Security and welfare and pensions and Customs and the IRS, all of those things, how we get saddled dealing with an issue that belongs in the Committee on Health or the Committee on Agriculture. But we got it dumped on us.

I don't know why the Health, Education, Labor Committee that has this in their jurisdiction, particularly when Democrats are complaining about it not being in this bill, couldn't have passed that in the year 2001 and 2002 when they controlled that committee. But, no, they dumped this on us. Anyway, we have to deal with it, and it is not in there. It makes some people mad, both Republican and Democrat.

I want everybody to know, even though it should not have been in this bill, I voted for it on the floor of the Senate to hasten this bill along, to put it in here, and I offered it to the House of Representatives that it be included. I didn't offer it; one of my colleagues offered it. But I supported my colleague because I thought regulation of nicotine was legitimate. Now it is not here, and we had a lot of speeches last night and today about it. So I want to speak about that.

I voted for this despite the growing problems that are coming to light about the FDA falling down on its current responsibilities. And my investigative staff has been in the middle of that, of buyouts, as an example, trying to get the FDA to recognize that their scientists are trying to tell us there is some danger out there. And they won't listen to them; in fact, they tried to suppress it. Or antidepressants, as in the case of the FDA scientists raising questions about that and being stomped on for a year until finally the study committee studied it and voted 15 to 8 that there ought to be a warning put on antidepressants for children because they are committing suicide. Yet people want to put more on the back of FDA when they have problems there.

Anyway, that is a whole other issue. The FDA has come under investigation, including my own that I have just talked about, involving Vioxx, as we have been reading about within the last week. It was revealed by my Finance Committee staff that it looked as though the FDA pressured employees to suppress negative findings regarding Vioxx.

In today's paper, we read about what looks like the FDA falling down on the job in regard to the flu vaccine crisis.

So, I hope some around here aren't trying to mislead the American people into thinking that FDA regulation is some kind of panacea for smoking.

I heard one Senator from the other side say that we sided with the tobacco companies when the FDA provision failed. Well that is interesting. That is surely what opponents would like you to think. But, there is a dirty little secret involved here. Or, at least it is a secret vis-a-vis the public.

The fact is, the tobacco companies are divided on whether there should be FDA regulation. In fact, the largest tobacco company actually supports FDA regulation, and has been lobbying heavily and pouring money into the effort to get it.

Why? Well, for one thing, a great deal of its business is overseas, and it will therefore be immune from FDA regulation. This will give it a competitive edge against its competitors. So, the tobacco companies, or at least the biggest one, is much more in favor of FDA regulation than against it.

Therefore, anybody trying to frame this as tobacco versus kids, or tobacco versus health groups, is just flatly misleading the public.

But, even for those of us who pushed for FDA oversight, our legs were cut right out from under us during the negotiations. And guess who cut the legs right of from under us? The leadership of the Democratic Party cut the legs right out from under us. That's who.

The leader of the Democratic party, Senator KERRY, went down to North Carolina to talk to tobacco farmers. Guess what he said. He said he'd support a tobacco buyout with or without FDA regulation.

So, it looks to me like the senior Senator from Massachusetts didn't communicate very well with the junior Senator from Massachusetts—or vice-versa.

Moreover, we had the Democratic Senate Campaign Chairman saying the same thing last week. He said he didn't need FDA regulation with a tobacco buyout.

And, he even had his candidate for the North Carolina Senate seat up here lobbying right over in the conference committee room to get this buyout through, with or without FDA. Can you believe that?

And, to add insult to injury to the Democratic Senators from Massachusetts, and Iowa, the Senate Democratic Leader even signed the conference report.

So, obviously, when the House leadership knew the votes were there in the Senate for a buyout without FDA, they weren't about to agree to it in conference, and there's no way we could have successfully pushed it.

Now, what more does it take from their own leaders to undermine what the Democratic Senators from Iowa and Massachusetts wanted to do? Seems to me they need to get their own house in order before criticizing others.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. GRASSLEY. Does that mean all the time we had remaining on this side?

The PRESIDENT pro tempore. The Senator has 15 minutes, but it occurs later in the allocated time.

Mr. GRASSLEY. I thank the Chair.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Louisiana has 30 minutes under her control that is supposed to start about 11:40.

The PRESIDENT pro tempore. That time starts at 11:52.

Mr. REID. With the consent of the Senate, I yield 10 minutes to the Senator from Louisiana from the time of Senator DORGAN, who will not use his time, and I would ask unanimous consent that her time begin now.

The PRESIDENT pro tempore. Senator DORGAN only has 5 minutes.

Mr. REID. Senator HARKIN has 5 minutes, so I will yield Senator HARKIN's 5 and Senator DORGAN's 5 to her, and her time will start running now, for a total of 40 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Louisiana is recognized for a period of 40 minutes.

Ms. LANDRIEU. Mr. President, I want to begin by thanking Senator GRASSLEY, chairman of the Finance Committee, for his hard work on this bill. It has been a very difficult and complicated process. He and his staff, as well as Senator BAUCUS, have done an extraordinary job moving a $137 billion tax benefit bill through the Senate and through the Congress over the last 2 years. We have been intimately involved in the building and crafting of this bill. There have been literally hundreds of meetings, hearings, debates, and negotiations, some public and some in private, over the last 2 years to put together a bill that is $137 billion.

My colleagues will note these bills that are on their desks have been here since Thursday morning. This was printed Thursday morning or Friday morning and distributed to us, the first time that we have had this in its entirety to read its contents and to understand what is in it. We had our version, but we sent it over to the House and then the conference version came back.

Mr. GRASSLEY, the Senator from Iowa, and the Senator from Montana have done a great job trying to put a lot of good provisions in this bill. I am going to speak about that specifically in a moment. But before he left the floor I wanted to commend him for his work.

I rise today to speak for 40 minutes and will continue to speak throughout the course of the debate, which may go on for a day or two or three or four until we finally wrap up the business of this session. I will continue to rise and speak about one item that was conspicuously and unconscionably and unjustly left out of this bill. There was one item that we had passed out of the Senate unanimously by voice vote. Republicans and Democrats, unanimously sent over to the House, to include in this $137 billion tax bill, an amendment for the Guard and Reserve called the Guard and Reserve Paycheck Protection Act to help the 640,000 men and women who have been called up since the conflicts started in Afghanistan and Iraq, the men and women on the front line supporting our Active troops, protecting us at ground zero of the war on terror in Iraq and Afghanistan.

We had a provision in there to keep their paychecks whole. It was taken out by the Republican leadership of the House.

Before I get into the details, let me just divert and say, to get off on a little bit of a lighter and more positive note, I congratulate our LSU team, our Southern team, and our Grambling team for winning on the football field last night. LSU came back in a very dramatic game, which I got to watch part of after being here late into the night, and won 24 to 21 over Florida. Southern beat Alabama 33 to 24, and Grambling beat Mississippi State 34 to 26. And University of Louisiana at Monroe beat Idaho—I am sorry to say to the Senator from Idaho—16 to 14. The teams from Louisiana won last night.

I feel strongly that the people of Louisiana would like us to make our best effort to make sure that we can win throughout this week, whether the action is taken now or the action is taken sometime in the near future, for our Guard and Reserve on the front lines.

I don't know why the provision was left out, but I would like to share a visual that is pretty dramatic. I have shared it before. I want to be clear: I have spoken on this on and off for several hours for the last 5 days. I don't object to anything in this bill. Although there are other Senators on both sides, Senator McCAIN, Senator HARKIN, Senator DeWINE, Senator KENNEDY, other Senators have expressed real concern. I appreciate those concerns. But that is not my issue. That is not why I have stood on this floor objecting.

I am objecting to the passage of this bill because it left out the men and women who are on the front line of the war on terror, whether they are at home as first responders or in Iraq or Afghanistan. Members of our Armed Forces were left out of a $137 billion tax credit bill. We could not find one page, one paragraph, one sentence to include them in. You can sit here all day and read this bill. I am going to see how many pages are in the bill. It looks like there are about 650 pages of provisions. We refer to this around here as the FSC/ETI legislation. We have been working on it for 2 years. It is supposedly a jobs bill. It supposedly provides tax relief to good companies, large companies, small companies, companies that import and export, companies that perhaps deserve the relief.

The bill started out correcting a decision made by the World Trade Organization to correct basically a $50 billion problem. But as you know—because the President pro tempore is experienced and is chairman of the Appropriations Committee and one of the senior Members of this body—tax bills have a tendency to grow. They keep growing and growing and growing and getting bigger and bigger and more and more expensive because individuals and corporations and people who petition their Government they want relief or some special tax credit or want some special provision or think they are not being treated fairly—they petition all of us.

Well, there was one group that sent some of us a letter. I would like to read from this letter, the statement they sent, the Reserve Officers Association of the United States of America, the men and women on the front line. It was signed by Robert MacIntosh, who represents the Major General: "We continue to support tax credits for employers of reservists and National Guardsmen.

"This position is a result of a problem faced by employers of Reserve members who support our forces when they are mobilized. The extended mobilization and stop-loss authorities," which means basically a backdoor draft, "enacted by the President and the service Secretaries to support Operation Iraqi Freedom and Enduring Freedom in Afghanistan have served only to exacerbate these problems. Many employers want to extend pay and benefit coverage to the reservists but are finding this to be an unanticipated, long-term expense as operations in Iraq and Afghanistan entail multiple years of mobilization. Reservists are finding re-employment and employment difficult for the very same reason. As reservists' employers shoulder the burden of extra costs to support the employee's participation in the military, they become direct contributors to our Nation's defense. Employer pressure is listed as one of the top reasons for reservists to quit military service.

"[The] ROA is disappointed to learn of recent actions by the House that defeated, by a voice vote, an attempt to revive amendment 3123 to Senate Report S. 1637, which would have provided a credit for the replacement employees of ready Reserve and National Guard employees called to military active duty."

The Reserve Officers Association of America—I am going to paraphrase here—represents the men and women who are carrying, in many ways, 100 percent of the risk, taking 100 percent of the bullets, leaving their families for hours and weeks and months and days for their training and their deployment.

I am paraphrasing this to say that the ROA urges Congress to support the employer tax credit as a means to eliminate civilian employment conflict and support recruitment and retention efforts.

It has come to the attention of some of us who have been involved in the Armed Services Committee—I have served on that Committee for several years and continue to support provisions through my position on Appropriations, as the Chair does, and many other Members of this body, support for our troops. I have supported provisions that support the Guard and Reserve as well as our Active duty forces for many reasons but one in particular, which is that in the last several years, as you can see from this chart, our Government—all of us, the past President, the current President, the past Congress, this Congress, and Members from both sides—has basically rewritten the policy of defense. We have said we are going to have a total force structure, and it is going to be composed of 1.6 million Active-Duty officers—soldiers, sailors, marines, and Air Force—and we are going to have 1.2 million—that is the troop strength of our Guard and Reserve.

One of the reasons we count on the Guard and Reserve is for the benefit of the taxpayers, because it is not as expensive. They have civilian jobs and they only go when called up. Taxpayers don't have to support them 24-7, year after year. We ask them to be ready. The least we can do is send them to Iraq with a full paycheck. We didn't do that because there are higher priorities in the bill. Every Member has come to say something about a priority in this bill. It could be any number of manufacturers. But for the record, for this Senator—and I know others join me—there could not possibly be any higher priority in this country today, right now, than the men and women who are fighting on the front lines in Iraq, Afghanistan, and their families who support them.

As you know, Mr. President—and I do because I have visited many bases and spent a lot of time with our troops—the truth is that most of the soldiers are used to sacrificing. It is why they signed up in the first place. They think it is a virtue. That is something we can learn more about in this Chamber, including me. I don't sacrifice nearly as much as I should. They are quite an inspiration to us. They don't mind making the sacrifice. I have not had one soldier bellyache about anything, even those who lost their arms and legs. Most of them say: Stitch me up and let me go back to the front line. That is admirable. You would think we could honor their service with more than pictures and words, but by putting them in this bill.

They didn't ask for the whole bill or half of the bill or even for 25 percent of the bill. They asked for $2 billion out of $137 billion. We could not find it anywhere. We could not find the time, the will, the attention, or the focus to give them a little percentage of this bill.

Let me tell you how many of them we call up. We seem to be able to find their phone numbers when we call them to service but not to put them in this bill. From 1953 to 1989, we called up 200,000 Guard and Reserve. This was the traditional way we operated in our Government to protect the country. We would call them up when we absolutely had to: during the Berlin crisis of 1961, we called up 148,000 of them, and 148,000 families stayed home and prayed for their safe return. During the Cuban missile crisis, we called up 14,200, and 14,200 families stayed home and prayed along with their neighborhoods, churches, and places of employment for them to come back. You can go through this list. There were 199,000 from 1990 to 2004, just in the last 14 years, 8 of which I have been a Senator in this Senate and a member of the Armed Services Committee, so I know something about this. We have called them up time and time again and told them to leave their wives, their children, their employment, and go to the front lines. And they go—proudly. They don't ask for much. They served in the Persian Gulf war, 238,000 of them. They went to Haiti, 3,680. They went to Bosnia, 29,670. They served in Operation Southern Watch, 2,038. They went to Kosovo, 5,933. And they went to Afghanistan.

Today, before I came to the Senate to speak, I turned on television set and the headlines this morning across the Sunday shows is "Elections Going on in Afghanistan." Who do we think made those elections happen? Did we just wish for those elections to happen? I don't think so. Our troops made those elections happen. They wouldn't be happening without our Guard and Reserve troops, and our Active Forces.

I don't care how many speeches we give. I don't care how many bills we write. I don't care how many budgets we pass. The fact is, those elections would not be taking place today if it were not for these troops. They are good enough to get those elections started, but they are not good enough to be in this bill? That is why I am standing on this floor until the last possible minute that I can to delay these proceedings—not to be obnoxious, not to be ridiculous, not to be uncooperative, not because I don't support transportation, not because I don't support shipbuilding—but because I think we owe it to our troops to stand up for them. And I plan to do it.

Now I am going to talk about a couple of arguments I heard.

Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 23 minutes 25 seconds.

Ms. LANDRIEU. I thank the Chair. I want to talk about a couple of arguments I have heard the last couple of days, directly and indirectly, about why some Senators would object.

I want to be very clear. I know, as sure as I am standing here, at some later date I am going to have some sort of critic of mine, and I have my share of critics, standing up saying: There goes Senator LANDRIEU again. She's against tax cuts. She's trying to slow up our transportation bill. She's trying to slow up the highway bill. She never supports tax credits.

I am going to keep saying for the record the only reason I stand here, the only reason, is to try to get this Senate to do what it did a couple of weeks ago, which was to send over to the House of Representatives a bill that would include the Guard and Reserve.

There is nothing I can do as a Senator to make the House Republican leadership respond other than to bring this to light, to urge my colleagues to stand with me, Republicans and Democrats together, over here in the Senate, and send the bill back to the House and ask for them to consider it again. Maybe they made a mistake. Maybe they didn't realize this was one of the items. I don't know. I am not on the Finance Committee.

I sent a letter. Twenty-one of us signed it. I put it in the RECORD before so I won't read the letter, but it is addressed to Chairman GRASSLEY; to Ranking Member BAUCUS; to BILL THOMAS, chairman of the Ways and Means Committee; and to CHARLIE RANGEL, the ranking member.

I see Senator BAUCUS has come to the floor. I know he supports this provision, I know Senator GRASSLEY supports this provision, and I know CHARLIE RANGEL supports this provision. What I am not sure about is the chairman, BILL THOMAS. I don't know, maybe he didn't realize it was part of the request. There were over 2,000 requests, as you can see. I don't know how many items are in this bill, but it has to be thousands of items. I know it is difficult, so I am assuming he didn't know about it. That is why I am spending some time talking, so maybe the word will get there.

Twenty-one Senators signed this: KIT BOND of Missouri, a leading advocate for the Guard and Reserve signed this letter, along with MARK PRYOR, CHRIS DODD, DANNY AKAKA, BYRON DORGAN and Senator MIKULSKI and Senator LAUTENBERG, Senator MURRAY, Senator CORZINE, Senator CANTWELL, Senator SCHUMER, Senator NELSON, Senator TIM JOHNSON, Senator FEINGOLD, Senator DAYTON, Senator SARBANES, Senator DURBIN, Senator WYDEN, Senator LEVIN, and Senator LEAHY. I am sure there will be other Senators on both sides who will let their views be known to the House Republican leadership.

How in the name of heaven could the House Republican leadership put a bill together and leave out the Guard and Reserve? Tax cuts for fan importers? I want the fan importers to know that I am not picking on them. But I think this picture speaks a thousand words. For some reason—we could find a reason, and it may be a good one. I am sorry I don't know the details of it. I can't talk about it. I understand there is a good reason. Maybe someone could explain it, about the fans. But they are in the bill. The fans are in the bill, but the guys in Iraq or Afghanistan, where it is 105 degrees most of the time, in tents that are hot, carrying 50, 60 pounds of equipment and armor, who could use these fans, can't even get a paycheck to buy the fans.

When they go to Iraq they leave their civilian paycheck at home. They leave the comfort of their families at home. The GAO reports that 41-percent of Guard and Reservists take a pay cut. We couldn't find time to acknowledge that and say: My goodness, we are passing a tax bill, maybe we can fit them in.

We can't fit them in the tax bill. We can't fit them in the Transportation bill. We can't fit them in the Homeland Security bill. We can't fit them in the intelligence reorganization bill because, obviously, we don't think they have anything to do with our security.

Whether you think the front line, as I said, is in Iraq in the war on terror—which is an issue of debate, and I actually could debate that. Maybe it is not exactly the front line. But regardless of whether you think it is the front line, the second line, the third line or the back line or whether you think it is in Afghanistan, the fact is, we sent them there. We sent them there with half a paycheck, or 75 percent of their paycheck, so their families at home can lose their houses and lose their cars?

If anybody doesn't think that is true, please go to my Web site or talk to me. I will most certainly give the information to you. You know it yourself. You have seen the reports about the sacrifices families are making.

There are some other arguments that were made about this. One of them was Senator LANDRIEU and others are just complaining. They want to slow the process down. I hope I have answered that argument. I hope my colleagues and the leadership know I am not trying to be uncooperative. I understand people's schedules. I have two children, 12 and 7; I understand schedules. But my family supports it. They understand what I am doing, and I told them if it takes 4 days or 5 days or 3 days or 2 days, it is going to take it. I am sorry. But I think I owe it to the 5,000 men and women from my State who are serving in Iraq and Afghanistan because I just went home 3 weeks ago and waved goodbye to a lot of them.

I have been to Fort Hood and Fort Polk, telling them I am with them, taking pictures with them. But I'll be darned if I will take pictures with them and not stay in the Senate and fight for them.

One of the Senators came to the floor this morning to argue we had eliminated the haircut provision. We support, in this bill, the contributions of our industry. What about the contributions of the employers, small businesses and large businesses, that are carrying the extra burden of our defense by making those paychecks whole, sometimes at great difficulty to those businesses? What about these companies? I am going to provide a list in just a minute of some of those companies, which I have for the RECORD, but hundreds of companies, thousands of companies are trying their best, in some difficult times, to make those paychecks whole.

Why should we be giving tax credits to every other company? Some of them may overlap, but there is no mention of that in this bill. There is no direct support to the many companies that are being patriotic, that are doing the right thing.

Let me say something about these companies that are the beneficiaries in this bill. Again, many could be in shipbuilding, could be other manufacturers—I don't think there is one company that benefits from this bill, small or large, with 5 employees or 50,000 employees, that would say to the Members of the Senate: Please put me ahead of the Guard and Reserve. I don't believe it. That is why I have confidence I can stand here and I can talk about this. I do not think one industry in my State believes that in any way I am trying to take a penny away from them.

But for our Guard and Reserve, and their employers, in a time of war, at a time of great sacrifice, to ask to be included in the bill, I think they will find it very difficult to explain why they are not.

I know the third argument people have made, and I think I heard the chairman talk about it, is this is a jobs bill. I know jobs are important. I would like to make more happen in my State to create private sector jobs, high-paying jobs, good jobs. I do believe there are some provisions of this $137 billion bill that will create jobs. But what job could be more important to our security than the job of our men and women in uniform and their service to our country?

Again, let me put up a chart that shows how many have gone, how many are serving, and to ask what we might do for them.

There is a total of 690,000 Guard and Reserve who are, right now, on the front line. Each of them, I presume, has some outside employment. Maybe some of them are working two jobs in their civilian life. These are doctors, lawyers, architects, truck drivers, policemen, firemen, nurses. There are 90,000 of them on the front line doing the work, but they are not in the bill.

Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 13 minutes 12 seconds.

Ms. LANDRIEU. Mr. President, in all of our States this is the number of the National Guard on active duty or alerted. You can see here that it is a very high percentage in many places in the country.

In Louisiana I have almost 40 percent of our Guard and Reserve who have been called up and activated.

In Washington State, 46 percent, almost half of their Guard and Reserve, have been activated.

In the State of Texas, 28 percent have been activated.

We can see this in every part of this Nation from the east to the west. In Hawaii, 57 percent—57 percent, almost 60 percent of the Guard and Reserve from Hawaii have been called up to serve.

These numbers may fluctuate as the needs of our military and the decisions made by the executive branch, the President and the Pentagon, change about where to shift these forces. But every one of these percentages represents thousands and thousands of families who are taking the direct burden of this.

I know we have tried to help them with pay increases. I know we have tried in other bills to help them improve their pensions. I have been part of most of those fights. I am proud to say in most of those fights we have been successful—but not always. My question is, Why do we only have to help the Guard and Reserve or the Active Forces in the military bills, in the Defense bills? Why can't we help them in our health care bills, in our tax cut bills, in any way we can? If we can afford it, we should step up to the plate. We should step up to the plate and do it.

I think I heard the chairman of the Finance Committee say earlier this morning that he was very proud that the Vice President himself could step in, and did step in—to help the negotiations on a Transportation bill so we could get highways built in this country. I hope the Vice President and the President himself would step in and say, "We made a mistake," or "We just missed the issue," or "We just missed the item," or "We just didn't focus on it as we should," or "The House leadership didn't focus, and let us make it up. Let us put it in this bill. Let us put it in another bill to help our Guard and Reserve."

There are many ways that this could be corrected.

Mr. GRAHAM of South Carolina. Will the Senator yield for a question?

Ms. LANDRIEU. I will be pleased to.

Mr. GRAHAM of South Carolina. I have been listening to the debate. I am sure putting together legislation is a very complex matter right at the end of the session. I need to make a comment and ask a question.

I could not agree more with the state of affairs as has been described by the Senator from Louisiana. The Guard and Reserve are being used in historic fashion. Does the Senator realize that of all the part-time employees who exist in the Federal Government, the Guard and Reserve is the only group that does not have full-time access to health care?

Ms. LANDRIEU. I am aware of that.

Mr. GRAHAM of South Carolina. Does the Senator further realize that at least half of the people called to active duty from the Guard and Reserve leave behind civilian jobs and thus have a reduction in pay, sometimes substantial?

Ms. LANDRIEU. I do believe that is true.

Mr. GRAHAM of South Carolina. Does the Senator agree with me that no matter what happens in the last hours of this session, that next year, because 40 percent of the people serving on active duty in Afghanistan, Iraq, and other places are going to come from the Guard and Reserve, that we need to fix this, and whatever excuses exist today why we can't, that the Senate and the House need to understand that thousands of families are going off to get in a fight, getting injured, getting killed, and having their pay cut and no health care, and that the No. 1 priority of the Senate and House along with whomever is the President next year is to rectify some of these problems?

Ms. LANDRIEU. I thank the Senator from South Carolina. I thank him for his help and support. I work on many issues with him, and he is, as a member of the Guard and Reserve, most certainly aware of these situations. I know the Senator from South Carolina is not asking this for himself because the situation with his family is probably stable and steady. I know the Senator understands that many of the men and women he serves with don't have that same kind of security.

So we are asking them to provide security for us, and we can't find the time for a page or paragraph or a letter to find security for their families. I don't understand it and my constituents don't understand it. Most certainly the men and women in the Guard and Reserve in Louisiana, 12,000 families, do not understand it.

And so I frankly do not want to go home. I don't know what I would tell them when I do go home, how we could pass a $137 billion tax cut bill and forget them. How could we possibly forget them?

I got something from Senator DORGAN which is extremely upsetting to me I will speak about later today because I plan to speak and I am going to connect these dots for people. Maybe one reason we forget them is because there are corporate network executives demanding affiliates take the name of the dying soldiers off the reports at night. That is one way Americans could forget them. We don't want to take pictures of the funerals. We don't want to put their names on the screen, so we just forget they are dying. I understand that. Maybe there are good reasons. I don't want to get into that debate because it gets us into, well, some of the families want it, some of the families don't. I understand that. But still, even if they are not being scrolled on the television, if that is not the right thing to do, surely the Senators and elected leaders who represent them do not need to be reminded by the scrolls on television of those who died.

Many of us have been over to Walter Reed Hospital and visited them personally. Do we need to be reminded? I didn't think I had to go stand at the conference committee and tell Chairman THOMAS. And I am going to speak later today about Chairman THOMAS's district and about what his district is like, and I am sure he knows that. I have done a little research myself about that, so maybe people in his district could get word to our colleague because while it is important what we say to colleagues, what is most important, as you know, is what our constituents say to us.

How much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 5½ minutes.

Ms. LANDRIEU. The next argument that I have heard from some people about why I should sit down and stop talking is because some people are opposed to tax credits. Some people don't like tax credits. Some people think it is an inefficient way to operate the Government.

I am not on the Finance Committee. All I know is when I run for the Senate and when I talk to people at home, everybody likes tax credits. I have tried to provide as many tax credits and some relief for a variety of different individuals, and all I hear every day from this administration is tax cuts, tax relief, tax credits. I hear that all the time whether we have a surplus or deficit, whether we are at peace or war, whether we need to spur the economy or slow it down. All I hear from the administration is about tax cuts and tax credits. But there are Senators who come to the floor, might come to the floor and say they are going to oppose them because they don't believe in tax credits. So I want to put nine of the tax credits that are in this bill in the RECORD.

Section 221. Modification of targeted areas in low-income communities for new markets tax credits is in this bill—$1.7 billion.

Section 245. Credit for maintenance of railroad tracks. Establishes a business tax credit equal to 50 percent of qualified expenditures for railroad track maintenance, capped at $3.500 per mile. So we have a credit in here for railroads as they maintain their tracks, and we cap it at $3,500 per mile. Now some good staff person could calculate how many miles of railroads we have and figure up how much that costs the taxpayers. Maybe it is a good thing, Mr. President. I don't know. But I will tell you what would be a higher priority for the constituents in my State—to send 1 mile, 1 mile of the railroad tax credit to one family so they could pay their house note.

No. 5. Appointment of small ethanol producer credit. Provision clarifies that the small producers' tax credit flows through a member of a cooperative.

No. 6. Section 339. Credit for production of low-sulfur diesel fuel. Provides that a small business refiner may claim a credit equal to 5 cents per gallon for costs paid to comply with the EPA sulfur regulations. The total production credit is limited to 25 percent of the capital costs to come from compliance with EPA requirements.

No. 7. Section 341. Oil and gas from marginal wells. Some of these are in the State of Oklahoma, some in my State of Louisiana. It adds the marginal well production tax credit. The credit is $3 a barrel of oil or .50 percent per thousand cubic feet of gas. The credit is not available if the reference price of oil exceeds $18 a barrel. The last I checked it was $50 a barrel. So we can give tax credits to oil companies and gallons. We can't give a paycheck to the Guard and Reserve to put fuel in their car.

Now, I am obviously upset, but I am going to try to be respectful, but I have to tell the truth, and that is the ugly, unvarnished, unedited, uncensored truth about this bill, and so we are going to stay here till Thursday. I am prepared to stay here morning, noon, and night. I am going to be respectful. I am not going to get into any arguments and I am not going to raise my voice above this level. I am not going to be talked down. I am not going to be spoken down to because I am not speaking for myself. I am speaking for the 5,000 men and women who left Louisiana and are overseas, and if I don't speak for them on this floor, they don't have anyone to speak for them, so I am not leaving.

How much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 1 minute 16 seconds.

Ms. LANDRIEU. So the last minute and 16 seconds that I have this morning before we vote on cloture, which I will not be voting for, I want to ask my colleagues, whatever they can do in the next 4 days to help this I would appreciate it. I understand schedules are tough, and I am not going to make a comment if no one else says anything or shows up or signs a letter because I understand we have a lot of things going on, very important things, and I would not be the least bit disrespectful to my colleagues in this Chamber. But I want them to know, my colleagues, that that is why I am here, and I am not leaving. I am not leaving this Chamber. So I want to apologize ahead of time to anyone I inconvenience. I hope they understand.

I yield back my time.

Mr. REID. Mr. President, Senator HARKIN still has 5 minutes.

The PRESIDENT pro tempore. Not yet. There is 7 minutes in between the Senator from Louisiana and the next time bracket.

Mr. REID. Senator HARKIN has 5 minutes under the order.

The PRESIDENT pro tempore. The time used in making the agreements was 3 minutes, so unless the time is extended, Senator HARKIN has 2 minutes.

Mr. REID. Mr. President, when we started this morning we asked unanimous consent that the time that was taken by the leader would be agreed to. That was clearly in the RECORD. Would the Parliamentarian confirm that?

The PRESIDENT pro tempore. The Senator is correct. Under the current situation, Senator KENNEDY has 5 minutes, Senator HARKIN has the remaining time before 12:22, Senator BYRD has 20 minutes, and then Senator GRASSLEY and Senator BAUCUS have 30 minutes divided.

Mr. REID. Is that right, how much time Senator HARKIN has left?

The PRESIDENT pro tempore. No.

Mr. REID. How much time does Senator HARKIN have?

The PRESIDENT pro tempore. He has 2 minutes.

Mr. REID. I don't understand that. Why did we lose that time?

The PRESIDENT pro tempore. The Senator yielded, and in the course of that the time was used. Does the Senator wish to extend the time to the Senator——

Mr. REID. Senator GRAHAM will need 5 minutes, so I ask unanimous consent that he get 3 minutes and Senator GRASSLEY get an extra 3 minutes. So that will give Senator GRAHAM 2 minutes of HARKIN's time plus the 3 minutes that I have asked be on our side and 3 minutes extra on Senator GRASSLEY's side.

The PRESIDENT pro tempore. And the time for the vote to be extended accordingly.

Mr. REID. Yes.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized for 5 minutes, followed by the Senator from Massachusetts for 5 minutes, and following that time Senator BYRD for 20 minutes and thereafter Senator GRASSLEY and Senator BAUCUS will have 30 minutes divided, and after that time expires we will have the vote. Is there objection to that recitation?

Without objection, it is so ordered.

The Senator from Florida is recognized for 5 minutes.

Mr. GRAHAM of Florida. Mr. President, I want to express my admiration for the very strong and effective case the Senator from Louisiana made about what are our priorities, and that is the same issue I want to raise. I am going to talk about when these National Guard come home, will they have a job?

The statistics are that we are losing on average 5,000 jobs per day to foreign countries. That is the extent of outsourcing which is occurring in this country, and if there is one issue I believe the country is united on, it is that while there are things we cannot directly affect—we cannot directly affect that other countries are going to have lower wage rates and lower working conditions, we cannot affect the fact that some countries are going to have lower environmental standards—those you could describe as the consequences of the marketplace—but, Mr. President, we sure do not need to socialize the outsourcing of jobs by giving additional incentives for American companies to take American jobs to China or to any other foreign country, and that is exactly what this bill does. It socializes outsourcing by increasing substantially the tax incentives to move jobs out of America.

This proposal contains $42 billion over 10 years for a dozen or more provisions, all of which are aimed at moving jobs out of the United States. The actual cost is substantially more than that. Mr. President, just one provision of this matter which represents one-third of that total, $42 billion, do you know does not go into effect until the year 2009? You can imagine what the real 10-year cost of this proposal is going to be. This $42 billion in international tax changes to encourage outsourcing is greater than the net tax cuts we are providing to domestic manufacturers, and yet the whole purpose of this enterprise was to increase the competitiveness of American manufacturers.

Let me give you one example of what we are doing. We are going to provide that U.S. multinationals which have taken jobs in the past outside the United States and have earned a profit and now want to bring that profit back to the United States, that they are going to have a tax rate on those repatriated funds not at the 35 percent that their American counterparts pay when they give the work in the United States. Can you believe it, Mr. President, that we are going to tax those repatriated funds from foreign jobs, outsourced from America, at 5¼ percent? That is an absolute outrage. And let me just tell you a group that is not exactly averse to outsourcing because it has publicly supported it is the President's Council of Economic Advisers. In a letter, which, Mr. President, I ask unanimous consent to have printed in the RECORD, dated October 4 from the Secretary of the Treasury, Mr. John W. Snow, here is what the Council of Economic Advisers says:

> . . . analysis indicates that this repatriation provision would not produce any substantial economic benefit.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
*Washington, DC, October 4, 2004*

Hon. CHARLES E. GRASSLEY,
*U.S. Senate,*
*Washington, DC.*

DEAR CHAIRMAN GRASSLEY: As you work through the conference on legislation to meet our World Trade Organization (WTO) obligations and repeal the current foreign sales corporation/extraterritorial income (FSC/ETI) tax benefit, I write to offer the Administration's views on major issues raised by this important legislation.

First of all, I applaud your efforts to replace the current FSC/ETI benefit. This legislative process has been unique, in that the impetus for the legislation was a WTO ruling and subsequent EU sanctions. The Administration recognizes the challenges of moving a large tax bill under these circumstances and appreciates the efforts you have exerted to succeed.

In our Statements of Administration Policy (SAPs) to the House and Senate, the Administration emphasized its broad priorities for legislation to replace FSC/ETI. These include ending the European Union (EU) sanctions and promoting the competitiveness of American manufacturing and other job-creating sectors of the U.S. economy. As you know, the EU sanctions are escalating at a rate of 1 percentage point per month and will inflict an increasing burden on American exporters, American workers, and the overall economy. The Administration is committed to working with conferees to end these sanctions as quickly as possible.

The Administration believes that a conference report to replace FSC/ETI should be budget neutral. Both the House and Senate-passed bills include a myriad of special interest tax provisions that benefit few taxpayers and increase the complexity of the tax code. Legislation taking up more than 1000 pages of statutory language (or even 400 pages) goes far beyond the bill's core objective of replacing the FSC/ETI tax provisions with broad-based tax relief that is WTO-compliant. The Administration will work with the conferees to eliminate these narrowly crafted provisions.

The Administration will also work to make the tax relief in this bill as broad as possible to benefit all job creating sectors of the American economy.

The Administration has strong concerns regarding the so-called "haircut" provision in the Senate bill which would needlessly complicate the tax code and interfere with the ability of U.S. businesses and American workers to compete in the global marketplace. Worse, the provision would deter companies operating internationally from investing and creating jobs in the United States. More than 5 million Americans work for international companies at facilities here in the United States. The Senate haircut could endanger the growth of direct foreign investment into the U.S. and the jobs such investment creates in the U.S. The Administration urges the conferees to eliminate this provision from the conference report.

In addition to these provisions, the Administration also has concerns regarding the fairness of the repatriation provision included in both bills. This provision would offer international corporations a partial "tax holiday" for repatriating foreign income that is currently held overseas. U.S. companies that do not have foreign operations and have already paid their full and fair share of tax will not be able to benefit from this provision. Moreover, the Council of Economic Advisers' analysis indicates that the repatriation provision would not produce any substantial economic benefits. The Administration believes the $3 billion revenue cost of this provision could be better used to reduce the tax burden of job creators in the United States.

The Administration commends the House and Senate bills for including many provisions that close corporate tax loopholes and tax avoidance schemes. The Administration supports elimination of the Sales-In/Lease-Out tax loophole, but has concerns regarding efforts to apply this proposal retroactively. The Administration opposes attempts to codify the Economic Substance Doctrine. The Administration supports complete elimination of the "SUV tax loophole," except for cases where there is a demonstrated legitimate business need for a large Sport Utility Vehicle.

The President's FY 2005 budget included energy tax incentives totaling $7 billion over ten years. These incentives were dedicated to alternative and renewable fuels, conservation, energy efficiency and emissions-free energy. During the energy bill conference, the Administration expressed additional support for certain tax provisions supporting the Alaskan pipeline, and encouraging investment in electric transmission. Finally, as part of the highway bill discussions, the Administration has expressed support for shifting the ethanol tax credit (VEETC) from the Highway Trust Fund to the general treasury. The Administration is concerned that the energy tax title in the Senate bill goes far beyond these positions and includes provisions whose revenue loss greatly exceeds policies that the Administration has previously agreed to. Energy tax provisions in the final bill, if included at all, should be limited to only those provisions mentioned above that reflect the President's priorities of environmental protection and energy conservation and maintain needed fiscal discipline.

The Administration opposes the Senate amendments which effectively vitiate the Department of Labor's new rules to improve the nation's outdated overtime laws. The Department's revised rule strengthens overtime protections for 6.7 million low-wage workers by simplifying complex eligibility tests and by raising salary thresholds that have not been changed in almost 30 years. In contrast, the Harkin amendment would lock in the old overtime standards and part of the new overtime standards, requiring each job to be analyzed twice, once under the old rules, which are no longer in effect, and once under the new rules proposed by the Department of Labor which would have been in effect for months. Consistent with past Administration positions, if the Harkin amendment or other limitations to the Department of Labor's rule making authority is included in the final version of the FSCETI legislation, the President's senior advisors would recommend that he veto the bill.

The Administration is open to a tobacco buyout as long as it meets certain conditions. We believe the buyout must end all aspects of the tobacco program and not replace them, should do so at a reasonable cost that is fully offset, and should be consistent with WTO rules. The Administration promises to work with interested parties to craft a tobacco buyout that ends federal subsidies of tobacco growers while meeting these criteria.

On behalf of the Administration, let me express our willingness to provide assistance during the deliberations of the conference committee. I look forward to working with you to enacting legislation that removes the threat of escalating EU sanctions and encourages economic growth and job creation here at home.

Sincerely,

JOHN W. SNOW.

The administration believes the $3 billion of revenue cost of this provision could be better used to reduce the tax burden of job creators in the United States.

That is what the administration says about just one of these dozens of provisions.

I have been here for 18 years. Mr. President, you have been here much longer, but I cannot imagine a proposal that would be more repugnant to the American people and more averse to our long-term economic interests.

We have a major challenge in this country. How does the United States remain globally competitive with a standard of living that in some cases is 10 times that of our competitors? We certainly are not going to do it by socializing with our tax dollars the movement of our jobs—the jobs of those National Guardsmen who will be coming back from Iraq and other foreign countries.

This is only one of the many deficiencies in this legislation, but it is a core issue that goes to the global future of the economy of the United States and the future of those men and women who are returning to their jobs from Iraq.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, ours is a government of the people, by the people and for the people. And we should be judged as U.S. Senators in fulfilling that commitment by how well we put the needs of average Americans first. Middle class families are the backbone of America. Our first duty is to them—for a secure nation, for good jobs, for healthy families, for good schools, and safe neighborhoods.

This bill betrays that solemn duty. On issue after issue, page after page, it puts the interests of big corporations ahead of the public interest—ahead of the hopes and dreams and everyday needs of the middle class.

It puts the profits of big tobacco corporations ahead of the health of our children. The Senate adopted the proposal by the Senator from Ohio, Mr. DEWINE, to prohibit tobacco companies from marketing cigarettes to children.

There is absolutely no doubt that tobacco companies are spending $11 billion each year to lure our children into smoking. Every day, 5,000 children smoke for the first time. More than one-third of those will be regular daily smokers by the time they graduate from high school.

What future do they have to look forward to? Years of battling cancer? A painful and premature death? Never getting the chance to watch their own children grow up and get married? Never living long enough to bounce their grandchildren on their knees? Is that what parents want for their children?

Tobacco use kills more Americans every year than AIDS, alcohol, car accidents, murders, suicides, and fires combined. Nearly 1 in 3 cancer deaths, and 1 in 5 deaths from heart disease are tobacco-related.

In fact, smoking is the No. 1 preventable cause of death in America. We had a chance to bring to an end the largest disinformation campaign in the history of the corporate world. We had a chance to save our children from this scourage—to save them from the clutches of the tobacco companies. But the tobacco companies carried the day in Congress and the House leadership said no.

Is that what "the people" want? Is that government "for the people"? I don't think so.

The Senate passed an amendment by the Senator from Iowa, Mr. HARKIN, to stop the Bush administration's misguided efforts to eliminate your overtime pay. That is right. President Bush says to millions of middle class workers that they no longer deserve the right to overtime pay. And the Harkin amendment would have stopped the Bush administration from doing that.

This comes from an administration that is already costing us jobs. In fact, we learned on Friday that President Bush will be the first President since Herbert Hoover and the Great Depression over 70 years ago to lose jobs on his watch—a total of 1.6 million private sector jobs. And now, on top of that, the President wants to reward his special interest friends by taking away overtime from more than 6 million hard-working Americans. On five separate occasions, the House and the Senate have voted to preserve overtime protections, but the While House stripped them from this bill.

Make no mistake—overtime cuts are pay cuts.

Is that what "the people" want? Is that government "for the people"? I don't think so.

Finally, this bill outsources jobs.

Middle class families across America live in fear every day that their good jobs will be shipped overseas. The people expect us to protect their jobs. But this bill provides a stunning $42 billion in new tax breaks for multinational corporations that will make it easier for them to export your jobs.

Imagine that. You are working had every day, playing by the rules, trying to provide for your family, and faithfully paying your taxes. And this bill uses your tax dollars to ship your job overseas.

This bill is of the corporations, by the corporations, and for the corporations. It is a lobbyist's dream and a middle class nightmare. It is an embarrassment to representative government. I urge my colleagues to reject it.

The PRESIDENT pro tempore. The Senator from West Virginia is now recognized for 20 minutes.

Mr. BYRD. Mr. President, I thank the Chair. I thank the distinguished President pro tempore of the Senate, the honorable TED STEVENS, a great Senator from the State of Alaska; as a matter of fact, the Senator of the 20th century for the State of Alaska.

On this Sabbath Day in which the Senate convenes in an extraordinary session, I read from the King James Version of the Holy Bible, Exodus 35, verses 1 through 3.

> And Moses gathered all the congregation of the children of Israel together and said unto them, These are the words which the Lord hath commanded, that ye should do them.
>
> Six days shall work be done, but on the seventh day there shall be to you an holy day, a sabbath of rest to the Lord: whosoever doeth work therein shall be put to death.
>
> Ye shall kindle no fire throughout your habitations on the sabbath day.

I now read from the Ten Commandments, again King James Version of the Holy Bible, Exodus 20, verses 8 through 10.

> Remember the sabbath day to keep it holy.
>
> Six days shalt thou labor, and do all thy work:
>
> But the seventh day is the sabbath of the Lord thy God: in it thou shalt not do any

> work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates:
>
> For in six days the Lord made heaven and earth, the sea, and all that in them is, and rested the seventh day: wherefore the Lord blessed the sabbath day, and hallowed it.

That is the Fourth Commandment passed down from God to Moses and from Moses to the Israelites. Those words are holy for people of many faiths. Christians and Jews are bound to follow the Ten Commandments. Muslims, too, hold dear a similar lesson from the Koran, and scores of millions from that faith also make strict observance of their own day of rest.

But today the Senate has been called into session despite the words of the Fourth Commandment. Moreover, the matter being debated today is no question of life or death. There is no dire emergency that brings us here on this Sabbath Day. There is no emergency that demands the elected representatives of the American people place the pursuit of their work over the importance of their faith. No, the Senate has been called in on a Sunday for a mere procedural vote. What would be the consequences if the Senate were not called into session today for a single vote on cloture? It would only mean that the matter before the Senate might take 1 day longer to complete. What a tragedy that would be.

Must we ignore the sanctity of the Sabbath just to call the Senate into session and have Senate staff come in from their homes throughout the nearby area in order to cast one procedural vote? The Senate should not be in this position. Our staffs and their families, our own selves and our families should not be in this position.

This Chamber, on the whole, has an excellent record for accommodating the faiths of those who serve the American people. It has become routine for the Senate to temporarily suspend its business so that Senators, both Christians and Jews, can carry out their religious services and their religious observances. In fact, I suggested yesterday that all the Senate would need to do would be to delay the vote until Sunday, today. That would be in accordance with the observing of the old Sabbath. That is when the Sabbath traditionally ends. If only there were a delay in this afternoon's vote by 5½ hours, Senators would not have been forced to choose between our responsibilities to our Nation and honoring our Sabbath, our day of rest and prayer. This suggestion was rejected.

What is the rush to have this particular vote on a Sunday afternoon? Most of us would like to have observed this Sunday afternoon and this morning prior to noon with our families, would like to have observed the opportunity to go to the church or the churches of our faith. What is the urgent need to keep Senators and our staffs away from their families on this, a day of rest? What message does this send to the American people?

I do not believe a Sunday session of the Senate for such a trivial matter as a procedural vote sets a good example for Christians around this country or Christians around the world. It does not set a good example for anyone who wishes to observe the Fourth Commandment. And for what?

The Senate has been thrown into too much confusion as we rush to finish too much business in too short a time. I have said repeatedly the Senate should not be rushed in its business, especially on complex matters of great national importance. It is a disservice to those whom we are elected to represent.

Now we see that there is another side of that coin. The uncontrollable zeal to get business done as soon as possible has resulted in a decision that is a disservice to those who work in this Chamber. Because of this poor planning, many of us and our families are being forced to give short shrift to our observance of the Sabbath. That is not right.

I am a Christian. I don't claim to be the best Christian around. My mom and dad were great Christian people. They had never been to school very much. I have heard someone on the campaign trail say he is the first in his family line to graduate from college. Let me say I am the first to enter the third grade in all of my line, my parentage, my ancestor line.

I can say this, though: My old dad and mom who raised me—I was an orphan at the age of 1; my mother died in the influenza epidemic of 1918—the kind people who raised me were very religious. They didn't carry it around on their sleeve. They did not go around criticizing other people. They practiced. I can remember many times after I had gone to bed hearing my Christian mother on her knees, down in another room, praying, praying, praying. That old coal miner dad who was my uncle—I called him my dad—he was the only dad I ever knew, really. He was a coal miner. When he died and left this world he didn't owe any man a penny. He never criticized anybody else. I didn't hear him ever in all my years use God's name in vain. So those were my Christian parents. I was raised that way.

I profess today to be a Christian. I don't profess to be good: The Bible says no man is good, so I don't say that I am good. But I am a Christian. And there are millions like me in this country and around the world who believe that we should keep the Sabbath Day holy and remember it.

In this modern world of 24 hours a day, 7 days a week commerce and enterprise, keeping the Commandments and remembering the Sabbath, to keep it holy, may seem an antiquated notion to some. But it is, nevertheless, a central pillar of many faiths, and it reflects the principle on which this Nation was founded: "One Nation, under God."

Now, I do not try to press my faith on anybody else. I am like Samuel Adams, a few years before the Constitutional Convention, when he said: I can listen to any prayer—any prayer. And so can I. I can listen to the Muslim prayer. I can listen to the prayer of the Jewish people. I can listen to the Catholics as they pray. I am willing to listen to any prayer. I do not attempt to press my religion on anybody else.

But I think we as a Senate, here in the eyes of the American people and the world on the Sabbath, do not give a very good impression. We ought to set the example. We in the Senate ought to set the example.

Of course, if the ox or the ass were in the pit, as the Bible says, then pull him out if it is on the Sabbath. But the ox is not in the ditch. That is not why we are here. We are not here because of some dire emergency that threatens the lives of the American people. This is not a dire emergency. This could easily have been put over until tomorrow.

I have been the majority leader of this Senate in some years past. I have been the minority leader of this Senate in some years past. I know something about the rules. I may have forgotten more than some will ever learn, but I can remember the powers of the majority leader. And it is within any majority leader's power to put this matter over until Monday. It could have been done yesterday. And it could still be done. But we are here. The staffs have been called out now. Senators are here. And so we have to observe what the leadership has ruled. We are here. But I would say, it was unnecessary.

I am sorry that the Senate is in today. We would not have lost anything by waiting until tomorrow. But it has been done.

Mr. President, how much time do I have left?

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator has 4 minutes 20 seconds.

Mr. BYRD. I thank the Chair.

Mr. President, we hear a lot about religion these days. I say, let's practice a little of it here in the Senate and on the campaign trail. I hope the Senate in future years will not repeat this mistake of unnecessarily sacrificing the observance of the Sabbath on the altar of political expediency. We could have done better.

We waste a lot of time here. There were many days when we could have been in and we could have been doing the work of the people, the work of the Senate, but we chose not to be in. These are workdays I am talking about, many of them throughout the year that is past, some of them recent. The work could have been done. It was not necessary to back this work up to the point that we have to come in here on a Sabbath—on a Sabbath—to vote. And for what? A mere procedural matter.

Mr. President, I thank the Chair and I thank all Senators.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the current occupant of the Chair for yielding me 5 minutes from this bill.

### DELAY OF CONFERENCE REPORTS

Mr. President, I come to the Senate once more to ask that the Senate consider what is delaying the Homeland Security bill and the Military Construction bill which carry with them the money for the hurricane recovery in the southeastern part of this country, including Florida.

I first want to say to my good friend from West Virginia, he reminds me very much of the comments my grandmother used to say to me about doing things on Sunday. And we tried to observe the commands of the Bible.

This is not the first Sunday since I have been in the Senate, in 36 years, that we have had to meet. I, too, regret we have to meet on Sunday. But we are meeting today primarily because of the objection of one man. We should have taken up the Military Construction bill and the Homeland Security bill when it arrived from the House last evening. The House of Representatives had passed both of those bills in the course of about 2 minutes, and not one person spoke against those bills. It was a unanimous vote on both those bills.

They came over here—and I congratulate the minority leader. Yesterday, when we opened the Senate, he said, without question—without question—we should pass the Homeland Security bill and the Military Construction bill before we leave.

The impact of this is an astounding delay because of one Senator, the other Senator from Iowa, Mr. HARKIN, who is objecting because of an offset that was used in the Military Construction bill to enable us to proceed with the drought provisions in the bill.

For the first time, we are putting up money to assist the people who are suffering around the country, primarily farmers, from drought. We needed an offset. This is the same offset we took once before. And we straightened out the program after that borrowing of budget authority was used effectively.

Now, I told the Senate last night I was informed that last evening FEMA ran out of money. On October 1, it had $836 million, including a $500 million carryover from fiscal year 2004. There was a $336 million apportionment under the continuing resolution, which was intended to last until November 20, but because of the demands in Florida, they have run out of money. And we want to see these bills passed.

We and the leadership on both sides tried to clear this bill. We are primarily here voting on this cloture now rather than tomorrow because we had to come in in order to qualify cloture votes for tomorrow. We will not vote on the Military Construction and Homeland Security bills until tomorrow because one Senator—one Senator—wants to delay them.

Now, I want the Senate to know—this is my last year as chairman of the Appropriations Committee—we have worked hard with Congressman YOUNG on the other side, who is from Florida and is very disturbed about the delay. We worked our committees, and worked them literally night and day, particularly the staffs, to get these bills ready to move. And the Senator from West Virginia says we should only be working if it is an emergency. Well, it is true there are emergency bills right behind this bill.

I would hope we would get cloture and pass this bill as quickly as we can so we can move to the Military Construction bill. We cannot interfere now. We cannot call up the Military Construction bill or the Homeland Security bill until this process is over.

But I urge the Senate, every Member of the Senate, to talk to Senator HARKIN and ask him not to delay these bills any longer. These bills will take time to prepare and get what we call enrolled, and then they will be signed by the Speaker of the House and by the Vice President or myself, and they will go to the President. That could be done today. That could be done today, if this one Senator will relent in this procedure to delay these two bills.

I do not understand why the Homeland Security bill has been delayed at all. We were ready to put it in what we call wrap-up last night. The Senator from West Virginia and I and all those connected with it said: Let's just pass this. It has passed the House without objection at all.

The matter was reviewed by the Senator from Arizona. I am pleased to say for one time we are in total agreement. That bill does not have to have any respecification of anything we put in that bill that would raise the objection of my friend from Arizona. And he is my friend, despite our disputes.

But I tell the Senate, it is time to pass the Military Construction bill and the Homeland Security bill today.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from West Virginia.

Mr. BYRD. Mr. President, I believe I have 2½ minutes left.

The PRESIDING OFFICER. The Senator does have 2½ minutes left.

Mr. BYRD. Mr. President, may I say to my friend, the distinguished Senator from Alaska, who is the President pro tempore and the chairman of the Appropriations Committee, this man has, throughout the year, sought to keep the Senate on schedule and to not only have the committee report out all of the 13 bills but to have the Senate pass them. I think if all of us had worked as diligently as the Senator from Alaska to get the work done, we would not be here today.

Now, I hesitate to mention a Senator by name—the distinguished Senator from Alaska has done that—and that Senator is not on the floor. But let me say, whether we like it or not, that Senator was within his rights.

Mr. STEVENS. Yes, he was.

Mr. BYRD. And the Senator from Alaska might be in the same position one day, and I may be.

The blame here should be placed in a manner on the whole Senate and particularly, I have to say, the leadership of the Senate. The Republican leadership is in control so I think they bear the greatest responsibility. As I said yesterday, we all are at fault a little bit. But my complaint is not against a Senator. My complaint is the way we have done our work all year long. We dilly dallied, delayed, and had several days out of session when we could have been in, could have been doing our work. That goes for our recent times as well.

I say there is where the overall fault lies. I am sorry that because of that, we have been backed up with our backs up against a timeline here when we are about to go out for a Presidential election. And we should not have been put in this position. We should have done this work earlier. I say it was wrong to come in on the Sabbath Day. It didn't have to be done. I regret it.

I thank the Chair and all Senators.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Who yields time?

Mr. GRASSLEY. Mr. President, I yield the Senator from Oklahoma 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleagues. I want to speak a little bit about the conference report and maybe a little bit about Senator LANDRIEU's amendment.

First, I wish to compliment Senator GRASSLEY and Senator BAUCUS for their leadership on this bill. The FSC/ETI bill was a very complicated bill. The Senate provisions alone—there were 276 provisions—dealt with about $180 billion of tax increases and tax cuts, a very complicated bill, very confusing bill. It had international provisions. But it was very important that we move forward, and we moved forward to basically—I started to say—become compliant with the World Trade Organization because they were imposing sanctions on U.S. exports, fees of 12 percent escalating 1 percent per month going up to 17 percent. So it was important that we resolve that problem.

Most people think the conference report solves that situation. I compliment them for it. The bill that came back from conference was a better bill than left the Senate—frankly, a much better bill. There are a lot fewer provisions. There were many amendments that were left out. I know the Senator from Louisiana is upset about her amendment being left out. There were hundreds of amendments left out, some of which have a lot of merit, some probably didn't have merit. I don't happen to agree with her amendment, and I want to touch on that for a second.

First, I want to finish on the FSC/ETI bill. The underlying premise of the FSC/ETI bill—which I am going to support, and I urge our colleagues to vote for cloture so we can finish this bill—is that we are going to give a benefit to manufacturers, a lower corporate rate than other corporations. I happen to disagree with that. I used to be a manufacturer. I used to run a manufacturing company, Nickles Machine Corporation. We made engine parts. We sold them around the world. Manufacturers get a lower rate, and we do it in this bill in the form of not a rate reduction but in the form of an exclusion of income. I think a rate would be a much simpler way to go, and I think it should apply to all corporations.

What we do in this bill is, we give an exclusion for a certain amount of income. I think 3 percent the first 2 years, 6 percent the next 3 years, and then 9 percent beyond that. The net effect of that for most corporations is, the corporate rate would go into effect 34 percent and then 33 percent and then 32 percent, if you are a manufacturer. If you are not a manufacturer but happen to be a corporation, in other words, you do professional services, maybe an attorney or maybe a doctor or something, or you have an accounting firm or you have a financial firm, if you have financial services, you are going to be taxed at a higher rate.

I think we should have a uniform corporate rate. It is a mistake. You have a lot of companies that do both. They are a manufacturer and they provide financial services or they provide other services. So you are going to find them having to segregate their income—this part is manufacturing, this part is financial or other services. That is going to mean asking for a lot of audits, a lot of confusion, and maybe problems with the IRS and future Congresses. Future Congresses also will be dabbling with the definition of manufacturer because there are a lot of people defined in this bill as manufacturers that a lot of us wouldn't think of as manufacturers; i.e., individuals involved in architectural engineering, or individuals or companies that are construction or software companies or oil companies or extraction companies. There are software companies, the film industry. You have a lot of industries that aren't normally thought of as manufacturing and are now defined as manufacturing.

When people realize there is a 10-percent lower corporate rate if you are defined as a manufacturer, my guess is you will have a lot of future interest and amendments. The lobbyists will be very big trying to make sure that whoever their client is is defined as a manufacturer. So the number of manufacturing jobs, which has been on a fairly steady decline for the last 40 years—it has bounced up in the last year—will increase dramatically, not because there are more manufacturing jobs, but because more jobs are defined as manufacturing. I don't think that is good policy.

I have mentioned that. I know Chairman GRASSLEY and Senator BAUCUS are well aware of my concerns. I tried to fight that fight along with Senator KYL. We were not successful. We tried every way we could, but we didn't win on that one. But it is important that we become WTO compliant. It is important that we pass a bill. I don't think we are going to solve the problem I am talking about in differentials in the next 3 months or, frankly, the next 6 months. So I urge our colleagues to vote in favor of it.

In relation to the Landrieu amendment, her discussion on it, I appreciate her passion. But no one on her side raised this amendment. I sat in the conference for days. She had her chance. There were hundreds of amendments that were not adopted. I don't happen to agree with the substance of her amendment. But everyone was entitled to have their chance. Chairman GRASSLEY insisted on having the entire Finance Committee represented in the conference. I compliment him for that. It was a very open, fair conference. All Senators who were on the Finance Committee were represented, were there, or could have attended. So again, sometimes you don't win on your amendments.

I compliment again Senator GRASSLEY and Senator BAUCUS. I urge our colleagues to vote in favor of cloture.

### RECUSAL

Mr. KOHL. It has come to my attention that Section 886 of H.R. 4520, the Jumpstart Our Business Strength (JOBS) Act, applies to the ownership of sports franchises. As owner of the Milwaukee Bucks basketball team, I have serious concerns that this provision creates a potential conflict of interest. While I was previously unaware of this provision as one of the many tax simplifications included in the bill, I have decided to recuse myself from further votes on this issue.

Mr. NELSON of Florida. Mr. President, I rise today to support passage of the JOBS bill conference report. This legislation is a positive step toward alleviating the pain put on the manufacturing sector by the World Trade Organization tariffs, providing domestic companies with a sizable tax deduction that will help to create jobs, and simplifying our international tax regime.

Most importantly, though, it pays for itself. By eradicating a number of abusive tax shelters, this bill does not add to our deficit; it plugs holes that have been exploited in the Tax Code while ensuring this important tax relief is not at the expense of future generations.

I am also quite partial to a provision aimed at rectifying an inequity that has existed for over 18 years. The residents of the seven States without an income tax have been treated unfairly under the Tax Code since 1986. I applaud the conferees for including a temporary 2-year benefit for citizens of these States, allowing them to deduct the State sales taxes they pay from their Federal income tax liability. I look forward to working with my colleagues to once again make this benefit permanent, but I thank the conferees for including this important tax relief for the citizens of Florida and the other States without an income tax.

One part of the Senate-passed bill that did not make it into the final package would have dealt with our National Guard and Reservists who are performing so admirably overseas. I am deeply troubled by the omission of tax relief for the employers continuing to pay the salaries of their employees who have been called to active duty in Iraq and Afghanistan. This was inexplicably left on the cutting room floor in conference, and I plan to work with my colleagues to ensure this oversight is remedied. We owe this tax relief to the patriotic employers who have helped to ease the financial burden of serving overseas by continuing to pay their active duty employees.

I also am troubled by the absence of another Senate-passed component to the bill: FDA regulation for tobacco. This issue has received strong support in the U.S. Senate, so the House acted unilaterally, ignoring the will of the Senate and the bipartisan agreement that any buyout also would include regulation of tobacco.

Another aspect of this that disappoints me is the tobacco buyout assessment provision that emerged from conference. This rule places a greater burden on Florida companies, specifically Florida cigar manufacturers, than cigar manufacturers from other States. This new provision creates an assessment on cigar manufacturers to pay for the buyout of tobacco farmers even though they do not use the types of tobacco being bought out. It amounts to a $282 million price tag, leaving Florida companies to pay more than 75 percent of this assessment.

There are a number of other small issues in this bill that may be overlooked, but which mean a great deal to local economies. One that will have a profound effect on Florida deals with motorsports facilities. As you know, Florida is home to a great racing tradition and to the world famous Daytona International Speedway, as well as the Miami-Homestead International Speedway, and a host of other smaller race facilities. For decades, these tracks have been allowed to depreciate their property over 7 years. Recently, however, the IRS has questioned this classification.

I am delighted the FSC/ETI bill encourages continued investment by codifying the 7-year classification from the date of enactment through January 1, 2008. This is an excellent start. I am hopeful the IRS will recognize the legislative intent of this body and reconsider any new interpretation of the law. The action taken in this tax bill indicates the revenue procedures were not clear, so Congress acted to provide clarity.

I urge Congress to revisit this issue as soon as possible to provide the ongoing certainty that is needed to plan substantial investments in new track construction and expansion.

As with any conference report, I am not completely satisfied with this package. It is not perfect. There are omissions. It does not go far enough in some respects, and I would argue it goes too far in others. But legislating is all about compromise, and all in all, this bill is a good compromise. It adhered to the tenets of the Senate-passed bill, and will achieve its stated goal—finally ending the tariffs that have so burdened American manufacturers.

I am comfortable rising in support of this tax relief package, and I am confident any inadequacies will be addressed in due time.

Mr. REID. Mr. President, the Senate FSC-ETI bill contained $19 billion in energy tax incentives that supported the diversification of the Nation's energy supply, conservation, and efficiency.

Although few of those provisions survived the House-Senate conference, I am pleased that the conference report extends and expands the Section 45 production tax credit for renewable energy resources.

My thanks to Senators GRASSLEY and BAUCUS, as well as 36 Senators who recently joined me in a letter to conferees urging the adoption of this very important renewable-energy provision.

The Section 45 production tax credit works.

Since its initial adoption in 1992, wind energy has become the fastest growing energy source in the world.

Other renewable energy resources like geothermal, solar and biomass energy will now be able to enjoy that same growth potential.

We know that renewable energy can provide a steady supply of electricity that is made in the USA.

We know it will spur economic investment and new technology, and create thousands of jobs.

According to the Department of Energy, tripling geothermal production by the year 2010 would stimulated $61 billion of domestic investment, create 1.6 million person-years of new employment, and add $180 million to State and Federal government treasuries from royalties.

The Western Governors Association projects the Department of Energy's initiative to deploy 1,000 megawatts of concentrating solar power in the southwestern area of the United States would create approximately 7,000 jobs and estimated expenditures of more than $2 billion in the next decade.

We know it can protect our environment and reduce global warming. And we know it can help reduce our dependence on oil from the Middle East.

The renewable energy resource is unlimited.

Once we build the facilities, the fuel is free.

In simple terms, "batteries are included" with renewable energy facilities.

The sun will shine for a billion years, the wind will blow as long as our planet survives, and the heat of the Earth is the most abundant resource in the world.

My State and many others are rich in renewable energy.

Nevada is the Saudi Arabia of Geothermal energy.

I am proud that Nevada has set some of the highest goals in the Nation for developing renewable energy. We are going to steadily increase our electricity generated from renewable sources toward a goal of 15 percent by 2013.

The Section 45 provision in the FSC-ETI bill is an important step on the road to diversifying the Nation's energy supply by increasing our use of renewable energy resources, but our job is not done.

This provision only extends the Section 45 production tax credit for 15 months.

We need to extend the Section 45 production tax credit for renewable energy resources from 15 months to a minimum of 5 years.

It is also important that we work to include tradeable credits to public power utilities and rural electric cooperatives, which serve 25 percent of the Nation's power customers, by allowing them to transfer their credits to taxable entities.

I will work to make that happen in the next session of Congress.

Once again, I want to thank the managers of this bill for shepherding the expansion and extension of the Section 45 production tax credit in this legislation.

We must diversify our Nation's energy portfolio with clean, renewable energy resources. We must accept this commitment for the energy security of the U.S., for the protection of our environment, and for the health of the American people.

Mr. KYL. Mr. President, today the Senate is considering the conference agreement for H.R. 4520, the American Jobs Creation Act of 2004. I voted against this legislation when it was reported out of the Senate Finance Committee and again when it was approved by the full Senate, so I would like to explain why I am reluctantly supporting the conference agreement.

I was a conferee for this conference agreement and am supporting it for four reasons. First, the legislation makes necessary improvements to the way the United States taxes foreign-source income. These changes are a good first step at rationalizing the way we tax U.S.-based multinational companies. Second, the conference agreement dropped many of the tax increases that were included in the Senate-passed bill that would have inappropriately raised taxes on many U.S. businesses. Third, Senator GRASSLEY has committed to work with me on broad-based corporate tax reforms next year. Finally, I am supporting the conference agreement because it is important to come into compliance with our international obligations.

The conference agreement includes some very worthwhile provisions. Most importantly, it reforms and simplifies the way we tax U.S.-based multinational businesses. Under current law, U.S.-based multinational companies are subject to a tax system that was designed in the 1960s, that we have failed to modernize as global business transformed and grew, and that has only been modified when Congress needed to raise revenues. As such, the system is inconsistent and inefficient and subjects U.S.-based companies to double-taxation, all of which put our companies at a disadvantage vis-à-vis their foreign competitors. The conference agreement fixes a number of these problems.

First, the conference agreement addresses two very serious problems with our foreign tax credit system. The U.S. tax system is a worldwide system, meaning we tax the income of U.S. taxpayers no matter where it is earned. The problem with such a system is that income is double-taxed, once by a foreign jurisdiction and again by the United States. Because many other countries only tax income that is earned within their borders, U.S. companies face double-taxation while many of their foreign competitors do not. To avoid this problem, the U.S. gives taxpayers credits for taxes paid to a foreign jurisdiction, which are used to offset U.S. tax liability. If the system worked perfectly, the net result would be that corporate income is taxed one time at the U.S. rate of 35 percent. The problem is that the system does not work perfectly; there are so many restrictions on the ability to use foreign tax credits that, in practice, foreign earnings are often double-taxed. Further, under current law, unused foreign tax credits can only be carried forward 5 years, after which time they expire, resulting in permanent double-taxation. The conference agreement does two things: First, it eliminates many of the restrictions on using foreign tax credits by reducing the number of "baskets" that the different types of credits are segregated into from nine to two, making it much easier to use foreign tax credits. Second, the conference agreement extends the carryforward period to 10 years so that taxpayers have twice as long to use foreign tax credits before they expire. Both of these changes are very important and are a big part of the reason I am supporting the conference agreement.

The conference agreement also reforms the "interest allocation rules," which can have the perverse effect of making it more expensive for U.S. companies to build new U.S. facilities by restricting a company's ability to deduct interest payments used to finance the construction of such facilities. The conference agreement gives companies a one-time choice of how to allocate and apportion their interest expenses so that if a company elects the new "worldwide fungibility" approach instead of current treatment, interest expenses incurred in the United States would only be allocated against foreign-source income in certain restricted circumstances. This also makes it less likely that U.S. companies will have their use of foreign tax credits restricted, thereby alleviating the problem of double-taxation. Like the foreign tax credit reforms I mentioned earlier, the interest allocation reforms are another reason I am supporting this legislation.

I want to express my disappointment with the centerpiece of this legislation, however. I continue to be concerned that the manufacturing deduction represents poor tax policy because it establishes for the first time a lower tax rate for one segment of our business community—manufacturing—while continuing to impose the higher 35 percent rate on all other U.S. businesses. Sound tax policy should be fair and neutral and the manufacturing deduction is neither. I expect that this provision will cause a great deal of "game-playing" as companies strive to define as much of their activity as possible as "manufacturing" to more greatly benefit from the deduction. As a result, I believe that the Treasury Department is correct when it predicts that we will see an increase in audits and litigation as a result of this provision.

I noted that, for the first time, Congress has established a bifurcated corporate tax rate system in this legislation. Non-manufacturing companies also create good jobs, contribute to our growing economy, and compete with lower-taxed foreign companies just like U.S. manufacturers, yet these companies do not see tax rate relief in this legislation. It would have been far better to have provided a corporate rate reduction across-the-board for all U.S. companies. This would have avoided the game-playing, would have been far simpler for taxpayers and the government to administer, and would have made the United States a more attractive place to do business. This last point is important. Our combined federal and state tax rate is 40 percent, while in Asia the rate is 30.4 percent, and in Europe the rate is 27.7 percent. Our trading partners have been aggressively cutting their corporate tax rates. It is time the Congress stop trying to set industrial policy through targeted tax preferences and confront our high corporate income tax rate directly. I urged my colleagues to take this approach, and while many of my colleagues agreed with me, this effort did not prevail. I predict that, in time, Congress will repeal the manufacturing deduction and replace it with a corporate tax rate reduction. Canada had a similar manufacturing deduction in place and found it to be so complex, subject to abuse, and such a source of tax controversies that Canada eventually replaced it with a lower corporate tax rate.

Because of my serious concerns about the manufacturing deduction, I am pleased that Senate Finance Committee Chairman GRASSLEY has agreed to work with me on a review of our corporate tax structure, including not only corporate income tax rates, but also on making the lower tax rates on dividends and capital gains permanent. I appreciate his offer and look forward to working with him on this important issue.

The conference agreement drops some of the special interest tax provisions that were included in the Senate-passed bill. I am disappointed, however, that other tax subsidies, such as various tax subsidies for electricity production, were retained in the conference agreement. In this era of budget consciousness, I would much prefer to use scare revenue offsets to enact meaningful, pro-growth, broad-based tax reforms that will have a positive effect on the overall U.S. economy. While some of these provisions might be justifiable, we should always keep in mind that the purpose of our tax system is to raise revenue for the Federal Government in the most efficient means possible, and not to reward special interests. I firmly believe we should focus on broad-based tax relief that provides growth-oriented incentives. This would make our system of taxing business income far more efficient for the Federal Government and for taxpayers alike, and most importantly, it would foster greater economic growth and help businesses create jobs. The conference agreement we consider today largely provides the opposite result and thus accentuates the great need for tax reform. The President has expressed support for comprehensive tax reform and I fully intend to work with him on that project.

This conference agreement is revenue neutral, which, in itself is not a bad thing, but should not be a prerequisite for tax legislation. Revenue neutrality means that there are as many tax increases as tax cuts, and we must be very careful about increasing taxes. I am pleased that in the conference committee we were able to eliminate several of the more troubling provisions we euphemistically refer to as revenue raisers, including the codification of the "economic substance doctrine" and the taxation of certain settlements, fines and penalties. Quite simply, these are tax increases—sometimes warranted, if we are closing unintended loopholes, but tax increases nonetheless. Congress should approve tax changes to improve the conditions of the economy and to leave more money with the taxpayers who earned it and should not be bound by strict rules of revenue neutrality. We must remember that tax cuts and spending are not the same and do not have the same effect on the economy or on the Federal budget. Tax cuts allow American families, business owners, and investors to keep more of their own money, which encourages economic activity. Increased economic activity brings additional tax revenues into the Federal government, thus improving our budgetary situation. Unlike tax cuts, new spending requires the government to take control of a bigger slice of the economy, which hinders economic growth. I encourage my colleagues to refuse to be bound to "revenue neutrality" for its own sake, but to pursue rational tax policies on their merits.

Finally, this legislation repeals our export tax subsidy that was judged to be illegal by the World Trade Organization, WTO. While I have serious concerns about the commitments made by our negotiators that led to this result, the United States nonetheless must abide by the agreements we make. Repeal of the export subsidy will bring the United States into compliance with our international obligations and this will end the tariffs the European Union has imposed as a result of the dispute on many U.S.-made products, including products made in my State of Arizona.

While I am supporting the conference agreement, I want my colleagues to know that I am very serious about my commitment to pursue policies that provide broad-based, pro-growth, supply-side tax incentives, rather than targeted tax preferences or misguided industrial policies.

Mr. SANTORUM. Mr. President, I wonder if the distinguished chairman of the Finance Committee might respond to a colloquy. I specifically have a question about the formula used to calculate the financial statement limitation for computing the amount of permanently reinvested earnings eligible for repatriation.

Mr. GRASSLEY. I would be glad to entertain a question from the Senator from Pennsylvania.

Mr. SANTORUM. I believe the purpose of this provision is to determine the amount of permanently reinvested earnings eligible for repatriation in the case in which a company discloses in its applicable financial statements the incremental amount of U.S. tax that would be due on such permanently reinvested earnings if they were repatriated, rather than stating the actual amount of such earnings.

Mr. GRASSLEY. That seems to be an accurate interpretation.

Mr. SANTORUM. It would appear that the formula assumes that the incremental tax so disclosed would be at the full U.S. tax rate of 35 percent. Is it not correct that the amount of U.S. tax disclosed would instead be a lesser amount that takes into account the amount of foreign taxes already imposed with respect to such earnings?

Mr. GRASSLEY. As I read the statute, a 35 percent rate is assumed to apply only when a financial statement fails to show earnings permanently invested outside the U.S. but also includes an amount of tax liability attributable to such earnings. I believe that the formula is intended to produce an amount comparable to what would have been shown if the amount of earnings permanently invested offshore had been set forth on the financial statements. One shortcoming of the formula, which you have identified, is that the financial statements only take into account the incremental U.S. tax liability that would be incurred if the company repatriates its earnings, which would be the 35 percent rate reduced by any foreign tax credits. I think you raise a very good point that Congress should revisit in the future. In the meantime, I encourage the Department of Treasury to consider issuing guidance that permits taxpayers to more accurately reflect the actual amount of earnings permanently invested offshore.

Mr. SANTORUM. I thank the Senator for his insights.

### DISTRIBUTION OF FILMS

Mr. BAUCUS. Mr. President, I would like to ask the chairman of the Committee on Finance an additional question regarding the American Jobs Creation Act of 2004.

Mr. GRASSLEY. Mr. President, I would be glad to take a question from the ranking member of the Finance Committee.

Mr. BAUCUS. I want to confirm that footnote 30 of the statement of conferees, relating to the methods and means of distribution of films, should not be read to create a negative inference with respect to the means of distribution of any other qualifying production property.

Mr. GRASSLEY. That is correct. No negative inference was intended.

Mr. BAUCUS. I thank the chairman.

### CIVIL RIGHTS TAX RELIEF

Mr. BAUCUS. Mr. President, I congratulate Chairman GRASSLEY for assuring that the conference committee included Section 703, civil rights tax relief, in the conference report. As a member of the conference committee, I was very pleased to support this very important provision, which enjoyed strong bipartisan support among Senate and House colleagues.

As I understand it, the case law with respect to the tax treatment of attorney's fees paid by those that receive settlements or judgments in connection with a claim of unlawful discrimination, a False Claims Act, "Qui Tam," proceeding or similar actions is unclear and that its application was questionable as interpreted by the IRS. Further, it was never the intent of Congress that the attorneys' fees portions of such recoveries should be included in taxable income whether for regular income or alternative minimum tax purposes.

Is it the understanding of the chairman that it was the conferees' intention for Section 703 to clarify the proper interpretation of the prior law, and any settlements prior to the date of enactment should be treated in a manner consistent with such intent?

Mr. GRASSLEY. The Senator is correct. The conferees are acting to make it clear that attorneys' fees and costs in these cases are not taxable income, especially where the plaintiff, or in the case of a Qui Tam proceeding, the relator, never actually receives the portion of the award paid to the attorneys. Despite differing opinions by certain jurisdictions and the IRS, it is my opinion that this is the correct interpretation of the law prior to enactment of Section 703 as it will be going forward. In adopting this provision, Congress is codifying the fair and equitable policy that the tax treatment of settlements or awards made after or prior to the effective date of this provision should be the same. The courts and IRS should not treat attorneys' fees and other costs as taxable income.

As I stated in my May 12, 2004 press release summarizing this and other provisions passed by the Senate as part of S. 1637.

> Tax relief gets the headlines, but part of tax relief is tax fairness. It's clearly a fairness issue to make sure people don't have to pay income taxes on income that was never theirs in the first place. That's common sense.

Section 703 will help in well known cases, such as that of Cynthia Spina, an Illinois police officer that secured a settlement in a sexual discrimination case that left her owing $10,000 or more. There are literally dozens of others like her in similar situations and it is my strong belief that the courts and the IRS should apply the guidelines of Section 703 not only after the date of enactment but also to settlements put in place prior to that time.

Mr. BAUCUS. I thank Senator GRASSLEY.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. I yield myself time that is allotted under the rule. I appreciate if the Chair would advise me when I have 5 minutes remaining.

The British historian Thomas Carlyle said all work is noble. And Psalm 97, attributed to Moses, the psalmist's prayer says: Establish the work of our hands.

We all know the value and the meaning of work. It is so fundamental. Hard work counts. It helps us do what we need to get done. It also is good for the soul.

I am privileged in my State of Montana to have what I call workdays. I work at different jobs in Montana, show up early in the morning with a sack lunch, work all through the day. I don't want to watch, don't want to be told, shown what is going on. I would rather just do the work. It is wonderful. I got the idea from BOB GRAHAM of Florida. BOB has done this for countless years, and I can tell the Presiding Officer it is one of the privileges of the job I have. I know other Senators do the same. I would suspect the Presiding Officer has done that himself. He knows what I am saying.

I can remember sitting on this very cold day outside of Butte, MT with a pipefitter trying to cut pipes and fit joints together. And I don't know how he did it, but he did it. I helped him. I probably caused more problems and mistakes that he had to correct. It meant so much to me to watch this pipefitter who so appreciated the value of his job and doing a good job. He wanted to do a super job, and he did. He worked hard to get it done.

Another job I remember is in a mine outside of Columbus, MN, a platinum and palladium mine. You go up in the shafts. I was working a jack drill to try to drill holes into which charges are placed. I was totally fouled up. I couldn't do it. This guy was so skilled. He was creative. I mean he was a craftsman, setting that drill bit at the right spot, drilling those holes so the charges could be set. Or working in a hospital with a nurse, watching her so completely conscientious, wanting to do a great job in making sure her patients felt good and tending to her patients.

This bill is about work.

That is what this is. I am sure at one level it is about complying with the

WTO ruling to assure that the United States is in compliance and the United States is no longer assessed these fees. As one Senator said, it could go up to 17 percent, which is a huge burden on our companies.

So the bill before us is about work, it is about how we help more Americans do the work they want to do, how they and their companies can manufacture more products that are somewhat difficult to manufacture because of the onerous fees we are paying on your export-manufactured products, particularly to Europe.

On another level, this bill is about straightening out our Tax Code. There are a lot of problems with the Tax Code and loopholes. They are huge, massive. This legislation, to pay for the replacement provisions—that is, the manufacturing deduction that will allow companies to manufacture more—are paid for with essentially loophole closers, corporate loophole closers.

Some say this is a big corporate giveaway. That is just not accurate for two fundamental reasons. No. 1, there are many billions of dollars in loophole closers, tax shelters, for example, where a corporation has to list very dubious transactions so the IRS can look at them closely to see whether they are accurate. Several other post-Enron corporate abuse shelters that are closed down are also in this bill. It is many billions of dollars.

Second, there are provisions in the bill which help our international companies and are designed to achieve one purpose: avoid double taxation. The international tax provisions are extremely complicated, very complicated. Unfortunately, American companies often are taxed twice. They are taxed by the foreign country in which they are doing business and also, as they properly should be, by the U.S. Government.

We have a system, generally, where an international company is operating overseas but headquartered in the U.S., and it could generally take the taxes that are paid in another country and use that to offset taxes it pays in the U.S. to avoid double taxation. That is, the American company is taxed on its worldwide operations but doesn't have to pay twice, a second time, to that other country. There are many cases in the Tax Code where that doesn't work very well and, in effect, the corporation is taxed twice.

So these provisions that some people are complaining about are essentially designed to prevent double taxation. There may be provisions that Senators might argue with on the margin and split hairs, but, in the main, these provisions are designed to avoid double taxation.

Also, this bill is revenue neutral. Unfortunately, our country has accumulated massive Federal deficits—$415 billion for this year. This is a big bill. It is very large. It is large because it appeals to this regime which the WTO organization says is illegal. It is large because it replaces it with a structure which, as I mentioned, is a deduction for manufacturing done in the United States to help spur more manufacturing, and that is massive: it is massive because it closes corporate loopholes.

But in the end, when you add it all up, it is revenue neutral. It doesn't add one cent to the Federal deficit. It is a responsible bill. It accomplishes the objective of complying with the WTO, and it also closes a lot of loopholes. It is massive. Also, it is fair because it avoids corporations being double taxed.

This bill is not perfect. We all say many times around here that we should not let perfection be the enemy of the good. It is a platitude, it is commonplace, and we say it all the time. I often remind myself that sometimes the most trite things are the most true. That we should not let the perfection be the enemy of the good is a principle that we should apply here. We are 100 Senators, 435 House Members, and the President, and we cannot each have our own way. We have to work together and add up the pluses and minuses, and each Senator has to decide whether the pluses outweigh the minuses. In my judgment, it is very clear that the pluses here very much outweigh the minuses.

The FDA tobacco regulation is not in the bill. I wish it were. There was a general agreement. I was not part of it, but there was a general agreement with those who worked with the companies and the farmers on a design where there would be a buyout. That is my understanding of the general understanding. Unfortunately, the House was resistant. They didn't want to put the FDA regulation in the bill. The question is, Should we kill this bill because that is not in here? That is a tough choice for many Senators, as it is for me.

After all is considered, it is my judgment there is so much else that is good in the bill that it should pass. Unfortunately, we have to take up FDA regulation another day. I hope we do because I believe tobacco is a drug and it will help reduce a lot of deaths in the United States if that is properly regulated.

I am also a bit distressed about the provisions for Montana that are not in here, particularly for Indian reservations. I have several ideas on how reservations could get a better break. That is also not in the legislation.

Let me say one more thing and I will close and save the remaining few minutes. I want to explain one major corporate abuse, which is closed, but not sufficiently closed in this bill. The abuse is where an American financial institution will enter into a long-term lease, like say with the country of France, to build a subway system in France, for example. Because of the long-term lease, the American financial institution treats that as if it owns it and is able to take deductions against the lease purchase.

Now, those are deductions that the financial institution can take against earned income. It lowers the income of that company. The net result of that is this: In the end, the American company takes huge deductions. The foreign government, in this case France, would own the system in the end, but the American taxpayers essentially are paying for that subway system, not the French. In fact, there is a small fee paid by the French for the privilege of allowing the American financial institution to take the tax deduction. Americans are essentially subsidizing that subway system and that fattens up the wallet of the U.S. company and the shareholders. Again, it is an extension of noncorporate shareholders as American taxpayers who are not shareholders of that company. It is an absolute outrage.

This legislation stops that from this day forward, but it does not stop it for ongoing, currently operating transactions. So, unfortunately, America will still be subsidizing this. There are many of these instances overseas and in America, but I am most concerned about overseas, where there are municipal construction projects—subways, streets, you name it. I think that is wrong. I wish closing that down were in the bill. I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, first, this bill passes an ultimate test that any bill has to pass that is of consequence.

This bill passes one of the strictest tests that something must pass in the Senate in order to get something done, and that is, it is bipartisan. It is bipartisan because of the leadership of Senator BAUCUS, and I thank him.

We have been hearing quite a bit about this legislation. Most of the complaints have been about what is not in the bill. I would like to have those who are complaining to focus on what is in the bill. Everyone needs to know that a vote against cloture is a vote against the items in this bill. This is a recorded vote, for which we will all be held accountable. The conference is closed. The House has voted overwhelmingly for this bill. If this bill does not get cloture, it is a dead bill.

Vote to end the Euro sanctions against U.S. exporters. They are now 12 percent. They will be 17 percent by March. Those sanctions hit farm products, timber, paper, citrus, and manufacturing. There are people being laid off because of these sanctions against our exports. A vote against cloture is a vote to continue the sanctions.

Farms and businesses shoulder this burden because Congress has failed so far to act. The manufacturing tax cut to create jobs in America that is in this bill goes to large and small corporations, family-held S corporations, partnerships, sole proprietorships, farmers, and co-ops. This $76 billion portion of this bill is only for manufacturing in the United States. It is not creating jobs offshore because it does not benefit manufacturing offshore.

Are you going to vote against giving individuals a deduction for the State sales tax against their Federal income tax that is in this bill? This bill is the most comprehensive agricultural, small business, and rural community incentive tax package ever. A vote against cloture is a vote against benefits in this bill that will help value-added agriculture.

The bill contains VEETC; 37 of our 50 States will receive more highway money because of the provisions in this bill. VEETC and this bill's provisions that shut down fuel tax fraud will put over $24 billion into the highway trust fund alone. This provision alone will create 674,000 new jobs across the country. A vote against cloture is a vote against highway money for your State.

A vote against cloture is a vote against highway jobs for construction of highways in your State. The energy package in the bill includes new incentives for biodiesel. This provision means jobs in our heartland, over 150,000 new jobs.

The bill accelerates production of natural gas from Alaska and the construction of a pipeline to carry it to the lower 48 States. This will create nearly 400,000 jobs in construction, trucking, manufacturing, and other sectors.

This bill devotes over $2 billion to section 45, renewable electricity production credit. This was a high priority for Senators BINGAMAN, SMITH, DASCHLE, HATCH, BAUCUS, SNOWE, BREAUX, LINCOLN, CONRAD, BUNNING, and GREGG.

The small business package in this bill extends small business expensing for another 2 years, and contains significant S corporation reforms. S corporation reform has always been a high priority in the Senate because it helps family-owned businesses.

A provision in this bill expands the new markets tax credit to help economic development in rural counties.

We have included also the Civil Rights Tax Fairness Act. We included a National Health Service Corps loan program to enhance the delivery of medical services to rural areas.

The bill provides all these benefits, nearly $140 billion worth, and this is a revenue-neutral bill, which means this bill does not add one dime to the Federal deficit.

It is all paid for by shutting down corporate expatriation to Bermuda, tax shelter leasing abuses by corporations, and ends all the Enron-type tax shelter deals. This is the most tough antitax shelter measure since 1986.

This bill contains some of the most important international tax reforms in decades, bringing foreign earnings home for investment in the United States instead of investing overseas, hence creating jobs in the United States.

We have heard complaints from Senator LANDRIEU because the bill does not contain her reservist amendment. I would like to make it clear that Senator BAUCUS and I offered that amendment on her behalf. We came up with a way to pay for that. All Senate conferees, Republican and Democrat, voted for it. The conference was open to the public. There were no backroom deals. The House, the other body, rejected it.

Voting down this bill will not bring back the reservist amendment. The conference is closed.

There is a great deal of good in this bill. We can rescue the manufacturing sector; we can end European Union sanctions on our farmers; we can respond to the recent rise of gas prices by supporting renewable fuels, and we can shut down every known tax abuse. Vote to finish the job. Vote for cloture. It is time to pass this very important bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield the remainder of our time.

### CLOTURE MOTION

The PRESIDING OFFICER. All time is yielded back. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 4520, a bill to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad.

BILL FRIST, CHUCK GRASSLEY, TED STEVENS, KAY BAILEY HUTCHISON, CONRAD BURNS, THAD COCHRAN, NORM COLEMAN, GEORGE ALLEN, LARRY CRAIG, TRENT LOTT, MITCH MCCONNELL, JON KYL, CRAIG THOMAS, JOHN CORNYN, BEN NIGHTHORSE CAMPBELL, ELIZABETH DOLE, JOHN TALENT.

The PRESIDING OFFICER. By unanimous consent the mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on H.R. 4520, the American JOBS Creation Act of 2004, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mrs. HUTCHISON), the Senator from Pennsylvania, (Mr. SPECTER) and the Senator from New Hampshire (Mr. SUNUNU) are necessary absent.

I further announce that if present and voting the Senator from Texas (Mr. CORNYN) would vote "aye."

Mr. REID. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from California, (Mrs. BOXER), the Senator from New York (Mrs. CLINTON), the Senator from New Jersey (Mr. CORZINE), the Senator from Illinois (Mr. DURBIN), the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Vermont (Mr. LEAHY), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 66, nays 14, as follows:

[Rollcall Vote No. 210 Leg.]

### YEAS—66

Alexander
Allard
Allen
Baucus
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Cantwell
Cochran
Coleman
Collins
Craig
Crapo
Daschle
Dayton
Dole
Domenici
Dorgan
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Hatch
Inhofe
Inouye
Jeffords
Johnson
Kyl
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Rockefeller
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Stabenow
Stevens
Talent
Thomas
Voinovich
Warner
Wyden

### NAYS—14

Akaka
Byrd
Carper
Chafee
Conrad
DeWine
Dodd
Graham (FL)
Harkin
Kennedy
Landrieu
Levin
McCain
Reed

### ANSWERED "PRESENT"—1

Kohl

### NOT VOTING—19

Bayh
Biden
Boxer
Campbell
Chambliss
Clinton
Cornyn
Corzine
Durbin
Edwards
Gregg
Hollings
Hutchison
Kerry
Lautenberg
Leahy
Sarbanes
Specter
Sununu

The PRESIDING OFFICER. On this vote, the yeas are 66, the nays are 14, and 1 Senator responded present.

Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Under the previous order, the Senator from Louisiana is recognized for up to 1 hour.

Ms. LANDRIEU. Thank you, Mr. President. May I have order, please?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Louisiana.

Ms. LANDRIEU. Thank you, Mr. President. I am not going to speak until we have more order.

The PRESIDING OFFICER. The Senate will be in order. Please take your conversations to the cloakroom.

The Senator from Louisiana.

Mr. DORGAN. Mr. President, the Senate is not in order. The Senator from Louisiana has an hour. She deserves to be heard. The Senate is clearly not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STEVENS. Mr. President, will the Senator yield to me for the purpose of making a unanimous consent request?

Ms. LANDRIEU. I am sorry, Mr. President, no, I won't. Maybe in a few minutes but not at this point.

As my colleagues know, we have been working toward this point, actually on this particular bill, for over 2 years, so there have been many meetings, many votes, many debates, many conferences. I understand that. I know we are to the very end of this discussion, and we have a bill before us with $137 billion worth of tax cuts. This is a bill that started out 2 years ago because of a decision by the World Trade Organization that called to our attention that our Tax Code was not in order and that if we did not straighten some things out in our Tax Code, some of our businesses could be penalized. So 2 years ago, an effort was undertaken to correct that.

Some of us, knowing that effort was going to be undertaken, crafted a provision to give tax relief to the Guard and Reserve and their families, to the members of the Guard and Reserve who are on the front line, by saying to all the patriotic companies in America, large and small: As you continue to give that paycheck to the men and women on the front line, we thank you, we appreciate that effort. We know it is difficult for you. We know it is tough for you. And we want to provide a 50-percent tax credit to you to help your Guard and Reserve to keep their paychecks whole.

Because a lot of paychecks in America are going to get fattened, a lot of dividend checks are going to be improved, and a lot of benefits are in this bill, some of us thought, and the whole Senate voted, Democrats and Republicans, that one of the paychecks we should make sure was complete and whole was for the men and women taking the bullets on the front line.

Mr. President, 640,000 men and women have been called up since 9/11, and when we called them up, they have gone.

Mr. President, may I have order, please?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Louisiana.

Ms. LANDRIEU. Thank you, Mr. President. I know that tempers are short because it has been a difficult process, and I am trying to be as cooperative as I can. I do not mean any disrespect to anyone in this Chamber, and I do not mean any disrespect for the managers of this bill, who have done a magnificent job under very difficult circumstances, but I have, since Wednesday, been trying to make this point.

When this bill left the Senate, there was a provision in it that gave a tax credit to the men and women on the front line in Iraq and Afghanistan, to keep their paychecks whole by giving a 50-percent tax credit to the thousands of employers, large companies and small companies, who send their civilian paychecks to the front line, not so much for the benefit of the soldiers. Many of these men and women who are fighting on the front line understand sacrifice. That is why they joined. If we understood sacrifice a little bit more in this Chamber—and I include myself. I don't understand the sacrifice, but I can tell you the men and women in uniform understand it. But this is not really all for them. It is for their families, their spouses and children, to keep that one paycheck whole.

For some reason, we passed a bill out of the House-Senate Conference the House of Representatives, crafted in large measure by Chairman THOMAS, that left them out. They couldn't find $2 billion in $137 billion to put in for our troops.

We have ceiling fan importers in the bill. We have the gambling industry in the bill. We have the oil and gas industry in the bill. There are many industries in this bill that are important to me. But I have confidence—complete confidence—that not one business in Louisiana, not one industry in Louisiana thinks they deserve to be in line before the Guard and Reserve and the employers that are keeping their paychecks whole—not one. If there is a company in Louisiana, if there is a company anywhere that thinks the tax credit in this bill is more important than the paychecks going to the men and women on the front line, please contact me, because I don't understand it, and maybe it is something I have missed.

I want my colleagues to know that I am only going to speak for the first few minutes, and I have an hour reserved. I am going to speak throughout the 30 hours, use a little bit of my time as we go on.

It is really not that complicated. My colleagues understand this issue. I don't think I have to go into any more detail about the amendment, what it did, how much it cost, and the fact there were 100 percent of the Senators, Republicans and Democrats, who supported the issue. It was moved over to the House. I think they understand it was the House Republican leadership primarily that crafted this bill and evidently did not think it should be included.

Let me spend a few minutes about what I am going to do so we can be clear about the schedule. I do not take this move lightly. I understand we are at the end of the session. I understand people have commitments. I understand there are elections going on. I know there is a Presidential election going on and elections for many of our colleagues in the Senate. But I am going to use all the parliamentary procedures available to me as a Senator to fight for the 5,000 men and women in the State of Louisiana who are currently activated and have gone to the front lines and don't get a whole paycheck. They get their Army or their Navy or their Reserve paycheck, but they leave a lot of pay on the table because they don't get their civilian paycheck.

Here is a tax bill that could have allowed their employer to get a 50-percent tax break, thereby encouraging them to continue that paycheck.

I am going to stand here and fight for them. I can't extend this debate past Thursday. I don't think there is anything in my power to do that. But I can and intend to use all the parliamentary procedures available to me until the end of this debate. If I have to stay on the floor for the next 4 days, I am prepared to do that. It is with the greatest amount of respect that I let my colleagues know this.

The solution is something I have offered to my colleagues which I want them to consider. I know this bill cannot be amended. I understand that. I am not asking for that. There is a bill, H.R. 1779, that is in the Finance Committee now. Amazingly, because I didn't have anything to do with this bill, I can't believe the bill addresses exactly the same subject that I am discussing. It is a House bill that came over here from the Committee on Ways and Means, the same committee that cut the Guard and Reserve out of this bill. So by unanimous consent of the Senate, without even a rollcall vote, just if all the Senators in this body would agree, we could amend this provision into that bill and simply send it back to the House.

I understand I am only one Senator. I know the Senate can do its will, and we can't force the House of Representatives, but we can go on record to say, this bill is important. We can amend the bill.

I would like to spend a moment just to say what H.R. 1779 is because there is a little bit of irony about the underlying bill. There is an interesting irony about the underlying bill. I will tell you who the author is in a minute. But it is an interesting bill that came over here to give the Guard and Reserve a tax benefit. The tax benefit described in that bill is to waive the 10-percent penalty for the Guard and Reserve taking money out of their IRAs so, presumably, they could pay a house note or a car note. In other words, there is a bill that came over to us from the Committee on Ways and Means to give a tax benefit to Guard and Reserve members to allow them to waive the 10-percent penalty so they could take money out of their retirement account to make ends meet while they are taking the bullets for us.

I have heard objections for our amendment which was supported by many Senators, Republicans and Democrats, that would actually keep their paychecks whole so they could put some money in their IRA. What do you put in your IRA if you don't have a paycheck to put in your IRA? If anybody can explain to me what goes in an IRA other than money from a paycheck, maybe if somebody is lucky to have a dividend check or some passive investments or some capital gains, but most people I know take their paychecks and after they have paid their rent, after they have paid their car note, after they pay health insurance for their family, after they pay their food bill, after they pay their insurance bill and everything else they have to pay for, if there is anything left, they put it in their IRA. Most Americans I know try to do their very best to manage their money.

So here we have the insult of having the House send us a bill saying they want to waive the 10-percent penalty for the Guard and Reserve, but they won't help put an amendment in FSC/ETI to give them a full paycheck so they have money to put in an IRA. This Senator finds that quite obnoxious.

The irony of it is unbelievable. I asked the staff, go find me any bill, any Finance Committee bill that wouldn't get blue-slipped. They came back and said: Senator, you will not believe it; it is a bill about the IRA.

Mr. NICKLES. Will the Senator yield?

Ms. LANDRIEU. No, I will not yield.

So we have this bill that is over here. All I have asked my colleagues is this. As the leader knows, I am not even asking for a recorded vote. Even though I think our guardsmen and reservists deserve a recorded vote, because I think we should go on record, but I am not even asking for that. I am asking for a voice vote—a voice vote, not a recorded vote—to take that IRA bill, put this amendment on it and simply send it back to the House. This filibuster will be over. That is all I am asking.

Let me say one other thing. I am not opposed to one item in this bill—not FDA, not the pork issue.

I have tried to be respectful of other Members. I would ask that same consideration.

I am not opposed to any provision in this bill. There is $137 billion in this bill. This bill was supposed to be about $50 billion. Of course, when you open a tax bill, everyone in America would like to be in it. They have done a good job because everybody is in here. The only people who are not in here are the men and women taking the bullets on the front line. Six hundred and forty-three thousand Americans on the front line, and we couldn't find one page, not one line, not one paragraph for them. This is disgraceful.

It is not our fault. The Senate did not do that. But somewhere between the Senate and the House, the papers got lost. I don't know why they get lost. I don't know why we can't remember them in the tax bill because we sure remember them in photographs. We sure remember them in the parades. We sure have them all over our ads for those running for office.

I am not up for reelection now. I will be up for reelection in 4 years, and I am certain I will hear from every industry in here about how I didn't help them with their tax credits. I will say it again. I am not opposed to any tax credit in this bill, not one. What I am objecting to is how we could, in the middle of the war, with no end in sight, no real plan for the peace, no understanding of when our troops might get home, no understanding of how long they are going to have to be there, we cannot keep the paychecks going to their families.

When is somebody going to tell me we don't have enough money? What is this? This issue is not complicated. This is very simple. That is why people are responding because it is not complicated. I am trying to explain to my colleagues that it is very simple. I am not even asking for a record vote. I didn't want people to stay here until Thursday. I have 2 children; one is 12 and one is 7. I have had to make arrangements for the next 4 days for them and for my husband. I understand that. I have canceled everything on my schedule. I am not looking for awards or sympathy. I am not asking for anything unreasonable. If these guys can go to the front lines and leave their families for a year or 2 years, can't I stand here for a few days? Can we not work for a few hours to try to voice vote, in the air-conditioning of this building, and send this bill back over to the House and mark it up as they just were not clear about what they were doing? They just didn't realize what they were doing? When they come back in November, they can fix it. That is all I am asking.

One more thing about the tax credit, and then others may have questions. Maybe I haven't been clear. Here is the list of the tax credits. The only arguments I have heard against what I am trying to do are two. One was given by one of the House Ways and Means Committee members when I called to let them know ahead of time I was going to do this. I tried not to surprise anyone. I called them as soon as this bill was printed and came here Wednesday. I called members of the Ways and Means Committee and asked them: What could have possibly happened?

The only comment they gave back that was reported in the newspaper was the House did not like our offset. Forgive me. I am not a member of the Finance Committee. I don't know all of the details about offsets. I don't think our Guard and Reserve know about offsets. I don't think the people we represent know about offsets. But I will tell you, somebody in this Chamber knows about offsets because there is $137 billion worth of offsets right here. Did anybody think we could find $2 billion for them? So I am sorry I am not an expert in offsets.

The only other argument I have heard from anybody—maybe there are others and I haven't heard them, and I have been here 3 days—is I don't think we should have tax credits in this bill. Somebody might object philosophically to tax credits. That surprises me because, from the day I got to the Senate, all I have heard from the Republican leadership is tax credits, tax cuts, tax relief. If they don't say it a thousand times every day, it is amazing. Just tax credits, tax relief for everybody, whether we have money in the Treasury or not. That is all I hear about. So it is amazing to me that someone could say we don't like it because, technically, it is a tax credit.

Let me read the nine tax credits that are in the bill. I want the Guard and Reserve to listen; they got left out. I will tell you the ones in this bill. Section 221: There is a modification of targeted areas of low-income communities for new market tax credits. That is probably very good. It is for new markets. I am sure it will help everybody in low-income areas. I think that is great.

Section 245, credit for maintenance of railroad tracks: It establishes a business tax credit equal to 50 percent—Mr. President, I am losing my voice having to speak over the conversations.

Mr. NICKLES. Will the Senator yield for a question?

Ms. LANDRIEU. No, I will not.

The PRESIDING OFFICER. The Senate will be in order.

Ms. LANDRIEU. Section 245, a credit for maintenance of railroad tracks, establishes a business tax credit equal to 50 percent of qualified expenditures for railroad track maintenance, capped at $3,500 per mile. Maybe there is a staffer or somebody who can calculate how many miles of railroad tracks we have and multiply it by 3,500 because that is a tax credit that is in this bill. We may need to do that. I have tons of railroads running through Louisiana, but not one railroad company in this country thinks their tax credit should come before making the paychecks of the Guard and Reserve whole.

Biodiesel income tax credit: Provides a 50-cent-a-gallon income tax credit similar to the present law ethanol benefits for each gallon of biodiesel used in the production of a qualified biodiesel mixture used or sold as fuel. I am fine with that, but you would think the tax credit some of us had and thought was important, which gave the Guard and Reserve a paycheck so they could buy gas, is equally important to this.

Section 339, credit for production of low sulfur diesel fuel; section 341, oil and gas for marginal wells—I know in Oklahoma they have a lot of marginal wells. I have some in Louisiana myself. I am very aware, as a member of the Energy Committee, of the importance of this tax credit, but again, not before the men and women taking 100 percent of the bullets.

Expansion of credits for electricity produced from certain renewable sources and then certain business credits allowed against regular minimum tax.

This is what I was given this morning. Perhaps there are more. I know these are nine tax credits in the bill. The rest of this bill has to be something else that they don't call tax credits. But they are tax benefits. I am not sure I know the title of it. Maybe I am not exactly correct. But these are the tax credits, which is the same thing I asked to be in this bill, and many of us asked, and it was left out by the House Republican leadership.

So, again, I am prepared to stay here until Thursday. I am not going anywhere. I am only asking for a voice vote—not a rollcall vote—on a bill that is already over here, that is already in our Finance Committee, to put this amendment on and send it back to the House. Then we can all go home and talk about it and we can say we supported it, which we did, and we did a great job, and then people can talk to House Members about are they going to accept this bill or amend this bill or kill this bill. Let the House Members answer that question.

All we can do here is take care of the Senate's business. This is the Senate's business, Mr. President. If we don't stand up for these guys and gals, if we don't fight for their families, who is going to fight for them?

Let me ask the Chair how much time I have remaining?

The PRESIDING OFFICER. The Senator has 38 minutes.

Ms. LANDRIEU. Mr. President, I think the Senator from Florida might have a question.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, as I direct my comments to the Senator from Louisiana, this is one of the most impassioned personal statements that I have heard on the floor of the Senate, and I suggest that our colleagues take heed. The Guard and Reserve have had to carry the burden in Iraq. That is one of the main points of discussion in this Presidential race. It has been one of the main points of discussion in our Senate Armed Services Committee, headed by the esteemed chairman, who is on the floor.

Do we have enough active duty? We have concluded that we do not have enough active duty, and we have seen that the Guard and Reserve are being asked over and over again, on several rotations, to take up the slack because of the needs.

It was called by Senator KERRY the other night in Missouri a backdoor draft. So I ask the Senator, does this——

The PRESIDING OFFICER. The Senator only yielded for a question.

Ms. LANDRIEU. He is asking a question.

Mr. NELSON of Florida. I am sorry?

The PRESIDING OFFICER. The Senator may only yield for a question.

Mr. NELSON of Florida. Mr. President, did I not just ask a question right then? Would the Parliamentarian please advise if I was not asking a question right at the moment?

The PRESIDING OFFICER. The Senator did ask a question.

Mr. NELSON of Florida. I thank the Chair.

Would the Senator please point out if she thinks that this is important to the Guard and the Reserve given the fact that so much of the load has been put on our National Guard and our Reserve?

Ms. LANDRIEU. I thank the Senator from Florida for his comments, and I would be happy to answer his question because he is exactly correct. All members of this Chamber are aware that since 9/11, 640,000 guardsmen and reservists have been called up from Florida—and I see the Senator from Arkansas—from her State, other Senators who are here this morning and will be here through the debate—from all of our States. The Senator is absolutely right. The large measure of the burden has been placed on them and their families. The Senator from Florida knows they do not ask for much. These guys and gals are used to sacrifice. They do not ask for much and they really do not like to complain. They are the last ones to stand in line and come ask to be included in this bill, but we should ask on their behalf. That is why this amendment is so important.

If we were not passing a tax cut bill and we did not have any money to give anybody credits or tax cuts, then they would be the first to say: Please do not include us. But how can we, in good faith, stand here and pass a $137 billion bill and leave them out and leave out their employers, small businesses from Florida, Arkansas, and Louisiana that are digging deep, sending that paycheck to the front line even though the man or woman is not in the office or in the manufacturing plant, trying to help their families? Surely we could have found some room in this budget for them.

I thank the Senator for the question.

Mr. NELSON of Florida. Will the Senator yield for another question?

Ms. LANDRIEU. Yes, I would.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Would the Senator from Louisiana recall for us if she has had a similar experience in her State as this Senator has from my State of Florida in talking with members of the families of the National Guard who are at an enormous financial sacrifice when they have to leave their civilian job and are activated, especially if it is two or three rotations they have to go to, and if their employer—I am curious if the Senator has heard from the employers in her State of Louisiana, as I have in my State of Florida, if her employers who want to help the Guard men and women and who want to help the reservists and want to pay them, why they should not receive some financial incentive through a tax break? Would the Senator recall for us her experience, and is it similar to the experience I have had talking to employers and reservists and Guard men and women?

Ms. LANDRIEU. The Senator from Florida raises a very good question to me, and the way I would like to answer that question is with an e-mail. It is wonderful that I received this e-mail this morning. I have received hundreds of e-mails from families all over the United States who have been keeping up with this issue, but because this answers the Senator's question—this is from Bossier City, LA, and he writes: First, I would like to give you a little background on myself. I was raised as a military brat. My father served in the Air Force for 28 years, and we were stationed at Barksdale Air Force base three times. He and my mother retired in Bossier City. We had a good life growing up in the military, and in my opinion it brought us closer together as a family, but there were many, many, many times when things were tough financially for a family of five. I watched you today on C-SPAN, and I was proud that you have represented us and our State and our military families. I think it is extremely important for funding to compensate our military families, especially now when there are no clear answers on how long our troops will be required to be in Afghanistan and Iraq. I have many friends whose spouses have lost significant amounts of income due to activism. Not only do they worry about their spouses on the front lines, they have to worry about how to make ends meet here in the States. Please keep fighting for their cause. By the way, this should not be a Republican versus Democratic issue. My parents are conservatives and I am a liberal, but we consider this matter a matter of patriotism.

I say to the Senator from Florida and other Senators, I have received hundreds of e-mails just like this, and so I want to make one more point. I do not think this is a Democrat versus Republican issue. As I said, the amendment we are fighting for already passed the Senate by 100 votes. The Senator was a cosponsor. The Senator from Arkansas was a cosponsor. I see other Senators in the Chamber who were cosponsors. We wanted this amendment in the bill, and it was in the bill. It went over to the House, and in the negotiations it was dropped. My question is, why? How could we afford to give a tax credit to everybody else but not the Guard and Reserve?

I thank the Senator for his question. I will yield for another question in a minute but to the point in answering the question: This is a page out of the handbook that the Guard and Reserve receive from our Government. This is the handbook they receive, "Family Readiness Paradigm." The center of this says "self-reliant families." "Self-reliance" is a powerful term. I like to think I am self-reliant. I like to encourage my children to be self-reliant, self-sufficient, independent, hard working. So we send out a memo just to sort of reinforce to our Guard and Reserve that we expect them to be self-reliant. We provide reunions for them. We help them with their deployment, tell them what is going to happen. We try to help them set up health care plans. We arrange telephone calls. We do the training and mission. The only thing we do not do is send a paycheck.

Then we have the President saying:

> The National Guard and Reserves are a vital part of America's national defense.
>
> [They] display values that are central to our Nation: character, courage and sacrifice, [and demonstrate] the highest form of citizenship.
>
> And while you may not be full-time soldiers, you are full-time patriots.

Evidently, they do not deserve a full paycheck?

Mr. NICKLES. Will the Senator yield for a question?

Ms. LANDRIEU. No, I will not yield. I am sorry.

That is what the argument is about. Again, I am not asking for a rollcall vote. I know this bill cannot be amended. It is against the rules. There is nothing I can do to amend it. But the bill that is right now before the Senate, I am asking our leadership—I am asking my colleagues to please join with me; I know many do, but I need everybody. I need 100 percent—to agree to amend this bill and send it back to the House and give the House time to reconsider this position. I am fairly certain they did not know the specifics of it. I am going to give them the benefit of the doubt. I do not know that they specifically looked at this and said: These people do not deserve it. I do not think that happened. All I know that happened is that it came back without it in it, and we have time to fix it. We cannot fix it today, we cannot fix it tomorrow, but if we send a bill back to the House, whenever the House comes back, in October, November, December, or January, they could fix it.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 28 minutes remaining.

Mr. NICKLES. Will the Senator yield for a question?

Ms. LANDRIEU. I will yield to the Senator from Florida and then perhaps to the Senator from Oklahoma at a later time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I ask the Senator from Louisiana if her experience in Louisiana, in talking to the Guard people as well as the reservists, that often she finds, as I have found in Florida, that many of them, their employers, the fact that they are first responders, that they are local law enforcement or they are firefighters or they are EMS personnel— if she has found that, as we have seen today on the front page of the Washington Post, that a lance corporal in the Marine Corps went into the Marines because he wanted to get revenge after 9/11? He was a firefighter in New York, and that is the patriotism, as it has been expressed by so many of these first responders. Would the Senator, if she has had that similar experience as I have had in Florida, would she explain that her provision also involves a tax credit for the employers of first responders?

Ms. LANDRIEU. I thank the Senator and will respond to his question by saying: Yes, in this amendment, besides what I have described, there is a portion of the amendment—that was actually led by Senator BOXER—that would allow this tax credit to be applied by local governments to try to keep the paychecks whole for firefighters and police officers who have gone to the front line.

Think of the irony. The Senator from Florida understands this issue well. In the case he described, a firefighter who fought the fire in New York on 9/11, maybe one who went up into the building, put his life on the line or her life on the line on that day—and we know what happened. We don't have to go back and replay that memory in our heads. Then he is in the Guard or Reserve and he signs up to go to Iraq to fight, to take the bullets. Because we left this amendment out, he has to send his family back half a paycheck, and we can't find the money in this bill, $137 billion, to help them keep that paycheck whole? It is a disgrace. It is shameful. It is unjust. It is unconscionable. That is why I am going to stay here until Thursday. I understand it may not work. I understand the session may adjourn. But it is going to adjourn with me speaking about this, and I hope all of us, saying the Senate has already spoken on this. Our leadership, Republican and Democratic, said if we are going to have a tax bill, a tax cut, a tax break, the Guard and Reserve should be a part of it.

If we could find other things to help, I am happy to do that as well. I put this particular thing together with some of us. There are many other items I am sure could be put in a comprehensive package. In fact, I have spoken to many of the colleagues who have said to me: Senator, we could put together a more comprehensive package. I am working on that with them as well. However, there is no reason and no excuse and nothing anyone can say to me to convince me that before we adjourn we should not take the action, without a rollcall vote but by unanimous consent, and at least send this bill back to the House. Then we will have all the time in the world—October, November, December, all next year. I am going to be here at least 4 more years unless I get recalled. My election is not up for 4 more years. I will work on it with anybody who wants to for the next 4 years and come up with a comprehensive package. I know that.

But I want the Senator from Florida and the Senator from Mississippi to know, we don't have to wait for a comprehensive package. We don't have to have it all neat and pretty. We don't have to have a commission that could decide let's do this and let's do this. This is what is before me right now. This is what is before me—$137 billion of tax cuts, and not one page, not one paragraph, not one tittle, not one scribble for the Guard and Reserve.

Mr. NICKLES. Will the Senator yield?

Ms. LANDRIEU. No, I will not.

So that is my issue at this moment. I am hoping to put a package together. I don't expect this bill to be amended. But I have asked the leadership to allow a unanimous vote—not even on the record—to put this Paycheck Protection Act on the IRA.

How do you have an IRA without money to put in it? I don't know. So it makes sense to put my paycheck bill with the IRA bill, so that Guard and Reservists actually have money in their IRAs. You can't make a penalty-free withdrawal unless you have money in your IRA, so this matches pretty perfectly. You get the paycheck, put the money in your IRA, take the IRA out, and you don't have to pay your 10-percent penalty. That would be terrific.

Also on that bill, we can add an amendment, for some hurricane relief. But I want to be clear about one thing. I didn't ask for that although my State will benefit from it. The Senators from Florida, Senator GRAHAM and Senator NELSON, rightly led that. I am a cosponsor of that. That would fit nicely on that amendment. We have to give help to the hurricane victims as well. So we have the Paycheck Protection Act. We have the hurricane help.

Right now, as I speak, I have flooding in my State. I woke up this morning and turned on the television and, besides seeing Donald Rumsfeld in Afghanistan, the next I saw was a levee break in Louisiana. So there is money in this tax bill that I am talking about to help Florida, Mississippi, Alabama, and everybody who is flooding, help this paycheck protection, and do this IRA provision which, again, was not my idea but I support it. I think it was a good one.

All I need is for 100 Senators to say it is OK. Evidently I don't have 100 Senators. I might have 98, 99, 89. We don't have a rollcall so I don't know. All I know is I don't have 100, because if I had 100 this filibuster would be over. So that is where we are.

Mr. NICKLES. Will the Senator yield for a question?

Ms. LANDRIEU. I will yield to the Senator from Florida and then the Senator from Oklahoma, after one more question from the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. I think the Senate, in my question to the Senator from Louisiana, better take note of the passion and the intensity of the Senator from Louisiana.

I would ask the Senator from Louisiana, Why is it that certain members of the leadership on the other side of the aisle are blocking your attempt to help the National Guard and Reserves on a House bill that has already been sent here from the Ways and Means Committee, that is a very logical, underlying piece of legislation because it gives a tax break by allowing people to take money out of their IRA to help them with their expenses as a member of the Guard and Reserves, with paying the 10-percent penalty?

Why in the world would somebody be blocking the Senator doing that? There is no guarantee it is going to pass when it gets down to the other end of this Capitol. So at the end of the day they might still kill it. Why in the world would they be blocking such a logical thing, to help out the National Guard and the Reserves?

Ms. LANDRIEU. Thank you. That is actually the question of the day. It may take all day or tomorrow to get the answer to that, but I don't know the answer to that. Maybe some Senator could give us the answer to that. I do not know why, but that is what this debate is about.

Is there any compelling reason we could not do that, end this filibuster, move on? These bills are very important to do. I am not objecting to anything in this bill. I am not objecting to anything in the military construction bill. I am not objecting to anything in the intelligence reorganization bill. Surely there are things in here I don't particularly like, but that is the process. That is the process. I cannot write this bill perfectly. There are things in here my constituents would find absolutely laughable. But I have to tell them we have to laugh sometimes, that is the way it is. That is the process. I have been a legislator for 25 years. I know the process. But this is more than process. This transcends all issues, in my mind. This is about whether this Senate, Republican and Democratic leaders, will stand up for the men and women on the front line—yes or no.

It is as simple as that.

Mr. NICKLES. Mr. President, will the Senator yield for a question?

Ms. LANDRIEU. Yes.

Mr. NICKLES. I need to know a little bit more about the amendment. The tax credit goes to the employers. Is there any guarantee that money, the tax credit—let's say $20,000 for the service man or woman—goes to the service man or woman. How do we know that happens? Is there a delay before they would benefit from those dollars?

Ms. LANDRIEU. I would like to respond this way. I have the greatest respect for the Senator from Oklahoma. I actually like him very much. He and I have worked on some important issues—the issue of child welfare, adoption, foster care. I respect him as a Member who understands the details of the finance and tax system and the Budget Committee. He chairs the Budget Committee.

All I can say in answer to that is we drafted the amendment as carefully as we could to make sure that, in fact, that happens. I assure him that there are people wiser than myself, smarter than myself, who have worked here either as a Member or a staffer who could carefully craft such an amendment. I know they crafted this whole entire bill of 600 pages to help the railroads maintain their tracks, for ceiling fan importers so they can keep the fans on, but the troops in Iraq can't afford a fan. Their families can't buy one.

The Senator can talk about whatever. I am respectful of his question. I am completely convinced that the amendment could be written in such a way.

Does the Senator have any other questions?

Mr. NICKLES. I am not sure it is written that way. I am not sure it is a requirement that an employer has to give the money immediately to a service man or woman. I suspect that is your intent. I don't believe that is the way the amendment is written. I would like to know more about it.

I have a different question. If the amendment were agreed to, you would be paying substantially more for a man or woman serving side by side—let us say in Iraq or Afghanistan in combat a situation, the Federal Government would be paying significantly more for that reservist than they are for the Active-duty. How much differential should we pay? Is that equitable for the thousands of people who are Active-Duty to be paid less than the Reserves when their lives are at risk equally, when they are in the same trenches doing the same job?

Ms. LANDRIEU. The Senator's first question, in my opinion, doesn't have a lot of merit. The second one does have a lot of merit, and I would like to respond to it.

There is an argument that comes out of the part of the Pentagon, not the whole Pentagon. There is something unsettling to a man on the front line, some active and some Reserve, when both are driving in a truck in Iraq, that they should get the same paycheck. They both should get $30,000 no matter what. No matter if the reservist makes $70,000 in the United States in their regular work, when they drive the truck in Iraq they should make $30,000. I don't hold to that position. I will tell you why.

Our Government benefits significantly financially, and the taxpayers benefit by not having to keep that Guard and Reserve full time, 24-7, year after year after year. We benefit as taxpayers, so we have more money to give out in tax cuts to everybody else. We benefit by not having to keep a force. We have 1.6 million Active-Duty, and we have 1.2 million Guard and Reserve who are now 40 percent of our force and growing every day. You can see during World War II, in the 1940s, we called up everybody. We had to fight the war. We called up everybody who would go, and even those who didn't want to go because they were forced to go under the draft. Our Active Forces are down at the lowest level since 1941.

I hope everybody can see this. Our Active Forces are down to their lowest level since 1941. You know who makes up this gap? After the terrorists attacked the World Trade Center and we are in a war, do you know who makes up this gap? The Guard and Reserve. They go to the front lines.

All I am talking about is since we asked them to go, just let their paychecks follow them by giving a tax credit to the thousands of businesses, large and small, in this country that are doing the patriotic thing, as acknowledged by our President and our Secretary of Defense and the leadership. Can't we give a tax credit to keep their paychecks for their families? This isn't for the soldier. This is for their families. I think the men and women, active, traditional units, understand that. They get health benefits. They get other benefits when they are Regular Army or Reserve. The reservists don't even have a matching 401(k) savings plan. The reservists don't even have TRICARE. The reservists have very little, and we are blocking them from keeping the one paycheck they do have.

Some Senators don't think they should be able to get the employers' tax credit to keep bread on the table and keep their mortgages paid. This is the issue.

I understand the Pentagon disagrees with that. I understand their position. I don't agree with it. I think, yes, we should pay a differential; or at least allow reservists, when they go to the front lines, to keep as much of their pay as possible, even if they are in a fox hole next to a 10-year, full-time Army soldier. The full-time, traditional soldier gets other benefits and other compensation. They might get free housing. They understand that.

I think the active Army and the active military support this amendment. I am convinced of it. They are not jealous about the Reserves.

Mr. NICKLES. Will the Senator yield further?

Ms. LANDRIEU. For one more question.

Mr. NICKLES. I understand the Senator didn't like my first question because she is trying to give the Guard and Reserve additional compensation and additional pay but through a tax credit which goes to their employer which may take some time to get directly to the guardsmen or reservists who have been activated. If you want to pay them more, why don't you pay them more? Why don't you move an amendment through the DOD authorization bill? We did just last night under the good work of Chairman WARNER—or pay more through the Appropriations Committee so they would be paid on a monthly basis. I am not sure I agree with the Senator that there should be a differential. She may make an eloquent argument, but if she feels compelled they should be paid more, pay them more. But don't you think there is something lost by giving a tax credit that may or may not be funneled to the employees? It may take some time. There may be some lag. There may be some fraud, or it might not happen. But if you want to pay them more, pay them more.

Ms. LANDRIEU. I would like to answer the question. First of all, the Senator has drafted many amendments in his career. If he wants to help me modify this amendment, I would appreciate his help. It clearly is my intention to get this direct tax credit in a way that makes sure that these companies can take tax credits for the Guard and Reserve.

If we can write $137 billion worth of instructions to other companies about how this would apply to their tax credit, we could most certainly write a law or rule that allows these companies to be able to cover the paychecks, which they are doing already. This is totally voluntary. These companies don't have to do it. But if they are going to do it—some in Oklahoma and some in Louisiana are digging deep—they have budgets to meet. They are paying the guys on the front line and then paying to replace them in their offices.

I will tell you why I don't want to put it on the Armed Services bill. I see the chairman on the floor, the Senator from Virginia. What happens is—and the Senator from Oklahoma knows this—under our rules, the Defense Department gets just so much money. Why should I ask my soldiers to make a choice: Do you want a paycheck for your wife, or do you want a covered Humvee for your battalion? I am not asking them that question. You might want to; I am not. Do you want a paycheck for your wife, daycare for your children, or do you want a covered Humvee for yourself? How would you like to answer that question? That is why I object to putting it on the Defense bill.

This is a tax package bill. I don't have to take one Humvee away from them. I don't have to take one rifle away from them, or one helmet away from them. All I have to do is put them in this bill. And I am going to stand here until 100 Members of the Senate agree to do it, and if not we will be back here next year.

How much time do I have remaining?

The PRESIDING OFFICER. There is 7½ minutes remaining.

Ms. LANDRIEU. I will reserve the remainder of my time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I speak in opposition to the amendment, both in substance and on procedure, and procedure may be more important.

First, on the substance, I question the wisdom of whether we want to have in our active combat forces and our Reserve forces who are fighting side by side a significant pay differential for doing the same thing. Senator LANDRIEU wants to. We have not done that in the past. I don't think that is a smart thing to do. We have benefits for Regular Army and we have benefits for the Guard and Reserve.

I used to be in the Guard, but to say we want to have a significant pay incentive if a guardsman or reservist is activated over and above the soldiers who are full-time active duty, I question the wisdom of that. That is debatable.

I have no doubt in my mind if we are going to compensate them, and we are talking about compensation for our men and women who are fighting, whether they are Guard and Reserve or whether they are Active, that should be done in the Armed Services Committee. That should be done in the Appropriations Committee, not compensate them through the Tax Code. The Tax Code was not written to be, yes, we will finance their pay. We have a Tax Code that is favorable for people who are in combat situations. It is tax free. They do not pay income tax. That is for Guard and Reserve or Active Duty. If they are in a combat area, they do not have to pay taxes. That is fine. That is the way it should be.

The Senator wants a differential. The Senator wants to pay them more, pay them more. The Senator from Louisiana is on the Appropriations Committee, and we have the chairman of the Appropriations Committee and the Defense Subcommittee. If it is necessary to have a differential to make it work for our Guard and Reserve, have an amendment to pay them more. If it is 10 percent, if it is $10,000 or $20,000, the substance of the amendment is we will give a tax credit to some employers—some get a $15,000 tax credit and some employers get $20,000, some would be 50 percent and some are 100 percent. It is confusing. How are we sure that tax credit gets to the individual, and will it get to the individuals and/or their families immediately? I don't think that connection has been made.

My point is that is not the right way to do it. If you want to compensate them, compensate them through the appropriations process. Pay them more. We passed an authorization to increase pay for men and women.

Substantively, the amendment leaves a lot to be desired. Procedurally, it is worse. Procedurally, this was an amendment in the Senate; it was not in the House. I happened to be a conferee.

I heard my colleague from Louisiana say she called up House conferees and asked: Why didn't you accept this? A couple of comments. The Senator needs to call up conferees before the conference is closed. Not one Member raised this issue in the conference individually. I understand Senator BAUCUS and Senator GRASSLEY put it in a package of amendments and sent it to the House, and the House rejected that entire package. But we also considered dozens and dozens of amendments individually that people felt strongly about. Some were passed. I had some pass and I had some defeated. That is the legislative process. No one raised this amendment individually. The House did not reject this amendment individually. It was not sent to the House.

No Member of the Senate Finance Committee, Democrat or Republican—we had 23 members of the conference committee. Anyone, Democrat or Republican, could have offered this amendment. My guess is it would have passed the Senate conference. It would not have had my vote, but it would have passed the Senate. Conferees would have sent it to the House, but no one did.

That is the way we work a conference. Sometimes you win and sometimes you lose. To say, wait a minute, my amendment was not adopted, so therefore I will try and tie the Senate up for 3 or 4 days until you pass my amendment by unanimous consent—there are hundreds of amendments that were not adopted in that conference, hundreds. Every member of the conference had an amendment they wanted to have passed that did not pass. That is part of the legislative process. If we all came up and said, wait a minute, I feel so strongly about that amendment that did not pass I will hold the entire Senate up for a few days to bring that to the attention of the Senate, that is not a very effective way of legislating. There are effective ways to legislate.

If Members really want to increase the compensation of Guard and Reserve, they need to be talking to the chairman of the Appropriations Committee. They need to talk to the authorizing committee. They need to talk to the Pentagon. They need to ask, How can we make this work? Not have a system that says, Well, some companies get a tax credit, a bigger tax credit, and maybe it will flow to the employee or maybe flow to the employee a year later—that is not a good way to compensate them. Compensate them directly, as we should, not through refundable tax credits that may or may not get to the family. Try and work it out in a way that would be of benefit, not to say, yesterday they were trying to pass this as a freestanding tax bill but automatically it would be blue-slipped in the House. They will not even consider that. That does not help the cause.

Procedurally, this approach of demanding we pass something by unanimous consent because it was not included in the conference when no one even raised it in the conference is just not the way you legislate. I can think of any number of Senators who were disappointed they did not get what they wanted in conference, and they could try the same thing. I don't think that is effective in legislating. I don't think it will work.

I make those comments. Substantively, the refundable tax credit going to employers is not the correct way to do it. The correct way to do it is, if the individuals who spend a lot of time on how much we should compensate our men and women in the armed services, Regular Army and regular military, as well as Guard and Reserve, if they are convinced we should have a differential for people serving side by side, then we need to be working to implement that through their committees and make it direct compensation so the men and women serving receive that paycheck immediately, not some deferred way that might come through an employer and might be subject to abuse.

I make those comments. The procedure is fatally flawed and substantively the approach is very well intended, but unfortunately I don't think substantively the amendment is the correct way to compensate the men and women who are serving both Active Duty and in the Guard and Reserve. We have to keep in balance what we are paying Active and what we pay Guard and Reserve, and having a big differential could cause a lot of problems.

Mr. WARNER. Will the Senator yield?

Mr. NICKLES. I am happy to yield.

Mr. WARNER. Mr. President, I was very pleased with the total cooperation on both sides of the aisle. We passed yesterday the annual authorization act in honor, by the way, of Ronald Reagan. We named it in his honor. However, it was a stack about three times the size of this when it reached the Senate.

I saw my distinguished colleague from Louisiana, who, incidentally, served on the Armed Services Committee with great distinction. She does have a keen knowledge of the needs of the military people. I respect that greatly.

In that bill we have made some progress this year on a very delicate package of benefit increases for the Guard and Reserve and made inroads to the TRICARE situation and made an impression on that in this bill. It is a balance we constantly have to watch between the active service—that individual, he or she, 365 days a year on call, their families likewise—and then the contribution of the Guard and Reserve, which has absolutely been extraordinary, as the distinguished colleague from Louisiana points out.

I can speak from some personal experience. Never before has the United States relied so heavily on the Guard and Reserve since, the Senator pointed out, World War II. I see my distinguished colleague here from Alaska. He had a very heroic career in World War II, and I had a far less distinguished career. I was 17. We did what we had to do. I saw it swelled to 16 million men and women in the Armed Forces. The chart also showed how we are down to a level of 1941. The reason for that is the spectrum of threats against this country—the standing armies and navies of other nations don't anywhere near approach what we have, and the weapons are so different. One ship today can do the work of four ships we had during World War II. So there is a reason for that leveling off.

The point I wish to make in conclusion is every time a pay in benefit is brought up for any one of the Active or the Reserve, it goes through enormous formulations in the Department of Defense by people who spend their total careers trying to maintain a fair and equitable balance between the Guard and Reserve and to meet their needs and to have that standing Army, Navy, Marine Corps, and Air Force that is required for 365 days of the year, and then proudly to have the Guard and Reserve, which can respond in time of need.

So with all due respect to my colleague from Louisiana, I would hope this type of legislation again would be analyzed in the normal course of the authorization and appropriations bills. I say to the Senator, you were so active as a member of our committee. That way, we can have access to that tremendous infrastructure within the Department of Defense and elsewhere that has the knowledge as to how best to structure the benefit package for the Active as well as the Reserve Forces.

Ms. LANDRIEU. Will the Senator yield for a question?

Mr. NICKLES. Mr. President, I appreciate the comments and question by my colleague from Virginia.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

### UNANIMOUS CONSENT REQUEST—CONFERENCE REPORT TO ACCOMPANY H.R. 4567

Mr. STEVENS. Mr. President, the Senate now has before it two of our appropriations bills. The first is the homeland security bill, H.R. 4567. That bill has $6.5 billion, among a lot of other money, for FEMA. That is to be used for those disasters that were not part of the hurricane disaster but for those such as the tornado damage and flood damage, the things that spun off from the hurricane. That money is going to be particularly used for that.

We sought to add some money to that bill for that purpose. We urged to let FEMA do its work and see how much would be needed, and if we have to have a supplemental next year we will have it.

We also have the military construction bill, H.R. 4837, before us. It has some $9.1 billion in it in the supplementals that were included in that bill that are primarily aimed at recovery from the four hurricanes to hit the Southeast, particularly Florida. There is no question that money is vitally needed, also. That money, by the way, would have been in the $6.5 billion had the homeland security bill passed, as we should have been able to do by October 1. It would have been available immediately and there would not be the emergency in that area now.

But homeland security has been traveling on a continuing resolution. As I pointed out this morning, the moneys that were allocated to FEMA under the continuing resolution since October 1 are supposed to last until November 20. They ran out last night.

I have not seen two bills of this type, of this magnitude, passed by the other body as rapidly as they passed these two yesterday. They passed them in less than 2 hours. There was not one single vote in opposition, not a single word opposing it. As a matter of fact, every Member of the House voted for each of those bills.

Now, we tried last night, when the bills were received here, to proceed with the homeland security bill, and that was not possible because of an objection.

Mr. President, at this time, I ask unanimous consent that this procedure under cloture on the FSC bill be put aside so that we may consider the homeland security bill.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Reserving the right to object, I would say to my friend from Alaska that the precipitating cause of why we are here was the insistence of OMB, I am sure with the concurrence of the White House, and with the acceptance by the majority party on the Appropriations Committee, to fundamentally change an authorized bill in the Agriculture Committee under purview of the Agriculture Committee that would treat those who were hurt by the hurricane differently than farmers would be compensated in Iowa or Ohio or Pennsylvania or Wisconsin or a number of other States. And so it is not fair——

Mr. STEVENS. Regular order. Is there objection to my motion?

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object, I ask the Senator, what is the unanimous consent request before the Senate right now? What is that unanimous consent request?

Mr. STEVENS. This is to proceed with the homeland security bill, H.R. 4567. And if it is brought before the Senate, I intend to ask unanimous consent that it be immediately adopted.

Mr. HARKIN. Mr. President, reserving the right to object, I ask the Senator if he is willing to modify his request as follows: that immediately upon passage of the homeland security appropriations conference report, the Senate agree to include in the military construction conference report a provision prohibiting the use of farm bill funds to offset disaster assistance in that same report?

Mr. STEVENS. Parliamentary inquiry.

The PRESIDING OFFICER. Will the Senator accept the amendment?

Mr. STEVENS. Is it possible for me to amend the conference report, as the Senator requests, by unanimous consent?

The PRESIDING OFFICER. It is a hypothetical inquiry, but the Chair believes you cannot amend a conference report.

Mr. HARKIN. Mr. President, reserving the right to object—

Mr. STEVENS. I have the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. HARKIN. Reserving the right to object, I had some conversations with the majority leader about this, and I would hope perhaps some further discussions could take place on resolving this.

Mr. STEVENS. Is there an objection, Mr. President?

Mr. HARKIN. Therefore, I object.

The PRESIDING OFFICER. Is there an objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

Mr. STEVENS. Mr. President, I still have the floor.

Mr. COCHRAN. I do not want to interfere with the chairman's right to the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I am about ready to make another motion pertaining to the bill from the subcommittee that the distinguished Senator from Mississippi chairs.

I want to point out that the military construction bill, as I said, has the moneys for the immediate repair and assistance to the people who have been severely harmed in the wake of these hurricanes. And we would like to get that, too, before the Senate. So unless the Senator has some objection——

Mr. COCHRAN. Mr. President, if the Senator will yield, I want to point out the fact that this was a bill that was taken up in our committee back in June, and approved unanimously by the Committee on Appropriations, to fund the Department of Homeland Security. I want to lend my support and encouragement to the Senate to go along with the chairman of the full committee. It no longer contains any language to which there had been some objection posed by other Senators. So I hope the chairman of the full committee will be respected by the Senate and that his unanimous consent request can be agreed to.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. Mr. President, the request of the Senator from Iowa is that we amend the conference report. The conference report contains a directed scoring concept that we put in there to assure the Senator that the program that he authored, against which we have sought to offset some of the budget authority required for this military construction bill, would be taken so we could proceed with that program. The drought program is not specifically authorized by law. The House of Representatives required, as is their right, an offset to the moneys that would be appropriated within the military construction bill for the drought program. And it was the House of Representatives that made this proposal.

In conference we did as I said, put in a directed scoring provision, and it was the directed scoring provision that the staff of the Senator from Iowa requested.

Now, it is that provision the Senator is using as a basis for objecting to consider even the homeland security bill. The homeland security bill does not have the drought program. He has objected to taking up the homeland security bill because we will not change the military construction bill.

Now, to me, in view of the crisis that faces this country, particularly in regard to the use of FEMA funds, I find that appalling—just appalling. And I am going to come back again and again and again.

I repeat the request. Mr. President, I ask unanimous consent that we place before the Senate the homeland security bill. It does not contain the drought provisions. It does not contain the provision the Senator objects to. I know of no other Senator who is objecting to that bill. So I ask unanimous consent it be brought before the Senate and the current procedure be put aside so we may consider it.

The PRESIDING OFFICER (Mr. TALENT). Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Alaska.

### UNANIMOUS CONSENT REQUEST—CONFERENCE REPORT TO ACCOMPANY H.R. 4837

Mr. STEVENS. Mr. President, now to the military construction bill. The President has asked us on repeated occasions to bring matters before the Senate and the Congress as a whole to deal with those disasters caused by the hurricanes. Those hurricanes came so fast, as we got one request, we got another request, we got another request, so we decided to put them all together and move them all.

I credit the wisdom of the distinguished chairman of the House Appropriations Committee, Chairman BILL YOUNG, for the ingenuity in doing that because we might have been facing separate bills on all of those supplemental requests had we not put them all together. We requested the Military Construction Subcommittee in conference to allow us to add that coalition, that combination of those hurricane supplementals, to put them on that bill.

That military construction bill passed both Houses. And obviously that is the quickest way to get the money to Florida and those other States. That money, some $9.1 billion in particular for the hurricane areas, is of extreme importance.

I point out that in that bill is directed scoring that shows the provision we put in this bill to obtain the budget authority that we did not have available to our committees—we borrowed in effect from a program that has budget authorities extending out until 2012—we have a provision in this bill that says that program cannot be impacted by this offset from now until the year 2007. So there is ample time to deal with how we adjust, if we wish to, the impact of this money on the program that Senator HARKIN authored. That offset is $2.8 billion against a program that is currently estimated to cost $8.9 billion, notwithstanding the fact that its original estimate was $2 billion. But it won't affect the program.

The Senator has 2 years before there will be any diminution at all. No one would be hurt in any way. This is an accounting mechanism. We used budget authority and outlays. We had the outlays. We need the budget authority. So we borrowed, as we did 2 years ago, from that fund. It is an enormous fund, a noncontributory, mandatory program that builds and builds and builds.

I think the Senator has called attention sufficiently to this program. Many of us are going to examine that program in real depth. I know of no other program, even Medicare, that has contributions from the public at large, from people who are benefited by employees. It is not just taking of money directly from the taxpayers' funds, from the Treasury, and spending it without regard to any consideration at all as to cost.

Again, this MILCON bill must pass. I ask unanimous consent that the existing procedure for cloture on the FSC bill be put aside so that H.R. 4837 may be placed before the Senate for the purpose of considering it at this time.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Mr. President, how much do I have left of my hour?

The PRESIDING OFFICER. The Senator has 47 minutes left.

Mr. STEVENS. I reserve the remainder of my time. I will be back.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I rise to say how disappointed I am that we are holding back vitally important pieces of legislation in the Senate for in some respects—I understand the political shows that we all put on before elections. I understand that. But we are holding back money from States such as Pennsylvania, Louisiana, Florida, and others that right now need resources to help recover from the hurricanes that hit us in the eastern part of the United States. We have individuals—not just one, now two—who are holding us from passing that legislation to get those needed resources the Senator from Alaska suggested are vitally needed for FEMA now to get those resources to people who need it now.

I was on the phone the day before yesterday with my Governor. We were talking about the concern over the shortage of funds, the concern about the ability for FEMA to respond and get some of these businesses affected by floods in Pennsylvania up and going. The bill we have here on the floor right now, we could pass it right now and get this money into the hands of people in Pennsylvania, North Carolina, South Carolina, Georgia, Louisiana, Alabama, Mississippi, Florida, and other States that have been affected by the hurricanes over the last couple of months. We are being blocked because someone doesn't like a provision that takes money out of a program that was overfunded, that is spending enormous amounts more than what it was intended to spend.

So we have a program that was supposed to spend a couple of billion dollars, now is spending four or five times that amount. And the author of the program doesn't want to put any fiscal constraint on it. As a result of that, we are not getting flood relief. We are not getting hurricane relief.

This is the kind of pettiness in the Senate, partisanship, that gives this institution a bad name. This is the kind of stuff people sit at home and wonder: What are we thinking here. There are people hurting. The money that is being taken out of this program that is the reason for this bill not passing, most of that money isn't for 6, 7, 8, 9 years. The Senator from Iowa can come back next year and get his money back. If there is enough support in this body to get the money back in the program, come back next year and put the money back in the program. You want the money, prove to the Members here that this is an important enough program to get the money put back in next year. If it is that wonderful, if it is that broadly supported, come back with an amendment to an appropriations vehicle and get the money put back in.

But don't stop people who are in desperate need, who have to have furnaces for their homes as the weather turns cold in our area of the country, from having the resources necessary to respond to this disaster.

The money being taken out of this program is over the course of the next 8 years. We are holding up vital funds for people in need today. I can understand how people get upset with this place. Because a lot of the things we do around here don't make a lot of sense. It can be one person. If anybody doesn't think one person can make a difference, one person can make a difference here in the Senate, positively and negatively.

I will let you decide whether a program whose funding was cut over the next 7 or 8 years is as important, no matter what it is, as getting resources to people who are suffering now in America. You decide.

Then we have the issue on a bill, the tax bill that is before us. We have the Senator from Louisiana who is upset that she didn't get a provision in the tax bill. I would like to tell the Senator from Louisiana and every other Senator, I have a long list of things I did not get in this tax bill. I spent two full days sitting over in the House of Representatives Ways and Means room, pleading with the Congressman from California and others for provisions I thought were vitally important to the economy, to average working people, to people in my State, to people in other States, energy provisions.

I understand the Senator from Louisiana didn't get her provision in the bill. By the way, this is a bill having to do with foreign tax credits, foreign sales corporations. Everyone complains about putting extraneous provisions on. This is probably an extraneous provision to the core of this bill. I would make the argument that the provisions I was arguing for, which was the Baucus amendment—he offered a single amendment on this, the 5-year net operating loss carryback—to me that was important. There are businesses in my State that can't hire people because of the way the Tax Code works and unfairly treats them when they have a good year versus bad. It averages it out to keep things going smoothly. It is a vitally important provision, from my perspective, to create jobs and employment opportunities. It was defeated. The House defeated it. We passed it in the Senate. We pass lots of amendments in the Senate, and the House defeated it.

I had an amendment that was vitally important for me in my State and for the neighboring State of Ohio. I worked diligently on that amendment. It wasn't a $2 billion-plus provision; it was for $30 million. I look at the Senator from Mississippi, who may be thinking: $30 million? We worry about $30 million over 10 years—$30 million? I could not get a $30 million provision in this bill. It could have meant thousands of jobs for my State and neighboring States, and I could not get it in the bill.

Yes, I could grandstand before the people of Pennsylvania and grandstand before the people of America and say I am going to fight this bill and stand up for everything, and I am going to get my amendment passed and we are going to send it back to the House, and the chairman of the House Ways and Means Committee is a rotten guy. I could do that stuff, and I could act like a hero and make great political headlines. But do you know what. That is not going to get my provision passed, and I can guarantee that the chairman of the House Ways and Means Committee is not going to pass my provision if I call him names on the floor of the Senate, which has been done over the last 24 hours, and particularly if they don't agree with the substance of the provision. They are not going to pass it when they see political grandstanding at its worst a few weeks before the election.

What are they holding up? They are holding up a provision that—right now, this bill being held up stops tariffs from being levied on businesses in America, which is hurting jobs today. If we pass this today and get it to the President that much quicker, we would stop those tariffs. We hear so much complaining about how we need to be competitive internationally. This is a bill that will end unfair tariffs that are being imposed on American businesses. We are holding it back for this provision. Is it worthy? I will get into the worthiness in a moment. Even assuming it is the most worthy provision in the world, we are holding back something that is a vitally important piece of business that will get our businesses help and help people be competitive in a world with a global economy.

We have political grandstanding going on. Let me assure anybody who thinks they can play this game on any amendment they may like and they are going to hold up the show because they didn't get their provision, which wasn't even offered by any individual Senator, an amendment that was so important—I understand it was so important to one particular Member, but I can tell you not one Senator on either side of the aisle offered this as a singular amendment to be passed.

As the Senator from Oklahoma said, I sat there for two days. If it was that important of an amendment, I can tell you there was a whole energy bill in there that is very important. You want to talk about important for national security and for economic security and stability? How about passing an energy bill when you have $53-a-barrel oil? You bet I wanted to get that done. Am I upset that we did not include that? You bet. Part of the legislative process is that you have to make choices.

This was a bill very narrow in scope. There were a lot of things we passed in the Senate that we didn't pay for, or we did pay for but the "pay fors" probably had more objections than the underlying amendments. When it came over to the House, all these "pay fors" went away. We had a requirement in this body on both sides of the aisle that this was going to be a revenue neutral bill. So there we are. We had to cut out provisions in the Senate bill. The provision of the Senator from Louisiana got cut. My provision was cut. The energy bill got cut. A whole list of very good pieces of legislation got cut. I wish they had not. I wish we could have found a way to pass them. We could not. Here we are.

Are we going to end tariffs and give our businesses the opportunity to compete globally? Are we going to grandstand and talk about how we are going to keep people here all night long? The Senator from Missouri will have to sit here all night long and other Senators have to sit in the chair all night long just to show how tough we are, how we are going to stand up and fight for our men and women in uniform.

Let's see. The Senator's amendment provides a tax credit for businesses who have employees who are guardsmen and reservists overseas. As the Senator from Oklahoma said, that seems to be a rather indirect way of increasing pay for Guard and Reserve. Also, I make the argument it is a very inefficient way. I have the magazine of the Reserve Officers Association of the United States in my hand. This magazine surveyed the Fortune 500 companies. I commend the article to my colleagues.

This was published in the January-February 2003 edition. What this said—by the way, obviously, I don't have an updated copy. I don't know whether they have done another survey. When they did the last survey, we found that, in 2003, only 17 of the Fortune 500 companies did not provide additional compensation for guardsmen and reservists who were deployed. In fact, well over a hundred—154—provide full compensation. In other words, they pay them fully, every penny of their salary—not just what the Senator from Louisiana suggested, $15,000, but fully pay their salaries. The rest pay some or most of their salary and benefits for the individuals and their families.

What are we going to do with this legislation? We are going to enrich the Halliburtons of this world and the other big Fortune 500 companies that are already providing these benefits. We are now going to give them a tax credit. We are going to spend $2 billion-plus to give tax credits to Fortune 500 companies and a lot of other companies that already are providing these benefits. Is that a very efficient, cost-effective way, in a time of big deficits, to pay Guard and Reserve a lot of money? I argue that is about as inefficient a way as possible to do this.

Who are we benefiting here? Certainly the Fortune 500 companies. Are we benefiting the reservists or the Guard person when all but 17 of these companies are giving benefits now in excess of their pay that the Government pays them? So if we send those companies that money, all the company has to do is say: Thank you for the money. We are already paying them, but we could use the money. We can increase our profits a little bit. Thank you very much. There is no obligation in this legislation that they have to take that money and pay even more benefits. In fact, 154 of the companies already pay full benefits. They could not pay any more benefits.

I understand the Senator from Louisiana wants her provision included. We all like to get our provisions included. We also would like to go home. We would all like to get our business done. We would all like to go out and get in touch with our constituents and find out what they really think instead of what we think here is best for them. We do a lot of that around here—what we think is best for everybody. I argue that this provision, which is going to enrich a lot of Fortune 500 companies, is the most inefficient way possible to solve this problem. If you want to pay guardsmen and reservists more, talk to the Senator from Virginia, talk to the Senator from Alaska, talk to the new chairman of the Appropriations Committee, the Senator from Mississippi, and you ask them whether we can structure something so that we are now going to compensate Guard and Reserve more than we are going to compensate Active Duty people. That is a legitimate issue. I believe we can have that debate.

But to make all this fuss about how we are going to stand up for all our guardsmen and reservists and fight for them until the end, let me assure the Senator from Louisiana, at 7:40 tomorrow we are going to pass this bill. If the Senator from Louisiana wants to make everybody sit here until 7:40 tomorrow night, we can wait until then, and at 7:40 this bill will pass and her provision is not going to be on it, and her provision is not going to become a Senate bill passed by the Senate between now and then. We can wait until that time. We can wait and let the tariffs continue to be levied another day on our workers here in America.

We can wait and have provisions having to do with energy such as the Alaska pipeline another day; we can wait so we can have the political opportunity to talk about how important Guard and Reserve members of our military are; but this is an inefficient and costly way of solving the problem.

I argue that is as much a reason why it did not pass as anything else. The idea that someone believes their provision is so much superior to everybody else's, I think that probably every Member of the Senate had a provision they wanted or they would like to have seen in that bill that they did not get.

The thing about legislating is we do the best we can. We work hard and live to fight another day, and we do so in a way that builds relationships, tries to get things done in a collegial way. I make the argument that keeping Members here on Saturdays, Sundays, Mondays, and Tuesdays during recesses when people had scheduled events, when their campaigns are, obviously, at this point very much underway, when nothing substantively that they are proposing is going to happen, is not the most effective way to win friends and influence people.

Now, if I were for the Senator's provision—I do not know whether I will ultimately end up voting for it, but I ask her, if I were a supporter, to please give this proposal a chance instead of making it a proposal that has fostered some ill will around this place. We have an opportunity to do something right, pass three pieces of legislation that should be passed. We have disaster assistance that should be out today, as well as homeland security. I wish I had a nickel for everybody who talked about how much more money we need for homeland security. We listened to the debate the other night where it was said we were not spending enough on homeland security.

Well, we have a Homeland Security bill. The subcommittee chairman is in the Chamber. I do not know what the increase is for homeland security in this bill from last year, but I suspect it is substantial. That money is not being spent. We are in the next fiscal year right now. We could be spending that money right now. We could be securing our homeland right now.

Mr. COCHRAN. Mr. President, will the Senator yield?

Mr. SANTORUM. I would be happy to yield.

Mr. COCHRAN. In fact, I can answer that question partially. I looked at the legislative notice that was published back in September when we had the bill on the Senate floor. We are increasing by 9.2 percent the spending that goes to the Department of Homeland Security overall. So by withholding this funding—we are into the new fiscal year as the Senator points out—we are allowing individual programs administered by the Department of Homeland Security to suffer. We are requiring them to give up, in effect, the increases that have already been approved by this Senate and in the conference report on the Homeland Security appropriations bill.

Some of the programs, for example, that have been increased substantially are Project Bioshield, the Transportation Security Administration activities, the U.S. Coast Guard. Those are fully funded at the administration's requested level, which were substantially increased over the last fiscal year.

So this is causing real harm, and the Senator makes that point.

I point out specifically how it is causing the harmful results: new technologies to enhance security of our country by identifying people coming into the country who are using visas. We have new technologies now that can be used to screen and to make sure people are who the visa says they are. This is something that is not going to be utilized for this period of time in the new fiscal year because the increases in funding are not being made available. So this is really serious. We need to pass this Homeland Security appropriations conference report as soon as possible. We need to do it today. We needed to do it when it was ripe for consideration yesterday.

It does not contain any provision that is being opposed by the other side.

Mr. SANTORUM. I ask the Senator from Mississippi, is there any provision in this bill that is being objected to by anybody, that the Senate is aware of, on either side of the aisle?

Mr. COCHRAN. There is no objection that I have heard from any Senator. There is a disaster provision that was included in this bill. It has now been taken off the Homeland Security appropriations bill. It has been added to the Military Construction appropriations bill. This bill is clean of any provision that any Senator had opposed, to my knowledge.

Mr. SANTORUM. I then will reiterate, if there is no objection to this bill. I ask unanimous consent that—I yield to the Senator from Alaska, since he is the chairman of the committee, and ask if the Senator would like to make a unanimous consent request because I think this is important. Since we have now established beyond a shadow of a doubt that there is no objection by any Senator to this bill on either side of the aisle, I ask the Senator if maybe this would be an opportunity that we could have to pass this bill and get these needed funds for homeland security purposes. At a time of war when our threat has been elevated, where they talk about all the danger that is in front of us as we lead up to this election, not to be able to pass this Homeland Security bill at this time would be unconscionable, so I would be happy to yield to the Senator from Alaska to ask for the opportunity to pass this bill since nobody is objecting to any of the substantive provisions.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from Pennsylvania is correct. We have heard no objection. As a matter of fact, we have a wrap-up procedure, is what we call it—and the Senator is familiar with that—at the end of each legislative day. This Homeland Security bill was in that. We know that absolutely no one objected to the Homeland Security bill in the first instance and later the Senator from Iowa, Mr. HARKIN, came back and objected. So this bill is held up apparently because the Senator from Iowa wanted to have some other thing in the way of getting on Military Construction.

I am happy to renew the request.

Mr. SANTORUM. If the Senator would yield just to clarify, the Senator from Iowa came back and objected not to any particular provision in this bill; there was no objection to the underlying Homeland Security bill?

Mr. STEVENS. I know of no objection any Senator has raised to the Homeland Security bill. The Senator from Pennsylvania is absolutely correct about that.

I renew the request, and that is that we set aside the current cloture procedure and that the Homeland Security bill be laid before the Senate, H.R. 4567; that the conference report be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Pennsylvania.

Mr. SANTORUM. The Senator from Iowa just objected again to this bill, which nobody objects to, being passed. Again, it is 3:30 eastern time on a Sunday and I suspect the viewing audience of this debate is not particularly high, but I would also suspect that those who are viewing are sitting there with furrowed brow asking: What was that all about? No one objects to this bill, yet there is an objection.

Our country is at war. Our country is at war. There are threats to the homeland. We have the Democratic nominee for President, a Member of this body, who I suspect might have some say about what Members on his side of the aisle will do in a few weeks before the election, who complains constantly that we are not spending enough money on homeland security, that we have not defended the homeland as vehemently as we should have. Where is the Senator from Massachusetts today to put those words into action, to get this bill passed so we can get this money spent now?

It is all a bunch of smoke and mirrors: Oh, yes, we are for all this stuff but a provision having to do with land conservation that is spending four and a half times more money than was originally intended to be spent over a 10-year period of time, the money in the outyears of that program have been reduced to pay for immediate drought assistance in almost the very same area of the country, and it is in a separate bill than the Homeland Security bill and that is why homeland security is not going to pass right now. That is why our homeland will go less defended today than it could be. The furrowed brows are justifiable in this case. This is wrong.

We may be lucky. We may be lucky. The 5 days or 4 days I understand we are talking about, maybe Thursday before we can potentially get the bill passed, the 5 days—we could have passed it yesterday by consent, so Saturday, Sunday, Monday, Tuesday, Wednesday—6 days. The 6-day delay may not cost anybody's life in America. It may not cost a life. We might not have resources that are deployed because 6 days sooner we would have signed this bill and those resources would have been available to maybe protect somebody in America. We will never know that—or maybe we will. But the fact is, to hold up a piece of legislation that is a vital national security interest, for a very small piece of legislation where money was to be taken from it years down the road, I think, reflects the worst of what people see in Washington, DC.

I am hopeful the persistence of the chairman of the Appropriations Committee and the persistence of the chairman of the Homeland Security Subcommittee over the next 24 hours that we will be here, or 27 hours that we will be here, will eventually pay off. I know there are Members on the other side of the aisle who are working diligently to try to convince the Members on that side to move America's business forward. Let me assure everybody—I think we all know this—that the legislation, the homeland security legislation, the drought and disaster relief, the hurricane relief money, and the FSC/ETI bill, the JOBS bill having to do with foreign sales—all three of those are going to pass just as they are. There will be no amendments. They are not allowed under the rules. There will be no separate deals that will allow other provisions to pass to make everybody happy.

They will all pass. They will all pass as if, in fact, we just stood up here and called for the vote on them right now. There will be no difference.

The question is how long are some individuals going to make the Senate wait. But candidly, I complained about not being able to be with my family today. It is Sunday. Usually I take Sundays off and try to be home with my six children. I will tell them, they might be watching, I will be home soon, I hope.

But that is a minor inconvenience. That is meaningless. Our job is to be here to do the job we have to do to get what we need done for the American people. The reason I am here today and the Senator from Mississippi and the Senator from Missouri and the Senator from Alaska and the Senator from Kentucky and the Senator from Hawaii—we are here because we want to get the people's business done. We want to cut those tariffs. We want to eliminate them. We have a chance to do that today. We want to get that money out for disaster assistance. We have a chance to do that today. We want to get that money to the law enforcement agencies and the transportation agencies to protect people here at home. We can do that today.

But, because of two individuals, we are not. They may stand here and give speeches about how heroic their effort is, and how important their job is to get these provisions they have worked so hard on, but we could all be doing that.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of all of the amendments considered in the Finance and Ways and Means Committee conference report on October 5 and 6.

There is a whole page of them. There are 23 amendments on the first day and another 10 amendments on the next day. We had 33 amendments also considered. I would argue the amendment of the Senator from Louisiana was not offered, except that at the end of the markup all the amendments that no one wanted to offer that were in the Senate bill, that were not offered individually, we threw them all together in one big package and offered them, and her amendment was in the big package that no one thought was important enough to offer individually.

I will not argue her provision is not important. It is, obviously, certainly important to her. But not one member of the Senate Finance Committee, Republican or Democrat, House or Senate, offered it. And we are being held up on the Senate floor. I don't know why. It is not going to become law. At some point you have to say, getting those tariffs off the backs of American business is more important than even the most important provision in your heart. Trust me, I had some of those amendments. It is time for responsible legislating. It is about time we get serious: Let's get our job done. Let's get our job done for the American people. It is decided. Nothing is going to change. It is just a matter of when we are going to do it.

I hope through the good work of the Democratic and Republican leadership—I know Members on both sides are working diligently to try to work through this—that we stop the tariffs that are making us globally uncompetitive; that we start funding homeland security at the levels the President and this body said they wanted; and that we start getting the resources to people all throughout the eastern part of the United States, including the Commonwealth of Pennsylvania, get the resources into the hands of the small business people and homeowners who have been hurt by the floods and storms of the last couple of months. That is what this is all about, those three things, three vitally important provisions, three bills that could pass in 5 minutes. In 5 minutes we could call those bills up and pass them.

I feel like "Name that Tune." I bet we could do it in 4 minutes, maybe even in 3 minutes we could pass all these bills. And, by the way, they are going to pass. They may not pass tomorrow—well, one of them will pass tomorrow. Maybe Wednesday. Maybe Thursday. They are going to pass. So what are we accomplishing? We are hurting the American public. We are costing jobs. We are adding insult to injury to people who have been devastated by natural disaster, and we are making our country more vulnerable by not having increased homeland security protection at home. That is what we are accomplishing.

Congratulations, Senate. Good job. Keep those tariffs high. Make us uncompetitive. Don't give that money to people who suffered through natural disasters. Let's keep it here in Washington because we have some political points to make.

I have some political points I need to make. You know, you can wait. You can wait. Transportation Security Agency, for that additional funding. You can wait, Coast Guard, for that additional funding. You can wait, because politics here in the Senate comes first. Opportunities to show the folks back home I am fighting for you, that comes first. Amazing. Amazing.

The most amazing thing is it is a futile fight. All three bills will pass without changes. Do you know why? Do you know why I am certain, why the Senator from Mississippi is certain? Because that is the rules of the Senate. They cannot change. They are conference reports. They cannot be amended. So what is this all about? It is about putting personal political interests above the interests of those hurt by natural disasters, those who are being hurt by high tariffs, and those who would like to feel more secure in our country with increased homeland security spending. That is what it is about. Let's tell the story. Let's tell the story about what is going on here on a Sunday afternoon in the Senate. Everyone is safely at home, we hope, watching their football games or the league championship series. What is going on here in the Senate is political demagoguery at its highest level. Let's call it for what it is. We need to stop this. We need to get our job done. We need to go home and talk to our constituents and work on problems.

I ask unanimous consent, again, on the issue of homeland security, that we call up the Homeland Security conference report that has not been objected to on any substantive ground, that we call up the Homeland Security Subcommittee appropriations conference report and pass that bill by unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the disaster assistance conference report and the Military Construction conference report be called up, and I ask unanimous consent they be passed.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SANTORUM. I ask unanimous consent that the FSC/ETI conference report be called up and passed by unanimous consent to stop the tariffs from being imposed on our workers across the country.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SANTORUM. Mr. President, I say to the Senator from Mississippi that we could have done that in less than a minute. If we had not heard the word "objection" three times, those bills would be passed right now.

By the way, mark my word. All three will be passed just as they are, but we are just going to have to wait a while because while the business of the Senate is done, the talking isn't done. While the business of the American people has been done, the politics isn't over yet.

At this point I yield my time, and let the show begin.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, first of all, I would like to respond to the Senator from Alaska who said this bill would not affect the program because it took funds out of the outyears. That is not true because this is a contractual program. Farmers have to sign 5- to 10-year contracts. If you take money out of the outyears, of course, that affects how the programs operate today, the ability of USDA to sign 5- to 10-year contracts today.

The Senator also said he did not know of any other program like this, which is a mandatory program without a fixed spending limit. I am sorry, but there are a lot of programs like that in our agriculture committee. The programs are like that. I see our chairman sitting here. The commodity programs are exactly like that. Apart from agriculture there are a lot of programs that operate that way.

I will respond to my friend from Pennsylvania. Regarding getting money out, I will point out that my friend from Pennsylvania said there are not too many offices open in Pennsylvania today. I also point out that he may have forgotten that Columbus Day is a national holiday, and I don't think there will be many offices open in Pennsylvania that day either.

The Senator from Pennsylvania went on with quite inflammatory-type language about getting these bills done. I will point out that the MILCON bill passed the Senate on September 20. I never heard—maybe I missed it—the Senator from Pennsylvania speak so heatedly after September 20 about the necessity of getting this bill done. It has been out of here since September 20. Yet I only heard him talking about the necessity of passing it today. I never heard about it before. This is all politics. That is all it is.

I point out that homeland security passed September 14. I have not heard the Senator from Pennsylvania complaining before about how we need to get the House to act and get that done in a hurry. I had not heard it until today. It is just politics. We all know that.

Again, I am somewhat surprised that the Senator from Pennsylvania is willing to take money out of the pockets of Pennsylvania farmers and use that money to pay for farmers in Texas or Colorado or Wyoming or Montana. He is willing to do that.

I will point out again that the Senator talked about going back to appropriations to get funds for conservation back later. But we passed this conservation program in the farm bill, not in appropriations.

I also point out to the Senator from Pennsylvania that just yesterday, on a resolution that was before this body, 71 Senators voted affirmatively that this disaster money ought to be emergency spending and not offset out of farm programs. Mr. President, 71 Senators voted yes; 14 voted no. I guess it comes as no surprise that the Senator from Pennsylvania was 1 of the 14 who voted no. So he is in favor of taking money out of the farm program to pay for disasters. Surprise, surprise. Maybe it is not a surprise for some.

But I point out that Pennsylvania, the State he represents, is in the hurricane assistance package. They get the hurricane assistance without having an offset, along with Florida, Georgia, Alabama, Virginia, and a few other States.

One can be selfish about things and one can look upon disaster assistance as a national priority.

I note that a number of Senators from other States that were affected by the hurricane voted the other way. The Senators from Virginia, Florida, Georgia, the Carolinas, to cite some, all basically voted to say: Yes, we are happy that the hurricane money comes to us. But you are right, other disaster money ought to be emergency. But not the Senator from Pennsylvania. He voted to take it out of the farm program himself.

I wish he would follow the lead of some other Senators who are affected by hurricanes in other States. They said unselfishly: Yes, we need help. I believe they do, too, and it ought to be an emergency. But I also believe that farmers who suffered from drought or flooding in Iowa, floods in North Dakota, suffered from tornadoes in Oklahoma, hail in Minnesota, wind damage in Wisconsin, pest infestation in Pennsylvania, they too suffered a disaster.

That ought to be taken out of emergency spending just as we have done for the last 50 years, with one exception 2 years ago. That was corrected right away.

The Senator from Pennsylvania stands in a small minority who believe that disaster money ought to be taken out of the farm program.

The Senator from Pennsylvania went on talking about how much money this conservation program costs. He said it will cost four and one-half times what it was supposed to. That is a guesstimate. We really do not know exactly and for certain what it is going to cost, and I don't think it is going to cost that much. But, nonetheless, he went on about this program. I will check the record. I could be wrong in my interpretation. But I believe he said we should not have programs like that, that we ought to come back and get appropriations for them.

I just wonder. Of course, the Senator from Pennsylvania is no longer in the Chamber, but I am sure someone will tell him what I said. I would like to ask the Senator from Pennsylvania whether he wants the same rules to apply to the milk income loss program. Would the Senator from Pennsylvania like the same rules he is trying to put on the conservation program to apply to the milk income loss program? I bet he wouldn't because that affects his dairy farmers in Pennsylvania.

We put the milk income loss program in the farm bill. It was estimated to cost $1.7 billion through fiscal 2005. Later, CBO said it would cost more than $4 billion. Already it has cost $2 billion. I don't hear the Senator from Pennsylvania griping about that and saying that is not right, that if it was supposed to have cost $1.7 billion, that is where we should have capped it.

But the milk loss program will be coming back and we will see if the Senator from Pennsylvania would like to apply the same rules to that. In fact, the Senator from Pennsylvania wants to extend the milk loss program. He does not want to just let it expire but wants to extend it. He does not care how much it costs because it is uncapped. It is another one of those uncapped entitlement programs, I point out to the Senator from Alaska, that is paid for by the taxpayers of this country. There is no cap on that program. It is an entitlement program paid for by the taxpayers. Again, I point that out to the Senator from Pennsylvania, maybe he would like to go in there and get some money from that program.

I will talk about the conservation program for a few minutes. The Senator from Pennsylvania said what gives us a bad name around here—I don't remember all that he said—is the procedure of the Senate , like this afternoon. What gives us a bad name is when we agree to do something, enact it, and our constituents rely upon that, and then we come back later and a few people, exercising their power, run roughshod over the will of the majority and change the program we had promised to the people, We have enacted this program for you.

In the farm bill, we fought out these issues. We hammered them out and made agreements and we created this Conservation Security Program. Our constituency—farmers, conservationists and environmentalists and others around the country—were told, OK, you can rely on these 5- to 1-year contracts.

Now a few people have come back to thwart the will of the majority. As I pointed out, 71 Senators voted against taking an offset for disaster assistance, not to take it out of conservation. That is overwhelming. The House of Representatives overwhelmingly supported this program, but OMB, under the guidance of the White House, and with the concurrence of a few people in the House leadership and Appropriations Committee, were able to change it. That is what gives us a bad name around here, that a few people can thwart the will of the majority and change those programs.

Again, this is a program that was historic, the whole conservation title of the farm bill. When the President of the United States signed the farm bill in May of 2002, he said one of the main reasons he was signing it was because of the historic increase in conservation, an 80-percent increase. We had a lot of programs in there for conservation, and we had a new program called the Conservation Security Program. Everyone said good things about it, including the President.

Unlike other conservation programs, the Conservation Security Program took a comprehensive approach to conservation. It not only encourages the adoption of new practices, it rewards those who are already implementing important resource-conserving practices. CSP, as it has come to be known, the Conservation Security Program, was designed specifically as an open national program, equivalent to the commodity programs except instead of being paid in relation to farm commodity production, farmers and ranchers are now going to be paid for producing environmental benefits such as cleaner air, cleaner water, saving soil, enhanced wildlife habitat, and the adoption of energy-conserving practices.

The CSP is also clearly a way to provide all producers across the Nation the tools and opportunity to implement conservation practices and to lessen the need for environmental regulations. It also provides incentives for producers to create and adopt innovative conservation practices.

Again, those who would severely restrict this program and kill it, as they have been trying to do, are opening the door for environmental regulations. The people of this country want cleaner air. They want cleaner water. They want to stop soil erosion. They want to clean up our rivers and our streams and our lakes. They want to stop what is happening in the Gulf of Mexico with sediment and nutrients coming down the Mississippi. That is what this program is designed to do, to encourage farmers on a voluntary basis to implement these practices.

The funding for CSP was like that for a commodity program. We were going to make producing conservation benefits much like a commodity. The commodity programs have no fixed cost limit, no cap. I say to the Senator from Alaska. They are uncapped programs, just like the milk income loss program is an uncapped program. There are a lot of these. We do this in the Agriculture Committee and in other committees, a lot. They are restricted not by an arbitrary cost limit but by the eligibility requirements.

In order to get these payments, a farmer has to carry out substantial practices that will produce real conservation benefits. If you will do those things, you qualify. But you have to save your soil, protect your water, have cleaner air, enhance wildlife or conserve energy and those types of things. Then you qualify.

What a few people did under the guidance of the President was to come in and take a lot of money out of the conservation program. I was surprised at this because two nights ago in the debate in St. Louis the President proclaimed his strong support for conservation. I said, wait a minute, as I was watching this debate. At the very moment the President was saying he supported conservation, he had his people up here on the Hill taking over $2.8 billion out of conservation, gutting conservation, taking out the money.

The President cannot have it both ways. You cannot on television tell the American people you are for conservation and have your people up here taking the money out of conservation. That is exactly what the President and his people are doing. We all know it. That is what this fight is about.

I say to the Senator from Pennsylvania, I am here to fight for farmers. I am here to fight for a cleaner environment. I am here to fight to help save and improve our nation's soil, clean our water and our air, enhance wildlife. I am here to fight to give our nation's farmers and ranchers the tools they need to be better producers, to be better stewards of their land. I am here to fight for our farmers. I am here to fight for the farmers of Pennsylvania, too. Even if the Senator himself won't fight for them, I will fight for them. I don't want to take money away from the farmers in Pennsylvania to send to Iowa or to send to Wyoming, Oklahoma, or anywhere else there is a disaster.

Just as all taxpayers of this country are giving some of their taxes to help the victims of the hurricane, so, too, should we all, as we have for the last 50 years, provide assistance for those who suffer from tornados, floods, hailstorms, drought, and everything else. It is a national problem.

The Senator from Pennsylvania may want to take money away from his farmers. I guess he did that yesterday when he was 1 of 14 who voted to take money away from his own farmers to send to those who suffered a disaster.

I point out that Pennsylvania is in the hurricane assistance bill. They are going to get help and it will be emergency spending. Farmers in Wisconsin and Minnesota, farmers in Ohio and Missouri and other places, were not affected by that hurricane. What about them? Why should they be treated differently? Their disaster hurts them as much as the hurricanes hurt people in Florida, Georgia, and Pennsylvania. We ought to care as much about the farmers who were hit by a tornado or a mud slide or hail storms, acts of nature over which they have no control.

Our farmers work hard. They produce the food and the fiber for our country. We have the best, most bountiful, cheapest food supply anywhere in the world, thanks to our farmers. They control a lot of things, but one thing they cannot control is the weather. Yes, there are crop insurance programs, but they do not cover all crops equally or sufficiently in so many situations.

We have always said, when you get hit by a disaster, we will be there to help, just as we are for people in Pennsylvania. But I would hope the people of Pennsylvania—I know the people of Pennsylvania. They are not a selfish people. The people of Pennsylvania would want to help farmers in Iowa or Missouri or Wisconsin or Ohio. They would want to help farmers who lost a crop because of a flood in North Dakota, They would want that. They would want the Nation to do it, just as we are helping them.

I am sorry that the Senator from Pennsylvania does not see it that way. I am sorry he can't be 1 of the 71 who voted to treat disaster assistance as an emergency and not take it out of the pockets of farmers. Our farmers work hard. They do not deserve this kind of treatment.

The dairy farmers in Pennsylvania who got money under the milk income loss program, well, we put that in the farm bill for those dairy farmers in Pennsylvania. It does not affect my State as much as it does Pennsylvania.

Well, I suppose you could say: We got ours. It is almost as if the Senator from Pennsylvania—it is almost as if I hear the words: Well, we got ours. To heck with everybody else.

Well, look, we are all part of this country. We are all part of this Nation. When a disaster strikes someone in Hawaii, we ought to be there for them. Or Alaska, if there is an earthquake in Alaska, you bet we ought to be there for them. We should not take it out of Alaska's highway money, or we should not take it out of money that goes to Hawaii for medical care, or something like that. We should not do that.

But evidently that is what some people around here are thinking. We should not say to the poor people in Florida: Look, I'm sorry. We'll give you hurricane assistance, but we are going to take it out of your highway money; we are going to take it out of your Medicare; we are going to take it out of other Federal programs that go into your State. That is not a caring kind of country if we do something like that.

So I would hope that we could be a little more caring and considerate of those who have suffered disasters in this country and make sure that they, too, are treated just like we are treating people in Florida and Pennsylvania and the other States that got hit by the hurricanes.

That is why I am here. That is why I am holding this up. That is why I wanted to get this corrected. I will fight—I will use every rule—I am not breaking any rule of the Senate, and I will not break any rules of the Senate—but I will use every rule I can of the Senate to stand up for farmers and for conservation and to stand up for people who were hit by disasters, to stand up for the agreements that we reached in the farm bill.

We voluntarily and knowingly reached all of these agreements in writing the farm bill and we stayed strictly within the budget we were given for it. We signed the conference report on the dotted line. Both the House and Senate passed it by strong bipartisan majorities. The President signed the bill. Now the President and others want to come back and say: Well, everything is OK except this one program. We will take out this one.

I am sorry, that is what gives this place a bad name. You cannot give your word you are going to do something and then you go back on it. You cannot do that around this place. The President has sent his people up here to do that.

If the President really wants to support conservation, he ought to tell his people: Look, put that disaster assistance in the emergency spending package just as you did the hurricanes. That is the fair, the just, the reasonable, and the compassionate way of doing it.

Mr. President, how much time do I have remaining of my hour?

The PRESIDING OFFICER. The Senator has approximately 38 minutes remaining.

Mr. HARKIN. Mr. President, I thank the Senator from Hawaii for permitting me to go ahead of him.

I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Iowa yields the floor.

The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I commend the Senator from Iowa for his stalwart stand for the farmers of America. He has been a strong Member of the Senate for our farmers over the years. I commend him for his statement.

Mr. President, I rise to express my views on the conference report to accompany H.R. 4520, the Jumpstart Our Business Strength Act, to be on record as to why I voted against cloture. On balance, although the package contains a number of helpful provisions, it ultimately falls short of what we owe to the people of my State and the people of this country.

Initially, I would like to thank my colleagues for their hard work on this bill, which contains some good provisions to help American businesses and works toward ending harmful tariffs currently placed on many of our exports. The conference report also contains some much-needed boosts for renewable energy and renewable fuels. It will expand production tax credits to include renewable sources of electricity, such as geothermal and solar energy, landfill gas, trash combustion, and open-loop biomass. It will provide a per-gallon excise tax credit for ethanol blended by refineries and a 50-cent-per-gallon income tax credit for each gallon of biodiesel used or sold as fuel. As a longtime advocate for renewable and alternative energy sources, I believe these incentives are important to help our renewable energy businesses in Hawaii increase the amount of renewable energy used to produce electricity.

However, there is much more that the final conference agreement lacks that leaves me no choice but to oppose the measure. For example, I am disappointed that some of the measures in S. 476, the CARE Act, which passed the Senate by an overwhelming vote of 95 to 5, did not make it into the bill. In particular, section 310 of the Senate's CARE Act bill is important for our teaching hospitals. The provision allows support organizations to utilize debt to improve teaching hospitals' real estate endowment. This would assist charitable teaching hospitals in my State of Hawaii and other States as well. Regrettably, this provision was not incorporated into the conference report.

I supported another provision in an amendment offered by my colleague from Louisiana, Senator LANDRIEU, that the Senate accepted by voice vote. This amendment sought to improve the credit for employers of the men and women in the Ready Reserve or National Guard who have been called to active military duty. In light of large deployments underway in my State of Hawaii and other areas of the U.S.—as the Senator from Louisiana said earlier, about 57 percent of Hawaii's Guard and Reserves have been called up—this was a very significant amendment to show that we honor the commitment that the Reserves and Guard have made to our country. I am very disappointed that this amendment was stripped in conference, despite a strong show of support by this body.

I understand that there may be efforts to try to rectify this problem, and I hope that we get somewhere, but it should have been remedied during conference on this measure.

I am pleased that the bill includes long-awaited provisions to shut down certain abusive tax shelters. However, as meaningful as some of those tax loophole closers are, the Senate had sought a stronger package to further restore faith in corporate America. Although this represents a missed opportunity, I hope that we will revisit the matter in the next Congress.

In addition, I am pleased that the conferees heeded calls for fiscal responsibility and used provisions such as those ending tax shelters to fully offset the package. However, depending on whether the leadership of our Nation or this body changes next month, we may face tremendous additional costs years from now when tax cut extensions and expansions in the package are further extended or possibly made permanent. I hope that we are able to stick to fiscal prudence when working on future tax cut measures, given important domestic and international priorities that could continue to suffer from further major decreases in Federal revenues.

I also oppose this bill because it represents a missed opportunity related to the U.S. Department of Labor's overtime regulations. Since the Department published its proposed overtime regulations in the Federal Register in March 2003, Members of Congress have been trying to improve the regulations to ensure that all workers are not adversely affected by these changes. However, our concerns have not been heard by this administration. Rather, this administration continues to disregard the wishes of the majority of the Members in this Chamber that believe certain portions of the overtime regulations will take away overtime protections for some workers. On May 4, 2004, the Senate passed an amendment introduced by Senator HARKIN that would allow for full implementation of any regulations that expanded or improved overtime coverage, but would prohibit the Department of Labor from implementing any new rules which would take away overtime protections currently guaranteed. And, once again, in conference, the provision was taken away.

Finally, an extremely important provision has been omitted from the conference report. By an overwhelming vote of 78 to 15, the Senate approved an amendment offered by my colleagues Senators KENNEDY and DEWINE to provide the Food and Drug Administration, FDA, with the authority to regulate tobacco products. I appreciate their leadership on this critical issue.

For too long, the FDA has not been provided with the necessary authority to regulate a substance that causes so many lives to be lost. The Campaign for Tobacco Free Kids, American Heart Association, American Cancer Society, and American Lung Association sponsored the educational campaign piece behind me. As you can see, it features a young child, likely no older than 8 or 9 years old. Yet, children this age are too often the target audience of cartoon-like tobacco advertising that seeks to exploit them as part of a target market for cigarettes. According to the Campaign for Tobacco Free Kids, smoking is the leading cause of preventable deaths, killing approximately 400,000 people each year. The FDA must be provided with the authority to regulate tobacco products to help prevent children from becoming addicted and to make tobacco products less harmful than they are in their current form.

It is estimated that 2,000 children are hooked on tobacco every day. Flavoring cigarettes is one of the tactics used to entice children and teenagers to start smoking. Right here, you can see an example of the marketing that was employed in this campaign. This summer, R.J. Reynolds Tobacco Company produced flavored cigarettes that used images of my home State of Hawaii and the name of one of our islands in an attempt to make smoking more attractive. One of the cigarettes, which was named Kauai Kolada, is flavored with "Hawaiian hints of pineapple and coconut." I don't know if you can see this, but let me point it out right here. Another lime-flavored cigarette is featured in the same marketing campaign.

I am outraged that a manufacturer of such a deadly product would exploit and, therefore, taint images and names from Hawaii in their attempts to lure children into smoking. It presents a false promise of paradise. The DeWine-Kennedy amendment would have prohibited flavored cigarettes, such as the Kauai Kolada, and restricted tobacco advertising.

Any buyout for tobacco farmers must include FDA regulation. It is outrageous that this current Congress will fail to take necessary and justifiable steps to help protect our children and improve the public health of our country. It appears that certain tobacco companies want to continue to cultivate another generation of smokers so that they can increase their sale and reap more profits at the expense of the health and well-being of our families.

Coming from a State that does not have a large manufacturing base, the bulk of this conference report will not apply. Given that fact, I still find it my duty to help American manufacturers for the good of our country, and I applaud the provisions in this conference report that do so. It is our manufacturers that help us maintain our status as an economic powerhouse in the world.

However, as occurs with other large bills, there are enough things wrong with this final package and enough missed opportunities that I am unable to support it.

I yield back the balance of my time.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TALENT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MCCONNELL). Without objection, it is so ordered.

Mr. TALENT. Mr. President, I rise to speak about a provision in the pending tax bill that will benefit tens of thousands of families, mostly African-American families, a provision based on the Sickle Cell Treatment Act, S. 874, that I introduced last year with my friend and colleague, the Senator from New York, Mr. SCHUMER.

Before I discuss the provision, I thank the leader and also our distinguished majority whip for their hard work in advocating for the inclusion of this provision in the conference report. It is very important legislation. Certainly, it is bipartisan and bicameral legislation, designed to help treat and find a comprehensive cure for sickle-cell disease, a genetic disease that affects primarily, but by no means exclusively, African Americans.

I am very pleased that the provision enjoys the strong support of many prominent children's health groups, African-American groups, union groups, church groups, and medical groups in general.

Why does the bill have such broad-based appeal? Because it would make a real difference in the lives of families who have struggled with this disease, as well as others who are high risk for getting it.

Here are a few statistics about sickle-cell disease: About 1 in 300 newborn African-American infants are born with sickle-cell disease. More than 2,500,000 Americans have the sickle-cell trait. They do not necessarily have the disease but they have the trait and therefore may pass the disease on to their children. Sickle-cell disease is the most common genetic disease that is screened in American newborns. People with the disease have red blood cells that contain abnormal types of hemoglobin and therefore the shape of the cell changes into a sickle-like shape, hence the name of the disease.

Blood cells with that shape have difficulty passing through the blood vessels or carrying the nutrients or oxygen the body needs. Tissue that does not receive a normal blood flow eventually becomes damaged and can cause potentially life-threatening complications.

There are many side effects or complications because of the disease. Stroke is probably the most feared effect of sickle-cell disease, especially for children. It may affect infants as young as 18 months old. The important thing to remember is that sickle cell is a sneaky disease. It can show up in ways one would not normally associate with the disease.

I have spoken, for example, with parents whose kids had periodontal disease that was very difficult to treat because it is treated with antibiotics and the blood does not carry the antibiotics as well to affected areas when the patient has sickle cell.

While some patients live without symptoms for years, many others do not survive infancy or early childhood.

There are often severe episodes of pain for people suffering with the disease.

I became personally involved with the effort because of a doctor from St. Louis—a hero, I may add—Dr. Michael DeBaun, who treats children with sickle-cell disease. When I met him and his patients, I was struck by the hardship the disease places on not only the patients but the families of the patient members as well, and primarily on the children who must receive blood transfusion after transfusion to stay alive.

About one-third of children with sickle-cell disease suffer a stroke before age 18. These children require frequent blood transfusions, sometimes 15 to 25 units a year, in order to prevent subsequent strokes. I think especially of a young man I have come to know in the course of working on this legislation, Isaac Cornell Singleton.

Isaac is about 10 years old. He is from Missouri. He is one of Dr. DeBaun's patients and he attends fifth grade at Gateway Elementary School in St. Louis.

Every 4 weeks Isaac goes for blood transfusions at St. Louis Childrens Hospital with Dr. DeBaun. In fact, he has a permanent port installed in his chest to allow for the transfusions, which is one of the reasons he has to limit playing contact sports like basketball and on the playground with other children. If anyone knows Isaac, they know the limitations on his activity and playing sports is, for him, probably the worst aspect of the disease with which he is afflicted.

Last school year, Isaac missed school for several weeks at a time, including because of three hospitalizations, because he had severe episodes of pain associated with the disease. Sickle cell affects his decisions every day. He takes medication daily. He has to drink a lot of water to lubricate his cells. He is careful not to overexert himself, and he gets plenty of rest.

After spending time with Dr. DeBaun in his clinic and after consulting with him about how Medicaid deals with sickle cell, I knew we could make the system better for kids such as Isaac. So last April Senator SCHUMER and I introduced the Sickle Cell Treatment Act. Our friends and colleagues, Congressman DANNY KAY DAVIS from Chicago and Congressman RICHARD BURR from North Carolina, introduced the companion bill in the House.

I cannot overemphasize the outpouring of support we have received for this bill. I knew this disease had affected communities of people for decades, but I had no idea how deep the impact was or how great the need was people felt for help in trying to struggle with this disease. In fact, one of the problems is there has been so little visibility with regard to sickle cell, so little attention paid to it, that there is a lot of ignorance even within the African-American community about what the disease does and how to deal with it.

I think one of the greatest aspects of the bill so far has been to raise the level of attention to the disease. I think that already has helped and the legislation itself will help in informing people. I will go into that in a minute.

As an example of the kind of communications I received, Allyce Renee Ford of Blue Springs, MO, wrote, and I am paraphrasing her a little:

> I was so pleased to read of your bill to increase Federal funding for treatment of sickle cell disease. My twin sons were born with sickle cell in 1973. They suffered with this debilitating disease for all of their lives. They both lost the battle to painful complications of sickle cell related problems in 2002.
>
> Please believe me, Senator Talent, it is a very painful, life constricting disease, both for the victim and for their families.
>
> Even though I do not have any other children to lose to this disease, I mourn for all the other parents who will lose their children in the future . . . today, tomorrow, some day, they will lose them.
>
> Thank God there will be some help for sickle cell disease victims.

Why are so many people, so many groups, so many medical personnel supporting this bill? Because it is critical to help the historically underserved population, many of whom may not know they carry the trait or have the disease until it has already affected them.

The underlying legislation has the support of dozens of African-American children's groups, health advocates, as well as union and church groups. I am not going to read the whole list but it includes the Congressional Black Caucus and the Sickle Cell Disease Association of America—I thank the Sickle Cell Disease Association for their tremendous help in writing this bill and getting it passed—the American Medical Association, the Catholic Health Association, the National Association of Childrens Hospitals, the National Baptist USA, the NAACP, and many other groups as well.

These advocates know this legislation will make a difference in the lives of sickle-cell-disease children and their families in four key ways. First, the bill increases access to affordable quality health care. The provision that is in this tax bill provides funding to currently eligible Medicaid recipients for physician and laboratory services targeted to sickle-cell disease that either are currently not reimbursed or are underreimbursed by Medicaid. The bill enhances services available to sickle-cell patients. A provision in the bill allows States to receive a Federal 50/50 funding match for nonmedical expenses related to sickle-cell treatments such as genetic counseling, community outreach, education, and other services. This is crucial because right now to get compensated for counseling, education, or outreach regarding sickle cell, the services have to be provided by the physician.

Unfortunately, there are not very many physicians in this field. They are extremely busy. They do not have the time to sit down and do this kind of counseling with the patients. Many of them heroically make the time, but there are limits to the number of hours they have in the day. So if this counseling can be provided by nonphysicians, other personnel who are thoroughly familiar with the disease in various outreach centers and places, we can reach out and let people know what this disease is, whether they should get screened for it, what the symptoms are, how they can manage their diet and their lives so as to minimize complications, and many other things that are crucial.

This disease management provision allows hospitals and clinics to do outreach with nonmedical personnel to educate high-risk communities about the disease. It also allows nonmedical personnel like counselors to spend time with sickle cell families and spend time discussing how to manage the disease. In particular, I have talked with parents who have this problem. This will help experts in this field assist families in navigating through the health care maze so they can get the services they need.

The bill also creates 40 sickle cell disease treatment centers around the country. It authorizes the Department of Health and Human Services to distribute grants for up to 40 health centers nationwide at a cost of about $50 million for the next 5 fiscal years so we can have outreach centers in all parts of the country where there are substantial concentrations of people who are at high risk for the disease. It could mean a health center grant in almost every State. The grant money could be used for purposes including education, treatment, continuity of care for sickle cell disease patients, and for training health professionals.

Finally, the bill establishes a sickle cell disease research headquarters. It creates a national coordinating center which will also be operated by the Department of Health and Human Services to coordinate and oversee sickle cell disease funding and research conducted at hospitals, universities, and community-based organizations.

This will focus on efficiency so we can share information about the disease and about outcomes around the country, and accountability to make sure taxpayer dollars are being spent properly in funding good research on sickle cell disease.

Taken together, the components of this bill will make a real and tangible difference in the lives of thousands of American families. I hope this bill is a first step. We have once again Senator SCHUMER and I and Congressman DAVIS and Congressman BURR and all those who have helped us with this, and we ended up with more than a majority of the Senate sponsoring this bill, divided almost evenly between both sides of the aisle.

We look on this as a first step. This bill is going to begin laying the infrastructure for outreach centers, for advocates, for counselors around the country to help families who are struggling with this disease, and to lay the basis for the next step—whether it is additional funding for research or helping people who are coping with the disease so these families and these patients who are struggling with sickle cell disease know they are not alone.

It is one of the more important things Congress has done this year. I can tell you based on my personal experience that it will encourage the many thousands of people around the country who have felt so alone as they struggle with sickle cell disease.

Today, we have truly done something for the public good in including this in the conference report. I am hopeful at some point we will have a chance to vote on it, and I am confident we will pass it.

Mr. President, I thank you for your personal assistance, and I thank the Senate for indulging me in these comments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak for up to 30 minutes as in morning business.

Mr. TALENT. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. LANDRIEU. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TALENT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak in morning business for up to 30 minutes.

The PRESIDING OFFICER. In my capacity as a Senator from Missouri, I have to object.

Ms. LANDRIEU. There are no other Senators wanting to speak.

The PRESIDING OFFICER. That is correct.

Objection is heard.

Ms. LANDRIEU. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Is there objection?

Without objection, it is so ordered.

The Senator is recognized.

Ms. LANDRIEU. Thank you, Mr. President.

I ask unanimous consent to speak for 30 minutes as in morning business.

The PRESIDING OFFICER. Acting in my role as an independent Senator from the State of Kansas, I must object.

Ms. LANDRIEU. Thank you, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Ms. LANDRIEU. Mr. President, reserving right to object, I just ask the leader——

The PRESIDING OFFICER. The Senator cannot reserve the right to object.

Ms. LANDRIEU. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the call of the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Ms. LANDRIEU. No objection.

The PRESIDING OFFICER. The distinguished majority leader.

### THE 108TH CONGRESS

Mr. FRIST. Mr. President, over the next few minutes I would like to take a pause—in the sense that we have a lot going on as we finish much of the work of the 108th Congress—and sort of look back as to what we have faced and what we, indeed, have accomplished over this period of the 108th Congress.

I want to thank my colleagues for their tremendous hard work over the past 2 years. People have shown dedication to the people's business, and indeed we have made real progress with regard to the Nation's business. It is an honor to serve in this body alongside such talented men and women.

The events of 9/11 changed all of our lives. It transformed the world, and a transformed world cried out for reform. And reform this Congress has delivered. One often hears the word "historic" to describe legislative achievements. In some cases, it is true. In the case of the 108th Congress, it is no understatement to say we have made truly historic progress for the American people. During the 108th Congress, the Senate passed sweeping reforms of not one but two major programs that ultimately affect every American's life.

We passed the most far-reaching reforms of Medicare, our second largest entitlement program, since its inception almost 40 years ago. This week, we passed the most comprehensive reforms of the intelligence community in 50 years. We were able to do all of this while also enacting in this Nation's history the third largest tax relief package for hard-working women and men.

Now, because of the President's jobs and growth package, the economy has generated nearly 1.9 million jobs since April 2003. Every month for the past 13 months, we have seen job gains. The unemployment rate has hit historic lows—lower than the average of the 1970s, 1980s, and 1990s. Home ownership is at an alltime high. America's standard of living is on the rise. Our economy is strong and growing.

I want to underscore that passing one major reform bill in a congressional period is remarkable; passing two makes this Congress truly unique. In both cases, efforts at reform had been stymied for decades. In this Congress, we finally broke through. For the first time in its 40-year history, Medicare will offer voluntary, comprehensive coverage for lifesaving prescription drugs. Until we acted, seniors were denied coverage under Medicare for outpatient prescription drugs, the most powerful tools in the arsenal of modern medicine to prevent illness and to fight disease. Because we acted, over 40 million seniors and individuals with disabilities will soon enjoy true health security. This worthy program, because of our actions, will finally be able to keep pace with modern medicine.

In the nearly four decades since Medicare was created, the American medical system has transformed from one focus on treating episodic, acute illnesses in hospitals to one characterized by increasing emphasis on managing and preventing chronic disease. In contrast to long hospital stays, patients are increasingly treated in outpatient settings with advanced medical technologies and prescription drugs. Our medical and scientific knowledge, along with it our ability to treat illness and disease, have improved dramatically over the past four decades, and now, because of our reforms, Medicare will be able to keep up.

All seniors will have the opportunity to get prescription drug coverage and improved benefits. Already real help is in place. Over 4 million seniors are getting substantial savings right now. Over 100,000 people every week are signing up for the new prescription drug cards. Through this new Medicare prescription drug discount program, seniors are saving, right now, an average of 10, 15, 20, 25, or even 30 percent off of the cost of their prescription drugs. Millions of low-income seniors, in addition to that 25-percent discount, get $1,200 over the next 15 months in prescription drugs.

On Tuesday, my staff and I will spread across Tennessee to engage in a six-city effort to enroll eligible seniors in the prescription drug discount card. Our focus, in particular, will be to enroll as many low-income Tennessee seniors as possible in this new savings program. We will be partnering with local public health officials, doctors, hospitals, and patient advocacy groups to help register patients, to help seniors who need the help the most get those prescription drug cards. I encourage seniors who might be listening as I speak to call that number, 1-800-MEDICARE, right now to obtain your drug card and get immediate discounts on your medicines.

I am deeply grateful for the cooperation and hard work and dedication of my colleagues to overcome years of partisan gridlock and finally offer America's seniors the security they need and the choices they deserve through the Medicare Program. There is much more to do, but all of this is a strong start.

The Medicare law created health savings accounts. These health savings accounts allow Americans to have more control over their health decisions, over their health care choices, and over their hard-earned dollars. Tax deductible health savings accounts put patients and consumers in charge of their own health care. They own it. They own their health care. They own their accounts. They control these accounts. They invest it. They can take it from job to job. It is portable, wherever they might go. In these health savings accounts, you have choice, you have that freedom of choice. You choose your doctor, you choose your hospital, and you choose your health care plan. And this reform, again, had alluded us for years and years, but the 108th Congress delivered.

I am proud of President Bush's leadership on health savings accounts and Medicare. I am proud of our health care accomplishments in this body, and I am proud that these accomplishments provide a strong platform for the next steps to making health care more affordable, more available, and more dependable for all Americans.

In addition to passing major reform of Medicare in the 108th, we undertook the urgent task of reforming our Nation's intelligence community. We delivered. The reforms we passed through the executive branch are the most comprehensive and the most far-reaching and sweeping since the National Security Act of 1947. Under the leadership of President Bush, we have worked to meet the greatest challenge of our time: fighting the war on terror.

I commend the President for his bold and steady leadership and his commitment to making America safe. After the 9/11 attacks, he recognized immediately that we were at war. The President made tough decisions. He made the right decisions. Every day, he is following through on those decisions to use the full range of our resources to combat the enemy, to find them where they live and to defeat them. In the 3 years since the 9/11 attack, we have learned much about our Nation's vulnerabilities, about our strengths, and the steps we must take to protect ourselves.

In July, the Democratic leader and I set the process in motion for the Senate to respond legislatively to the 9/11 Commission Report on our intelligence community. The report identified a number of serious failings that required immediate action. We asked the Governmental Affairs Committee, in close consultation with the other relevant committees, to carefully evaluate the Commission's proposals regarding reorganization of the executive branch and determine how best to accomplish those reforms.

Over the August recess, the committee held two dozen hearings, and the Senate committees heard testimony from multiple witnesses. We had hearings in the Governmental Affairs Committee, the Intelligence Committee, the Commerce Committee, and the Armed Services Committee. Each carefully examined the recommendations of the 9/11 Commission's report. That work came to fruition this past Wednesday night in a historic, near unanimous vote to overhaul the intelligence community. The Senate voted 96 to 2, with 2 Senators absent, to coordinate the efforts of our 15 military and civilian intelligence agencies.

Critically, this legislation seeks to establish a new national intelligence director to set and carry out intelligence priorities. It also calls for the creation of the National counterterrorism Center and National Counterproliferation Center to improve our ability to gather, coordinate, and analyze the intelligence data.

We know the intelligence community generates massive amounts of information. In the aftermath of 9/11, this point became tragically clear. There had been clues, there had been arrests, analyses, and warnings, but these pieces of information were scattered across the agencies; they were not properly shared. They became missed opportunities.

This legislation will reform the system from one that focused on a need to know to one focused on a need to share.

Also in the bill are initiatives to strengthen our safeguards at home, including national standards for issuance of drivers licenses, ramped-up no-fly and other terrorist watchlists, and improved screening at ports and borders. We have seen over and over again that the enemy is willing to commit any barbarity to achieve its twisted aims. The enemy is capable of shooting toddlers, of lacing a schoolhouse with bombs, beheading innocent hostages and, as we all saw on 9/11, rejoices in the devastation of these attacks.

The steps we are now taking to strengthen our intelligence community and homeland security will help America defeat the enemy and make America safer and more secure. Strengthening America at home and abroad, moving America forward in pursuit of freedom and prosperity, these have been the driving motivations of the 108th Congress.

When the 108th Congress began, we faced some enormous challenges. First, the previous Democrat-led Congress had failed to pass a budget, so we got to work immediately passing 12 of the 13 spending bills left undone by the previous Congress. We passed 11 of those bills in only 3 weeks. We also passed a budget to establish a blueprint for creating jobs, investing in homeland security, investing in education, providing Medicare prescription drug coverage, and offering health insurance for America's children.

With that unfinished business of the last Congress complete, we turned our attention to the President's jobs and growth agenda. Under the President's leadership, we passed $350 billion in tax relief, the third largest tax cut in history. We cut taxes across the board for 136 million hard-working Americans. For America's families we increased the child tax credit from $600 per child to $1,000 per child and we made sure those rebate checks were sent out immediately. Last year we returned $13.7 billion in taxes to families across the country, and we cut these taxes because we believe taxes are the people's money, not the Government's money. We think Americans pay simply too much. Our goal was to put more money back into the pockets of hard-working Americans for them to save, to invest, and to spend.

Small business owners got a major boost from the tax package. Twenty-three million small business owners who pay taxes at the individual rate saw their taxes fall. We quadrupled the expense deduction for small business investment to spur growth and development.

Small business owners are the engine of the American marketplace. These innovators create 60 to 80 percent of new jobs nationwide and they generate more than 50 percent of the gross domestic product. By cutting taxes and encouraging investment, we help to unleash their tremendous economic power.

Taken together, the 2001 and 2003 tax cuts are providing an astonishing $1.7 trillion in tax relief over the next decade. We acted and we are seeing the results.

In the midst of the fastest economic growth since Ronald Reagan was President, consumers have more money in their pockets and businesses are optimistic about the direction of the economy. In more good news, the national home ownership rate has hit all-time highs. Minority home ownership, too, is setting new records. This is great for families, and it is great for the economy.

When a family buys a home, it not only benefits the community, but it sets off a whole chain of purchases that help fuel the economy. Folks buy living room furniture, bedding, kitchen appliances, curtains, washers and dryers. Homeowners have a greater stake in their communities, in how they live and in how those around them live, and building equity across lines opens doors to broader financial opportunities.

We believe in the American dream, and we believe the American dream should be accessible to all Americans. That is why in this Congress we passed the American Dream Downpayment Act. This particular act provides $200 million a year in downpayment assistance for low-income, first-time home buyers. It also increases the value of loans which the Federal Housing Administration may guarantee in disadvantaged areas.

We are committed to helping the American family achieve their aspirations, and home ownership is an integral part of achieving the American dream.

Meanwhile, this month we voted to extend key parts of the President's tax relief plan for middle-class families. We extended the marriage penalty tax relief. We extended the full $1,000 per child tax credit through the year 2010.

We made sure low-income Americans will continue to benefit from the 10-percent tax bracket, and we also made strides in simplifying the Tax Code. This is all just the beginning.

In the next Congress, we will be looking at fundamental tax reform, including major simplification of the Tax Code and making tax cuts permanent. This will save families time. It will save them money. It will save them stress. We are determined to make the tax system more straightforward so families can count on keeping more of their tax dollars for years to come.

We are committed to a strong, profamily agenda. It is reflected in our home ownership plan and our tax relief plan. It is also reflected in our legislation to protect the family and its most vulnerable members.

In the 108th Congress, we passed the partial-birth abortion ban, which the President signed into law. We also passed the Unborn Victims of Violence Act, the Laci and Conner Peterson law. We passed the PROTECT Act to strengthen laws against child pornography. This law also expands the President's initiative to provide national coordination for the AMBER Alert.

Yesterday, we passed landmark legislation under the leadership of Chairman HATCH that expanded the rights of crime victims. It helps clear the backlog of more than 300,000 rape cases and other crime scene evidence awaiting analysis, and expands access to DNA testing for rape victims and prison inmates.

We authorized the child nutrition and school lunch programs in the last Congress so kids can get healthy meals at school, particularly children from economically disadvantaged families.

In an act of true vision and compassion, we passed a historic school voucher plan for students right in the Nation's capital. The DC Choice Program is the first school choice program to receive Federal dollars. The DC school system is receiving 40 million new dollars to launch this program. DC schools were in crisis. Mayor Anthony Williams came to this Senate floor, the first time a mayor had been on the Senate floor in a quarter of a century, to ask specifically of this body for help. We responded and we acted for the service and to the service of DC schoolchildren. There was a bitter debate and some tried to block this progress. Some argued vociferously to maintain the status quo and to not change, but in the end the District of Columbia schoolchildren won out. Principle trumped politics, and today DC's kids are climbing the first rungs of the academic ladder.

In this Congress, we extended unemployment benefits and welfare reform to help families through tough times and challenging transitions. We believe the proper role of Government is to protect the safety and well-being of families, give them the tools they need to meet their responsibilities and to move their families forward. We believe hard work should be rewarded and we worked hard in this 108th Congress to help America's families succeed.

The 108th Congress saw big reforms and bold action on the domestic front. We also saw major action on foreign policy, starting with Operation Iraqi Freedom. In the spring of 2003, America, under the leadership of President Bush, took the extraordinary action of toppling Saddam Hussein and his terrorist-sponsoring regime. In 3 short weeks, the men and women of the U.S. military, with the support of 49 nations, swept into Baghdad, ending three decades of ruthless Baath Party rule.

In the months since, our soldiers have worked tirelessly under dangerous conditions to help the Iraqi people build a democracy. Our soldiers have rebuilt schools, hospitals, electrical grids, pipelines, and roads. They are training Iraqi police forces to patrol the streets and hunt down terrorists. Every day our troops are helping the people of Iraq and Afghanistan move toward becoming free and open societies. Afghanistan had its first Presidential election in history just yesterday, without incidents. And that is democracy.

To support our military efforts, we passed the President's $87 billion for reconstruction and equipment for our troops. America's security depends on fully supporting our Nation's defense. The appropriations bill for 2005 grants the Defense Department over $416 billion in new spending authority to keep America safe. Military personnel will also receive a 3.5-percent pay raise.

We are taking the battle to the enemy, but we must remain vigilant at home. That is why we passed the Homeland Security appropriations bill and added $1.6 billion in funding for increased security, enforcement, and investigations.

This spring the Senate also passed, and the President signed into law, Project Bioshield. This far-reaching legislation will improve our ability to develop cutting-edge countermeasures against biological and chemical and radiological threats, those 21st century weapons of mass destruction.

We also passed the Law Enforcement Officer Safety Act. This new law will allow current and retired police officers to carry a concealed weapon in any of the 50 States. America will now have throughout the added security of tens of thousands of trained and certified law enforcement officers serving and protecting us all across the country and even into their retirement.

These precautions are absolutely crucial to the security of our country, but, as the President has said, ultimately our greatest defense against terror is the spread of democracy.

In the 108th Congress, we have worked to promote freedom around the world. In this session, we passed the Burmese Freedom Act and the Clean Diamond Act to promote peace and freedom around the world.

We also took that historic action of dedicating $15 billion to drive back that HIV/AIDS virus, arguably one of the most moral, humanitarian, and public health challenges of our time. As a Senator and as a doctor and as one who participates frequently on medical mission trips, I am especially gratified by the Senate's demonstration of compassion on this issue to fight the HIV/AIDS virus, both here at home and around the world. Our work in passing this critical legislation demonstrates we are a country that, indeed, places a high value on life. History will judge how we chose to respond. We can proudly say that, under President Bush's leadership, we made the right choice and took the necessary actions to put an end to one of the worst plagues in recorded history. But our work against this virus has just begun.

Free trade is another way we project our values and promote freedom and democracy around the world. We passed, and the President signed, the African Growth and Opportunity Act. Not only has this legislation created new investment opportunities for American businesses, but it has helped create 150,000 new African jobs. It has helped pump more than $340 million into African economies. It has helped forge a place for Africa in the global trade market. A stable and growing Africa is in everyone's interest.

In addition, this Congress passed the Morocco and Australia Free Trade Agreement, which will open markets for U.S. goods and create jobs for American workers.

We made great strides in the 108th Congress, but there have also been disappointments, the biggest of them being the unprecedented obstruction of the President's judicial nominees. A partisan minority is attempting to change 225 years of congressional history and undermine the constitutional process. They are subverting the clear meaning of the Constitution and preventing the Senate from carrying out its basic duty, to give advice and consent under the Constitution. Advice and consent for the Senate simply means an up-or-down vote on the President's judicial nominees, and that has been denied.

Prior to this Congress, with the exception of Abe Fortas, who did not have majority support and withdrew his own nomination, no judicial nominee brought to the floor failed to get an up-or-down vote as a result of a filibuster. Two centuries of precedent upheld the separation of powers and protected the constitutional process. During the 108th Congress, however, we have seen precedent replaced with partisanship and respect for the separation of powers tossed aside. In this Congress, the other side has filibustered not 1 but 10 of the President's judicial nominees. Janice Rogers Brown, Richard Griffin—filibustered; Carolyn Kuhl—filibustered; David McKeague—filibustered; William Meyers—filibustered; Priscilla Owen—filibustered; Charles Pickering—filibustered; William Pryor—filibustered; Henry Saad—filibustered; Miguel Estrada—who, by the way, finally withdrew his nomination after more than 2 years of partisan wrangling and seven cloture votes—filibustered.

All 10 of these honorable, hard-working people enjoyed the support of a bipartisan majority in the Senate and would have been confirmed if allowed a simple up-or-down vote. But they were denied this basic right. That cannot be tolerated.

In total, the President has nominated 34 circuit court nominees, nearly a third, 1 out of 3, have been denied on this floor a simple up-or-down vote. They didn't all have to be approved. They didn't have to get an "up" vote or a yes vote, but they have been denied the opportunity of even having that vote. That is wrong.

In addition to blocking these nominations, the other side has engaged in an unprecedented campaign to obstruct dozens and dozens of nominations to our Federal agencies. We are talking about noncontroversial agencies such as the Coast Guard or Amtrak or the Harry S Truman Scholarship Foundation. These nominations are being obstructed.

What should be a smooth, bipartisan process has become politicized and caught in these jaws of obstruction. It is unprecedented and unfair to the men and women who are caught in limbo. These individuals, all of whom are willing to put themselves up for public service, are being denied that opportunity to serve. These individuals deserve fair and timely consideration. In the next Congress, we will keep pressing to end the obstruction. All we ask for is simple fairness.

Today, as we have seen over the course of the day here on a Sunday almost evening—it is 6 o'clock, historical in the sense that we very rarely meet on Sunday and very rarely vote on Sunday, but here we are, today, once again being filibustered, being obstructed. Today it is on legislation important to 290 million Americans. Everyone listening to me has a vested interest in the legislation that is being filibustered, obstructed on the floor of the Senate. We wouldn't have been here all day yesterday, or be here today or tomorrow, if this legislation weren't critical to Americans. Yet we have the other side saying, No; delay; filibuster. Obstruction—more of the same.

What is interesting to me is the issues that are being filibustered today, on this Sunday and Saturday and over the last several days, are issues such as homeland security. We are talking about money being invested in our communities to secure our safety being filibustered and blocked on the floor of the Senate. We are talking about disaster assistance, whether it is for droughts, which are occurring throughout the West and areas of the South—that money, it is here. It is ready to flow now, but it is being obstructed on the floor of the Senate by the other side.

We saw the devastating hurricanes. Many of us have been to Florida and seen the wrath which these hurricanes have created. And right now that money is being stopped on the Senate floor because of filibuster and obstruction by the Democrats.

On the military construction bill, which is critically important to the country, we are ready to move. We were ready to move yesterday—or today and as soon as possible. Yet it is being blocked for no reason we can see. That has nothing to do with drought, or homeland security, or hurricane relief, but military construction. We see the delay and we see the obstruction.

We have seen obstruction in this country in the area of lawsuits and on lawsuit abuse reform, something we have attempted again and again. Time and time again, the other side has blocked consideration of things such as medical liability reform and class action reform, despite the fact it has been made clear—at least it has on this floor—that out-of-control litigation is costing this country dearly, not only in health care but in class action. We see it in asbestos; we see it where broad reform of our tort system is being cried out for. Countless jobs are being destroyed, companies are going bankrupt, and doctors in my own profession are fleeing the profession because of the out-of-control litigation and the frivolous lawsuits.

In the field of class action lawsuits, we have seen the number of the class action lawsuits explode. State court class action filings have skyrocketed. They have increased by 1,300 percent in 10 years. The result of this glut of claims is to clog the State courts, to inject inefficiencies and waste into the system, to clearly waste taxpayer dollars, and ultimately inhibit the innovation and the entrepreneurship which is so crucial to job growth. Money is wasted. The cost of all consumer goods with these class action lawsuits goes up. It touches everybody. Every consumer ends up paying the price. When it comes to medical liability and frivolous lawsuits, it pushes everyone's premiums higher and higher needlessly because of the waste.

I receive letters from doctors all over America, in part because I am a doctor, I guess. But as I go around and do town meetings and travel around the country, this problem has surfaced to be one of the major problems facing our health care system today and indirectly our economy as the cost of these premiums which people are having to pay goes up and up.

I think people understand the medical liability crisis. It is real, it is spreading, and it is increasing. Thus, we have the responsibility on this floor to act. Yet, three times over the past Congress we have attempted to bring medical liability reform to the Senate, but we were obstructed in each and every case.

The medical liability challenge and the lawsuit abuse as it applies to the medical field is having a direct impact not only on costs but now on the availability of health care. It drives doctors out of the practice of medicine. It is sending a signal to the next generation of potential physicians that I am not going to be going into that field given the obstruction it is causing to the profession. It is not only a matter of cost, but now people are realizing it hurts quality of care and access to care. It is threatening the fundamentals of our health care system at the same time it is costing this country billions of dollars.

As you travel around the country, women are telling us again and again they are losing their obstetrician who, because of the skyrocketing cost of premiums, is having to stop delivering babies. They may continue in medicine, but maybe not continue in medicine. Pregnant women have to switch to another obstetrician. Women living in the country are having a hard time finding obstetricians because they have stopped delivering babies.

Trauma centers are threatening to close down. And still, three times trying to bring reform to this body or trying to bring a bill that engages medical liability reform, we have been thwarted.

If you look at the cost, the numbers are always hard to calculate specifically. But if you put the well-researched reports together, they predict that if we reform the medical liability system with commonsense reform, we will save the economy $70 billion to $126 billion per year. If you look at the Federal Government alone, savings would be approximately $14.9 billion over 10 years, if you only look at savings in Medicare and Medicaid.

What that means is if we had appropriate reform, that $70 billion to $126 billion—which everyone is paying because that is what forces in part the cost of health care to go up—would be saved, and with that premiums could come down and the rate of growth costs would diminish over time. This is wasted money. It does absolutely nothing in that doctor-patient interaction to improve health care of the patient.

It is totally wasted money. But at the same time, it makes the cost of all of our premiums—everybody listening to me—it makes their premiums go up, up, up, waste, abuse of the system. I would say it is almost fraud within the system that can be eliminated to lower your health care costs.

When it comes to out-of-control litigation, another field that is important for us to address, asbestos litigation, the torrent of litigation in this field is wreaking havoc on victims and jobs, and all of that gets reflected into devastation in sectors of our economy. The approximately 600,000 claims that have been filed have already cost $54 billion in settlements and judgments and litigation costs. The current asbestos tort system has become almost nothing more than a litigation lottery.

I say that because some of the people with mesothelioma of the lungs, or lung cancer, are receiving adequate compensation but with a huge delay. But money is not going only to those who deserve it, it is once again being wasted on far more people than the few who are getting the money who deserve it. There are many more who are suffering long delays of unpredictable compensation, of inequitable awards, if they are lucky enough to receive anything at all.

The only real winner in this whole asbestos system, I think, are the plaintiffs' trial lawyers. They take anywhere from 30 percent, 40 percent, sometimes 50 percent of every dollar that should be going to the victims, the patient, the person who might get cancer, the person who has cancer because of this asbestos fiber. That is where the money should be going. And yet, 30, 40, 50 of these billions of dollars are going into the pockets of the trial lawyers. While they collect their fees, at the same time asbestos-related bankruptcies have already led to more than 60,000 Americans losing their jobs. As you can see, this asbestos litigation lottery must be fixed.

Also costing Americans jobs and money are rising energy prices. This week we saw in the news that oil prices have hit $52 a barrel. Winter heating costs are expected to rise as a result, and it is critical that we have in response to this need an energy plan so vital to America's families who are facing higher bills because of delay. It is vital to our national security which is threatened by this overdependence on foreign oil.

Again, the Energy bill was filibustered and blocked on the Senate floor.

By passing the Energy bill, not only will we lower energy costs but we will save jobs and create thousands more. It is estimated that the Energy bill will create at least a half million jobs.

Reforming the litigation system and passing the comprehensive energy plan will lower consumer costs. It will stimulate the economy. It will create jobs. It will improve our health care system and it will grow the economy.

I urge my colleagues to set aside obstruction tactics and help America move forward.

When we return in the 109th we will clearly have a full agenda, from strengthening the safety net to helping Americans secure their future. We will have a number of major themes emerge in the 109th Congress. We will continue to bring programs up to date through today's challenges and to face those challenges. We will continue to press for reforms and grow the economy, reforms that will create jobs, and we will continue to support the creativity, ingenuity, and productivity of the American people who are, after all, what make this country great.

I am sure we will have an opportunity to talk more in the coming days, or hopefully coming hours if we are not here too long, to look back over the last 2 years of this Congress. It has been a pleasure to be able to help move America forward by advancing the agenda that we set out initially with many accomplishments of which we can all be proud.

I yield the floor.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I had not intended to come to the Senate to respond to the distinguished majority leader, but I feel compelled to do so.

He had mentioned the disagreements that are currently pending with regard to completion of our work on Homeland Security and the Military Construction bill, the so-called FSC bill, and I think my response to his lament, publicly, is to say that really is the metaphor for the whole Congress. Our situation today involving these particular bills is no different than the situation we faced on so many other pieces of incomplete action. In those instances when we have been able to work together, legislation has passed. That is the essence of good legislative achievement, coming together, finding common ground, resolving the differences, and enacting the law.

But on so many pieces of legislation, in spite of the fact we would move in a bipartisan way, with overwhelming votes in the Senate, we get to conference, and for various reasons—in large measure because of the Republican leadership in the House—those bills that passed with overwhelming bipartisan consensus in the Senate were made impossible to pass once they got through conference.

That is true of the highway bill. It is true of the energy bill. It has been true of countless legislative experiences over the last 2 years.

That is in essence why we find ourselves here today. I am confident, in fact, we are very close, perhaps, to reaching an agreement that will break the impasse on the pending bills.

I understand completely the anger, the frustration expressed by both my colleagues, Senator LANDRIEU and Senator HARKIN, when the conferees took the actions they have to make it as unfair to segments of our society that they believe very strongly ought to be defended.

In Senator HARKIN's case, it is the double standard we are forcing farmers and ranchers to endure as a result of a decision made by the conferees to make farmers take the very assistance they are going to get for disaster out of their other pocket.

Many have talked about this already, and I don't think it needs elaboration, but that double standard, that unfairness, simply cannot go without an objection. In the case of the distinguished Senator from Louisiana, her concern, rightly so, has been fair tax treatment for members of the National Guard.

If we can find ways with which to address the marriage penalties—and we should and did—find ways to address the childcare tax credit—we should and we did—her view is that those brave fighting men and women in Iraq today ought to have the same consideration, the same appreciation for a recognition of their sacrifice. It is not enough to simply say "thank you." We ought to find a way to say "thank you" with more meaning. That is all she is suggesting.

On those two issues, even though I am increasingly optimistic we may be able to break this impasse, it could have been avoided if simple fairness would have been reflected as we face our responsibilities in the conference committee.

As to other issues involving our Senate experience over these last 2 years, the distinguished majority leader again went back to the frequent criticism, unfair criticism, of the way judges have been handled in this Congress. I have to say, for the life of me, I cannot understand how anyone could not be satisfied with a 95-percent success rate.

Mr. President, 201 judges have been confirmed. That is more than in the Bush 1 administration in the early 1990s; more than in the Reagan administration in their first term in the 1980s; it is more, by far, than the Clinton administration in the second term when the Republicans controlled the Senate. Ninety-five percent.

In baseball, in almost any other walk of life, 95 percent is an A. Yet we hear the constant criticisms and totally erroneous assertions that this has never been done before. It has been done on many occasions before. Most troubling is it was done during the Clinton administration prior to the time their nominees even came to the floor. We had over 65 judges who never even got a vote in the committee. Every single one of these judges got a vote. In some cases, it was a cloture vote. In some cases it was up or down, but it was a vote in the Senate. That is a lot more judges than the previous experience in the Clinton administration.

The majority leader mentioned the liability reform matter, and we can debate that over and over. I have said from the beginning and continue to believe that federalization of our tort system does not make sense, but there are ways with which to address improvements and changes in the way the system works. We all oppose frivolous lawsuits, and we ought to get rid of them and find ways in which to address that. Instead of working with us, instead of finding common ground, their insistence was, "our way or the highway." They lay a bill down, fill up the tree, and say: You either vote for it or against it, but you will have no choice.

Regarding the majority leader's assertion that this is somehow going to control costs in health care, virtually every single objective analysis has said the limits they are proposing would mean less than one-half of 1 percent reduction in health costs overall. We all recognize there are serious issues involving malpractice insurance premiums we have to address. We want to do that. We have ways with which to do that, including reinsurance, including tax credits and tax relief for those who are paying those premiums, including dealing with medical reviews and finding ways to bring down the costs. But, again, our colleagues on the other side simply refused to work with us to make that happen.

There are also many illustrations of their lack of ability to accomplish a legislative agenda in large measure because of huge disagreements on their side. Their lack of ability to address the budget was a disagreement on their side having to do with taxes and appropriations. Their inability to pass appropriations was because of disagreement on their side because of that budget problem. Their inability to deal with energy and transportation and reimportation, in large measure, was as a result of disagreements on their side.

The Energy bill is another classic example, as I said a moment ago, of putting the Senate in a position where failure was the only option because of their insistence—their insistence—on special interest provisions that the Republicans opposed.

So there is a lot to be said about the ongoing debate about achievements and about obstruction, about the lack of ability to find common ground. But, again, I go back to examples where it has happened.

As the majority leader noted, he and I reached an agreement in July on how to deal with the reaction and legislative response to the 9/11 Commission recommendations. We delegated the Governmental Affairs Committee with the responsibility, and it worked. We established a task force to ensure we have a legislative reorganizational response, and it worked, thanks in part to the effort of our distinguished assistant Republican and Democratic leaders.

So we can work together. We have demonstrated that. My only disappointment is that on so many occasions, when we could have found common ground, the majority chose to take the political course. It is for that reason, and only for that reason, we have not been a more accomplished Congress in the 108th.

There is still time to address a number of issues: asbestos, energy, mental health parity—again, a commitment made by the Republican leader, by others, that we would take up this legislation and pass it. That has not happened, in large part, almost exclusively, because of disagreements, again, on the Republican side.

So there is still hope we can reach some common ground. I hope that will be the case.

I yield additional time to the Senator from Louisiana.

Ms. LANDRIEU. I thank the leader.

The PRESIDING OFFICER (Mr. DEWINE). The Chair will inquire, how much time is the Senator yielding?

Mr. DASCHLE. I yield the distinguished Senator from Louisiana an additional 15 minutes.

The PRESIDING OFFICER. The Senator is yielded an additional 15 minutes.

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank the leader, Senator DASCHLE, for his comments and for the respectful way in which he has addressed the situation we find ourselves in now, because the Members of this body have been working very hard the last couple of days on very important matters. As you know, each and every one of these matters is extremely important to our constituents from our own States, but some of these matters transcend our own States and our districts. Some of these matters transcend individual industries.

Actually, the matter that is before the Senate, and the main reason for the filibuster—or one of the reasons; there are two or three—but the one I have been coming to the floor and speaking about, with several of my colleagues, is the fact we are in the process of passing a bill—if I can pick it up; it is quite heavy—a bill with about 600 pages in it of tax cuts, $137 billion that includes almost every industry you can imagine, large and small, in every part of the country, but the one group of people that is not in here, even if you read from the first page to the last, and even the small print, the one group of people who you will not find in this bill is the 643,000 men and women of the Guard and Reserve and the families they represent. There is not one sentence of tax relief for them.

So I took the floor on Wednesday and said there must have been some mistake, because when it left the Senate 100 Members of this body—all the Republicans and all the Democrats—had supported a provision. It went over to the House, but something happened on the way back from the House. It was omitted. I did not read every page, and I trusted the summary. But when I scanned the 500 items in here and did not find it, I came to the floor.

I went to the Republican leaders, I went to the Democratic leaders, and I said: Please know that I cannot accept passing a $137 billion tax bill that fattens the paychecks of many people in America, some of whom are, I am sure, deserving, but keeps the paychecks of the Guard and Reserve—the men and women who are taking 100 percent of the risk today, the families who are making almost all the sacrifice, and the men and women who are actually losing pay—I cannot for the life of me understand, and no one in my State can understand, how they were left out.

So I have made it clear that I am prepared to stay here until the very end, whether that end is Wednesday, Thursday, Friday, or Saturday. I know I cannot keep this whole Senate here forever, but I can keep the Senate here for the better part of this week. It is not my intention. I am respectful of all the Senators' schedules. I am respectful of their other commitments. I am very respectful that a third of them are in reelections. I am not up for reelection, and I understand the tenseness of this election time. And we actually have a national election.

But my leader knows I do not come here with any small request. I do not come here with a LANDRIEU request. This is not even a Louisiana request. This is a national plea on behalf of the 645,000 men and women who have been called up to serve, to support us in Iraq, Afghanistan, and all places in between. How do we have the nerve to pass a tax bill and leave them out? So that is what the filibuster is about.

Let me be clear, I enjoy working with many Members on the Republican side. I see my good friend from Alabama here, Senator SESSIONS. He and I have worked together on coastal erosion issues. We have worked together on Armed Services before. I think he is going to have some comments about the work he has done which has been tremendous on the part of the Guard and the Reserve.

I say to the Presiding Officer, you and I just passed one of the few appropriations bills. People said it would never happen; it cannot happen; the DC appropriations bill will not pass; it will be contentious. If I may say, pat myself on the head, and you, too, we did a pretty good job of getting our bill through under a lot of odds that were against us. That bill is already gone, on the President's desk to sign. It strengthens schools, strengthens child welfare agencies in the District, for which the Presiding Officer deserves a lot of credit.

So please, I am not here to obstruct. I am not here to slow things down for no good reason. There are other provisions I did not get in this bill that I asked for. Fine, they are not in there. But I cannot, in good conscience, not speak and not stand on this floor for as long as it takes to get something done for them. I am representing many people, not myself, in this Chamber.

Let me say the good news in the 5 minutes I have left. We made some progress today. Several Members who had questions about the amendment in question have been working with their staffs. We may be coming up with a way that we could together get this amendment intact as much as I have already described it and get it connected to another bill that we can send back to the House.

I wish I could control what the House of Representatives does. I would like to go over there and give them a piece of my mind on their floor. But I am not allowed to do that. I am not. All I can do is stand here in the Senate, urge the Senators to stay strong and firm—we all voted for this amendment—and get it on a bill and send it back to them.

And when the leadership over there decides—because they can control their floor action. Our leadership cannot really control us that much. They can put a lot of pressure on us, but we are Senators and we can speak; and I intend to. The Members over there cannot speak freely because of the Constitution and the rules of the Congress, but the leadership will get this bill and they can decide, in October, November, December, or January, in this Congress or the next Congress, what they want to do about it. But what we can do is get this amendment negotiated.

I thank the Senators today who have been working on this. I feel not confident, but I feel encouraged. I feel encouraged that some parts of the amendment I have talked about that will help our Guard and Reserve to be a part of tax relief that we pass out of the Senate could be included. So I thank my leader.

Mr. President, I inquire, how much time of the 15 minutes do I have left?

The PRESIDING OFFICER. The Senator has 15 minutes 20 seconds left of her total time.

Ms. LANDRIEU. So I have about 6 minutes, because I had 7 under my previous order.

The PRESIDING OFFICER. The Senator is correct. That is the total time the Senator has left.

Ms. LANDRIEU. I have 8 minutes left. I would like to take those 8 minutes, and then I will reserve the last 7 minutes I have because that is all I have. Would the Chair inform me, please, at 7 minutes?

The PRESIDING OFFICER. Yes.

Ms. LANDRIEU. I will take the 8 minutes I have left to read a couple of e-mails I have received from people all over the country to give courage and support to the colleagues that are negotiating this. I think they can see this is important to a lot of people.

This is from "Nobody." That is how they signed it. The name is Janice.

> I have three Nephews and two Nieces that are in our National Guard, and they are being sent over to Iraq. I am so angry at the Congress and the Senate today but I pray they never have to see their Sons or Daughters go to this war. Let alone their Grandchildren. My Nephews and Nieces have left behind 11 children without any health coverage, let alone monies needed to survive. Yes, survive! Today my Husband and I . . . are taking care of three children of our loving Niece. It is hard on us as we are retired and living on a fixed income.
>
> Might I add that I do not have health coverage any longer as the monthly payments became too much for us.
>
> Please continue your fight for our Soldiers! We love you Senator for your Grace . . .

Another e-mail:

> Thank you for standing there bravely for all of our Americans who are becoming more powerless with each passing day.
>
> I am a disabled person barely able to stand on my own two legs, so I really appreciate that you are standing there for me and all of our National Guard troops.
>
> I am watching you on CSpanII today. I know you are fighting for us and I am moved to thank you [for trying].
>
> I will be watching. I will be waiting, and I appreciate it. Your desire to assist those individuals points to a bigger problem—military pay. Service members deserve better, all servicemen deserve better. Your efforts to help will create a situation in which reservists and National Guardsmen receive higher compensation than that of the full-time personnel.
>
> The resolution to this problem is not providing a way to help reservists and National Guard make up income. It is helping them make up income and increasing the compensation for all service personnel.

He goes on to say that he supports our efforts.

Again, I will just share that in the last 14 years since 1990, we have called up 690,000 troops. In the previous 30 years, from the Berlin crisis to the Cuban missile crisis, the Vietnam war, we only called up 100,000. Our policies have put more pressure on the Guard and Reserve to stand shoulder to shoulder with the Active members. I agree, we need to improve the pay and compensation across the board, but I can't provide tax relief for the Active Reserve in the same way I can do it for the Guard and Reserve in this bill.

There are other benefits that are being provided. If we can explore the possibilities in the amendment I am supporting, I will be happy to do that. But it is for all of our troops that we stand here and try to work on an amendment that will give a tax credit to the companies that are being patriotic, doing the right thing, trying to keep the pay their reservists were making when they were homeside and now are losing sometimes 40 percent of that pay when they go to the front line. Many of our employers are picking up the difference.

The tax credit we have argued for will help those small companies—some of them struggling—to continue to pay their guardsmen and reservists. It is clear. It is convenient for the accounting systems of our companies, and we most certainly can afford it.

Again, $137 billion of tax relief getting ready to be voted on. I said I can't vote for this bill, but a majority of the Members will. I am not faulting them for that vote, but I am going to stay as long as it takes to get this amendment into this bill or at least get it attached to another bill so that we can say, as Senators, that we did our job and we did the best.

I am happy to say the negotiations are going on, and they look promising. I thank my colleagues for being so open and for working through this today. I know it is unusual that we are in on a Sunday, but I thank them for their patience, and I retain the balance of my time.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Louisiana. I respect her commitment to this issue. It is something I have been giving a lot of thought to. I was a reservist for over 10 years in Alabama. I worked closely with the National Guard in the last month. I spent 2½ hours with the entire leadership team of the Alabama National Guard to discuss with them how best we could make the lives of our Guard and Reserve more meaningful, make it better, to help them and their families. I came away with a list of 11 things that I believe were good. I tried to get them in the Defense authorization bill—some of which we did, some of which we got positive, at least, reference in the bill. That is the right way to go about it.

The tax benefit for employers is a matter worthy of very serious discussion. It could indeed be a good way to help our Guard and Reserve. I don't dispute that. I don't dispute at all the sincerity of Senator LANDRIEU and her commitment to this issue.

I will just say this: What we need and what I have personally told the Secretary of Defense and Dr. Chu, the personnel director there, Chairman WARNER and Senator LEVIN, chairman of Armed Services and our ranking member, what we really need is to look at our Guard and Reserve carefully, to analyze what problems they are facing and help them.

As I told the leadership in the Defense Department, and I talked to the generals in charge of the Army National Guard, the Air Force National Guard, I have asked them also to think about how we can best help their members because we want to be generous to those citizen-soldiers who are in harm's way and have been in harm's way to help us carry out what I believe to be the national interest of the United States of America. Sometimes, unfortunately, that requires people to put their lives at risk.

I will note that the unit I used to be a member of, the 1184th Transportation Terminal, not long after I got out of it—about 10 years in that unit—a couple of years later they were activated and spent 9 months in Kuwait during the first gulf war. They came home, and under their new commander, COL Janet Cobb—she was at least at that time the commander—they were recalled to Kuwait to operate the port there in support of Operation Iraqi Freedom. I know those people. I was there when they went away. I have been at National Guard units when they went away.

I have friends in the Guard and Reserve in Alabama. When I was in Iraq in July, we came through Kuwait, and there was the 375th transportation unit—"motor transport" I believe is the appropriate name. The 375th was a superior unit to mine. They evaluated us and were headquartered also in Alabama in the same Reserve center which I attended.

I saw in Kuwait John Cherry, an assistant U.S. attorney in the office I used to be a U.S. attorney in; Charles Coat, who used to work for me as an assistant U.S. attorney and now is assistant inspector general for TBA. I saw Randy Spier, who is an attorney in Mobile, AL, who I know and respect. I know how stressful it is for them and their families. I know and appreciate them very deeply. I had a lot of different ideas I wanted to get passed. I wished we could have gotten them in this bill. And some tax credit also was not a bad idea to help them in whatever appropriate way we do it. We have a limited amount of money and we have to make sure it goes out not in an aberrational or unprincipled way, but in a way that is best designed for fairness and to help the most members of the Guard and Reserve we can.

I believe that strongly. I think we are bouncing about here with people coming in with this idea and that idea, and I have my ideas. We need to get together seriously and think about what we can do to make lives better for our Guard and Reserve. They are critical to the defense of America. So I am putting a great deal of hope in section 513 of the Defense Authorization bill we passed yesterday, or today, called the Commission on National Guard and Reserves. It will be a 13-member commission, a bipartisan commission. It will do a number of things. Their duties are listed as follows:

To carry out a study of the following matters:

A, the roles and missions of the National Guard and other Reserve components of the armed services.

B, the compensation and other benefits, including tax benefits—I inserted a tax benefit, but it goes on to say: Including health care benefits that are provided for members of the Reserve components under the laws of the United States.

Subparagraph 2: In carrying out the study, the commission shall do the following:

A, assess the current roles and missions of the Reserve components and identify appropriate potential future roles and missions for the Reserve components; assess the capabilities of the Reserve components and determine how the units may be best used to support military operations.

C, assess the Department of Defense plan for implementation of section 115(b) of title X, United States Code.

D, assess the current organizational structure of the Guard and Reserve.

E, assess the manner in which the National Guard and other Reserve components are currently organized and funded for training, and identify an organizational and funding structure for training that best supports the achievement of training objectives and operational readiness.

Skipping F.

G, assess the adequacy and appropriateness of the compensation and benefits currently provided for the members of the National Guard and other Reserve components, including the availability of health care benefits and health insurance, and the effects of proposed changes in compensation and benefits on military careers in both Regular and Reserve components of the United States.

H, identify various feasible options for improving compensation and other benefits available to members of the National Guard and members of the other Reserve components, and assess the cost effectiveness of such options—that is a good idea—and the foreseeable effects of such options on readiness, recruitment, retention of personnel for careers in the Regular and Reserve components of the armed services.

I, assess the traditional military career paths for members of the Guard and the other Reserve components and identify alternative career paths that could enhance professional development; and assess the adequacy of the funding provided for the National Guard and other Reserve components.

And it says further on, at the conclusion, that the Secretary of Defense shall annually review the Reserve components of the Armed Forces with regard to the roles and mission.

B, the compensation and other benefits, including health care benefits, that are provided for members of the Reserve components under the laws of the United States; and the Secretary shall submit a report of an annual review, together with comments and recommendations that the Secretary considers appropriate to the Committee on Armed Services of the Senate and the Armed Services Committee in the House of Representatives.

Well, this is not certainly what I would like in the sense that I have a number of ideas I want to see put in this. So they didn't adopt in this bill the ideas I specifically suggested, although it did comment favorably on some. But it does put in a mechanism, I say to the Senator from Louisiana, and maybe together we can beat on some of these folks and maybe we can continue to press the issue hard, because I believe this Congress wants to, and will, increase benefits for the Guard and Reserve.

We obviously have a certain limited amount of money, but I think we will be generous about it. We ought to be. And then what we do spend, however, does need to be carefully studied. We should get the best insight from the most people and then we make those expenditures in a way that gets maximum impact on the members of our Guard and Reserve, who serve our country so very well.

I yield for a question.

Ms. LANDRIEU. If the Senator will yield for a question, I appreciate the Senator's comments. I look forward to working with him. He has been one of the leaders in supporting the Guard and Reserve. The question is, is he familiar with—if he is not, we can send it over—a letter from Secretary Bill Cohen on March 17, 1998, that says to the then-chairman of the Committee on National Security in the House—and this was in 1998—is the Senator aware that back in 1998, the former Secretary of Defense sent a letter noting:

> With the increased use of the Guard and Reserve, particularly for unplanned contingency operations, employers of the Guard and Reserve members are often faced with the unplanned absences of their Reservist employees. They may incur additional business expenses associated with the unplanned absences.

Does the Senator from Alabama know this report that was sent to us in 1998—3 years before September 11, 2001, and 3 years before 643,000 Guard and Reserve were called up, and that the Department of Defense has been petitioning Congress to provide some tax credit for employers who are picking up 100 percent of the expense? Does the Senator know that, and would he like to comment about our ongoing efforts?

Mr. SESSIONS. There is a great deal to be said for that. I know the Senator has that letter from the Secretary of Defense in 1998. It does conclude by saying:

> Tax or other incentives for employers might help to ameliorate some of their problems. Any such plan, of course, must compete for resources. . . .

We simply have to figure out how we can best utilize it. A tax credit is, in a sense, an expenditure of our money. It is a reduction in the amount of money that would come into the Treasury. If this is the best way to do it, as I know the Senator believes deeply, I will be supportive of it, too.

Ms. LANDRIEU. If the Senator will yield, the Senator is correct. It will compete for resources, and that is why those of us who have worked on this will be careful to request it at the appropriate time. We understand there is competition among resources. That is why I have taken the opportunity of talking, when we were about ready to pass this bill—$137 billion in tax credits. Surely, we could have found $2 billion out of this as we spread out the scarce resources. I would not call $137 billion scarce, but it is $137 billion out of which we could have found $2 billion.

We cannot amend that bill, but did the Senator know there might be another bill that already passed the House of Representatives, which is over here, that we could amend and send back to the House? It would not become law on this, and I know he knows that. But we could send it to the House, and if they pass it and send it to the President's desk, it could become law on a different bill?

Mr. SESSIONS. I was not aware of that. I would be surprised if that were the case. I would simply say I thank the Senator for pushing this issue. I have my list of 11 other issues I want to see. We did pass additional tax deductions several years ago for the Guard and Reserve that they can claim themselves when they have to travel extended distances. Many people, to be promoted or stay in the Guard and Reserve, often have to go to Reserve centers 200 or 300 miles away, and this is so they won't be forced out and they will be able to stay in and retire.

I think we ought to be helpful to them in that regard also. I would just again say that it is a tough question. Here is an example I have thought of—it makes me think we need to be careful—I think of an executive in a business with 30 or 40 people on the shop floor. The executive is making $100,000 a year. The guys on the shop floor are maybe making $30,000 or so. They are all activated, three or four of the shop floor people and the executive. For the lower income salaried workers, they may well be receiving just as much on active duty as they were in the Guard and Reserve, and we would be therefore helping pay a guy more money than we are the lower income people. In other words, maybe there is unfairness there, I do not know, but I do think it is great that so many of these businesses are willing to pay this compensation. I salute them for it. If we can assist them and encourage them to do more, I would.

(Mrs. DOLE assumed the Chair.)

Ms. LANDRIEU. Would the Senator yield for just one more question? He is so patient.

Mr. SESSIONS. I would yield for one more question.

Ms. LANDRIEU. I thank the Senator for yielding. Did the Senator know—because he raises an excellent point. We would not want to create a tax credit that basically allowed a $100,000 or $150,000 salaried worker to continue on the front line because it would inadvertently benefit the higher end. So did the Senator know that we crafted our amendment with a cap which we thought was reasonable so in the example that he gave, in the amendment that is being discussed now, that the $100,000 salaried worker who went over to Iraq would receive $30,000 in Reserve pay, according to our amendment, if his employer wanted to pay him up to $45,000 only, and they would get a $15,000 credit. So he would receive, on the front line, $45,000 instead of the $30,000, but he would still be losing $55,000 in income. So the family back home would still be losing $55,000 in income, which is a tough thing for these families.

I am not trying to help people who could otherwise help themselves, but that is still a pretty significant loss of income, as the Senator knows. But we do have a cap because of that purpose. We did not want to unfairly benefit those at the top end.

I will say that many employers are covering that gap now, and they are absorbing that difference now. We would only be subsidizing the first basically $15,000 of that. I would, frankly, be open to subsidizing more, but too many Members objected to that. So as a compromise, we sort of settled on this cap.

I understand what the Senator is saying. I just wanted to ask him if he was aware that we did have a cap on this amendment.

Mr. SESSIONS. I did understand that. I do think that the Senator is correct to say that this was not a thrown-together amendment, that the Senator thought about a lot of these tough issues that are in here. As I say, it may work for a rather small amount of compensation. We could encourage a lot more businesses to step forward and make this match or make up the difference, which would be good.

### HISTORIC ELECTIONS IN AFGHANISTAN

Speaking of what our military does, the United Nations does a lot of things, as well as NGOs. Americans, and other countries do a lot to help around the world. But I do think our military deserve great credit for a lot of the things they do that help in a humanitarian way and help in ways that could not be accomplished otherwise.

Yesterday was a great day for the good people of Afghanistan. After decades of war, disruption, destruction, starvation, millions of people fleeing their homeland as refugees to Pakistan and other places, these wonderful people came together by the millions to cast their ballots for the first free nationwide election in Afghanistan's history.

The U.N. appointed joint electoral management body, Vice Chairman Ray Kennedy said this: The JEMB—that is his entity—is encouraged that the voters of Afghanistan have turned out in large numbers and the process overall has been safe and orderly.

That is a good fact. Many people predicted that we could not have elections, that elections could not be held on time in Afghanistan, that they could not be held effectively, and that is not what was said there. In fact, I think most people worried there would be a great deal of violence in Afghanistan. We thought the elections would go forward anyway, that the people were motivated to go out and vote, that they cared about it.

But I thought and was afraid that we would have bombings at polling places and things like that, which scared us. I am sure a lot of the Afghan people were somewhat afraid that if they went they might be attacked by the radical Taliban remnants that still desire to wrest control back of that country.

Another U.N. spokesman, Manual de Almeida de Silva said this: Overall, there was massive participation in the election.

It is especially gratifying that there was a large number of women voters who cast their ballots. They made up 40 percent. The distinguished Presiding Officer, Senator DOLE, who was the chairman of the Red Cross, traveled the whole world on a regular basis and knows the difficulties women have had around the world at various times and certainly had in Afghanistan under the Taliban when they could not even go to school and they had to, by law, wear these burqas and were beaten if they did not, and they could not work.

Forty percent of the 10 million people who registered to vote in Afghanistan were women, and they cast ballots all over that country.

An article in today's Washington Times quotes a Kabul shopkeeper as saying this: For the first time, Afghans are able to choose their own leader.

He added: From today, things will only get better in our country.

And can we not hope so for those people who suffered so much over 20 years of destruction, war, warlords, religious hostility and violence?

Things are going so much better. I do not know what the figure now is of the number of refugees who returned, but within not too many months after the conclusion of this operation in Afghanistan a million refugees returned home to Afghanistan. They were voting with their feet. They believed that life was going to be better, safer. Yes, we have had dangers, we have had bombings, we have had resistance from many of these groups that are determined to hold onto their power, but the people are voting in these elections, and it is something that we should celebrate.

The people took the election seriously. I am sure many of them had to consider that they were at risk when they went to vote. They took seriously the hanging chad foul-ups—maybe I will call it that—that occurred. They apparently did not ink the right finger in the right way or caused a disturbance and some of them protested and their protests were taken seriously, but the people voted.

Some say, well, you should not even vote. We ought not to vote because they did not ink the finger right. But the people voted, and they voted in record numbers. It is going to be a healthy thing for the future, and they are going to be heard. Their complaints will be listened to and I believe they are unlikely to ever occur again.

It is particularly dicey, in these first election times. Some people want to boycott the election. They realize they are losing. If they just go and vote and cast their ballots and only get 5 percent or 10 percent, then what do they tell their supporters, that we were rejected? That is what happens in the United States. Everybody in the whole world sees you get whacked. But what often happens in developing countries that do not have experience with democracy, they will say: I am going to pull out. I will ask my people not to participate. So when the votes are counted they can try to say to their supporters: See, we would have gotten a lot of votes except we pulled out. So you had some of that in this election, I am afraid.

But the numbers are so strong, the number of women are so strong, it can only be asserted, as the U.N. did, that it was a tremendous success as an election.

Yesterday was a historic and peaceful demonstration of democracy in Afghanistan. It is a day of great significance for them and the world because the world participated with American leadership in bringing this about. Yes, people were killed in the hostilities that occurred in Afghanistan. But I want you to know there were millions—well over a million, maybe several million Afghan people living in refugee camps around the world, over a million in Pakistan—they are able to come home because we moved militarily, decisively, and effectively. The country is going to now have a democracy. Their economy has a chance to develop. I could not be more proud for them.

When I was in Afghanistan in July, I had the honor to meet, for my second time in Afghanistan, President Hamid Karzai. He has to be considered, in my opinion, one of the world's great leaders. Under this tremendous stress and difficulty, where his life is in jeopardy, he seems to have captured the spirit of the Afghan people. He told us the Afghan people are ahead of the politicians. They know they need to have a good government for their entire country. They know that warlords threaten their stability. They know that warlords will hold back their progress. They want progress. They want freedom. They want prosperity. They want democracy. And President Karzai, in his address to the joint session of Congress, was so eloquent on that point. Speaking in beautiful English, he described his goals and visions for the people.

I don't know how the election will come out. Most people are predicting he will do very well in the election. We will see. The votes have not been counted yet. But I have been so impressed with his personal courage, his personal understanding of the historical moment of which he is a part. He is putting his life on the line for his people. Indeed, if this thing continues and he continues his successful role, he could certainly be considered the George Washington of Afghanistan.

One Afghan citizen, Mr. Amari, said:

> What is important is that we are on our way to becoming a democracy.

Aren't those great words? "We are on our way to becoming a democracy." I think President Bush was correct the other day to say democracy is on the march around the world.

We have had a very difficult time in Iraq. We are going to have other difficult days in the future in Iraq. The circumstances there are just difficult. We have determined adversaries, various groups of them. They are together sometimes, and sometimes they are independent. You get one to agree, and there is another one unhappy. So it is difficult to make as much progress as rapidly as we would like there. But we are seeing the electoral process go forward in Iraq, and we are going to see it continue to progress, I believe.

I would like to share what was in today's paper. This was Mariam Karouny of the Reuters News Agency who wrote an article about what has happened in Iraq today. This is today's paper. People are so negative about everything, saying everything is wrong. They see only the bad. They only see the difficulties. We had difficulties after World War II. We had difficulties in trying to help South Korea. Now they have 500,000 troops and they build an automobile. A Hyundai automobile plant is in Alabama. I was pleased to see in USA Today that complaints against their automobile is the lowest of any automobile except Lexus. That was a country that had a lot of difficulties 50 years ago. We have 37,000 troops in South Korea today. They have 650,000. But they are a booming, progressive democracy. So things don't happen overnight.

Let me read to you what was in today's newspaper, Reuters News Agency, about Iraq. The lead paragraph.

> Baghdad—Iraq's plan to hold elections in January gained traction yesterday after a Shi'ite militia agreed to disarm in Baghdad and delegates from the rebel-held Falluja [the center of resistance] said the Sunni Muslim city wanted to vote in the elections.

It goes on.

> The progress came in separate sets of talks with the Iraqi interim government and U.S. officials.
>
> The Mahdi's Army militia, led by radical Shi'ite cleric Sheik Muqtada al-Sadr, agreed to hand over weapons to Iraqi police beginning tomorrow under a deal that could defuse the Baghdad flash point of Sadr City.

That is the core of the Baghdad danger area, the area where the violence is occurring. This is really rather remarkable. Will it all come to pass? I don't know. But just the fact that the Mahdi Army's militia has agreed to hand over their weapons, even if they all don't do it, that is something new. And they announced they wanted to do that. They announced they will participate in elections. Those are dramatic steps, I believe, and leaves them far less able to generate continuing violence against the interim Government of Iraq, the provisional Government of Iraq, if they already are admitting that they are prepared to turn in their weapons. That is a tremendous event.

The article goes on:

> Karim al-Bakhati, a tribal leader negotiating for people in Sadr City, said U.S. forces had promised to stop bombarding the vast Shi'ite slum area with immediate effect.
>
> "We have agreed that starting from Monday, the Sadr movement will hand over its weapons to the Iraqi police," he said, adding that collection points would be chosen in the next day or two.

Al-Sadr aides—this Muqtada al-Sadr, the most prominent leader of the militias that have conducted violence against the central government and the United States—this is what it says about him:

> Al-Sadr aides said the agreement would apply initially only to Sadr City, not to other restive Shi'ite areas of Iraq.
>
> Falluja delegates—

This is the delegates from the center of resistance, the Sunni area of Falluja—

> Falluja delegates said the city wanted to take part in the elections and could accept the return of Iraqi security forces.
>
> "A delegation from Fallujah is now discussing the entry of Iraqi national guards to the city with the Defense Ministry," chief Fallujah negotiator Khaled al-Jumaili said.

He goes on to say:

> The people of Fallujah support the elections and want to vote in them.

Isn't that great news? The people of Fallujah support the election. They believe that a new government can be formed in Iraq. Otherwise, they will not support elections. They support them and want to participate in them. This is the core of the resistance. Some people are under some doubt about how we should handle Fallujah. Some have said we need to send in troops and some say we should negotiate, maybe a combination of the two that was chosen, and a lot of people want to complain. But maybe just a little restraint, maybe a wise application of power here, the combination of that, has brought their town around. So we have a much better chance than we would have thought.

It goes on to say:

> "The people of Fallujah support the elections and want to vote in them," said Mr. Al-Jumaili, a mosque preacher who is a member of the lawless city's Mujahideen shura, or council.

I don't know whether all of that will come, but I believe that any people in the world given the opportunity to choose democracy and freedom over totalitarianism and oppression will choose good government over a corrupt and abusive government.

We have undertaken by a vote of three-fourths-plus Members of this Senate, after weeks and indeed months of debate and discussion, a war to overthrow Saddam Hussein, and we committed to work to help them establish a good government. We cast that vote, and we have some people who cast that vote who now want to complain about this and that and see nothing but the negative and comment inadvertently, which I believe can make progress more dire. Some of them have been negative. But we made a commitment. We voted.

We had the same basic intelligence which the Presiding Officer also had when she attended the secret briefings, which we all had and which the President had. The fundamental thing they told us was the same as was told to the President of the United States by former CIA Director Tenet, who was appointed to that position by President Clinton. According to Mr. Woodward's book, he raised his hands when the President of the United States asked if we would find weapons of mass destruction and with clarity said, "a slam dunk." That is what we were told. That is what the President was told.

We had every reason to believe there would be weapons of mass destruction in Iraq. Why? Because he had them before. He had used them on his own people. He had used them on the Iranian people in that horrible war he started that resulted in the deaths of 1 million Iranians.

I talked to a man from Iran just the other day. He drove that number home to me. He said the people of Iran never supported Saddam Hussein. He said: We supported his overthrow. He said: He killed 1 million of our people in a stupid war that had no justification whatsoever as well as that stupid war he undertook against Kuwait, which former President Bush had to send in troops and boot him out of Kuwait.

It was a difficult time, I remember, after that war. What happened was Saddam Hussein essentially sued for peace. He asked us to stop moving into Baghdad, and if we did so he would cease to be a threat to his region, he would renounce his weapons of mass destruction, demonstrate that he did not have them and was not pursuing them, would make his country open to United Nations inspections, and he would not oppress the different ethnic groups in his country.

He didn't adhere to any of that. After the war, he was in violation of 16 United Nations resolutions. He was counting on the embargo in the Oil for Food Program. Many of the countries that voted against the war were corruptly involved in that Oil for Food Program. The United Nations' hands are not clean with regard to the Oil for Food Program for sure. It was good in concept, but it was being abused greatly. He was determined, as Mr. Duelfer told us the other day in his testimony, to break that embargo and recommence the building of his weapons of mass destruction. That was his goal, of which there can be little doubt.

This country is better off with him gone. We are making progress, as I just read, in establishing a more decent government in that country, helping them to overcome this violence. I believe as time goes by we will continue to make progress. It is not going to be easy, unfortunately. There are resistance groups that are tough and tenacious. But it is great to see leaders of the more radical groups like Al-Sadr's militia talking about turning in their weapons and cooperating.

It is great to see the people of Fallujah and their representatives saying they want elections and they want to participate in them and make us believe those soldiers we sent there, our Guard and Reserve who have been sent there, have served our country well. They placed their lives at risk for us in a policy we adopted, and they have successfully carried it out in a way that has given us an opportunity to do something good now in Iraq. Certainly we are seeing great progress in Afghanistan.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### STEM CELL RESEARCH

Mr. FRIST. Madam President, we are currently in conversations about the schedule for tonight and tomorrow, and as that discussion continues, I will spend the next few minutes talking about an entirely different topic, and it concerns stem cell research.

I bring to the floor this whole discussion of stem cell research because it has been so much of the news of late in part in the Presidential debate and in part comments made by scientists and patients who look to the future promise of stem cell research. I really wanted to take the opportunity before we departed to clarify remarks that have been made by certain constituencies and also to reflect on where I think we are today, in part to restate what the President's policy is.

Senator KERRY, our distinguished colleague from Massachusetts, has made some remarks earlier this week on the issue. As in the past, the Senator from Massachusetts was not completely accurate in his comments to my mind, and I would like to explain why I feel that way.

There were some key facts about the science of stem cells that were deliberately excluded from those comments, and I think there have been some deliberate mischaracterizations made by the Senator from Massachusetts about President Bush's record on this issue. It is a critically important issue, a hugely promising field that we are going to be hearing a lot more about as the rapid advances in medical science are made.

It is important for the American people to be fully informed and to be accurately informed about stem cells and the President's stem cell policy, about the facts of the science so we can together participate in this debate.

There are several points I would like to make. First, what does the science entail, what are the basics?

First, scientists today are engaged in two basic types of stem cell research. One is adult stem cell research with cells taken from fully mature cells, for the most part. It might be cartilage or it might be bone marrow. The other type of research is embryonic, and that is where the cells are taken from human embryos. Embryonic stem cell—and this is really everything else—or adult or nonembryonic research. We think of it as embryonic and adult.

The adult stem cell research, which really doesn't have any real ethical problems with it at all, has already led to successful human treatment. Embryonic stem cell research has not. Adult human stem cell research has promising but real treatments today.

Some examples. Researchers have treated diabetic patients with islet cells from the pancreas of deceased human donors. More than 80 percent of those treated were able to stop their insulin shots for more than a year. That is an adult stem cell type of research.

Adult bone marrow cells have been used successfully to heal chronic skin blemishes in patients.

Adult bone marrow stem cells also have shown promise in my own field of heart disease. In the journal "Circulation" this past March, patients showed significant improvement in heart function for several months after receiving injections of their own bone marrow stem cells. Again, these are all adult stem cells. Bone marrow stem cells, blood stem cells, and immature thigh muscle cells, all of which are adult stem cells, have been used to grow new heart tissue in both human subjects, as well as, of course, animal subjects. All of these human treatments are with adult stem cells. None are with embryonic stem cells.

Two, as policymakers and as scientists, we absolutely must be careful not to oversell the science of embryonic stem cell research. The tendency out there, and it is cruel to patients, is to overpromise and say with embryonic stem cell research you can be cured. We should not overpromise. As a physician, you never give a patient a false sense of hope. You want to give them real hope, but you do not want to give them a false sense of hope. That is wrong. Doctors should not do it. Scientists need to be very careful in making these promises to patients. Policymakers should not do it.

Both adult stem cell and embryonic stem cell research do hold potential promise. Yet the embryonic stem cell is still in its infancy, where adult stem cell is much further along. That is why we see these human treatments today. Embryonic stem cell research science offers hope. That is the hope for potential future advances that can be made in treating debilitating and life-threatening diseases, chronic diseases, and disabilities.

However, politicians and scientists have to be careful about overselling this science, about manipulating that hope that is out there way off in the future into hype or political gain. That is wrong. It is unfair to patients. It is unfair to humankind. We have to avoid this hyperbolic rhetoric. Giving false hope is wrong. It is wrong for a doctor to do it. It is wrong for a politician to do. Neither should cruelly exploit the hopes of patients and their families.

I have to give one example because it is one that is most commonly used. When President Ronald Reagan died earlier this year from complications probably associated with Alzheimer's disease, some who support unlimited embryonic stem cell experimentation rushed to suggest Alzheimer's could be cured with embryonic stem cells.

As a scientist, as a policymaker, as a physician, I have to say that is wrong. It is disingenuous. It is untrue. It gives people a false sense of hope. The science is not there today.

Today, there are far more promising avenues of research for the discoveries of treatment and cure for Alzheimer's disease. Alzheimer's disease is a plaque on top of cells and therefore the study formation and manipulation is not where the most promising areas of research are today. If you ask any scientist working in the field of Alzheimer's disease, they will tell you treatments involving embryonic stem cells are among the least likely fields of research to yield cures. They will also tell you even the most promising developments, none of which involve any type of stem cells, will not yield a cure for years, and maybe even a decade or more.

I mention Alzheimer's because it is the one most commonly used to give this false hope. As a physician, it hurts me to see that because it is wrong.

Stem cell research, both embryonic and adult, does hold real promise for a whole range of diseases, including certain types of diabetes, spinal cord injuries, Parkinson's disease. We should aggressively pursue both embryonic stem cell research and adult stem cell research. We need to do so vigorously, and we are, both embryonic and adult. However, we have to do so in a framework that respects ethical considerations and moral considerations. It does not matter what you call it, but put a framework around human research as we have done in every other field of human experimentation.

In my own field of heart transplantation, where you define brain death for the first time and you are removing living tissue from a body and transporting it to another body to give this body life, that whole field of experimentation has a framework of ethical and moral concerns that has to be defined with certain guidelines that are not crossed, no matter how promising that moving of tissue or transplantation might be. We call that human subjects protections. It is not unusual and thus doing so in the field of stem cell research is nothing new for a scientist or for a physician or for someone interested in medical research. There are ethical guidelines that we as a society must, should, and actually do establish for any type of human research.

The third point, President Bush's stem cell policy, what is it? President Bush's stem cell policy supports and encourages scientific discovery. It does so within an ethical framework. First, President Bush's policy funds all types of stem cell research, both embryonic and adult. He is the first President in history to fund embryonic stem cell research. All embryonic stem cell lines created before August 2001 are eligible for unlimited Federal funding.

Two, there are no funding limits on adult stem cell research whatever. That is the type of stem cell research, as I mentioned, that has yielded real results in human patients. Adult stem cell research is the type that is free of any sort of ethical concern. I will come back to the embryonic stem cell concern, what are the ethical concerns, in a moment.

The National Institutes of Health is spending record amounts for both embryonic stem cell research this year as well as adult stem cell research.

Four, the President has placed no limits or restrictions whatever on the private funding of embryonic and adult stem cell research. Private funding is legal and totally unrestricted.

Fifth, because this whole field of embryonic stem cell research is young, it is emerging, it is a relatively new science, and because it takes very specialized skill, highly trained skill and expertise, the Department of Health and Human Services has engaged in a number of activities. It has developed a stem cell clearinghouse or a stem cell bank of eligible lines. It has devoted substantial efforts to sharing that technical, specialized expertise with researchers around the world so the stem cell science will advance as rapidly as possible. The National Institutes of Health is establishing three stem cell, what we call centers of excellence. It has created a stem cell task force.

While we are vigorously searching for cures with stem cell research, under the President's policies, we are also showing respect for the moral significance of human embryos. The President has reached a careful balance. Pursue promising medical research, devote unprecedented Federal resources to health care breakthroughs with stem cells, allow unlimited private funding, but do not use Federal taxpayer dollars to destroy human life or create human embryos solely for the purpose of experimentation.

Fourth, there is no ban on stem cell research. I say that directly because our distinguished Senator from Massachusetts, Senator KERRY, claims the President has put, in his words, a "sweeping ban" on stem cell research. Those are his words, sweeping ban.

Last Monday he accused the President of "sacrificing science for ideology and playing politics with people who need cures." Then he added that treatments "could be right at our fingertips" were it not for the—these are his words—"stem cell ban."

Now, I just have to ask the Senator—I know he is not here now—but "at our fingertips"? That is not right. "Stem cell ban"? Wrong again, Senator KERRY. There is no ban.

President Bush is the first President, as I mentioned, in history, to fund embryonic stem cell research. The President is funding stem cell research, as I mentioned, at record levels. There is no limit on stem cell research or funding in the private sector.

These are the facts. Senator KERRY is playing politics with the truth. Even worse, he is playing politics with the hope of those today who are suffering and their loved ones and their families. That, I believe, is irresponsible. It is cruel to play politics with people who need cures.

My fifth point, and last point, has to do with the moral significance of embryonic—of really the human embryo and why this ethical framework is so important and why this balance that the President achieved is so critically important.

It boils down to the fact that embryos do have moral significance, and they do deserve moral respect. The President believes we should conduct this research with the highest moral and ethical standards. The President has struck a balance. We must carefully weigh the potential, as far off as it might be, but the potential for saving lives against the reality of destroying life.

I say that because an embryo is biologically human, it is living, and it is genetically distinct. Thus, it deserves moral respect. Thus destruction of living human embryos for experimentation is not a morally neutral act.

In closing, these times are extraordinary for many reasons. In part it is because, as a physician, I see the tremendous advances that are being made in science, in my own field of heart disease and lung disease, but for arthritis and for spinal cord injuries, and a whole range of illnesses, really every illness. But the times are extraordinary, probably most profoundly because of the pace of change in our own lives.

Nothing is changing our lives quicker and with greater sweep than science today, and in particular, the scientific discovery within the field of medicine. It gives hope. It gives cures. It gives treatment. Science is moving more rapidly than ever, and the race will quicken. Every day it will quicken in the future.

I believe we have an obligation to vigorously support this progress, but we must do so in an ethically appropriate framework. No doubt, stem cell research shows great progress; it shows great promise. The President's policy harnesses that promise, and it also strikes a balance with the values of our people.

Mr. SESSIONS. Madam President, will the Senator yield?

Mr. FRIST. I am happy to yield.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank Dr. FRIST for his comments. It has just clarified, for me, this issue. It was, as he explained it, basically as I thought the situation was. But the Senator refreshed our recollection. So the statement Senator KERRY made the other night criticizing a "sweeping ban" on stem cell research is not correct because there is no ban at all on stem cell research; is that correct?

Mr. FRIST. Madam President, indeed, in response, through the Chair, to the distinguished Senator from Alabama, there is no ban. There is certainly no "sweeping ban." Yet you see in the headlines of newspapers references made to this ban, which reflects the words of someone who is running to be President of the United States, which I find unconscionable because of the impact it has on patients, people who do deserve real hope, and not a cruel hope of rhetoric which now has become hyperbole.

Mr. SESSIONS. Well, I thank the Senator and would ask one more question. I agree with you, that an embryo has all the characteristics that result in an adult human being. They deserve moral respect. I think that was an appropriate phrase you used.

I want to ask again, now: There is Federal funding for certain ongoing embryonic research; is that correct?

Mr. FRIST. Madam President, in response, there is Federal funding for embryonic stem cell research and adult stem cell research, embryonic stem cell research at record high levels, and adult stem cell research at record high levels, by the President of the United States using Federal taxpayer funds.

Mr. SESSIONS. Did I understand you to say that, to date, the embryonic stem cell research has produced no medical treatments that are proven efficacious, but the adult stem cell research, which is fully supported in every way by our Government, is showing some medical progress?

Mr. FRIST. Madam President, that is exactly right. Again, both have promise. Embryonic stem cell research is in its infancy and today has yielded no treatments for human disease. Adult stem cell research, there are numerous, I would say probably about 150 or 160 different areas of treatment using adult stem cells.

Mr. SESSIONS. Madam President, I thank the distinguished Senator from Tennessee.

As we all know, he is not just a Senator; he has been a physician, and not just a physician but one of America's finest physicians, a heart/lung transplant surgeon at the great Vanderbilt University School of Medicine. I think we ought to listen to his comments on this important issue. I thank him for sharing those comments with us.

Mr. FRIST. Madam President, let me just close with that comment, that the importance of the human subject type protections and having this ethical framework is because that human embryo is living, it is embryologically distinct in terms of a genetic formulation, and it is biologically human, and therefore deserves the respect that the President has given it.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### WORKING ON THE SABBATH

Mr. SESSIONS. Madam President, earlier today, I was pleased to hear Senator ROBERT BYRD suggest we ought not to work on Sunday, on the Sabbath, lightly. He expressed his concerns about us having a session on a Sunday and quoted the Ten Commandments and Scripture, as he noted from the distinguish King James version of the Bible, telling us we ought to avoid this basically.

I think as a country we would be a lot better off if we were more scrupulous about that. I thank him for sharing that. I think since I have been in the Senate there have been very few days that we have worked on a Sunday. I know Senator FRIST is a man of faith, and he would not call on us to do so did he not think it was important and had justification consistent with the faith of most Americans and Christians. I know he is a Christian. We have other faiths here in the Senate, also.

I would just quote another part of the King James version that refers to the story of Jesus going through the cornfields on the Sabbath day. I am looking at Mark, Second Chapter, 23rd Verse:

> . . . and his disciples began, as they went, to pluck the ears of corn.
>
> And the Pharisees said unto him, Behold, why do they on the sabbath day that which is not lawful?
>
> Jesus answered unto them, Have ye never read what David did when he had need, and was an hungered, he, and they that were with him?
>
> How he went into the House of God in the days of Abiathar, the high priest, and did eat the shewbread, which it is not lawful to eat but for the priests, and gave also to them which were with him?
>
> And he said unto them, The sabbath was made for man, and not man for the sabbath:
>
> Therefore, the Son of man is Lord also of the sabbath.

Then it goes on, chapter 3, continues right on:

> And he entered again into the synagogue; and there was a man there which had a withered hand.
>
> And they watched him, whether he would heal him on the sabbath day; that they might accuse him.
>
> And he said unto the man which had the withered hand, Stand forth.
>
> And he said unto them, Is it lawful to do good on the sabbath days, or to do evil? to save life, or to kill? But they held their peace.
>
> And when he had looked round about on them with anger, being grieved for the hardness of their hearts, he said unto the man, Stretch forth thine hand. And he stretched it out: and his hand was restored whole as the other.

I think that is authority for us also. We have a hurricane relief bill and other challenges facing America today. I don't think we need to make this a habit. I think we ought to be careful about what we do. I think under the circumstances, this is a justified day today. I wanted to share those thoughts.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

## UNANIMOUS CONSENT AGREEMENT

Mr. FRIST. Madam President, I ask unanimous consent that at 12 noon on Monday, October 11, the Senate proceed to a vote on adoption of the pending conference report to accompany H.R. 4520, the FSC legislation, with no intervening action or debate; provided further that following the vote on adoption of the conference report, the Finance Committee be discharged from further consideration of H.R. 1779 relating to penalty-free withdrawals, the Senate proceed to its consideration; all after the enacting clause be stricken and the substitute amendment which is at the desk be agreed to with the motion to reconsider laid upon the table; further, that the bill be read a third time and passed, again with the motion to reconsider laid upon the table; further, that Senator LANDRIEU be recognized to speak for 30 minutes on Monday before the adoption of the conference report.

I further ask consent that immediately following that vote, the cloture vote scheduled on the military construction appropriations conference report, H.R. 4837, be vitiated and the Senate then proceed immediately to a vote on adoption of the conference report, with no intervening action or debate; provided further that the Senate then proceed to a concurrent resolution which is at the desk relating to the enrollment of that measure and the resolution then be agreed to with the motion to reconsider laid upon the table; provided further that following that vote the Senate proceed to a vote on adoption of the Senate resolution which is at the desk regarding the instruction of conferees, with no intervening action or debate.

I further ask consent that following that action the Senate resume consideration of the conference report to accompany H.R. 4567, the Homeland Security appropriations measure; provided further that the cloture vote be vitiated and the Senate then vote on the adoption of the conference report, again with no intervening action or debate. I also ask consent that during the session of the Senate on Monday, October 11, Senator HARKIN be recognized to speak for up to 2 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS CONSENT AGREEMENT—S. 2845

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate receives from the House a message regarding S. 2845, the Senate disagree to the amendment from the House, agree to the request for a conference if one is requested, and that the Chair be authorized to appoint conferees on the part of the Senate in a ratio of either 7 to 6 or 6 to 5.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADJOURNMENT OF THE SENATE AND HOUSE OF REPRESENTATIVES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H. Con. Res. 518, the adjournment resolution, which is at the desk, provided that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 518) was agreed to, as follows:

H. CON. RES. 518

*Resolved by the House of Representatives (the Senate concurring),* That when the House adjourns on the legislative day of Saturday, October 9, 2004, or Sunday, October 10, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, November 16, 2004, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Saturday, October 9, 2004, through Friday, October 15, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, November 15, 2004, or noon on Tuesday, November 16, 2004, as may be specified in the motion to recess or adjourn, or until such other time on either day as may be so specified, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I want to express my gratitude to a number of our colleagues who have worked with us to accomplish the multifaceted agreement that has now been put into place. I know this has been a very difficult and trying time for the entire Senate, and I know that my colleagues who have been to the floor and have expressed themselves over the last several days did so with the very best intent.

I think this is the best resolution to accommodate the very understandable concerns they have, but also to allow the Senate to complete its work. We have much more that needs to be done when we come back, and obviously we are going to be working on that. But this does allow us to move forward on what I think has been a very consequential week. The FSC bill, the military construction bill, the Homeland Security bill, the 9/11 conference report, the legislative reorganization, we have been able to do a good deal of work in a very short period of time. This will culminate our effort to complete the work and to move forward.

I appreciate very much their cooperation and their willingness to allow us to enter into this resolution.

I ask unanimous consent that Senator KENNEDY be recognized tomorrow to speak for up to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Madam President, while the Democratic leader is here, I want to again thank both him and the assistant Democratic leader and my assistant leader as well and all the parties who have had to participate in bringing the agreement we just reached together. What it means is that tomorrow at noon, we will be having a rollcall vote and that the remainder of the bills I mentioned would be handled by voice vote tomorrow. But we will have a single rollcall vote tomorrow at noon.

Mr. DASCHLE. Madam President, I would concur it is our understanding that these matters will be handled by voice except for the FSC conference report. While we do not have it before the Senate at the moment, we will also be asking that Senator BOXER be recognized for 30 minutes and that a resolution having to do with a provision she has been very involved with be taken up as well. But that would be momentarily. Again, I appreciate her cooperation, along with that of many others.

## FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT AMENDING FAIR LABOR STANDARDS ACT OF 1938

Mr. FRIST. Mr. President, I understand there are two bills at the desk to be passed under a previous order.

The PRESIDING OFFICER. Under the previous order, S. 2974 and S. 2975 are read the third time and passed en bloc, and the motion to reconsider is laid on the table.

The bills (S. 2974 and S. 2975) were read the third time and passed, en bloc, as follows:

S. 2974

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Family Smoking Prevention and Tobacco Control Act".

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) The use of tobacco products by the Nation's children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under article I, section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation's economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) It is in the public interest for Congress to enact legislation that provides the Food and Drug Administration with the authority to regulate tobacco products and the advertising and promotion of such products. The benefits to the American people from enacting such legislation would be significant in human and economic terms.

(13) Tobacco use is the foremost preventable cause of premature death in America. It causes over 400,000 deaths in the United States each year and approximately 8,600,000 Americans have chronic illnesses related to smoking.

(14) Reducing the use of tobacco by minors by 50 percent would prevent well over 6,500,000 of today's children from becoming regular, daily smokers, saving over 2,000,000 of them from premature death due to tobacco induced disease. Such a reduction in youth smoking would also result in approximately $75,000,000,000 in savings attributable to reduced health care costs.

(15) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products and these efforts have resulted in increased use of such products by youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(16) In 2001, the tobacco industry spent more than $11,000,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(17) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(18) Tobacco product advertising is regularly seen by persons under the age of 18, and persons under the age of 18 are regularly exposed to tobacco product promotional efforts.

(19) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(20) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(21) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.

(22) Tobacco advertising expands the size of the tobacco market by increasing consumption of tobacco products including tobacco use by young people.

(23) Children are more influenced by tobacco advertising than adults, they smoke the most advertised brands.

(24) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market. Children, who tend to be more price-sensitive than adults, are influenced by advertising and promotion practices that result in drastically reduced cigarette prices.

(25) Comprehensive advertising restrictions will have a positive effect on the smoking rates of young people.

(26) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(27) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones.

(28) Text only requirements, although not as stringent as a ban, will help reduce underage use of tobacco products while preserving the informational function of advertising.

(29) It is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

(30) The final regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg. 44615–44618) for inclusion as part 897 of title 21, Code of Federal Regulations, are consistent with the First Amendment to the United States Constitution and with the standards set forth in the amendments made by this subtitle for the regulation of tobacco products by the Food and Drug Administration and the restriction on the sale and distribution, including access to and the advertising and promotion of, tobacco products contained in such regulations are substantially related to accomplishing the public health goals of this Act.

(31) The regulations described in paragraph (30) will directly and materially advance the Federal Government's substantial interest in reducing the number of children and adolescents who use cigarettes and smokeless tobacco and in preventing the life-threatening health consequences associated with tobacco use. An overwhelming majority of Americans who use tobacco products begin using such products while they are minors and become addicted to the nicotine in those products before reaching the age of 18. Tobacco advertising and promotion plays a crucial role in the decision of these minors to begin using tobacco products. Less restrictive and less comprehensive approaches have not and will not be effective in reducing the problems addressed by such regulations. The reasonable restrictions on the advertising and promotion of tobacco products contained in such regulations will lead to a significant decrease in the number of minors using and becoming addicted to those products.

(32) The regulations described in paragraph (30) impose no more extensive restrictions on communication by tobacco manufacturers and sellers than are necessary to reduce the number of children and adolescents who use cigarettes and smokeless tobacco and to prevent the life-threatening health consequences associated with tobacco use. Such regulations are narrowly tailored to restrict those advertising and promotional practices which are most likely to be seen or heard by youth and most likely to entice them into tobacco use, while affording tobacco manufacturers and sellers ample opportunity to convey information about their products to adult consumers.

(33) Tobacco dependence is a chronic disease, one that typically requires repeated interventions to achieve long-term or permanent abstinence.

(34) Because the only known safe alternative to smoking is cessation, interventions should target all smokers to help them quit completely.

(35) Tobacco products have been used to facilitate and finance criminal activities both domestically and internationally. Illicit trade of tobacco products has been linked to organized crime and terrorist groups.

(36) It is essential that the Food and Drug Administration review products sold or distributed for use to reduce risks or exposures associated with tobacco products and that it be empowered to review any advertising and labeling for such products. It is also essential that manufacturers, prior to marketing such products, be required to demonstrate that such products will meet a series of rigorous criteria, and will benefit the health of the population as a whole, taking into account both users of tobacco products and persons who do not currently use tobacco products.

(37) Unless tobacco products that purport to reduce the risks to the public of tobacco use actually reduce such risks, those products can cause substantial harm to the public health to the extent that the individuals, who would otherwise not consume tobacco products or would consume such products less, use tobacco products purporting to reduce risk. Those who use products sold or distributed as modified risk products that do not in fact reduce risk, rather than quitting or reducing their use of tobacco products, have a substantially increased likelihood of suffering disability and premature death. The costs to society of the widespread use of products sold or distributed as modified risk products that do not in fact reduce risk or that increase risk include thousands of unnecessary deaths and injuries and huge costs to our health care system.

(38) As the National Cancer Institute has found, many smokers mistakenly believe that "low tar" and "light" cigarettes cause fewer health problems than other cigarettes. As the National Cancer Institute has also found, mistaken beliefs about the health consequences of smoking "low tar" and "light" cigarettes can reduce the motivation to quit smoking entirely and thereby lead to disease and death.

(39) Recent studies have demonstrated that there has been no reduction in risk on a population-wide basis from "low tar" and "light" cigarettes and such products may actually increase the risk of tobacco use.

(40) The dangers of products sold or distributed as modified risk tobacco products that do not in fact reduce risk are so high that there is a compelling governmental interest in insuring that statements about modified risk tobacco products are complete, accurate, and relate to the overall disease risk of the product.

(41) As the Federal Trade Commission has found, consumers have misinterpreted advertisements in which one product is claimed to be less harmful than a comparable product, even in the presence of disclosures and advisories intended to provide clarification.

(42) Permitting manufacturers to make unsubstantiated statements concerning modified risk tobacco products, whether express or implied, even if accompanied by disclaimers would be detrimental to the public health.

(43) The only way to effectively protect the public health from the dangers of unsubstantiated modified risk tobacco products is to empower the Food and Drug Administration to require that products that tobacco manufacturers sold or distributed for risk reduction be approved in advance of marketing, and to require that the evidence relied on to support approval of these products is rigorous.

### SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to provide authority to the Food and Drug Administration to regulate tobacco products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), by recognizing it as the primary Federal regulatory authority with respect to the manufacture, marketing, and distribution of tobacco products;

(2) to ensure that the Food and Drug Administration has the authority to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(3) to authorize the Food and Drug Administration to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(4) to provide new and flexible enforcement authority to ensure that there is effective oversight of the tobacco industry's efforts to develop, introduce, and promote less harmful tobacco products;

(5) to vest the Food and Drug Administration with the authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(6) in order to ensure that consumers are better informed, to require tobacco product manufacturers to disclose research which has not previously been made available, as well as research generated in the future, relating to the health and dependency effects or safety of tobacco products;

(7) to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(8) to impose appropriate regulatory controls on the tobacco industry;

(9) to promote cessation to reduce disease risk and the social costs associated with tobacco related diseases; and

(10) to strengthen legislation against illicit trade in tobacco products.

### SEC. 4. SCOPE AND EFFECT.

(a) Intended Effect.—Nothing in this Act (or an amendment made by this Act) shall be construed to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) affect any action pending in Federal, State, or Tribal court, or any agreement, consent decree, or contract of any kind.

(b) Agricultural Activities.—The provisions of this Act (or an amendment made by this Act) which authorize the Secretary to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

### SEC. 5. SEVERABILITY.

If any provision of this Act, the amendments made by this Act, or the application of any provision of this Act to any person or circumstance is held to be invalid, the remainder of this Act, the amendments made by this Act, and the application of the provisions of this Act to any other person or circumstance shall not be affected and shall continue to be enforced to the fullest extent possible.

## TITLE I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION

### SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) Definition of Tobacco Products.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(nn)(1) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).

"(2) The term 'tobacco product' does not mean—

"(A) a product in the form of conventional food (including water and chewing gum), a product represented for use as or for use in a conventional food, or a product that is intended for ingestion in capsule, tablet, softgel, or liquid form; or

"(B) an article that is approved or is regulated as a drug by the Food and Drug Administration.

"(3) The products described in paragraph (2)(A) shall be subject to chapter IV or chapter V of this Act and the articles described in paragraph (2)(B) shall be subject to chapter V of this Act.

"(4) A tobacco product may not be marketed in combination with any other article or product regulated under this Act (including a drug, biologic, food, cosmetics, medical device, or a dietary supplement).".

(b) FDA Authority Over Tobacco Products.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

## "CHAPTER IX—TOBACCO PRODUCTS

### "SEC. 900. DEFINITIONS.

"In this chapter:

"(1) Additive.—The term 'additive' means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of any tobacco product (including any substances intended for use as a flavoring, coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include tobacco or a pesticide chemical residue in or on raw tobacco or a pesticide chemical.

"(2) Brand.—The term 'brand' means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging, logo, registered trademark or brand name, identifiable pattern of colors, or any combination of such attributes.

"(3) Cigarette.—The term 'cigarette' has the meaning given that term by section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(1)), but also includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

"(4) Cigarette tobacco.—The term 'cigarette tobacco' means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements for cigarettes shall also apply to cigarette tobacco.

"(5) Commerce.—The term 'commerce' has the meaning given that term by section 3(2) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(2)).

"(6) Counterfeit tobacco product.—The term 'counterfeit tobacco product' means a tobacco product (or the container or labeling of such a product) that, without authorization, bears the trademark, trade name, or other identifying mark, imprint or device, or any likeness thereof, of a tobacco product listed in a registration under section 905(i)(1).

"(7) Distributor.—The term 'distributor' as regards a tobacco product means any person who furthers the distribution of a tobacco product, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this chapter.

"(8) Illicit trade.—The term 'illicit trade' means any practice or conduct prohibited by law which relates to production, shipment, receipt, possession, distribution, sale, or purchase of tobacco products including any practice or conduct intended to facilitate such activity.

"(9) Indian tribe.—The term 'Indian tribe' has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

"(10) Little cigar.—The term 'little cigar' has the meaning given that term by section 3(7) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(7)).

"(11) Nicotine.—The term 'nicotine' means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

"(12) Package.—The term 'package' means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which a tobacco product is offered for sale, sold, or otherwise distributed to consumers.

"(13) Retailer.—The term 'retailer' means any person who sells tobacco products to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

"(14) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

"(15) SMOKE CONSTITUENT.—The term 'smoke constituent' means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the cigarette to the smoke or that is formed by the combustion or heating of tobacco, additives, or other component of the tobacco product.

"(16) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

"(17) STATE.—The term 'State' means any State of the United States and, for purposes of this chapter, includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

"(18) TOBACCO PRODUCT MANUFACTURER.—Term 'tobacco product manufacturer' means any person, including any repacker or relabeler, who—

"(A) manufactures, fabricates, assembles, processes, or labels a tobacco product; or

"(B) imports a finished cigarette or smokeless tobacco product for sale or distribution in the United States.

"(19) UNITED STATES.—The term 'United States' means the 50 States of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

### "SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS.

"(a) IN GENERAL.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

"(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

"(2) a claim is made for such products under section 201(g)(1)(C) or 201(h)(3);

other than modified risk tobacco products approved in accordance with section 911.

"(b) APPLICABILITY.—This chapter shall apply to all tobacco products subject to the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

"(c) SCOPE.—

"(1) IN GENERAL.—Nothing in this chapter, or any policy issued or regulation promulgated thereunder, or the Family Smoking Prevention and Tobacco Control Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V or any other chapter.

"(2) LIMITATION OF AUTHORITY.—

"(A) IN GENERAL.—The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of a manufacturer of tobacco products, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer.

"(B) EXCEPTION.—Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer.

"(C) RULE OF CONSTRUCTION.—Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production.

### "SEC. 902. ADULTERATED TOBACCO PRODUCTS.

"A tobacco product shall be deemed to be adulterated if—

"(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any added poisonous or added deleterious substance that may render the product injurious to health;

"(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

"(3) its package is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

"(4) it is, or purports to be or is represented as, a tobacco product which is subject to a tobacco product standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

"(5)(A) it is required by section 910(a) to have premarket approval and does not have an approved application in effect;

"(B) it is in violation of the order approving such an application; or

"(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

"(7) it is in violation of section 911.

### "SEC. 903. MISBRANDED TOBACCO PRODUCTS.

"(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

"(1) if its labeling is false or misleading in any particular;

"(2) if in package form unless it bears a label containing—

"(A) the name and place of business of the tobacco product manufacturer, packer, or distributor;

"(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;

"(C) an accurate statement of the percentage of the tobacco used in the product that is domestically grown tobacco and the percentage that is foreign grown tobacco; and

"(D) the statement required under section 921(a),

except that under subparagraph (B) reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

"(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

"(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

"(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), 905(c), 905(d), or 905(h), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

"(7) if, in the case of any tobacco product distributed or offered for sale in any State—

"(A) its advertising is false or misleading in any particular; or

"(B) it is sold or distributed in violation of regulations prescribed under section 906(d);

"(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

"(A) a true statement of the tobacco product's established name as described in paragraph (4), printed prominently; and

"(B) a brief statement of—

"(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

"(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is appropriate to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

"(9) if it is a tobacco product subject to a tobacco product standard established under section 907, unless it bears such labeling as may be prescribed in such tobacco product standard; or

"(10) if there was a failure or refusal—

"(A) to comply with any requirement prescribed under section 904 or 908; or

"(B) to furnish any material or information required under section 909.

"(b) PRIOR APPROVAL OF LABEL STATEMENTS.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement, except for modified risk tobacco products as provided in section 911. No advertisement of a tobacco product published after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall, with respect to the language of label statements as prescribed under section 4 of the Cigarette Labeling and Advertising Act and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 or the regulations issued under such sections, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55).

### "SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

"(a) REQUIREMENT.—Not later than 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, each tobacco product manufacturer or importer, or agents thereof, shall submit to the Secretary the following information:

"(1) A listing of all ingredients, including tobacco, substances, compounds, and additives that are, as of such date, added by the manufacturer to the tobacco, paper, filter, or other part of each tobacco product by brand and by quantity in each brand and subbrand.

"(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine in accordance with regulations promulgated by the Secretary in accordance with section 4(a)(4) of the Federal Cigarette Labeling and Advertising Act.

"(3) A listing of all constituents, including smoke constituents as applicable, identified by the Secretary as harmful or potentially harmful to health in each tobacco product, and as applicable in the smoke of each tobacco product, by brand and by quantity in each brand and subbrand. Effective beginning 2 years after the date of enactment of this chapter, the manufacturer, importer, or agent shall comply with regulations promulgated under section 915 in reporting information under this paragraph, where applicable.

"(4) All documents developed after the date of enactment of the Family Smoking Prevention and Tobacco Control Act that relate to health, toxicological, behavioral, or physiologic effects of current or future tobacco products, their constituents (including smoke constituents), ingredients, components, and additives.

"(b) DATA SUBMISSION.—At the request of the Secretary, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit the following:

"(1) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, toxicological, behavioral, or physiologic effects of tobacco products and their constituents (including smoke constituents), ingredients, components, and additives.

"(2) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

"(3) Any or all documents (including underlying scientific or financial information) relating to marketing research involving the use of tobacco products or marketing practices and the effectiveness of such practices used by tobacco manufacturers and distributors.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

"(c) TIME FOR SUBMISSION.—

"(1) IN GENERAL.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the manufacturer of such product shall provide the information required under subsection (a).

"(2) DISCLOSURE OF ADDITIVE.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive or increases the quantity of an existing tobacco additive, the manufacturer shall, except as provided in paragraph (3), at least 90 days prior to such action so advise the Secretary in writing.

"(3) DISCLOSURE OF OTHER ACTIONS.—If at any time a tobacco product manufacturer eliminates or decreases an existing additive, or adds or increases an additive that has by regulation been designated by the Secretary as an additive that is not a human or animal carcinogen, or otherwise harmful to health under intended conditions of use, the manufacturer shall within 60 days of such action so advise the Secretary in writing.

"(d) DATA LIST.—

"(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall publish in a format that is understandable and not misleading to a lay person, and place on public display (in a manner determined by the Secretary) the list established under subsection (e).

"(2) CONSUMER RESEARCH.—The Secretary shall conduct periodic consumer research to ensure that the list published under paragraph (1) is not misleading to lay persons. Not later than 5 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall submit to the appropriate committees of Congress a report on the results of such research, together with recommendations on whether such publication should be continued or modified.

"(e) DATA COLLECTION.—Not later than 12 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a list of harmful and potentially harmful constituents, including smoke constituents, to health in each tobacco product by brand and by quantity in each brand and subbrand. The Secretary shall publish a public notice requesting the submission by interested persons of scientific and other information concerning the harmful and potentially harmful constituents in tobacco products and tobacco smoke.

### "SEC. 905. ANNUAL REGISTRATION.

"(a) DEFINITIONS.—In this section:

"(1) MANUFACTURE, PREPARATION, COMPOUNDING, OR PROCESSING.—The term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user.

"(2) NAME.—The term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

"(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

"(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

"(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

"(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) shall list such tobacco products in accordance with such system.

"(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

"(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by 1 or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

"(h) FOREIGN ESTABLISHMENTS SHALL REGISTER.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, shall register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

"(i) REGISTRATION INFORMATION.—

"(1) PRODUCT LIST.—Every person who registers with the Secretary under subsection (b), (c), (d), or (h) shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

"(A) in the case of a tobacco product contained in the applicable list with respect to which a tobacco product standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

"(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

"(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a tobacco product standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

"(2) BIANNUAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

"(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1). A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

"(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

"(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

"(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

"(j) REPORT PRECEDING INTRODUCTION OF CERTAIN SUBSTANTIALLY-EQUIVALENT PRODUCTS INTO INTERSTATE COMMERCE.—

"(1) IN GENERAL.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of June 1, 2003, shall, at least 90 days prior to making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall prescribe)—

"(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of June 1, 2003, that is in compliance with the requirements of this Act; and

"(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

"(2) APPLICATION TO CERTAIN POST JUNE 1, 2003 PRODUCTS.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after June 1, 2003, and prior to the date that is 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall be submitted to the Secretary not later than 15 months after such date of enactment.

"(3) EXEMPTIONS.—

"(A) IN GENERAL.—The Secretary may by regulation, exempt from the requirements of this subsection tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive, if the Secretary determines that—

"(i) such modification would be a minor modification of a tobacco product authorized for sale under this Act;

"(ii) a report under this subsection is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health; and

"(iii) an exemption is otherwise appropriate.

"(B) REGULATIONS.—Not later than 9 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations to implement this paragraph.

**"SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.**

"(a) IN GENERAL.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, section 911, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, section 911, or subsection (d) of this section shall not apply to such tobacco product.

"(b) INFORMATION ON PUBLIC ACCESS AND COMMENT.—Each notice of proposed rulemaking under section 907, 908, 909, 910, or 911 or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

"(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

"(2) the period within which interested persons may present their comments on the notice or findings (including the need therefore) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefore.

"(c) LIMITED CONFIDENTIALITY OF INFORMATION.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 903, 904, 907, 908, 909, 910, 911, or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

"(d) RESTRICTIONS.—

"(1) IN GENERAL.—The Secretary may by regulation require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary determines that such regulation would be appropriate for the protection of the public health. The Secretary may by regulation impose restrictions on the advertising and promotion of a tobacco product consistent with and to full extent permitted by the first amendment to the Constitution. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such regulation may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

"(2) LABEL STATEMENTS.—The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

"(3) LIMITATIONS.—

"(A) IN GENERAL.—No restrictions under paragraph (1) may—

"(i) prohibit the sale of any tobacco product in face-to-face transactions by a specific category of retail outlets; or

"(ii) establish a minimum age of sale of tobacco products to any person older than 18 years of age.

"(B) MATCHBOOKS.—For purposes of any regulations issued by the Secretary, matchbooks of conventional size containing not more than 20 paper matches, and which are customarily given away for free with the purchase of tobacco products shall be considered as adult written publications which shall be permitted to contain advertising. Notwithstanding the preceding sentence, if the Secretary finds that such treatment of matchbooks is not appropriate for the protection of the public health, the Secretary may determine by regulation that matchbooks shall not be considered adult written publications.

"(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

"(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

"(A) IN GENERAL.—The Secretary may, in accordance with subparagraph (B), prescribe regulations (which may differ based on the type of tobacco product involved) requiring that the methods used in, and the facilities and controls used for, the manufacture, preproduction design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter. Good manufacturing practices may include the testing of raw tobacco for pesticide chemical residues regardless of whether a tolerance for such chemical residues has been established.

“(B) REQUIREMENTS.—The Secretary shall—

“(i) before promulgating any regulation under subparagraph (A), afford the Tobacco Products Scientific Advisory Committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

“(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

“(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

“(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities, and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

“(2) EXEMPTIONS; VARIANCES.—

“(A) PETITION.—Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

“(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

“(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

“(iii) contain such other information as the Secretary shall prescribe.

“(B) REFERRAL TO THE TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—The Secretary may refer to the Tobacco Products Scientific Advisory Committee any petition submitted under subparagraph (A). The Tobacco Products Scientific Advisory Committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

“(i) the date the petition was submitted to the Secretary under subparagraph (A); or

“(ii) the day after the petition was referred to the Tobacco Products Scientific Advisory Committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

“(C) APPROVAL.—The Secretary may approve—

“(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

“(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

“(D) CONDITIONS.—An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

“(E) HEARING.—After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

“(3) COMPLIANCE.—Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act.

“(f) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

**“SEC. 907. TOBACCO PRODUCT STANDARDS.**

“(a) IN GENERAL.—

“(1) SPECIAL RULE FOR CIGARETTES.—A cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke. Nothing in this subparagraph shall be construed to limit the Secretary's authority to take action under this section or other sections of this Act applicable to menthol or any artificial or natural flavor, herb, or spice not specified in this paragraph.

“(2) REVISION OF TOBACCO PRODUCT STANDARDS.—The Secretary may revise the tobacco product standards in paragraph (1) in accordance with subsection (b).

“(3) TOBACCO PRODUCT STANDARDS.—The Secretary may adopt tobacco product standards in addition to those in paragraph (1) if the Secretary finds that a tobacco product standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

“(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

“(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

“(4) CONTENT OF TOBACCO PRODUCT STANDARDS.—A tobacco product standard established under this section for a tobacco product—

“(A) shall include provisions that are appropriate for the protection of the public health, including provisions, where appropriate—

“(i) for the reduction of nicotine yields of the product;

“(ii) for the reduction or elimination of other constituents, including smoke constituents, or harmful components of the product; or

“(iii) relating to any other requirement under (B);

“(B) shall, where appropriate for the protection of the public health, include—

“(i) provisions respecting the construction, components, ingredients, additives, constituents, including smoke constituents, and properties of the tobacco product;

“(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

“(iii) provisions for the measurement of the tobacco product characteristics of the tobacco product;

“(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

“(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

“(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

“(5) PERIODIC RE-EVALUATION OF TOBACCO PRODUCT STANDARDS.—The Secretary shall provide for periodic evaluation of tobacco product standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (4)(B) by any person.

“(6) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall endeavor to—

“(A) use personnel, facilities, and other technical support available in other Federal agencies;

“(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

“(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, agricultural, or consumer organizations who in the Secretary's judgment can make a significant contribution.

“(b) ESTABLISHMENT OF STANDARDS.—

“(1) NOTICE.—

“(A) IN GENERAL.—The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any tobacco product standard.

“(B) REQUIREMENTS OF NOTICE.—A notice of proposed rulemaking for the establishment or amendment of a tobacco product standard for a tobacco product shall—

“(i) set forth a finding with supporting justification that the tobacco product standard is appropriate for the protection of the public health;

“(ii) set forth proposed findings with respect to the risk of illness or injury that the tobacco product standard is intended to reduce or eliminate; and

“(iii) invite interested persons to submit an existing tobacco product standard for the tobacco product, including a draft or proposed tobacco product standard, for consideration by the Secretary.

“(C) STANDARD.—Upon a determination by the Secretary that an additive, constituent (including smoke constituent), or other component of the product that is the subject of the proposed tobacco product standard is harmful, it shall be the burden of any party challenging the proposed standard to prove that the proposed standard will not reduce or eliminate the risk of illness or injury.

“(D) FINDING.—A notice of proposed rulemaking for the revocation of a tobacco product standard shall set forth a finding with supporting justification that the tobacco product standard is no longer appropriate for the protection of the public health.

“(E) CONSIDERATION BY SECRETARY.—The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the tobacco product standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

“(F) COMMENT.—The Secretary shall provide for a comment period of not less than 60 days.

“(2) PROMULGATION.—

“(A) IN GENERAL.—After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a tobacco product standard and after consideration of such comments and any report from the Tobacco Products Scientific Advisory Committee, the Secretary shall—

“(i) promulgate a regulation establishing a tobacco product standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

“(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

“(B) EFFECTIVE DATE.—A regulation establishing a tobacco product standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before 1 year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

“(3) POWER RESERVED TO CONGRESS.—Because of the importance of a decision of the Secretary to issue a regulation establishing a tobacco product standard—

“(A) banning all cigarettes, all smokeless tobacco products, all little cigars, all cigars other than little cigars, all pipe tobacco, or all roll your own tobacco products; or

“(B) requiring the reduction of nicotine yields of a tobacco product to zero,

Congress expressly reserves to itself such power.

“(4) AMENDMENT; REVOCATION.—

“(A) AUTHORITY.—The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B), amend or revoke a tobacco product standard.

“(B) EFFECTIVE DATE.—The Secretary may declare a proposed amendment of a tobacco product standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

“(5) REFERENCE TO ADVISORY COMMITTEE.—The Secretary may—

“(A) on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a tobacco product standard; or

“(B) upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,

refer such proposed regulation to the Tobacco Products Scientific Advisory Committee, for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this paragraph to the Tobacco Products Scientific Advisory Committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The Tobacco Products Scientific Advisory Committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

### “SEC. 908. NOTIFICATION AND OTHER REMEDIES.

“(a) NOTIFICATION.—If the Secretary determines that—

“(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

“(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

“(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

“(c) RECALL AUTHORITY.—

“(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

“(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

“(A) IN GENERAL.—If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

“(B) NOTICE.—An amended order under subparagraph (A)—

“(i) shall not include recall of a tobacco product from individuals; and

“(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

“(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

### “SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

“(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

“(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

“(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

"(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

"(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

"(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

"(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"(b) REPORTS OF REMOVALS AND CORRECTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

"(A) to reduce a risk to health posed by the tobacco product; or

"(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

"(2) EXCEPTION.—No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a).

### "SEC. 910. APPLICATION FOR REVIEW OF CERTAIN TOBACCO PRODUCTS.

"(a) IN GENERAL.—

"(1) NEW TOBACCO PRODUCT DEFINED.—For purposes of this section the term 'new tobacco product' means—

"(A) any tobacco product (including those products in test markets) that was not commercially marketed in the United States as of June 1, 2003; or

"(B) any modification (including a change in design, any component, any part, or any constituent, including a smoke constituent, or in the content, delivery or form of nicotine, or any other additive or ingredient) of a tobacco product where the modified product was commercially marketed in the United States after June 1, 2003.

"(2) PREMARKET APPROVAL REQUIRED.—

"(A) NEW PRODUCTS.—Approval under this section of an application for premarket approval for any new tobacco product is required unless—

"(i) the manufacturer has submitted a report under section 905(j); and

"(ii) the Secretary has issued an order that the tobacco product—

"(I) is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of June 1, 2003; and

"(II)(aa) is in compliance with the requirements of this Act; or

"(bb) is exempt from the requirements of section 905(j) pursuant to a regulation issued under section 905(j)(3).

"(B) APPLICATION TO CERTAIN POST JUNE 1, 2003 PRODUCTS.—Subparagraph (A) shall not apply to a tobacco product—

"(i) that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after June 1, 2003, and prior to the date that is 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act; and

"(ii) for which a report was submitted under section 905(j) within such 15-month period, until the Secretary issues an order that the tobacco product is not substantially equivalent.

"(3) SUBSTANTIALLY EQUIVALENT DEFINED.—

"(A) IN GENERAL.—In this section and section 905(j), the terms 'substantially equivalent' or 'substantial equivalence' mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

"(i) has the same characteristics as the predicate tobacco product; or

"(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

"(B) CHARACTERISTICS.—In subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

"(C) LIMITATION.—A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

"(4) HEALTH INFORMATION.—

"(A) SUMMARY.—As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

"(B) REQUIRED INFORMATION.—Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

"(b) APPLICATION.—

"(1) CONTENTS.—An application for premarket approval shall contain—

"(A) full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

"(B) a full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such tobacco product;

"(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

"(D) an identifying reference to any tobacco product standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such tobacco product standard or adequate information to justify any deviation from such standard;

"(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

"(F) specimens of the labeling proposed to be used for such tobacco product; and

"(G) such other information relevant to the subject matter of the application as the Secretary may require.

"(2) REFERENCE TO TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

"(A) may, on the Secretary's own initiative; or

"(B) may, upon the request of an applicant,

refer such application to the Tobacco Products Scientific Advisory Committee for reference and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

"(c) ACTION ON APPLICATION.—

"(1) DEADLINE.—

"(A) IN GENERAL.—As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b), the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

"(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

"(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that 1 or more grounds for denial specified in paragraph (2) of this subsection apply.

"(B) RESTRICTIONS ON SALE AND DISTRIBUTION.—An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

"(2) DENIAL OF APPROVAL.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

"(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

"(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

"(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

"(D) such tobacco product is not shown to conform in all respects to a tobacco product standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

"(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with 1 or more protocols prescribed by the Secretary).

"(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and nonusers of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(5) BASIS FOR ACTION.—

"(A) INVESTIGATIONS.—For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include 1 or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

"(B) OTHER EVIDENCE.—If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

"(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

"(1) IN GENERAL.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

"(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

"(B) that the application contained or was accompanied by an untrue statement of a material fact;

"(C) that the applicant—

"(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

"(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

"(iii) has not complied with the requirements of section 905;

"(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

"(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

"(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a tobacco product standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

"(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the 30th day after the date upon which such holder receives notice of such withdrawal, obtain review thereof in accordance with subsection (e).

"(3) TEMPORARY SUSPENSION.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

"(e) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

"(1) in person by any officer or employee of the department designated by the Secretary; or

"(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

"(f) RECORDS.—

"(1) ADDITIONAL INFORMATION.—In the case of any tobacco product for which an approval of an application filed under subsection (b) is in effect, the applicant shall establish and maintain such records, and make such reports to the Secretary, as the Secretary may by regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination of, whether there is or may be grounds for withdrawing or temporarily suspending such approval.

"(2) ACCESS TO RECORDS.—Each person required under this section to maintain records, and each person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(g) INVESTIGATIONAL TOBACCO PRODUCT EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from the provisions of this chapter under such conditions as the Secretary may by regulation prescribe.

**"SEC. 911. MODIFIED RISK TOBACCO PRODUCTS.**

"(a) IN GENERAL.—No person may introduce or deliver for introduction into interstate commerce any modified risk tobacco product unless approval of an application filed pursuant to subsection (d) is effective with respect to such product.

"(b) DEFINITIONS.—In this section:

"(1) MODIFIED RISK TOBACCO PRODUCT.—The term 'modified risk tobacco product' means any tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.

"(2) SOLD OR DISTRIBUTED.—

"(A) IN GENERAL.—With respect to a tobacco product, the term 'sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products' means a tobacco product—

"(i) the label, labeling, or advertising of which represents explicitly or implicitly that—

"(I) the tobacco product presents a lower risk of tobacco-related disease or is less harmful than one or more other commercially marketed tobacco products;

"(II) the tobacco product or its smoke contains a reduced level of a substance or presents a reduced exposure to a substance; or

"(III) the tobacco product or its smoke does not contain or is free of a substance;

"(ii) the label, labeling, or advertising of which uses the descriptors 'light', 'mild', or 'low' or similar descriptors; or

"(iii) the tobacco product manufacturer of which has taken any action directed to consumers through the media or otherwise, other than by means of the tobacco product's label, labeling or advertising, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, respecting the product that would be reasonably expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

"(B) LIMITATION.—No tobacco product shall be considered to be 'sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products', except as described in subparagraph (A).

"(c) TOBACCO DEPENDENCE PRODUCTS.—A product that is intended to be used for the treatment of tobacco dependence, including smoking cessation, is not a modified risk tobacco product under this section and is subject to the requirements of chapter V.

"(d) FILING.—Any person may file with the Secretary an application for a modified risk tobacco product. Such application shall include—

"(1) a description of the proposed product and any proposed advertising and labeling;

"(2) the conditions for using the product;

"(3) the formulation of the product;

"(4) sample product labels and labeling;

“(5) all documents (including underlying scientific information) relating to research findings conducted, supported, or possessed by the tobacco product manufacturer relating to the effect of the product on tobacco related diseases and health-related conditions, including information both favorable and unfavorable to the ability of the product to reduce risk or exposure and relating to human health;

“(6) data and information on how consumers actually use the tobacco product; and

“(7) such other information as the Secretary may require.

“(e) Public Availability.—The Secretary shall make the application described in subsection (d) publicly available (except matters in the application which are trade secrets or otherwise confidential, commercial information) and shall request comments by interested persons on the information contained in the application and on the label, labeling, and advertising accompanying such application.

“(f) Advisory Committee.—

“(1) In general.—The Secretary shall refer to an advisory committee any application submitted under this subsection.

“(2) Recommendations.—Not later than 60 days after the date an application is referred to an advisory committee under paragraph (1), the advisory committee shall report its recommendations on the application to the Secretary.

“(g) Approval.—

“(1) Modified risk products.—Except as provided in paragraph (2), the Secretary shall approve an application for a modified risk tobacco product filed under this section only if the Secretary determines that the applicant has demonstrated that such product, as it is actually used by consumers, will—

“(A) significantly reduce harm and the risk of tobacco-related disease to individual tobacco users; and

“(B) benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

“(2) Special rule for certain products.—

“(A) In general.—The Secretary may approve an application for a tobacco product that has not been approved as a modified risk tobacco product pursuant to paragraph (1) if the Secretary makes the findings required under this paragraph and determines that the applicant has demonstrated that—

“(i) the approval of the application would be appropriate to promote the public health;

“(ii) any aspect of the label, labeling, and advertising for such product that would cause the tobacco product to be a modified risk tobacco product under subsection (b)(2) is limited to an explicit or implicit representation that such tobacco product or its smoke contains or is free of a substance or contains a reduced level of a substance, or presents a reduced exposure to a substance in tobacco smoke.

“(iii) scientific evidence is not available and, using the best available scientific methods, cannot be made available without conducting long-term epidemiological studies for an application to meet the standards set forth in paragraph (1); and

“(iv) the scientific evidence that is available without conducting long-term epidemiological studies demonstrates that a measurable and substantial reduction in morbidity or mortality among individual tobacco users is anticipated in subsequent studies.

“(B) Additional findings required.—In order to approve an application under subparagraph (A) the Secretary must also find that the applicant has demonstrated that—

“(i) the magnitude of the overall reductions in exposure to the substance or substances which are the subject of the application is substantial, such substance or substances are harmful, and the product as actually used exposes consumers to the specified reduced level of the substance or substances;

“(ii) the product as actually used by consumers will not expose them to higher levels of other harmful substances compared to the similar types of tobacco products then on the market unless such increases are minimal and the anticipated overall impact of use of the product remains a substantial and measurable reduction in overall morbidity and mortality among individual tobacco users;

“(iii) testing of actual consumer perception shows that, as the applicant proposes to label and market the product, consumers will not be misled into believing that the product—

“(I) is or has been demonstrated to be less harmful; or

“(II) presents or has been demonstrated to present less of a risk of disease than 1 or more other commercially marketed tobacco products; and

“(iv) approval of the application is expected to benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

“(C) Conditions of approval.—

“(i) In general.—Applications approved under this paragraph shall be limited to a term of not more than 5 years, but may be renewed upon a finding by the Secretary that the requirements of this paragraph continue to be satisfied based on the filing of a new application.

“(ii) Agreements by applicant.—Applications approved under this paragraph shall be conditioned on the applicant's agreement to conduct post-market surveillance and studies and to submit to the Secretary the results of such surveillance and studies to determine the impact of the application approval on consumer perception, behavior, and health and to enable the Secretary to review the accuracy of the determinations upon which the approval was based in accordance with a protocol approved by the Secretary.

“(iii) Annual submission.—The results of such post-market surveillance and studies described in clause (ii) shall be submitted annually.

“(3) Basis.—The determinations under paragraphs (1) and (2) shall be based on—

“(A) the scientific evidence submitted by the applicant; and

“(B) scientific evidence and other information that is available to the Secretary.

“(4) Benefit to health of individuals and of population as a whole.—In making the determinations under paragraphs (1) and (2), the Secretary shall take into account—

“(A) the relative health risks to individuals of the tobacco product that is the subject of the application;

“(B) the increased or decreased likelihood that existing users of tobacco products who would otherwise stop using such products will switch to the tobacco product that is the subject of the application;

“(C) the increased or decreased likelihood that persons who do not use tobacco products will start using the tobacco product that is the subject of the application;

“(D) the risks and benefits to persons from the use of the tobacco product that is the subject of the application as compared to the use of products for smoking cessation approved under chapter V to treat nicotine dependence; and

“(E) comments, data, and information submitted by interested persons.

“(h) Additional Conditions for Approval.—

“(1) Modified risk products.—The Secretary shall require for the approval of an application under this section that any advertising or labeling concerning modified risk products enable the public to comprehend the information concerning modified risk and to understand the relative significance of such information in the context of total health and in relation to all of the diseases and health-related conditions associated with the use of tobacco products.

“(2) Comparative claims.—

“(A) In general.—The Secretary may require for the approval of an application under this subsection that a claim comparing a tobacco product to 1 or more other commercially marketed tobacco products shall compare the tobacco product to a commercially marketed tobacco product that is representative of that type of tobacco product on the market (for example the average value of the top 3 brands of an established regular tobacco product).

“(B) Quantitative comparisons.—The Secretary may also require, for purposes of subparagraph (A), that the percent (or fraction) of change and identity of the reference tobacco product and a quantitative comparison of the amount of the substance claimed to be reduced shall be stated in immediate proximity to the most prominent claim.

“(3) Label disclosure.—

“(A) In general.—The Secretary may require the disclosure on the label of other substances in the tobacco product, or substances that may be produced by the consumption of that tobacco product, that may affect a disease or health-related condition or may increase the risk of other diseases or health-related conditions associated with the use of tobacco products.

“(B) Conditions of use.—If the conditions of use of the tobacco product may affect the risk of the product to human health, the Secretary may require the labeling of conditions of use.

“(4) Time.—The Secretary shall limit an approval under subsection (g)(1) for a specified period of time.

“(5) Advertising.—The Secretary may require that an applicant, whose application has been approved under this subsection, comply with requirements relating to advertising and promotion of the tobacco product.

“(i) Postmarket Surveillance and Studies.—

“(1) In general.—The Secretary shall require that an applicant under subsection (g)(1) conduct post market surveillance and studies for a tobacco product for which an application has been approved to determine the impact of the application approval on consumer perception, behavior, and health, to enable the Secretary to review the accuracy of the determinations upon which the approval was based, and to provide information that the Secretary determines is otherwise necessary regarding the use or health risks involving the tobacco product. The results of post-market surveillance and studies shall be submitted to the Secretary on an annual basis.

“(2) Surveillance protocol.—Each applicant required to conduct a surveillance of a tobacco product under paragraph (1) shall, within 30 days after receiving notice that the applicant is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of the data or other information designated by the Secretary as necessary to protect the public health.

"(j) WITHDRAWAL OF APPROVAL.—The Secretary, after an opportunity for an informal hearing, shall withdraw the approval of an application under this section if the Secretary determines that—

"(1) the applicant, based on new information, can no longer make the demonstrations required under subsection (g), or the Secretary can no longer make the determinations required under subsection (g);

"(2) the application failed to include material information or included any untrue statement of material fact;

"(3) any explicit or implicit representation that the product reduces risk or exposure is no longer valid, including if—

"(A) a tobacco product standard is established pursuant to section 907;

"(B) an action is taken that affects the risks presented by other commercially marketed tobacco products that were compared to the product that is the subject of the application; or

"(C) any postmarket surveillance or studies reveal that the approval of the application is no longer consistent with the protection of the public health;

"(4) the applicant failed to conduct or submit the postmarket surveillance and studies required under subsection (g)(2)(C)(ii) or (i); or

"(5) the applicant failed to meet a condition imposed under subsection (h).

"(k) CHAPTER IV OR V.—A product approved in accordance with this section shall not be subject to chapter IV or V.

"(l) IMPLEMENTING REGULATIONS OR GUIDANCE.—

"(1) SCIENTIFIC EVIDENCE.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations or guidance (or any combination thereof) on the scientific evidence required for assessment and ongoing review of modified risk tobacco products. Such regulations or guidance shall—

"(A) establish minimum standards for scientific studies needed prior to approval to show that a substantial reduction in morbidity or mortality among individual tobacco users is likely;

"(B) include validated biomarkers, intermediate clinical endpoints, and other feasible outcome measures, as appropriate;

"(C) establish minimum standards for post market studies, that shall include regular and long-term assessments of health outcomes and mortality, intermediate clinical endpoints, consumer perception of harm reduction, and the impact on quitting behavior and new use of tobacco products, as appropriate;

"(D) establish minimum standards for required postmarket surveillance, including ongoing assessments of consumer perception; and

"(E) require that data from the required studies and surveillance be made available to the Secretary prior to the decision on renewal of a modified risk tobacco product.

"(2) CONSULTATION.—The regulations or guidance issued under paragraph (1) shall be developed in consultation with the Institute of Medicine, and with the input of other appropriate scientific and medical experts, on the design and conduct of such studies and surveillance.

"(3) REVISION.—The regulations or guidance under paragraph (1) shall be revised on a regular basis as new scientific information becomes available.

"(4) NEW TOBACCO PRODUCTS.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue a regulation or guidance that permits the filing of a single application for any tobacco product that is a new tobacco product under section 910 and for which the applicant seeks approval as a modified risk tobacco product under this section.

"(m) DISTRIBUTORS.—No distributor may take any action, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, with respect to a tobacco product that would reasonably be expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

### "SEC. 912. JUDICIAL REVIEW.

"(a) RIGHT TO REVIEW.—

"(1) IN GENERAL.—Not later than 30 days after—

"(A) the promulgation of a regulation under section 907 establishing, amending, or revoking a tobacco product standard; or

"(B) a denial of an application for approval under section 910(c),

any person adversely affected by such regulation or denial may file a petition for judicial review of such regulation or denial with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has their principal place of business.

"(2) REQUIREMENTS.—

"(A) COPY OF PETITION.—A copy of the petition filed under paragraph (1) shall be transmitted by the clerk of the court involved to the Secretary.

"(B) RECORD OF PROCEEDINGS.—On receipt of a petition under subparagraph (A), the Secretary shall file in the court in which such petition was filed—

"(i) the record of the proceedings on which the regulation or order was based; and

"(ii) a statement of the reasons for the issuance of such a regulation or order.

"(C) DEFINITION OF RECORD.—In this section, the term 'record' means—

"(i) all notices and other matter published in the Federal Register with respect to the regulation or order reviewed;

"(ii) all information submitted to the Secretary with respect to such regulation or order;

"(iii) proceedings of any panel or advisory committee with respect to such regulation or order;

"(iv) any hearing held with respect to such regulation or order; and

"(v) any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

"(b) STANDARD OF REVIEW.—Upon the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided for in such chapter. A regulation or denial described in subsection (a) shall be reviewed in accordance with section 706(2)(A) of title 5, United States Code.

"(c) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(d) OTHER REMEDIES.—The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

"(e) REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.—To facilitate judicial review, a regulation or order issued under section 906, 907, 908, 909, 910, or 916 shall contain a statement of the reasons for the issuance of such regulation or order in the record of the proceedings held in connection with its issuance.

### "SEC. 913. EQUAL TREATMENT OF RETAIL OUTLETS.

"The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

### "SEC. 914. JURISDICTION OF AND COORDINATION WITH THE FEDERAL TRADE COMMISSION.

"(a) JURISDICTION.—

"(1) IN GENERAL.—Except where expressly provided in this chapter, nothing in this chapter shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

"(2) ENFORCEMENT.—Any advertising that violates this chapter or a provision of the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act, is an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) and shall be considered a violation of a rule promulgated under section 18 of that Act (15 U.S.C. 57a).

"(b) COORDINATION.—With respect to the requirements of section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402)—

"(1) the Chairman of the Federal Trade Commission shall coordinate with the Secretary concerning the enforcement of such Act as such enforcement relates to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco; and

"(2) the Secretary shall consult with the Chairman of such Commission in revising the label statements and requirements under such sections.

### "SEC. 915. CONGRESSIONAL REVIEW PROVISIONS.

"In accordance with section 801 of title 5, United States Code, Congress shall review, and may disapprove, any rule under this chapter that is subject to section 801. This section and section 801 do not apply to the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act.

### "SEC. 916. REGULATION REQUIREMENT.

"(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the

Secretary, acting through the Commissioner of the Food and Drug Administration, shall promulgate regulations under this Act that meet the requirements of subsection (b).

“(b) Contents of Rules.—The regulations promulgated under subsection (a) shall require testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, by brand and sub-brand that the Secretary determines should be tested to protect the public health. The regulations may require that tobacco product manufacturers, packagers, or importers make disclosures relating to the results of the testing of tar and nicotine through labels or advertising or other appropriate means, and make disclosures regarding the results of the testing of other constituents, including smoke constituents, ingredients, or additives, that the Secretary determines should be disclosed to the public to protect the public health and will not mislead consumers about the risk of tobacco related disease.

“(c) Authority.—The Food and Drug Administration shall have the authority under this chapter to conduct or to require the testing, reporting, or disclosure of tobacco product constituents, including smoke constituents.

### “SEC. 917. PRESERVATION OF STATE AND LOCAL AUTHORITY.

“(a) In General.—

“(1) Preservation.—Nothing in this chapter, or rules promulgated under this chapter, shall be construed to limit the authority of a Federal agency (including the Armed Forces), a State or political subdivision of a State, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products that is in addition to, or more stringent than, requirements established under this chapter, including a law, rule, regulation, or other measure relating to or prohibiting the sale, distribution, possession, exposure to, access to, advertising and promotion of, or use of tobacco products by individuals of any age, information reporting to the State, or measures relating to fire safety standards for tobacco products. No provision of this chapter shall limit or otherwise affect any State, Tribal, or local taxation of tobacco products.

“(2) Preemption of certain state and local requirements.—

“(A) In general.—Except as provided in paragraph (1) and subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement under the provisions of this chapter relating to tobacco product standards, premarket approval, adulteration, misbranding, labeling, registration, good manufacturing standards, or reduced risk products.

“(B) Exception.—Subparagraph (A) does not apply to requirements relating to the sale, distribution, possession, information reporting to the State, exposure to, access to, the advertising and promotion of, or use of, tobacco products by individuals of any age, or relating to fire safety standards for tobacco products. Information disclosed to a State under subparagraph (A) that is exempt from disclosure under section 554(b)(4) of title 5, United States Code, shall be treated as trade secret and confidential information by the State.

“(b) Rule of Construction Regarding Product Liability.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

### “SEC. 918. TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.

“(a) Establishment.—Not later than 1 year after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a 11-member advisory committee, to be known as the ‘Tobacco Products Scientific Advisory Committee’.

“(b) Membership.—

“(1) In general.—

“(A) Members.—The Secretary shall appoint as members of the Tobacco Products Scientific Advisory Committee individuals who are technically qualified by training and experience in the medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products, who are of appropriately diversified professional backgrounds. The committee shall be composed of—

“(i) 7 individuals who are physicians, dentists, scientists, or health care professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty;

“(ii) 1 individual who is an officer or employee of a State or local government or of the Federal Government;

“(iii) 1 individual as a representative of the general public;

“(iv) 1 individual as a representative of the interests in the tobacco manufacturing industry; and

“(v) 1 individual as a representative of the interests of the tobacco growers.

“(B) Nonvoting members.—The members of the committee appointed under clauses (iv) and (v) of subparagraph (A) shall serve as consultants to those described in clauses (i) through (iii) of subparagraph (A) and shall be nonvoting representatives.

“(2) Limitation.—The Secretary may not appoint to the Advisory Committee any individual who is in the regular full-time employ of the Food and Drug Administration or any agency responsible for the enforcement of this Act. The Secretary may appoint Federal officials as ex officio members.

“(3) Chairperson.—The Secretary shall designate 1 of the members of the Advisory Committee to serve as chairperson.

“(c) Duties.—The Tobacco Products Scientific Advisory Committee shall provide advice, information, and recommendations to the Secretary—

“(1) as provided in this chapter;

“(2) on the effects of the alteration of the nicotine yields from tobacco products;

“(3) on whether there is a threshold level below which nicotine yields do not produce dependence on the tobacco product involved; and

“(4) on its review of other safety, dependence, or health issues relating to tobacco products as requested by the Secretary.

“(d) Compensation; Support; FACA.—

“(1) Compensation and travel.—Members of the Advisory Committee who are not officers or employees of the United States, while attending conferences or meetings of the committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, which may not exceed the daily equivalent of the rate in effect for level 4 of the Senior Executive Schedule under section 5382 of title 5, United States Code, for each day (including travel time) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

“(2) Administrative support.—The Secretary shall furnish the Advisory Committee clerical and other assistance.

“(3) Nonapplication of FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C.
App.) does not apply to the Advisory Committee.

“(e) Proceedings of Advisory Panels and Committees.—The Advisory Committee shall make and maintain a transcript of any proceeding of the panel or committee. Each such panel and committee shall delete from any transcript made under this subsection information which is exempt from disclosure under section 552(b) of title 5, United States Code.

### “SEC. 919. DRUG PRODUCTS USED TO TREAT TOBACCO DEPENDENCE.

“The Secretary shall consider—

“(1) at the request of the applicant, designating nicotine replacement products as fast track research and approval products within the meaning of section 506;

“(2) direct the Commissioner to consider approving the extended use of nicotine replacement products (such as nicotine patches, nicotine gum, and nicotine lozenges) for the treatment of tobacco dependence;

“(3) review and consider the evidence for additional indications for nicotine replacement products, such as for craving relief or relapse prevention; and

“(4) consider—

“(A) relieving companies of premarket burdens under section 505 if the requirement is redundant considering other nicotine replacement therapies already on the market; and

“(B) time and extent applications for nicotine replacement therapies that have been approved by a regulatory body in a foreign country and have marketing experience in such country.

### “SEC. 920. USER FEE.

“(a) Establishment of Quarterly User Fee.—The Secretary shall assess a quarterly user fee with respect to every quarter of each fiscal year commencing fiscal year 2004, calculated in accordance with this section, upon each manufacturer and importer of tobacco products subject to this chapter.

“(b) Funding of FDA Regulation of Tobacco Products.—The Secretary shall make user fees collected pursuant to this section available to pay, in each fiscal year, for the costs of the activities of the Food and Drug Administration related to the regulation of tobacco products under this chapter.

“(c) Assessment of User Fee.—

“(1) Amount of assessment.—Except as provided in paragraph (4), the total user fees assessed each year pursuant to this section shall be sufficient, and shall not exceed what is necessary, to pay for the costs of the activities described in subsection (b) for each fiscal year.

“(2) Allocation of assessment by class of tobacco products.—

“(A) In general.—Subject to paragraph (3), the total user fees assessed each fiscal year with respect to each class of importers and manufacturers shall be equal to an amount that is the applicable percentage of the total costs of activities of the Food and Drug Administration described in subsection (b).

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A) the applicable percentage for a fiscal year shall be the following:

"(i) 92.07 percent shall be assessed on manufacturers and importers of cigarettes;

"(ii) 0.05 percent shall be assessed on manufacturers and importers of little cigars;

"(iii) 7.15 percent shall be assessed on manufacturers and importers of cigars other than little cigars;

"(iv) 0.43 percent shall be assessed on manufacturers and importers of snuff;

"(v) 0.10 percent shall be assessed on manufacturers and importers of chewing tobacco;

"(vi) 0.06 percent shall be assessed on manufacturers and importers of pipe tobacco; and

"(vii) 0.14 percent shall be assessed on manufacturers and importers of roll-your-own tobacco.

"(3) DISTRIBUTION OF FEE SHARES OF MANUFACTURERS AND IMPORTERS EXEMPT FROM USER FEE.—Where a class of tobacco products is not subject to a user fee under this section, the portion of the user fee assigned to such class under subsection (d)(2) shall be allocated by the Secretary on a pro rata basis among the classes of tobacco products that are subject to a user fee under this section. Such pro rata allocation for each class of tobacco products that are subject to a user fee under this section shall be the quotient of—

"(A) the sum of the percentages assigned to all classes of tobacco products subject to this section; divided by

"(B) the percentage assigned to such class under paragraph (2).

"(4) ANNUAL LIMIT ON ASSESSMENT.—The total assessment under this section—

"(A) for fiscal year 2004 shall be $85,000,000;

"(B) for fiscal year 2005 shall be $175,000,000;

"(C) for fiscal year 2006 shall be $300,000,000; and

"(D) for each subsequent fiscal year, shall not exceed the limit on the assessment imposed during the previous fiscal year, as adjusted by the Secretary (after notice, published in the Federal Register) to reflect the greater of—

"(i) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending on June 30 of the preceding fiscal year for which fees are being established; or

"(ii) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

"(5) TIMING OF USER FEE ASSESSMENT:—The Secretary shall notify each manufacturer and importer of tobacco products subject to this section of the amount of the quarterly assessment imposed on such manufacturer or importer under subsection (f) during each quarter of each fiscal year. Such notifications shall occur not earlier than 3 months prior to the end of the quarter for which such assessment is made, and payments of all assessments shall be made not later than 60 days after each such notification.

"(d) DETERMINATION OF USER FEE BY COMPANY MARKET SHARE.—

"(1) IN GENERAL.—The user fee to be paid by each manufacturer or importer of a given class of tobacco products shall be determined in each quarter by multiplying—

"(A) such manufacturer's or importer's market share of such class of tobacco products; by

"(B) the portion of the user fee amount for the current quarter to be assessed on manufacturers and importers of such class of tobacco products as determined under subsection (e).

"(2) NO FEE IN EXCESS OF MARKET SHARE.—No manufacturer or importer of tobacco products shall be required to pay a user fee in excess of the market share of such manufacturer or importer.

"(e) DETERMINATION OF VOLUME OF DOMESTIC SALES.—

"(1) IN GENERAL.—The calculation of gross domestic volume of a class of tobacco product by a manufacturer or importer, and by all manufacturers and importers as a group, shall be made by the Secretary using information provided by manufacturers and importers pursuant to subsection (f), as well as any other relevant information provided to or obtained by the Secretary.

"(2) MEASUREMENT.—For purposes of the calculations under this subsection and the information provided under subsection (f) by the Secretary, gross domestic volume shall be measured by—

"(A) in the case of cigarettes, the number of cigarettes sold;

"(B) in the case of little cigars, the number of little cigars sold;

"(C) in the case of large cigars, the number of cigars weighing more than 3 pounds per thousand sold; and

"(D) in the case of other classes of tobacco products, in terms of number of pounds, or fraction thereof, of these products sold.

"(f) MEASUREMENT OF GROSS DOMESTIC VOLUME.—

"(1) IN GENERAL.—Each manufacturer and importer of tobacco products shall submit to the Secretary a certified copy of each of the returns or forms described by this paragraph that are required to be filed with a Government agency on the same date that those returns or forms are filed, or required to be filed, with such agency. The returns and forms described by this paragraph are those returns and forms related to the release of tobacco products into domestic commerce, as defined by section 5702(k) of the Internal Revenue Code of 1986, and the repayment of the taxes imposed under chapter 52 of such Code (ATF Form 500.24 and United States Customs Form 7501 under currently applicable regulations).

"(2) PENALTIES.—Any person that knowingly fails to provide information required under this subsection or that provides false information under this subsection shall be subject to the penalties described in section 1003 of title 18, United States Code. In addition, such person may be subject to a civil penalty in an amount not to exceed 2 percent of the value of the kind of tobacco products manufactured or imported by such person during the applicable quarter, as determined by the Secretary.

"(h) EFFECTIVE DATE.—The user fees prescribed by this section shall be assessed in fiscal year 2004, based on domestic sales of tobacco products during fiscal year 2003 and shall be assessed in each fiscal year thereafter.".

### SEC. 102. INTERIM FINAL RULE.

(a) CIGARETTES AND SMOKELESS TOBACCO.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register an interim final rule regarding cigarettes and smokeless tobacco, which is hereby deemed to be in compliance with the Administrative Procedures Act and other applicable law.

(2) CONTENTS OF RULE.—Except as provided in this subsection, the interim final rule published under paragraph (1), shall be identical in its provisions to part 897 of the regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg., 44615–44618). Such rule shall—

(A) provide for the designation of jurisdictional authority that is in accordance with this subsection;

(B) strike Subpart C—Labeling and section 897.32(c); and

(C) become effective not later than 1 year after the date of enactment of this Act.

(3) AMENDMENTS TO RULE.—Prior to making amendments to the rule published under paragraph (1), the Secretary shall promulgate a proposed rule in accordance with the Administrative Procedures Act.

(4) RULE OF CONSTRUCTION.—Except as provided in paragraph (3), nothing in this section shall be construed to limit the authority of the Secretary to amend, in accordance with the Administrative Procedures Act, the regulation promulgated pursuant to this section.

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary of Health and Human Services or the Food and Drug Administration as binding precedent:

(1) The preamble to the proposed rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents" (60 Fed. Reg. 41314–41372 (August 11, 1995)).

(2) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act" (60 Fed. Reg. 41453–41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (61 Fed. Reg. 44396–44615 (August 28, 1996)).

(4) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination" (61 Fed. Reg. 44619–45318 (August 28, 1996)).

### SEC. 103. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) in subsection (a), by inserting "tobacco product," after "device,";

(2) in subsection (b), by inserting "tobacco product," after "device,";

(3) in subsection (c), by inserting "tobacco product," after "device,";

(4) in subsection (e), by striking "515(f), or 519" and inserting "515(f), 519, or 909";

(5) in subsection (g), by inserting "tobacco product," after "device,";

(6) in subsection (h), by inserting "tobacco product," after "device,";

(7) in subsection (j), by striking "708, or 721" and inserting "708, 721, 904, 905, 906, 907, 908, 909, or section 921(b)";

(8) in subsection (k), by inserting "tobacco product," after "device,";

(9) by striking subsection (p) and inserting the following:

"(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(i)(2).";

(10) by striking subsection (q)(1) and inserting the following:

"(q)(1) The failure or refusal—

"(A) to comply with any requirement prescribed under section 518, 520(g), 903(b)(8), or 908, or condition prescribed under section 903(b)(6)(B)(ii)(II);

"(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 909, or section 921; or

"(C) to comply with a requirement under section 522 or 913.";

(11) in subsection (q)(2), by striking "device," and inserting "device or tobacco product,";

(12) in subsection (r), by inserting "or tobacco product" after "device" each time that it appears; and

(13) by adding at the end the following:

"(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).

"(bb) The introduction or delivery for introduction into interstate commerce of a tobacco product in violation of section 911.

"(cc)(1) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp (including tax stamp), tag, label, or other identification device upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

"(2) Making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other item that is designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

"(3) The doing of any act that causes a tobacco product to be a counterfeit tobacco product, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit tobacco product.

"(dd) The charitable distribution of tobacco products.

"(ee) The failure of a manufacturer or distributor to notify the Attorney General of their knowledge of tobacco products used in illicit trade.".

(c) SECTION 303.—Section 303 (21 U.S.C. 333(f)) is amended in subsection (f)—

(1) by striking the subsection heading and inserting the following:

"(f) CIVIL PENALTIES; NO-TOBACCO-SALE ORDERS.—";

(2) in paragraph (1)(A), by inserting "or tobacco products" after "devices";

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

"(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).";

(4) in paragraph (4) as so redesignated—

(A) in subparagraph (A)—

(i) by striking "assessed" the first time it appears and inserting "assessed, or a no-tobacco-sale order may be imposed,"; and

(ii) by striking "penalty" and inserting "penalty, or upon whom a no-tobacco-order is to be imposed,";

(B) in subparagraph (B)—

(i) by inserting after "penalty," the following: "or the period to be covered by a no-tobacco-sale order,"; and

(ii) by adding at the end the following: "A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order."; and

(C) by adding at the end, the following:

"(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.";

(5) in paragraph (5) as so redesignated—

(A) by striking "(3)(A)" as redesignated, and inserting "(4)(A)";

(B) by inserting "or the imposition of a no-tobacco-sale order" after "penalty" the first 2 places it appears; and

(C) by striking "issued." and inserting "issued, or on which the no-tobacco-sale order was imposed, as the case may be."; and

(6) in paragraph (6), as so redesignated, by striking "paragraph (4)" each place it appears and inserting "paragraph (5)".

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) in subsection (a)(2)—

(A) by striking "and" before "(D)"; and

(B) by striking "device." and inserting the following: ", (E) Any adulterated or misbranded tobacco product.";

(2) in subsection (d)(1), by inserting "tobacco product," after "device,";

(3) in subsection (g)(1), by inserting "or tobacco product" after "device" each place it appears; and

(4) in subsection (g)(2)(A), by inserting "or tobacco product" after "device" each place it appears.

(e) SECTION 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.".

(f) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting "tobacco product," after "device," each place it appears; and

(2) by inserting "tobacco products," after "devices," each place it appears.

(g) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) in subsection (a)(1)(A), by inserting "tobacco products," after "devices," each place it appears;

(2) in subsection (a)(1)(B), by inserting "or tobacco product" after "restricted devices" each place it appears; and

(3) in subsection (b), by inserting "tobacco product," after "device,".

(h) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting "tobacco products," after "devices,".

(i) SECTION 709.—Section 709 (21 U.S.C. 379) is amended by inserting "or tobacco product" after "device".

(j) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (a)—

(A) by inserting "tobacco products," after "devices," the first time it appears;

(B) by inserting "or section 905(j)" after "section 510"; and

(C) by striking "drugs or devices" each time it appears and inserting "drugs, devices, or tobacco products";

(2) in subsection (e)(1), by inserting "tobacco product," after "device,"; and

(3) by adding at the end the following:

"(p)(1) Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report regarding—

"(A) the nature, extent, and destination of United States tobacco product exports that do not conform to tobacco product standards established pursuant to this Act;

"(B) the public health implications of such exports, including any evidence of a negative public health impact; and

"(C) recommendations or assessments of policy alternatives available to Congress and the Executive Branch to reduce any negative public health impact caused by such exports.

"(2) The Secretary is authorized to establish appropriate information disclosure requirements to carry out this subsection.".

(k) SECTION 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking "and" after "cosmetics,"; and

(2) inserting a comma and "and tobacco products" after "devices".

(l) EFFECTIVE DATE FOR NO-TOBACCO-SALE ORDER AMENDMENTS.—The amendments made by subsection (c), other than the amendment made by paragraph (2) of such subsection, shall take effect upon the issuance of guidance by the Secretary of Health and Human Services—

(1) defining the term "repeated violation", as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time at a particular retail outlet that constitute a repeated violation;

(2) providing for timely and effective notice to the retailer of each alleged violation at a particular retail outlet and an expedited procedure for the administrative appeal of an alleged violation;

(3) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not be considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on the presentation of a false government issued photographic identification that contains the bearer's date of birth does not constitute a violation of any minimum age requirement for the sale of tobacco products if the retailer has taken effective steps to prevent such violations, including—

(A) adopting and enforcing a written policy against sales to minors;

(B) informing its employees of all applicable laws;

(C) establishing disciplinary sanctions for employee noncompliance; and

(D) requiring its employees to verify age by way of photographic identification or electronic scanning device.

## TITLE II—TOBACCO PRODUCT WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE

### SEC. 201. CIGARETTE LABEL AND ADVERTISING WARNINGS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

**“SEC. 4. LABELING.**

“(a) LABEL REQUIREMENTS.—

“(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

‘WARNING: Cigarettes are addictive’.

‘WARNING: Tobacco smoke can harm your children’.

‘WARNING: Cigarettes cause fatal lung disease’.

‘WARNING: Cigarettes cause cancer’.

‘WARNING: Cigarettes cause strokes and heart disease’.

‘WARNING: Smoking during pregnancy can harm your baby’.

‘WARNING: Smoking can kill you’.

‘WARNING: Tobacco smoke causes fatal lung disease in non-smokers’.

‘WARNING: Quitting smoking now greatly reduces serious risks to your health’.

“(2) PLACEMENT; TYPOGRAPHY; ETC.—

“(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 30 percent of the front and rear panels of the package. The word ‘WARNING’ shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

“(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

“(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

“(4) APPLICABILITY TO RETAILERS.—A retailer of cigarettes shall not be in violation of this subsection for packaging that is supplied to the retailer by a tobacco product manufacturer, importer, or distributor and is not altered by the retailer in a way that is material to the requirements of this subsection except that this paragraph shall not relieve a retailer of liability if the retailer sells or distributes tobacco products that are not labeled in accordance with this subsection.

“(b) ADVERTISING REQUIREMENTS.—

“(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

“(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent (including a smoke constituent) yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word ‘WARNING’ shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital ‘W’ of the word ‘WARNING’ in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

“(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

“(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

“(3) MATCHBOOKS.—Notwithstanding paragraph (2), for matchbooks (defined as containing not more than 20 matches) customarily given away with the purchase of tobacco products, each label statement required by subsection (a) may be printed on the inside cover of the matchbook.

“(4) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent (including smoke constituent) disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

“(5) MARKETING REQUIREMENTS.—

“(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

“(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

“(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(6) APPLICABILITY TO RETAILERS.—This subsection applies to a retailer only if that retailer is responsible for or directs the label statements required under this section except that this paragraph shall not relieve a retailer of liability if the retailer displays, in a location open to the public, an advertisement that is not labeled in accordance with the requirements of this subsection.”.

### SEC. 202. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 201, is further amended by adding at the end the following:

“(c) CHANGE IN REQUIRED STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of tobacco products.”.

### SEC. 203. STATE REGULATION OF CIGARETTE ADVERTISING AND PROMOTION.

Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended by adding at the end the following:

“(c) EXCEPTION.—Notwithstanding subsection (b), a State or locality may enact statutes and promulgate regulations, based on smoking and health, that take effect after the effective date of the Family Smoking Prevention and Tobacco Control Act, imposing specific bans or restrictions on the time, place, and manner, but not content, of the advertising or promotion of any cigarettes.".

### SEC. 204. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

### "SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) GENERAL RULE.—

"(1) It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

'WARNING: This product can cause mouth cancer'.

'WARNING: This product can cause gum disease and tooth loss'.

'WARNING: This product is not a safe alternative to cigarettes'.

'WARNING: Smokeless tobacco is addictive'.

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 30 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(5) A retailer of smokeless tobacco products shall not be in violation of this subsection for packaging that is supplied to the retailer by a tobacco products manufacturer, importer, or distributor and that is not altered by the retailer unless the retailer offers for sale, sells, or distributes a smokeless tobacco product that is not labeled in accordance with this subsection.

"(b) REQUIRED LABELS.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word 'WARNING' shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements under this section, unless the retailer displays in a location open to the public, an advertisement that is not labeled in accordance with the requirements of this subsection.

"(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.".

### SEC. 205. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 203, is further amended by adding at the end the following:

"(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

### SEC. 206. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 201, is further amended by adding at the end the following:

"(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product constituent including any smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

"(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements required under this section, except that this paragraph shall not relieve a retailer of liability if the retailer sells or distributes tobacco products that are not labeled in accordance with the requirements of this subsection.".

## TITLE III—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS

### SEC. 301. LABELING, RECORDKEEPING, RECORDS INSPECTION.

Chapter IX of the Federal Food, Drug, and Cosmetic Act, as added by section 101, is further amended by adding at the end the following:

### "SEC. 921. LABELING, RECORDKEEPING, RECORDS INSPECTION.

"(a) ORIGIN LABELING.—The label, packaging, and shipping containers of tobacco products for introduction or delivery for introduction into interstate commerce shall bear the statement 'sale only allowed in the United States.'

"(b) REGULATIONS CONCERNING RECORDKEEPING FOR TRACKING AND TRACING.—

"(1) IN GENERAL.—Not later than 9 months after the date of enactment of the Family Smoking Prevention and Tobacco Control

Act, the Secretary shall promulgate regulations regarding the establishment and maintenance of records by any person who manufactures, processes, transports, distributes, receives, packages, holds, exports, or imports tobacco products.

"(2) INSPECTION.—In promulgating the regulations described in paragraph (1), the Secretary shall consider which records are needed for inspection to monitor the movement of tobacco products from the point of manufacture through distribution to retail outlets to assist in investigating potential illicit trade, smuggling or counterfeiting of tobacco products.

"(3) CODES.—The Secretary may require codes on the labels of tobacco products or other designs or devices for the purpose of tracking or tracing the tobacco product through the distribution system.

"(4) SIZE OF BUSINESS.—The Secretary shall take into account the size of a business in promulgating regulations under this section.

"(5) RECORDKEEPING BY RETAILERS.—The Secretary shall not require any retailer to maintain records relating to individual purchasers of tobacco products for personal consumption.

"(c) RECORDS INSPECTION.—If the Secretary has a reasonable belief that a tobacco product is part of an illicit trade or smuggling or is a counterfeit product, each person who manufactures, processes, transports, distributes, receives, holds, packages, exports, or imports tobacco products shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times and within reasonable limits and in a reasonable manner, upon the presentation of appropriate credentials and a written notice to such person, to have access to and copy all records (including financial records) relating to such article that are needed to assist the Secretary in investigating potential illicit trade, smuggling or counterfeiting of tobacco products.

"(d) KNOWLEDGE OF ILLEGAL TRANSACTION.—If the manufacturer or distributor of a tobacco product has knowledge which reasonably supports the conclusion that a tobacco product manufactured or distributed by such manufacturer or distributor that has left the control of such person may be or has been—

"(A) imported, exported, distributed or offered for sale in interstate commerce by a person without paying duties or taxes required by law; or

"(B) imported, exported, distributed or diverted for possible illicit marketing,

the manufacturer or distributor shall promptly notify the Attorney General of such knowledge.

"(2) KNOWLEDGE DEFINED.—For purposes of this subsection, the term 'knowledge' as applied to a manufacturer or distributor means—

"(A) the actual knowledge that the manufacturer or distributor had; or

"(B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.".

**SEC. 302. STUDY AND REPORT.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study of cross-border trade in tobacco products to—

(1) collect data on cross-border trade in tobacco products, including illicit trade and trade of counterfeit tobacco products and make recommendations on the monitoring of such trade;

(2) collect data on cross-border advertising (any advertising intended to be broadcast, transmitted, or distributed from the United States to another country) of tobacco products and make recommendations on how to prevent or eliminate, and what technologies could help facilitate the elimination of, cross-border advertising.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the study described in subsection (a).

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S. 2975

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CLARIFICATION OF REGULATIONS RELATING TO OVERTIME COMPENSATION.**

Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

"(k) Notwithstanding the provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code (commonly referred to as the Administrative Procedures Act) or any other provision of law, any portion of the final rule promulgated on April 23, 2004, revising part 541 of title 29, Code of Federal Regulations, that exempts from the overtime pay provisions of section 7 any employee who would not otherwise be exempt if the regulations in effect on March 31, 2003 remained in effect, shall have no force or effect and that portion of such regulations (as in effect on March 31, 2003) that would prevent such employee from being exempt shall remain in effect. Notwithstanding the preceding sentence, the increased salary requirements provided for in such final rule at section 541.600 of such title 29, shall remain in effect.".

Mr. FRIST. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Madam President, I ask unanimous consent to speak for about 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Madam President, I am so pleased to be on the floor and to thank our leadership: First, Senator FRIST, our majority leader, from Tennessee; Senator DASCHLE, the minority leader; and Senator REID, who has worked so tirelessly today. Reasonable minds came together on some of these issues. I particularly thank the Senator from Oklahoma, Senator NICKLES, for working throughout the day with us on this very important amendment for the Guard and Reserve; and particularly, Senator KIT BOND, who was one of the leaders on the Republican side; Senator JEFF SESSIONS for his kind remarks today; Senator JEFFORDS, who signed the letter to the President; Senator NELSON of Florida and Senator AKAKA, who came to the floor; Senator MURRAY for her strong support of the amendment; Senator BOXER for being an original cosponsor of the amendment, along with Senator DURBIN and Senator KERRY. There may be others I can mention in the next few minutes because this truly was a success for all of us and the Senate, for the Republican leadership and the Democratic leadership of the Senate, to be able to come to a reasonable agreement to pass a tax credit for members of the Guard and Reserve, to pass a significant tax credit for businesses in this country, particularly small businesses that are really struggling to make ends meet and are doing the patriotic thing.

Madam President, I had submitted this for the RECORD several days ago, so I will not repeat it. I call attention to the hundreds of businesses—potentially thousands—that will benefit directly from this tax credit, but most important, it is the guardsmen and reservists whose paychecks will continue, whose families will be supported, who will be the direct and most important beneficiaries of the agreement reached tonight. I thank my colleagues, and I will speak in more detail tomorrow about the benefits.

Because we worked together and kept working in good faith and because we kept them in our minds, the Senate tomorrow at some time will pass, by unanimous consent, according to the agreement just reached, a tax credit for businesses. It won't technically be in this huge bill I have been holding up for 3 days. As I started this discussion, there was nothing we could do to get it in this bill. The only thing that could have happened to get it in the bill is if we pass it, the President would veto it, send it back, and tell us to rewrite it. The chances of that happening were not good. So we negotiated the next best thing, which was passing a standalone tax credit for the Guard and Reserve out of the Senate again, as we have already done with 100 Members of the Senate—Republicans and Democrats—and sent to the House.

Now the focus will be on the House leadership. Now the focus will be on the House. Is the Republican leadership in the House going to stand up for the men and women in the Guard and Reserve? Are they going to include them or leave them out of their tax bill? That is something the House leadership will have to discuss.

I am so proud tonight of the Senators. Again, many Senators helped. I will go into more detail in the morning about that.

Let me make sure that I have included in the RECORD the Military Officers Association, representing 376,000 members. I will submit for the RECORD the Reserve Officers Association. In the morning, I will submit many other documents we have received from Active and Reserve military organizations for members of the military coalition thanking us for standing strong for them to get a tax credit for them. If anybody deserves a tax credit—and if we can afford $137 billion for many other interests in America—nobody deserves it more than the employers, particularly the small employers of under

500 or a thousand. That is not that small, but in the definition of small business, something under 500 is technically called a small business. In my State, we think of a 10- or 15-employee company as small. But particularly for those small- and medium-sized businesses that are doing the patriotic thing, keeping the paycheck whole for the Guard and Reserve while they are on the front line and also hiring replacements for them to run the factories, the businesses, the architectural firm, or drive a truck, et cetera.

So I am just as proud as I can be tonight to thank my colleagues for working so well together. It has been a pleasure particularly working with Senator DASCHLE, who has the patience of a saint on many of these issues and in the way he has negotiated with Senator FRIST to bring this to a good end.

I will yield back the remainder of my time tonight and, of course, reserve the right to speak again in the morning on this important subject.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

Ms. LANDRIEU. Will the Senator yield for 30 seconds?

Mr. HARKIN. I will yield.

Ms. LANDRIEU. I would particularly like to thank the Senator from Iowa. There is a long list of Senators, but I need to particularly thank the Senator from Iowa, for the two of us have been on the floor together for the last 2 days. He has been very generous in terms of helping with this issue, and he is a cosponsor of this amendment as well. He has been a tremendous supporter.

The Senator from Iowa has also, our colleagues know, had other issues which he will speak about in a moment, very important to farmers, actually in my State as well as Iowa and States all over the Nation, but I would be remiss if I did not thank the Senator from Iowa who has been arguing, holding the floor, making our points so we could get our colleagues to focus on this issue, which has been done, and now we have a bill we can send to the House. So I thank the Senator.

Mr. HARKIN. I thank the Senator from Louisiana. Let me return the bouquet. I thank the Senator from Louisiana on behalf of all the friends I have who are reservists—I was a reservist once myself in my younger years—all the National Guard people and the employers, the small businesspeople who try to do their best. These people are called up. They go to Iraq. Many times they try to give them some compensation, but they are leaving their families behind, their kids, their communities, and all the Senator has been asking for is to treat them fairly and decently, to help these employers make up that difference in income, many of whom are trying to do their best. But let's face it, a lot of them are small businesses. They cannot do it.

I thank the Senator from Louisiana for standing up for small businesses, for standing up for our Guard and Reserve people who have given so much to this country, making sure they are treated equitably and fairly. I thank the Senator for doing this. This is an issue that has to be resolved, and again every guardsman and every Reserve person in the United States owes the Senator from Louisiana a great debt of thanks.

I have to say this: If I am ever in a foxhole someplace, I want the Senator from Louisiana on my side because I know I will never have to worry about my backside if the Senator from Louisiana is there. She has what we call real grit. I am proud of her and thank her for being here this weekend and for never backing down. I thank her for standing up for our people in uniform in this country who are in the Guard and the Reserves.

I also want to thank those on the Republican side, Leader FRIST and others, who have worked to try to get accommodations made and reasonable agreements worked out. This is a place where there must be compromise. It is not your way or my way all the time. It is trying to work out compromises, trying to work out reasonable solutions to things. I thank those on the other side of the aisle who have worked this weekend with us.

I especially want to also thank our leaders, Senator DASCHLE and Senator REID, again for their willingness to work hard to try and work out these agreements with the leadership on the other side.

These are contentious things, but we know that. Sometimes around here we are not the masters of our own fate. I know the administration comes in and they want things a certain way. Sometimes it is hard being a member of the majority party whose President is in the White House. It is tough. I know that because a lot of times we may want to do things one way and the White House wants it the other way and they make it very tough on Members of their party. I understand that. I have been there before.

People of good reason can come together and work together to work these issues out. I know people took me to task today on the other side of the aisle. That is all right. I do not mind that. We have been around this place a long time. I want people to know I am going to stand here and fight for my farmers. They do not have many people fighting for them. They are a minority in this country. We got through a good farm bill in 2002 and the President signed it, touted conservation, and now twice conservation has been invaded, taking the money out of our farm program. It is not right to do it that way.

So I am glad that when we come back in November to finalize our appropriations bills for next year—we have a continuing resolution until November 20 so we have to come back to finish that. Under the agreement we worked out, there will be an instruction to the conferees to undo what we did on the omnibus, to right what we did here and to make the conservation program whole again. That can be done. It can be done in November and, quite frankly, not too much will be upset in 1 month. We can live with that. We will get it straightened out in November.

I am glad we have reached this kind of a resolution and we will come back in November and try to get things straightened out at that time.

I want to thank those who have worked so hard to reach this agreement. I guess, as it goes now, we will be finished tomorrow and people can get back to their homes and campaign.

I also want to publicly thank all of the people at the desk, the clerks, the reading clerks, our Parliamentarians and others, the floor people on both sides, Republican and Democrat. They have had to give up their family this weekend. I know that. I want to thank them publicly for being here and working long hours on Saturday, Saturday night, and Sunday. It is now 8 at night. They provide a tremendous public service on both sides of the aisle. I know a lot of times they could probably get a lot more done if we Senators were not around. The staff can work out things.

I also want to thank our reporters who are here. They have also worked long hours this weekend and given up their family time. I have to mention the pages, too. The pages probably had a nice weekend planned. We thank them for being here and permitting us to do our job.

These are things sometimes that take a long time to work out. We try our best and we have our debates. We go back and forth, but we could not do our job without all of these wonderful people. They do make the Senate a wonderful place in which to work. It is 20 years that I have spent here. I never would have imagined in my younger life I would have had such an opportunity or an honor to serve my constituents in Iowa, indeed all of the people in this country, as a Senator. All of you who work and labor here do not get much glory. Nobody ever writes about you and you probably do not get on television, you do not get to speak on the Senate floor like we do, but we could never do our job without you. I want you to know I appreciate each and every one of you, Republican, Democrat, and those of you who do not have a party who are here in a nonpartisan capacity. You do make this place function well, and I thank you for it. I thank you for letting us do our job on the weekend.

Mr. REID. Will the Senator yield?

Mr. HARKIN. I would be delighted to yield to my leader. I paid homage to him earlier and I will pay it again most respectfully. I cannot say enough good things about Senator REID's strength and character, about his own personal attributes of honesty and forthrightness. When Senator REID gives his word, go to the bank. One does not have to worry about it.

He has a tough job. He has to deal with us and then he has to deal with the other side and try to work out these agreements. These are very tough negotiations. I could not ask for a better friend, a better person, to negotiate and work things out and get these compromises made. I could not ask for a better friend and a better person to do it than Senator REID of Nevada.

I yield to the Senator.

Mr. REID. Through the Chair to the distinguished Senator from Iowa, I have a State that is rapidly growing. It has, as you know, the tourism interests and the mining, and we have some ranching. There is limited agriculture, but we have some. But the State of Iowa is agricultural based. It is hard for a lot of us who come from big cities to understand. Nevada is the most urban State in the Union, with Las Vegas and Reno making up about 90 percent of the population. So it is hard for a lot of us to understand the passion that someone like TOM HARKIN has for farming and farmers. It is hard for me to understand that. But I have come to learn the passion and the depth of feeling that the junior Senator from Iowa has about farmers and farming—agricultural matters.

I hope the people of Iowa have some understanding, which I know they do, about how you fight for farmers, family farmers. I have learned a lot about family farmers because of listening to the Senator talk. It is not only listening to him talk, it is how he talks. I think it is so good that we have in this body people like TOM HARKIN, who believe in something, who have a knowledge of agriculture, but not only is it a broad-brush knowing a lot about agriculture, you care about the people who are involved in it.

What we have gone through in the last few days—and when I say gone through, as I told Senator HARKIN as I was going home last night, I had a Harkin headache—I feel good being one of 100 here and knowing that I serve with people like TOM HARKIN who believes so deeply in a subject. Not only does he express, personally, his feelings, he wants everyone here to know.

When the history books are written about agriculture and what has happened legislatively with agriculture, TOM HARKIN's chapter in that book will be in bold print.

I don't know much about this program that Senator HARKIN feels so strongly about, but I was there when he got it done. And I know how good he felt about having accomplished this farming conservation. I have some understanding of what it is but not the knowledge that Senator HARKIN has—how he felt about this. When this was accomplished, it was like somebody hit a home run. I have had some legislative victories and I know how good it feels. And I know how bad it feels when someone tries to take that away from you. That is what has happened here, a legislative victory that is significantly important to the farmers of this country, in TOM HARKIN's mind. He proved to me that people were trying to take that away from him. And by taking it away from him, they were taking it away from American farmers.

Mr. HARKIN. That's right.

Mr. REID. So I say to my friend, Senator HARKIN, thank you very much for being a believer, for being a believer in something that is important to this country, family farms.

Mr. HARKIN. I thank my friend. I thank my friend for those very kind and overly generous words. I again say to Senator REID, you do me a great honor. I don't think there is any higher honor than to have someone that you respect and that you admire say those kinds of things. I hope the Senator from Nevada understands the depth of my feeling about him personally—personally and professionally. Personally, as just a good, decent, wonderful human being, someone who cares deeply about people and making our Government work for people, making sure that people have the same kind of opportunities we had when we were kids.

A young kid from Searchlight, NV, and a young kid from Cumming, IA, knowing what our parents were like, poor—we see the two things we have in common. We were both born in small houses in small towns to poor parents. But we had a country that gave us an opportunity.

I know the Senator feels very deeply that he wants to pass on to his kids, and his grandkids, a country that gives them the same kind of opportunities the country gave us; for the HARRY REIDS of today who are born in some little house in some unknown town someplace out in the middle of nowhere, that they, too, have the same opportunity that this HARRY REID had to succeed in America.

That is the kind of America I know the Senator wants to leave. That is why I admire him so much. He is just a great human being.

I am glad you are our assistant minority leader, hopefully our assistant majority leader in the next term.

I thank you for those kind words, and thanks for your words on behalf of our farmers. We couldn't have gotten where we are without your great help and your great leadership. Even though you may not have a lot of farmers in Nevada, you have a lot of farmers who are your friends from Iowa, the Midwest, Ohio, and everywhere else.

I thank you for that very much.

Mr. President, I understand I have some time tomorrow to speak further on the issue. I will at this time yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. DOLE. Mr. President, during my years in public service I have learned a great deal about the severe effects of hunger in our Nation and around the world. My passion for this issue has significantly grown over time, so much so that I chose the topic as the focus of my maiden speech in the Senate. My hope is to shine a light on the devastating plague of malnourishment and severe hunger in our country and around the world.

October 16 is World Food Day, which was established 25 years ago by the Food and Agriculture Organization of the United Nations. Since its inception, the day has been recognized annually in more than 150 countries and I am proud to share my support today.

In truth, hunger affects millions of individuals across the globe. I know this to be true from my previous years of public service and my time at the Red Cross where I saw first hand the devastation of hunger. That is why I have made it a mission to fight this battle not only in our country, where I believe we can have a hunger free America, but around the world, where the issues of hunger so often become a useful strategy in developing relations with other governments and their people.

As a leader in agricultural production, the United States has long recognized its responsibility to assist in alleviating world hunger through food donations, financial aid, and technical assistance. As many of you know, the United States, the world's leading provider of food assistance, began providing food aid in the 1920s. That is why I am involved in the McGovern-Dole program which builds off of this important and proud tradition.

The McGovern-Dole program was named in honor of two former U.S. Senators. Senators George McGovern and Bob Dole, who worked tirelessly on behalf of U.S. school feeding, and more recently, for a global food for education program. The major objectives of the program are to reduce hunger and improve literacy and access to primary education, especially for girls.

The focus is on low-income countries striving to ensure an education for all children. The World Food Program estimates that there are more than 300 million chronically hungry school-age children in poor countries. Of these, perhaps 170 million go off to school hungry. Another 130 million children—60 percent of them girls—do not attend school.

An estimated 2.2 million beneficiaries received meals and take home rations under the fiscal year 2003 program, which is still ongoing in some countries. These resources, together with the $50 million Congress appropriated for the fiscal year 2004 program are reaching an additional 1.5 million beneficiaries. Given the program's success and high demand, the Bush administration requested an increase above the 2004 funding levels for fiscal year 2005, which I supported. After working with the Senate Appropriations Committee. I am proud to report that the bill voted out of committee includes a 50-percent increase above the fiscal year 2004 levels, bringing the fiscal year 2005 funding levels for McGovern-Dole to $100 million.

Reducing hunger and improving literacy are global challenges, and meeting those challenges will require a global effort. We have experienced some marked successes in our efforts to involve other donors in helping achieve our goal of global school feeding and the McGovern-Dole International Food for Education and Child Nutrition Program has made a positive contribution to those efforts to combat hunger and illiteracy.

It is my belief that this program will do more than just feed those in desperate need of food and improve the nutrition of children. It will bring hope and opportunity through education to some of the world's poorest children, improving their future and making the world a safer place for all of us.

Mr. President, on World Food Day. I congratulate those who are fighting the battle to end hunger, and ask my fellow Americans to stand with me in this vital and important effort.

Mr. INHOFE. Mr. President, like all of my colleagues I have been watching the presidential campaign with great interest, and I have noticed that the Democratic nominee has been making comments, particularly in the Midwest, which can not be reconciled with his record here in the Senate.

The Democratic nominee says coal should play an important role in America's energy future. He wants to "forge new ways to draw cleaner power from coal." But his record tells a different story—his votes and policies are aggressively anti-coal. On every issue of importance to coal and coal miners, he has sided with environmental extremists, who, like the Democratic nominee, view coal as a "dirty energy source" that must be eradicated.

Last year, the Democratic nominee voted for the Climate Stewardship Act, S. 139, a bill very similar to the Kyoto Protocol, which would destroy the coal industry. Unions for Jobs and the Environment, a group that includes the United Mine Workers, called S. 139 "a bad idea," and believe that passage of S. 139 "would be tantamount to adoption of the Kyoto Protocol."

According to the Energy Information Administration, the bill causes steep declines in coal use and production and eliminates thousands of coal jobs. S. 139 would: cut coal-fired electricity by 80 percent; cut bituminous coal production by 69 percent; destroy 56,000 coal industry jobs; and cause existing coal plants in West Virginia, Ohio, Michigan, and Pennsylvania to shut down. "In the S.139 case, a large proportion of existing coal capacity is projected to be retired. It is simply not economical to continue operating these plants."

Along with running mate JOHN EDWARDS, the Democratic nominee is a cosponsor of the Clean Power Act. This legislation would impose heavy burdens on coal, forcing many plants to switch to natural gas or shut down.

This bill is so hostile to coal that the Ohio legislature, by an overwhelming bipartisan margin, passed a resolution condemning it. The resolution states:

> The carbon dioxide emissions cap in the bill needlessly eliminates a significant component of electric generation in the United States by effectively removing coal as a fuel source. The bill will cause electric utilities to switch from coal to natural gas because the electric utilities would no longer have the option to economically generate electricity from coal. . .

The United Mine Workers, the Utility Workers, the Boilermakers, and other labor unions oppose the bill. In testimony before the committee I chair, the Environment and Public Works Committee, Eugene Trisko of the United Mine Workers stated:

> The union is strongly opposed to efforts to use the Clean Air Act as a vehicle for regulating greenhouse gas emissions . . . Limits on carbon emissions would require switching from coal to natural gas or other higher-cost energy sources, with potentially devastating impacts on the economies of coal-producing states.

Further, according to independent analysis, the bill: cuts coal-fired electric generation by 55 percent and coal production by 50 percent, EIA analysis of the Clean Power Act; destroys 32,000 coal jobs; and forces many coal-fired power plants to shut down, "resulting in substantial economic impacts."

The Democratic nominee has routinely criticized President Bush for rejecting Kyoto. As he said last year, "Instead of renegotiating the Kyoto Treaty to improve it, he simply repudiated it." And the Vice Presidential nominee, when asked in February by the San Francisco Chronicle whether he would support Kyoto, responded with a direct, "Yes," and said his running mate agreed with him.

The Democratic nominee says the U.S. should "reengage with the international community" to forge a new global warming agreement, but the question remains: What would the agreement look like? And how could any agreement calling for strict reductions in $CO_2$ emissions not harm coal?

Now they say they oppose Kyoto, describing its timetables and mandates as "infeasible." "The Democratic nominees believe that the Kyoto Protocol is not the answer. The near-term emission reductions it would require of the United States are infeasible, while the long-term obligations imposed on all nations are too little to solve the problem."

But the Democratic nominee's environmental group supporters know where he stands on Kyoto. "We don't have doubts that this issue is at the top of his to-do list when elected, or his re-do list," said Betsy Loyless of the League of Conservation Voters, which endorsed him for president. Saying, "there is no doubt in our mind that he will re-engage in Kyoto."

Further, the Democratic nominee tried to save Kyoto in 2000 during negotiations with the EU. Quoting from a UPI article at the time:

> Instead, one senator who accompanied him to Vietnam, John Kerry (D-MA), entered the fray. Senator Kerry, an aggressive promoter of the United States, was ubiquitously huddled over notepads and scribbling aides, attempting to develop U.S. offers on certain mechanisms that its counterparts would accept.

Not only did he try to save Kyoto, but he opposed efforts by the Clinton administration to ease U.S. compliance with the treaty. According to an AP article:

> U.S. Sen. John Kerry, a Massachusetts Democrat who has been involved in environmental legislation, said he also had problems with the U.S. position. Instead of cutting its emissions by 7 percent as agreed at Kyoto, he said, the sinks proposal would allow the United States to pump at least 1 percent more greenhouse gases than it did in 1990. "Some sinks clearly must be counted, but they should be in line with the spirit of the Kyoto agreement," he said. "Any retrenchment diminishes our credibility on other proposals" and raises "understandable suspicion that they are mere loopholes."

According to a Grist Magazine article this year:

> The Democratic nominee is no casual Kyoto detractor—he has attended a number of Kyoto conferences over the years and

> tried to push negotiations forward, and he has a long record of consistently voting in favor of policy measures to curb global warming, from stricter CAFE standards to mandatory greenhouse-gas regulations.

I want everyone to understand, Kyoto would eliminate coal use. "Under the Kyoto Protocol, coal consumption would be phased out over the period 2010 to 2020. The result would be massive dislocations in coal producing areas. . ."

Kyoto would eliminate nearly 50,000 jobs in Ohio; 40,000 jobs in Pennsylvania; and 22,000 jobs in Michigan.

Kyoto would be disastrous for West Virginia coal. According to a study by West Virginia University, Kyoto would cause a 25.5 percent decline in coal mining; destroy 42,800 jobs; reduce state GDP by over $3 billion; and reduce per capita income by $393.

The West Virginia and Ohio legislatures passed resolutions rejecting Kyoto and preventing State agencies from implementing any part of the treaty.

According to his website, the Democratic nominee says he will spend $10 billion over the next decade on clean coal technologies. But as the above demonstrates, you can't have clean coal without coal. Moreover, his policies would obstruct installation of clean coal technologies, placing further burdens on the industry in meeting new Clean Air Act requirements.

The Democratic nominee opposes President Bush's New Source Review reforms that allow utilities to upgrade their facilities with clean, energy efficient technologies, avoiding the complex, burdensome, and environmentally counterproductive permitting process unleashed by the Clinton EPA.

He supports lawsuits filed by environmental groups now blocking President Bush's NSR reforms.

He even joined in the junior Senator from New York's anti-NSR reform legal brief.

He voted last year for his running mate's amendment to delay President Bush's reforms and vows to "immediately reverse the Bush-Cheney rollbacks of the Nation's Clean Air Program."

Most critically, returning to the Clinton NSR program would thwart installation of clean coal technologies. According to the National Coal Council, uncertainty over the Clinton NSR policy "has had a direct and chilling effect on all maintenance and efficiency improvements and clean coal technology installations at existing power plants."

The Democratic nominee also missed the vote on last year's energy bill, and later said that had he been present, he would have voted against it. Yet the bill included several provisions and substantial funding for clean coal technologies: Authorizes $200 million annually for fiscal years 2004 through 2012 for clean coal research and coal-based gasification technologies; authorizes funding to the Secretary of Energy for loans, and authorizes the Secretary to make loan guarantees for a variety of clean coal projects around the country; directs the Secretary of Energy to carry out a program to facilitate production and generation of coal-based power and the installation of pollution-control equipment; and creates an investment tax credit for facilities retrofitted, repowered or replaced with clean coal technology.

"Where we see a beautiful mountaintop. George Bush sees a strip mine." This is the Democratic nominee's view of mountaintop mining, which employs 15,000 people and provides $21.8 million in revenue for education in West Virginia, according to a study by Marshall University.

In 1999, he voted against the senior Senator from West Virginia's amendment to overturn a Federal court decision that threatened to end mountaintop mining in West Virginia.

According to the senior Senator from West Virginia said the goal of his amendment was "to allow for the continuation of our coal industry and the jobs it provides while better protecting the mountains and hollows of the state we love."

I would point out that the United Mine Workers of America strongly supported the amendment.

He even joined forces with then Vice President Al Gore, who, after initially supporting the amendment, threatened to veto any appropriations bill that included it.

A recent Federal court decision, issued by U.S. District Judge Joseph Goodwin a Clinton appointee, halted 11 mountaintop mining projects in southern West Virginia. The economic impacts, according to West Virginia economists, could be devastating. The question is: where does the Democratic nominee stand on this decision?

Economist Michael Hicks and Cal Kent, former dean of Marshall University's business college, said the ruling could slow the permitting process for mountaintop mining by 2 years, resulting in a 40 percent decline in coal production.

"That decline the economists predicted, could lead to layoffs, stunted investment in West Virginia—particularly in the southern Coalfields region—and less revenue for the state. And the impact could be felt as soon as this fiscal year," they said.

The Democratic nominee has a unique view of the Clean Air Act. According to him, when the act was passed in 1970, there was a consensus that existing coal-fired power plants had a remaining life-span of 10 to 15 years. Beyond that time, according to this view, they would be forced to install costly new pollution controls or simply shut down.

Nearly 46 percent of coal-fired capacity in Ohio was built before 1970. In West Virginia, nearly one-third of capacity was built prior to 1970. Additionally, over 75 percent of coal-fired capacity in Ohio and West Virginia was built between 1970 and 1974.

According to the Democratic nominee, these plants must install exorbitantly expensive pollution controls, which would force many plants to close, or simply shut down altogether, causing massive economic dislocations, job losses, and higher energy costs in Ohio and West Virginia.

According to the NSR legal brief, which the Democratic nominee joined, the Clean Air Act "created a limited and qualified grace period within which existing plants could continue to operate. Accordingly, the 1970 CAA set up a simple choice for existing sources: either upgrade to new source standards or shut down."

In conclusion, Kerry-Edwards is the most anti-coal presidential ticket in American history. Yes, even worse than Clinton-Gore.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

## JUSTICE FOR ALL ACT

• Mr. BIDEN. Mr. President, I rise today to commend the Senate for its actions yesterday in passing the Justice for All Act of 2004, bipartisan, bicameral legislation I sponsored along with Senator HATCH and others. And I commend the other body for swiftly acting in passing the same legislation last evening. I hope the bill will now be signed into law without delay. This is one of the most important pieces of legislation I have ever introduced and one of the most important things the Senate will consider during the 108th Congress.

As I have said many times, DNA has become the guilty man's worst enemy and the innocent man's best friend. It is a two-edged sword which we must use to both put criminals behind bars and exonerate anyone who has been wrongfully convicted. I started looking at the issue of improved prosecution of sexual assault crimes almost two decades ago when I began drafting the Violence Against Women Act. This legislation is the next step, a way to connect the dots between the extraordinary strides in DNA technology and my commitment to ending violence against women. We must ensure that justice delayed is not justice denied.

For 3 years now, I have called on Congress to enact this important legislation. In 2002, I introduced with Senator SPECTER, S. 2513, the DNA Sexual Assault Justice Act of 2002. That Senate unanimously passed that bill during the 107th Congress, but the House failed to act. That bill grew out of a series of hearing I chaired in the Judiciary Committee which focused on the crisis involving untested rape kits sitting in police evidence bins around the country, each one containing the key to solving a sexual assault crime and putting a rapist behind bars. My hearings included testimony estimating that there were 300,000 to 500,000 untested rape kits nationwide.

In some of the most moving testimony I have heard in my 32 years in this body, we listened to Debbie Smith describe the horror of being the victim of sexual assault, followed by an additional 6 years of terror while awaiting the apprehension of her rapist. As I will discuss in a moment, the key to Debbie's road to recovery lay in an untested rape kit connected to her assault. Finally, that rape kit was tested, her assailant was identified and convicted, and she began to find closure.

In followup to the Senate's passage of S. 2513, I introduced at the start of the 108th Congress with Senator SPECTER S. 152, the DNA Sexual Assault Justice Act of 2003. That legislation built upon S. 2513 from the prior Congress and was again joined by over 20 bipartisan cosponsors. The DNA Sexual Assault Justice Act of 2003 provided the hundreds of millions of Federal dollars desperately needed by state and local crime labs around the country to clear out the backlog of hundreds of thousands of untested DNA evidence kits from sexual assaults and other violent crimes.

An important provision of S. 152 allowed the Justice Department to bring "John Doe/DNA" indictments against an unknown or unnamed perpetrator of sexual assault in any case where a DNA sample from the suspect was recovered from a crime scene. This innovative procedure would allow prosecutors to investigate and indict sex crimes, even where the victim could not identify her assailant, thus preventing the statute of limitations from expiring before the perpetrator could be identified and charged. My "John Doe/DNA" indictment provision became law in 2003 as part of the Protect Act/Amber Alert Act, S. 151/H.R. 1104.

Last year, Senator HATCH and I introduced S. 1700, the Advancing Justice Through DNA Technology Act of 2003, which contained most of the key elements of S. 152. We were joined by Senators SPECTER, LEAHY, DEWINE and FEINSTEIN and dozens of other cosponsors in this legislation. For the last year, disagreements over a specific title of S. 1700, the Innocence Protection Act, held up consideration of the bill. Members from both sides of the aisle were supportive of my DNA Sexual Assault Justice Act, which was included in other titles of the bill. I am pleased that we finally reached a compromise on the very important title addressing post-conviction DNA testing, which cleared the way to consider the entire bill. We have also added into the legislation important victims' right provisions, resulting in the newly named Justice for All Act of 2004.

The bill we passed yesterday, a combination of the Advancing Justice Through DNA Technology and the victims' rights legislation, harnesses the power of DNA to give prompt justice to victims of sexual assault crimes and to free the wrongly convicted. This bill takes every component of DNA technology and makes it accessible and more useful to Federal, State and local law enforcement, to prosecutors and defense attorneys, to medical personnel and to victims of crime.

Promoting and supporting DNA technology as a crime-fighting tool is not a new endeavor for me. A provision of my 1994 Crime Bill created the Combined DNA Index System, CODIS, which is an electronic database of DNA profiles, much like the FBI's fingerprint database. CODIS includes two kinds of DNA information—convicted offender DNA samples and DNA from crime scenes. CODIS uses the two indexes to generate investigative leads in crimes where biological evidence is recovered from the scene. In essence, CODIS facilitates the DNA match. And once that match is made, a crime is solved because of the incredible accuracy and durability of DNA evidence.

Mr. President, 99.9 percent—that is how accurate DNA evidence is. Mr. President, 1 in 30 billion—those are the odds someone else committed a crime if a suspect's DNA matches evidence at the crime scene. Twenty or 30 years—that is how long DNA evidence from a crime scene lasts. Just ten years ago DNA analysis of evidence could have cost thousands of dollars and taken months: now testing one sample costs $40 and can take days. Ten years ago forensic scientists needed blood the size of a bottle cap, now DNA testing can be done on a sample the size of a pinhead. The changes in DNA technology are remarkable, and mark a sea change in how we can fight crime, particularly sexual assault crimes.

The FBI reports that since 1998 the national DNA database has helped put away violent criminals in over 9,000 investigations in 50 states. How? By matching the DNA crime evidence to the DNA profiles of offenders. Individual success stories of DNA "cold hits" in sexual assault cases make these numbers all too real. During just the last several months, DNA evidence pinpointed a suspect in 3 rapes in Miami, Florida, caused a man to be charged in a 20-year-old Missouri rape case, proved critical in convicting a New York man accused of committing 9 rapes over a decade, helped charge a man in a 28-year-old San Francisco rape and homicide case, and resulted in the charges against a Virginia man in a 23-year-old rape case. All across this country, rapists and murderers are getting caught for crimes which are often years or even decades old. Crime solved, streets safer.

Undoubtedly, DNA matching by comparing evidence gathered at the crime scene with offender samples entered on the national DNA database has proven to be the deciding factor in solving stranger sexual assault cases—it has revolutionized the criminal justice system, and brought closure and justice for victims. A laboratory expert testified that Virginia has a 48 percent hit rate because the State collects samples from all convicted felons and aggressively analyzes crime scene evidence with no backlog. This means that almost 1 out of every 2 violent crimes could be solved by the national DNA database.

In light of the past successes and the future potential of DNA evidence, the reported number of untested rape kits and other crime scene evidence waiting in police warehouses are simply shocking—the Justice Department recently estimated the number to be as many as 500,000. One woman in particular has reminded State and Federal lawmakers that we cannot ignore even one rape kit sitting on a shelf gathering dust. That woman is Debbie Smith. In 1989, Mrs. Smith was taken from her home and brutally raped. There were no known suspects, and Mrs. Smith lived in fear of her attacker's return. Six years later, the Virginia crime laboratory discovered a DNA match between the rape scene evidence and a state prisoner's DNA sample. That "cold hit" gave Mrs. Smith her first moment of real security and closure, and since then she has traveled the country to advocate on behalf of assault victims and champion the use of DNA to fight sexual assault.

The bill approved yesterday provides over $755 million over 5 years to eliminate the backlog in rape kits and other crime scene evidence, eliminate the backlog of convicted offender samples awaiting DNA testing, and improve state laboratory capacity to conduct DNA testing. I am pleased that the backlog elimination grant program in this legislation is entitled, "The Debbie Smith DNA Backlog Grants." It is a fitting tribute.

The Justice for All Act of 2004 is a natural extension to the Violence Against Women Act, which required the Attorney General to evaluate and recommend standards for training and practice for licensed health care professionals performing sexual assault forensic exams. So I knew that any DNA bill aimed at ending sexual assault must include resources for sexual forensic examiners. This bill provides $500 million in training grants to help ensure that nurses, police and paramedics know how to best collect and preserve DNA evidence in sexual assault cases, and to help local law enforcement agencies put the DNA profiles of convicted felons into state and national databases.

The bill also expands the CODIS database by mandating the inclusion of

DNA samples from all convicted federal felons, and by permitting states to include the DNA samples from suspects arrested for and charged with a crime. At the same time, our bill retains important provisions to expunge DNA samples from the database for those whose convictions are overturned or against whom criminal charges are dropped. The bill also contains tough new penalties for the improper use or disclosure of DNA samples.

Today's bill also makes two small, but important, amendments to the Violence Against Women Act. First, it amends the law to include legal assistance for victims of dating violence, and it amends the eligibility criteria for discretionary programs so that tribal domestic violence and sexual assault coalitions can directly receive grants funds, including those funds unreleased from past fiscal years.

I am also gratified that this legislation includes the Innocence Protection Act, which I cosponsored last Congress with Senator LEAHY. This section will immeasurably improve the administration of justice in our legal system, particularly where justice is most important, and where we can least afford to make mistakes—imposition of the death penalty. Those who support the death penalty also have a duty to ensure that it is fairly administered. The advent of DNA testing has provided us with a wealth of opportunities to make certain that we are prosecuting the right people. This legislation makes post-conviction testing to federal inmates who assert that they did not commit the crime for which they have been imprisoned. It also incentivizes States to take similar measures to ensure that individuals have a proper opportunity to prove their innocence. It also mandates proper preservation of DNA evidence so that the DNA can be tested if appropriate.

As for competent counsel in death penalty cases, nobody can look me in the eye and tell me that our system for representation in capital cases works as it should. This bill will take a big step toward fixing that by providing money for grants to States to improve their systems of representation, on both the prosecution and defense side, in capital cases.

In closing, I would be remiss if I did not pause to thank some of the many people who have helped bring about the introduction of this bill. In particular, I wish to thank Senator HATCH, the chairman the Judiciary Committee, for devoting so much time and effort to work with me in developing this legislation, along with his chief counsel Bruce Artim and his counsels Brett Tolman and Mike Volkov. I also commend Senator LEAHY, the distinguished ranking member of the committee, and his chief counsel Bruce Cohen and senior counsel Julie Katzman, who have worked tirelessly on this bill, and is the principal sponsor of the Innocence Protection Act. I also thank our other principal Senate sponsors, including Senator SPECTER and his chief counsel David Brog; Senator DEWINE, and his counsel Rob Steinbuch; and Senator FEINSTEIN and her chief counsel David Hantman.

I also commend our colleagues in the other body who led the fight in the House of Representatives to enact this important legislation. Their efforts were instrumental in achieving the final bill both bodies passed yesterday. Specifically, I commend Representative SENSENBRENNER, the chairman of the House Judiciary Committee, and his staff, including Phil Kiko, Jay Apperson, and Katy Crooks. I also thank Ranking Member CONYERS and his staff, including Perry Applebaum and Bobby Vassar. I also thank Representative DELAHUNT for his leadership, and his counsels Mark Agrast and Christine Leonard.

Finally, I thank my own staff who have worked diligently over the last 3 years to pass this important legislation, including Louisa Terrell, Jonathan Meyer, and Neil MacBride.

Mr. President, yesterday's action by Congress were a long time coming, and I join my cosponsors in thanking our colleagues for passing this legislation. I now hope the President will quickly sign this bill into law, so that we can finally tackle the untested rape kits and start bringing hope and closure to victims of sexual assault.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DEWINE (for himself, Mr. KENNEDY, and Mr. JEFFORDS):

S. 2974. A bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products; considered and passed.

By Mr. HARKIN (for himself and Mr. KENNEDY):

S. 2975. A bill to amend the Fair Labor Standards Act of 1938 to clarify regulations relating to overtime compensation; considered and passed.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. GRASSLEY, Mr. CORNYN, Mr. CHAMBLISS, Mr. ALLEN, Mr. CAMPBELL, and Mr. WARNER):

S. Res. 455. A resolution supporting the goals of Red Ribbon Week; considered and agreed to.

By Ms. STABENOW (for herself and Ms. SNOWE):

S. Res. 456. A resolution designating October 14, 2004, as "Lights On Afterschool! Day"; considered and agreed to.

By Mr. REED (for himself, Mr. BOND, Ms. MIKULSKI, Ms. COLLINS, Mr. SARBANES, Mr. BIDEN, Mrs. BOXER, Mr. BREAUX, Mr. CARPER, Mr. CHAFEE, Mrs. CLINTON, Mr. CONRAD, Mr. CORZINE, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM of Florida, Mr. HAGEL, Mr. JEFFORDS, Mr. KENNEDY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. SANTORUM, Mr. SCHUMER, Mr. SMITH, Ms. SNOWE, Ms. STABENOW, Mr. REID, Mr. TALENT, and Mr. WYDEN):

S. Res. 457. A resolution designating the week of October 24, 2004, through October 30, 2004, as "National Childhood Lead Poisoning Prevention Week"; considered and agreed to.

By Mr. BINGAMAN (for himself, Mr. MCCAIN, Mr. HOLLINGS, and Mr. BROWNBACK):

S. Res. 458. A resolution congratulating the SpaceShipOne team for achieving a historic milestone in human space flight; considered and agreed to.

By Mr. DURBIN (for himself and Mr. ALEXANDER):

S. Res. 459. A resolution designating November 2004 as "American Music Month" to celebrate and honor music performance, education, and scholarship in the United States; considered and agreed to.

By Mr. SESSIONS (for himself and Mr. SHELBY):

S. Res. 460. A resolution honoring the young victims of the Sixteenth Street Baptist Church bombing recognizing the historical significance of the tragic event, and commending the efforts of law enforcement personnel to bring the perpetrators of this crime to justice on the occasion of its 40th anniversary; considered and agreed to.

By Mr. DOMENICI (for himself, Mr. DODD, Mr. COCHRAN, Mr. DORGAN, Mr. BUNNING, Mr. CONRAD, Mr. CAMPBELL, Mr. ROCKEFELLER, Mr. WARNER, Mr. KERRY, Mr. FITZGERALD, Ms. LANDRIEU, Mr. HAGEL, Mr. KENNEDY, Mr. INHOFE, Mr. BIDEN, Mr. DEWINE, Mr. JOHNSON, Mr. LOTT, Mr. AKAKA, Mr. ALEXANDER, Mr. DURBIN, Mr. BROWNBACK, Mr. SESSIONS, Mr. LEVIN, Mrs. DOLE, Mr. SARBANES, Mr. TALENT, Ms. STABENOW, Ms. MURKOWSKI, Mr. BAYH, Mr. ALLEN, Mr. LIEBERMAN, and Mr. ENZI):

S. Res. 461. A resolution designating the week beginning of October 17, 2004, as "National Character Counts Week"; considered and agreed to.

By Mr. HAGEL (for himself, Mr. LUGAR, Mr. BIDEN, Mr. LEAHY, Mr. MCCAIN, Mr. SUNUNU, and Mr. DODD):

S. Res. 462. A resolution recognizing the significant achievement of the people and Government of Afghanistan since the Emergency Loya Jirga was held in June 2002 in establishing the foundation and means to hold presidential elections on October 9, 2004; considered and agreed to.

By Mr. LOTT:

S. Res. 463. A resolution authorizing the printing of a revised edition of the Senate Rules and Manual; considered and agreed to.

## ADDITIONAL COSPONSORS

### S. 423

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S.

423, a bill to promote health care coverage parity for individuals participating in legal recreational activities or legal transportation activities.

S. 491

At the request of Mr. REID, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 556

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. 556, a bill to amend the Indian Health Care Improvement Act to revise and extend that Act.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DEWINE (for himself, Mr. KENNEDY, and Mr. JEFFORDS):

S. 2974. A bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products; considered and passed.

Mr. DEWINE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2974

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Family Smoking Prevention and Tobacco Control Act".

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) The use of tobacco products by the Nation's children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under article I, section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation's economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) It is in the public interest for Congress to enact legislation that provides the Food and Drug Administration with the authority to regulate tobacco products and the advertising and promotion of such products. The benefits to the American people from enacting such legislation would be significant in human and economic terms.

(13) Tobacco use is the foremost preventable cause of premature death in America. It causes over 400,000 deaths in the United States each year and approximately 8,600,000 Americans have chronic illnesses related to smoking.

(14) Reducing the use of tobacco by minors by 50 percent would prevent well over 6,500,000 of today's children from becoming regular, daily smokers, saving over 2,000,000 of them from premature death due to tobacco induced disease. Such a reduction in youth smoking would also result in approximately $75,000,000,000 in savings attributable to reduced health care costs.

(15) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products and these efforts have resulted in increased use of such products by youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(16) In 2001, the tobacco industry spent more than $11,000,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(17) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(18) Tobacco product advertising is regularly seen by persons under the age of 18, and persons under the age of 18 are regularly exposed to tobacco product promotional efforts.

(19) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(20) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(21) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.

(22) Tobacco advertising expands the size of the tobacco market by increasing consumption of tobacco products including tobacco use by young people.

(23) Children are more influenced by tobacco advertising than adults, they smoke the most advertised brands.

(24) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market. Children, who tend to be more price-sensitive than adults, are influenced by advertising and promotion practices that result in drastically reduced cigarette prices.

(25) Comprehensive advertising restrictions will have a positive effect on the smoking rates of young people.

(26) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(27) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones.

(28) Text only requirements, although not as stringent as a ban, will help reduce underage use of tobacco products while preserving the informational function of advertising.

(29) It is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

(30) The final regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg. 44615–44618) for inclusion as part 897 of title 21, Code of Federal Regulations, are consistent with the First Amendment to the United States Constitution and with the standards set forth in the amendments made by this subtitle for the regulation of tobacco products by the Food and Drug Administration and the restriction on the sale and distribution, including access to and the advertising and promotion of, tobacco products contained in such regulations are substantially related to accomplishing the public health goals of this Act.

(31) The regulations described in paragraph (30) will directly and materially advance the Federal Government's substantial interest in reducing the number of children and adolescents who use cigarettes and smokeless tobacco and in preventing the life-threatening health consequences associated with tobacco use. An overwhelming majority of Americans who use tobacco products begin using such products while they are minors and become addicted to the nicotine in those products before reaching the age of 18. Tobacco advertising and promotion plays a crucial role in the decision of these minors to begin using tobacco products. Less restrictive and less comprehensive approaches have not and will not be effective in reducing the problems addressed by such regulations. The reasonable restrictions on the advertising and promotion of tobacco products contained in such regulations will lead to a significant decrease in the number of minors using and becoming addicted to those products.

(32) The regulations described in paragraph (30) impose no more extensive restrictions on communication by tobacco manufacturers and sellers than are necessary to reduce the number of children and adolescents who use cigarettes and smokeless tobacco and to prevent the life-threatening health consequences associated with tobacco use. Such regulations are narrowly tailored to restrict those advertising and promotional practices which are most likely to be seen or heard by youth and most likely to entice them into tobacco use, while affording tobacco manufacturers and sellers ample opportunity to

convey information about their products to adult consumers.

(33) Tobacco dependence is a chronic disease, one that typically requires repeated interventions to achieve long-term or permanent abstinence.

(34) Because the only known safe alternative to smoking is cessation, interventions should target all smokers to help them quit completely.

(35) Tobacco products have been used to facilitate and finance criminal activities both domestically and internationally. Illicit trade of tobacco products has been linked to organized crime and terrorist groups.

(36) It is essential that the Food and Drug Administration review products sold or distributed for use to reduce risks or exposures associated with tobacco products and that it be empowered to review any advertising and labeling for such products. It is also essential that manufacturers, prior to marketing such products, be required to demonstrate that such products will meet a series of rigorous criteria, and will benefit the health of the population as a whole, taking into account both users of tobacco products and persons who do not currently use tobacco products.

(37) Unless tobacco products that purport to reduce the risks to the public of tobacco use actually reduce such risks, those products can cause substantial harm to the public health to the extent that the individuals, who would otherwise not consume tobacco products or would consume such products less, use tobacco products purporting to reduce risk. Those who use products sold or distributed as modified risk products that do not in fact reduce risk, rather than quitting or reducing their use of tobacco products, have a substantially increased likelihood of suffering disability and premature death. The costs to society of the widespread use of products sold or distributed as modified risk products that do not in fact reduce risk or that increase risk include thousands of unnecessary deaths and injuries and huge costs to our health care system.

(38) As the National Cancer Institute has found, many smokers mistakenly believe that "low tar" and "light" cigarettes cause fewer health problems than other cigarettes. As the National Cancer Institute has also found, mistaken beliefs about the health consequences of smoking "low tar" and "light" cigarettes can reduce the motivation to quit smoking entirely and thereby lead to disease and death.

(39) Recent studies have demonstrated that there has been no reduction in risk on a population-wide basis from "low tar" and "light" cigarettes and such products may actually increase the risk of tobacco use.

(40) The dangers of products sold or distributed as modified risk tobacco products that do not in fact reduce risk are so high that there is a compelling governmental interest in insuring that statements about modified risk tobacco products are complete, accurate, and relate to the overall disease risk of the product.

(41) As the Federal Trade Commission has found, consumers have misinterpreted advertisements in which one product is claimed to be less harmful than a comparable product, even in the presence of disclosures and advisories intended to provide clarification.

(42) Permitting manufacturers to make unsubstantiated statements concerning modified risk tobacco products, whether express or implied, even if accompanied by disclaimers would be detrimental to the public health.

(43) The only way to effectively protect the public health from the dangers of unsubstantiated modified risk tobacco products is to empower the Food and Drug Administration to require that products that tobacco manufacturers sold or distributed for risk reduction be approved in advance of marketing, and to require that the evidence relied on to support approval of these products is rigorous.

**SEC. 3. PURPOSE.**

The purposes of this Act are—

(1) to provide authority to the Food and Drug Administration to regulate tobacco products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), by recognizing it as the primary Federal regulatory authority with respect to the manufacture, marketing, and distribution of tobacco products;

(2) to ensure that the Food and Drug Administration has the authority to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(3) to authorize the Food and Drug Administration to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(4) to provide new and flexible enforcement authority to ensure that there is effective oversight of the tobacco industry's efforts to develop, introduce, and promote less harmful tobacco products;

(5) to vest the Food and Drug Administration with the authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(6) in order to ensure that consumers are better informed, to require tobacco product manufacturers to disclose research which has not previously been made available, as well as research generated in the future, relating to the health and dependency effects or safety of tobacco products;

(7) to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(8) to impose appropriate regulatory controls on the tobacco industry;

(9) to promote cessation to reduce disease risk and the social costs associated with tobacco related diseases; and

(10) to strengthen legislation against illicit trade in tobacco products.

**SEC. 4. SCOPE AND EFFECT.**

(a) Intended Effect.—Nothing in this Act (or an amendment made by this Act) shall be construed to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) affect any action pending in Federal, State, or Tribal court, or any agreement, consent decree, or contract of any kind.

(b) Agricultural Activities.—The provisions of this Act (or an amendment made by this Act) which authorize the Secretary to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

**SEC. 5. SEVERABILITY.**

If any provision of this Act, the amendments made by this Act, or the application of any provision of this Act to any person or circumstance is held to be invalid, the remainder of this Act, the amendments made by this Act, and the application of the provisions of this Act to any other person or circumstance shall not be affected and shall continue to be enforced to the fullest extent possible.

## TITLE I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION

**SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.**

(a) Definition of Tobacco Products.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(nn)(1) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).

"(2) The term 'tobacco product' does not mean—

"(A) a product in the form of conventional food (including water and chewing gum), a product represented for use as or for use in a conventional food, or a product that is intended for ingestion in capsule, tablet, softgel, or liquid form; or

"(B) an article that is approved or is regulated as a drug by the Food and Drug Administration.

"(3) The products described in paragraph (2)(A) shall be subject to chapter IV or chapter V of this Act and the articles described in paragraph (2)(B) shall be subject to chapter V of this Act.

"(4) A tobacco product may not be marketed in combination with any other article or product regulated under this Act (including a drug, biologic, food, cosmetics, medical device, or a dietary supplement).".

(b) FDA Authority Over Tobacco Products.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

### "CHAPTER IX—TOBACCO PRODUCTS

**"SEC. 900. DEFINITIONS.**

"In this chapter:

"(1) Additive.—The term 'additive' means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of any tobacco product (including any substances intended for use as a flavoring, coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include tobacco or a pesticide chemical residue in or on raw tobacco or a pesticide chemical.

"(2) Brand.—The term 'brand' means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging, logo, registered trademark or brand name, identifiable pattern of colors, or any combination of such attributes.

"(3) Cigarette.—The term 'cigarette' has the meaning given that term by section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(1)), but also includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

"(4) Cigarette tobacco.—The term 'cigarette tobacco' means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements for cigarettes shall also apply to cigarette tobacco.

"(5) COMMERCE.—The term 'commerce' has the meaning given that term by section 3(2) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(2)).

"(6) COUNTERFEIT TOBACCO PRODUCT.—The term 'counterfeit tobacco product' means a tobacco product (or the container or labeling of such a product) that, without authorization, bears the trademark, trade name, or other identifying mark, imprint or device, or any likeness thereof, of a tobacco product listed in a registration under section 905(i)(1).

"(7) DISTRIBUTOR.—The term 'distributor' as regards a tobacco product means any person who furthers the distribution of a tobacco product, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this chapter.

"(8) ILLICIT TRADE.—The term 'illicit trade' means any practice or conduct prohibited by law which relates to production, shipment, receipt, possession, distribution, sale, or purchase of tobacco products including any practice or conduct intended to facilitate such activity.

"(9) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

"(10) LITTLE CIGAR.—The term 'little cigar' has the meaning given that term by section 3(7) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(7)).

"(11) NICOTINE.—The term 'nicotine' means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

"(12) PACKAGE.—The term 'package' means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which a tobacco product is offered for sale, sold, or otherwise distributed to consumers.

"(13) RETAILER.—The term 'retailer' means any person who sells tobacco products to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

"(14) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

"(15) SMOKE CONSTITUENT.—The term 'smoke constituent' means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the cigarette to the smoke or that is formed by the combustion or heating of tobacco, additives, or other component of the tobacco product.

"(16) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

"(17) STATE.—The term 'State' means any State of the United States and, for purposes of this chapter, includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

"(18) TOBACCO PRODUCT MANUFACTURER.—Term 'tobacco product manufacturer' means any person, including any repacker or relabeler, who—

"(A) manufactures, fabricates, assembles, processes, or labels a tobacco product; or

"(B) imports a finished cigarette or smokeless tobacco product for sale or distribution in the United States.

"(19) UNITED STATES.—The term 'United States' means the 50 States of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

### "SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS.

"(a) IN GENERAL.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

"(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

"(2) a claim is made for such products under section 201(g)(1)(C) or 201(h)(3);

other than modified risk tobacco products approved in accordance with section 911.

"(b) APPLICABILITY.—This chapter shall apply to all tobacco products subject to the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

"(c) SCOPE.—

"(1) IN GENERAL.—Nothing in this chapter, or any policy issued or regulation promulgated thereunder, or the Family Smoking Prevention and Tobacco Control Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V or any other chapter.

"(2) LIMITATION OF AUTHORITY.—

"(A) IN GENERAL.—The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of a manufacturer of tobacco products, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer.

"(B) EXCEPTION.—Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer.

"(C) RULE OF CONSTRUCTION.—Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production.

### "SEC. 902. ADULTERATED TOBACCO PRODUCTS.

"A tobacco product shall be deemed to be adulterated if—

"(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any added poisonous or added deleterious substance that may render the product injurious to health;

"(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

"(3) its package is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

"(4) it is, or purports to be or is represented as, a tobacco product which is subject to a tobacco product standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

"(5)(A) it is required by section 910(a) to have premarket approval and does not have an approved application in effect;

"(B) it is in violation of the order approving such an application; or

"(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

"(7) it is in violation of section 911.

### "SEC. 903. MISBRANDED TOBACCO PRODUCTS.

"(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

"(1) if its labeling is false or misleading in any particular;

"(2) if in package form unless it bears a label containing—

"(A) the name and place of business of the tobacco product manufacturer, packer, or distributor;

"(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;

"(C) an accurate statement of the percentage of the tobacco used in the product that is domestically grown tobacco and the percentage that is foreign grown tobacco; and

"(D) the statement required under section 921(a),

except that under subparagraph (B) reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

"(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

"(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

"(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), 905(c), 905(d), or 905(h), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

"(7) if, in the case of any tobacco product distributed or offered for sale in any State—

"(A) its advertising is false or misleading in any particular; or

"(B) it is sold or distributed in violation of regulations prescribed under section 906(d);

"(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

"(A) a true statement of the tobacco product's established name as described in paragraph (4), printed prominently; and

"(B) a brief statement of—

"(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

"(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is appropriate to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

"(9) if it is a tobacco product subject to a tobacco product standard established under section 907, unless it bears such labeling as may be prescribed in such tobacco product standard; or

"(10) if there was a failure or refusal—

"(A) to comply with any requirement prescribed under section 904 or 908; or

"(B) to furnish any material or information required under section 909.

"(b) Prior Approval of Label Statements.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement, except for modified risk tobacco products as provided in section 911. No advertisement of a tobacco product published after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall, with respect to the language of label statements as prescribed under section 4 of the Cigarette Labeling and Advertising Act and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 or the regulations issued under such sections, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55).

### "SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

"(a) Requirement.—Not later than 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, each tobacco product manufacturer or importer, or agents thereof, shall submit to the Secretary the following information:

"(1) A listing of all ingredients, including tobacco, substances, compounds, and additives that are, as of such date, added by the manufacturer to the tobacco, paper, filter, or other part of each tobacco product by brand and by quantity in each brand and subbrand.

"(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine in accordance with regulations promulgated by the Secretary in accordance with section 4(a)(4) of the Federal Cigarette Labeling and Advertising Act.

"(3) A listing of all constituents, including smoke constituents as applicable, identified by the Secretary as harmful or potentially harmful to health in each tobacco product, and as applicable in the smoke of each tobacco product, by brand and by quantity in each brand and subbrand. Effective beginning 2 years after the date of enactment of this chapter, the manufacturer, importer, or agent shall comply with regulations promulgated under section 915 in reporting information under this paragraph, where applicable.

"(4) All documents developed after the date of enactment of the Family Smoking Prevention and Tobacco Control Act that relate to health, toxicological, behavioral, or physiologic effects of current or future tobacco products, their constituents (including smoke constituents), ingredients, components, and additives.

"(b) Data Submission.—At the request of the Secretary, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit the following:

"(1) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, toxicological, behavioral, or physiologic effects of tobacco products and their constituents (including smoke constituents), ingredients, components, and additives.

"(2) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

"(3) Any or all documents (including underlying scientific or financial information) relating to marketing research involving the use of tobacco products or marketing practices and the effectiveness of such practices used by tobacco manufacturers and distributors.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

"(c) Time for Submission.—

"(1) In general.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the manufacturer of such product shall provide the information required under subsection (a).

"(2) Disclosure of additive.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive or increases the quantity of an existing tobacco additive, the manufacturer shall, except as provided in paragraph (3), at least 90 days prior to such action so advise the Secretary in writing.

"(3) Disclosure of other actions.—If at any time a tobacco product manufacturer eliminates or decreases an existing additive, or adds or increases an additive that has by regulation been designated by the Secretary as an additive that is not a human or animal carcinogen, or otherwise harmful to health under intended conditions of use, the manufacturer shall within 60 days of such action so advise the Secretary in writing.

"(d) Data List.—

"(1) In general.—Not later than 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall publish in a format that is understandable and not misleading to a lay person, and place on public display (in a manner determined by the Secretary) the list established under subsection (e).

"(2) Consumer research.—The Secretary shall conduct periodic consumer research to ensure that the list published under paragraph (1) is not misleading to lay persons. Not later than 5 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall submit to the appropriate committees of Congress a report on the results of such research, together with recommendations on whether such publication should be continued or modified.

"(e) Data Collection.—Not later than 12 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a list of harmful and potentially harmful constituents, including smoke constituents, to health in each tobacco product by brand and by quantity in each brand and subbrand. The Secretary shall publish a public notice requesting the submission by interested persons of scientific and other information concerning the harmful and potentially harmful constituents in tobacco products and tobacco smoke.

### "SEC. 905. ANNUAL REGISTRATION.

"(a) Definitions.—In this section:

"(1) Manufacture, preparation, compounding, or processing.—The term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user.

"(2) Name.—The term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

"(b) Registration by Owners and Operators.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

"(c) Registration of New Owners and Operators.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

"(d) Registration of Added Establishments.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

"(e) Uniform Product Identification System.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) shall list such tobacco products in accordance with such system.

"(f) Public Access to Registration Information.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

"(g) Biennial Inspection of Registered Establishments.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by 1 or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

"(h) Foreign Establishments Shall Register.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, shall register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

"(i) Registration Information.—

"(1) Product list.—Every person who registers with the Secretary under subsection (b), (c), (d), or (h) shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

"(A) in the case of a tobacco product contained in the applicable list with respect to which a tobacco product standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

"(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

"(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a tobacco product standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

"(2) Biannual report of any change in product list.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

"(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1). A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

"(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

"(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

"(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

"(j) Report Preceding Introduction of Certain Substantially-Equivalent Products Into Interstate Commerce.—

"(1) In general.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of June 1, 2003, shall, at least 90 days prior to making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall prescribe)—

"(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of June 1, 2003, that is in compliance with the requirements of this Act; and

"(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

"(2) Application to certain post June 1, 2003 products.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after June 1, 2003, and prior to the date that is 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall be submitted to the Secretary not later than 15 months after such date of enactment.

"(3) Exemptions.—

"(A) In general.—The Secretary may by regulation, exempt from the requirements of this subsection tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive, if the Secretary determines that—

"(i) such modification would be a minor modification of a tobacco product authorized for sale under this Act;

"(ii) a report under this subsection is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health; and

"(iii) an exemption is otherwise appropriate.

"(B) Regulations.—Not later than 9 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations to implement this paragraph.

### "SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

"(a) In General.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, section 911, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, section 911, or subsection (d) of this section shall not apply to such tobacco product.

"(b) Information on Public Access and Comment.—Each notice of proposed rulemaking under section 907, 908, 909, 910, or 911 or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

"(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

"(2) the period within which interested persons may present their comments on the notice or findings (including the need therefore) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefore.

"(c) Limited Confidentiality of Information.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 903, 904, 907, 908, 909, 910, 911, or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

"(d) Restrictions.—

"(1) In general.—The Secretary may by regulation require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary determines that such regulation would be appropriate for the protection of the public health. The Secretary may by regulation impose restrictions on the advertising and promotion of a tobacco product consistent with and to full extent permitted by the first amendment to the Constitution. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such regulation may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

"(2) LABEL STATEMENTS.—The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

"(3) LIMITATIONS.—

"(A) IN GENERAL.—No restrictions under paragraph (1) may—

"(i) prohibit the sale of any tobacco product in face-to-face transactions by a specific category of retail outlets; or

"(ii) establish a minimum age of sale of tobacco products to any person older than 18 years of age.

"(B) MATCHBOOKS.—For purposes of any regulations issued by the Secretary, matchbooks of conventional size containing not more than 20 paper matches, and which are customarily given away for free with the purchase of tobacco products shall be considered as adult written publications which shall be permitted to contain advertising. Notwithstanding the preceding sentence, if the Secretary finds that such treatment of matchbooks is not appropriate for the protection of the public health, the Secretary may determine by regulation that matchbooks shall not be considered adult written publications.

"(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

"(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

"(A) IN GENERAL.—The Secretary may, in accordance with subparagraph (B), prescribe regulations (which may differ based on the type of tobacco product involved) requiring that the methods used in, and the facilities and controls used for, the manufacture, preproduction design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter. Good manufacturing practices may include the testing of raw tobacco for pesticide chemical residues regardless of whether a tolerance for such chemical residues has been established.

"(B) REQUIREMENTS.—The Secretary shall—

"(i) before promulgating any regulation under subparagraph (A), afford the Tobacco Products Scientific Advisory Committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

"(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

"(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

"(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities, and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

"(2) EXEMPTIONS; VARIANCES.—

"(A) PETITION.—Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

"(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

"(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

"(iii) contain such other information as the Secretary shall prescribe.

"(B) REFERRAL TO THE TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—The Secretary may refer to the Tobacco Products Scientific Advisory Committee any petition submitted under subparagraph (A). The Tobacco Products Scientific Advisory Committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

"(i) the date the petition was submitted to the Secretary under subparagraph (A); or

"(ii) the day after the petition was referred to the Tobacco Products Scientific Advisory Committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

"(C) APPROVAL.—The Secretary may approve—

"(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

"(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

"(D) CONDITIONS.—An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

"(E) HEARING.—After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

"(3) COMPLIANCE.—Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act.

"(f) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

**"SEC. 907. TOBACCO PRODUCT STANDARDS.**

"(a) IN GENERAL.—

"(1) SPECIAL RULE FOR CIGARETTES.—A cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke. Nothing in this subparagraph shall be construed to limit the Secretary's authority to take action under this section or other sections of this Act applicable to menthol or any artificial or natural flavor, herb, or spice not specified in this paragraph.

"(2) REVISION OF TOBACCO PRODUCT STANDARDS.—The Secretary may revise the tobacco product standards in paragraph (1) in accordance with subsection (b).

"(3) TOBACCO PRODUCT STANDARDS.—The Secretary may adopt tobacco product standards in addition to those in paragraph (1) if the Secretary finds that a tobacco product standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(4) CONTENT OF TOBACCO PRODUCT STANDARDS.—A tobacco product standard established under this section for a tobacco product—

"(A) shall include provisions that are appropriate for the protection of the public health, including provisions, where appropriate—

"(i) for the reduction of nicotine yields of the product;

"(ii) for the reduction or elimination of other constituents, including smoke constituents, or harmful components of the product; or

"(iii) relating to any other requirement under (B);

"(B) shall, where appropriate for the protection of the public health, include—

"(i) provisions respecting the construction, components, ingredients, additives, constituents, including smoke constituents, and properties of the tobacco product;

"(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

"(iii) provisions for the measurement of the tobacco product characteristics of the tobacco product;

"(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and "(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

"(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

"(5) PERIODIC RE-EVALUATION OF TOBACCO PRODUCT STANDARDS.—The Secretary shall provide for periodic evaluation of tobacco product standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (4)(B) by any person.

"(6) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall endeavor to—

"(A) use personnel, facilities, and other technical support available in other Federal agencies;

"(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

"(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, agricultural, or consumer organizations who in the Secretary's judgment can make a significant contribution.

"(b) ESTABLISHMENT OF STANDARDS.—

"(1) NOTICE.—

"(A) IN GENERAL.—The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any tobacco product standard.

"(B) REQUIREMENTS OF NOTICE.—A notice of proposed rulemaking for the establishment or amendment of a tobacco product standard for a tobacco product shall—

"(i) set forth a finding with supporting justification that the tobacco product standard is appropriate for the protection of the public health;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the tobacco product standard is intended to reduce or eliminate; and

"(iii) invite interested persons to submit an existing tobacco product standard for the tobacco product, including a draft or proposed tobacco product standard, for consideration by the Secretary.

"(C) STANDARD.—Upon a determination by the Secretary that an additive, constituent (including smoke constituent), or other component of the product that is the subject of the proposed tobacco product standard is harmful, it shall be the burden of any party challenging the proposed standard to prove that the proposed standard will not reduce or eliminate the risk of illness or injury.

"(D) FINDING.—A notice of proposed rulemaking for the revocation of a tobacco product standard shall set forth a finding with supporting justification that the tobacco product standard is no longer appropriate for the protection of the public health.

"(E) CONSIDERATION BY SECRETARY.—The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the tobacco product standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

"(F) COMMENT.—The Secretary shall provide for a comment period of not less than 60 days.

"(2) PROMULGATION.—

"(A) IN GENERAL.—After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a tobacco product standard and after consideration of such comments and any report from the Tobacco Products Scientific Advisory Committee, the Secretary shall—

"(i) promulgate a regulation establishing a tobacco product standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

"(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

"(B) EFFECTIVE DATE.—A regulation establishing a tobacco product standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before 1 year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

"(3) POWER RESERVED TO CONGRESS.—Because of the importance of a decision of the Secretary to issue a regulation establishing a tobacco product standard—

"(A) banning all cigarettes, all smokeless tobacco products, all little cigars, all cigars other than little cigars, all pipe tobacco, or all roll your own tobacco products; or

"(B) requiring the reduction of nicotine yields of a tobacco product to zero,

Congress expressly reserves to itself such power.

"(4) AMENDMENT; REVOCATION.—

"(A) AUTHORITY.—The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B), amend or revoke a tobacco product standard.

"(B) EFFECTIVE DATE.—The Secretary may declare a proposed amendment of a tobacco product standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

"(5) REFERENCE TO ADVISORY COMMITTEE.—The Secretary may—

"(A) on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a tobacco product standard; or

"(B) upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,

refer such proposed regulation to the Tobacco Products Scientific Advisory Committee, for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this paragraph to the Tobacco Products Scientific Advisory Committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The Tobacco Products Scientific Advisory Committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

**"SEC. 908. NOTIFICATION AND OTHER REMEDIES.**

"(a) NOTIFICATION.—If the Secretary determines that—

"(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

"(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

"(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

"(c) RECALL AUTHORITY.—

"(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

"(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

"(A) IN GENERAL.—If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

“(B) NOTICE.—An amended order under subparagraph (A)—

“(i) shall not include recall of a tobacco product from individuals; and

“(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

“(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

### “SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

“(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

“(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

“(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

“(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

“(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

“(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

“(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

“(b) REPORTS OF REMOVALS AND CORRECTIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

“(A) to reduce a risk to health posed by the tobacco product; or

“(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

“(2) EXCEPTION.—No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a).

### “SEC. 910. APPLICATION FOR REVIEW OF CERTAIN TOBACCO PRODUCTS.

“(a) IN GENERAL.—

“(1) NEW TOBACCO PRODUCT DEFINED.—For purposes of this section the term ‘new tobacco product’ means—

“(A) any tobacco product (including those products in test markets) that was not commercially marketed in the United States as of June 1, 2003; or

“(B) any modification (including a change in design, any component, any part, or any constituent, including a smoke constituent, or in the content, delivery or form of nicotine, or any other additive or ingredient) of a tobacco product where the modified product was commercially marketed in the United States after June 1, 2003.

“(2) PREMARKET APPROVAL REQUIRED.—

“(A) NEW PRODUCTS.—Approval under this section of an application for premarket approval for any new tobacco product is required unless—

“(i) the manufacturer has submitted a report under section 905(j); and

“(ii) the Secretary has issued an order that the tobacco product—

“(I) is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of June 1, 2003; and

“(II)(aa) is in compliance with the requirements of this Act; or

“(bb) is exempt from the requirements of section 905(j) pursuant to a regulation issued under section 905(j)(3).

“(B) APPLICATION TO CERTAIN POST JUNE 1, 2003 PRODUCTS.—Subparagraph (A) shall not apply to a tobacco product—

“(i) that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after June 1, 2003, and prior to the date that is 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act; and

“(ii) for which a report was submitted under section 905(j) within such 15-month period, until the Secretary issues an order that the tobacco product is not substantially equivalent.

“(3) SUBSTANTIALLY EQUIVALENT DEFINED.—

“(A) IN GENERAL.—In this section and section 905(j), the terms ‘substantially equivalent’ or ‘substantial equivalence’ mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

“(i) has the same characteristics as the predicate tobacco product; or

“(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

“(B) CHARACTERISTICS.—In subparagraph (A), the term ‘characteristics’ means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

“(C) LIMITATION.—A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

“(4) HEALTH INFORMATION.—

“(A) SUMMARY.—As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

“(B) REQUIRED INFORMATION.—Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

“(b) APPLICATION.—

“(1) CONTENTS.—An application for premarket approval shall contain—

“(A) full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

“(B) a full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such tobacco product;

“(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

“(D) an identifying reference to any tobacco product standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such tobacco product standard or adequate information to justify any deviation from such standard;

“(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

“(F) specimens of the labeling proposed to be used for such tobacco product; and

“(G) such other information relevant to the subject matter of the application as the Secretary may require.

“(2) REFERENCE TO TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

"(A) may, on the Secretary's own initiative; or

"(B) may, upon the request of an applicant, refer such application to the Tobacco Products Scientific Advisory Committee for reference and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

"(c) Action on Application.—

"(1) Deadline.—

"(A) In general.—As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b), the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

"(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

"(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that 1 or more grounds for denial specified in paragraph (2) of this subsection apply.

"(B) Restrictions on sale and distribution.—An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

"(2) Denial of approval.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

"(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

"(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

"(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

"(D) such tobacco product is not shown to conform in all respects to a tobacco product standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

"(3) Denial information.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with 1 or more protocols prescribed by the Secretary).

"(4) Basis for finding.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and nonusers of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(5) Basis for action.—

"(A) Investigations.—For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include 1 or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

"(B) Other evidence.—If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

"(d) Withdrawal and Temporary Suspension.—

"(1) In general.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

"(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

"(B) that the application contained or was accompanied by an untrue statement of a material fact;

"(C) that the applicant—

"(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

"(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

"(iii) has not complied with the requirements of section 905;

"(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

"(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

"(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a tobacco product standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

"(2) Appeal.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the 30th day after the date upon which such holder receives notice of such withdrawal, obtain review thereof in accordance with subsection (e).

"(3) Temporary suspension.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

"(e) Service of Order.—An order issued by the Secretary under this section shall be served—

"(1) in person by any officer or employee of the department designated by the Secretary; or

"(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

"(f) Records.—

"(1) Additional information.—In the case of any tobacco product for which an approval of an application filed under subsection (b) is in effect, the applicant shall establish and maintain such records, and make such reports to the Secretary, as the Secretary may by regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination of, whether there is or may be grounds for withdrawing or temporarily suspending such approval.

"(2) Access to records.—Each person required under this section to maintain records, and each person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(g) Investigational Tobacco Product Exemption for Investigational Use.—The Secretary may exempt tobacco products intended for investigational use from the provisions of this chapter under such conditions as the Secretary may by regulation prescribe.

**"SEC. 911. MODIFIED RISK TOBACCO PRODUCTS.**

"(a) In General.—No person may introduce or deliver for introduction into interstate commerce any modified risk tobacco product unless approval of an application filed pursuant to subsection (d) is effective with respect to such product.

"(b) Definitions.—In this section:

"(1) Modified risk tobacco product.—The term 'modified risk tobacco product' means any tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.

"(2) Sold or distributed.—

"(A) In general.—With respect to a tobacco product, the term 'sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products' means a tobacco product—

“(A) the label, labeling, or advertising of which represents explicitly or implicitly that—

“(I) the tobacco product presents a lower risk of tobacco-related disease or is less harmful than one or more other commercially marketed tobacco products;

“(II) the tobacco product or its smoke contains a reduced level of a substance or presents a reduced exposure to a substance; or

“(III) the tobacco product or its smoke does not contain or is free of a substance;

“(ii) the label, labeling, or advertising of which uses the descriptors 'light', 'mild', or 'low' or similar descriptors; or

“(iii) the tobacco product manufacturer of which has taken any action directed to consumers through the media or otherwise, other than by means of the tobacco product's label, labeling or advertising, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, respecting the product that would be reasonably expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

“(B) Limitation.—No tobacco product shall be considered to be 'sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products', except as described in subparagraph (A).

“(c) Tobacco Dependence Products.—A product that is intended to be used for the treatment of tobacco dependence, including smoking cessation, is not a modified risk tobacco product under this section and is subject to the requirements of chapter V.

“(d) Filing.—Any person may file with the Secretary an application for a modified risk tobacco product. Such application shall include—

“(1) a description of the proposed product and any proposed advertising and labeling;

“(2) the conditions for using the product;

“(3) the formulation of the product;

“(4) sample product labels and labeling;

“(5) all documents (including underlying scientific information) relating to research findings conducted, supported, or possessed by the tobacco product manufacturer relating to the effect of the product on tobacco related diseases and health-related conditions, including information both favorable and unfavorable to the ability of the product to reduce risk or exposure and relating to human health;

“(6) data and information on how consumers actually use the tobacco product; and

“(7) such other information as the Secretary may require.

“(e) Public Availability.—The Secretary shall make the application described in subsection (d) publicly available (except matters in the application which are trade secrets or otherwise confidential, commercial information) and shall request comments by interested persons on the information contained in the application and on the label, labeling, and advertising accompanying such application.

“(f) Advisory Committee.—

“(1) In general.—The Secretary shall refer to an advisory committee any application submitted under this subsection.

“(2) Recommendations.—Not later than 60 days after the date an application is referred to an advisory committee under paragraph (1), the advisory committee shall report its recommendations on the application to the Secretary.

“(g) Approval.—

“(1) Modified risk products.—Except as provided in paragraph (2), the Secretary shall approve an application for a modified risk tobacco product filed under this section only if the Secretary determines that the applicant has demonstrated that such product, as it is actually used by consumers, will—

“(A) significantly reduce harm and the risk of tobacco-related disease to individual tobacco users; and

“(B) benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

“(2) Special rule for certain products.—

“(A) In general.—The Secretary may approve an application for a tobacco product that has not been approved as a modified risk tobacco product pursuant to paragraph (1) if the Secretary makes the findings required under this paragraph and determines that the applicant has demonstrated that—

“(i) the approval of the application would be appropriate to promote the public health;

“(ii) any aspect of the label, labeling, and advertising for such product that would cause the tobacco product to be a modified risk tobacco product under subsection (b)(2) is limited to an explicit or implicit representation that such tobacco product or its smoke contains or is free of a substance or contains a reduced level of a substance, or presents a reduced exposure to a substance in tobacco smoke.

“(iii) scientific evidence is not available and, using the best available scientific methods, cannot be made available without conducting long-term epidemiological studies for an application to meet the standards set forth in paragraph (1); and

“(iv) the scientific evidence that is available without conducting long-term epidemiological studies demonstrates that a measurable and substantial reduction in morbidity or mortality among individual tobacco users is anticipated in subsequent studies.

“(B) Additional findings required.—In order to approve an application under subparagraph (A) the Secretary must also find that the applicant has demonstrated that—

“(i) the magnitude of the overall reductions in exposure to the substance or substances which are the subject of the application is substantial, such substance or substances are harmful, and the product as actually used exposes consumers to the specified reduced level of the substance or substances;

“(ii) the product as actually used by consumers will not expose them to higher levels of other harmful substances compared to the similar types of tobacco products then on the market unless such increases are minimal and the anticipated overall impact of use of the product remains a substantial and measurable reduction in overall morbidity and mortality among individual tobacco users;

“(iii) testing of actual consumer perception shows that, as the applicant proposes to label and market the product, consumers will not be misled into believing that the product—

“(I) is or has been demonstrated to be less harmful; or

“(II) presents or has been demonstrated to present less of a risk of disease than 1 or more other commercially marketed tobacco products; and

“(iv) approval of the application is expected to benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

“(C) Conditions of approval.—

“(i) In general.—Applications approved under this paragraph shall be limited to a term of not more than 5 years, but may be renewed upon a finding by the Secretary that the requirements of this paragraph continue to be satisfied based on the filing of a new application.

“(ii) Agreements by applicant.—Applications approved under this paragraph shall be conditioned on the applicant's agreement to conduct post-market surveillance and studies and to submit to the Secretary the results of such surveillance and studies to determine the impact of the application approval on consumer perception, behavior, and health and to enable the Secretary to review the accuracy of the determinations upon which the approval was based in accordance with a protocol approved by the Secretary.

“(iii) Annual submission.—The results of such post-market surveillance and studies described in clause (ii) shall be submitted annually.

“(3) Basis.—The determinations under paragraphs (1) and (2) shall be based on—

“(A) the scientific evidence submitted by the applicant; and

“(B) scientific evidence and other information that is available to the Secretary.

“(4) Benefit to health of individuals and of population as a whole.—In making the determinations under paragraphs (1) and (2), the Secretary shall take into account—

“(A) the relative health risks to individuals of the tobacco product that is the subject of the application;

“(B) the increased or decreased likelihood that existing users of tobacco products who would otherwise stop using such products will switch to the tobacco product that is the subject of the application;

“(C) the increased or decreased likelihood that persons who do not use tobacco products will start using the tobacco product that is the subject of the application;

“(D) the risks and benefits to persons from the use of the tobacco product that is the subject of the application as compared to the use of products for smoking cessation approved under chapter V to treat nicotine dependence; and

“(E) comments, data, and information submitted by interested persons.

“(h) Additional Conditions for Approval.—

“(1) Modified risk products.—The Secretary shall require for the approval of an application under this section that any advertising or labeling concerning modified risk products enable the public to comprehend the information concerning modified risk and to understand the relative significance of such information in the context of total health and in relation to all of the diseases and health-related conditions associated with the use of tobacco products.

“(2) Comparative claims.—

“(A) In general.—The Secretary may require for the approval of an application under this subsection that a claim comparing a tobacco product to 1 or more other commercially marketed tobacco products shall compare the tobacco product to a commercially marketed tobacco product that is representative of that type of tobacco product on the market (for example the average value of the top 3 brands of an established regular tobacco product).

"(B) Quantitative comparisons.—The Secretary may also require, for purposes of subparagraph (A), that the percent (or fraction) of change and identity of the reference tobacco product and a quantitative comparison of the amount of the substance claimed to be reduced shall be stated in immediate proximity to the most prominent claim.

"(3) Label disclosure.—

"(A) In general.—The Secretary may require the disclosure on the label of other substances in the tobacco product, or substances that may be produced by the consumption of that tobacco product, that may affect a disease or health-related condition or may increase the risk of other diseases or health-related conditions associated with the use of tobacco products.

"(B) Conditions of use.—If the conditions of use of the tobacco product may affect the risk of the product to human health, the Secretary may require the labeling of conditions of use.

"(4) Time.—The Secretary shall limit an approval under subsection (g)(1) for a specified period of time.

"(5) Advertising.—The Secretary may require that an applicant, whose application has been approved under this subsection, comply with requirements relating to advertising and promotion of the tobacco product.

"(i) Postmarket Surveillance and Studies.—

"(1) In general.—The Secretary shall require that an applicant under subsection (g)(1) conduct post market surveillance and studies for a tobacco product for which an application has been approved to determine the impact of the application approval on consumer perception, behavior, and health, to enable the Secretary to review the accuracy of the determinations upon which the approval was based, and to provide information that the Secretary determines is otherwise necessary regarding the use or health risks involving the tobacco product. The results of post-market surveillance and studies shall be submitted to the Secretary on an annual basis.

"(2) Surveillance protocol.—Each applicant required to conduct a surveillance of a tobacco product under paragraph (1) shall, within 30 days after receiving notice that the applicant is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of the data or other information designated by the Secretary as necessary to protect the public health.

"(j) Withdrawal of Approval.—The Secretary, after an opportunity for an informal hearing, shall withdraw the approval of an application under this section if the Secretary determines that—

"(1) the applicant, based on new information, can no longer make the demonstrations required under subsection (g), or the Secretary can no longer make the determinations required under subsection (g);

"(2) the application failed to include material information or included any untrue statement of material fact;

"(3) any explicit or implicit representation that the product reduces risk or exposure is no longer valid, including if—

"(A) a tobacco product standard is established pursuant to section 907;

"(B) an action is taken that affects the risks presented by other commercially marketed tobacco products that were compared to the product that is the subject of the application; or

"(C) any postmarket surveillance or studies reveal that the approval of the application is no longer consistent with the protection of the public health;

"(4) the applicant failed to conduct or submit the postmarket surveillance and studies required under subsection (g)(2)(C)(ii) or (i); or

"(5) the applicant failed to meet a condition imposed under subsection (h).

"(k) Chapter IV or V.—A product approved in accordance with this section shall not be subject to chapter IV or V.

"(l) Implementing Regulations or Guidance.—

"(1) Scientific evidence.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations or guidance (or any combination thereof) on the scientific evidence required for assessment and ongoing review of modified risk tobacco products. Such regulations or guidance shall—

"(A) establish minimum standards for scientific studies needed prior to approval to show that a substantial reduction in morbidity or mortality among individual tobacco users is likely;

"(B) include validated biomarkers, intermediate clinical endpoints, and other feasible outcome measures, as appropriate;

"(C) establish minimum standards for post market studies, that shall include regular and long-term assessments of health outcomes and mortality, intermediate clinical endpoints, consumer perception of harm reduction, and the impact on quitting behavior and new use of tobacco products, as appropriate;

"(D) establish minimum standards for required postmarket surveillance, including ongoing assessments of consumer perception; and

"(E) require that data from the required studies and surveillance be made available to the Secretary prior to the decision on renewal of a modified risk tobacco product.

"(2) Consultation.—The regulations or guidance issued under paragraph (1) shall be developed in consultation with the Institute of Medicine, and with the input of other appropriate scientific and medical experts, on the design and conduct of such studies and surveillance.

"(3) Revision.—The regulations or guidance under paragraph (1) shall be revised on a regular basis as new scientific information becomes available.

"(4) New tobacco products.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue a regulation or guidance that permits the filing of a single application for any tobacco product that is a new tobacco product under section 910 and for which the applicant seeks approval as a modified risk tobacco product under this section.

"(m) Distributors.—No distributor may take any action, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, with respect to a tobacco product that would reasonably be expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

### "SEC. 912. JUDICIAL REVIEW.

"(a) Right To Review.—

"(1) In general.—Not later than 30 days after—

"(A) the promulgation of a regulation under section 907 establishing, amending, or revoking a tobacco product standard; or

"(B) a denial of an application for approval under section 910(c),

any person adversely affected by such regulation or denial may file a petition for judicial review of such regulation or denial with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has their principal place of business.

"(2) Requirements.—

"(A) Copy of petition.—A copy of the petition filed under paragraph (1) shall be transmitted by the clerk of the court involved to the Secretary.

"(B) Record of proceedings.—On receipt of a petition under subparagraph (A), the Secretary shall file in the court in which such petition was filed—

"(i) the record of the proceedings on which the regulation or order was based; and

"(ii) a statement of the reasons for the issuance of such a regulation or order.

"(C) Definition of record.—In this section, the term 'record' means—

"(i) all notices and other matter published in the Federal Register with respect to the regulation or order reviewed;

"(ii) all information submitted to the Secretary with respect to such regulation or order;

"(iii) proceedings of any panel or advisory committee with respect to such regulation or order;

"(iv) any hearing held with respect to such regulation or order; and

"(v) any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

"(b) Standard of Review.—Upon the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided for in such chapter. A regulation or denial described in subsection (a) shall be reviewed in accordance with section 706(2)(A) of title 5, United States Code.

"(c) Finality of Judgment.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(d) Other Remedies.—The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

"(e) Regulations and Orders Must Recite Basis in Record.—To facilitate judicial review, a regulation or order issued under section 906, 907, 908, 909, 910, or 916 shall contain a statement of the reasons for the issuance of such regulation or order in the record of the proceedings held in connection with its issuance.

### "SEC. 913. EQUAL TREATMENT OF RETAIL OUTLETS.

"The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

### "SEC. 914. JURISDICTION OF AND COORDINATION WITH THE FEDERAL TRADE COMMISSION.

"(a) JURISDICTION.—

"(1) IN GENERAL.—Except where expressly provided in this chapter, nothing in this chapter shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

"(2) ENFORCEMENT.—Any advertising that violates this chapter or a provision of the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act, is an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) and shall be considered a violation of a rule promulgated under section 18 of that Act (15 U.S.C. 57a).

"(b) COORDINATION.—With respect to the requirements of section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402)—

"(1) the Chairman of the Federal Trade Commission shall coordinate with the Secretary concerning the enforcement of such Act as such enforcement relates to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco; and

"(2) the Secretary shall consult with the Chairman of such Commission in revising the label statements and requirements under such sections.

### "SEC. 915. CONGRESSIONAL REVIEW PROVISIONS.

"In accordance with section 801 of title 5, United States Code, Congress shall review, and may disapprove, any rule under this chapter that is subject to section 801. This section and section 801 do not apply to the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act.

### "SEC. 916. REGULATION REQUIREMENT.

"(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary, acting through the Commissioner of the Food and Drug Administration, shall promulgate regulations under this Act that meet the requirements of subsection (b).

"(b) CONTENTS OF RULES.—The regulations promulgated under subsection (a) shall require testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, by brand and sub-brand that the Secretary determines should be tested to protect the public health. The regulations may require that tobacco product manufacturers, packagers, or importers make disclosures relating to the results of the testing of tar and nicotine through labels or advertising or other appropriate means, and make disclosures regarding the results of the testing of other constituents, including smoke constituents, ingredients, or additives, that the Secretary determines should be disclosed to the public to protect the public health and will not mislead consumers about the risk of tobacco related disease.

"(c) AUTHORITY.—The Food and Drug Administration shall have the authority under this chapter to conduct or to require the testing, reporting, or disclosure of tobacco product constituents, including smoke constituents.

### "SEC. 917. PRESERVATION OF STATE AND LOCAL AUTHORITY.

"(a) IN GENERAL.—

"(1) PRESERVATION.—Nothing in this chapter, or rules promulgated under this chapter, shall be construed to limit the authority of a Federal agency (including the Armed Forces), a State or political subdivision of a State, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products that is in addition to, or more stringent than, requirements established under this chapter, including a law, rule, regulation, or other measure relating to or prohibiting the sale, distribution, possession, exposure to, access to, advertising and promotion of, or use of tobacco products by individuals of any age, information reporting to the State, or measures relating to fire safety standards for tobacco products. No provision of this chapter shall limit or otherwise affect any State, Tribal, or local taxation of tobacco products.

"(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in paragraph (1) and subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement under the provisions of this chapter relating to tobacco product standards, premarket approval, adulteration, misbranding, labeling, registration, good manufacturing standards, or reduced risk products.

"(B) EXCEPTION.—Subparagraph (A) does not apply to requirements relating to the sale, distribution, possession, information reporting to the State, exposure to, access to, the advertising and promotion of, or use of, tobacco products by individuals of any age, or relating to fire safety standards for tobacco products. Information disclosed to a State under subparagraph (A) that is exempt from disclosure under section 554(b)(4) of title 5, United States Code, shall be treated as trade secret and confidential information by the State.

"(b) RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

### "SEC. 918. TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.

"(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a 11-member advisory committee, to be known as the 'Tobacco Products Scientific Advisory Committee'.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—

"(A) MEMBERS.—The Secretary shall appoint as members of the Tobacco Products Scientific Advisory Committee individuals who are technically qualified by training and experience in the medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products, who are of appropriately diversified professional backgrounds. The committee shall be composed of—

"(i) 7 individuals who are physicians, dentists, scientists, or health care professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty;

"(ii) 1 individual who is an officer or employee of a State or local government or of the Federal Government;

"(iii) 1 individual as a representative of the general public;

"(iv) 1 individual as a representative of the interests in the tobacco manufacturing industry; and

"(v) 1 individual as a representative of the interests of the tobacco growers.

"(B) NONVOTING MEMBERS.—The members of the committee appointed under clauses (iv) and (v) of subparagraph (A) shall serve as consultants to those described in clauses (i) through (iii) of subparagraph (A) and shall be nonvoting representatives.

"(2) LIMITATION.—The Secretary may not appoint to the Advisory Committee any individual who is in the regular full-time employ of the Food and Drug Administration or any agency responsible for the enforcement of this Act. The Secretary may appoint Federal officials as ex officio members.

"(3) CHAIRPERSON.—The Secretary shall designate 1 of the members of the Advisory Committee to serve as chairperson.

"(c) DUTIES.—The Tobacco Products Scientific Advisory Committee shall provide advice, information, and recommendations to the Secretary—

"(1) as provided in this chapter;

"(2) on the effects of the alteration of the nicotine yields from tobacco products;

"(3) on whether there is a threshold level below which nicotine yields do not produce dependence on the tobacco product involved; and

"(4) on its review of other safety, dependence, or health issues relating to tobacco products as requested by the Secretary.

"(d) COMPENSATION; SUPPORT; FACA.—

"(1) COMPENSATION AND TRAVEL.—Members of the Advisory Committee who are not officers or employees of the United States, while attending conferences or meetings of the committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, which may not exceed the daily equivalent of the rate in effect for level 4 of the Senior Executive Schedule under section 5382 of title 5, United States Code, for each day (including travel time) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) ADMINISTRATIVE SUPPORT.—The Secretary shall furnish the Advisory Committee clerical and other assistance.

"(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C.

App.) does not apply to the Advisory Committee.

"(e) PROCEEDINGS OF ADVISORY PANELS AND COMMITTEES.—The Advisory Committee shall make and maintain a transcript of any proceeding of the panel or committee. Each such panel and committee shall delete from any transcript made under this subsection information which is exempt from disclosure under section 552(b) of title 5, United States Code.

### "SEC. 919. DRUG PRODUCTS USED TO TREAT TOBACCO DEPENDENCE.

The Secretary shall consider—

"(1) at the request of the applicant, designating nicotine replacement products as fast track research and approval products within the meaning of section 506;

"(2) direct the Commissioner to consider approving the extended use of nicotine replacement products (such as nicotine patches, nicotine gum, and nicotine lozenges) for the treatment of tobacco dependence;

"(3) review and consider the evidence for additional indications for nicotine replacement products, such as for craving relief or relapse prevention; and

"(4) consider—

"(A) relieving companies of premarket burdens under section 505 if the requirement is redundant considering other nicotine replacement therapies already on the market; and

"(B) time and extent applications for nicotine replacement therapies that have been approved by a regulatory body in a foreign country and have marketing experience in such country.

**"SEC. 920. USER FEE.**

"(a) Establishment of Quarterly User Fee.—The Secretary shall assess a quarterly user fee with respect to every quarter of each fiscal year commencing fiscal year 2004, calculated in accordance with this section, upon each manufacturer and importer of tobacco products subject to this chapter.

"(b) Funding of FDA Regulation of Tobacco Products.—The Secretary shall make user fees collected pursuant to this section available to pay, in each fiscal year, for the costs of the activities of the Food and Drug Administration related to the regulation of tobacco products under this chapter.

"(c) Assessment of User Fee.—

"(1) Amount of assessment.—Except as provided in paragraph (4), the total user fees assessed each year pursuant to this section shall be sufficient, and shall not exceed what is necessary, to pay for the costs of the activities described in subsection (b) for each fiscal year.

"(2) Allocation of assessment by class of tobacco products.—

"(A) In general.—Subject to paragraph (3), the total user fees assessed each fiscal year with respect to each class of importers and manufacturers shall be equal to an amount that is the applicable percentage of the total costs of activities of the Food and Drug Administration described in subsection (b).

"(B) Applicable percentage.—For purposes of subparagraph (A) the applicable percentage for a fiscal year shall be the following:

"(i) 92.07 percent shall be assessed on manufacturers and importers of cigarettes;

"(ii) 0.05 percent shall be assessed on manufacturers and importers of little cigars;

"(iii) 7.15 percent shall be assessed on manufacturers and importers of cigars other than little cigars;

"(iv) 0.43 percent shall be assessed on manufacturers and importers of snuff;

"(v) 0.10 percent shall be assessed on manufacturers and importers of chewing tobacco;

"(vi) 0.06 percent shall be assessed on manufacturers and importers of pipe tobacco; and

"(vii) 0.14 percent shall be assessed on manufacturers and importers of roll-your-own tobacco.

"(3) Distribution of fee shares of manufacturers and importers exempt from user fee.—Where a class of tobacco products is not subject to a user fee under this section, the portion of the user fee assigned to such class under subsection (d)(2) shall be allocated by the Secretary on a pro rata basis among the classes of tobacco products that are subject to a user fee under this section. Such pro rata allocation for each class of tobacco products that are subject to a user fee under this section shall be the quotient of—

"(A) the sum of the percentages assigned to all classes of tobacco products subject to this section; divided by

"(B) the percentage assigned to such class under paragraph (2).

"(4) Annual limit on assessment.—The total assessment under this section—

"(A) for fiscal year 2004 shall be $85,000,000;

"(B) for fiscal year 2005 shall be $175,000,000;

"(C) for fiscal year 2006 shall be $300,000,000; and

"(D) for each subsequent fiscal year, shall not exceed the limit on the assessment imposed during the previous fiscal year, as adjusted by the Secretary (after notice, published in the Federal Register) to reflect the greater of—

"(i) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending on June 30 of the preceding fiscal year for which fees are being established; or

"(ii) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

"(5) Timing of user fee assessment.—The Secretary shall notify each manufacturer and importer of tobacco products subject to this section of the amount of the quarterly assessment imposed on such manufacturer or importer under subsection (f) during each quarter of each fiscal year. Such notifications shall occur not earlier than 3 months prior to the end of the quarter for which such assessment is made, and payments of all assessments shall be made not later than 60 days after each such notification.

"(d) Determination of User Fee by Company Market Share.—

"(1) In general.—The user fee to be paid by each manufacturer or importer of a given class of tobacco products shall be determined in each quarter by multiplying—

"(A) such manufacturer's or importer's market share of such class of tobacco products; by

"(B) the portion of the user fee amount for the current quarter to be assessed on manufacturers and importers of such class of tobacco products as determined under subsection (e).

"(2) No fee in excess of market share.—No manufacturer or importer of tobacco products shall be required to pay a user fee in excess of the market share of such manufacturer or importer.

"(e) Determination of Volume of Domestic Sales.—

"(1) In general.—The calculation of gross domestic volume of a class of tobacco product by a manufacturer or importer, and by all manufacturers and importers as a group, shall be made by the Secretary using information provided by manufacturers and importers pursuant to subsection (f), as well as any other relevant information provided to or obtained by the Secretary.

"(2) Measurement.—For purposes of the calculations under this subsection and the information provided under subsection (f) by the Secretary, gross domestic volume shall be measured by—

"(A) in the case of cigarettes, the number of cigarettes sold;

"(B) in the case of little cigars, the number of little cigars sold;

"(C) in the case of large cigars, the number of cigars weighing more than 3 pounds per thousand sold; and

"(D) in the case of other classes of tobacco products, in terms of number of pounds, or fraction thereof, of these products sold.

"(f) Measurement of Gross Domestic Volume.—

"(1) In general.—Each manufacturer and importer of tobacco products shall submit to the Secretary a certified copy of each of the returns or forms described by this paragraph that are required to be filed with a Government agency on the same date that those returns or forms are filed, or required to be filed, with such agency. The returns and forms described by this paragraph are those returns and forms related to the release of tobacco products into domestic commerce, as defined by section 5702(k) of the Internal Revenue Code of 1986, and the repayment of the taxes imposed under chapter 52 of such Code (ATF Form 500.24 and United States Customs Form 7501 under currently applicable regulations).

"(2) Penalties.—Any person that knowingly fails to provide information required under this subsection or that provides false information under this subsection shall be subject to the penalties described in section 1003 of title 18, United States Code. In addition, such person may be subject to a civil penalty in an amount not to exceed 2 percent of the value of the kind of tobacco products manufactured or imported by such person during the applicable quarter, as determined by the Secretary.

"(h) Effective Date.—The user fees prescribed by this section shall be assessed in fiscal year 2004, based on domestic sales of tobacco products during fiscal year 2003 and shall be assessed in each fiscal year thereafter.".

**SEC. 102. INTERIM FINAL RULE.**

(a) Cigarettes and Smokeless Tobacco.—

(1) In general.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register an interim final rule regarding cigarettes and smokeless tobacco, which is hereby deemed to be in compliance with the Administrative Procedures Act and other applicable law.

(2) Contents of rule.—Except as provided in this subsection, the interim final rule published under paragraph (1), shall be identical in its provisions to part 897 of the regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg., 44615–44618). Such rule shall—

(A) provide for the designation of jurisdictional authority that is in accordance with this subsection;

(B) strike Subpart C—Labeling and section 897.32(c); and

(C) become effective not later than 1 year after the date of enactment of this Act.

(3) Amendments to rule.—Prior to making amendments to the rule published under paragraph (1), the Secretary shall promulgate a proposed rule in accordance with the Administrative Procedures Act.

(4) Rule of construction.—Except as provided in paragraph (3), nothing in this section shall be construed to limit the authority of the Secretary to amend, in accordance with the Administrative Procedures Act, the regulation promulgated pursuant to this section.

(b) Limitation on Advisory Opinions.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary of Health and Human Services or the Food and Drug Administration as binding precedent:

(1) The preamble to the proposed rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents" (60 Fed. Reg. 41314–41372 (August 11, 1995)).

(2) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act" (60 Fed. Reg. 41453–41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (61 Fed. Reg. 44396–44615 (August 28, 1996)).

(4) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination" (61 Fed. Reg. 44619–45318 (August 28, 1996)).

**SEC. 103. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.**

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) in subsection (a), by inserting "tobacco product," after "device,";

(2) in subsection (b), by inserting "tobacco product," after "device,";

(3) in subsection (c), by inserting "tobacco product," after "device,";

(4) in subsection (e), by striking "515(f), or 519" and inserting "515(f), 519, or 909";

(5) in subsection (g), by inserting "tobacco product," after "device,";

(6) in subsection (h), by inserting "tobacco product," after "device,";

(7) in subsection (j), by striking "708, or 721" and inserting "708, 721, 904, 905, 906, 907, 908, 909, or section 921(b)";

(8) in subsection (k), by inserting "tobacco product," after "device,";

(9) by striking subsection (p) and inserting the following:

"(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(i)(2).";

(10) by striking subsection (q)(1) and inserting the following:

"(q)(1) The failure or refusal—

"(A) to comply with any requirement prescribed under section 518, 520(g), 903(b)(8), or 908, or condition prescribed under section 903(b)(6)(B)(ii)(II);

"(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 909, or section 921; or

"(C) to comply with a requirement under section 522 or 913.";

(11) in subsection (q)(2), by striking "device," and inserting "device or tobacco product,";

(12) in subsection (r), by inserting "or tobacco product" after "device" each time that it appears; and

(13) by adding at the end the following:

"(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).

"(bb) The introduction or delivery for introduction into interstate commerce of a tobacco product in violation of section 911.

"(cc)(1) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp (including tax stamp), tag, label, or other identification device upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

"(2) Making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other item that is designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

"(3) The doing of any act that causes a tobacco product to be a counterfeit tobacco product, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit tobacco product.

"(dd) The charitable distribution of tobacco products.

"(ee) The failure of a manufacturer or distributor to notify the Attorney General of their knowledge of tobacco products used in illicit trade.".

(c) SECTION 303.—Section 303 (21 U.S.C. 333(f)) is amended in subsection (f)—

(1) by striking the subsection heading and inserting the following:

"(f) CIVIL PENALTIES; NO-TOBACCO-SALE ORDERS.—";

(2) in paragraph (1)(A), by inserting "or tobacco products" after "devices";

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

"(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).";

(4) in paragraph (4) as so redesignated—

(A) in subparagraph (A)—

(i) by striking "assessed" the first time it appears and inserting "assessed, or a no-tobacco-sale order may be imposed,"; and

(ii) by striking "penalty" and inserting "penalty, or upon whom a no-tobacco-order is to be imposed,";

(B) in subparagraph (B)—

(i) by inserting after "penalty," the following: "or the period to be covered by a no-tobacco-sale order,"; and

(ii) by adding at the end the following: "A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order."; and

(C) by adding at the end, the following:

"(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.";

(5) in paragraph (5) as so redesignated—

(A) by striking "(3)(A)" as redesignated, and inserting "(4)(A)";

(B) by inserting "or the imposition of a no-tobacco-sale order" after "penalty" the first 2 places it appears; and

(C) by striking "issued." and inserting "issued, or on which the no-tobacco-sale order was imposed, as the case may be."; and

(6) in paragraph (6), as so redesignated, by striking "paragraph (4)" each place it appears and inserting "paragraph (5)".

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) in subsection (a)(2)—

(A) by striking "and" before "(D)"; and

(B) by striking "device." and inserting the following: ", (E) Any adulterated or misbranded tobacco product.";

(2) in subsection (d)(1), by inserting "tobacco product," after "device,";

(3) in subsection (g)(1), by inserting "or tobacco product" after "device" each place it appears; and

(4) in subsection (g)(2)(A), by inserting "or tobacco product" after "device" each place it appears.

(e) SECTION 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.".

(f) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting "tobacco product," after "device," each place it appears; and

(2) by inserting "tobacco products," after "devices," each place it appears.

(g) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) in subsection (a)(1)(A), by inserting "tobacco products," after "devices," each place it appears;

(2) in subsection (a)(1)(B), by inserting "or tobacco product" after "restricted devices" each place it appears; and

(3) in subsection (b), by inserting "tobacco product," after "device,".

(h) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting "tobacco products," after "devices,".

(i) SECTION 709.—Section 709 (21 U.S.C. 379) is amended by inserting "or tobacco product" after "device".

(j) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (a)—

(A) by inserting "tobacco products," after "devices," the first time it appears;

(B) by inserting "or section 905(j)" after "section 510"; and

(C) by striking "drugs or devices" each time it appears and inserting "drugs, devices, or tobacco products";

(2) in subsection (e)(1), by inserting "tobacco product," after "device,"; and

(3) by adding at the end the following:

"(p)(1) Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report regarding—

"(A) the nature, extent, and destination of United States tobacco product exports that do not conform to tobacco product standards established pursuant to this Act;

"(B) the public health implications of such exports, including any evidence of a negative public health impact; and

“(C) recommendations or assessments of policy alternatives available to Congress and the Executive Branch to reduce any negative public health impact caused by such exports.

“(2) The Secretary is authorized to establish appropriate information disclosure requirements to carry out this subsection.”.

(k) Section 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking “and” after “cosmetics,”; and

(2) inserting a comma and “and tobacco products” after “devices”.

(l) Effective Date for No-Tobacco-Sale Order Amendments.—The amendments made by subsection (c), other than the amendment made by paragraph (2) of such subsection, shall take effect upon the issuance of guidance by the Secretary of Health and Human Services—

(1) defining the term “repeated violation”, as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time at a particular retail outlet that constitute a repeated violation;

(2) providing for timely and effective notice to the retailer of each alleged violation at a particular retail outlet and an expedited procedure for the administrative appeal of an alleged violation;

(3) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not be considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on the presentation of a false government issued photographic identification that contains the bearer's date of birth does not constitute a violation of any minimum age requirement for the sale of tobacco products if the retailer has taken effective steps to prevent such violations, including—

(A) adopting and enforcing a written policy against sales to minors;

(B) informing its employees of all applicable laws;

(C) establishing disciplinary sanctions for employee noncompliance; and

(D) requiring its employees to verify age by way of photographic identification or electronic scanning device.

### TITLE II—TOBACCO PRODUCT WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE

### SEC. 201. CIGARETTE LABEL AND ADVERTISING WARNINGS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

**“SEC. 4. LABELING.**

“(a) Label Requirements.—

“(1) In general.—It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

‘WARNING: Cigarettes are addictive’.

‘WARNING: Tobacco smoke can harm your children’.

‘WARNING: Cigarettes cause fatal lung disease’.

‘WARNING: Cigarettes cause cancer’.

‘WARNING: Cigarettes cause strokes and heart disease’.

‘WARNING: Smoking during pregnancy can harm your baby’.

‘WARNING: Smoking can kill you’.

‘WARNING: Tobacco smoke causes fatal lung disease in non-smokers’.

‘WARNING: Quitting smoking now greatly reduces serious risks to your health’.

“(2) Placement; typography; etc.—

“(A) In general.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 30 percent of the front and rear panels of the package. The word ‘WARNING’ shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

“(B) Flip-top boxes.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

“(3) Does not apply to foreign distribution.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

“(4) Applicability to retailers.—A retailer of cigarettes shall not be in violation of this subsection for packaging that is supplied to the retailer by a tobacco product manufacturer, importer, or distributor and is not altered by the retailer in a way that is material to the requirements of this subsection except that this paragraph shall not relieve a retailer of liability if the retailer sells or distributes tobacco products that are not labeled in accordance with this subsection.

“(b) Advertising Requirements.—

“(1) In general.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

“(2). Typography, etc.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent (including a smoke constituent) yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word ‘WARNING’ shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital ‘W’ of the word ‘WARNING’ in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

“(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

“(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

“(3) Matchbooks.—Notwithstanding paragraph (2), for matchbooks (defined as containing not more than 20 matches) customarily given away with the purchase of tobacco products, each label statement required by subsection (a) may be printed on the inside cover of the matchbook.

“(4) Adjustment by Secretary.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent (including smoke constituent) disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

“(5) Marketing requirements.—

“(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(6) APPLICABILITY TO RETAILERS.—This subsection applies to a retailer only if that retailer is responsible for or directs the label statements required under this section except that this paragraph shall not relieve a retailer of liability if the retailer displays, in a location open to the public, an advertisement that is not labeled in accordance with the requirements of this subsection.".

### SEC. 202. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 201, is further amended by adding at the end the following:

"(c) CHANGE IN REQUIRED STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of tobacco products.".

### SEC. 203. STATE REGULATION OF CIGARETTE ADVERTISING AND PROMOTION.

Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended by adding at the end the following:

"(c) EXCEPTION.—Notwithstanding subsection (b), a State or locality may enact statutes and promulgate regulations, based on smoking and health, that take effect after the effective date of the Family Smoking Prevention and Tobacco Control Act, imposing specific bans or restrictions on the time, place, and manner, but not content, of the advertising or promotion of any cigarettes.".

### SEC. 204. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

### "SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) GENERAL RULE.—

"(1) It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

'WARNING: This product can cause mouth cancer'.

'WARNING: This product can cause gum disease and tooth loss'.

'WARNING: This product is not a safe alternative to cigarettes'.

'WARNING: Smokeless tobacco is addictive'.

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 30 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(5) A retailer of smokeless tobacco products shall not be in violation of this subsection for packaging that is supplied to the retailer by a tobacco products manufacturer, importer, or distributor and that is not altered by the retailer unless the retailer offers for sale, sells, or distributes a smokeless tobacco product that is not labeled in accordance with this subsection.

"(b) REQUIRED LABELS.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word 'WARNING' shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements under this section, unless the retailer displays in a location open to the public, an advertisement that is not labeled in accordance with the requirements of this subsection.

"(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.".

### SEC. 205. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 203, is further amended by adding at the end the following:

"(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

### SEC. 206. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 201, is further amended by adding at the end the following:

"(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United

States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product constituent including any smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

"(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements required under this section, except that this paragraph shall not relieve a retailer of liability if the retailer sells or distributes tobacco products that are not labeled in accordance with the requirements of this subsection.".

### TITLE III—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS

#### SEC. 301. LABELING, RECORDKEEPING, RECORDS INSPECTION.

Chapter IX of the Federal Food, Drug, and Cosmetic Act, as added by section 101, is further amended by adding at the end the following:

#### "SEC. 921. LABELING, RECORDKEEPING, RECORDS INSPECTION.

"(a) Origin Labeling.—The label, packaging, and shipping containers of tobacco products for introduction or delivery for introduction into interstate commerce shall bear the statement 'sale only allowed in the United States.'

"(b) Regulations Concerning Recordkeeping for Tracking and Tracing.—

"(1) In general.—Not later than 9 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall promulgate regulations regarding the establishment and maintenance of records by any person who manufactures, processes, transports, distributes, receives, packages, holds, exports, or imports tobacco products.

"(2) Inspection.—In promulgating the regulations described in paragraph (1), the Secretary shall consider which records are needed for inspection to monitor the movement of tobacco products from the point of manufacture through distribution to retail outlets to assist in investigating potential illicit trade, smuggling or counterfeiting of tobacco products.

"(3) Codes.—The Secretary may require codes on the labels of tobacco products or other designs or devices for the purpose of tracking or tracing the tobacco product through the distribution system.

"(4) Size of business.—The Secretary shall take into account the size of a business in promulgating regulations under this section.

"(5) Recordkeeping by retailers.—The Secretary shall not require any retailer to maintain records relating to individual purchasers of tobacco products for personal consumption.

"(c) Records Inspection.—If the Secretary has a reasonable belief that a tobacco product is part of an illicit trade or smuggling or is a counterfeit product, each person who manufactures, processes, transports, distributes, receives, holds, packages, exports, or imports tobacco products shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times and within reasonable limits and in a reasonable manner, upon the presentation of appropriate credentials and a written notice to such person, to have access to and copy all records (including financial records) relating to such article that are needed to assist the Secretary in investigating potential illicit trade, smuggling or counterfeiting of tobacco products.

"(d) Knowledge of Illegal Transaction.—If the manufacturer or distributor of a tobacco product has knowledge which reasonably supports the conclusion that a tobacco product manufactured or distributed by such manufacturer or distributor that has left the control of such person may be or has been—

"(A) imported, exported, distributed or offered for sale in interstate commerce by a person without paying duties or taxes required by law; or

"(B) imported, exported, distributed or diverted for possible illicit marketing,

the manufacturer or distributor shall promptly notify the Attorney General of such knowledge.

"(2) Knowledge defined.—For purposes of this subsection, the term 'knowledge' as applied to a manufacturer or distributor means—

"(A) the actual knowledge that the manufacturer or distributor had; or

"(B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.".

#### SEC. 302. STUDY AND REPORT.

(a) Study.—The Comptroller General of the United States shall conduct a study of cross-border trade in tobacco products to—

(1) collect data on cross-border trade in tobacco products, including illicit trade and trade of counterfeit tobacco products and make recommendations on the monitoring of such trade;

(2) collect data on cross-border advertising (any advertising intended to be broadcast, transmitted, or distributed from the United States to another country) of tobacco products and make recommendations on how to prevent or eliminate, and what technologies could help facilitate the elimination of, cross-border advertising.

(b) Report.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the study described in subsection (a).

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By Mr. HARKIN (for himself and Mr. Kennedy):

S. 2975. A bill to amend the Fair Labor Standards Act of 1938 to clarify regulations relating to overtime compensation; considered and passed.

Mr. HARKIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2975

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. CLARIFICATION OF REGULATIONS RELATING TO OVERTIME COMPENSATION.

Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

"(k) Notwithstanding the provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code (commonly referred to as the Administrative Procedures Act) or any other provision of law, any portion of the final rule promulgated on April 23, 2004, revising part 541 of title 29, Code of Federal Regulations, that exempts from the overtime pay provisions of section 7 any employee who would not otherwise be exempt if the regulations in effect on March 31, 2003 remained in effect, shall have no force or effect and that portion of such regulations (as in effect on March 31, 2003) that would prevent such employee from being exempt shall remain in effect. Notwithstanding the preceding sentence, the increased salary requirements provided for in such final rule at section 541.600 of such title 29, shall remain in effect.".

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## SUBMITTED RESOLUTIONS

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## SENATE RESOLUTION 455—SUPPORTING THE GOALS OF RED RIBBON WEEK

Ms. MURKOWSKI (for herself, Mr. Stevens, Mr. Grassley, Mr. Cornyn, Mr. Chambliss, Mr. Allen, Mr. Campbell, and Mr. Warner) submitted the following resolution; which was considered and agree to:

S. Res. 455

Whereas the Governors and Attorneys General of the States, the National Family Partnership, Parent Teacher Associations, Boys and Girls Clubs of America, and more than 100 other organizations throughout the United States annually cosponsor Red Ribbon Week during the week of October 23 through October 31;

Whereas a purpose of the Red Ribbon Campaign is to commemorate the service of Enrique "Kiki" Camarena, a Drug Enforcement Administration special agent who died in the line of duty while engaged in the battle against illicit drugs;

Whereas Red Ribbon Week is nationally recognized and celebrated, helping to preserve Special Agent Camarena's memory and further the cause for which he gave his life;

Whereas the objective of Red Ribbon Week is to promote drug-free communities through drug prevention efforts, education, parental involvement, and communitywide support;

Whereas drug and alcohol abuse contributes to domestic violence and sexual assaults, and places the lives of children at risk;

Whereas drug abuse is 1 of the major challenges our Nation faces in securing a safe and healthy future for our families and children; and

Whereas parents, youth, schools, businesses, law enforcement agencies, religious institutions, service organizations, senior citizens, medical and military personnel, sports teams, and individuals throughout the United States demonstrate their commitment to drug-free, healthy lifestyles by wearing and displaying red ribbons during this weeklong celebration: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals of Red Ribbon Week;

(2) encourages children and teens to choose to live a drug-free life; and

(3) encourages all people of the United States to promote drug-free communities and to participate in drug prevention activities to show support for healthy, productive, drug-free lifestyles.

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## SENATE RESOLUTION 456—DESIGNATING OCTOBER 14, 2004, AS "LIGHTS ON AFTERSCHOOL! DAY"

Ms. STABENOW (for herself and Ms. Snowe) submitted the following resolution; which was considered and agreed to:

### S. Res. 456

Whereas quality afterschool programs provide safe, challenging, engaging, and fun learning experiences to help children and youth develop their social, emotional, physical, cultural, and academic skills;

Whereas quality afterschool programs support working families by ensuring their children are safe and productive after the regular school day ends;

Whereas quality afterschool programs build stronger communities by involving students, parents, business leaders, and adult volunteers in the lives of young people, thereby promoting positive relationships among children, youth, families, and adults;

Whereas quality afterschool programs engage families, schools, and diverse community partners in advancing the welfare of children;

Whereas "Lights On Afterschool!", a national celebration of afterschool programs on October 14, 2004, promotes the critical importance of quality afterschool programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home, and 14,300,000 children have no place to go after school; and

Whereas many afterschool programs across the country are facing funding shortfalls so severe that they are forced to close their doors and turn off their lights: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates October 14, 2004, as "Lights On Afterschool! Day"; and

(2) requests that the President issue a proclamation calling on the communities of the Nation to engage in innovative afterschool programs and activities that ensure the lights stay on and the doors stay open for all children after school.

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## SENATE RESOLUTION 457—DESIGNATING THE WEEK OF OCTOBER 24, 2004, THROUGH OCTOBER 30, 2004, AS "NATIONAL CHILDHOOD LEAD POISONING PREVENTION WEEK"

Mr. REED (for himself, Mr. Bond, Ms. Mikulski, Ms. Collins, Mr. Sarbanes, Mr. Biden, Mrs. Boxer, Mr. Breaux, Mr. Carper, Mr. Chafee, Mrs. Clinton, Mr. Conrad, Mr. Corzine, Mr. Dayton, Mr. DeWine, Mr. Dodd, Mr. Dorgan, Mr. Durbin, Mr. Feingold, Mrs. Feinstein, Mr. Graham of Florida, Mr. Hagel, Mr. Jeffords, Mr. Kennedy, Mr. Kohl, Ms. Landrieu, Mr. Lautenberg, Mr. Levin, Mr. Lieberman, Mrs. Lincoln, Mr. Lugar, Mrs. Murray, Mr. Nelson of Nebraska, Mr. Nickles, Mr. Santorum, Mr. Schumer, Mr. Smith, Ms. Snowe, Ms. Stabenow, Mr. Reid, Mr. Talent, and Mr. Wyden) submitted the following resolution; which was considered and agreed to:

### S. Res. 457

Whereas lead poisoning is a leading environmental health hazard to children in the United States;

Whereas according to the Centers for Disease Control and Prevention, 434,000 preschool children in the United States have harmful levels of lead in their blood;

Whereas lead poisoning may cause serious, long-term harm to children, including reduced intelligence and attention span, behavior problems, learning disabilities, and impaired growth;

Whereas children from low-income families are 8 times more likely to be poisoned by lead than are children from high-income families;

Whereas children may be poisoned by lead in water, soil, or consumable products;

Whereas children most often are poisoned in their homes through exposure to lead particles when lead-based paint deteriorates or is disturbed during home renovation and repainting; and

Whereas lead poisoning crosses all barriers of race, income, and geography: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week of October 24, 2004, through October 30, 2004, as "National Childhood Lead Poisoning Prevention Week"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe such week with appropriate programs and activities.

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## SENATE RESOLUTION 458—CONGRATULATING THE SPACE SHIP ONE TEAM FOR ACHIEVING A HISTORIC MILESTONE IN HUMAN SPACE FLIGHT

Mr. BINGAMAN (for himself, Mr. McCain, Mr. Hollings, and Mr. Brownback) submitted the following resolution; which was considered and agreed to:

### S. Res. 458

Whereas the Ansari X Prize was established with private capital to jumpstart the space tourism industry, inspire and educate students, focus public attention and investment capital on this new business frontier, and challenge explorers and rocket scientists around the world;

Whereas the $10,000,000 Ansari X Prize was modeled after the $25,000 Orteig Prize won by trans-Atlantic aviator Charles Lindbergh in 1927;

Whereas on October 4, 2004, SpaceShipOne, designed by Burt Rutan and flown first by Mike Melvill and later by Brian Binnie, won the Ansari X Prize by being the first privately funded space vehicle to depart from and safely return to Earth twice within 2 weeks;

Whereas SpaceShipOne broke the previous record for maximum altitude achieved by a plane, which was set by the X-15 in 1963;

Whereas the SpaceShipOne flights represent a historic accomplishment for humanity; and

Whereas future achievements in commercial space flight will be stimulated by an ongoing annual competition for an X Prize Cup, beginning in 2006 at White Sands Missile Range outside Las Cruces, New Mexico: Now, therefore be it

*Resolved*, That the Senate—

(1) congratulates the SpaceShipOne team led by Bert Rutan, and test pilots Mike Melvill and Brian Binnie, for their historic achievement in human space flight;

(2) recognizes the contributions of all members and supporters of the X Prize Foundation and the SpaceShipOne team, the efforts of which were instrumental in this accomplishment; and

(3) encourages the continuation of efforts towards practical commercial space flight through future X Prize Cup and other competitions.

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## SENATE RESOLUTION 459—DESIGNATING NOVEMBER 2004 AS "AMERICAN MUSIC MONTH" TO CELEBRATE AND HONOR MUSIC PERFORMANCE, EDUCATION, AND SCHOLARSHIP IN THE UNITED STATES

Mr. DURBIN (for himself and Mr. Alexander) submitted the following resolution; which was considered and agreed to:

### S. Res. 459

Whereas the music of the United States embodies the artistic reflection of the country's history and heritage and the promise of its ideals and values;

Whereas the music of the United States transcends culture, gender, race, class, and creed, and thrives freely as it is continually reinvented, rearranged, transformed, and infused by the personal experiences of men and women;

Whereas the music of the United States expresses the country's vital cultural and social identities and empowers the people of the United States to assert and preserve our pasts for a future, transforms the wondrous and harsh experiences of the people of the United States into potent messages that freely declare democratic choice and freedom of expression, inspires social justice, enlivens collective action, and reflects our Nation's dynamic social movements;

Whereas the National Federation of Music Clubs (NFMC) and its 17th president, Ada Holding Miller, building on their efforts to create American Music week in 1924 with the aid of Arthur Bodansky, conductor of the Metropolitan Opera, and Walter Damrosch, conductor of the New York Symphony Orchestra, established "American Music Month" and the "Parade of American Music" in February 1955 to recognize music and its importance to the social, cultural, historical, and educational development of the United States;

Whereas by action of the NFMC Board of Directors in 1998, the celebration of "American Music Month" was changed to the month of November in 1999 at the request of Sonneck Society for American Music;

Whereas the leading arts and education organizations of the United States, such as the Society for American Music, MENC: the National Association for Music Education, the College Music Society, the Music Library Association, the American Musicological Society, and Americans for the Arts, continue to strive to stimulate the appreciation, performance, creation, and study of music in the United States;

Whereas the month of November has witnessed the births of such artistic legends as Scott Joplin (1868), William Christopher "W.

C." Handy (1873), Aaron Copland (1900), Coleman Hawkins (1904), and Mary Travers (1937) of the folk song trio Peter, Paul and Mary; the premiers of the New York Symphony (1878), the Philadelphia Orchestra (1900), Jerome Kern's musical, Show Boat, in Washington, DC (1927), Frede Grofé's Grand Canyon Suite in Chicago (1931), and the first broadcast of the newly-organized National Broadcasting Company (1926);

Whereas November 2004 marks the sesquicentennial of John Philip Sousa's birth on November 6, 1854, and is an occasion to celebrate his monumental contributions to the musical heritage of the United States;

Whereas John Philip Sousa's music continues to embody the unflagging spirit of the United States and, as a product of a renaissance in the art and technology of the United States, affirmed the previous generation's contagious patriotism and profound love of country even as they witnessed the brutalities of a Nation at war; his music was a fanfare about and for all men and women of this United States and his rousing melodies celebrated the best and worst of the diverse cultures and emerging histories of the United States; even today, Sousa's music conveys our Nation's indomitable spirit to the world; and

Whereas John Philip Sousa, as Director of the United States Marine Band from 1880 to 1892, brought "The President's Own" to unprecedented levels of excellence and shaped the band into a world-famous musical organization, and through White House performances, public concerts, and national tours, the Band continues to maintain Sousa's standard of excellence for the performance of the music of the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates November 2004 as "American Music Month" to celebrate music performance, education, and scholarship in the United States;

(2) recognizes that the musical heritage of the United States should be honored, celebrated, and preserved for future generations as expressions of this country's democratic freedoms and indomitable spirit; and

(3) requests the President to issue a proclamation calling on the people of the United States to observe "American Music Month" with appropriate ceremonies and programs to honor the contributions of the music educators, performers, scholars, conductors, composers and arrangers, librarians, archivists, and curators of the United States for their tireless efforts to foster greater understanding and preservation of the diverse music and cultures of the United States through active performance, education, and cultural engagement.

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## SENATE RESOLUTION 460—HONORING THE YOUNG VICTIMS OF THE SIXTEENTH STREET BAPTIST CHURCH BOMBING, RECOGNIZING THE HISTORICAL SIGNIFICANCE OF THE TRAGIC EVENT, AND COMMENDING THE EFFORTS OF LAW ENFORCEMENT PERSONNEL TO BRING THE PERPETRATORS OF THIS CRIME TO JUSTICE ON THE OCCASION OF ITS 40TH ANNIVERSARY

Mr. SESSIONS (for himself and Mr. SHELBY) submitted the following resolution; which was considered and agreed to:

S. RES. 460

Whereas the Sixteenth Street Baptist Church of Birmingham, Alabama, was constructed in 1911 and served as a center for African-American life in the city and a rallying point for the civil rights movement during the 1960s;

Whereas on Sunday, September 15, 1963, segregationists protesting the mandatory integration of Birmingham's public schools firebombed the Sixteenth Street Baptist Church;

Whereas the blast killed Addie Mae Collins, age 14, Denise McNair, age 11, Carole Robertson, age 14, and Cynthia Wesley, age 14, all members of the Church, while they were preparing for Sunday service;

Whereas September 15, 1963, has been called the darkest day in the history of Birmingham and one of the darkest days of the entire civil rights movement;

Whereas this act of terrorism raised national and international awareness of the African-American civil rights struggle and galvanized those dedicated to the cause of civil rights;

Whereas Congress passed the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241) and the Voting Rights Act of 1965 (Public Law 89-110, 79 Stat. 437) in the wake of the bombing;

Whereas the 4 men suspected of the bombing, Bobby Frank Cherry, Herman Cash, Thomas Blanton, and Robert Chambliss, were not immediately prosecuted because authorities believed it impossible to obtain a conviction in the heated racial climate of the mid-1960s;

Whereas Alabama Attorney General Bill Baxley successfully prosecuted Robert Chambliss 13 years after the bombing;

Whereas after the indictment and conviction of Robert Chambliss, the bombing investigation was closed;

Whereas the bombing investigation was reopened in 1995 due to the efforts of Federal Bureau of Investigation Special Agent Rob Langford and local African-American leaders;

Whereas in 2001 and 2002, a joint Federal and State task force, under the supervision of United States Attorney Douglas Jones and Alabama Attorney General William Pryor, successfully prosecuted Thomas Blanton and Bobby Frank Cherry with the assistance of State and local law enforcement personnel; and

Whereas the bombing, the prosecution of the offenders, and the cause of civil rights in general have become national and international concerns: Now, therefore, be it

*Resolved*, That the Senate, on the occasion of the 40th anniversary of the bombing of the Sixteenth Street Baptist Church of Birmingham, Alabama—

(1) honors the memory of Addie Mae Collins, Denise McNair, Carole Robertson, and Cynthia Wesley;

(2) recognizes the historical significance of the bombing and the enduring impact it has had on the cause of civil rights everywhere; and

(3) commends the efforts of the Alabama Attorney General's office for its successful prosecution of Robert Chambliss in 1977, the efforts of the joint Federal and State task force for the successful prosecution of Bobby Frank Cherry and Thomas Blanton in 2001 and 2002, and the efforts of all other law enforcement personnel who worked to bring the persons responsible for the bombing to justice.

## SENATE RESOLUTION 461—DESIGNATING THE WEEK BEGINNING ON OCTOBER 17, 2004, AS "NATIONAL CHARACTER COUNTS WEEK"

Mr. DOMENICI (for himself, Mr. DODD, Mr. COCHRAN, Mr. DORGAN, Mr. BUNNING, Mr. CONRAD, Mr. CAMPBELL, MR. ROCKEFELLER, Mr. WARNER, Mr. KERRY, Mr. FITZGERALD, Ms. LANDRIEU, Mr. HAGEL, Mr. KENNEDY, Mr. INHOFE, Mr. BIDEN, Mr. DEWINE, Mr. JOHNSON, Mr. LOTT, Mr. AKAKA, Mr. ALEXANDER, Mr. DURBIN, Mr. BROWNBACK, Mr. SESSIONS, Mr. LEVIN, Mrs. DOLE, Mr. SARBANES, Mr. TALENT, Ms. STABENOW, Ms. MURKOWSKI, Mr. BAYH, Mr. ALLEN, Mr. LIEBERMAN, and Mr. ENZI) submitted the following resolution; which was considered and agreed to:

S. RES. 461

Whereas the well-being of the Nation requires that the young people of the United States become an involved, caring citizenry with good character;

Whereas the character education of children has become more urgent as violence by and against youth increasingly threatens the physical and psychological well-being of the people of the United States;

Whereas more than ever, children need strong and constructive guidance from their families and their communities, including schools, youth organizations, religious institutions, and civic groups;

Whereas the character of a nation is only as strong as the character of its individual citizens;

Whereas the public good is advanced when young people are taught the importance of good character and the positive effects that good character can have in personal relationships, in school, and in the workplace;

Whereas scholars and educators agree that people do not automatically develop good character and that, therefore, conscientious efforts must be made by institutions and individuals that influence youth to help young people develop the essential traits and characteristics that comprise good character;

Whereas, although character development is, first and foremost, an obligation of families, the efforts of faith communities, schools, and youth, civic, and human service organizations also play an important role in fostering and promoting good character;

Whereas Congress encourages students, teachers, parents, youth, and community leaders to recognize the importance of character education in preparing young people to play a role in determining the future of the Nation;

Whereas effective character education is based on core ethical values which form the foundation of democratic society;

Whereas examples of character are trustworthiness, respect, responsibility, fairness, caring, citizenship, and honesty;

Whereas elements of character transcend cultural, religious, and socioeconomic differences;

Whereas the character and conduct of our youth reflect the character and conduct of society, and, therefore, every adult has the responsibility to teach and model ethical values and every social institution has the responsibility to promote the development of good character;

Whereas Congress encourages individuals and organizations, especially those who have an interest in the education and training of the young people of the United States, to adopt the elements of character as intrinsic to the well-being of individuals, communities, and society;

Whereas many schools in the United States recognize the need, and have taken steps, to integrate the values of their communities into their teaching activities; and

Whereas the establishment of National Character Counts Week, during which individuals, families, schools, youth organizations, religious institutions, civic groups, and other organizations would focus on character education, would be of great benefit to the Nation: Now, therefore, be it

*Resolved*, That the Senate—

(1) proclaims the week beginning October 17, 2004, as "National Character Counts Week"; and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to—

(A) embrace the elements of character identified by local schools and communities, such as trustworthiness, respect, responsibility, fairness, caring, and citizenship; and

(B) observe the week with appropriate ceremonies, programs, and activities.

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### SENATE RESOLUTION 462—RECOGNIZING THE SIGNIFICANT ACHIEVEMENT OF THE PEOPLE AND GOVERNMENT OF AFGHANISTAN SINCE THE EMERGENCY LOYA JIRGA WAS HELD IN JUNE 2002 IN ESTABLISHING THE FOUNDATION AND MEANS TO HOLD PRESIDENTIAL ELECTIONS ON OCTOBER 9, 2004

Mr. HAGEL (for himself, Mr. LUGAR, Mr. BIDEN, Mr. LEAHY, Mr. MCCAIN, Mr. SUNUNU, and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 462

Whereas section 101(1) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7511(1)) declares that the "United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan";

Whereas on January 4, 2004, the Constitutional Loya Jirga of Afghanistan adopted a constitution that promises free elections with full participation by women and establishes a legislative foundation for democracy in Afghanistan;

Whereas on June 15, 2004, President Bush stated that "Afghanistan's journey to democracy and peace deserves the support and respect of every nation .... The world and the United States stand with [the people of Afghanistan] as partners in their quest for peace and prosperity and stability and democracy.";

Whereas the independent Joint Electoral Management Body in Afghanistan and thousands of its staff throughout Afghanistan have worked to register voters and organize a fair and transparent election process despite violent and deadly attacks on them and on the purpose of their work;

Whereas more than 10,500,000 Afghans have been reported registered to vote, demonstrating great courage and a deep desire to have a voice in the future of Afghanistan, and more than 40 percent of those reported registered to vote are women;

Whereas the presidential election campaign in Afghanistan officially began on September 7, 2004 and 18 candidates, including one woman, are seeking the presidency;

Whereas on October 9, 2004, the people of Afghanistan will vote in the first direct presidential election, at the national level, in Afghanistan's history at 5,000 polling centers located throughout Afghanistan, as well as polling centers in Pakistan and Iran;

Whereas the United States, the European Union, the Organization for Security and Cooperation in Europe, and the Asian Network for Free Elections will send monitors and support teams to join the more than 4,000 domestic election observers in Afghanistan for the presidential election;

Whereas the United States and many international partners have provided technical assistance and financial support for elections in Afghanistan; and

Whereas the International Security Assistance Force (ISAF), led by the North Atlantic Treaty Organization (NATO), and coalition forces will join the Afghan National Army and police in Afghanistan to help provide security during the presidential election: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the United States applauds the steadfast commitment of the people of Afghanistan to achieve responsive and responsible government through democracy;

(2) the United States strongly supports self-government and the protection of human rights and freedom of conscience for all men and women in Afghanistan; and

(3) the United States remains committed to a long-term partnership with the people of Afghanistan and to a peaceful future for Afghanistan.

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### SENATE RESOLUTION 463—AUTHORIZING THE PRINTING OF A REVISED EDITION OF THE SENATE RULES AND MANUAL

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 463

**SECTION 1. REVISED EDITION OF THE SENATE RULES AND MANUAL.**

(a) REVISED EDITION.—The Committee on Rules and Administration of the Senate shall prepare a revised edition of the Senate Rules and Manual for the use of the 109th Congress.

(b) SENATE DOCUMENT.—The revised edition of the Senate Rules and Manual shall be printed as a Senate document.

(c) BINDING AND DISTRIBUTION.—In addition to the usual number of documents, 1,500 additional copies of the revised edition of the Senate Rules and Manual shall be bound and distributed, of which—

(1) 500 paperbound copies shall be for the use of the Senate; and

(2) 1000 copies shall be delivered as may be directed by the Committee on Rules and Administration and bound as follows:

(A) 550 paperbound.

(B) 250 nontabbed black skiver.

(C) 200 tabbed black skiver.

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### AMENDMENTS SUBMITTED AND PROPOSED

SA 4050. Mr. FRIST (for Ms. COLLINS (for herself and Mr. FEINGOLD)) proposed an amendment to the concurrent resolution S. Con. Res. 8, expressing the sense of Congress that there should be established a National Visiting Nurse Association Week.".

SA 4051. Mr. FRIST (for Ms. COLLINS (for herself and Mr. FEINGOLD)) submitted an amendment intended to be proposed by Mr. FRIST to the concurrent resolution S. Con. Res. 8, supra.

SA 4052. Mr. FRIST (for Ms. COLLINS (for herself and Mr. FEINGOLD)) proposed an amendment to the concurrent resolution S. Con. Res. 8, supra.

SA 4053. Mr. FRIST (for Mr. ALEXANDER (for himself, Mr. BINGAMAN, and Mr. DOMENICI)) proposed an amendment to the bill H.R. 4516, to require the Secretary of Energy to carry out a program of research and development to advance high-end computing.

SA 4054. Mr. FRIST (for Mr. ENSIGN (for himself and Mr. REID)) proposed an amendment to the bill H.R. 4593, to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes.

SA 4055. Mr. FRIST (for Mr. DOMENICI) proposed an amendment to the bill H.R. 1630, to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes.

SA 4056. Mr. FRIST (for Mr. DOMENICI) proposed an amendment to the bill S. 1466, to facilitate the transfer of land in the State of Alaska, and for other purposes.

SA 4057. Mr. FRIST (for Mr. BINGAMAN) proposed an amendment to the bill S. 2656, to establish a National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon.

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### TEXT OF AMENDMENTS

**SA 4050.** Mr. FRIST (for Ms. COLLINS (for herself and Mr. FEINGOLD)) proposed an amendment to the concurrent resolution S. Con. Res. 8, expressing the sense of Congress that there should be established a National Visiting Nurse Association Week; as follows:

Strike all after the resolving clause and insert the following:

That it is the sense of Congress that there should be established a National Visiting Nurse Association Week.

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**SA 4051.** Mr. FRIST (for Ms. COLLINS (for herself and Mr. FEINGOLD)) submitted an amendment intended to be proposed by Mr. FRIST to the concurrent resolution S. Con. Res. 8, expressing the sense of Congress that there should be established a National Visiting Nurse Association Week; as follows:

Strike the preamble and insert the following:

Whereas visiting nurse associations ("VNAs") are nonprofit home health agencies that, for more than 120 years, have been united in their mission to provide cost-effective and compassionate home and community-based health care to individuals, regardless of the individuals' condition or ability to pay for services;

Whereas there are approximately 500 visiting nurse associations, which employ more than 90,000 clinicians, provide health care to more than 4,000,000 people each year, and provide a critical safety net in communities by developing a network of community support services that enable individuals to live independently at home;

Whereas visiting nurse associations have historically served as primary public health care providers in their communities, and are today one of the largest providers of mass immunizations in the medicare program (delivering more than 2,500,000 influenza immunizations annually);

Whereas visiting nurse associations are often the home health providers of last resort, serving the most chronic of conditions (such as congestive heart failure, chronic obstructive pulmonary disease, AIDS, and quadriplegia) and individuals with the least ability to pay for services (more than 50 percent of all medicaid home health admissions are by visiting nurse associations);

Whereas any visiting nurse association budget surplus is reinvested in supporting the association's mission through services, including charity care, adult day care centers, wellness clinics, Meals-on-Wheels, and immunization programs;

Whereas visiting nurse associations and other nonprofit home health agencies care for the highest percentage of terminally ill and bedridden patients;

Whereas thousands of visiting nurse association volunteers across the Nation devote time serving as individual agency board members, raising funds, visiting patients in their homes, assisting in wellness clinics, and delivering meals to patients;

Whereas the establishment of a National Visiting Nurse Association Week would increase public awareness of the charity-based missions of visiting nurse associations and of their ability to meet the needs of chronically ill and disabled individuals who prefer to live at home rather than in a nursing home, and would spotlight preventive health clinics, adult day care programs, and other customized wellness programs that meet local community needs; and

Whereas the second week of May 2005 is an appropriate week to establish as National Visiting Nurse Association Week: Now, therefore, be it

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**SA 4052.** Mr. FRIST (for Ms. COLLINS (for herself and Mr. FEINGOLD)) proposed an amendment to the concurrent resolution S. Con. Res. 8, expressing the sense of Congress that there should be established a National Visiting Nurse Association Week; as follows:

Amend the title so as to read: "Expressing the sense of Congress that there should be established a National Visiting Nurse Association Week."

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**SA 4053.** Mr. FRIST (for Mr. ALEXANDER (for himself, Mr. BINGAMAN, and Mr. DOMENICI)) proposed an amendment to the bill H.R. 4516, to require the Secretary of Energy to carry out a program of research and development to advance high-end computing; as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy High-End Computing Revitalization Act of 2004".

### SEC. 2. DEFINITIONS.

In this Act:

(1) CENTER.—The term "Center" means a High-End Software Development Center established under section 3(d).

(2) HIGH-END COMPUTING SYSTEM.—The term "high-end computing system" means a computing system with performance that substantially exceeds that of systems that are commonly available for advanced scientific and engineering applications.

(3) LEADERSHIP SYSTEM.—The term "Leadership System" means a high-end computing system that is among the most advanced in the world in terms of performance in solving scientific and engineering problems.

(4) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Energy, acting through the Director of the Office of Science of the Department of Energy.

### SEC. 3. DEPARTMENT OF ENERGY HIGH-END COMPUTING RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall—

(1) carry out a program of research and development (including development of software and hardware) to advance high-end computing systems; and

(2) develop and deploy high-end computing systems for advanced scientific and engineering applications.

(b) PROGRAM.—The program shall—

(1) support both individual investigators and multidisciplinary teams of investigators;

(2) conduct research in multiple architectures, which may include vector, reconfigurable logic, streaming, processor-in-memory, and multithreading architectures;

(3) conduct research on software for high-end computing systems, including research on algorithms, programming environments, tools, languages, and operating systems for high-end computing systems, in collaboration with architecture development efforts;

(4) provide for sustained access by the research community in the United States to high-end computing systems and to Leadership Systems, including provision of technical support for users of such systems;

(5) support technology transfer to the private sector and others in accordance with applicable law; and

(6) ensure that the high-end computing activities of the Department of Energy are coordinated with relevant activities in industry and with other Federal agencies, including the National Science Foundation, the Defense Advanced Research Projects Agency, the National Nuclear Security Administration, the National Security Agency, the National Institutes of Health, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institutes of Standards and Technology, and the Environmental Protection Agency.

(c) LEADERSHIP SYSTEMS FACILITIES.—

(1) IN GENERAL.—As part of the program carried out under this Act, the Secretary shall establish and operate 1 or more Leadership Systems facilities to—

(A) conduct advanced scientific and engineering research and development using Leadership Systems; and

(B) develop potential advancements in high-end computing system hardware and software.

(2) ADMINISTRATION.—In carrying out this subsection, the Secretary shall provide to Leadership Systems, on a competitive, merit-reviewed basis, access to researchers in United States industry, institutions of higher education, national laboratories, and other Federal agencies.

(d) HIGH-END SOFTWARE DEVELOPMENT CENTER.—

(1) IN GENERAL.—As part of the program carried out under this Act, the Secretary shall establish at least 1 High-End Software Development Center.

(2) DUTIES.—A Center shall concentrate efforts to develop, test, maintain, and support optimal algorithms, programming environments, tools, languages, and operating systems for high-end computing systems.

(3) PROPOSALS.—In soliciting proposals for the Center, the Secretary shall encourage staffing arrangements that include both permanent staff and a rotating staff of researchers from other institutions and industry to assist in coordination of research efforts and promote technology transfer to the private sector.

(4) USE OF EXPERTISE.—The Secretary shall use the expertise of a Center to assess research and development in high-end computing system architecture.

(5) SELECTION.—The selection of a Center shall be determined by a competitive proposal process administered by the Secretary.

### SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise made available for high-end computing, there are authorized to be appropriated to the Secretary to carry out this Act—

(1) $50,000,000 for fiscal year 2005;

(2) $55,000,000 for fiscal year 2006; and

(3) $60,000,000 for fiscal year 2007.

### SEC. 5. ASTRONOMY AND ASTROPHYSICS ADVISORY COMMITTEE.

(a) AMENDMENTS.—Section 23 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–9) is amended—

(1) in subsection (a) and paragraphs (1) and (2) of subsection (b), by striking "and the National Aeronautics and Space Administration" and inserting ", the National Aeronautics and Space Administration, and the Department of Energy";

(2) in subsection (b)(3), by striking "Administration, and" and inserting "Administration, the Secretary of Energy, ";

(3) in subsection (c)—

(A) in paragraphs (1) and (2), by striking "5" and inserting "4";

(B) in paragraph (2), by striking "and" at the end;

(C) by redesignating paragraph (3) as paragraph (4), and in that paragraph by striking "3" and inserting "2"; and

(D) by inserting after paragraph (2) the following:

"(3) 3 members selected by the Secretary of Energy;" and

(4) in subsection (f), by striking "the advisory bodies of other Federal agencies, such as the Department of Energy, which may engage in related research activities" and inserting "other Federal advisory committees that advise Federal agencies that engage in related research activities".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on March 15, 2005.

### SEC. 6. REMOVAL OF SUNSET PROVISION FROM SAVINGS IN CONSTRUCTION ACT OF 1996.

Section 14 of the Metric Conversion Act of 1975 (15 U.S.C. 205*l*) is amended by striking subsection (e).

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**SA 4054.** Mr. FRIST (for Mr. ENSIGN (for himself and Mr. REID)) proposed an amendment to the bill H.R. 4593, to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

### SEC. 2. SHORT TITLE.

This Act may be cited as the "Lincoln County Conservation, Recreation, and Development Act of 2004".

## TITLE I—LAND DISPOSAL

### SEC. 101. DEFINITIONS.

In this title:

(1) County.—The term "County" means Lincoln County, Nevada.

(2) Map.—The term "map" means the map entitled "Lincoln County Conservation, Recreation, and Development Act Map" and dated October 1, 2004.

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

(4) Special account.—The term "special account" means the special account established under section 103(b)(3).

### SEC. 102. CONVEYANCE OF LINCOLN COUNTY LAND.

(a) In General.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712), the Secretary, in cooperation with the County, in accordance with that Act, this title, and other applicable law and subject to valid existing rights, shall conduct sales of—

(1) the land described in subsection (b)(1) to qualified bidders not later than 75 days after the date of the enactment of this Act; and

(2) the land described in subsection (b)(2) to qualified bidders as such land becomes available for disposal.

(b) Description of Land.—The land referred to in subsection (a) consists of—

(1) the land identified on the map as Tract A and Tract B totaling approximately 13,328 acres; and

(2) not more than 90,000 acres of Bureau of Land Management managed public land in Lincoln County that is not segregated or withdrawn on the date of enactment of this Act or thereafter, and that is identified for disposal by the BLM either through—

(A) the Ely Resource Management Plan (intended to be finalized in 2005); or

(B) a subsequent amendment to that land use plan undertaken with full public involvement.

(c) Availability.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

(1) the Office of the Director of the Bureau of Land Management;

(2) the Office of the Nevada State Director of the Bureau of Land Management;

(3) the Ely Field Office of the Bureau of Land Management; and

(4) the Caliente Field Station of the Bureau of Land Management.

(d) Joint Selection Required.—The Secretary and the County shall jointly select which parcels of land described in subsection (b)(2) to offer for sale under subsection (a).

(e) Compliance With Local Planning and Zoning Laws.—Before a sale of land under subsection (a), the County shall submit to the Secretary a certification that qualified bidders have agreed to comply with—

(1) County and city zoning ordinances; and

(2) any master plan for the area approved by the County.

(f) Method of Sale; Consideration.—The sale of land under subsection (a) shall be—

(1) consistent with section 203(d) and 203(f) of the Federal Land Management Policy Act of 1976 (43 U.S.C. 1713(d) and (f));

(2) through a competitive bidding process unless otherwise determined by the Secretary; and

(3) for not less than fair market value.

(g) Withdrawal.—

(1) In general.—Subject to valid existing rights and except as provided in paragraph (2), the land described in subsection (b) is withdrawn from—

(A) all forms of entry and appropriation under the public land laws, including the mining laws;

(B) location, entry, and patent under the mining laws; and

(C) operation of the mineral leasing and geothermal leasing laws.

(2) Exception.—Paragraph (1)(A) shall not apply to a competitive sale or an election by the County to obtain the land described in subsection (b) for public purposes under the Act of June 14, 1926 (43 U.S.C. 869 et seq; commonly known as the "Recreation and Public Purposes Act").

(h) Deadline for Sale.—

(1) In general.—Except as provided in paragraph (2), the Secretary shall—

(A) notwithstanding the Lincoln County Land Act of 2000 (114 Stat. 1046), not later than 75 days after the date of the enactment of this Act, offer by sale the land described in subsection (b)(1) if there is a qualified bidder for such land; and

(B) offer for sale annually lands identified for sale in subsection (b)(2) until such lands are disposed of or unless the county requests a postponement under paragraph (2).

(2) Postponement; exclusion from sale.—

(A) Request by county for postponement or exclusion.—At the request of the County, the Secretary shall postpone or exclude from the sale all or a portion of the land described in subsection (b)(2).

(B) Indefinite postponement.—Unless specifically requested by the County, a postponement under subparagraph (A) shall not be indefinite.

### SEC. 103. DISPOSITION OF PROCEEDS.

(a) Initial Land Sale.—Section 5 of the Lincoln County Land Act of 2000 (114 Stat. 1047) shall apply to the disposition of the gross proceeds from the sale of land described in section 102(b)(1).

(b) Disposition of Proceeds.—Proceeds from sales of lands described in section 102(b)(2) shall be disbursed as follows—

(1) 5 percent shall be paid directly to the state for use in the general education program of the State;

(2) 10 percent shall be paid to the County for use for fire protection, law enforcement, public safety, housing, social services, and transportation; and

(3) the remainder shall be deposited in a special account in the Treasury of the United States and shall be available without further appropriation to the Secretary until expended for—

(A) the reimbursement of costs incurred by the Nevada State office and the Ely Field Office of the Bureau of Land Management for preparing for the sale of land described in section 102(b) including surveys appraisals, compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and compliance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712);

(B) the inventory, evaluation, protection, and management of unique archaeological resources (as defined in section 3 of the Archaeological Resources Protection Act of 19792 (16 U.S.C. 470bb)) of the County;

(C) the development and implementation of a multispecies habitat conservation plan for the County;

(D) processing of public land use authorizations and rights-of-way relating to the development of land conveyed under section 102(a) of this Act;

(E) processing the Silver State OHV trail and implementing the management plan required by section 151(c)(2) of this Act; and

(F) processing wilderness designation, including but not limited to, the costs of appropriate fencing, signage, public education, and enforcement for the wilderness areas designated.

(c) Investment of Special Account.—Any amounts deposited in the special account shall earn interest in an amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities, and may be expended according to the provisions of this section.

## TITLE II—WILDERNESS AREAS

### SEC. 111. FINDINGS.

Congress finds that—

(1) public land in the County contains unique and spectacular natural resources, including—

(A) priceless habitat for numerous species of plants and wildlife; and

(B) thousands of acres of land that remain in a natural state; and

(2) continued preservation of those areas would benefit the County and all of the United States by—

(A) ensuring the conservation of ecologically diverse habitat;

(B) protecting prehistoric cultural resources;

(C) conserving primitive recreational resources; and

(D) protecting air and water quality.

### SEC. 112. DEFINITIONS.

In this title:

(1) County.—The term "County" means Lincoln County, Nevada.

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

(3) State.—The term "State" means the State of Nevada.

### SEC. 113. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.

(a) Additions.—The following land in the State is designated as wilderness and as components of the National Wilderness Preservation System:

(1) Mormon mountains wilderness.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 157,938 acres, as generally depicted on the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Mormon Mountains Wilderness".

(2) Meadow valley range wilderness.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 123,488 acres, as generally depicted on the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Meadow Valley Range Wilderness".

(3) Delamar mountains wilderness.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 111,328 acres, as generally depicted on the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Delamar Mountains Wilderness".

(4) Clover mountains wilderness.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 85,748 acres, as generally depicted on

the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Clover Mountains Wilderness".

(5) SOUTH PAHROC RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 25,800 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "South Pahroc Range Wilderness".

(6) WORTHINGTON MOUNTAINS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 30,664 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Worthington Mountains Wilderness".

(7) WEEPAH SPRING WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 51,480 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Weepah Spring Wilderness".

(8) PARSNIP PEAK WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 43,693 acres, as generally depicted on the map entitled "Northern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Parsnip Peak Wilderness".

(9) WHITE ROCK RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 24,413 acres, as generally depicted on the map entitled "Northern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "White Rock Range Wilderness".

(10) FORTIFICATION RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 30,656 acres, as generally depicted on the map entitled "Northern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Fortification Range Wilderness".

(11) FAR SOUTH EGANS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 36,384 acres, as generally depicted on the map entitled "Northern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Far South Egans Wilderness".

(12) TUNNEL SPRING WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 5,371 acres, as generally depicted on the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Tunnel Spring Wilderness".

(13) BIG ROCKS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 12,997 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Big Rocks Wilderness".

(14) MT. IRISH WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 28,334 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Mt. Irish Wilderness".

(b) BOUNDARY.—The boundary of any portion of a wilderness area designated by subsection (a) that is bordered by a road shall be at least 100 feet from the edge of the road to allow public access.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of each wilderness area designated by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) EFFECT.—Each map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct clerical and typographical errors in the map or legal description.

(3) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the Nevada State Director of the Bureau of Land Management;

(C) the Ely Field Office of the Bureau of Land Management; and

(D) the Caliente Field Station of the Bureau of Land Management.

(d) WITHDRAWAL.—Subject to valid existing rights, the wilderness areas designated by subsection (a) are withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing and geothermal leasing laws.

### SEC. 114. ADMINISTRATION.

(a) MANAGEMENT.—Subject to valid existing rights, each area designated as wilderness by this title shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of the enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(b) LIVESTOCK.—Within the wilderness areas designated under this title that are administered by the Bureau of Land Management, the grazing of livestock in areas in which grazing is established as of the date of enactment of this Act shall be allowed to continue, subject to such reasonable regulations, policies, and practices that the Secretary considers necessary, consistent with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), including the guidelines set forth in Appendix A of House Report 101–405.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest in land within the boundaries of an area designated as wilderness by this title that is acquired by the United States after the date of the enactment of this Act shall be added to and administered as part of the wilderness area within which the acquired land or interest is located.

(d) WATER RIGHTS.—

(1) FINDINGS.—Congress finds that—

(A) the land designated as Wilderness by this title is within the Northern Mojave and Great Basin Deserts, is arid in nature, and includes ephemeral streams;

(B) the hydrology of the land designated as wilderness by this title is predominantly characterized by complex flow patterns and alluvial fans with impermanent channels;

(C) the subsurface hydrogeology of the region is characterized by ground water subject to local and regional flow gradients and unconfined and artesian conditions;

(D) the land designated as wilderness by this title is generally not suitable for use or development of new water resource facilities; and

(E) because of the unique nature and hydrology of the desert land designated as wilderness by this title, it is possible to provide for proper management and protection of the wilderness and other values of lands in ways different from those used in other legislation.

(2) STATUTORY CONSTRUCTION.—Nothing in this title—

(A) shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to the land designated as wilderness by this title;

(B) shall affect any water rights in the State existing on the date of the enactment of this Act, including any water rights held by the United States;

(C) shall be construed as establishing a precedent with regard to any future wilderness designations;

(D) shall affect the interpretation of, or any designation made pursuant to, any other Act; or

(E) shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State and other States.

(3) NEVADA WATER LAW.—The Secretary shall follow the procedural and substantive requirements of the law of the State in order to obtain and hold any water rights not in existence on the date of enactment of this Act with respect to the wilderness areas designated by this title.

(4) NEW PROJECTS.—

(A) WATER RESOURCE FACILITY.—As used in this paragraph, the term "water resource facility"—

(i) means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures; and

(ii) does not include wildlife guzzlers.

(B) RESTRICTION ON NEW WATER RESOURCE FACILITIES.—Except as otherwise provided in this Act, on and after the date of the enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the wilderness areas designated by this Act.

### SEC. 115. ADJACENT MANAGEMENT.

(a) IN GENERAL.—Congress does not intend for the designation of wilderness in the State pursuant to this title to lead to the creation of protective perimeters or buffer zones around any such wilderness area.

(b) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness designated under this title shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

### SEC. 116. MILITARY OVERFLIGHTS.

Nothing in this title restricts or precludes—

(1) low-level overflights of military aircraft over the areas designated as wilderness by this title, including military overflights that can be seen or heard within the wilderness areas;

(2) flight testing and evaluation; or

(3) the designation or creation of new units of special use airspace, or the establishment of military flight training routes, over the wilderness areas.

### SEC. 117. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.

Nothing in this title shall be construed to diminish the rights of any Indian tribe. Nothing in this title shall be construed to diminish tribal rights regarding access to Federal land for tribal activities, including spiritual, cultural, and traditional food-gathering activities.

### SEC. 118. RELEASE OF WILDERNESS STUDY AREAS.

(a) FINDING.—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), the public land in the County administered by the Bureau of Land Management in the following areas has been adequately studied for wilderness designation:

(1) The Table Mountain Wilderness Study Area.

(2) Evergreen A, B, and C Wilderness Study Areas.

(3) Any portion of the wilderness study areas—

(A) not designated as wilderness by section 114(a); and

(B) depicted as released on—

(i) the map entitled "Northern Lincoln County Wilderness Map" and dated October 1, 2004;

(ii) the map entitled "Southern Lincoln County Wilderness Map" and dated October 1, 2004; or

(iii) the map entitled "Western Lincoln County Wilderness Map" and dated October 1, 2004.

(b) RELEASE.—Any public land described in subsection (a) that is not designated as wilderness by this title—

(1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c));

(2) shall be managed in accordance with—

(A) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and

(B) existing cooperative conservation agreements; and

(3) shall be subject to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

### SEC. 119. WILDLIFE MANAGEMENT.

(a) IN GENERAL.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this title affects or diminishes the jurisdiction of the State with respect to fish and wildlife management, including the regulation of hunting, fishing, and trapping, in the wilderness areas designated by this title.

(b) MANAGEMENT ACTIVITIES.—In furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title where consistent with relevant wilderness management plans, in accordance with appropriate policies such as those set forth in Appendix B of House Report 101-405, including the occasional and temporary use of motorized vehicles, if such use, as determined by the Secretary, would promote healthy, viable, and more naturally distributed wildlife populations that would enhance wilderness values and accomplish those purposes with the minimum impact necessary to reasonably accomplish the task.

(c) EXISTING ACTIVITIES.—Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)) and in accordance with appropriate policies such as those set forth in Appendix B of House Report 101–405, the State may continue to use aircraft, including helicopters, to survey, capture, transplant, monitor, and provide water for wildlife populations, including bighorn sheep, and feral stock, horses, and burros.

(d) WILDLIFE WATER DEVELOPMENT PROJECTS.—Subject to subsection (f), the Secretary shall authorize structures and facilities, including existing structures and facilities, for wildlife water development projects, including guzzlers, in the wilderness areas designated by this Act if—

(1) the structures and facilities will, as determined by the Secretary, enhance wilderness values by promoting healthy, viable, and more naturally distributed wildlife populations; and

(2) the visual impacts of the structures and facilities on the wilderness areas can reasonably be minimized.

(e) HUNTING, FISHING, AND TRAPPING.—In consultation with the appropriate State agency (except in emergencies), the Secretary may designate by regulation areas in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the wilderness areas designated by this Act.

(f) COOPERATIVE AGREEMENT.—The terms and conditions under which the State, including a designee of the State, may conduct wildlife management activities in the wilderness areas designated by this title are specified in the cooperative agreement between the Secretary and the State, entitled "Memorandum of Understanding between the Bureau of Land Management and the Nevada Department of Wildlife Supplement No. 9," and signed November and December 2003, including any amendments to that document agreed upon by the Secretary and the State and subject to all applicable laws and regulations. Any references to Clark County in that document shall also be deemed to be referred to and shall apply to Lincoln County, Nevada.

### SEC. 120. WILDFIRE MANAGEMENT.

Consistent with section 4 of the Wilderness Act (16 U.S.C. 1133), nothing in this title precludes a Federal, State, or local agency from conducting wildfire management operations (including operations using aircraft or mechanized equipment) to manage wildfires in the wilderness areas designated by this title.

### SEC. 121. CLIMATOLOGICAL DATA COLLECTION.

Subject to such terms and conditions as the Secretary may prescribe, nothing in this title precludes the installation and maintenance of hydrologic, meteorologic, or climatological collection devices in the wilderness areas designated by this title if the facilities and access to the facilities are essential to flood warning, flood control, and water reservoir operation activities.

## TITLE III—UTILITY CORRIDORS

### SEC. 131. UTILITY CORRIDOR AND RIGHTS-OF-WAY.

(a) UTILITY CORRIDOR.—

(1) IN GENERAL.—Consistent with title II and notwithstanding sections 202 and 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1763), the Secretary of the Interior (referred to in this section as the "Secretary") shall establish on public land a 2,640-foot wide corridor for utilities in Lincoln County and Clark County, Nevada, as generally depicted on the map entitled "Lincoln County Conservation, Recreation, and Development Act", and dated October 1, 2004.

(2) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the Nevada State Director of the Bureau of Land Management;

(C) the Ely Field Office of the Bureau of Land Management; and

(D) the Caliente Field Station of the Bureau of Land Management.

(b) RIGHTS-OF-WAY.—

(1) IN GENERAL.—Notwithstanding sections 202 and 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1763), and subject to valid and existing rights, the Secretary shall grant to the Southern Nevada Water Authority and the Lincoln County Water District nonexclusive rights-of-way to Federal land in Lincoln County and Clark County, Nevada, for any roads, wells, well fields, pipes, pipelines, pump stations, storage facilities, or other facilities and systems that are necessary for the construction and operation of a water conveyance system, as depicted on the map.

(2) APPLICABLE LAW.—A right-of-way granted under paragraph (1) shall be granted in perpetuity and shall not require the payment of rental.

(3) COMPLIANCE WITH NEPA.—Before granting a right-of-way under paragraph (1), the Secretary shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including the identification and consideration of potential impacts to fish and wildlife resources and habitat.

(c) WITHDRAWAL.—Subject to valid existing rights, the utility corridors designated by subsection (a) are withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing and geothermal leasing laws.

(d) STATE WATER LAW.—Nothing in this title shall—

(1) prejudice the decisions or abrogate the jurisdiction of the Nevada or Utah State Engineers with respect to the appropriation, permitting, certification, or adjudication of water rights;

(2) preempt Nevada or Utah State water law; or

(3) limit or supersede existing water rights or interest in water rights under Nevada or Utah State law.

(e) WATER RESOURCES STUDY.—

(1) IN GENERAL.—The Secretary, acting through the United States Geological Survey, the Desert Research Institute, and a designee from the State of Utah shall conduct a study to investigate ground water quantity, quality, and flow characteristics in the deep carbonate and alluvial aquifers of White Pine County, Nevada, and any groundwater basins that are located in White Pine County, Nevada, or Lincoln County, Nevada, and adjacent areas in Utah. The study shall—

(A) focus on a review of existing data and may include new data;

(B) determine the approximate volume of water stored in aquifers in those areas;

(C) determine the discharge and recharge characteristics of each aquifer system;

(D) determine the hydrogeologic and other controls that govern the discharge and recharge of each aquifer system; and

(E) develop maps at a consistent scale depicting aquifer systems and the recharge and discharge areas of such systems.

(2) TIMING; AVAILABILITY.—The Secretary shall complete a draft of the water resources report required under paragraph (1) not later than 30 months after the date of the enactment of this Act. The Secretary shall then make the draft report available for public comment for a period of not less than 60 days. The final report shall be submitted to the Committee on Resources in the House of Representatives and the Committee on Energy and Natural Resources in the Senate and made available to the public not later than 36 months after the date of the enactment of this Act.

(3) AGREEMENT.—Prior to any transbasin diversion from ground-water basins located within both the State of Nevada and the State of Utah, the State of Nevada and the State of Utah shall reach an agreement regarding the division of water resources of those interstate ground-water flow system(s) from which water will be diverted and used by the project. The agreement shall allow for the maximum sustainable beneficial use of the water resources and protect existing water rights.

(4) FUNDING.—Section 4(e)(3)(A) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2346; 116 Stat. 2007; 117 Stat. 1317) is amended—

(A) in clauses (ii), (iv), and (v), by striking "County" each place it appears and inserting "and Lincoln Counties";

(B) in clause (vi), by striking "and" at the end;

(C) by redesignating clause (vii) as clause (viii); and

(D) by inserting after clause (vi) the following:

"(vii) for development of a water study for Lincoln and White Pine Counties, Nevada, in an amount not to exceed $6,000,000; and".

### SEC. 132. RELOCATION OF RIGHT-OF-WAY AND UTILITY CORRIDORS LOCATED IN CLARK AND LINCOLN COUNTIES IN THE STATE OF NEVADA.

(a) DEFINITIONS.—In this section:

(1) AGREEMENT.—The term "Agreement" means the land exchange agreement between Aerojet-General Corporation and the United States, dated July 14, 1988.

(2) CORRIDOR.—The term "corridor" means—

(A) the right-of-way corridor that is—

(i) identified in section 5(b)(1) of the Nevada-Florida Land Exchange Authorization Act of 1988 (102 Stat. 55); and

(ii) described in section 14(a) of the Agreement;

(B) such portion of the utility corridor identified in the 1988 Las Vegas Resource Management Plan located south of the boundary of the corridor described in subparagraph (A) as is necessary to relocate the right-of-way corridor to the area described in subsection (c)(2); and

(C) such portion of the utility corridor identified in the 2000 Caliente Management Framework Plan Amendment located north of the boundary of the corridor described in subparagraph (A) as is necessary to relocate the right-of-way corridor to the area described in subsection (c)(2).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(b) RELINQUISHMENT AND FAIR MARKET VALUE.—

(1) IN GENERAL.—The Secretary shall, in accordance with this section, relinquish all right, title, and interest of the United States in and to the corridor on receipt of a payment in an amount equal to the fair market value of the corridor (plus any costs relating to the right-of-way relocation described in this title).

(2) FAIR MARKET VALUE.—

(A) The fair market value of the corridor shall be equal to the amount by which the value of the discount described in the 1988 appraisal of the corridor that was applied to the land underlying the corridor has increased, as determined by the Secretary using the multiplier determined under subparagraph (B).

(B) Not later than 60 days after the date of the enactment of this Act, the Appraisal Services Directorate of the Department of the Interior shall determine an appropriate multiplier to reflect the change in the value of the land underlying the corridor between—

(i) the date of which the corridor was transferred in accordance with the Agreement; and

(ii) the date of enactment of this Act.

(3) PROCEEDS.—Proceeds under this subsection shall be deposited in the account established under section 103(b)(3)

(c) RELOCATION.—

(1) IN GENERAL.—The Secretary shall relocate to the area described in paragraph (2), the portion of IDI-26446 and UTU-73363 identified as NVN-49781 that is located in the corridor relinquished under subsection (b)(1).

(2) DESCRIPTION OF AREA.—The area referred to in paragraph (1) is the area located on public land west of United States Route 93.

(3) REQUIREMENTS.—The relocation under paragraph (1) shall be conducted in a manner that—

(A) minimizes engineering design changes; and

(B) maintains a gradual and smooth interconnection of the corridor with the area described in paragraph (2).

(4) AUTHORIZED USES.—The Secretary may authorize the location of any above ground or underground utility facility, transmission lines, gas pipelines, natural gas pipelines, fiber optics, telecommunications, water lines, wells (including monitoring wells), cable television, and any related appurtenances in the area described in paragraph (1).

(d) EFFECT.—The relocation of the corridor under this section shall not require the Secretary to update the 1998 Las Vegas Valley Resource Management Plan or the 2000 Caliente Management Framework Plan Amendment.

(e) WAIVER OF CERTAIN REQUIREMENTS.—The Secretary shall waive the requirements of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) that would otherwise be applicable to the holders of the right-of-way corridor described in subsection (a)(2)(A) with respect to an amendment to the legal description of the right-of-way corridor.

## TITLE IV—SILVER STATE OFF-HIGHWAY VEHICLE TRAIL

### SEC. 141. SILVER STATE OFF-HIGHWAY VEHICLE TRAIL.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The .term "Secretary" means the Secretary of the Interior.

(2) MAP.—The term "Map" means the map entitled "Lincoln County Conservation, Recreation and Development Act Map" and dated October 1, 2004.

(3) TRAIL.—The term "Trail" means the system of trails designated in subsection (b) as the Silver State Off-Highway Vehicle Trail.

(b) DESIGNATION.—The trails that are generally depicted on the Map are hereby designated as the "Silver State Off-Highway Vehicle Trail".

(c) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Trail in a manner that—

(A) is consistent with motorized and mechanized use of the Trail that is authorized on the date of the enactment of this Act pursuant to applicable Federal and State laws and regulations;

(B) ensures the safety of the people who use the Trail; and

(C) does not damage sensitive habitat or cultural resources.

(2) MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the Secretary, in consultation with the State, the County, and any other interested persons, shall complete a management plan for the Trail.

(B) COMPONENTS.—The management plan shall—

(i) describe the appropriate uses and management of the Trail;

(ii) authorize the use of motorized and mechanized vehicles on the Trail; and

(iii) describe actions carried out to periodically evaluate and manage the appropriate levels of use and location of the Trail to minimize environmental impacts and prevent damage to cultural resources from the use of the Trail.

(3) MONITORING AND EVALUATION.—

(A) ANNUAL ASSESSMENT.—The Secretary shall annually assess the effects of the use of off-highway vehicles on the Trail and, in consultation with the Nevada Division of Wildlife, assess the effects of the Trail on wildlife and wildlife habitat to minimize environmental impacts and prevent damage to cultural resources from the use of the Trail.

(B) CLOSURE.—The Secretary, in consultation with the State and the County, may temporarily close or permanently reroute, subject to subparagraph (C), a portion of the Trail if the Secretary determines that—

(i) the Trail is having an adverse impact on—

(I) natural resources; or

(II) cultural resources;

(ii) the Trail threatens public safety;

(iii) closure of the Trail is necessary to repair damage to the Trail; or

(iv) closure of the Trail is necessary to repair resource damage.

(C) REROUTING.—Portions of the Trail that are temporarily closed may be permanently rerouted along existing roads and trails on public lands currently open to motorized use if the Secretary determines that such rerouting will not significantly increase or decrease the length of the Trail.

(D) NOTICE.—The Secretary shall provide information to the public regarding any routes on the Trail that are closed under subparagraph (B), including by providing appropriate signage along the Trail.

(4) NOTICE OF OPEN ROUTES.—The Secretary shall ensure that visitors to the Trail have access to adequate notice regarding the routes on the Trail that are open through use of appropriate signage along the Trail and through the distribution of maps, safety education materials, and other information considered appropriate by the Secretary.

(d) NO EFFECT ON NON-FEDERAL LAND AND INTERESTS IN LAND.—Nothing in this section shall be construed to affect ownership, management, or other rights related to non-Federal land or interests in land.

(e) MAP ON FILE.—The Map shall be kept on file at the appropriate offices of the Secretary.

### TITLE V—OPEN SPACE PARKS

#### SEC. 151. OPEN SPACE PARK CONVEYANCE TO LINCOLN COUNTY, NEVADA.

(a) CONVEYANCE.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1171, 1712), not later than 1 year after lands are identified by the County, the Secretary shall convey to the County, subject to valid existing rights, for no consideration, all right title, and interest of the United States in and to the parcels of land described in subsection (b).

(b) DESCRIPTION OF LAND.—Up to 15,000 acres of Bureau of Land Management-managed public land in Lincoln County identified by the county in consultation with the Bureau of Land Management.

(c) COSTS.—Any costs relating to any conveyance under subsection (a), including costs for surveys and other administrative costs, shall be paid by the County, or in accordance with section 103(b)(2) of this Act.

(d) USE OF LAND.—

(1) IN GENERAL.—Any parcel of land conveyed to the County under subsection (a) shall be used only for—

(A) the conservation of natural resources; or

(B) public parks.

(2) FACILITIES.—Any facility on a parcel of land conveyed under subsection (a) shall be constructed and managed in a manner consistent with the uses described in paragraph (1).

(e) REVERSION.—If a parcel of land conveyed under subsection (a) is used in a manner that is inconsistent with the uses specified in subsection (d), the parcel of land shall, at the discretion of the Secretary, revert to the United States.

#### SEC. 152. OPEN SPACE PARK CONVEYANCE TO THE STATE OF NEVADA.

(a) CONVEYANCE.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), the Secretary shall convey to the State of Nevada, subject to valid existing rights, for no consideration, all right, title, and interest of the United States in and to the parcels of land described in subsection (b), if there is a written agreement between the State and Lincoln County, Nevada, supporting such a conveyance.

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are the parcels of land depicted as "NV St. Park Expansion Proposal" on the map entitled "Lincoln County Conservation, Recreation, and Development Act Map" and dated October 1, 2004.

(c) COSTS.—Any costs relating to any conveyance under subsection (a), including costs for surveys and other administrative costs, shall be paid by the State.

(d) USE OF LAND.—

(1) IN GENERAL.—Any parcel of land conveyed to the State under subsection (a) shall be used only for—

(A) the conservation of natural resources; or

(B) public parks.

(2) FACILITIES.—Any facility on a parcel of land conveyed under subsection (a) shall be constructed and managed in a manner consistent with the uses described in paragraph (1).

(e) REVERSION.—If a parcel of land conveyed under subsection (a) is used in a manner that is inconsistent with the uses specified in subsection (d), the parcel of land shall, at the discretion of the Secretary, revert to the United States.

### TITLE VI—JURISDICTION TRANSFER

#### SEC. 161. TRANSFER OF ADMINISTRATIVE JURISDICTION BETWEEN THE FISH AND WILDLIFE SERVICE AND THE BUREAU OF LAND MANAGEMENT.

(a) IN GENERAL.—Administrative jurisdiction over the land described in subsection (b) is transferred from the United States Bureau of Land Management to the United States Fish and Wildlife Service for inclusion in the Desert National Wildlife Range and the administrative jurisdiction over the land described in subsection (c) is transferred from the United States Fish and Wildlife Service to the United States Bureau of Land Management.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the approximately 8,503 acres of land administered by the United States Bureau of Land Management as generally depicted on the map entitled "Lincoln County Conservation, Recreation, and Development Act Map" and identified as "Lands to be transferred to the Fish and Wildlife Service" and dated October 1, 2004.

(c) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the approximately 8,382 acres of land administered by the United States Fish and Wildlife Service as generally depicted on the map entitled "Lincoln County Conservation, Recreation, and Development Act Map" and identified as "Lands to be transferred to the Bureau of Land Management" and dated October 1, 2004.

(d) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

(1) the Office of the Director of the Bureau of Land Management;

(2) the Office of the Nevada State Director of the Bureau of Land Management;

(3) the Ely Field Station of the Bureau of Land Management;

(4) the Caliente Field Office of the Bureau of Land Management;

(5) the Office of the Director of the United States Fish and Wildlife Service; and

(6) the Office of the Desert National Wildlife Complex.

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**SA 4055.** Mr. FRIST (for Mr. DOMENICI) proposed an amendment to the bill H.R. 1630, to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes; as follows:

On page 2, line 9, strike "June" and insert "July".

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**SA 4056.** Mr. FRIST (for Mr. DOMENICI) proposed an amendment to the bill S. 1466, to facilitate the transfer of land in the State of Alaska, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Alaska Land Transfer Acceleration Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—STATE SELECTIONS AND CONVEYANCES

Sec. 101. Community grant selections and conveyances.
Sec. 102. Prioritization of land to be conveyed.
Sec. 103. Selection of certain reversionary interests held by the United States.
Sec. 104. Effect of hydroelectric withdrawals.
Sec. 105. Entitlement for the University of Alaska.
Sec. 106. Settlement of remaining entitlement.
Sec. 107. Effect of Federal mining claims.
Sec. 108. Land mistakenly relinquished or omitted.

TITLE II—ALASKA NATIVE CLAIMS SETTLEMENT ACT

Sec. 201. Land available after selection period.
Sec. 202. Combined entitlements.
Sec. 203. Authority to convey by whole section.
Sec. 204. Conveyance of cemetery sites and historical places.
Sec. 205. Allocations based on population.
Sec. 206. Authority to withdraw land.
Sec. 207. Report on withdrawals.
Sec. 208. Automatic segregation of land for underselected Village Corporations.
Sec. 209. Settlement of remaining entitlement.

TITLE III—NATIVE ALLOTMENTS

Sec. 301. Correction of conveyance documents.
Sec. 302. Title recovery of Native allotments.
Sec. 303. Native allotment revisions on land selected by or conveyed to a Native Corporation.
Sec. 304. Compensatory acreage.
Sec. 305. Reinstatements and reconstructions.
Sec. 306. Amendments to section 41 of the Alaska Native Claims Settlement Act.

TITLE IV—FINAL PRIORITIES; CONVEYANCE AND SURVEY PLANS

Sec. 401. Deadline for establishment of regional plans.
Sec. 402. Deadline for establishment of village plans.
Sec. 403. Final prioritization of ANCSA selections.
Sec. 404. Final prioritization of State selections.

TITLE V—ALASKA LAND CLAIMS HEARINGS AND APPEALS

Sec. 501. Alaska land claims hearings and appeals.

TITLE VI—REPORT AND AUTHORIZATION OF APPROPRIATIONS

Sec. 601. Report.
Sec. 602. Authorization of appropriations.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) NATIVE ALLOTMENT.—The term "Native allotment" means an allotment claimed under the Act of May 17, 1906 (34 Stat. 197, chapter 2469).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) STATE.—The term "State" means the State of Alaska.

### TITLE I—STATE SELECTIONS AND CONVEYANCES

#### SEC. 101. COMMUNITY GRANT SELECTIONS AND CONVEYANCES.

(a) IN GENERAL.—Section 6 of Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340) is amended by adding at the end the following:

"(n) The minimum tract selection size is waived with respect to a selection made by the State of Alaska under subsection (a) for the following selections:

| National Forest Community Grant Application Number | Area Name | Est. Acres |
|---|---|---|
| 209 | Yakutat Airport Addition | 111 |
| 264 | Bear Valley (Portage) | 120 |
| 284 | Hyder-Fish Creek | 61 |
| 310 | Elfin Cove | 37 |
| 384 | Edna Bay Admin Site | 37 |
| 390 | Point Hilda | 29.". |

(b) COMMUNITY GRANT SELECTIONS.—Section 6 of Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340) (as amended by subsection (a)) is amended by adding at the end the following:

"(o)(1) The State of Alaska may elect to convert a selection filed under subsection (b) to a selection under subsection (a) by notifying the Secretary of the Interior in writing.

"(2) If the State of Alaska makes an election under paragraph (1), the entire selection shall be converted to a selection under subsection (a).

"(3) The Secretary of the Interior shall not convey a total of more than 400,000 acres of public domain land selected under subsection (a) or converted under paragraph (1) to a public domain selection under subsection (a).

"(4) Conversion of a selection under paragraph (1) shall not increase the survey obligation of the United States with respect to the land converted.

"(p) All selection applications of the State of Alaska that are on file with the Secretary of the Interior under the public domain provisions of subsection (a) on the date of enactment of this subsection and any selection applications that are converted to a subsection (a) selection under subsection (o)(1) are approved as suitable for community or recreational purposes.".

### SEC. 102. PRIORITIZATION OF LAND TO BE CONVEYED.

Section 906(h)(2) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(h)(2)) is amended—

(1) by striking "(2) As soon as practicable" and inserting the following:

"(2)(A) As soon as practicable";

(2) by striking "The sequence of" and inserting the following:

"(B)(i) The sequence of"; and

(3) by adding at the end the following:

"(ii) In establishing the priorities for tentative approval under clause (i), the State shall—

"(I) in the case of a selection under section 6(a) of Public Law 85-508 (commonly known as the 'Alaska Statehood Act') (72 Stat. 340), include all land selected; or

"(II) in the case of a selection under section 6(b) of that Act—

"(aa) include at least 5,760 acres; or

"(bb) if a waiver has been granted under section 6(g) of that Act or less than 5,760 acres of the entitlement remains, prioritize the selection in such increments as are available for conveyance.".

### SEC. 103. SELECTION OF CERTAIN REVERSIONARY INTERESTS HELD BY THE UNITED STATES.

(a) IN GENERAL.—All reversionary interests held by the United States in land owned by the State or any political subdivision of the State and any Federal land leased by the State under the Act of August 23, 1950 (25 U.S.C. 293b), or the Act of June 4, 1953 (25 U.S.C. 293a), that is prioritized for conveyance by the State under section 906(h)(2) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(h)(2))—

(1) are deemed to be selected; and

(2) may, with the concurrence of the Secretary or the head of the Federal agency with administrative jurisdiction over the land, be conveyed under section 6 of Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340).

(b) EFFECT ON ENTITLEMENT.—If, before the date of enactment of this Act, the entitlement of the State has not been charged with respect to a parcel for which a reversionary interest is conveyed under subsection (a), the total acreage of the parcel shall be charged against the remaining entitlement of the State.

(c) MINIMUM ACREAGE REQUIREMENT NOT APPLICABLE.—The minimum acreage requirement under subsections (a) and (b) of section 6 of Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340) shall not apply to the selection of reversionary interests under subsection (a).

(d) STATE WAIVER.—On conveyance to the State of any reversionary interest selected under subsection (a), the State shall be deemed to have waived all right to any future credit should the reversion not occur.

(e) LIMITATION.—This section shall not apply to—

(1) reversionary interests in land acquired by the United States through the use of amounts from the Exxon Valdez Oil Spill Trust Fund; or

(2) reversionary interests in any land conveyed to the State as a result of the "Terms and Conditions for Land Consolidation and Management in Cook Inlet Area" as ratified by section 12 of Public Law 94-204 (43 U.S.C. 1611 note).

### SEC. 104. EFFECT OF HYDROELECTRIC WITHDRAWALS.

(a) LAND WITHDRAWN, RESERVED, OR CLASSIFIED FOR POWER SITE OR POWER PROJECT PURPOSES.—If the State has filed a future selection application under section 906(e) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(e)) for land withdrawn, reserved, or classified for power site or power project purposes, notwithstanding the withdrawal, reservation, or classification for power site or power project purposes, the following parcels of land shall be deemed to be vacant, unappropriated, and unreserved within the meaning of Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 339):

| Serial Number | Area Name | General Selection Application Number |
|---|---|---|
| AKAA 058747 | Bradley Lake | GS 5141 |
| AKAA 058848 | Bradley Lake | GS 44 |
| AKAA 058266 | Eagle River/ Ship Creek/ Peters Creek | GS 1429 |
| AKAA 058265 | Eagle River/ Ship Creek/ Peters Creek | GS 1209 |
| AKAA 058374 | Salmon Creek | GS 327 |
| AKF 031321 | Nenana River | GS 2182 |
| AKAA 059056 | Solomon Gulch at Valdez | GS 86 |
| DAKFF 085798 | Kruzgamepa River Pass Creek | GS 4096. |

(b) LIMITATION.—Subsection (a) does not apply to any land that is—

(1) located within the boundaries of a conservation system unit (as defined in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102)); or

(2) otherwise unavailable for conveyance under Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 339).

(c) REQUIREMENT APPLICABLE TO NATIONAL FOREST SYSTEM LAND.—Any land described in subsection (a) that is in a unit of the National Forest System shall not be conveyed unless the Secretary of Agriculture approved the State selection before January 3, 1994.

(d) REQUIREMENTS APPLICABLE TO HYDROELECTRIC APPLICATIONS AND LICENSED PROJECTS.—

(1) HYDROELECTRIC APPLICATIONS.—Any selection of land described in subsection (a) that is included in a hydroelectric application—

(A) shall be subject to the jurisdiction of the Federal Energy Regulatory Commission; and

(B) shall not be conveyed while the hydroelectric application is pending.

(2) LICENSED PROJECT.—Any selection of land described in subsection (a) that is included in a licensed project shall be subject to—

(A) the jurisdiction of the Federal Energy Regulatory Commission;

(B) the rights of third parties; and

(C) the right of reentry under section 24 of the Federal Power Act (16 U.S.C. 818).

(e) EFFECT OF SECTION.—Nothing in this section negates or diminishes any right of an applicant to petition for restoration and opening of land withdrawn or classified for power purposes under section 24 of the Federal Power Act (16 U.S.C. 818).

### SEC. 105. ENTITLEMENT FOR THE UNIVERSITY OF ALASKA.

(a) IN GENERAL.—As of January 1, 2003, the remaining State entitlement for the benefit of the University of Alaska under the Act of January 21, 1929 (45 Stat. 1091, chapter 92), is 456 acres.

(b) REVERSIONARY INTERESTS.—The Act of January 21, 1929 (45 Stat. 1091, chapter 92), is amended by adding at the end the following:

"SEC. 3. (a) The State of Alaska (referred to in this Act as the 'State'), acting on behalf of, and with the approval of, the University of Alaska, may select—

"(1) any mineral interest (including an interest in oil or gas) in land located in the State, the unreserved portion of which is owned by the University of Alaska; or

"(2) any reversionary interest held by the United States in land located in the State, the unreserved portion of which is owned by the University of Alaska.

"(b) The total acreage of any parcel of land for which a partial interest is conveyed under subsection (a) shall be charged against the remaining entitlement of the State under this Act.

"(c) In taking title to a reversionary interest, the State, with the approval of the University of Alaska, waives all right to any future acreage credit if the reversion does not occur.

"SEC. 4. The Secretary may survey any vacant, unappropriated, and unreserved land in the State for purposes of allowing selections under this Act.

"SEC. 5. The authorized outstanding selections under this Act shall be not more than—

"(1) 125 percent of the remaining entitlement; plus

"(2) the number of acres of land that are in conflict with land owned by the University of Alaska, as identified in Native allotment applications on record with the Bureau of Land Management.".

### SEC. 106. SETTLEMENT OF REMAINING ENTITLEMENT.

(a) IN GENERAL.—The Secretary may enter into a binding written agreement with the State with respect to—

(1) the exact number and location of acres of land remaining to be conveyed under each entitlement established or confirmed by Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340), from—

(A) the land selected by the State as of January 3, 1994; and

(B) selections under the Act of January 21, 1929 (45 Stat. 1091, chapter 92);

(2) the priority in which the land is to be conveyed;

(3) the relinquishment of selections which are not to be conveyed; and

(4) the survey of the exterior boundaries of the land to be conveyed.

(b) CONSULTATION.—Before entering into an agreement under subsection (a), the Secretary shall ensure that any concerns or issues identified by any Federal agency potentially affected are given consideration.

(c) ERRORS.—The State, by entering into an agreement under subsection (a), shall receive any gain or bear any loss that results from errors in prior surveys, protraction diagrams, or the computation of the ownership of third parties on any land conveyed under an agreement entered into under subsection (a).

(d) AVAILABILITY OF AGREEMENTS.—Agreements entered into under subsection (a) shall be available for public inspection in the appropriate offices of the Department of the Interior.

(e) EFFECT.—Nothing in this section increases the entitlement provided to the State under Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340), or the Act of January 21, 1929 (45 Stat. 1091, chapter 92).

### SEC. 107. EFFECT OF FEDERAL MINING CLAIMS.

(a) CONDITIONAL RELINQUISHMENTS.—

(1) IN GENERAL.—To facilitate the conversion of Federal mining claims to State mining claims on land selected or topfiled by the State, a Federal mining claimant may file with the Secretary a voluntary relinquishment of the Federal mining claim conditioned on conveyance of the land to the State.

(2) CONVEYANCE OF RELINQUISHED CLAIM.—The Secretary may convey the land described in the relinquished Federal mining claim to the State if, with respect to the land—

(A) the State has filed as of January 3, 1994—

(i) a selection application under Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 339); or

(ii) a future selection application under section 906(e) of the Alaska National Interest Lands Conservation Act 43 U.S.C. 1635(e)); and

(B) the land addressed by the selection application or future selection application is conveyed to the State.

(3) OBLIGATIONS UNDER FEDERAL LAW.—Until the date on which the land is conveyed under paragraph (2), a Federal mining claimant shall be subject to any obligations relating to the land under Federal law.

(4) NO RELINQUISHMENT.—If the land previously encumbered by the relinquished Federal mining claim is not conveyed to the State under paragraph (2), the relinquishment of land under paragraph (1) shall be of no effect.

(b) RIGHTS-OF-WAY; OTHER INTEREST.—On conveyance to the State of a relinquished Federal mining claim under this section, the State shall assume authority over any leases, licenses, permits, rights-of-way, operating plans, other land use authorizations, or reclamation obligations applicable to the relinquished Federal mining claim on the date of conveyance.

### SEC. 108. LAND MISTAKENLY RELINQUISHED OR OMITTED.

Notwithstanding the selection deadlines under section 6(a) of Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340)—

(1) the State selection application AA-17607 NFCG 75, located in the Chugach National Forest, is reinstated to the parcels of land originally selected in 1978, which are more particularly described as—

(A) S½ sec. 14, T. 11 S., R. 11 W., of the Copper River Meridian;

(B) S½ sec. 15, T. 11 S., R. 11 W., of the Copper River Meridian;

(C) E½SE¼ sec. 16, T. 11 S., R. 11 W., of the Copper River Meridian;

(D) E½, E½W½, SW¼SW¼ sec. 21, T. 11 S., R. 11 W., of the Copper River Meridian;

(E) N½, SW¼, N½SE¼ sec. 22, T. 11 S., R. 11 W., of the Copper River Meridian;

(F) N½, SW¼, N½SE¼ sec. 23, T. 11 S., R. 11 W., of the Copper River Meridian;

(G) NW¼ sec. 27, T. 11 S., R. 11 W., of the Copper River Meridian; and

(H) N½N½, SE¼NE¼ sec. 28, T. 11 S., R. 11 W., of the Copper River Meridian; and

(2) the following parcels of land are considered topfiled under section 906(e) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 1635(e)):

(A) The parcels of land omitted from the State's topfiling of the Utility and Transportation Corridor, and other parcels of land encompassing the Trans-Alaska Pipeline System, withdrawn by Public Land Order No. 5150 (except for any land within the boundaries of a conservation system unit), which are more particularly described as—

(i) secs. 1-30, 32-36, T. 27 N., R. 11 W., of the Fairbanks Meridian;

(ii) secs. 10, 13—18, 21-28, and 33-36, T. 20 N., R. 13 W., of the Fairbanks Meridian;

(iii) secs. 13, 14, and 15, T. 20 N., R. 14 W., of the Fairbanks Meridian;

(iv) secs. 1-5, 8-17, and 20-28, T. 19 N., R. 13 W., of the Fairbanks Meridian;

(v) secs. 29-32, T. 20 N., R. 16 W., of the Fairbanks Meridian;

(vi) secs. 5-11, 14-23, and 25-36, T. 19 N., R. 16 W., of the Fairbanks Meridian;

(vii) secs. 30 and 31, T. 19 N., R. 15 W., of the Fairbanks Meridian;

(viii) secs. 5 and 6, T. 18 N., R. 15 W., of the Fairbanks Meridian;

(ix) secs. 1-2 and 7-34, T. 16 N., R. 14 W., of the Fairbanks Meridian; and

(x) secs. 4-9, T. 15 N., R. 14 W., of the Fairbanks Meridian.

(B) Secs. 1, 2, 11-14, T. 10 S., R. 42 W., of the Seward Meridian.

## TITLE II—ALASKA NATIVE CLAIMS SETTLEMENT ACT

### SEC. 201. LAND AVAILABLE AFTER SELECTION PERIOD.

(a) IN GENERAL.—To make certain Federal land available for conveyance to a Native Corporation that has sufficient remaining entitlement, the Secretary may waive the filing deadlines under sections 12 and 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1615) if—

(1) the Federal land is—

(A) located in a township in which all or any part of a Native Village is located; or

(B) surrounded by—

(i) land that is owned by the Native Corporation; or

(ii) selected land that will be conveyed to the Native Corporation;

(2) the Federal land—

(A) became available after the end of the original selection period;

(B)(i) was not selected by the Native Corporation because the Federal land was subject to a competing claim or entry; and

(ii) the competing claim or entry has lapsed; or

(C) was previously an unavailable Federal enclave within a Native selection withdrawal area;

(3)(A) the Secretary provides the Native Corporation with a specific time period in which to decline the Federal land; and

(B) the Native Corporation does not submit to the Secretary written notice declining the land within the period established under subparagraph (A); and

(4) the State has voluntarily relinquished any valid State selection or top-filing for the Federal land.

(b) CONGRESSIONAL ACTION.—Subsection (a) shall not apply to a parcel of Federal land if Congress has specifically made other provisions for disposition of the parcel of Federal land.

### SEC. 202. COMBINED ENTITLEMENTS.

Section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611) is amended—

(1) in the second sentence of subsection (b), by striking "Regional Corporation shall" and inserting "Regional Corporation shall, not later than October 1, 2005,"; and

(2) by adding at the end the following:

"(f)(1) The entitlements received by any Village Corporation under subsection (a) and the reallocations made to the Village Corporation under subsection (b) may be combined, at the discretion of the Secretary, without—

"(A) increasing or decreasing the combined entitlement; or

"(B) increasing the limitation on selections of Wildlife Refuge System land, National Forest System land, or State-selected land under subsection (a).

"(2) The combined entitlement under paragraph (1) may be fulfilled from selections under subsection (a) or (b) without regard to the entitlement specified in the selection application.

"(3) All selections under a combined entitlement under paragraph (1) shall be adjudicated and conveyed in compliance with this Act.

"(4) Except in a case in which a survey has been contracted for before the date of enactment of this subsection, the combination of entitlements under paragraph (1) shall not require separate patents or surveys, to distinguish between conveyances made to a Village Corporation under subsections (a) and (b).".

### SEC. 203. AUTHORITY TO CONVEY BY WHOLE SECTION.

Section 14(d) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(d)) is amended—

(1) by striking "(d) the Secretary" and inserting the following:

"(d)(1) The Secretary"; and

(2) by adding at the end the following:

"(2) For purposes of applying the rule of approximation under this section, the largest legal subdivision that may be conveyed in excess of the applicable acreage limitation specified in subsection (a) shall be—

"(A) in the case of land managed by the Bureau of Land Management that is not within a conservation system unit, the next whole section;

"(B) in the case of land managed by an agency other than the Bureau of Land Management that is not within a conservation system unit, the next quarter-section and only with concurrence of the agency; or

"(C) in the case of land within a conservation system unit, a quarter of a quarter section, and if the land is managed by an agency other than the Bureau of Land Management, only with the concurrence of that agency.

"(3)(A) If the Secretary determines pursuant to paragraph (2) that an entitlement of a Village Corporation (other than a Village Corporation listed in section 16(a)) or a Regional Corporation may be fulfilled by conveying a specific tract of surveyed or unsurveyed land, the Secretary and the affected Village or Regional Corporation may enter into an agreement providing that all land entitlements under this Act shall be deemed satisfied by conveyance of the specifically identified and agreed upon tract of land.

"(B) An agreement entered into under subparagraph (A) shall be—

"(i) in writing;

"(ii) executed by the Secretary and the Village or Regional Corporation; and

"(iii) authorized by a corporate resolution adopted by the affected Village or Regional Corporation.

"(C) After execution of an agreement under subparagraph (A) and conveyance of the agreed upon tract to the affected Village or Regional Corporation—

"(i) the Secretary shall not make any further adjustments to calculations relating to acreage entitlements of the Village or Regional Corporation; and

"(ii) the Village or Regional Corporation shall not be entitled to any further conveyances under this Act.

"(D) A Village or Regional Corporation shall not be eligible to receive land under subparagraph (A) if the Village or Regional Corporation has received the full land entitlement of the Village or Regional Corporation through—

"(i) an actual conveyance of land; or

"(ii) a previous agreement.

"(E) If the calculations of the Secretary indicate that the final survey boundaries for any Village or Regional Corporation entitlement for which an agreement has not been entered into under this paragraph include acreage in a quantity that exceeds the statutory entitlement of the corporation by ⅒ of 1 percent or less, but not more than the applicable acreage limitation specified in paragraph (2)—

"(i) the entitlement shall be considered satisfied by the conveyance of the surveyed area; and

"(ii) the Secretary shall not change the survey for the sole purpose of an acreage adjustment.

"(F) This paragraph does not limit or otherwise affect the ability of a Village or Regional Corporation to enter into land exchanges with the United States.".

### SEC. 204. CONVEYANCE OF CEMETERY SITES AND HISTORICAL PLACES.

Section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) is amended—

(1) by striking "(1) The Secretary" and inserting the following:

"(1)(A) The Secretary";

(2) by striking "Only title" and inserting the following:

"(B) Only title"; and

(3) by adding at the end the following:

"(C)(i) Notwithstanding acreage allocations made before the date of enactment of this subparagraph, the Secretary may convey any cemetery site or historical place—

"(I) with respect to which there is an application on record with the Secretary on the date of enactment of this paragraph; and

"(II) that is eligible for conveyance.

"(ii) Clause (i) shall also apply to any of the 188 closed applications that are determined to be eligible and reinstated under Secretarial Order No. 3220 dated January 5, 2001.

"(D) No applications submitted for the conveyance of land under subparagraph (A) that were closed before the date of enactment of this paragraph may be reinstated other than those specified in subparagraph (C)(ii).

"(E) After the date of enactment of this paragraph—

"(i) no application may be filed for the conveyance of land under subparagraph (A); and

"(ii) no pending application may be amended, except as necessary to conform the application to the description in the certification of eligibility of the Bureau of Indian Affairs.

"(F) Unless, not later than 1 year after the date of enactment of this paragraph, a Regional Corporation that has filed an application for a historic place submits to the Secretary a statement on the significance of and the location of the historic place—

"(i) the application shall not be valid; and

"(ii) the Secretary shall reject the application.

"(G) The State and the head of the Federal agency with administrative jurisdiction over the land shall have 30 days to provide written comments to the Secretary—

"(i) identifying any third party interest to which a conveyance under subparagraph (A) should be made subject; and

"(ii) describing any easements recommended for reservation.".

### SEC. 205. ALLOCATIONS BASED ON POPULATION.

Section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)) is amended by adding at the end the following:

"(C)(i) Notwithstanding any other provision of this subsection, as soon as practicable after enactment of this subparagraph, the Secretary shall allocate to a Regional Corporation eligible for an allocation under subparagraph (A) the Regional Corporation's share of 200,000 acres from lands withdrawn under this subsection, to be credited against acreage to be allocated to the Regional Corporation under subparagraph (A).

"(ii) Clause (i) shall apply to Chugach Alaska Corporation pursuant to the terms of the 1982 CNI Settlement Agreement.

"(iii) With respect to Cook Inlet Region, Inc., or Koniag, Inc.—

"(I) clause (i) shall not apply; and

"(II) the portion of the 200,000 acres allocated to Cook Inlet Region Inc. or Koniag, Inc., shall be retained by the United States.

"(iv) This subparagraph shall not affect any prior agreement entered into by a Regional Corporation other than the agreements specifically referred to in this subparagraph.".

### SEC. 206. AUTHORITY TO WITHDRAW LAND.

Section 14(h)(10) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(10)) is amended—

(1) by striking "(10) Notwithstanding" and inserting the following:

"(10)(A) Notwithstanding"; and

(2) by adding at the end the following:

"(B) If a Regional Corporation does not have enough valid selections on file to fulfill the remaining entitlement of the Regional Corporation under paragraph (8), the Secretary may use the withdrawal authority under subparagraph (A) to withdraw land that is vacant, unappropriated, and unreserved on the date of enactment of this subparagraph for selection by, and conveyance to, the Regional Corporation to fulfill the entitlement.".

### SEC. 207. REPORT ON WITHDRAWALS.

Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(1) review the withdrawals made pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)) to determine if any portion of the lands withdrawn pursuant to that provision can be opened to appropriation under the public land laws or if their withdrawal is still needed to protect the public interest in those lands;

(2) provide an opportunity for public notice and comment, including recommendations with regard to lands to be reviewed under paragraph (1); and

(3) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that identifies any portion of the lands so withdrawn that can be opened to appropriation under the public land laws consistent with the protection of the public interest in these lands.

### SEC. 208. AUTOMATIC SEGREGATION OF LAND FOR UNDERSELECTED VILLAGE CORPORATIONS.

Section 22(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)) is amended by adding at the end the following:

"(3) In lieu of withdrawal under paragraph (2), land may be segregated from all other forms of appropriation for the purposes described in that paragraph if—

"(A) the Secretary and the Village Corporation enter into an agreement identifying the land for selection; and

"(B) the Village Corporation files an application for selection of the land.".

### SEC. 209. SETTLEMENT OF REMAINING ENTITLEMENT.

(a) IN GENERAL.—The Secretary may enter into a binding written agreement with a Native Corporation relating to—

(1) the land remaining to be conveyed to the Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) from land selected as of September 1, 2004, or land made available under section 201, 206, or 208 of this Act;

(2) the priority in which the land is to be conveyed;

(3) the relinquishment of selections which are not to be conveyed;

(4) the selection entitlement to which selections are to be charged, regardless of the entitlement under which originally selected;

(5) the survey of the exterior boundaries of the land to be conveyed;

(6) the additional survey to be performed under section 14(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(c)); and

(7) the resolution of conflicts with Native allotment applications.

(b) Requirements.—An agreement under subsection (a)—

(1) shall be authorized by a resolution of the Native Corporation entering into the agreement; and

(2) shall include a statement that the entitlement of the Native Corporation shall be considered complete on execution of the agreement.

(c) Correction of Conveyance Documents.—In an agreement under subsection (a), the Secretary and the Native Corporation may agree to make technical corrections to the legal description in the conveyance documents for easements previously reserved so that the easements provide the access intended by the original reservation.

(d) Consultation.—Before entering into an agreement under subsection (a), the Secretary shall ensure that the concerns or issues identified by the State and all Federal agencies potentially affected by the agreement are given consideration.

(e) Errors.—Any Native Corporation entering into an agreement under subsection (a) shall receive any gain or bear any loss resulting from errors in prior surveys, protraction diagrams, or computation of the ownership of third parties on any land conveyed.

(f) Effect.—

(1) In general.—An agreement under subsection (a) shall not—

(A) affect the obligations of Native Corporations under prior agreements; or

(B) result in a Native Corporation relinquishing valid selections of land in order to qualify for the withdrawal of other tracts of land.

(2) Effect on subsurface rights.—The terms of an agreement entered into under subsection (a) shall be binding on a Regional Corporation with respect to the location and quantity of subsurface rights of the Regional Corporation under section 14(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(f)).

(3) Effect on entitlement.—Nothing in this section increases the entitlement provided to any Native Corporation under—

(A) the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or

(B) the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

(g) Boundaries of a Native Village.—An agreement entered into under subsection (a) may not define the boundaries of a Native Village.

(h) Availability of Agreements.—An agreement entered into under subsection (a) shall be available for public inspection in the appropriate offices of the Department of the Interior.

## TITLE III—NATIVE ALLOTMENTS

### SEC. 301. CORRECTION OF CONVEYANCE DOCUMENTS.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) is amended by adding at the end the following:

"(d)(1) If an allotment application is valid or would have been approved under section 905 of the Alaska National Interests Lands Conservation Act (43 U.S.C. 1634) had the land described in the application been in Federal ownership on December 2, 1980, the Secretary may correct a conveyance to a Native Corporation or to the State that includes land described in the allotment application to exclude the described allotment land with the written concurrence of the Native Corporation or the State.

"(2) A written concurrence shall—

"(A) include a finding that the land description proposed by the Secretary is acceptable; and

"(B) attest that the Native Corporation or the State has not—

"(i) granted any third party rights or taken any other action that would affect the ability of the United States to convey full title under the Act of May 17, 1906 (34 Stat. 197, chapter 2469); and;

"(ii) stored or allowed the deposit of hazardous waste on the land.

"(3) On receipt of an acceptable written concurrence, the Secretary, shall—

"(A) issue a corrected conveyance document to the State or Native Corporation, as appropriate; and

"(B) issue a certificate of allotment to the allotment applicant.

"(4) No documents of reconveyance from the State or an Alaska Native Corporation or evidence of title, other than the written concurrence and attestation described in paragraph (2), are necessary to use the procedures authorized by this subsection.".

### SEC. 302. TITLE RECOVERY OF NATIVE ALLOTMENTS.

(a) In General.—In lieu of the process for the correction of conveyance documents available under subsection (d) of section 18 of the Alaska Native Claims Settlement Act (as added by section 301), any Native Corporation may elect to reconvey all of the land encompassed by an allotment claim or a portion of the allotment claim agreeable to the applicant in satisfaction of the entire claim by tendering a valid and appropriate deed to the United States.

(b) Certificate of Allotment.—If the United States determines that the allotment application is valid or would have been approved under section 905 of the Alaska National Interests Lands Conservation Act (42 U.S.C. 1634) had the land described in the allotment application been in Federal ownership on December 2, 1980, and obtains title evidence acceptable under the Department of Justice title standards, the United States shall accept the deed from the Native Corporation and issue a certificate of allotment to the allotment applicant.

(c) Probate Not Required.—If the Native Corporation reconveys the entire interest of the Native Corporation in the allotment claim of a deceased applicant, the United States may accept the deed and issue the certificate of allotment without waiting for a determination of heirs or the approval of a will.

(d) No Liability.—The United States shall not be subject to liability under Federal or State law for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to, and transfer by, the United States of land or interests in land under this section.

### SEC. 303. NATIVE ALLOTMENT REVISIONS ON LAND SELECTED BY OR CONVEYED TO A NATIVE CORPORATION.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) (as amended by section 301) is amended by adding at the end the following:

"(e)(1) An allotment applicant who had an application pending before the Department of the Interior on December 18, 1971, and whose application is still open on the records of the Department of the Interior as of the date of enactment of this subsection may revise the land description in the application to describe land other than the land that the applicant originally intended to claim if—

"(A) the application—

"(i) describes land selected by or conveyed by interim conveyance or patent to a Native Corporation formed to receive benefits under this Act; or

"(ii) otherwise conflicts with an interest in land granted to a Native Corporation by the United States;

"(B) the revised land description describes land selected by or conveyed by interim conveyance or patent to a Native Corporation of approximately equal acreage in substitution for the land described in the original application;

"(C) the Director of the Bureau of Land Management has not adopted a final plan of survey for the final entitlement of the Native Corporation or its successor in interest; and

"(D) the Native Corporation that selected the land or its successor in interest provides a corporate resolution authorizing reconveyance or relinquishment to the United States of the land, or interest in land, described in the revised application.

"(2) The land description in an allotment application may not be revised under this section unless the Secretary has determined—

"(A) that the allotment application is valid or would have been approved under section 905 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634) had the land in the allotment application been in Federal ownership on December 2, 1980;

"(B) in consultation with the administering agency, that the proposed revision would not create an isolated inholding within a conservation system unit (as defined in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102)); and

"(C) that the proposed revision will facilitate completion of a land transfer in the State.

"(3)(A) On obtaining title evidence acceptable under Department of Justice title standards and acceptance of a reconveyance or relinquishment from a Native Corporation under paragraph (1), the Secretary shall issue a Native allotment certificate to the applicant for the land reconveyed or relinquished by the Native Corporation.

"(B) Any allotment revised under this section shall, when allotted, be made subject to any easement, trail, right-of-way, or any third-party interest (other than a fee interest) in existence on the revised allotment land on the date of revision.".

### SEC. 304. COMPENSATORY ACREAGE.

(a) In General.—The Secretary shall adjust the acreage entitlement computation records for the State or an affected Native Corporation to account for any difference in the amount of acreage between the corrected description and the previous description in any conveyance document as a result of actions taken under section 18(d) of the Alaska Native Claims Settlement Act (as added by section 301) or section 18(e) of the Alaska Native Claims Settlement Act (as added by section 303), or for other voluntary reconveyances to the United States for the purpose of facilitating land transfers in the State.

(b) Limitation.—No adjustment to the acreage conveyance computations shall be made where the State or an affected Native Corporation retains a partial estate in the described allotment land.

(c) Availability of Additional Land.—If, as a result of implementation under section 18(d) of the Alaska Native Claims Settlement Act (as added by section 301) or any voluntary reconveyance to facilitate a land transfer, a Village Corporation has insufficient remaining selections from which to receive its full entitlement under the Alaska Native Claims Settlement Act, the Secretary may use the authority and procedures available under paragraph (3) of section 22(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)) (as added by section 208) to make additional land available for selection by the Village Corporation.

### SEC. 305. REINSTATEMENTS AND RECONSTRUCTIONS.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) (as amended by section 303) is amended by adding at the end the following:

"(f)(1) If an applicant for a Native allotment filed under the Act of May 17, 1906 (34 Stat. 197, chapter 2469) petitions the Secretary to reinstate a previously closed Native allotment application or to accept a reconstructed copy of an application claimed to have been timely filed with an agency of the Department of the Interior, the United States—

"(A) may seek voluntary reconveyance of any land described in the application that is reinstated or reconstructed after the date of enactment of this subsection; but

"(B) shall not file an action in any court to recover title from a current landowner.

"(2) A certificate of allotment that is issued for any allotment application for which a request for reinstatement or reconstruction is received or accepted after the date of enactment of this subsection shall be made subject to any Federal appropriation, trail, right-of-way, easement, or existing third party interest of record, including third party interests created by the State, without regard to the date on which the Native allotment applicant initiated use and occupancy.".

### SEC. 306. AMENDMENTS TO SECTION 41 OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.

Section 41(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629g(b)) is amended—

(1) in paragraph (1)(A), by inserting before the semicolon at the end the following: "(except that the term 'nonmineral', as used in that Act, shall for the purpose of this subsection be defined as provided in section 905(a)(3) of the Alaska National Interest Lands Conservation Act (42 U.S.C. 1634(a)(3)), except that such definition shall not apply to land within a conservation system unit)"; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and indenting the clauses appropriately;

(B) by inserting "(A)" after "(2)";

(C) in clause (ii) (as redesignated by subparagraph (A)), by inserting after "Department of Veterans Affairs" the following: "or based on other evidence acceptable to the Secretary"; and

(D) by adding at the end the following:

"(B)(i) If the Secretary requests that the Secretary of Veterans Affairs make a determination whether a veteran died as a direct consequence of a wound received in action, the Secretary of Veterans Affairs shall, within 60 days of receipt of the request—

"(I) provide a determination to the Secretary if the records of the Department of Veterans Affairs contain sufficient information to support such a determination; or

"(II) notify the Secretary that the records of the Department of Veterans Affairs do not contain sufficient information to support a determination and that further investigation will be necessary.

"(ii) Not later than 1 year after notification to the Secretary that further investigation is necessary, the Department of Veterans Affairs shall complete the investigation and provide a determination to the Secretary.".

## TITLE IV—FINAL PRIORITIES; CONVEYANCE AND SURVEY PLANS

### SEC. 401. DEADLINE FOR ESTABLISHMENT OF REGIONAL PLANS.

(a) In General.—Not later than 18 months after the date of enactment of this Act, the Secretary, in coordination and consultation with Native Corporations, other Federal land management agencies, and the State, shall update and revise the 12 preliminary Regional Conveyance and Survey Plans.

(b) Inclusions.—The updated and revised plans under subsection (a) shall identify any conflicts to be resolved and recommend any actions that should be taken to facilitate the finalization of land conveyances in a region by 2009.

### SEC. 402. DEADLINE FOR ESTABLISHMENT OF VILLAGE PLANS.

Not later than 30 months after the date of enactment of this Act, the Secretary, in coordination with affected Federal land management agencies, the State, and Village Corporations, shall complete a final closure plan with respect to the entitlements for each Village Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

### SEC. 403. FINAL PRIORITIZATION OF ANCSA SELECTIONS.

(a) In General.—Any Native Corporation that has not received its full entitlement or entered into a voluntary, negotiated settlement of final entitlement shall submit the final, irrevocable priorities of the Native Corporation—

(1) in the case of a Village, Group, or Urban Corporation entitlement, not later than 36 months after the date of enactment of this Act; and

(2) in the case of a Regional Corporation entitlement, not later than 42 months after the date of enactment of this Act.

(b) Acreage Limitations.—The priorities submitted under subsection (a) shall not exceed land that is the greater of—

(1) not more than 125 percent of the remaining entitlement; or

(2) not more than 640 acres in excess of the remaining entitlement.

(c) Corrections.—

(1) In general.—Except as provided in paragraph (2), the priorities submitted under subsection (a) may not be revoked, rescinded, or modified by the Native Corporation.

(2) Technical corrections.—Not later than 90 days after the date of receipt of a notification by the Secretary that there appears to be a technical error in the priorities, the Native Corporation may correct the technical error in accordance with any recommendations of, and in a manner prescribed by or acceptable to, the Secretary.

(d) Relinquishment.—

(1) In general.—As of the date on which the Native Corporation submits its final priorities under subsection (a)—

(A) any unprioritized, remaining selections of the Native Corporation—

(i) are relinquished, but any part of the selections may be reinstated for the purpose of correcting a technical error; and

(ii) have no further segregative effect; and

(B) all withdrawals under sections 11 and 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610, 1615) under the relinquished selections are terminated.

(2) Records.—All relinquishments under paragraph (1) shall be included in Bureau of Land Management land records.

(e) Failure To Submit Priorities.—If a Native Corporation fails to submit priorities by the deadline specified in subsection (a)—

(1) with respect to a Native Corporation that has priorities on file with the Secretary, the Secretary—

(A) shall convey to the Native Corporation the remaining entitlement of the Native Corporation, as determined based on the most recent priorities of the Native Corporation on file with the Secretary and in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

(B) may reject any selections not needed to fulfill the entitlement; or

(2) with respect to a Native Corporation that does not have priorities on file with the Secretary, the Secretary shall satisfy the entitlement by conveying land selected by the Secretary, in consultation with the appropriate Native Corporation, the Federal land managing agency with administrative jurisdiction over the land to be conveyed, and the State, that, to the maximum extent practicable, is—

(A) compact;

(B) contiguous to land previously conveyed to the Native Corporation; and

(C) consistent with the applicable preliminary Regional Conveyance and Survey Plan referred to in section 401.

(f) Plan of Conveyance.—

(1) In general.—The Secretary shall—

(A) identify any Native Corporation that does not have sufficient priorities on file;

(B) develop priorities for the Native Corporation in accordance with subsection (e); and

(C) provide to the Native Corporation a plan of conveyance based on the priorities developed under subparagraph (B).

(2) Finalized selections.—Not later than 180 days after the date on which the Secretary provides a plan of conveyance to the affected Village, Group, or Urban Corporation and the Regional Corporation, the Regional Corporation shall finalize any Regional selections that are in conflict with land selected by the Village, Group, or Urban Corporation that has not been prioritized by the deadline under subsection (a)(1).

(g) Dissolved or Lapsed Corporations.—

(1)(A) If a Native Corporation is lapsed or dissolved at the time final priorities are required to be filed under this section and does not have priorities on file with the Secretary, the Secretary shall establish a deadline for the filing of priorities that shall be one year from the provisions of notice of the deadline.

(B) To fulfill the notice requirement under paragraph (1), the Secretary shall—

(i) publish notice of the deadline to a lapsed or dissolved Native Corporation in a newspaper of general circulation nearest the locality where the affected land is located; and

(ii) seek to notify in writing the last known shareholders of the lapsed or dissolved corporation.

(C) If a Native Corporation does not file priorities with the Secretary before the deadline set pursuant to subparagraph (A), the Secretary shall notify Congress.

(2) If a Native Corporation with final priorities on file with the Bureau of Land Management is lapsed or dissolved, the United States—

(A) shall continue to administer the prioritized selected land under applicable law; but

(B) may reject any selections not needed to fulfill the lapsed or dissolved Native Corporation's entitlement.

### SEC. 404. FINAL PRIORITIZATION OF STATE SELECTIONS.

(a) FILING OF FINAL PRIORITIES.—

(1) IN GENERAL.—The State shall, not later than the date that is 4 years after the date of enactment of this Act, in accordance with section 906(f)(1) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(f)(1)), file final priorities with the Secretary for all land grant entitlements to the State which remain unsatisfied on the date of the filing.

(2) RANKING.—All selection applications on file with the Secretary on the date specified in paragraph (1) shall—

(A) be ranked on a Statewide basis in order of priority; and

(B) include an estimate of the acreage included in each selection.

(3) INCLUSIONS.—The State shall include in the prioritized list land which has been topfiled under section 906(e) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(e)).

(4) ACREAGE LIMITATION.—

(A) IN GENERAL.—Acreage for top-filings shall not be counted against the 125 percent limitation established under section 906(f)(1) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(f)(1)).

(B) RELINQUISHMENT.—

(i) IN GENERAL.—The State shall relinquish any selections that exceed the 125 percent limitation.

(ii) FAILURE TO RELINQUISH.—If the State fails to relinquish a selection under clause (i), the Secretary shall reject the selection.

(5) LOWER-PRIORITY SELECTIONS.—Notwithstanding the prioritization of selection applications under paragraph (1), if the Secretary reserves sufficient entitlements for the topfiled selections, the Secretary may continue to convey lower-priority selections.

(b) DEADLINE FOR PRIORITIZATION.—

(1) IN GENERAL.—The State shall irrevocably prioritize sufficient selections to allow the Secretary to complete transfer of 101,000,000 acres by September 30, 2009.

(2) REPRIORITIZATION.—Any selections remaining after September 30, 2009, may be reprioritized.

(c) FINANCIAL ASSISTANCE.—The Secretary may, using amounts made available to carry out this Act, provide financial assistance to other Federal agencies, the State, and Native Corporations and entities to assist in completing the transfer of land by September 30, 2009.

## TITLE V—ALASKA LAND CLAIMS HEARINGS AND APPEALS

### SEC. 501. ALASKA LAND CLAIMS HEARINGS AND APPEALS.

(a) ESTABLISHMENT.—The Secretary may establish a field office of the Office of Hearings and Appeals in the State to decide matters within the jurisdiction of the Department of the Interior involving hearings and appeals, and other review functions of the Secretary regarding land transfer decisions and Indian probates in the State.

(b) APPOINTMENTS.—For purposes of carrying out subsection (a), the Secretary shall appoint administrative law judges selected in accordance with section 3105 of title 5, United States Code, and members of the Interior Board of Land Appeals.

## TITLE VI—REPORT AND AUTHORIZATION OF APPROPRIATIONS

### SEC. 601. REPORT.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the status of the implementation of this Act.

(b) CONTENTS.—The report shall—

(1) describe the status of conveyances to Alaska Natives, Native Corporations, and the State; and

(2) include recommendations for completing the conveyances required by this Act.

### SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

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**SA 4057.** Mr. FRIST (for Mr. BINGAMAN) proposed an amendment to the bill S. 2656, to establish a National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon; as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Ponce de Leon Discovery of Florida Quincentennial Commission Act".

### SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term "Commission" means the National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon established under section 3(a).

(2) GOVERNOR.—The term "Governor" means the Governor of the State of Florida.

(3) QUINCENTENNIAL.—The term "Quincentennial" means the 500th anniversary of the discovery of Florida by Ponce de Leon.

### SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon".

(b) DUTIES.—The Commission shall plan, encourage, coordinate, and conduct the commemoration of the Quincentennial.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 10 members, including—

(A) 2 members, to be appointed by the President, on the recommendation of the Majority Leader and the Minority Leader of the Senate;

(B) 2 members, to be appointed by the President, on the recommendation of the Speaker of the House of Representatives and the Minority Leader of the House of Representatives; and

(C) 4 members, to be appointed by the President, taking into consideration the recommendations of the Governor, the Director of the National Park Service, and the Secretary of the Smithsonian Institution.

(2) CRITERIA.—A member of the Commission shall be chosen from among individuals that have demonstrated a strong sense of public service, expertise in the appropriate professions, scholarship, and abilities likely to contribute to the fulfillment of the duties of the Commission.

(3) DATE OF APPOINTMENTS.—Not later than 60 days after the date of enactment of this Act, the members of the Commission described in paragraph (1) shall be appointed.

(d) TERM; VACANCIES.—

(1) TERM.—A member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(e) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(f) MEETINGS.—The Commission shall meet annually at the call of the co-chairpersons described under subsection (h).

(g) QUORUM.—A quorum of the Commission for decision making purposes shall be 5 members, except that a lesser number of members, as determined by the Commission, may conduct meetings.

(h) CO-CHAIRPERSONS.—The President shall designate 2 of the members of the Commission as co-chairpersons of the Commission.

### SEC. 4. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) plan and develop activities appropriate to commemorate the Quincentennial including a limited number of proposed projects to be undertaken by the appropriate Federal departments and agencies that commemorate the Quincentennial by seeking to harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(2) consult with and encourage appropriate Federal departments and agencies, State and local governments, Indian tribal governments, elementary and secondary schools, colleges and universities, foreign governments, and private organizations to organize and participate in Quincentennial activities commemorating or examining—

(A) the history of Florida;

(B) the discovery of Florida;

(C) the life of Ponce de Leon;

(D) the myths surrounding Ponce de Leon's search for gold and for the "fountain of youth";

(E) the exploration of Florida; and

(F) the beginnings of the colonization of North America; and

(3) coordinate activities throughout the United States and internationally that relate to the history and influence of the discovery of Florida.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the President and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a comprehensive report that includes specific recommendations for—

(A) the allocation of financial and administrative responsibility among participating entities and persons with respect to commemoration of the Quincentennial; and

(B) the commemoration of the Quincentennial and related events through programs and activities, including—

(i) the production, publication, and distribution of books, pamphlets, films, electronic publications, and other educational materials focusing on the history and impact of the discovery of Florida on the United States and the world;

(ii) bibliographical and documentary projects, publications, and electronic resources;

(iii) conferences, convocations, lectures, seminars, and other programs;

(iv) the development of programs by and for libraries, museums, parks and historic sites, including international and national traveling exhibitions;

(v) ceremonies and celebrations commemorating specific events;

(vi) the production, distribution, and performance of artistic works, and of programs and activities, focusing on the national and international significance of the discovery of Florida; and

(vii) the issuance of commemorative coins, medals, certificates of recognition, and stamps.

(2) Annual report.—The Commission shall submit an annual report that describes the activities, programs, expenditures, and donations of or received by the Commission to—

(A) the President; and

(B) the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(3) Final report.—Not later than December 31, 2013, the Commission shall submit a final report that describes the activities, programs, expenditures, and donations of or received by the Commission to—

(A) the President; and

(B) the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(c) Assistance.—In carrying out this Act, the Commission shall consult, cooperate with, and seek advice and assistance from appropriate Federal departments and agencies, including the Department of the Interior.

(d) Coordination of Activities.—In carrying out the duties of the Commission, the Commission, in consultation with the Secretary of State, may coordinate with the Government of Spain and political subdivisions in Spain for the purposes of exchanging information and research and otherwise involving the Government of Spain, as appropriate, in the commemoration of the Quincentennial.

**SEC. 5. POWERS OF THE COMMISSION.**

(a) In General.—The Commission may provide for—

(1) the preparation, distribution, dissemination, exhibition, and sale of historical, commemorative, and informational materials and objects that will contribute to public awareness of, and interest in, the Quincentennial, except that any commemorative coin, medal, or postage stamp recommended to be issued by the United States shall be sold only by a Federal department or agency;

(2) competitions and awards for historical, scholarly, artistic, literary, musical, and other works, programs, and projects relating to the Quincentennial;

(3) a Quincentennial calendar or register of programs and projects;

(4) a central clearinghouse for information and coordination regarding dates, events, places, documents, artifacts, and personalities of Quincentennial historical and commemorative significance; and

(5) the design and designation of logos, symbols, or marks for use in connection with the commemoration of the Quincentennial and shall establish procedures regarding their use.

(b) Advisory Committee.—The Commission may appoint such advisory committees as the Commission determines necessary to carry out the purposes of this Act.

**SEC. 6. ADMINISTRATION.**

(a) Location of Office.—

(1) Principal office.—The principal office of the Commission shall be in St. Augustine, Florida.

(2) Satellite office.—The Commission may establish a satellite office in Washington, D.C.

(b) Staff.—

(1) Appointment of director and deputy director.—

(A) In general.—The co-chairpersons, with the advice of the Commission, may appoint and terminate a director and deputy director without regard to the civil service laws (including regulations).

(B) Delegation to director.—The Commission may delegate such powers and duties to the director as may be necessary for the efficient operation and management of the Commission.

(2) Staff paid from federal funds.—The Commission may use any available Federal funds to appoint and fix the compensation of not more than 4 additional personnel staff members, as the Commission determines necessary.

(3) Staff paid from non-federal funds.—The Commission may use any available non-Federal funds to appoint and fix the compensation of additional personnel.

(4) Compensation.—

(A) Members.—

(i) In general.—A member of the Commission shall serve without compensation.

(ii) Travel expenses.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(B) Staff.—

(i) In general.—The co-chairpersons of the Commission may fix the compensation of the director, deputy director, and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) Maximum rate of pay.—

(I) Director.—The rate of pay for the director shall not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(II) Deputy director.—The rate of pay for the deputy director shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(III) Staff members.—The rate of pay for staff members appointed under paragraph (2) shall not exceed the rate payable for grade GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(c) Detail of Federal Government Employees.—

(1) In general.—On request of the Commission, the head of any Federal agency or department may detail any of the personnel of the agency or department to the Commission to assist the Commission in carrying out this Act.

(2) Reimbursement.—A detail of personnel under this subsection shall be without reimbursement by the Commission to the agency from which the employee was detailed.

(3) Civil service status.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(d) Other Revenues and Expenditures.—

(1) In general.—The Commission may procure supplies, services, and property, enter into contracts, and expend funds appropriated, donated, or received to carry out contracts.

(2) Donations.—

(A) In general.—The Commission may solicit, accept, use, and dispose of donations of money, property, or personal services.

(B) Limitations.—Subject to subparagraph (C), the Commission shall not accept donations—

(i) the value of which exceeds $50,000 annually, in the case of donations from an individual; or

(ii) the value of which exceeds $250,000 annually, in the case of donations from a person other than an individual.

(C) Nonprofit organization.—The limitations in subparagraph (B) shall not apply in the case of an organization that is—

(i) described in section 501(c)(3) of the Internal Revenue Code of 1986; and

(ii) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

(3) Acquired items.—Any book, manuscript, miscellaneous printed matter, memorabilia, relic, and other material or property relating to the time period of the discovery of Florida acquired by the Commission may be deposited for preservation in national, State, or local libraries, museums, archives, or other agencies with the consent of the depositary institution.

(e) Postal Services.—The Commission may use the United States mail to carry out this Act in the same manner and under the same conditions as other agencies of the Federal Government.

(f) Voluntary Services.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines to be necessary.

**SEC. 7. STUDY.**

The Secretary of the Interior shall—

(1) in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)), conduct a study to assess the suitability and feasibility of designating an area in the State of Florida as a unit of the National Park System to commemorate the discovery of Florida by Ponce de Leon; and

(2) not later than 3 years after the date on which funds are made available to carry out the study, submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes—

(A) the findings of the study; and

(B) any conclusions and recommendations of the Secretary of the Interior with respect to the study.

**SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

(a) In General.—Subject to subsection (b), there is authorized to be appropriated to carry out the purposes of this Act $250,000 for each of fiscal years 2005 through 2013.

(b) Availability of Funds.—Amounts appropriated under this section for any fiscal year shall remain available until December 31, 2013.

**SEC. 9. TERMINATION OF AUTHORITY.**

The authority provided by this Act terminates effective December 31, 2013.

## INFLUENZA VACCINE

Mr. FRIST. Mr. President, in a few minutes we will be closing down for the night. While we are waiting for some of the final paperwork to be provided, I wanted to take this opportunity to speak to an important issue that affects all children today but also our seniors—an issue that reflects to me a longstanding problem that we must address in this body yet we failed to address it adequately thus far, although we have attempted on several occasions. It has to do with the influenza vaccine.

As we all know, this week Chiron, the company that makes the influenza vaccine, actually one of two companies licensed to sell the vaccine in the United States, announced 48 million doses could not be sent to the United States because of contamination problems.

I thought I would take a few minutes and put that in perspective because people say, Why don't we have more manufacturers? What happened to the U.S. manufacturing base?

A couple of facts: Influenza is a type of virus that kills 36,000 Americans a year; about 100 people a day die from influenza, and about one-half million people die worldwide.

This week, the influenza vaccine supply coming into the United States was cut in half when the manufacturer Chiron announced it would not be able to produce those 48 million doses for the United States—seniors and Americans really of all ages—because some of it may have been contaminated.

As I mentioned, Chiron is only one of two companies licensed to sell the vaccine in the United States. As a result, as we all know, public service announcements and other announcements of the Department of Health and Human Services asked healthy adults to forego getting flu shots this year. Up until that point in time, it encouraged everyone, in essence, to get flu shots.

We know it is quite benign, with very few side effects, and it has a real therapeutic impact.

This change in policy is required because of the fall-off in the number of doses that are available. Before this week's announcement, we had expected about 100 million doses ready for this year. Last year, it was 87 million doses. We were going to have 100 million doses this year. So it was appropriate planning but also only two companies are producing here. One company had its supply contaminated and we find ourselves in the current situation.

General background: We have had this discussion before. I am really going back and repeating something we have already done on the floor and debated on the floor about 8 months ago. So this is not new information, but it is worth people thinking about because it is a real call to action. There are now only five major vaccine manufacturers worldwide that have production facilities in the United States. This is for all vaccines. Only two, Merck and Wyeth, are U.S. companies.

The five large vaccine manufacturers are Aventis Pasteur, which produces here in the United States and over in France; Merck produces here in the United States; Chiron, which produces in Europe and in several places throughout Europe, Italy, Germany, United Kingdom; Wyeth/Lederle, which produces here in the United States; and GlaxoSmithKline with production in Belgium.

There are some other manufacturers of much smaller scale around the world, but it is hard to get a real good estimate of how many there are, especially with developing country manufacturers. But there are mainly five. That is for all vaccines.

If I focus just on the influenza vaccine, there are approximately a dozen manufacturers worldwide, if you put everybody together. Yet only two manufacturers of influenza vaccines are located in the United States, Aventis Pasteur and MedImmune. Aventis also has a French-based manufacturing plant, which I mentioned, but that vaccine is not licensed here in the United States.

Chiron became a major player in the influenza market when it combined really three other companies—bought three companies that were in the existing influenza manufacturing business in the United Kingdom and in Italy and Germany.

None of the influenza vaccines in Italy or Germany are licensed in the United States. The facility in Liverpool has a capacity of about 56 million doses a year, and almost all of that—90 percent—comes to the United States. The other player, MedImmune, is a new player and it has that live vaccine nasal spray called FluMist. It was introduced last year—quite revolutionary at the time. The company made slightly more than 4 million doses last year but it only sold about 800,000. So it made 4 million, only sold about 500,000 to 800,000, and now they will say they will only have about 1 to 2 million doses in the market. The CDC says it is about 1.1 million doses.

That is all really one needs to know about the manufacturing base. The whole point is, it is small and has gotten smaller and smaller over time.

Why is that? That is really what I want to speak to because that is what I believe this body must act upon or otherwise it is not going to change.

My point is, the manufacturing base has been weakened, devastated in this country in part because of lawsuits. It is the same old story—frivolous, unnecessary lawsuits, but these frivolous lawsuits are tolerated into many fields.

We talked about asbestos and medical liability on the floor. We talked about class action lawsuits. But once again, it is lawsuits that call out for tort reform because it drives companies from a manufacturing base—from a score down to really two in the flu vaccine.

Our Nation's commitment to immunization: Why are vaccines so important? Our Nation's commitment has been one of the most effective public health interventions in the history of medicine. Our country has been proactive, it has been aggressive, and it has been the world leader.

We have been able to reduce the incidence of a whole range of disease, whether it is measles, mumps, or polio. I spoke earlier on the floor today about the HIV/AIDS virus which killed 23 million people. We don't have a vaccine for it. That little virus, which knows no borders. It can't be smelled or felt. It just travels across the world. We need a vaccine to eradicate it.

We did have smallpox. We eradicated smallpox which killed between 300 million and 500 million people in the 20th century alone—that little smallpox virus.

However, because we had a vaccine, we killed it. We eradicated that virus, which had killed between 300 million and 500 million. That is the power of vaccines. They can and they do protect individuals. That is why we recommend them to not only individuals but entire populations.

Now the overall safety record and frivolous lawsuits. This is not Dr. FRIST trying to beat up on the trial lawyers. Frivolous lawsuits are a huge problem. If there are all of these lawsuits, people must think there is a huge safety problem; otherwise why sue everybody? The overall safety record of vaccines has been remarkable. That is why today, looking at the relative benefits and disadvantages, the balance is huge for the benefits, largely because the vaccines have not only worked but have been safe, again and again and again.

However, in spite of that safety, the escalating cost and the continuing threats of litigation, which drive the cost of those vaccines up and the manufacturers have to pay those huge premiums to be protected, have become major disincentives to the production and distribution of these products. It is obvious, if you are a manufacturer today in America or wherever in the world—it is just that our legal system is much more aggressive than any country in the world—if you were a manufacturer, why would you make a vaccine if you know you will be sued even if the product is safe? The answer is obvious.

Indeed, during the past two decades, the number of manufacturers who make vaccines for kids, for children, has dwindled from 12 down to 4. Only two of the four manufacturers that make vaccines for children are in the United States of America. I contend and the data and the evidence is that a large part of that is because of the devastating impact of these frivolous lawsuits. In fact, only two major manufacturers of vaccines for children and adults are based in the United States, coupled with the fact that there are only five major companies worldwide for all vaccines.

There are significant barriers to entry into this market. Again, I am addressing primarily the high cost of lawsuits. Why do I say that? If you look during the early and middle 1980s, litigation threatened to cripple our vaccine industry. Things got better for a while, but now, once again, there is a whole new wave of lawsuits that seek to circumvent a program that is called the Vaccine Injury Compensation Program, or VICP, a program that historically has been very successful, but the lawsuits go around the program, they circumvent the program, and with that you had the huge settlements, huge potential threats to our manufacturing base. The impact today is on our children's well-being and on the well-being of all Americans, especially if we have a huge influenza outbreak.

Why do I point my finger at the legal system, which is almost chaotic? We have the Vaccine Injury Compensation Program, which can work very well, but it needs to be reformed so you do not have the frivolous lawsuits going around it and going after the deep pockets. An example, and I will just give one although there is a whole list of examples—the overall worldwide vaccine market, every vaccine made everywhere in the world, is worth $6 billion. Yet just one class action lawsuit pending last year sought $30 billion in damages. That is one class action lawsuit seeking $30 billion. The overall market, every vaccine in the world, is only valued at $6 billion. Why would any manufacturer subject themselves to this potential liability? It is occurring right here in the United States. It is not occurring in other countries. So we have a weakened manufacturing base because they will not stay in the business due to the threat of lawsuits, leaving us in a situation of only two manufacturers.

No matter how big the demand, if we buy only from two people and there is a contamination problem, we are in trouble. In the announcement earlier this week, we saw what happened to Chiron and with that the consequences of what has happened there on Americans and on children abroad. That is our protection from life-threatening illnesses.

Again, 36,000 people die every year of this little virus which can be prevented, and the vaccine helps prevent it. We have the demand, we have the money, but we do not have the manufacturing base because of this chaotic lawsuit frenzy, the frivolous lawsuits.

We have seen shortages in childhood vaccines in recent years. We have experienced shortages in the influenza vaccine in recent years. After this week's announcement, we will clearly experience another shortage in the United States this year despite the tremendous planning and the unprecedented Federal efforts, including the wonderful work done by Dr. Julie Gerberding at the CDC and Secretary Tommy Thompson at HHS. We have to address the underlying causes. We have to address the root causes of the vaccine shortages in the near term. The long-term effects can even be more devastating if we do not.

That is why I bring it to the Senate's attention late on a Sunday evening. It is our responsibility. The Senate must act. No one else has been able to address that underlying problem that deals with our tort system, but we can. We should. If we are not able to stabilize the world's vaccine supply and make the market stable, give it a firm foundation, it will not be viable. This will affect not only our ability to manufacture vaccines that exist today, but what about that HIV/AIDS virus which has killed 23 million people, has 45 million people infected, and will likely kill another 60 million people—and maybe more than that unless we act. Figure out a vaccine. People are not going to have an incentive to research and invest in research and development in a vaccine if there will not be a market because of frivolous lawsuits which destroy anybody entering that manufacturing base.

I talked earlier today about Alzheimer's disease. Right now, could there be a vaccine for Alzheimer's disease? The answer is yes. Will we have appropriate research and development? Well, I don't know; it depends on whether people are given some incentive to enter that field. To do that, we have to have a strong manufacturing base.

We have to have companies willing to do the research and willing to take the risks to develop safer vaccines that, ultimately, we know will protect us, will save lives, not just for adults, but for kids, against these biological agents, against these viruses, whether it is HIV/AIDS, or smallpox, where we were successful, or influenza that is of current concern.

What have we done in the past? In the past, I have sponsored two pieces of legislation that go a long way toward moving us to stabilization of this market. One of those bills, the Improved Vaccine Affordability and Availability Act, which was S. 2053 in the 107th Congress and S. 754 in the 108th Congress, would restore balance to the litigation system for childhood vaccines by clarifying the congressional intent that all vaccine litigation regarding childhood vaccines should proceed through the Vaccine Injury Compensation Program.

The program that I mentioned that is set up has worked well in the past. We just need to fix the program so we will not have these frivolous lawsuits circumventing the program.

These bills would expand the remedies to help compensate those who are injured, those who suffer serious side effects from vaccines, while at the same time ensuring that unwarranted litigation does not further destabilize the supplies.

The legislation—again, this is legislation in the 107th Congress and the 108th Congress which, in effect, the lawyers have beat back and have not let us pass; but it is going to come forward again—would also require the Federal Government to maintain a stockpile of prioritized vaccines. This will help stabilize supplies and help us prepare for years ahead in which vaccine production may or may not be able to keep pace with the need.

These bills—again, it was S. 2053 in the last Congress and S. 754 in this Congress—would also expand the funding available for State and local efforts to boost immunization rates among children, especially those in underserved areas or those at a high risk to vaccine-preventable diseases.

Each of the major provisions included in the legislation was recommended by the Advisory Commission on Childhood Vaccines. That is a Federal expert panel composed of vaccine manufacturers, health care providers, and trial lawyers. The legislation also has been endorsed by a broad range of medical and children's health groups, including the American Academy of Pediatrics, Every Child By Two, and Parents of Kids with Infectious Diseases.

We must return to this legislation in the next Congress. And we will consider other steps to address the vaccine situation in the future.

Recently, over the course of the week—and really it plays off in the Presidential election again and in other discussions—people are trying to seize upon hot issues and turn them to their political advantage. Let me just say several things.

No. 1, it is irresponsible to say that there is a quick fix. It is complex. It takes study. We have done that study. We are ready to legislate. But there is no quick fix.

Again, there have been people—I believe it has been on the floor of the Senate, but I know it has been in the press—who are terribly misinformed. Yet when they say something, people accept it as fact. And a statement to suggest somehow that this is an issue that arises by brand drugs keeping generics off the market does not make sense. People can say that, and people nod their head, but it does not make sense.

Why do I say that? Because a flu vaccine has to be unique each year. The generic is standardization; you just produce a lot of it. The flu vaccine has to be tailored. It has to be modified. And it takes several years to do those modifications.

No. 2, I do want to applaud the Bush administration, the CDC, the Department of Health and Human Services, Dr. Julie Gerberding, who I mentioned, and Secretary Tommy Thompson. They had virtually as close to perfect as you can planning in terms of vaccines. They took immediate and prompt action as soon as this shortage became available.

A third point I want to close with is, we have to create a stable environment through a combination. This is where there is no quick fix. We need to address the future stockpile, perhaps with some guaranteed purchase by Government. public-private partnerships for research and development, increased funding for safer vaccines, and perhaps—I would argue most importantly—legal reforms. The flu vaccine shortage we are seeing right now is a symptom of the broader issues of risk and low return of developing any vaccines.

Lastly, healthy adults and kids not in the CDC-recommended categories should withhold this year so that we will have sufficient vaccines available for those who are at higher risk.

Mr. President, again, I bring this to the floor because it is a current topic. I do not want to see it politicized. We have an obligation in this body to address it head-on. It is a tort reform issue. It is the sort of issue that we are obligated to take on, and we will take on very directly in the next Congress.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS CONSENT AGREEMENT—SENSE OF THE SENATE RESOLUTION

Mr. FRIST. Mr. President, I ask unanimous consent that the previous order be modified so that on Monday, Senator BOXER be recognized for up to 30 minutes, and that at that time the sense-of-the-Senate resolution submitted by Senator BOXER, which is currently at the desk, be considered and adopted, with the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 916. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

### DEPARTMENT OF DEFENSE

Richard Greco, Jr., of New York, to be an Assistant Secretary of the Navy.

## SECOND PROTOCOL AMENDING THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND BARBADOS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

Mr. FRIST. Mr. President, in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of treaty document 108-26, relating to the convention between the United States and Barbados.

I further ask unanimous consent that the Senate proceed to its consideration and to the accompanying resolution of ratification, which is at the desk; I further ask unanimous consent that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification; that any statements be printed in the RECORD; and that the Senate immediately proceed to a vote on the resolution of ratification; further, that when the resolution of ratification is voted upon, the motion to reconsider be laid upon the table, the President be notified of the Senate's action, and that following the disposition of the treaty, the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask for a division vote on the resolution of ratification.

The PRESIDING OFFICER. A division is requested.

Senators in favor of the resolution of ratification will stand and be counted.

Those opposed will stand and be counted.

On a division, two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

The Resolution of Ratification is as follows:

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Second Protocol Amending the Convention Between the United States of America and Barbados for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, Signed on December 31, 1984, signed at Washington on July 14, 2004 (T. Doc. 108-26).

The PRESIDING OFFICER. The President will be immediately notified.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

## MEASURES DISCHARGED

Mr. FRIST. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. 2693, S. 2839, H.R. 5039, H.R. 4381, H.R. 4556, H.R. 4618, and H.R. 4632 en bloc, and that the Senate proceed to their immediate consideration, along with H.R. 4046, H.R. 5027, H.R. 5133, H.R. 5147, and H.R. 5051, which are at the desk, en bloc.

Mr. REID. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. When does the name of the committee change officially? The name of the committee now is Governmental Affairs. We changed the name yesterday, did we not? Will it change in the new Congress? I wanted to know.

Thank you.

The PRESIDING OFFICER. It is the understanding of the Chair the change occurs in the next Congress.

Mr. REID. Thank you very much.

The PRESIDING OFFICER. Is there objection to the pending request?

Mr. REID. No objection.

Mr. TALENT. Mr. President, I am certainly not going to object, but will the majority leader yield for a minute?

Mr. FRIST. I would be happy to.

Mr. TALENT. I had intended to make a few remarks as in morning business when I thought we would be staying in session for several more days. I figured I had a lot of time to do it. I am certainly glad that the leaders have been able to work out an arrangement to the contrary. But I wonder if your wrap-up request could include allowing me to speak as in morning business, if the Senator from Nevada does not mind, for maybe 20 minutes. It will not take any longer than that.

Mr. REID. You could do it tomorrow, too.

Mr. TALENT. I do not think there will be much time before the vote tomorrow.

Mr. REID. That is right.

Mr. TALENT. Afterwards we are all going to be trying to catch planes, so I ask if I could have a few minutes.

Mr. FRIST. We will make that part of our unanimous consent request. And you might consider making it 10 minutes instead of 20 minutes, but you will have up to 20 minutes.

Mr. TALENT. I appreciate it.

The PRESIDING OFFICER. Is there objection to proceeding to the measures?

Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the bills en bloc.

Mr. FRIST. Mr. President, I ask unanimous consent that the bills be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LIEUTENANT JOHN F. FINN POST OFFICE

The bill (S. 2693) to designate the facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, as the "Lieutenant John F. Finn Post Office," was considered, read the third time, and passed, as follows:

S. 2693

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LIEUTENANT JOHN F. FINN POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, shall be known and designated as the "Lieutenant John F. Finn Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Lieutenant John F. Finn Post Office.

## SERGEANT RIAYAN A. TEJEDA POST OFFICE

The bill (S. 2839) to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the "Sergeant Riayan A. Tejeda Post Office" was considered, read the third time, and passed, as follows:

S. 2839

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SERGEANT RIAYAN A. TEJEDA POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 555 West 180th Street in New York, New York, shall be known and designated as the "Sergeant Riayan A. Tejeda Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Sergeant Riayan A. Tejeda Post Office.

## EVA HOLTZMAN POST OFFICE

The bill (H.R. 5039) to designate the facility of the United States Postal Service located at United States Route 1 in Ridgeway, North Carolina, as the "Eva Holtzman Post Office" was considered, read the third time, and passed.

## HARVEY AND BERNICE JONES POST OFFICE BUILDING

The bill (H.R. 4381) to designate the facility of the United States Postal Service located at 2811 Springdale Avenue in Springdale, Arkansas, as the "Harvey and Bernice Jones Post Office Building" was considered, read the third time, and passed.

## GENERAL WILLIAM CAREY LEE POST OFFICE BUILDING

The bill (H.R. 4556) to designate the facility of the United States Postal Service located at 1115 South Clinton Avenue in Dunn, North Carolina, as the "General William Carey Lee Post Office Building" was considered, read the third time, and passed.

## ANTHONY I. LOMBARDI MEMORIAL POST OFFICE BUILDING

The bill (H.R. 4618) to designate the facility of the United States Postal Service located at 10 West Prospect Street in Nanuet, New York, as the "Anthony I. Lombardi Memorial Post Office Building" was considered, read the third time, and passed.

## ARCHIE SPIGNER POST OFFICE BUILDING

The bill (H.R. 4632) to designate the facility of the United States Postal Service located at 19504 Linden Boulevard in St. Albans, New York, as the "Archie Spigner Post Office Building" was considered, read the third time, and passed.

## SERGEANT RIAYAN A. TEJEDA POST OFFICE

The bill (H.R. 4046) to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the "Sergeant Riayan A. Tejeda Post Office" was considered, read the third time, and passed.

## SPECIALIST ERIC RAMIREZ POST OFFICE

The bill (H.R. 5027) to designate the facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, as the "Specialist Eric Ramirez Post Office" was considered, read the third time, and passed.

## MARTHA PENNINO POST OFFICE BUILDING

The bill (H.R. 5133) to designate the facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, as the "Martha Pennino Post Office Building" was considered, read the third time, and passed.

## EVAN ASA ASHCRAFT POST OFFICE BUILDING

The bill (H.R. 5147) to designate the facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, as the "Evan Asa Ashcraft Post Office Building" was considered, read the third time, and passed.

## LEONARD C. BURCH POST OFFICE BUILDING

The bill (H.R. 5051) to designate the facility of the United States Postal Service located at 1001 Williams Street in Ignacio, Colorado, as the "Leonard C. Burch Post Office Building" was considered, read the third time, and passed.

## GLOBAL ANTI-SEMITISM REVIEW ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Chair now lay before the Senate the House message to accompany S. 2292.

There being no objection, the Presiding Officer laid before the Senate the following message from the House of Representatives:

S. 2292

*Resolved*, That the bill from the Senate (S. 2292) entitled "An Act to require a report on acts of anti-Semitism around the world", do pass with the following amendments:

**(1)**Page 2, line 7, after "During" insert the following: the last 3 months of 2003 and

**(2)**Page 2, after line 9, insert the following new subparagraphs:

(A) In Putrajaya, Malaysia, on October 16, 2003, former Prime Minister Mahatir Mohammad told the 57 national leaders assembled for the Organization of the Islamic Conference that the Jews "rule the world by proxy", and called for a "final victory" by the world's 1.3 billion Muslim, who, he said, "cannot be defeated by a few million Jews.".

(B) In Istanbul, Turkey, on November 15, 2003, simultaneous car bombs exploded outside two synagogues filled with worshippers, killing 24 people. and wounding more than 250 people.

**(3)**Page 2, line 10, redesignate subparagraph (A) as subparagraph (C).

**(4)**Page 2, line 14, redesignate subparagraph (B) as subparagraph (D).

**(5)**Page 2, lisle 19, redesignate subparagraph (C) as subparagraph (E).

**(6)**Page 3, line 1, redesignate subparagraph (D) as subparagraph (F).

**(7)**Page 3, beginning line 9, paragraph (4) is amended to read as follows:

(4) In November 2002, state-run television in Egypt broadcast the anti-Semitic series entitled "Horseman Without a Horse", which is based upon the fictions conspiracy theory known as the Protocols of the Elders of Zion. The Protocols have been used throughout the last century by despots such as Adolf Hitler to justify violence against Jews.

**(8)**Page 4, beginning line 3, paragraph (7) is amended to read as follows:

(7) The OSCE convened a conference again on April 28–29, 2004, in Berlin, to address the problem of anti-Semitism with the United States delegation led by former Mayor of New York City, Ed Koch.

**(9)**Page 4, after line 20, insert the following new paragraph:

(10) Anti-Semitism has at times taken the form of vilification of Zionism, the Jewish national movement, and incitement against Israel.

**(10)**Page 5, line 2, insert after "OSCE" the following: , the European Union, and the United Nations

**(11)**Page 5, line 7, strike "(a) ONE-TIME REPORT.—".

**(12)**Page 5, line 11, insert "one-time" before "report".

**(13)**Page 5, line 22, strike "and" at the end.

**(14)**Page 5, line 24, strike the period at the end and insert: ; and

**(15)**Page 5, after line 24, insert the following new paragraph:

(5) instances of propaganda, in government and nongovernment media that attempt to justify or promote racial hatred or incite acts of violence against Jewish people.

**(16)**Page 6, beginning line 1, strike subsection (b) and insert the following new sections:

**SEC. 5. AUTHORIZATION FOR ESTABLISHMENT OF OFFICE TO MONITOR AND COMBAT ANTI-SEMITISM.**

The State Department Basic Authorities Act of 1956 is amended by adding after section 58 (22 U.S.C. 2730) the following new section:

**"SEC. 59. MONITORING AND COMBATING ANTI-SEMITISM.**

"(a) OFFICE TO MONITOR AND COMBAT ANTI-SEMITISM.—

"(1) ESTABLISHMENT OF OFFICE.—The Secretary shall establish within the Department of State an Office to Monitor and Combat anti-Semitism (in this section referred to as the 'Office') .

"(2) HEAD OF OFFICE.—

"(A) SPECIAL ENVOY FOR MONITORING AND COMBATING ANTI-SEMITISM.—The head of the Office shall be the Special Envoy for Monitoring and Combating anti-Semitism (in this section referred to as the 'Special Envoy').

"(B) APPOINTMENT OF HEAD OF OFFICE.—The Secretary shall appoint the Special Envoy. If the Secretary determines that such is appropriate, the Secretary may appoint the Special Envoy from among officers and employees of the Department. The Secretary may allow such officer or employee to retain the position (and the responsibilities associated with such position) held by such officer or employee prior to the appointment of such officer or employee to the position of Special Envoy under this paragraph.

"(b) PURPOSE OF OFFICE.—Upon establishment, the Office shall assume the primary responsibility for—

"(1) monitoring and combating acts of anti-Semitism and anti-Semitic incitement that occur in foreign countries;

"(2) coordinating and assisting in the preparation of that portion of the report required by sections 116(d)(7) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)(7) and 2304(b)) relating to an assessment and description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement for inclusion in the annual Country Reports on Human Rights Practices; and

"(3) coordinating and assisting in the preparation of that portion of the report required by section 102(b)(1)(A)(iv) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)(1) A)(iv)) relating to an assessment and description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement for inclusion in the Annual Report on International Religious Freedom.

"(c) CONSULTATIONS.—Special Envoy shall, consult with domestic and international nongovernmental organizations and multilateral organizations and institutions, as the Special Envoy considers appropriate to fulfill the purposes of this section.".

**SEC. 6. INCLUSION IN DEPARTMENT OF STATE ANNUAL REPORTS OF INFORMATION CONCERNING ACTS OF ANTI-SEMITISM IN FOREIGN COUNTRIES.**

(a) INCLUSION IN COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.—The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended—

(1) in section 116(d) (22 U.S.C. 2151n(d))—

(A) by redesignating paragraphs (8), (9), and (10), as paragraphs (9), (10), and (11), respectively; and

(B) by inserting after paragraph (7) the following new paragraph:

"(8) wherever applicable, a description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement that occur during the preceding year, including descriptions of—

"(A) acts of physical violence against, or harassment of Jewish people, and acts of violence against, or vandalism of Jewish community institutions, including schools, synagogues, and cemeteries;

"(B) instances of propaganda in government and nongovernment media that attempt to justify or promote racial hatred or incite acts of violence against Jewish people;

"(C) the actions, if any, taken by the government of the country to respond to such violence and attacks or to eliminate such propaganda or incitement;

"(D) the actions taken by such government to enact and enforce laws relating to the protection of the right to religions freedom of Jewish people; and

'(E) the efforts of such government to promote anti-bias and tolerance education;"; and (2) after the fourth sentence of section 502B(b) (22 U.S.C. 2304(b)), by inserting the following new sentence: "Wherever applicable, a description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement that occur, including the descriptions of such acts required under section 116(d)(8).".

(b) INCLUSION IN ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM.—Section 102(b)(1)(A) of the International Religious Freedom Act of 1998 (22·U.S.C. 6412(b)(1)(A)) is amended—

(1) in clause (ii), by striking "and" at the end;

(2) in clause (iii), by striking the period at the end and inserting "; and"; and

(3) by adding after clause (iii) the following new clause:

"(iv) wherever applicable, an assessment and description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement that occur in that country during the preceding year, including—

"(I) acts of physical violence against, or harassment of, Jewish people, acts of violence against, or vandalism of, Jewish community institutions, and instances of propaganda in government and nongovernment media that incite such acts; and

"(II) the actions taken by the government of that country to respond to such violence and attacks or to eliminate such propaganda or incitement, to enact and enforce laws relating to the protection of the right to religious freedom of Jewish people, and to promote anti-bias and tolerance education.".

(c) EFFECTIVE DATE OF INCLUSIONS.—The amendments made by subsections (a) and (b) shall apply beginning with the first report under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)) and section 102(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6312(b)) submitted more than 180 days after the date of the enactment of this Act.

Mr. FRIST. I ask unanimous consent that the Senate concur in the House amendments, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE CALENDAR

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of the following Calendar numbers en bloc: 719, 721 through 723, 725 through 727, -729, 731 through 738, and 745.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I ask unanimous consent that the amendments at the desk be agreed to en bloc, that all committee amendments, as amended, if amended and where applicable, be agreed to, the bills, as amended, if amended, be read a third time and passed, the title amendments, where applicable, be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ARIZONA WATER SETTLEMENTS ACT

The Senate proceeded to consider the bill (S. 437) to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Stike the part shown in black brackets and insert the part shown in italic.)

S. 437

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

[(a) SHORT TITLE.—This Act may be cited as the "Arizona Water Settlements Act".

[(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

[Sec. 1. Short title; table of contents.
[Sec. 2. Definitions.

[TITLE I—CENTRAL ARIZONA PROJECT SETTLEMENT

[Sec. 101. Short title.
[Sec. 102. Findings.
[Sec. 103. General permissible uses of the Central Arizona Project.
[Sec. 104. Allocation of Central Arizona Project water.

[Sec. 105. Firming of Central Arizona Project Indian water.
[Sec. 106. Acquisition of agricultural priority water.
[Sec. 107. Lower Colorado River Basin Development Fund.
[Sec. 108. Effect.
[Sec. 109. Repeal.
[Sec. 110. Authorization of appropriations.
[Sec. 111. Repeal on failure of enforceability date under title II.

[TITLE II—GILA RIVER INDIAN COMMUNITY WATER RIGHTS SETTLEMENT

[Sec. 201. Short title.
[Sec. 202. Findings and purposes.
[Sec. 203. Approval of the Gila River Indian Community water rights settlement agreement.
[Sec. 204. Water rights.
[Sec. 205. Community water delivery contract amendments.
[Sec. 206. Extinguishment of claims.
[Sec. 207. Waiver and release of claims.
[Sec. 208. Gila River Indian Community Water OM&R Trust Fund.
[Sec. 209. Subsidence remediation program.
[Sec. 210. After-acquired trust land.
[Sec. 211. Reduction of water rights.
[Sec. 212. Miscellaneous provisions.
[Sec. 213. Authorization of appropriations.
[Sec. 214. Repeal on failure of enforceability date.

[TITLE III—SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT

[Sec. 301. Southern Arizona water rights settlement.
[S[ec. 302. Southern Arizona water rights settlement effective date.

[TITLE IV—SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT

**[SEC. 2. DEFINITIONS.**

[In titles I and II:

[(1) ACRE-FEET.—The term "acre-feet" means acre-feet per year.

[(2) AFTER-ACQUIRED TRUST LAND.—The term "after-acquired trust land" means land that—

[(A) is located—

[(i) within the State; but

[(ii) outside the exterior boundaries of the Reservation; and

[(B) is taken into trust by the United States for the benefit of the Community after the enforceability date.

[(3) AGRICULTURAL PRIORITY WATER.—The term "agricultural priority water" means Central Arizona Project non-Indian agricultural priority water, as defined in the Gila River agreement.

[(4) ALLOTTEE.—The term "allottee" means a person that holds a beneficial real property interest in an Indian allotment that is—

[(A) located within the Reservation; and

[(B) held in trust by the United States.

[(5) ARIZONA INDIAN TRIBE.—The term "Arizona Indian tribe" means an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) that is located in the State.

[(6) ASARCO.—The term "Asarco" means Asarco Incorporated, a New Jersey corporation of that name, and its subsidiaries operating mining operations in the State.

[(7) CAP CONTRACTOR.—The term "CAP contractor" means a person or entity that has entered into a long-term contract (as that term is used in the repayment stipulation) with the United States for delivery of water through the CAP system.

[(8) CAP OPERATING AGENCY.—The term "CAP operating agency" means the entity or entities authorized to assume responsibility for the care, operation, maintenance, and replacement of the CAP system.

[(9) CAP REPAYMENT CONTRACT.—

[(A) IN GENERAL.—The term "CAP repayment contract" means the contract dated December 1, 1988 (Contract No. 14–06–W–245, Amendment No. 1) between the United States and the Central Arizona Water Conservation District for the delivery of water and the repayment of costs of the Central Arizona Project.

[(B) INCLUSIONS.—The term "CAP repayment contract" includes all amendments to and revisions of that contract.

[(10) CAP SUBCONTRACTOR.—The term "CAP subcontractor" means a person or entity that has entered into a long-term subcontract (as that term is used in the repayment stipulation) with the United States and the Central Arizona Water Conservation District for the delivery of water through the CAP system.

[(11) CAP SYSTEM.—The term "CAP system" means—

[(A) the Mark Wilmer Pumping Plant;

[(B) the Hayden-Rhodes Aqueduct;

[(C) the Fannin-McFarland Aqueduct;

[(D) the Tucson Aqueduct;

[(E) the pumping plants and appurtenant works of the Central Arizona Project aqueduct system that are associated with the features described in subparagraphs (A) through (D); and

[(F) any extensions of, additions to, or replacements for the features described in subparagraphs (A) through (E).

[(12) CENTRAL ARIZONA PROJECT.—The term "Central Arizona Project" means the reclamation project authorized and constructed by the United States in accordance with title III of the Colorado River Basin Project Act (43 U.S.C. 1521 et seq.).

[(13) CENTRAL ARIZONA WATER CONSERVATION DISTRICT.—The term "Central Arizona Water Conservation District" means the political subdivision of the State that is the contractor under the CAP repayment contract.

[(14) CITIES.—The term "Cities" means the cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, and Scottsdale, Arizona.

[(15) COMMUNITY.—The term "Community" means the Gila River Indian Community, a government composed of members of the Pima Tribe and the Maricopa Tribe and organized under section 16 of the Act of June 18, 1934 (25 U.S.C. 476).

[(16) COMMUNITY CAP WATER.—The term "Community CAP water" means water to which the Community is entitled under the water delivery contract.

[(17) COMMUNITY REPAYMENT CONTRACT.—

[(A) IN GENERAL.—The term "Community repayment contract" means Contract No. 6–07–03–W0345 between the United States and the Community dated May 4, 1998, providing for the construction of water delivery facilities on the Reservation.

[(B) INCLUSIONS.—The term "Community repayment contract" includes any amendments to the contract described in subparagraph (A).

[(18) COMMUNITY WATER DELIVERY CONTRACT.—

[(A) IN GENERAL.—The term "Community water delivery contract" means Contract No. 3–07–30–W0284 between the Community and the United States dated October 22, 1992.

[(B) INCLUSIONS.—The term "Community water delivery contract" includes any amendments to the contract described in subparagraph (A).

[(19) CRR PROJECT WORKS.—

[(A) IN GENERAL.—The term "CRR Project works" means the portions of the San Carlos Irrigation Project located on the Reservation.

[(B) INCLUSION.—The term "CRR Project works" includes the portion of the San Carlos Irrigation Project known as the "Southside Canal", from the point at which the Southside Canal connects with the Pima Canal to the boundary of the Reservation.

[(20) DIRECTOR.—The term "Director" means—

[(A) the Director of the Arizona Department of Water Resources; or

[(B) with respect to an action to be carried out under this title, a State official or agency designated by the Governor or the State legislature.

[(21) ENFORCEABILITY DATE.—The term "enforceability date" means the date on which the Secretary publishes in the Federal Register the statement of findings described in section 207(d).

[(22) FEE LAND.—The term "fee land" means land, other than off-Reservation trust land, owned by the Community outside the exterior boundaries of the Reservation as of December 31, 2002.

[(23) FIXED OM&R CHARGE.—The term "fixed OM&R charge" has the meaning given the term in the repayment stipulation.

[(24) GILA RIVER ADJUDICATION PROCEEDINGS.—The term "Gila River adjudication proceedings" means the action pending in the Superior Court of the State of Arizona in and for the County of Maricopa styled "In Re the General Adjudication of All Rights To Use Water In The Gila River System and Source" W–1 (Salt), W–2 (Verde), W–3 (Upper Gila), W–4 (San Pedro) (Consolidated).

[(25) GILA RIVER AGREEMENT.—

[(A) IN GENERAL.—The term "Gila River agreement" means the agreement entitled the "Gila River Indian Community Water Rights Settlement Agreement", dated July 1, 2002.

[(B) INCLUSIONS.—The term "Gila River agreement" includes—

[(i) all exhibits to that agreement; and

[(ii) any amendment to that agreement or to an exhibit to that agreement made or added pursuant to that agreement.

[(26) GLOBE EQUITY DECREE.—

[(A) IN GENERAL.—The term "Globe Equity Decree" means the decree dated June 29, 1935, entered in United States of America v. Gila Valley Irrigation District, Globe Equity No. 59, et al., by the United States District Court for the District of Arizona.

[(B) INCLUSIONS.—The term "Globe Equity Decree" includes all court orders and decisions supplemental to that decree.

[(27) HAGGARD DECREE.—

[(A) IN GENERAL.—The term "Haggard Decree" means the decree dated June 11, 1903, entered in United States of America, as guardian of Chief Charley Juan Saul and Cyrus Sam, Maricopa Indians and 400 other Maricopa Indians similarly situated v. Haggard, et al., Cause No. 19, in the District Court for the Third Judicial District of the Territory of Arizona, in and for the County of Maricopa.

[(B) INCLUSIONS.—The term "Haggard Decree" includes all court orders and decisions supplemental to that decree.

[(28) INCLUDING.—The term "including" has the same meaning as the term "including, but not limited to".

[(29) INJURY TO WATER QUALITY.—The term "injury to water quality" means any contamination, diminution, or deprivation of water quality under Federal, State, or other law.

[(30) INJURY TO WATER RIGHTS.—

[(A) IN GENERAL.—The term "injury to water rights" means an interference with, diminution of, or deprivation of water rights under Federal, State, or other law.

[(B) INCLUSION.—The term "injury to water rights" includes a change in the underground water table and any effect of such a change.

[(C) EXCLUSION.— The term "injury to water rights" does not include subsidence damage or injury to water quality.

[(31) LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.—The term "Lower Colorado River Basin Development Fund" means the fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543).

[(32) MASTER AGREEMENT.—The term "master agreement" means the agreement entitled "Arizona Water Settlement Agreement" entered into by the Director, the Central Arizona Water Conservation District, and the Secretary, dated July 1, 2002.

[(33) OFF-RESERVATION TRUST LAND.—The term "off-Reservation trust land" means land outside the exterior boundaries of the Reservation that is held in trust by the United States for the benefit of the Community and the Community members as of the enforceability date.

[(34) PHELPS DODGE.—The term "Phelps Dodge" means the Phelps Dodge Corporation, a New York corporation of that name, and its subsidiaries, successors, or assigns.

[(35) REPAYMENT STIPULATION.—

[(A) IN GENERAL.—The term "repayment stipulation" means the Stipulation Regarding a Stay of Litigation, Resolution of Issues During the Stay, and for Ultimate Judgment Upon the Satisfaction of Conditions, filed with the United States District Court for the District of Arizona on May 3, 2000, in Central Arizona Water Conservation District v. United States, et al., No. CIV 95-625-TUC-WDB(EHC), No. CIV 95-1720-PHX-EHC (Consolidated Action).

[(B) INCLUSIONS.—The term "repayment stipulation" includes any amendment to or revision of the stipulation described in subparagraph (A).

[(36) RESERVATION.—

[(A) IN GENERAL.—The term "Reservation" means the land located within the exterior boundaries of the reservation created under sections 3 and 4 of the Act of February 28, 1859 (11 Stat. 401, chapter LXVI) and Executive Orders of August 31, 1876, June 14, 1879, May 5, 1882, November 15, 1883, July 31, 1911, June 2, 1913, August 27, 1914, and July 19, 1915.

[(B) EXCLUSION.—The term "Reservation" does not include the land located in sections 16 and 36, Township 4 South, Range 4 East, Salt and Gila River Base and Meridian.

[(37) ROOSEVELT HABITAT CONSERVATION PLAN.—The term "Roosevelt Habitat Conservation Plan" means the habitat conservation plan approved by the United States Fish and Wildlife Service under section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)(1)(B)) for the incidental taking of endangered, threatened, and candidate species resulting from the continued operation by the Salt River Project of Roosevelt Dam and Lake, near Phoenix, Arizona.

[(38) ROOSEVELT WATER CONSERVATION DISTRICT.—The term "Roosevelt Water Conservation District" means the entity of that name that is a political subdivision of the State and an irrigation district organized under the law of the State.

[(39) SAFFORD.—The term "Safford" means the city of Safford, Arizona.

[(40) SALT RIVER PROJECT.—The term "Salt River Project" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State, and the Salt River Valley Water Users' Association, an Arizona Territorial corporation.

[(41) SAN CARLOS APACHE TRIBE.—The term "San Carlos Apache Tribe" means the San Carlos Apache Tribe, a tribe of Apache Indians organized under [Section 16 of the Indian Reorganization Act of June 18, 1934, 48 Stat. 987 (25 U.S.C. 476).

[(42) SAN CARLOS IRRIGATION AND DRAINAGE DISTRICT.—The term "San Carlos Irrigation and Drainage District" means the entity of that name that is a political subdivision of the State and an irrigation and drainage district organized under the laws of the State.

[(43) SAN CARLOS IRRIGATION PROJECT.—

[(A) IN GENERAL.—The term "San Carlos Irrigation Project" means the San Carlos irrigation project authorized under the Act of June 7, 1924 (43 Stat. 475).

[(B) INCLUSIONS.—The term "San Carlos Irrigation Project" includes any amendments and supplements to the Act described in subparagraph (A).

[(44) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[(45) SPECIAL HOT LANDS.—The term "special hot lands" has the meaning given the term in subparagraph 2.34 of the UVD agreement.

[(46) STATE.—The term "State" means the State of Arizona.

[(47) SUBCONTRACT.—

[(A) IN GENERAL.—The term "subcontract" means a Central Arizona Project water delivery subcontract.

[(B) INCLUSION.—The term "subcontract" includes an amendment to a subcontract.

[(48) SUBSIDENCE DAMAGE.—The term "subsidence damage" means injury to land, water, or other real property resulting from the settling of geologic strata or cracking in the surface of the Earth of any length or depth, which settling or cracking is caused by the pumping of underground water.

[(49) TBI ELIGIBLE ACRES.—The term "TBI eligible acres" has the meaning given the term in subparagraph 2.37 of the UVD agreement.

[(50) UNCONTRACTED MUNICIPAL AND INDUSTRIAL WATER.—The term "uncontracted municipal and industrial water" means Central Arizona Project municipal and industrial priority water that is not subject to subcontract on the date of enactment of this Act.

[(51) UV DECREED ACRES.—

[(A) IN GENERAL.—The term "UV decreed acres" means the land located upstream and to the east of the Coolidge Dam for which water may be diverted pursuant to the Globe Equity Decree.

[(B) EXCLUSION.—The term "UV decreed acres" does not include the reservation of the San Carlos Apache Tribe.

[(52) UV DECREED WATER RIGHTS.—The term "UV decreed water rights" means the right to divert water for use on UV decreed acres in accordance with the Globe Equity Decree.

[(53) UV SUBJUGATED LAND.—The term "UV subjugated land" has the meaning given the term in subparagraph 2.50 of the UVD agreement.

[(54) UVD AGREEMENT.—The term "UVD agreement" means the agreement among the Community, the United States, the San Carlos Irrigation and Drainage District, the Franklin Irrigation District, the Gila Valley Irrigation District, and other parties located in the upper valley of the Gila River, dated July 1, 2002.

[(55) UVD SETTLING PARTIES.—The term "UVD settling parties" means the parties to the UVD agreement other than the United States, the San Carlos Irrigation and Drainage District, and the Community.

[(56) WATER OM&R FUND.—The term "Water OM&R Fund" means the Gila River Indian Community Water OM&R Trust Fund established by section 208.

[(57) WATER RIGHT.—The term "water right" means any right in or to groundwater, surface water, or effluent under Federal, State, or other law.

[(58) WATER RIGHTS APPURTENANT TO NM 381 ACRES.—The term "water rights appurtenant to NM 381 acres" means the water rights—

[(A) appurtenant to the 380.81 acres described in the decree in Arizona v. California, 376 U.S. 340, 349 (1964); and

[(B) appurtenant to other land, or for other uses, for which the water rights described in subparagraph (A) may be modified or used in accordance with that decree.

[(59) WATER RIGHTS FOR NM DOMESTIC PURPOSES.—The term "water rights for NM domestic purposes" means the water rights for domestic purposes of not more than 265 acre-feet of water for consumptive use described in paragraph IV(D)(2) of the decree in Arizona v. California, 376 U.S. 340, 350 (1964).

[(60) 1994 BIOLOGICAL OPINION.—The term "1994 biological opinion" means the biological opinion, numbered 2-21-90-F-119, and dated April 15, 1994, relating to the transportation and delivery of Central Arizona Project water to the Gila River basin.

[(61) 1996 BIOLOGICAL OPINION.—The term "1996 biological opinion" means the biological opinion, numbered 2-21-95-F-462 and dated July 23, 1996, relating to the impacts of modifying Roosevelt Dam on the southwestern willow flycatcher.

[(62) 1999 BIOLOGICAL OPINION.—The term "1999 biological opinion" means the draft biological opinion numbered 2-21-91-F-706, and dated May 1999, relating to the impacts of the Central Arizona Project on Gila Topminnow in the Santa Cruz River basin through the introduction and spread of nonnative aquatic species.

## [TITLE I—CENTRAL ARIZONA PROJECT SETTLEMENT

### [SEC. 101. SHORT TITLE.

[This title may be cited as the "Central Arizona Project Settlement Act of 2003".

### [SEC. 102. FINDINGS.

[Congress finds that—

[(1) the water provided by the Central Arizona Project to Maricopa, Pinal, and Pima Counties in the State of Arizona, is vital to citizens of the State; and

[(2) an agreement on the allocation of Central Arizona Project water among interested persons, including Federal and State interests, would provide important benefits to the Federal Government, the State of Arizona, and the citizens of the State.

### [SEC. 103. GENERAL PERMISSIBLE USES OF THE CENTRAL ARIZONA PROJECT.

[In accordance with the CAP repayment contract, the Central Arizona Project may be used to transport nonproject water for—

[(1) domestic, municipal, fish and wildlife, and industrial purposes; and

[(2) any purpose authorized under the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.).

### [SEC. 104. ALLOCATION OF CENTRAL ARIZONA PROJECT WATER.

[(a) NON-INDIAN AGRICULTURAL PRIORITY WATER.—

[(1) REALLOCATION TO INDIAN TRIBES.—

[(A) IN GENERAL.—The Secretary shall reallocate 197,500 acre-feet of agricultural priority water made available pursuant to the master agreement for use by Arizona Indian tribes, of which—

[(i) 102,000 acre-feet shall be reallocated to the Gila River Indian Community;

[(ii) 28,200 acre-feet shall be reallocated to the Tohono O'odham Nation; and

[(iii) subject to the conditions specified in subparagraph (B), 67,300 acre-feet shall be reallocated to Arizona Indian tribes.

[(B) CONDITIONS.—The reallocation of agricultural priority water under subparagraph (A)(iii) shall be subject to the conditions that—

[(i) before the Secretary may reallocate the water to an Arizona Indian tribe, Congress enacts a law approving an Indian water rights settlement for that Arizona Indian tribe that provides for the reallocation; and

[(ii) the agricultural priority water shall not, without specific authorization by Act of Congress, be leased, exchanged, forborne, or otherwise transferred by an Arizona Indian tribe for any direct or indirect use outside the reservation of the Arizona Indian tribe.

[(2) REALLOCATION TO THE ARIZONA DEPARTMENT OF WATER RESOURCES.—

[(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall reallocate 96,295 acre-feet of agricultural priority water made available pursuant to the master agreement to the Arizona Department of Water Resources, to be held under contract in trust for further allocation under subparagraph (C).

[(B) REQUIRED DOCUMENTATION.—The reallocation of agricultural priority water under subparagraph (A) is subject to the condition that the Secretary execute any appropriate documents to memorialize the reallocation, including—

[(i) an allocation decision; and

[(ii) a contract that prohibits the direct use of the agricultural priority water by the Arizona Department of Water Resources.

[(C) FURTHER ALLOCATION.—With respect to the allocation of agricultural priority water under subparagraph (A)—

[(i) before that water may be further allocated—

[(I) the Director shall submit to the Secretary, and the Secretary shall receive, a recommendation for reallocation;

[(II) as soon as practicable after receiving the recommendation, the Secretary shall carry out all necessary reviews of the proposed reallocation, in accordance with applicable Federal law; and

[(III) if the recommendation is rejected by the Secretary, the Secretary shall—

[(aa) request a revised recommendation from the Director; and

[(bb) proceed with any reviews required under subclause (II); and

[(ii) as soon as practicable after the date on which agricultural priority water is further allocated, the Secretary shall offer to enter into a subcontract for that water in accordance with paragraphs (1) and (2) of subsection (d).

[(D) MASTER AGREEMENT.—The reallocation of agricultural priority water under subparagraphs (A) and (C) is subject to the master agreement, including certain rights provided by the master agreement to water users in Pinal County, Arizona.

[(3) PRIORITY.—The agricultural priority water reallocated under paragraphs (1) and (2) shall be subject to the condition that the water retain its non-Indian agricultural delivery priority.

[(b) UNCONTRACTED CENTRAL ARIZONA PROJECT MUNICIPAL AND INDUSTRIAL PRIORITY WATER.—

[(1) REALLOCATION.—The Secretary shall, on the recommendation of the Director, reallocate 65,647 acre-feet of uncontracted municipal and industrial water, of which—

[(A) 285 acre-feet shall be reallocated to the town of Superior, Arizona;

[(B) 806 acre-feet shall be reallocated to the Cave Creek Water Company;

[(C) 1,931 acre-feet shall be reallocated to the Chaparral Water Company,

[(D) 508 acre-feet shall be reallocated to the town of El Mirage, Arizona;

[(E) 7,211 acre-feet shall be reallocated to the city of Goodyear, Arizona;

[(F) 147 acre-feet shall be reallocated to the H2O Water Company;

[(G) 7,115 acre-feet shall be reallocated to the city of Mesa, Arizona;

[(H) 5,527 acre-feet shall be reallocated to the city of Peoria, Arizona;

[(I) 2,981 acre-feet shall be reallocated to the city of Scottsdale, Arizona;

[(J) 808 acre-feet shall be reallocated to the AVRA Cooperative;

[(K) 4,986 acre-feet shall be reallocated to the city of Chandler, Arizona;

[(L) 1,071 acre-feet shall be reallocated to the Del Lago (Vail) Water Company;

[(M) 3,053 acre-feet shall be reallocated to the city of Glendale, Arizona;

[(N) 1,521 acre-feet shall be reallocated to the Community Water Company of Green Valley, Arizona;

[(O) 4,602 acre-feet shall be reallocated to the Metropolitan Domestic Water Improvement District;

[(P) 3,557 acre-feet shall be reallocated to the town of Oro Valley, Arizona;

[(Q) 8,206 acre-feet shall be reallocated to the city of Phoenix, Arizona;

[(R) 2,876 acre-feet shall be reallocated to the city of Surprise, Arizona;

[(S) 8,206 acre-feet shall be reallocated to the city of Tucson, Arizona; and

[(T) 250 acre-feet shall be reallocated to the Valley Utilities Water Company.

[(2) SUBCONTRACTS.—

[(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, in accordance with paragraphs (1) and (2) of subsection (d) and any applicable Federal laws, the Secretary shall offer to enter into subcontracts for the delivery of the uncontracted municipal and industrial water reallocated under paragraph (1).

[(B) REVISED RECOMMENDATION.—If the Secretary is precluded under applicable Federal law from entering into a subcontract with an entity identified in paragraph (1), the Secretary shall—

[(i) request a revised recommendation from the Director; and

[(ii) on receipt of a recommendation under clause (i), reallocate and enter into a subcontract for the delivery of the water in accordance with subparagraph (A).

[(c) LIMITATIONS.—

[(1) AMOUNT.—

[(A) IN GENERAL.—The total amount of entitlements under long-term contracts (as defined in the repayment stipulation) for the delivery of Central Arizona Project water in the State shall not exceed 1,415,000 acre-feet, of which—

[(i) 667,724 acre-feet shall be—

[(I) under contract to Arizona Indian tribes; or

[(II) available to the Secretary for allocation to Arizona Indian tribes; and

[(ii) 747,276 acre-feet shall be under contract or available for allocation to—

[(I) non-Indian municipal and industrial entities;

[(II) the Arizona Department of Water Resources; and

[(III) non-Indian agricultural entities.

[(B) EXCEPTION.—Subparagraph (A) shall not apply to Central Arizona Project water delivered to water users in Arizona in exchange for Gila River water delivered to the State of New Mexico or to water users in New Mexico as provided in section 304 of the Colorado River Basin Project Act (43 U.S.C. 1524).

[(2) TRANSFER.—

[(A) IN GENERAL.—Except pursuant to the master agreement, Central Arizona Project water may not be transferred from—

[(i) a use authorized under paragraph (1)(A)(i) to a use authorized under paragraph (1)(A)(ii); or

[(ii) a use authorized under paragraph (1)(A)(ii) to a use authorized under paragraph (1)(A)(i).

[(B) EXCEPTIONS.—

[(i) LEASES.—A lease of Central Arizona Project water by an Arizona Indian tribe to an entity described in paragraph (1)(A)(ii) under an Indian water rights settlement approved by an Act of Congress shall not be considered to be a transfer for purposes of subparagraph (A).

[(ii) EXCHANGES.—An exchange of Central Arizona Project water by an Arizona Indian tribe to an entity described in paragraph (1)(A)(ii) shall not be considered to be a transfer for purposes of subparagraph (A).

[(d) CENTRAL ARIZONA PROJECT CONTRACTS AND SUBCONTRACTS.—

[(1) IN GENERAL.—Notwithstanding section 6 of the Act of August 4, 1939 (commonly known as the "Reclamation Project Act of 1939") (43 U.S.C. 485e), and paragraphs (2) and (3) of section 304(b) of the Colorado River Basin Project Act (43 U.S.C. 1524(b)), as soon as practicable after the date of enactment of this Act, the Secretary shall offer to enter into subcontracts or to amend all Central Arizona Project contracts and subcontracts in effect as of that date in accordance with paragraph (2).

[(2) REQUIREMENTS.—All subcontracts and amendments to Central Arizona Project contracts and subcontracts under paragraph (1)—

[(A) shall be for permanent service (within the meaning of section 5 of the Boulder Canyon Project Act of 1928 (43 U.S.C. 617d));

[(B) shall have an initial delivery term that is the greater of—

[(i) 100 years; or

[(ii) a term—

[(I) authorized by Congress; or

[(II) provided under the appropriate Central Arizona Project contract or subcontract in existence on the date of enactment of this Act;

[(C) shall conform to the shortage sharing criteria described in paragraph 8.16 of the Gila River agreement and paragraph 5.3 of the Tohono O'odham settlement agreement;

[(D) shall include the prohibition and exception described in subsection (e); and

[(E) shall not require—

[(i) that any Central Arizona Project water received in exchange for effluent be deducted from the contractual entitlement of the CAP contractor or CAP subcontractor; or

[(ii) that any additional modification of the Central Arizona Project contracts or subcontracts be made as a condition of acceptance of the subcontract or amendments.

[(3) APPLICABILITY.—This subsection does not apply to—

[(A) a subcontract for non-Indian agricultural use; and

[(B) a contract executed under paragraph 5(d) of the repayment stipulation.

[(e) PROHIBITION ON TRANSFER.—

[(1) IN GENERAL.—Except as provided in paragraph (2), no Central Arizona Project water shall be leased, exchanged, forborne, or otherwise transferred in any way for use directly or indirectly outside the State.

[(2) Exceptions.—Central Arizona Project water may be—

[(A) leased, exchanged, forborne, or otherwise transferred under an agreement with the Arizona Water Banking Authority that is in accordance with section 414 of title 43, Code of Federal Regulations; and

[(B) delivered to users in Arizona in exchange for Gila River water delivered to the State of New Mexico or to water users in New Mexico as provided in section 304 of the Colorado River Basin Project Act (43 U.S.C. 1524).

[(3) Effect of subsection.—Nothing in this subsection prohibits any entity from entering into a contract with the Arizona Water Banking Authority or a successor of the Authority under State law.

### [SEC. 105. FIRMING OF CENTRAL ARIZONA PROJECT INDIAN WATER.

[(a) Firming Program.—The Secretary and the State shall develop a firming program to ensure that 60,648 acre-feet of the agricultural priority water made available pursuant to the master agreement and reallocated to Arizona Indian tribes under subsection 104(a)(1), shall, for a 100-year period, be delivered during water shortages in the same manner as water with a municipal and industrial delivery priority in the Central Arizona Project system is delivered during water shortages.

[(b) Duties.—

[(1) Secretary.—The Secretary shall—

[(A) firm 28,200 acre-feet of agricultural priority water reallocated to the Tohono O'odham Nation under section 104(a)(1)(A)(ii); and

[(B) firm 8,724 acre-feet of agricultural priority water reallocated to Arizona Indian tribes under section 104(a)(1)(A)(iii).

[(2) State.—The State shall—

[(A) firm 15,000 acre-feet of agricultural priority water reallocated to the Gila River Indian Community under section 104(a)(1)(A)(i);

[(B) firm 8,724 acre-feet of agricultural priority water reallocated to Arizona Indian tribes under section 104(a)(1)(A)(iii); and

[(C) assist the Secretary in carrying out obligations of the Secretary under paragraph (1)(A) in accordance with section 306 of the Southern Arizona Water Rights Settlement Amendments Act (as added by section 301).

[(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the duties of the Secretary under subsection (b)(1).

### [SEC. 106. ACQUISITION OF AGRICULTURAL PRIORITY WATER.

[(a) Approval of Agreement.—

[(1) In general.—The master agreement is authorized, ratified, and confirmed.

[(2) Exhibits.—The Secretary shall execute any of the exhibits to the master agreement that have not been executed as of the date of enactment of this Act.

[(b) Nonreimbursable Debt.—In accordance with the master agreement, the portion of debt incurred under section 9(d) of the Act of August 4, 1939 (commonly known as the "Reclamation Project Act of 1939") (43 U.S.C. 485h), and identified in the master agreement as nonreimbursable to the United States, shall be nonreimbursable and nonreturnable to the United States in an amount not to exceed $73,561,337.

[(c) Exemption.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) and any other acreage limitation or full cost pricing provisions of Federal law shall not apply to—

[(1) land within the exterior boundaries of the Central Arizona Water Conservation District or served by Central Arizona Project water;

[(2) land within the exterior boundaries of the Salt River Reservoir District;

[(3) land held in trust by the United States for an Arizona Indian tribe that is—

[(A) within the exterior boundaries of the Central Arizona Water Conservation District; or

[(B) served by Central Arizona Project water; and

[(4) any person, entity, or land, solely on the basis of—

[(A) receipt of any benefits under this Act;

[(B) execution or performance of the Gila River agreement; or

[(C) the use, storage, delivery, lease, or exchange of Central Arizona Project water.

### [SEC. 107. LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.

[(a) In General.—Section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543) is amended by striking subsection (f) and inserting the following:

[''(f) Additional Uses of Revenue Funds.—

[''(1) Crediting against central arizona water conservation district payments.—Funds credited to the development fund pursuant to subsection (b) and paragraphs (1) and (3) of subsection (c), the portion of revenues derived from the sale of power and energy for use in the State of Arizona pursuant to subsection (c)(2) in excess of the amount necessary to meet the requirements of paragraphs (1) and (2) of subsection (d), and any annual payment by the Central Arizona Water Conservation District to effect repayment of reimbursable Central Arizona Water Conservation District to effect repayment of reimbursable Central Arizona Project construction costs, shall be credited annually against the annual payment owed by the Central Arizona Water Conservation District to the United States for the Central Arizona Project.

[''(2) Further use of revenue funds credited against payments of central arizona water conservation district.—After being credited in accordance with paragraph (1), the funds and portion of revenues described in that paragraph shall be available annually, without further appropriation, in order of priority—

[''(A) to pay fixed operation, maintenance, and replacement charges associated with the delivery of Central Arizona Project water under long-term contracts for use by Arizona Indian tribes (as defined in section 2 of the Arizona Water Settlements Act);

[''(B) to make deposits, totaling $53,000,000 in the aggregate, in the Gila River Indian Community Water OM&R Trust Fund established by section 207 of the Gila River Indian Community Water Rights Settlement Act of 2003;

[''(C) to pay an amount equal to $147,000,000, adjusted to reflect changes since January 1, 2000, in the Consumer Price Index for all urban consumers published by the Department of Labor, to the Gila River Indian Community to rehabilitate the San Carlos Irrigation Project, of which not more than $25,000,000 shall be available annually, on request by the Gila River Indian Community in accordance with attachment 6.5.1 of exhibit 20.1 of the Gila River Indian Community Water Rights Settlement, dated July 1, 2002, except that the total amount shall be increased or decreased, as appropriate, based on ordinary fluctuations in construction cost indices applicable to the types of construction involved in the rehabilitation;

[''(D) in addition to amounts made available for the purpose through annual appropriations, and without regard to priority—

[''(i) to pay the costs associated with the construction of distribution systems required to implement the provisions of—

[''(I) the contract entered into between the United States and the Gila River Indian Community, numbered 6-07-03-W0345, and dated May 4, 1998;

[''(II) section 3707(a)(1) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (106 Stat. 4747); and

[''(III) subsections (a) and (b) of section 304 of the Southern Arizona Water Rights Settlement Amendments Act of 2003;

[''(ii) to pay any costs authorized by Congress to be paid (including any costs to construct distribution systems and excluding costs otherwise payable by non-Federal, non-Indian parties) under any Arizona Indian water rights settlement Act enacted after May 9, 2000; and

[''(iii) to pay other costs authorized under—

[''(I) the Gila River Indian Community Water Rights Settlement Act of 2003; or

[''(II) the Southern Arizona Water Rights Settlement Amendments Act of 2003;

[''(E) in addition to amounts made available for the purpose through annual appropriations—

[''(i) to pay the costs associated with the construction of on-reservation Central Arizona Project distribution systems for the Yavapai Apache (Camp Verde), Tohono O'odham Nation (Sif Oidak District), Pascua Yaqui, and Tonto Apache tribes; and

[''(ii) to make payments to those tribes in accordance with paragraph 8(d)(i)(1)(iv) of the Central Arizona Project repayment stipulation (as defined in section 2 of the Arizona Water Settlements Act), except that if a water rights settlement Act of Congress authorizes such construction, the applicable tribes shall be treated, and payments shall be made, in accordance with subparagraph (D)(ii); and

[''(F) if any amounts remain in the development fund at the end of a fiscal year, to be carried over to the following fiscal year for use for the purposes described in subparagraphs (A) through (E).

[''(3) Revenue funds in excess of revenue funds credited against central arizona water conservation district payments.—The funds and portion of revenues described in paragraph (1) that are in excess of amounts credited under paragraph (1) shall be available, on an annual basis, without further appropriation, in order of priority—

[''(A) to pay fixed operation, maintenance and replacement charges associated with the delivery of Central Arizona Project water under long-term contracts held by Arizona Indian tribes (as defined in section 2 of the Arizona Water Settlements Act);

[''(B) to make the final outstanding annual payment for the costs of each unit of the projects authorized under title III that are to be repaid by the Central Arizona Water Conservation District;

[''(C) to reimburse the general fund of the Treasury for fixed operation, maintenance, and replacement charges previously paid under paragraph (2)(A);

[''(D) to reimburse the general fund of the Treasury for costs associated with any Indian water rights settlement previously paid under subparagraphs (B) through (E) of paragraph (2);

[''(E) to pay to the general fund of the Treasury the annual installment on any debt relating to the Central Arizona Project under section 9(d) of the Act of August 4, 1939 (commonly known as the "Reclamation Project Act of 1939") (43 U.S.C. 485h(d)) made nonreimbursable under section 106(b) of the Central Arizona Project Settlement Act of 2003;

["(F) to pay to the general fund of the Treasury the difference between—

["(I) the costs of each unit of the projects authorized under title III that are repayable by the Central Arizona Water Conservation District; and

["(II) any costs allocated to repayable functions under any Central Arizona Project cost allocation undertaken by the United States; and

["(G) for deposit in the general fund of the Treasury.

["(4) Investment of amounts.—

["(A) In general.—The Secretary of the Treasury shall invest such portion of the development fund as is not, in the judgment of the Secretary of the Interior, required to meet current needs of the development fund. Investments may be made only in interest-bearing obligations of the United States.

["(B) Acquisition of obligations.—For the purpose of investments under subparagraph (A), obligations may be acquired—

["(i) on original issue at the issue price; or

["(ii) by purchase of outstanding obligations at the market price.

["(C) Sale of obligations.—Any obligation acquired by the development fund may be sold by the Secretary of the Treasury at the market price.

["(D) Credits to fund.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the development fund shall be credited to and form a part of the development fund.".

[(b) Limitation.—Before the date on which the findings of the Secretary under section 207(d) have been published in the Federal Register, amounts made available under the amendments in subsection (a)—

[(1) shall be identified and retained in the Lower Colorado River Basin Development Fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543); and

[(2) shall not be expended or withdrawn from that fund until the date on which the findings described in section 207(d) are published in the Federal Register.

[(c) Technical Amendments.—The Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) is amended—

[(1) in section 403(g), by striking "clause (c)(2)" and inserting "subsection (c)(2)";

[(2) by striking "clause" each other place it appears and inserting "paragraph"; and

[(3) by striking "clauses" each place it appears and inserting "paragraphs".

### [SEC. 108. EFFECT.

[Except for provisions relating to the allocation of Central Arizona Project water and the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.), nothing in this title affects—

[(1) any treaty, law, or agreement governing the use of water from the Colorado River; or

[(2) any existing rights to use Colorado River water.

### [SEC. 109. REPEAL.

[Section 11(h) of the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988 (102 Stat. 2559) is repealed.

### [SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

[(a) In General.—There are authorized to be appropriated such sums as are necessary to comply with—

[(1) the 1994 biological opinion, including any funding transfers required by the opinion;

[(2) the 1996 biological opinion, including any funding transfers required by the opinion; and

[(3) any final biological opinion resulting from the 1999 biological opinion, including any funding transfers required by the opinion.

[(b) Construction Costs.—Amounts made available under subsection (a) shall be treated as Central Arizona Project construction costs.

[(c) Agreements.—

[(1) In general.—Any amounts made available under subsection (a) may be used to carry out agreements to permanently fund long-term reasonable and prudent alternatives in accepted biological opinions relating to the Central Arizona Project.

[(2) Requirements.—To ensure that long-term environmental compliance may be met without further appropriations, an agreement under paragraph (1) shall include a provision requiring that the contractor manage the funds through interest-bearing investments.

### [SEC. 111. REPEAL ON FAILURE OF ENFORCEABILITY DATE UNDER TITLE II.

[(a) In General.—Except as provided in subsection (b), if the Secretary does not publish a statement of findings under section 207(d) by December 31, 2007—

[(1) this title is repealed effective January 1, 2008, and any action taken by the Secretary and any contract entered under any provision of this title shall be void; and

[(2) any amounts appropriated under section 110 that remain unexpended shall immediately revert to the general fund of the Treasury.

[(b) Exception.—No subcontract amendment executed by the Secretary under the notice of June 4, 2002 (67 Fed. Reg. 38514) shall be considered to be a contract entered into by the Secretary for purposes of subsection (a)(1).

## [TITLE II—GILA RIVER INDIAN COMMUNITY WATER RIGHTS SETTLEMENT

### [SEC. 201. SHORT TITLE.

[This title may be cited as the "Gila River Indian Community Water Rights Settlement Act of 2003".

### [SEC. 202. FINDINGS AND PURPOSES.

[(a) Findings.—Congress finds that—

[(1) it is the policy of the United States, in keeping with the trust responsibility of the United States to Indian tribes—

[(A) to promote Indian self-determination and economic self-sufficiency; and

[(B) to settle, whenever possible, Indian water rights claims without lengthy and costly litigation;

[(2) meaningful Indian self-determination and economic self-sufficiency largely depend on the development of viable Indian reservation economies;

[(3) the quantification of rights to water and development of facilities needed to use tribal water supplies in an effective manner is essential to the development of viable Indian reservation economies, particularly in arid western States;

[(4) continued uncertainty concerning the extent of the entitlement of the Gila River Indian Community to water—

[(A) has severely limited access by the Community to water and financial resources necessary to develop valuable agricultural land; and

[(B) has frustrated the efforts of the Community to achieve meaningful self-determination and self-sufficiency;

[(5) proceedings to determine and enforce the full extent and nature of, and injury to, the water rights of the Community are currently pending in the United States District Court for the District of Arizona, and water rights claims are pending in the Superior Court of the State in and for Maricopa County as part of the Gila River adjudication proceedings;

[(6) because final resolution of pending litigation would take many years and entail great expense, continue economically and socially damaging limits to access to water by the Community, prolong uncertainty concerning the availability of water supplies, and seriously impair long-term economic planning and development, the Community and the neighbors of the Community have sought to settle their disputes concerning water and reduce the burdens of litigation;

[(7) after many years of negotiation, the United States, the Community, and the neighbors of the Community, many of whom are parties to the Gila River adjudication proceedings, have entered into a settlement agreement to—

[(A) resolve permanently certain damage claims and all water rights claims between the United States and the Community and its neighbors; and

[(B) recognize the right of the allottees to use water for irrigation purposes on the Reservation; and

[(8) to advance the goals of Federal Indian policy and to act consistently with the trust responsibility of the United States to the Community and the allottees, it is appropriate that the United States participate in the implementation of the Gila River agreement and contribute funds to enable the Community and the allottees to use the water entitlements recognized or provided for in the Gila River agreement or this title in developing a diverse and efficient economy.

[(b) Purposes.—The purposes of this title are—

[(1) to authorize, ratify, and confirm the Gila River agreement;

[(2) to authorize and direct the Secretary to execute and perform all obligations of the Secretary under the Gila River agreement; and

[(3) to authorize the actions and appropriations necessary for the United States to meet obligations of the United States under the Gila River agreement and this title.

### [SEC. 203. APPROVAL OF THE GILA RIVER INDIAN COMMUNITY WATER RIGHTS SETTLEMENT AGREEMENT.

[(a) In General.—Except to the extent that the Gila River agreement conflicts with a provision of this title, the Gila River agreement is authorized, ratified, and confirmed.

[(b) Execution of Agreement.—The Secretary shall execute the Gila River agreement, including all exhibits to the Gila River agreement requiring the signature of the Secretary and any amendments necessary to make the Gila River agreement consistent with this title, after the Community has executed the Gila River agreement and any such amendments.

[(c) National Environmental Policy Act.—

[(1) No major federal action.—Execution of the Gila River agreement by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

[(2) Environmental compliance activities.—The Secretary shall promptly carry out the environmental compliance activities necessary to implement the Gila River agreement, including activities under the National Environmental Policy Act and the Endangered Species Act (16 U.S.C. 1531 et seq.).

[(3) LEAD AGENCY.—The Bureau of Reclamation shall be designated as the lead agency with respect to environmental compliance.

[(d) REHABILITATION AND OPERATION, MAINTENANCE, AND REPLACEMENT OF CERTAIN WATER WORKS.—

[(1) IN GENERAL.—In accordance with this title and exhibit 20.1 to the Gila River agreement, and as provided in this subsection, the Secretary shall provide for the rehabilitation and operation, maintenance, and replacement of the San Carlos Irrigation Project water diversion and delivery works.

[(2) JOINT CONTROL BOARD AGREEMENT.—The Secretary shall execute the joint control board agreement described in exhibit 20.1 to the Gila River agreement.

[(3) REHABILITATION COSTS ALLOCABLE TO THE COMMUNITY.—The rehabilitation costs allocable to the Community under exhibit 20.1 to the Gila River agreement shall be paid from the funds available under paragraph (2)(C) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)).

[(4) REHABILITATION COSTS NOT ALLOCABLE TO THE COMMUNITY.—

[(A) IN GENERAL.—The rehabilitation costs not allocable to the Community under exhibit 20.1 to the Gila River agreement shall be provided from—

[(i) funds available under paragraph (2)(D)(iii)(I) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)); or

[(ii) funds made available under section 213(a).

[(B) SUPPLEMENTARY REPAYMENT CONTRACT.—The Secretary shall execute a supplementary repayment contract with the San Carlos Irrigation and Drainage District in the form provided for in exhibit 20.1 to the Gila River agreement which shall, among other things, provide that—

[(i) in accomplishing the work under the supplemental repayment contract, the San Carlos Irrigation and Drainage District may use the labor and contracting authorities that are available under State law; and

[(ii) a portion of the San Carlos Irrigation and Drainage District's share of the rehabilitation costs specified in exhibit 20.1 to the Gila River agreement shall be nonreimbursable.

[(5) LEAD AGENCY.—The Bureau of Reclamation shall be designated as the lead agency for oversight of the construction and rehabilitation of the San Carlos Irrigation Project authorized by this section.

[(6) OPERATION AND MAINTENANCE RESPONSIBILITY.—

[(A) IN GENERAL.—The Secretary shall retain the operation and maintenance responsibility for the CRR Project works until such time as the Community assumes that responsibility pursuant to applicable law.

[(B) FINANCIAL RESPONSIBILITY.—The Secretary shall retain sole financial responsibility for the payment, on behalf of the Community, of the portion of the operation and maintenance costs that are attributable to the Community for the operation and maintenance of the San Carlos Irrigation Project.

### [SEC. 204. WATER RIGHTS.

[(a) RIGHTS HELD IN TRUST.—

[(1) IN GENERAL.—Subject to paragraph (2), the water rights of the Community described in the Gila River agreement shall be held in trust by the United States on behalf of the Community.

[(2) ALLOTTEES.—As specified in and provided for under this Act, allottees shall be entitled to an allocation of water for irrigation purposes from the water resources described in subparagraph 4.1.1 of the Gila River agreement.

[(3) NO AUTHORIZATION.—Nothing in this Act authorizes any action, claim, or lawsuit by an allottee against any person, entity, corporation, or municipal corporation, or a tribal government or the United States, under Federal, State, or other law.

[(b) REALLOCATION.—In accordance with this title and the Gila River agreement, the Secretary shall reallocate to the Community and contract for the delivery of—

[(1) an annual entitlement to 18,600 acre-feet of CAP agricultural priority water in accordance with the agreement among the Secretary, the Community, and Roosevelt Water Conservation District dated August 7, 1992;

[(2) an annual entitlement to 18,100 acre-feet of CAP Indian priority water, which was permanently relinquished by Harquahala Valley Irrigation District in accordance with Contract No. 3-07-W0290 among the Central Arizona Water Conservation District, the Harquahala Valley Irrigation District, and the United States, and converted to CAP Indian priority water under the Fort McDowell Indian Community Water Rights Settlement Act of 1990 (104 Stat. 4480);

[(3) on execution of an exchange and lease agreement among the Community, the United States, and Asarco, an annual entitlement to 17,000 acre-feet of CAP municipal and industrial priority water under the subcontract among the United States, the Central Arizona Water Conservation District, and Asarco, Subcontract No. 3-07-30-W0307, dated November 7, 1993; and

[(4) as provided in section 104(a)(1)(A)(i), an annual entitlement to 102,000 acre-feet of CAP agricultural priority water acquired pursuant to the master agreement.

[(c) WATER SERVICE CAPITAL CHARGES.—The Community shall not be responsible for water service capital charges for CAP water.

[(d) ALLOCATION AND REPAYMENT.—For the purpose of determining the allocation and repayment of costs of any stages of the Central Arizona Project constructed after the date of enactment of this Act, the costs associated with the delivery of Community CAP water, whether that water is delivered for use by the Community or in accordance with any assignment, exchange, lease, option to lease, or other agreement for the temporary disposition of water entered into by the Community—

[(1) shall be nonreimbursable; and

[(2) shall be excluded from the repayment obligation of the Central Arizona Water Conservation District.

[(e) APPLICATION OF PROVISIONS.—

[(1) IN GENERAL.—The water rights recognized and confirmed to the Community by the Gila River agreement and this title shall be subject to section 7 of the Act of February 8, 1887 (25 U.S.C. 381).

[(2) WATER CODE.—Not later than 3 years after the enforceability date, the Community shall enact a water code, subject to any applicable provision of law, that—

[(A) manages, regulates, and controls the water resources on the Reservation;

[(B) governs all of the water rights that are held in trust by the United States for the benefit of the Community; and

[(C) includes, subject to approval of the Secretary—

[(i) a process by which any allottee, or any successor in interest to an allottee, may request and be provided with an allocation of water for irrigation use on allotted land of the allottee; and

[(ii) a due process system for the consideration and determination of any request by any allottee, or any successor in interest to an allottee, for an allocation of water, including a process for appeal and adjudication of denied or disputed distributions of water and for resolution of contested administrative decisions.

[(3) ADMINISTRATION.—The Secretary shall administer all rights to water granted or confirmed to the Community by the Gila River agreement until such date as the water code described in paragraph (2) has been enacted and approved by the Secretary.

### [SEC. 205. COMMUNITY WATER DELIVERY CONTRACT AMENDMENTS.

[(a) IN GENERAL.—The Secretary shall amend the Community water delivery contract to provide, among other things, in accordance with the Gila River agreement, that—

[(1) the contract shall be—

[(A) for permanent service (within the meaning of section 5 of the Boulder Canyon Project Act (43 U.S.C. 617d)); and

[(B) without limit as to term;

[(2) the Community may, with the approval of the Secretary—

[(A) enter into contracts or options to lease (for a term not to exceed 100 years) or contracts or options to exchange, Community CAP water within Maricopa, Pinal, Pima, La Paz, Yavapai, Gila, Graham, Greenlee, Santa Cruz, or Coconino Counties, Arizona, providing for the temporary delivery to others of any portion of the Community CAP water; and

[(B) renegotiate any lease at any time during the term of the lease, so long as the term of the renegotiated lease does not exceed 100 years;

[(3)(A) the Community, and not the United States, shall be entitled to all consideration due to the Community under any leases or options to lease and exchanges or options to exchange Community CAP water entered into by the Community; and

[(B) the United States shall have no trust obligation or other obligation to monitor, administer, or account for any consideration received by the Community under any such leases or options to lease and exchanges or options to exchange;

[(4)(A) all Community CAP water shall be delivered through the CAP system; and

[(B) if the delivery capacity of the CAP system is significantly reduced or is anticipated to be significantly reduced for an extended period of time, the Community shall have the same CAP delivery rights as other CAP contractors and CAP subcontractors, if such CAP contractors or CAP subcontractors are allowed to take delivery of water other than through the CAP system;

[(5) the Community may use Community CAP water on or off the Reservation for Community purposes;

[(6) as authorized by subparagraph (A) of section 403(f)(2) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)) (as amended by section 107(a)) and to the extent that funds are available in the Lower Colorado River Basin Development Fund established by section 403 of that Act (43 U.S.C. 1543), the United States shall pay to the CAP operating agency the fixed OM&R charges associated with the delivery of Community CAP water, except for Community CAP water leased by others;

[(7) the costs associated with the construction of the CAP system—

[(A) shall be nonreimbursable; and

[(B) shall be excluded from any repayment obligation of the Community; and

[(8) no CAP water service capital charges shall be due or payable for Community CAP water, whether CAP water is delivered for use by the Community or is delivered under any leases, options to lease, exchanges or options to exchange Community CAP water entered into by the Community.

[(b) AMENDED AND RESTATED COMMUNITY WATER DELIVERY CONTRACT.—Notwithstanding any other provision of law, the Amended and Restated Community CAP water Delivery Contract set forth in exhibit 8.2 to the Gila River agreement is authorized, ratified, and confirmed, and the Secretary shall execute the contract.

[(c) LEASES.—The leases of Community CAP water by the Community to Phelps Dodge, and any of the Cities, attached as exhibits to the Gila River agreement, are authorized, ratified, and confirmed, and the Secretary shall execute the leases.

[(d) RECLAIMED WATER EXCHANGE AGREEMENT.—The Reclaimed Water Exchange Agreement among the cities of Chandler and Mesa, Arizona, the Community, and the United States, attached as exhibit 18.1 to the Gila River agreement, is authorized, ratified, and confirmed, and the Secretary shall execute the agreement.

[(e) PAYMENT OF CHARGES.—Neither the Community nor any recipient of Community CAP water through lease or exchange shall be obligated to pay water service capital charges or any other charges, payments, or fees for the CAP water, except as provided in the lease or exchange agreement.

[(f) PROHIBITIONS.—

[(1) USE OUTSIDE THE STATE.—None of the Community CAP water shall be leased, exchanged, forborne, or otherwise transferred in any way by the Community for use directly or indirectly outside the State.

[(2) USE OFF RESERVATION.—Except as authorized by this section and subparagraph 4.7 of the Gila River agreement, no water made available to the Community under the Gila River agreement, the Globe Equity Decree, the Haggard Decree, or this title may be sold, leased, transferred, or used off the Reservation other than by exchange.

[(3) AGREEMENTS WITH THE ARIZONA WATER BANKING AUTHORITY.—Nothing in this Act or the Gila River agreement limits the right of the Community to enter into any agreement with the Arizona Water Banking Authority, or any successor agency or entity, in accordance with State law.

**[SEC. 206. SATISFACTION OF CLAIMS.**

[(a) IN GENERAL.—The benefits realized by the Community, Community members, and allottees under this title shall be in complete replacement of and substitution for, and full satisfaction of, all claims of the Community, Community members, and allottees for water rights, injury to water rights, injury to water quality and subsidence damage, except as set forth in the Gila River agreement, under Federal, State, or other law with respect to the Reservation, off-Reservation trust land, and fee land.

[(b) NO RECOGNITION OF WATER RIGHTS.—Notwithstanding subsection (a) and except as provided in subsection 204(e), nothing in this title has the effect of recognizing or establishing any right of a Community member or allottee to water on the Reservation.

**[SEC. 207. WAIVER AND RELEASE OF CLAIMS.**

[(a) IN GENERAL.—

[(1) CLAIMS AGAINST THE STATE AND OTHERS ACTING UNDER FEDERAL, STATE, OR OTHER LAW.—

[(A) BY THE COMMUNITY.—Except as provided in the Gila River agreement, the Community, on behalf of the Community and Community members (but not members in their capacities as allottees), and the Secretary, on behalf of the Community and Community members (but not members in their capacities as allottees), as part of the performance of obligations under the Gila River agreement, are authorized to execute a waiver and release of any claims against the State (or any agency or political subdivision of the State) or any other person, entity, corporation, or municipal corporation under Federal, State, or other law for—

[(i)(I) past, present, and future claims for water rights for land within the Reservation, off-Reservation trust land, and fee land arising from time immemorial and, thereafter, forever; and

[(II) past, present, and future claims for water rights based on aboriginal occupancy of land by the Community and Community members, or their predecessors arising from time immemorial and, thereafter, forever;

[(ii)(I) past and present injury to water rights for land within the Reservation, off-Reservation trust land, and fee land arising from time immemorial through the enforceability date;

[(II) past, present, and future injury to water rights based on aboriginal occupancy of land by the Community and Community members, or their predecessors arising from time immemorial and, thereafter, forever; and

[(III) injury to water rights arising after the enforceability date for land within the Reservation, off-Reservation trust land, and fee land resulting from the off-Reservation diversion or use of water in a manner not in violation of the Gila River agreement or State law;

[(iii)(I) past and present injury to water quality (other than claims arising out of the actions that resulted in the remediations described in exhibit 25.2.1.6 to the Gila River agreement), including claims for trespass, nuisance, and real property damage and claims under all current and future Federal, State, and other environmental laws and regulations (including claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and Ariz. Rev. Stat. 49-282), for land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land arising from time immemorial through December 31, 2002;

[(II) past, present, and future injury to water quality (other than claims arising out of actions that resulted in the remediations described in exhibit 25.2.1.6 to the Gila River agreement), including claims for trespass, nuisance, and real property damage and claims under all current and future Federal, State, and other environmental laws and regulations (including claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and Ariz. Rev. Stat. 49-282), that are based on aboriginal occupancy of land by the Community and Community members, or their predecessors, arising from time immemorial and, thereafter, forever;

[(III) injury to water quality (other than claims arising out of actions that resulted in the remediations described in exhibit 25.2.1.6 to the Gila River agreement) arising after December 31, 2002, including claims for trespass, nuisance, and real property damage and claims under all current and future Federal, State, and other environmental laws and regulations (including claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and Ariz. Rev. Stat. 49-282), that result from—

[(aa) the delivery of water to the Community under the Gila River agreement;

[(bb) the off-Reservation diversion (other than pumping), or ownership or operation of structures for the off-Reservation diversion (other than pumping), of water;

[(cc) the off-Reservation pumping, or ownership or operation of structures for the off-Reservation pumping, of water in a manner not in violation of the Gila River agreement or of any applicable pumping limitations under State law;

[(dd) the recharge, or ownership or operation of structures for the recharge, of water under a State permit; and

[(ee) the off-Reservation application of water to land for irrigation;

[except that the waiver provided in this subclause shall extend only to the State (or any agency or political subdivision of the State) or any other person, entity, or municipal or other corporation to the extent that the person, entity, or corporation is engaged in an activity specified in this subclause;

[(iv) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Gila River agreement or the negotiation or enactment of titles I and II; and

[(v)(I) past and present claims for subsidence damage occurring to land within the Reservation, off-Reservation trust land, or fee land arising from time immemorial through the enforceability date; and

[(II) subsidence damage arising after the enforceability date occurring to land within the Reservation, off-Reservation trust land, or fee land resulting from the diversion of underground water in a manner not in violation of the Gila River agreement or State law.

[(B) BY THE UNITED STATES.—Except as provided in the Gila River agreement, the United States, as trustee for the allottees, as part of the performance of obligations under the Gila River agreement, are authorized to execute a waiver and release of any claims against the State (or any agency or political subdivision of the State) or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for—

[(i)(I) past, present, and future claims for water rights for land within the Reservation arising from time immemorial and, thereafter, forever; and

[(II) past, present, and future claims for water rights based on aboriginal occupancy of land by allottees, or their predecessors arising from time immemorial and, thereafter, forever;

[(ii)(I) past and present injury to water rights for land within the Reservation arising from time immemorial through the enforceability date;

[(II) past, present, and future injury to water rights that are based on aboriginal occupancy of land by allottees or their predecessors arising from time immemorial and, thereafter, forever; and

[(III) injury to water rights arising after the enforceability date for land within the Reservation, off-Reservation trust land, and fee land resulting from the off-Reservation diversion or use of water in a manner not in violation of the Gila River agreement or State law;

[(iii)(I) past and present injury to water quality (other than claims arising out of actions that resulted in the remediations described in exhibit 25.2.1.6 to the Gila River agreement), including claims for trespass, nuisance, and real property damage and claims under all current and future Federal, State, and other environmental laws and regulations (including claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and Ariz. Rev. Stat. 49–282), with respect to land within the Reservation, arising from time immemorial through December 31, 2002;

[(II) past, present, and future injury to water quality (other than claims arising out of actions that resulted in the remediations described in exhibit 25.2.1.6 to the Gila River agreement), including claims for trespass, nuisance, and real property damage and claims under all current and future Federal, State, and other environmental laws and regulations (including claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and Ariz. Rev. Stat. 49–282), that are based on aboriginal occupancy of land by allottees or their predecessors, from time immemorial and, thereafter, forever;

[(III) injury to water quality (other than claims arising out of actions that resulted in the remediations described in exhibit 25.2.1.6 to the Gila River agreement) arising after December 31, 2002, including claims for trespass, nuisance, and real property damage and claims under all current and future Federal, State, and other environmental laws and regulations (including claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and Ariz. Rev. Stat. 49–282), that result from—

[(aa) the delivery of water to the Community or the Allottees under the Gila River agreement;

[(bb) the off-Reservation diversion (other than pumping), or ownership or operation of structures for the off-Reservation diversion (other than pumping), of water;

[(cc) the off-Reservation pumping, or ownership or operation of structures for the off-Reservation pumping, of water in a manner not in violation of the Gila River agreement or any applicable pumping limitations under State law;

[(dd) the recharge, or ownership or operation of structures for the recharge, of water under a State permit; and

[(ee) the off-Reservation application of water to land for irrigation;

[except that the waiver provided in this subclause shall extend only to the State (or any agency or political subdivision of the State) or any other person, entity, or municipal or other corporation to the extent that the person, entity, or corporation is engaged in an activity specified in this subclause;

[(iv) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Gila River agreement or the negotiation or enactment of titles I and II; and

[(v) past and present subsidence damage occurring to land within the Reservation from time immemorial through the enforceability date.

[(2) CLAIMS FOR SUBSIDENCE.—In accordance with the subsidence remediation program under section 209, the Community, a Community member, or an allottee, and the United States, on behalf of the Community, a Community member, or an allottee, as part of the performance of obligations under the Gila River agreement, are authorized to execute a waiver and release of all claims against the State (or any agency or political subdivision of the State) or any other person, entity, corporation or municipal corporation under Federal, State, or other law for the damage claimed.

[(3) CLAIMS AGAINST THE SALT RIVER PROJECT.—Except as provided in the Gila River agreement, the Community, on behalf of the Community and Community members (but not members in their capacities as allottees), and the United States, as trustee for the Community, Community members, and allottees, as part of the performance of obligations under the Gila River agreement, are authorized to execute a waiver and release of any claim against the Salt River Project (or its successors or assigns or its officers, governors, directors, employees, agents, or shareholders) arising from the discharge, transportation, seepage, or other movement of water in, through, or from drains, canals, or other facilities or land in the Salt River Reservoir District to land in the Reservation for—

[(A) past and present injury to water rights, injury to water quality, or injury to real property arising from time immemorial through December 31, 2002; and

[(B) injury to water rights, injury to water quality, or injury to real property arising after December 31, 2002, and through the enforceability date, if the Salt River Project (or its successors or assigns) acts in accordance with the annual reservoir operations plan of the Salt River Project through the enforceability date.

[(4) CLAIMS AGAINST THE UNITED STATES.—Except as provided in the Gila River agreement, the Community, on behalf of the Community and Community members (but not members in their capacities as allottees), as part of the performance of obligations under the Gila River agreement, is authorized to execute a waiver and release of any claim against the United States (or agencies, officials, or employees of the United States) under Federal, State, or other law for—

[(A)(i) past, present, and future claims for water rights for land within the Reservation, off-Reservation trust land, and fee land arising from time immemorial and, thereafter, forever; and

[(ii) past, present, and future claims for water rights based on aboriginal occupancy of land by the Community and Community members, or their predecessors arising from time immemorial and, thereafter, forever;

[(B)(i) past and present injury to water rights for land within the Reservation, off-Reservation trust land, and fee land arising from time immemorial through the enforceability date;

[(ii) past, present, and future injury to water rights based on aboriginal occupancy of land by the Community and Community members, or their predecessors arising from time immemorial and, thereafter, forever; and

[(iii) injury to water rights arising after the enforceability date for land within the Reservation, off-Reservation trust land, or fee land resulting from the off-Reservation diversion or use of water in a manner not in violation of the Gila River agreement or applicable law;

[(C) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Gila River agreement or the negotiation or enactment of titles I and II;

[(D)(i) past and present subsidence damage occurring to land within the Reservation, off-Reservation trust land, or fee land arising from time immemorial through the enforceability date; and

[(ii) subsidence damage arising after the enforceability date occurring to land within the Reservation, off-Reservation trust land or fee land resulting from the diversion of underground water in a manner not in violation of the Gila River agreement or applicable law; and

[(E) past and present claims for failure to protect, acquire, or develop water rights for or on behalf of the Community and Community members arising before December 31, 2002.

[(5) CLAIMS AGAINST THE COMMUNITY.—Except as provided in the Gila River agreement, the United States, in all its capacities (except as trustee for an Indian tribe other than the Community), as part of the performance of obligations under the Gila River agreement, is authorized to execute a waiver and release of any and all claims against the Community, or any agency, official, or employee of the Community, under Federal, State, or any other law for—

[(A)(i) past, present, and future claims for water rights; and

[(ii) past and present injury to water rights arising from time immemorial through the enforceability date;

[(B) injury to water rights arising after the enforceability date resulting from the diversion or use of water in a manner not in violation of the Gila River agreement or applicable law;

[(C) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Gila River agreement, or the negotiation or enactment of titles I and II;

[(D) past and present injury to water quality, including claims described in paragraph (1)(A)(iii)(I), arising from time immemorial through December 31, 2002; and

[(E) past and present subsidence damage arising from time immemorial through the enforceability date.

[(6) CLAIMS AGAINST CERTAIN PERSONS AND ENTITIES IN THE UPPER GILA VALLEY.—

[(A) BY THE COMMUNITY AND THE UNITED STATES.—Except as provided in the UVD agreement, the Community, on behalf of the Community and Community members (but not members in their capacities as allottees), and the United States on behalf of the Community and Community members (but not members in their capacities as allottees) and, to the extent of the interest of the United States as owner of water rights for land described in articles V and VI of the Globe Equity Decree (excluding land described in article VI(2)), are authorized, as part of the performance of obligations under the UVD agreement, to execute a waiver and release of any claims against the UVD settling parties and all other persons or entities diverting or using water in a manner that is not in violation of or contrary to the terms, conditions, requirements, limitations, or other provisions of the UVD agreement, for—

[(i)(I) past, present, and future claims for water rights within the Reservation and the San Carlos Irrigation Project and, to the extent of the interest of the United States, land described in articles V and VI of the Globe Equity Decree (excluding land described in article VI(2)), arising from time immemorial and, thereafter, forever; and

[(II) past, present, and future claims for water rights based on aboriginal occupancy of land by the Community, Community members, or predecessors of Community members, arising from time immemorial and, thereafter, forever;

[(ii)(I) past and present injury to water rights for land within the Reservation and the San Carlos Irrigation Project, and, to the extent of the interest of the United States, land described in articles V and VI of the Globe Equity Decree (excluding land described in article VI(2)), arising from time immemorial and, thereafter, forever;

[(II) past, present, and future injury to water rights based on aboriginal occupancy of land by the Community, Community members, or predecessors of Community members, arising from time immemorial and, thereafter, forever; and

[(III) injury to water rights for land within the Reservation and the San Carlos Irrigation Project, and, to the extent of the interest of the United States, land described in articles V and VI of the Globe Equity Decree (excluding land described in article VI(2)), resulting from the diversion, pumping, or use of water in a manner not in violation of or contrary to the terms, conditions, limitations, requirements, or provisions of the UVD agreement;

[(iii)(I) past, present, and future claims arising out of or relating to the use of water rights appurtenant to NM 381 acres, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and

[(II) past, present, and future claims arising out of and relating to the use of water rights for NM domestic purposes, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and

[(iv) past, present, and future claims arising out of or relating to the negotiation or execution of the UVD agreement, or the negotiation or enactment of this Act.

[(B) By the United States on behalf of allottees.—Except as provided in the UVD agreement, the United States as trustee for the allottees, as part of the performance under the UVD agreement, is authorized to execute a waiver and release against the UV settling parties and all other persons or entities diverting or using water in a manner that is not in violation of or contrary to the terms, conditions, requirements, limitations, or other provisions of the UVD agreement, for—

[(i)(I) past, present, and future claims for water rights lands within the Reservation arising from time immemorial, and thereafter, forever; and

[(II) past, present, and future claims for water rights based on aboriginal occupancy of lands by allottees or their predecessors arising from time immemorial, and thereafter, forever;

[(ii)(I) past and present injury to water rights for lands within the Reservation arising from time immemorial, and thereafter, forever;

[(II) past, present, and future injury to water rights based on aboriginal occupancy of lands by allottees or their predecessors arising from time immemorial, and thereafter, forever; and

[(III) injury to water rights for land within the Reservation resulting from the diversion, pumping, or use of water in a manner not in violation of or contrary to the terms, conditions, limitations, requirements, or provisions of the UVD agreement;

[(iii)(I) past, present, and future claims arising out of or relating to the use of water rights appurtenant to NM 381 acres, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and

[(II) past, present, and future claims arising out of or relating to the use of water rights for NM domestic purposes, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and

[(iv) past, present, and future claims arising out of or relating to the negotiation or execution of the UVD agreement, or the negotiation or enactment of titles I and II.

[(b) Effectiveness of Waiver and Releases.—

[(1) In general.—The waivers under paragraphs (1) and (3) through (6) of subsection (a) shall become effective on the enforceability date.

[(2) Claims for subsidence.—The waiver under subsection (a)(2) shall become effective on execution of the waiver by—

[(A) the Community, a Community member, or an allottee; and

[(B) the United States, on behalf of the Community, a Community member, or an allottee.

[(c) Limitation on Claims by the United States.—The United States shall not assert any claim against the State (or any agency or political subdivision of the State) or any other person, entity, or municipal or other corporation under Federal, State, or other law in the own right of the United States or on behalf of the Community, Community members, and allottees for any of the claims described in subsection (a).

[(d) Enforceability Date.—

[(1) In general.—This section takes effect on the date on which the Secretary publishes in the Federal Register a statement of findings that—

[(A) to the extent the Gila River agreement conflicts with this title, the Gila River agreement has been revised through an amendment to eliminate the conflict and the Gila River agreement, so revised, has been executed by the Secretary and the Governor of the State;

[(B) the Secretary has fulfilled the requirements of—

[(i) paragraphs (1)(A)(i) and (2) of subsection (a) and subsections (b) and (d) of section 104; and

[(ii) sections 204, 205, and 209(a);

[(C) the master agreement authorized, ratified, and confirmed by section 106(a) has been executed by the parties to the master agreement, and all conditions to the enforceability of the master agreement have been satisfied;

[(D) $53,000,000 has been identified and retained in the Lower Colorado River Basin Development Fund for the benefit of the Community in accordance with section 107(b);

[(E) the State has appropriated and paid to the Community any amount to be paid under paragraph 27.4 of the Gila River agreement;

[(F) the Salt River Project has paid to the Community $500,000 under subparagraph 16.9 of the Gila River agreement;

[(G) the judgments and decrees attached to the Gila River agreement as exhibits 25.11A (Gila River adjudication proceedings) and 25.11B (Globe Equity Decree proceedings) have been approved by the respective courts;

[(H) the dismissals attached to the Gila River agreement as exhibits 25.17.1A-C, 25.17.2A–B, and 25.17.3A–B have been filed with the respective courts and any necessary dismissal orders entered;

[(I) legislation has been enacted by the State to—

[(i) implement the Southside Replenishment Program in accordance with subparagraph 5.3 of the Gila River agreement;

[(ii) authorize the firming program required by section 105; and

[(iii) establish the Upper Gila River Watershed Maintenance Program in accordance with subparagraph 26.8.1 of the Gila River agreement;

[(J) the State has entered into an agreement with the Secretary to carry out the obligation of the State under section 105(b)(2)(A); and

[(K) a final judgment has been entered in Central Arizona Water Conservation District v. United States (No. CIV 95-625-TUC-WDB(EHC), No. CIV 95–1720–PHX–EHC) (Consolidated Action) in accordance with the repayment stipulation.

[(2) Failure of enforceability date to occur.—If, because of the failure of the enforceability date to occur by December 31, 2007, this section does not become effective, the Community, Community members, and allottees, and the United States on behalf of the San Carlos Irrigation and Drainage District, the Community, Community members, and allottees, shall retain the right to assert past, present, and future water rights claims, claims for injury to water rights, claims for injury to water quality, and claims for subsidence damage as to all land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land.

### [SEC. 208. GILA RIVER INDIAN COMMUNITY WATER OM&R TRUST FUND.

[(a) Establishment.—There is established in the Treasury of the United States a trust fund to be known as the "Gila River Indian Community Water OM&R Trust Fund".

[(b) Deposits.—Of the amounts made available under paragraph (2)(B) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)), the Secretary shall deposit $53,000,000 into the Water OM&R Fund.

[(c) Management.—Except as provided in subsection (f)(2)(A), the principal of the Water OM&R Fund, and any interest or income accruing on the principal, shall be managed in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

[(d) Use.—The principal of the Water OM&R Fund, and any interest or income accruing on the principal, shall be used by the Community as provided in the Gila River agreement to assist in paying the costs of operation, maintenance, and replacement costs associated with the delivery of CAP water for Community purposes.

[(e) Withdrawals.—As provided in the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the Community may—

[(1) withdraw amounts from the Water OM&R Fund; and

[(2) deposit the amounts in a private financial institution selected by agreement of the Community and the Secretary.

[(f) Limitations.—

[(1) No distribution to members.—No part of the principal of the Water OM&R Fund, or the interest or income accruing on the principal, shall be distributed to any Community member on a per capita basis.

[(2) FUNDS NOT AVAILABLE UNTIL ENFORCEABILITY DATE.—

[(A) IN GENERAL.—Amounts in the Water OM&R Fund shall not be available for expenditure or withdrawal by the Community until the enforceability date.

[(B) ASSETS.—On and after the enforceability date, the assets of the Water OM&R Fund shall be the property of the Community.

**[SEC. 209. SUBSIDENCE REMEDIATION PROGRAM.**

[(a) IN GENERAL.—The Secretary shall establish a program under which the Bureau of Reclamation shall repair and remediate subsidence damage and related damage that occurs after the enforceability date.

[(b) DAMAGE.—Under the program, the Community, a Community member, or an allottee may submit to the Secretary a request for the repair or remediation of—

[(1) subsidence damage; and

[(2) damage to personal property caused by the settling of geologic strata or cracking in the earth's surface of any length or depth, which settling or cracking is caused by pumping of underground water.

[(c) REPAIR OR REMEDIATION.—The Secretary shall perform the requested repair or remediation if—

[(1) the Secretary determines that the Community has not exceeded its right to withdraw underground water under the Gila River agreement; and

[(2) the Community, Community member, or allottee, and the Secretary as trustee for the Community, Community member, or allottee, execute a waiver and release of claim in the form specified in exhibit 25.5.1, 25.5.2, or 25.5.3 to the Gila River agreement, as applicable, to become effective on satisfactory completion of the requested repair or remediation, as determined under the Gila River agreement.

[(d) SPECIFIC SUBSIDENCE DAMAGE.—Notwithstanding any other provision of this section, the Secretary, acting through the Commissioner of Reclamation, shall repair, remediate, and rehabilitate the subsidence damage that has occurred to land within the Reservation, as specified in exhibit 29.21 to the Gila River agreement.

**[SEC. 210. AFTER-ACQUIRED TRUST LAND.**

[(a) REQUIREMENT OF ACT OF CONGRESS.—The Community may seek to have legal title to additional land in the State located outside the exterior boundaries of the Reservation taken into trust by the United States for the benefit of the Community pursuant only to an Act of Congress enacted after the date of enactment of this Act specifically authorizing the transfer for the benefit of the Community.

[(b) WATER RIGHTS.—After-acquired trust land shall not include federally reserved rights to surface water or groundwater.

[(c) SENSE OF CONGRESS.—It is the sense of Congress that future Acts of Congress authorizing land to be taken into trust under subsection (a) should provide that such land will have only such water rights and water use privileges as would be consistent with State water law and State water management policy.

**[SEC. 211. REDUCTION OF WATER RIGHTS.**

[(a) REDUCTION OF TBI ELIGIBLE ACRES.—

[(1) IN GENERAL.—In accordance with this title and as provided in the UVD agreement, the Secretary shall assist in reducing the total water demand for irrigation use in the upper valley of the Gila River by—

[(A) acquiring UV decreed water rights and extinguishing or severing and transferring those rights to the San Carlos Irrigation Project for the benefit of the Community and the San Carlos Irrigation and Drainage District in accordance with applicable law; and

[(B) entering into agreements regarding reduction of water demand through fallowing programs.

[(2) ACQUISITIONS.—

[(A) REQUIRED PHASE I ACQUISITION.—Not later than December 31 of the second calendar year that begins after the enforceability date, the Secretary shall acquire the UV decreed water rights associated with 1,000 acres of land (other than special hot lands) that would have been included in the initial calculation of TBI eligible acres under the UVD agreement if the initial calculation of TBI eligible acres had been undertaken at the time of acquisition.

[(B) REQUIRED PHASE II ACQUISITION.—

[(i) IN GENERAL.—Not later than December 31 of the sixth calendar year that begins after the enforceability date, the Secretary shall acquire the UV decreed water rights associated with 1,000 acres of land (other than special hot lands) that would have been included in the initial calculation of TBI eligible acres under the UVD agreement if the initial calculation of TBI eligible acres had been undertaken at the time of the acquisition.

[(ii) REDUCTION.—The reduction of TBI eligible acres under clause (i) shall be in addition to that accomplished under subparagraph (A).

[(C) ADDITIONAL ACQUISITION IN CASE OF SETTLEMENT.—If the San Carlos Apache Tribe reaches a comprehensive settlement with the UVD settling parties and other necessary parties that is approved by Congress and finally approved by all courts the approval of which is required, not later than December 31 of the second calendar year that begins after the effective date of that settlement, the Secretary shall acquire the UV decreed water rights associated with not less than 500 nor more than 3,000 TBI eligible acres of land (other than special hot lands).

[(D) AMOUNT OF PAYMENT.—In determining the amount to be paid for water rights acquired pursuant to this paragraph, the Secretary shall take into account the fact that land associated with those rights shall be subject to the phreatophyle control requirements as provided in the UVD agreement.

[(3) REDUCTION OF ACREAGE.—Simultaneously with the acquisition of UV decreed water rights under paragraph (2), the number of TBI eligible acres, but not the number of acres of UV subjugated land, shall be reduced by the number of acres associated with those UV decreed water rights.

[(4) ALTERNATIVES TO ACQUISITION.—

[(A) SPECIAL HOT LANDS.—The Secretary may fulfill the requirements of subparagraphs (A) and (B) of paragraph (2), in full or in part, by entering into an agreement with an owner of special hot lands to prohibit permanently future irrigation of the special hot lands if the UVD settling parties simultaneously—

[(i) acquire UV decreed water rights associated with a like number of UV decreed acres that are not TBI eligible acres; and

[(ii) sever and transfer those rights to the San Carlos Irrigation Project for the benefit of the Community and the San Carlos Irrigation and Drainage District.

[(B) FALLOWING AGREEMENT.—The Secretary may carry out all or any portion of the responsibilities of the Secretary under subparagraphs (A) and (B) of paragraph (2) by entering into an agreement with 1 or more owners of UV decreed acres and the UV irrigation district in which the acres are located, if any, under which—

[(i) the number of TBI eligible acres is reduced; but

[(ii) the owner of the UV decreed acres subject to the reduction is permitted to periodically irrigate the UV decreed acres under a fallowing agreement authorized under the UVD agreement.

[(5) DISPOSITION OF ACQUIRED WATER RIGHTS.—

[(A) IN GENERAL.—Of the UV decreed water rights acquired by the Secretary pursuant to subparagraphs (A) and (B) of paragraph (2), the Secretary shall, in accordance with all applicable law and the UVD agreement—

[(i) sever, and transfer to the San Carlos Irrigation Project for the benefit of the Community and the San Carlos Irrigation and Drainage District, the UV decreed water rights associated with up to 900 UV decreed acres; and

[(ii) extinguish the balance of the UV decreed water rights so acquired (except and only to the extent that those rights are associated with a fallowing agreement authorized under paragraph (4)(B)).

[(B) SAN CARLOS APACHE SETTLEMENT.—With respect to water rights acquired by the Secretary pursuant to paragraph (2)(C), the Secretary shall, in accordance with applicable law—

[(i) sever and transfer to the San Carlos Irrigation Project, for the benefit of the Community and the San Carlos Irrigation and Drainage District, the UV decreed water rights associated with 200 UV decreed acres;

[(ii) extinguish the UV decreed water rights associated with 300 UV decreed acres; and

[(iii) transfer the balance of those acquired water rights to the San Carlos Apache Tribe pursuant to the terms of the settlement described in paragraph (2)(C).

[(b) ADDITIONAL REDUCTIONS.—

[(1) COOPERATIVE PROGRAM.—In addition to the reduction of TBI eligible acres to be accomplished under subsection (a), not later than 1 year after the enforceability date, the Secretary and the UVD settling parties shall cooperatively establish a program to purchase and extinguish UV decreed water rights associated with UV decreed acres that have not been recently irrigated.

[(2) FOCUS.—The primary focus of the program under paragraph (1) shall be to prevent any land that contains riparian habitat from being reclaimed for irrigation.

[(3) FUNDS AND RESOURCES.—The program under this subsection shall not require any expenditure of funds, or commitment of resources, by the UVD settling parties other than such incidental expenditures of funds and commitments of resources as are required to cooperatively participate in the program.

**[SEC. 212. MISCELLANEOUS PROVISIONS.**

[(a) WAIVER OF SOVEREIGN IMMUNITY.—If any party to the Gila River agreement brings an action in any court of the United States or any State court relating only and directly to the interpretation or enforcement of this title or the Gila River agreement (including enforcement of any indemnity provisions contained in the Gila River agreement and enforcement of an arbitration award rendered pursuant to subparagraph 12.1.9 of the UVD agreement or a petition for and collection of attorney's fees and costs pursuant to subparagraph 12.3 of the UVD agreement), and names the United States or the Community as a party—

[(1) the United States, the Community, or both, may be joined in any such action; and

[(2) any claim by the United States or the Community to sovereign immunity from the action is waived, but only for the limited and sole purpose of such interpretation or enforcement (including any indemnity provisions contained in the Gila River agreement and enforcement of an arbitration award rendered pursuant to subparagraph 12.1.9 of the UVD agreement or a petition for and collection of attorney's fees and costs pursuant to subparagraph 12.3 of the UVD agreement).

[(b) EFFECT OF ACT.—Nothing in this title quantifies or otherwise affects the water rights, or claims or entitlements to water, of any Indian tribe, band, or community, other than the Community.

[(c) LIMITATION ON CLAIMS FOR REIMBURSEMENT.—The United States shall not make a claim for reimbursement of costs arising out of the implementation of this title or the Gila River agreement against any Indian-owned land within the Reservation, and no assessment shall be made in regard to those costs against that land.

[(d) NO EFFECT ON FUTURE ALLOCATIONS.—Water received under a lease or exchange of Community CAP water under this title shall not affect any future allocation or reallocation of CAP water by the Secretary.

[(e) COMMUNITY REPAYMENT CONTRACT.—The Secretary shall execute Amendment No. 1 to the Community repayment contract, attached as exhibit 8.1 to the Gila River agreement, to provide, among other things, that the costs incurred under that contract shall be nonreimbursable by the Community.

[(f) SALT RIVER PROJECT RIGHTS AND CONTRACTS.—

[(1) IN GENERAL.—Subject to paragraph (2), the agreement between the United States and the Salt River Valley Water Users' Association dated September 6, 1917, and the rights of the Salt River Project to store water from the Salt River and Verde River at Roosevelt Dam, Horse Mesa Dam, Mormon Flat Dam, Stewart Mountain Dam, Horseshoe Dam, and Bartlett Dam and to deliver the stored water to shareholders of the Salt River Project and others for all beneficial uses and purposes recognized under State law and to the Community under the Gila River agreement, are authorized, ratified, and confirmed.

[(2) PRIORITY DATE; QUANTIFICATION.—The priority date and quantification of rights under the agreement described in paragraph (1) shall be determined in an appropriate proceeding in State court.

[(3) CARE, OPERATION, AND MAINTENANCE.—The Salt River Project shall retain sole authority and responsibility for all decisions relating to the care, operation, and maintenance of the Salt River Project water delivery system, including the Salt River Project reservoirs on the Salt River and Verde River, vested in Salt River Project under the agreement described in paragraph (1).

[(g) NEW MEXICO EXCHANGE.—Nothing in this Act affects or impairs the right of the State of New Mexico, or any water user in the State of New Mexico, to use Gila River water as provided by section 304 of the Colorado River Basin Project Act (43 U.S.C. 1524).

[(h) LIMITATION ON LIABILITY OF UNITED STATES.—

[(1) IN GENERAL.—The United States shall have no trust or other obligation—

[(A) to monitor, administer, or account for, in any manner, any of the funds paid to the Community by any party to the Gila River agreement; or

[(B) to review or approve the expenditure of those funds.

[(2) INDEMNIFICATION.—The Community shall indemnify the United States, and hold the United States harmless, with respect to any and all claims (including claims for takings or breach of trust) arising out of the receipt or expenditure of funds described in paragraph (1)(A).

### [SEC. 213. AUTHORIZATION OF APPROPRIATIONS.

[(a) AUTHORIZATION OF APPROPRIATIONS.—

[(1) REHABILITATION OF IRRIGATION WORKS.—

[(A) IN GENERAL.—There is authorized to be appropriated $52,396,000, adjusted to reflect changes since January 1, 2000, under subparagraph (B) for the rehabilitation of irrigation works under section 203(d)(4).

[(B) ADJUSTMENT.—The amount under subparagraph (A) shall be adjusted by such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indices applicable to the types of construction required by the rehabilitation.

[(2) BUREAU OF RECLAMATION CONSTRUCTION OVERSIGHT.—There are authorized to be appropriated such sums as are necessary for the Bureau of Reclamation to undertake the oversight of the construction projects authorized under section 203.

[(3) SUBSIDENCE REMEDIATION PROGRAM.—There are authorized to be appropriated such sums as are necessary to carry out the subsidence remediation program under section 209 (including such sums as are necessary, not to exceed $4,000,000, to carry out the subsidence remediation and repair required under section 209(d)).

[(4) WATER RIGHTS REDUCTION.—There are authorized to be appropriated such sums as are necessary to carry out the water rights reduction program under section 211.

[(5) SAFFORD FACILITY.—There are authorized to be appropriated such sums as are necessary to—

[(A) retire $13,900,000 of the debt incurred by Safford to pay costs associated with the construction of the Safford facility as identified in exhibit 26.1 to the Gila River agreement; and

[(B) pay the interest accrued on that amount.

[(6) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated—

[(A) such sums as are necessary to carry out—

[(i) all necessary environmental compliance activities and related preconstruction technical analyses associated with the Gila River agreement and this title; and

[(ii) any mitigation measures adopted by the Secretary; and

[(B) to carry out the mitigation measures in the Roosevelt Habitat Conservation Plan, not more than $10,000,000.

[(b) AUTHORIZED COSTS.—

[(1) IN GENERAL.—Amounts made available under subsection (a) shall be considered to be authorized costs for purposes of paragraph (2)(D)(iii) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)).

[(2) EXCEPTION.—Amounts made available under subsection (a)(4) to carry out section 211(b) shall not be considered to be authorized costs for purposes of section 403(f)(2)(D)(iii) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)(D)(iii)) (as amended by section 107(a)).

### [SEC. 214. REPEAL ON FAILURE OF ENFORCEABILITY DATE.

[If the Secretary does not publish a statement of findings under section 207(d) by December 31, 2007—

[(1) this title is repealed effective January 1, 2008, and any action taken by the Secretary and any contract entered under any provision of this title shall be void;

[(2) any amounts appropriated under paragraphs (1) through (5) of section 213(a), together with any interest on those amounts, shall immediately revert to the general fund of the Treasury;

[(3) any amounts made available under section 213(b) that remain unexpended shall immediately revert to the general fund of the Treasury; and

[(4) any amounts paid by the Salt River Project in accordance with the Gila River agreement shall immediately be returned to the Salt River Project.

## [TITLE III—SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT

### [SEC. 301. SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT.

[The Southern Arizona Water Rights Settlement Act of 1982 (96 Stat. 1274) is amended to read as follows:

## [“TITLE III—SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT

### [“SEC. 301. SHORT TITLE.

[“This title may be cited as the ‘Southern Arizona Water Rights Settlement Amendments Act of 2003’.

### [“SEC. 302. FINDINGS.

[“Congress finds that—

[“(1) water rights claims within the San Xavier Reservation and the eastern Schuk Toak District of the Tohono O'odham Nation, including water rights claims of the Nation and allottees, are the subject of lawsuits pending against the United States and numerous parties in southern Arizona (including mining companies, agricultural interests, and the city of Tucson);

[“(2) the lawsuits referred to in paragraph (1)—

[“(A) are expensive and time-consuming for all participants; and

[“(B) threaten to cause profound adverse impacts on the health and development of the Indian and non-Indian economies of southern Arizona;

[“(3) the parties to the lawsuits referred to in paragraph (1) and other persons interested in the settlement of the water rights claims within the Tucson management area have diligently attempted to settle those lawsuits;

[“(4) the requirements of paragraph (1) of section 307(a) of the 1982 Act were met within 1 year of the date of enactment of that paragraph in that—

[“(A) on October 11, 1983, the city of Tucson, Arizona, and the United States entered into an agreement—

[“(i) to make available to the Secretary, for disposal in such manner as the Secretary determines appropriate, 28,200 acre-feet of reclaimed water; and

[“(ii) to permit the Secretary to provide terms and conditions under which the Secretary may relinquish to the city of Tucson, Arizona, such quantities of water as are not needed to carry out the duties of the Secretary under the 1982 Act;

[“(B)(i) on October 11, 1983, the city of Tucson, Arizona, the State, and other parties entered into an agreement with the United States to establish a cooperative fund; and

[“(ii) contributions to that fund that were required to be made in accordance with section 313 of the 1982 Act were subsequently made;

[“(C) on October 11, 1983, the Nation entered into an agreement with the United States in compliance with section 307(a)(1)(C) of the 1982 Act;

[“(D) in the agreement of October 11, 1983, between the Nation and the United States, the Nation executed a waiver and release in compliance with section 307(a)(1)(D) of the 1982 Act;

[“(5) by providing the assistance specified in this title, the United States will enable the implementation of a settlement of the lawsuits referred to in paragraph (1);

[“(6) it is in the long term interest of the United States, the State, the Nation, the San Xavier District and Schuk Toak District of the Nation, and the non-Indian community of southern Arizona, that the United States assist in the implementation of a fair and equitable settlement of the water rights claims of the Nation and allottees; and

[“(7) the settlement provided for under this title will—

[“(A) provide flexibility in the management of water resources;

[“(B) encourage the allocation of water resources in accordance with the best uses of the resources;

[“(C) promote the conservation and management of water resources; and

[“(D) carry out the trust responsibility of the United States with respect to—

[“(i) the Nation; and

[“(ii) the allottees.

**[“SEC. 303. DEFINITIONS.**

[“In this title:

[“(1) ACRE-FOOT.—The term ‘acre-foot’ means the quantity of water necessary to cover 1 acre of land to a depth of 1 foot.

[“(2) ADAMS CASE.—The term ‘Adams case’ means Adams v. United States (Civ. No. 93–240 TUC FRZ (D. Ariz., filed January 25, 1993)).

[“(3) AFTER-ACQUIRED TRUST LAND.—The term ‘after-acquired trust land’ means land that—

[“(A) is located—

[“(i) within the State; but

[“(ii) outside the exterior boundaries of the Nation’s Reservation; and

[“(B) is taken into trust by the United States for the benefit of the Nation after the enforceability date.

[“(4) AGREEMENT OF DECEMBER 11, 1980.—The term ‘agreement of December 11, 1980’ means the contract for delivery of Central Arizona Project water entered into by the United States and the Nation on December 11, 1980.

[“(5) AGREEMENT OF OCTOBER 11, 1983.—The term ‘agreement of October 11, 1983’ means the contract for the provision of water and the settlement of claims to water under the 1982 Act entered into by the United States and the Nation on October 11, 1983.

[“(6) ALLOTTEE.—The term ‘allottee’ means a person that holds a beneficial real property interest in an Indian allotment that is—

[“(A) located within the Reservation; and

[“(B) held in trust by the United States.

[“(7) ALLOTTEE CLASS.—The term ‘allottee class’ means an applicable plaintiff class certified by the court of jurisdiction in—

[“(A) the Alvarez case; or

[“(B) the Tucson case.

[“(8) ALVAREZ CASE.—The term ‘Alvarez case’ means the first through fourth causes of action of the third amended complaint in Alvarez v. City of Tucson (Civ. No. 93–039 TUC FRZ (D. Ariz., filed April 21, 1993)).

[“(9) APPLICABLE LAW.—The term ‘applicable law’ means any applicable Federal, State, tribal, or local law.

[“(10) ASARCO.—The term ‘Asarco’ means Asarco Incorporated, a New Jersey corporation of that name, and its subsidiaries operating mining operations in the State.

[“(11) ASARCO AGREEMENT.—The term ‘Asarco agreement’ means the agreement by that name attached to the Tohono O’odham settlement agreement as exhibit 13.1.

[“(12) CAP REPAYMENT CONTRACT.—

[“(A) IN GENERAL.—The term ‘CAP repayment contract’ means the contract dated December 1, 1988 (Contract No. 14–06–W–245, Amendment No. 1) between the United States and the Central Arizona Water Conservation District for the delivery of water and the repayment of costs of the Central Arizona Project.

[“(B) INCLUSIONS.—The term ‘CAP repayment contract’ includes all amendments to and revisions of that contract.

[“(13) CENTRAL ARIZONA PROJECT.—The term ‘Central Arizona Project’ means the reclamation project authorized and constructed by the United States in accordance with title III of the Colorado River Basin Project Act (43 U.S.C. 1521 et seq.).

[“(14) CENTRAL ARIZONA PROJECT LINK PIPELINE.—The term ‘Central Arizona Project link pipeline’ means the pipeline extending from the Tucson Aqueduct of the Central Arizona Project to a point within the cooperative farm.

[“(15) CENTRAL ARIZONA PROJECT SERVICE AREA.—The term ‘Central Arizona Project service area’ means—

[“(A) the geographical area comprised of Maricopa, Pinal, and Pima Counties, Arizona, in which the Central Arizona Water Conservation District delivers Central Arizona Project water; and

[“(B) any expansion of that area under applicable law.

[“(16) CENTRAL ARIZONA WATER CONSERVATION DISTRICT.—The term ‘Central Arizona Water Conservation District’ means the political subdivision of the State that is the contractor under the CAP repayment contract.

[“(17) COOPERATIVE FARM.—The term ‘cooperative farm’ means the farm on land served by an irrigation system and the extension of the irrigation system provided for under paragraphs (1) and (2) of section 304(c).

[“(18) COOPERATIVE FUND.—The term ‘cooperative fund’ means the cooperative fund established by section 313 of the 1982 Act and reauthorized by section 310.

[“(19) DELIVERY AND DISTRIBUTION SYSTEM.—

[“(A) IN GENERAL.—The term ‘delivery and distribution system’ means—

[“(i) the Central Arizona Project aqueduct;

[“(ii) the Central Arizona Project link pipeline; and

[“(iii) the pipelines, canals, aqueducts, conduits, and other necessary facilities for the delivery of water under the Central Arizona Project.

[“(B) INCLUSIONS.—The term ‘delivery and distribution system’ includes pumping facilities, power plants, and electric power transmission facilities external to the boundaries of any farm to which the water is distributed.

[“(20) EASTERN SCHUK TOAK DISTRICT.—The term ‘eastern Schuk Toak District’ means the portion of the Schuk Toak District (1 of 11 political subdivisions of the Nation established under the constitution of the Nation) that is located within the Tucson management area.

[“(21) ENFORCEABILITY DATE.—The term ‘enforceability date’ means the date on which title III of the Arizona Water Settlements Act takes effect (as described in section 302(b) of the Arizona Water Settlements Act).

[“(22) EXEMPT WELL.—The term ‘exempt well’ means a water well—

[“(A) the maximum pumping capacity of which is not more than 35 gallons per minute; and

[“(B) the water from which is used for—

[“(i) the supply, service, or activities of households or private residences;

[“(ii) landscaping;

[“(iii) livestock watering; or

[“(iv) the irrigation of not more than 2 acres of land for the production of 1 or more agricultural or other commodities for—

[“(I) sale;

[“(II) human consumption; or

[“(III) use as feed for livestock or poultry.

[“(23) FEE OWNER OF ALLOTTED LAND.—The term ‘fee owner of allotted land’ means a person that holds fee simple title in real property on the Reservation that, at any time before the date on which the person acquired fee simple title, was held in trust by the United States as an Indian allotment.

[“(24) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

[“(25) INJURY TO WATER QUALITY.—The term ‘injury to water quality’ means any contamination, diminution, or deprivation of water quality under applicable law.

[“(26) INJURY TO WATER RIGHTS.—

[“(A) IN GENERAL.—The term ‘injury to water rights’ means an interference with, diminution of, or deprivation of water rights under applicable law.

[“(B) INCLUSION.—The term ‘injury to water rights’ includes a change in the underground water table and any effect of such a change.

[“(C) EXCLUSION.—The term ‘injury to water rights’ does not include subsidence damage or injury to water quality.

[“(27) IRRIGATION SYSTEM.—

[“(A) IN GENERAL.—The term ‘irrigation system’ means canals, laterals, ditches, sprinklers, bubblers, and other irrigation works used to distribute water within the boundaries of a farm.

[“(B) INCLUSIONS.—The term ‘irrigation system’, with respect to the cooperative farm, includes activities, procedures, works, and devices for—

[“(i) rehabilitation of fields;

[“(ii) remediation of sinkholes, sinks, depressions, and fissures; and

[“(iii) stabilization of the banks of the Santa Cruz River.

[“(28) LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.—The term ‘Lower Colorado River Basin Development Fund’ means the fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543).

[“(29) M&I PRIORITY WATER.—The term ‘M&I priority water’ means Central Arizona Project water that has municipal and industrial priority.

[“(30) NATION.—The term ‘Nation’ means the Tohono O’odham Nation (formerly known as the Papago Tribe) organized under a constitution approved in accordance with section 16 of the Act of June 18, 1934 (25 U.S.C. 476).

[“(31) NATION’S RESERVATION.—The term ‘Nation’s Reservation’ means all land within the exterior boundaries of—

[“(A) the Sells Tohono O’odham Reservation established by the Executive order of February 1, 1917, and the Act of February 21, 1931 (46 Stat. 1202, chapter 267);

[“(B) the San Xavier Reservation established by the Executive order of July 1, 1874;

[“(C) the Gila Bend Indian Reservation established by the Executive order of December 12, 1882, and modified by Executive order of June 17, 1909;

[“(D) the Florence Village established by Public Law 95–361 (92 Stat. 595);

[“(E) all land acquired in accordance with the Gila Bend Indian Reservation Lands Replacement Act (100 Stat. 1798), if title to the land is held in trust by the Secretary for the benefit of the Nation; and

[“(F) all other land to which the United States holds legal title in trust for the benefit of the Nation and that is added to the Nation's Reservation or granted reservation status in accordance with applicable Federal law before the enforceability date.

[“(32) NET IRRIGABLE ACRES.—The term 'net irrigable acres' means, with respect to a farm, the acreage of the farm that is suitable for agriculture, as determined by the Nation.

[“(33) NIA PRIORITY WATER.—The term 'NIA priority water' means Central Arizona Project water that has non-Indian agricultural priority.

[“(34) SAN XAVIER ALLOTTEES ASSOCIATION.—The term 'San Xavier Allottees Association' means the nonprofit corporation established under State law for the purpose of representing and advocating the interests of allottees.

[“(35) SAN XAVIER COOPERATIVE ASSOCIATION.—The term 'San Xavier Cooperative Association' means the entity chartered under the laws of the Nation (or a successor of that entity) that is a lessee of land within the cooperative farm.

[“(36) SAN XAVIER DISTRICT.—The term 'San Xavier District' means the district of that name, 1 of 11 political subdivisions of the Nation established under the constitution of the Nation.

[“(37) SAN XAVIER DISTRICT COUNCIL.—The term 'San Xavier District Council' means the governing body of the San Xavier District, as established under the constitution of the Nation.

[“(38) SAN XAVIER RESERVATION.—The term 'San Xavier Reservation' means the San Xavier Indian Reservation established by the Executive order of July 1, 1874.

[“(39) SCHUK TOAK FARM.—The term 'Schuk Toak Farm' means a farm constructed in the eastern Schuk Toak District served by the irrigation system provided for under section 304(c)(4).

[“(40) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

[“(41) STATE.—The term 'State' means the State of Arizona.

[“(42) SUBJUGATE.—The term 'subjugate' means to prepare land for agricultural use through irrigation.

[“(43) SUBSIDENCE DAMAGE.—The term 'subsidence damage' means injury to land, water, or other real property resulting from the settling of geologic strata or grading in the surface of the earth of any length or depth, which settling or cracking is caused by the pumping of water.

[“(44) SURFACE WATER.—The term 'surface water' means all water that is appropriable under State law.

[“(45) TOHONO O'ODHAM SETTLEMENT AGREEMENT.—The term 'Tohono O'odham settlement agreement' means the agreement (including all exhibits of and attachments to the agreement) that settles, and provides for the dismissal with prejudice of, the claims asserted in the Adams case, the Alvarez case, and the Tucson case, as executed by the parties to those cases and filed with the court of jurisdiction.

[“(46) TUCSON CASE.—The term 'Tucson case' means United States et al. v. City of Tucson, et al. (Civ. No. 75-39 TUC consol. with Civ. No. 75–51 TUC FRZ (D. Ariz., filed February 20, 1975)).

[“(47) TUCSON INTERIM WATER LEASE.—The term 'Tucson interim water lease' means the lease, and any amendments and extensions of the lease, between the city of Tucson, Arizona, and the Nation, dated October 24, 1992.

[“(48) TUCSON MANAGEMENT AREA.—The term 'Tucson management area' means the area in the State comprised of—

[“(A) the area—

[“(i) designated as the Tucson Active Management Area under the Arizona Groundwater Management Act of 1980 (1980 Ariz. Sess. Laws 1); and

[“(ii) subsequently divided into the Tucson Active Management Area and the Santa Cruz Active Management Area (1994 Ariz. Sess. Laws 296); and

[“(B) the portion of the Upper Santa Cruz Basin that is not located within the area described in subparagraph (A)(i).

[“(49) TURNOUT.—The term 'turnout' means a point of water delivery on the Central Arizona Project aqueduct.

[“(50) UNDERGROUND STORAGE.—The term 'underground storage' means storage of water accomplished under a project authorized under section 308(e).

[“(51) UNITED STATES AS TRUSTEE.—The term 'United States as Trustee' means the United States, acting on behalf of the Nation and allottees, but in no other capacity.

[“(52) VALUE.—The term 'value' means the value attributed to water based on the greater of—

[“(A) the anticipated or actual use of the water; or

[“(B) the fair market value of the water.

[“(53) WATER RIGHT.—The term 'water right' means any right in or to groundwater, surface water, or effluent under applicable law.

[“(54) 1982 ACT.—The term “1982 Act” means the Southern Arizona Water Rights Settlement Act of 1982 (96 Stat. 1274; 106 Stat. 3256), as in effect on the day before the enforceability date.

**[“SEC. 304. WATER DELIVERY AND CONSTRUCTION OBLIGATIONS.**

[“(a) WATER DELIVERY.—The Secretary shall deliver from the main project works of the Central Arizona Project, a total of 37,800 acre-feet of water suitable for agricultural use, of which—

[“(1) 27,000 acre-feet shall—

[“(A) be deliverable for use to the San Xavier Reservation; or

[“(B) otherwise be used in accordance with section 309; and

[“(2) 10,800 acre-feet shall—

[“(A) be deliverable for use to the eastern Schuk Toak District; or

[“(B) otherwise be used in accordance with section 309.

[“(b) DELIVERY AND DISTRIBUTION SYSTEMS.—The Secretary shall (without cost to the Nation, any allottee, the San Xavier Cooperative Association, or the San Xavier Allottees Association), as part of the main project works of the Central Arizona Project, design, construct, operate, maintain, and replace the delivery and distribution systems necessary to deliver the water described in subsection (a).

[“(c) DUTIES OF THE SECRETARY.—

[“(1) COMPLETION OF DELIVERY AND DISTRIBUTION SYSTEM AND IMPROVEMENT TO EXISTING IRRIGATION SYSTEM.—Except as provided in subsection (d), not later than 8 years after the enforceability date, the Secretary shall complete the design and construction of improvements to the irrigation system that serves the cooperative farm.

[“(2) EXTENSION OF EXISTING IRRIGATION SYSTEM WITHIN THE SAN XAVIER RESERVATION.—

[“(A) IN GENERAL.—Except as provided in subsection (d), not later than 8 years after the enforceability date, in addition to the improvements described in paragraph (1), the Secretary shall complete the design and construction of the extension of the irrigation system for the cooperative farm.

[“(B) CAPACITY.—On completion of the extension, the extended cooperative farm irrigation system shall serve 2,300 net irrigable acres on the San Xavier Reservation, unless the Secretary and the San Xavier Cooperative Association agree on fewer net irrigable acres.

[“(3) CONSTRUCTION OF NEW FARM.—

[“(A) IN GENERAL.—Except as provided in subsection (d), not later than 8 years after the enforceability date, the Secretary shall—

[“(i) design and construct within the San Xavier Reservation such additional canals, laterals, farm ditches, and irrigation works as are necessary for the efficient distribution for agricultural purposes that portion of the 27,000 acre-feet annually of water described in subsection (a)(1) that is not required for the irrigation systems described in paragraphs (1) and (2) of subsection (c); or

[“(ii) in lieu of the actions described in clause (i), pay to the San Xavier District $18,300,000 in full satisfaction of the obligations of the United States described in clause (i).

[“(B) ELECTION.—

[“(i) IN GENERAL.—The San Xavier District Council may make a nonrevocable election whether to receive the benefits described under subparagraph (A) by notifying the Secretary by not later than 180 days after the enforceability date, by written and certified resolution of the San Xavier District Council.

[“(ii) NO RESOLUTION.—If the Secretary does not receive such a resolution by the deadline specified in clause (i), the Secretary shall pay $18,300,000 to the San Xavier District in lieu of carrying out the obligations of the United States under subparagraph (A)(i).

[“(C) SOURCE OF FUNDS AND TIME OF PAYMENT.—

[“(i) IN GENERAL.—Payment of $18,300,000 under this paragraph shall be made by the Secretary from the Lower Colorado River Basin Development Fund—

[“(I) not later than 60 days after an election described in subparagraph (B) is made (if such an election is made); or

[“(II) not later than 240 days after the enforceability date, if no timely election is made.

[“(ii) PAYMENT FOR ADDITIONAL STRUCTURES.—Payment of amounts necessary to design and construct such additional canals, laterals, farm ditches, and irrigation works as are described in subparagraph (A)(i) shall be made by the Secretary from the Lower Colorado River Basin Development Fund, if an election is made to receive the benefits under subparagraph (A)(i).

[“(4) IRRIGATION AND DELIVERY AND DISTRIBUTION SYSTEMS IN THE EASTERN SCHUK TOAK DISTRICT.—Except as provided in subsection (d), not later than 1 year after the enforceability date, the Secretary shall complete the design and construction of an irrigation system and delivery and distribution system to serve the farm that is constructed in the eastern Schuk Toak District.

[“(d) EXTENSION OF DEADLINES.—

[“(1) IN GENERAL.—The Secretary may extend a deadline under subsection (c) if the Secretary determines that compliance with the deadline is impracticable by reason of—

[“(A) a material breach by a contractor of a contract that is relevant to carrying out a project or activity described in subsection (c);

["(B) the inability of such a contractor, under such a contract, to carry out the contract by reason of force majeure, as defined by the Secretary in the contract;

["(C) unavoidable delay in compliance with applicable Federal and tribal laws, as determined by the Secretary, including—

["(i) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

["(ii) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

["(D) stoppage in work resulting from the assessment of a tax or fee that is alleged in any court of jurisdiction to be confiscatory or discriminatory.

["(2) NOTICE OF FINDING.—If the Secretary extends a deadline under paragraph (1), the Secretary shall—

["(A) publish a notice of the extension in the Federal Register; and

["(B)(i) include in the notice an estimate of such additional period of time as is necessary to complete the project or activity that is the subject of the extension; and

["(ii) specify a deadline that provides for a period for completion of the project before the end of the period described in clause (i).

["(e) AUTHORITY OF SECRETARY.—

["(1) IN GENERAL.—In carrying out this title, after providing reasonable notice to the Nation, the Secretary, in compliance with all applicable law, may enter, construct works on, and take such other actions as are related to the entry or construction on land within the San Xavier District and the Schuk Toak District.

["(2) EFFECT ON FEDERAL ACTIVITY.—Nothing in this subsection affects the authority of the United States, or any Federal officer, agent, employee, or contractor, to conduct official Federal business or carry out any Federal duty (including any Federal business or duty under this title) on land within the eastern Schuk Toak District or the San Xavier District.

["(f) USE OF FUNDS.—

["(1) IN GENERAL.—With respect to any funds received under subsection (c)(3)(A), the San Xavier District—

["(A) shall hold the funds in trust, and invest the funds in interest-bearing deposits and securities, until expended;

["(B) may expend the principal of the funds, and any interest and dividends that accrue on the principal, only in accordance with a budget that is—

["(i) authorized by the San Xavier District Council; and

["(ii) approved by resolution of the Legislative Council of the Nation; and

["(C) shall expend the funds—

["(i) for any subjugation of land, development of water resources, or construction, operation, maintenance, or replacement of facilities within the San Xavier Reservation that is not required to be carried out by the United States under this title or any other provision of law;

["(ii) to provide governmental services, including—

["(I) programs for senior citizens;

["(II) health care services;

["(III) education;

["(IV) economic development loans and assistance; and

["(V) legal assistance programs;

["(iii) to provide benefits to allottees;

["(iv) to pay the costs of activities of the San Xavier Allottees Association; or

["(v) to pay any administrative costs incurred by the Nation or the San Xavier District in conjunction with any of the activities described in clauses (i) through (iv).

["(2) NO LIABILITY OF SECRETARY; LIMITATION.—

["(A) IN GENERAL.—The Secretary shall not—

["(i) be responsible for any review, approval, or audit of the use and expenditure of the funds described in paragraph (1); or

["(ii) be subject to liability for any claim or cause of action arising from the use or expenditure, by the Nation or the San Xavier District, of those funds.

["(B) LIMITATION.—No portion of any funds described in paragraph (1) shall be used for per capita payments to any individual member of the Nation or any allottee.

### ["SEC. 305. DELIVERIES UNDER EXISTING CONTRACT; ALTERNATIVE WATER SUPPLIES.

["(a) DELIVERY OF WATER.—

["(1) IN GENERAL.—The Secretary shall deliver water from the main project works of the Central Arizona Project, in such quantities, and in accordance with such terms and conditions, as are contained in the agreement of December 11, 1980, the 1982 Act, and the agreement of October 11, 1983, to 1 or more of—

["(A) the cooperative farm;

["(B) the eastern Schuk Toak District;

["(C) turnouts existing on the enforceability date; and

["(D) any other point of delivery on the Central Arizona Project main aqueduct that is agreed to by—

["(i) the Secretary;

["(ii) the operator of the Central Arizona Project; and

["(iii) the Nation.

["(2) DELIVERY.—The Secretary shall deliver the water covered by sections 304(a) and 306(a), or an equivalent quantity of water from a source identified under subsection (b)(1), notwithstanding—

["(A) any declaration by the Secretary of a water shortage on the Colorado River; or

["(B) any other occurrence affecting water delivery caused by an act or omission of—

["(i) the Secretary;

["(ii) the United States; or

["(iii) any officer, employee, contractor, or agent of the Secretary or United States.

["(b) ACQUISITION OF LAND AND WATER.—

["(1) DELIVERY.—

["(A) IN GENERAL.—Except as provided in subparagraph (B), if the Secretary, under the terms and conditions of the agreements referred to in subsection (a)(1), is unable, during any year, to deliver from the main project works of the Central Arizona Project any portion of the quantity of water covered by sections 304(a) and 306(a), the Secretary shall identify, acquire and deliver an equivalent quantity of water from, any appropriate source.

["(B) EXCEPTION.—The Secretary shall not acquire any water under subparagraph (A) through any transaction that would cause depletion of groundwater supplies or aquifers in the San Xavier District or the eastern Schuk Toak District.

["(2) PRIVATE LAND AND INTERESTS.—

["(A) ACQUISITION.—

["(i) IN GENERAL.—Subject to subparagraph (B), the Secretary may acquire such private land, or interests in private land, that include rights in surface or groundwater recognized under State law, as are necessary for the acquisition and delivery of water under this subsection.

["(ii) COMPLIANCE.—In acquiring rights in surface water under clause (i), the Secretary shall comply with all applicable severance and transfer requirements under State law.

["(B) PROHIBITION ON TAKING.—The Secretary shall not acquire any land, water, water rights, or contract rights under subparagraph (A) without the consent of the owner of the land, water, water rights, or contract rights.

["(C) PRIORITY.—In acquiring any private land or interest in private land under this paragraph, the Secretary shall give priority to the acquisition of land on which water has been put to beneficial use during any 1-year period during the 5-year period preceding the date of acquisition of the land by the Secretary.

["(3) DELIVERIES FROM ACQUIRED LAND.—Deliveries of water from land acquired under paragraph (2) shall be made only to the extent that the water may be transported within the Tucson management area under applicable law.

["(4) DELIVERY OF EFFLUENT.—

["(A) IN GENERAL.—Except on receipt of prior written consent of the Nation, the Secretary shall not deliver effluent directly to the Nation under this subsection.

["(B) NO SEPARATE DELIVERY SYSTEM.—The Secretary shall not construct a separate delivery system to deliver effluent to the San Xavier Reservation or the eastern Schuk Toak District.

["(C) NO IMPOSITION OF OBLIGATION.—Nothing in this paragraph imposes any obligation on the United States to deliver effluent to the Nation.

["(c) AGREEMENTS AND CONTRACTS.—To facilitate the delivery of water to the San Xavier Reservation and the eastern Schuk Toak District under this title, the Secretary may enter into a contract or agreement with the State, an irrigation district or project, or entity—

["(1) for—

["(A) the exchange of water; or

["(B) the use of aqueducts, canals, conduits, and other facilities (including pumping plants) for water delivery; or

["(2) to use facilities constructed, in whole or in part, with Federal funds.

["(d) COMPENSATION AND DISBURSEMENTS.—

["(1) COMPENSATION.—If the Secretary is unable to acquire and deliver sufficient quantities of water under section 304(a), this section, or section 306(a), the Secretary shall provide compensation in accordance with paragraph (2) in amounts equal to—

["(A)(i) the value of such quantities of water as are not acquired and delivered, if the delivery and distribution system for, and the improvements to, the irrigation system for the cooperative farm have not been completed by the deadline required under section 304(c)(1); or

["(ii) the value of such quantities of water as—

["(I) are ordered by the Nation for use by the Cooperative Association in the irrigation system; but

["(II) are not delivered in any calendar year;

["(B)(i) the value of such quantities of water as are not acquired and delivered, if the extension of the irrigation system is not completed by the deadline required under section 304(c)(2); or

["(ii) the value of such quantities of water as—

["(I) are ordered by the Nation for use by the Cooperative Association in the extension to the irrigation system; but

["(II) are not delivered in any calendar year; and

["(C)(i) the value of such quantities of water as are not acquired and delivered, if the irrigation system is not completed by the deadline required under section 304(c)(4); or

["(ii) except as provided in clause (i), the value of such quantities of water as—

[“(I) are ordered by the Nation for use in the irrigation system, or for use by any person or entity (other than the Cooperative Association); but

[“(II) are not delivered in any calendar year.

[“(2) DISBURSEMENT.—Any compensation payable under paragraph (1) shall be disbursed—

[“(A) with respect to compensation payable under subparagraphs (A) and (B) of paragraph (1), to the Cooperative Association; and

[“(B) with respect to compensation payable under paragraph (1)(C), to the Nation for retention by the Nation or disbursement to water users, under the provisions of the water code or other applicable laws of the Nation.

[“(e) NO EFFECT ON WATER RIGHTS.—Nothing in this section authorizes the Secretary to acquire or otherwise affect the water rights of any Indian tribe.

**[“SEC. 306. ADDITIONAL WATER DELIVERY.**

[“(a) IN GENERAL.—In addition to the delivery of water described in section 304(a), the Secretary shall deliver from the main project works of the Central Arizona Project, a total of 28,200 acre-feet of NIA priority water suitable for agricultural use, of which—

[“(1) 23,000 acre-feet shall—

[“(A) be delivered to, and used by, the San Xavier Reservation; or

[“(B) otherwise be used by the Nation in accordance with section 309; and

[“(2) 5,200 acre-feet shall—

[“(A) be delivered to, and used by, the eastern Schuk Toak District; or

[“(B) otherwise be used by the Nation in accordance with section 309.

[“(b) STATE CONTRIBUTION.—To assist the Secretary in firming water under section 105(b)(1)(A) of the Arizona Water Settlements Act, the State shall contribute $3,000,000—

[“(1) in accordance with a schedule that is acceptable to the Secretary and the State; and

[“(2) in the form of cash or in-kind goods and services.

**[“SEC. 307. CONDITIONS ON CONSTRUCTION, WATER DELIVERY, REVENUE SHARING.**

[“(a) CONDITIONS ON ACTIONS OF SECRETARY.—The Secretary shall carry out section 304(c), subsections (a), (b), and (d) of section 305, and section 306, only if—

[“(1) the Nation agrees—

[“(A) except as provided in section 308(f)(1), to limit the quantity of groundwater withdrawn by nonexempt wells from beneath the San Xavier Reservation to not more than 10,000 acre-feet;

[“(B) except as provided in section 308(f)(2), to limit the quantity of groundwater withdrawn by nonexempt wells from beneath the eastern Schuk Toak District to not more than 3,200 acre-feet;

[“(C) to comply with water management plans established by the Secretary under section 308(d);

[“(D) to consent to the San Xavier District being deemed a tribal organization (as defined in section 900.6 of title 25, Code of Federal Regulations (or any successor regulations)) for purposes identified in subparagraph (E)(iii)(I), as permitted with respect to tribal organizations under title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

[“(E) subject to compliance by the Nation with other applicable provisions of part 900 of title 25, Code of Federal Regulations (or any successor regulations), to consent to contracting by the San Xavier District under section 311(b), on the conditions that—

[“(i)(I) the plaintiffs in the Adams case, Alvarez case, and Tucson case have stipulated to the dismissal, with prejudice, of claims in those cases; and

[“(II) those cases have been dismissed with prejudice;

[“(ii) the San Xavier Cooperative Association has agreed to assume responsibility, after completion of each of the irrigation systems described in paragraphs (1), (2), and (3) of section 304(c) and on the delivery of water to those systems, for the operation, maintenance, and replacement of those systems in accordance with the first section of the Act of August 1, 1914 (25 U.S.C. 385); and

[“(iii) with respect to the consent of the Nation to contracting—

[“(I) the consent is limited solely to contracts for—

[“(aa) the design and construction of the delivery and distribution system and the rehabilitation of the irrigation system for the cooperative farm;

[“(bb) the extension of the irrigation system for the cooperative farm;

[“(cc) the subjugation of land to be served by the extension of the irrigation system;

[“(dd) the design and construction of storage facilities solely for water deliverable for use within the San Xavier Reservation; and

[“(ee) the completion by the Secretary of a water resources study of the San Xavier Reservation and subsequent preparation of a water management plan under section 308(d);

[“(II) the Nation shall reserve the right to seek retrocession or reassumption of contracts described in subclause (I), and recontracting under subpart P and other applicable provisions of part 900 of title 25, Code of Federal Regulations (or any successor regulations);

[“(III) the Nation, on granting consent to such contracting, shall be released from any responsibility, liability, claim, or cost from and after the date on which consent is given, with respect to past action or inaction by the Nation, and subsequent action or inaction by the San Xavier District, relating to the design and construction of irrigation systems for the cooperative farm or the Central Arizona Project link pipeline; and

[“(IV) the Secretary shall, on the request of the Nation, execute a waiver and release to carry out subclause (III);

[“(F) to subjugate, at no cost to the United States, the land for which the irrigation systems under paragraphs (2) and (3) of section 304(c) will be planned, designed, and constructed by the Secretary, on the condition that—

[“(i) the obligation of the Nation to subjugate the land in the cooperative farm that is to be served by the extension of the irrigation system under section 304(c)(2) shall be determined by the Secretary, in consultation with the Nation and the San Xavier Cooperative Association; and

[“(ii) subject to approval by the Secretary of a contract with the San Xavier District executed under section 311, to perform that subjugation, a determination by the Secretary of the subjugation costs under clause (i), and the provision of notice by the San Xavier District to the Nation at least 180 days before the date on which the District Council certifies by resolution that the subjugation is scheduled to commence, the Nation pays to the San Xavier District, not later than 90 days before the date on which the subjugation is scheduled to commence, from the trust fund under section 315, or from other sources of funds held by the Nation, the amount determined by the Secretary under clause (i); and

[“(G) subject to valid existing rights, section 7 of the Act of February 8, 1887 (25 U.S.C. 381), this title, other applicable Federal law, a water management plan developed under section 308(d), and the water code and other applicable laws of the Nation, that the Nation—

[“(i) shall allocate as a first right of beneficial use by allottees, the San Xavier District, and other persons within the San Xavier Reservation—

[“(I) 35,000 acre-feet of the 50,000 acre-feet of water deliverable under sections 304(a)(1) and 306(a)(1), including the use of the allocation—

[“(aa) to fulfill the obligations prescribed in the Asarco agreement; and

[“(bb) for groundwater storage, maintenance of instream flows, and maintenance of riparian vegetation and habitat;

[“(II) the 10,000 acre-feet of groundwater identified in subsection (a)(1)(A);

[“(III) the groundwater withdrawn from exempt wells;

[“(IV) the deferred pumping storage credits authorized by section 308(f)(1)(B); and

[“(V) the storage credits resulting from a project authorized in section 308(e) that cannot be lawfully transferred or otherwise disposed of to persons for recovery outside the Nation's Reservation; and

[“(ii) subject to section 309(b)(2), has the right—

[“(I) to use, or authorize other persons or entities to use, any portion of the allocation of 35,000 acre-feet of water deliverable under sections 304(a)(1) and 306(a)(1) outside the San Xavier Reservation for any period during which there is no identified actual use of the water within the San Xavier Reservation;

[“(II) as a first right of use, to use the remaining acre-feet of water deliverable under sections 304(a)(1) and 306(a)(1) for any purpose and duration authorized by this title within or outside the Nation's Reservation; and

[“(III) subject to section 308(e), as an exclusive right, to transfer or otherwise dispose of the storage credits that may be lawfully transferred or otherwise disposed of to persons for recovery outside the Nation's Reservation;

[“(iii) shall issue permits to persons or entities for use of the water resources referred to in clause (i);

[“(iv) shall, on timely receipt of an order for water by a permittee under a permit for Central Arizona Project water referred to in clause (i), submit the order to—

[“(I) the Secretary; or

[“(II) the operating agency for the Central Arizona Project;

[“(v) shall issue permits for water deliverable under sections 304(a)(2) and 306(a)(2), including quantities of water reasonably necessary for the irrigation system referred to in section 304(c)(3);

[“(vi) shall issue permits for groundwater that may be withdrawn from nonexempt wells in the eastern Schuk Toak District; and

[“(vii) shall, on timely receipt of an order for water by a permittee under a permit for water referred to in clause (v), submit the order to—

[“(I) the Secretary; or

[“(II) the operating agency for the Central Arizona Project; and

[“(2) the Adams case, Alvarez case, and Tucson case have been dismissed with prejudice.

[“(b) Responsibilities on Completion.—On completion of an irrigation system or extension of an irrigation system described in paragraph (1) or (2) of section 304(c), or in the case of the irrigation system described in section 304(c)(3), if such irrigation system is constructed on individual Indian trust allotments, neither the United States nor the Nation shall be responsible for the operation, maintenance, or replacement of the system.

[“(c) Payment of Charges.—The Nation shall not be responsible for payment of any water service capital charge for Central Arizona Project water delivered under section 304, subsection (a) or (b) of section 305, or section 306.

**[“SEC. 308. WATER CODE; WATER MANAGEMENT PLAN; STORAGE PROJECTS; STORAGE ACCOUNTS; GROUNDWATER.**

[“(a) Water Resources.—Water resources described in clauses (i) and (ii) of section 307(a)(1)(G)—

[“(1) shall be subject to section 7 of the Act of February 8, 1887 (25 U.S.C. 381); and

[“(2) shall be apportioned pursuant to clauses (i) and (ii) of section 307(a)(1)(G).

[“(b) Water Code.—Subject to this title and any other applicable law, the Nation shall—

[“(1) manage, regulate, and control the water resources of the Nation and the water resources granted or confirmed under this title;

[“(2) establish conditions, limitations, and permit requirements, and promulgate regulations, relating to the storage, recovery, and use of surface water and groundwater within the Nation's Reservation; and

[“(3) enact and maintain—

[“(A) as soon as practicable after the enforceability date, an interim allottee water rights code that—

[“(i) is consistent with subsection (a);

[“(ii) prescribes the rights of allottees identified in paragraph (4); and

[“(iii) provides that the interim allottee water rights code shall be incorporated in the comprehensive water code referred to in subparagraph (B); and

[“(B) not later than 3 years after the enforceability date, a comprehensive water code applicable to the water resources granted or confirmed under this title;

[“(4) include in each of the water codes enacted under subparagraphs (A) and (B) of paragraph (3)—

[“(A) an acknowledgement of the rights described in subsection (a);

[“(B) a process by which a just and equitable distribution of the water resources referred to in subsection (a), and any compensation provided under section 305(d), shall be provided to allottees;

[“(C) a process by which an allottee may request and receive a permit for the use of any water resources referred to in subsection (a), except the water resources referred to in section 307(a)(1)(G)(ii)(III) and subject to the Nation's first right of use under section 307(a)(1)(G)(ii)(II);

[“(D) provisions for the protection of due process with respect to members of the Nation and allottees, including—

[“(i) a fair procedure for consideration and determination of any request by—

[“(I) a member of the Nation, for a permit for use of available water resources granted or confirmed by this title; and

[“(II) an allottee, for a permit for use of—

[“(aa) the water resources identified in section 307(a)(1)(G)(i) that are subject to a first right of beneficial use; or

[“(bb) subject to the first right of use of the Nation, available water resources identified in section 307(a)(1)(G)(i)(II);

[“(ii) provisions for—

[“(I) appeals and adjudications of denied or disputed permits; and

[“(II) resolution of contested administrative decisions; and

[“(iii) a waiver by the Nation of the sovereign immunity of the Nation only with respect to proceedings described in clause (ii) for claims of declaratory and injunctive relief; and

[“(E) a process for satisfying any entitlement to the water resources referred to in section 307(a)(1)(G)(i) for which fee owners of allotted land have received final determinations under applicable law; and

[“(5) submit to the Secretary the comprehensive water code, for approval by the Secretary only of the provisions of the water code (and any amendments to the water code), that implement, with respect to the allottees, the standards described in paragraph (4).

[“(c) Water Code Approval.—

[“(1) In general.—On receipt of a comprehensive water code under subsection (b)(5), the Secretary shall—

[“(A) issue a written approval of the water code; or

[“(B) provide a written notification to the Nation that—

[“(i) identifies such provisions of the water code that do not conform to subsection (b); and

[“(ii) recommends specific corrective language for each nonconforming provision.

[“(2) Revision by nation.—If the Secretary identifies nonconforming provisions in the water code under paragraph (1)(B)(i), the Nation shall revise the water code in accordance with the recommendations of the Secretary under paragraph (1)(B)(ii).

[“(3) Interim authority.—Until such time as the Nation revises the water code of the Nation in accordance with paragraph (2) and the Secretary subsequently approves the water code, the Secretary may exercise any lawful authority of the Secretary under section 7 of the Act of February 8, 1887 (25 U.S.C. 381).

[“(4) Limitation.—Except as provided in this subsection, nothing in this title requires the approval of the Secretary of the water code of the Nation (or any amendment to that water code).

[“(d) Water Management Plans.—

[“(1) In general.—The Secretary shall establish, for the San Xavier Reservation and the eastern Schuk Toak District, water management plans that meet the requirements described in paragraph (2).

[“(2) Requirements.—Water management plans established under paragraph (1)—

[“(A) shall be developed under contracts executed under section 311 between the Secretary and the San Xavier District for the San Xavier Reservation, and between the Secretary and the Nation for the eastern Schuk Toak District, as applicable, that permit expenditures, exclusive of administrative expenses of the Secretary, of not more than—

[“(i) with respect to a contract between the Secretary and the San Xavier District, $891,200; and

[“(ii) with respect to a contract between the Secretary and the Nation, $237,200;

[“(B) shall, at a minimum—

[“(i) provide for the measurement of all groundwater withdrawals, including withdrawals from each well that is not an exempt well;

[“(ii) provide for—

[“(I) reasonable recordkeeping of water use, including the quantities of water stored underground and recovered each calendar year; and

[“(II) a system for the reporting of withdrawals from each well that is not an exempt well;

[“(iii) provide for the direct storage and deferred storage of water, including the implementation of underground storage and recovery projects, in accordance with this section;

[“(iv) provide for the annual exchange of information collected under clauses (i) through (iii)—

[“(I) between the Nation and the Arizona Department of Water Resources; and

[“(II) between the Nation and the city of Tucson, Arizona;

[“(v) provide for—

[“(I) the efficient use of water; and

[“(II) the prevention of waste;

[“(vi) except on approval of the district council for a district in which a direct storage project is established under subsection (e), provide that no direct storage credits earned as a result of the project shall be recovered at any location at which the recovery would adversely affect surface or groundwater supplies, or lower the water table at any location, within the district; and

[“(vii) provide for amendments to the water plan in accordance with this title;

[“(C) shall authorize the establishment and maintenance of 1 or more underground storage and recovery projects in accordance with subsection (e), as applicable, within—

[“(i) the San Xavier Reservation; or

[“(ii) the eastern Schuk Toak District; and

[“(D) shall be implemented and maintained by the Nation, with no obligation by the Secretary.

[“(e) Underground Storage and Recovery Projects.—The Nation is authorized to establish direct storage and recovery projects in accordance with the Tohono O'odham settlement agreement.

[“(f) Groundwater.—

[“(1) San xavier reservation.—

[“(A) In general.—In accordance with section 307(a)(1)(A), 10,000 acre-feet of groundwater may be pumped annually within the San Xavier Reservation.

[“(B) Deferred pumping.—

[“(i) In general.—Subject to clause (ii), all or any portion of the 10,000 acre-feet of water not pumped under subparagraph (A) in a year—

[“(I) may be withdrawn in a subsequent year; and

[“(II) if any of that water is withdrawn, shall be accounted for in accordance with the Tohono O'odham settlement agreement as a debit to the deferred pumping storage account.

[“(ii) Limitation.—The quantity of water authorized to be recovered as deferred pumping storage credits under this subparagraph shall not exceed—

[“(I) 50,000 acre-feet for any 10-year period; or

[“(II) 10,000 acre-feet in any year.

[“(C) Recovery of additional water.—In addition to the quantity of groundwater authorized to be pumped under subparagraphs (A) and (B), the Nation may annually recover within the San Xavier Reservation all or a portion of the credits for water stored under a project described in subsection (e).

[“(2) Eastern schuk toak district.—

[“(A) In general.—In accordance with section 307(a)(1)(B), 3,200 acre-feet of groundwater may be pumped annually within the eastern Schuk Toak District.

[“(B) Deferred pumping.—

[“(i) In general.—Subject to clause (ii), all or any portion of the 3,200 acre-feet of water not pumped under subparagraph (A) in a year—

[“(I) may be withdrawn in a subsequent year; and

[“(II) if any of that water is withdrawn, shall be accounted for in accordance with the Tohono O'odham settlement agreement as a debit to the deferred pumping storage account.

[“(ii) LIMITATION.—The quantity of water authorized to be recovered as deferred pumping storage credits under this subparagraph shall not exceed—

[“(I) 16,000 acre-feet for any 10-year period; or

[“(II) 3,200 acre-feet in any year.

[“(C) RECOVERY OF ADDITIONAL WATER.—In addition to the quantity of groundwater authorized to be pumped under subparagraphs (A) and (B), the Nation may annually recover within the eastern Schuk Toak District all or a portion of the credits for water stored under a project described in subsection (e).

[“(3) INABILITY TO RECOVER GROUNDWATER.—

[“(A) IN GENERAL.—The authorizations to pump groundwater in paragraphs (1) and (2) neither warrant nor guarantee that the groundwater—

[“(i) physically exists; or

[“(ii) is recoverable.

[“(B) CLAIMS.—With respect to groundwater described in subparagraph (A)—

[“(i) subject to paragraph 8.8 of the Tohono O'odham settlement agreement, the inability of any person to pump or recover that groundwater shall not be the basis for any claim by the United States or the Nation against any person or entity withdrawing or using the water from any common supply; and

[“(ii) the United States and the Nation shall be barred from asserting any and all claims for reserved water rights with respect to that groundwater.

[“(g) EXEMPT WELLS.—Any groundwater pumped from an exempt well located within the San Xavier Reservation or the eastern Schuk Toak District shall be exempt from all pumping limitations under this title.

[“(h) INABILITY OF SECRETARY TO DELIVER WATER.—The Nation is authorized to pump additional groundwater in any year in which the Secretary is unable to deliver water required to carry out sections 304(a) and 306(a) in accordance with the Tohono O'odham settlement agreement.

[“(i) PAYMENT OF COMPENSATION.—Nothing in this section affects any obligation of the Secretary to pay compensation in accordance with section 305(d).

**[“SEC. 309. USES OF WATER.**

[“(a) PERMISSIBLE USES.—Subject to other provisions of this section and other applicable law, the Nation may devote all water supplies granted or confirmed under this title, whether delivered by the Secretary or pumped by the Nation, to any use (including any agricultural, municipal, domestic, industrial, commercial, mining, underground storage, instream flow, riparian habitat maintenance, or recreational use).

[“(b) USE AREA.—

[“(1) USE WITHIN NATION'S RESERVATION.—Subject to subsection (d), the Nation may use at any location within the Nation's Reservation—

[“(A) the water supplies acquired under sections 304(a) and 306(a);

[“(B) groundwater supplies; and

[“(C) storage credits acquired as a result of projects authorized under section 308(e), or deferred storage credits described in section 308(f), except to the extent that use of those storage credits causes the withdrawal of groundwater in violation of applicable Federal law.

[“(2) USE OUTSIDE THE NATION'S RESERVATION.—

[“(A) IN GENERAL.—Water resources granted or confirmed under this title may be sold, leased, transferred, or used by the Nation outside of the Nation's Reservation only in accordance with this title.

[“(B) USE WITHIN CERTAIN AREA.—Subject to subsection (c), the Nation may use the Central Arizona Project water supplies acquired under sections 304(a) and 306(a) within the Central Arizona Project service area.

[“(C) STATE LAW.—With the exception of Central Arizona Project water and groundwater withdrawals under the Asarco agreement, the Nation may sell, lease, transfer, or use any water supplies and storage credits acquired as a result of a project authorized under section 308(e) at any location outside of the Nation's Reservation, but within the State, only in accordance with State law.

[“(D) LIMITATION.—Deferred pumping storage credits provided for in section 308(f) shall not be sold, leased, transferred, or used outside the Nation's Reservation.

[“(E) PROHIBITION ON USE OUTSIDE THE STATE.—No water acquired under section 304(a) or 306(a) shall be leased, exchanged, forborne, or otherwise transferred by the Nation for any direct or indirect use outside the State.

[“(c) EXCHANGES AND LEASES; CONDITIONS ON EXCHANGES AND LEASES; RIGHT OF FIRST REFUSAL.—

[“(1) IN GENERAL.—With respect to users outside the Nation's Reservation, the Nation may, for a term of not to exceed 100 years, assign, exchange, lease, provide an option to lease, or otherwise temporarily dispose of to the users, Central Arizona Project water to which the Nation is entitled under sections 304(a) and 306(a) or storage credits acquired under section 308(e), if the assignment, exchange, lease, option, or temporary disposal is carried out in accordance with—

[“(A) this subsection; and

[“(B) subsection (b)(2).

[“(2) LIMITATION ON ALIENATION.—The Nation shall not permanently alienate any water right under paragraph (1).

[“(3) AUTHORIZED USES.—The water described in paragraph (1) shall be delivered within the Central Arizona Project service area for any use authorized under applicable law.

[“(4) CONTRACT.—An assignment, exchange, lease, option, or temporary disposal described in paragraph (1) shall be executed only in accordance with a contract that—

[“(A) is accepted by the Nation;

[“(B) is ratified under a resolution of the Legislative Council of the Nation;

[“(C) is approved by the United States as Trustee; and

[“(D) with respect to any contract to which the United States or the Secretary is a party, provides that an action may be maintained by the contracting party against the United States and the Secretary for a breach of the contract by the United States or Secretary, as appropriate.

[“(5) TERMS EXCEEDING 25 YEARS.—The terms and conditions established in paragraph 11 of the Tohono O'odham settlement agreement shall apply to any contract under paragraph (4) that has a term of greater than 25 years.

[“(d) LIMITATIONS ON USE, EXCHANGES, AND LEASES.—The rights of the Nation to use water supplies under subsection (a), and to assign, exchange, lease, provide options to lease, or temporarily dispose of the water supplies under subsection (c), shall be exercised on conditions that ensure, to the maximum extent practicable, the availability of water supplies to satisfy the first right of beneficial use under section 307(a)(1)(G)(i).

[“(e) WATER SERVICE CAPITAL CHARGES.—In any transaction entered into by the Nation and another person under subsection (c) with respect to Central Arizona Project water of the Nation, the person shall not be obligated to pay to the United States or the Central Arizona Water Conservation District any water service capital charge.

[“(f) WATER RIGHTS UNAFFECTED BY USE OR NONUSE.—The failure of the Nation to make use of water provided under this title, or the use of, or failure to make use of, that water by any other person that enters into a contract with the Nation under subsection (c) for the assignment, exchange, lease, option for lease, or temporary disposal of water, shall not diminish, reduce, or impair—

[“(1) any water right of the Nation, as established under this title or any other applicable law; or

[“(2) any water use right recognized under this title, including—

[“(A) the first right of beneficial use referred to in section 307(a)(1)(G)(i); or

[“(B) the allottee use rights referred to in section 308(a).

[“(g) AMENDMENT TO AGREEMENT OF DECEMBER 11, 1980.—The Secretary shall amend the agreement of December 11, 1980 to provide that—

[“(1) the contract shall be—

[“(A) for permanent service (within the meaning of section 5 of the Boulder Canyon Project Act of 1928 (43 U.S.C. 617d)); and

[“(B) without limit as to term;

[“(2) the Nation may, with the approval of the Secretary—

[“(A) in accordance with subsection (c), assign, exchange, lease, enter into an option to lease, or otherwise temporarily dispose of water to which the Nation is entitled under sections 304(a) and 306(a); and

[“(B) renegotiate any lease at any time during the term of the lease if the term of the renegotiated lease does not exceed 100 years;

[“(3)(A) the Nation shall be entitled to all consideration due to the Nation under any leases and any options to lease or exchanges or options to exchange the Nation's Central Arizona Project water entered into by the Nation; and

[“(B) the United States shall have no trust obligation or other obligation to monitor, administer, or account for any consideration received by the Nation under those leases or options to lease and exchanges or options to exchange;

[“(4)(A) all of the Nation's Central Arizona Project water shall be delivered through the Central Arizona Project aqueduct; and

[“(B) if the delivery capacity of the Central Arizona Project aqueduct is significantly reduced or is anticipated to be significantly reduced for an extended period of time, the Nation shall have the same Central Arizona Project delivery rights as other Central Arizona Project contractors and Central Arizona Project subcontractors, if the Central Arizona Project contractors or Central Arizona Project subcontractors are allowed to take delivery of water other than through the Central Arizona Project aqueduct;

[“(5) the Nation may use the Nation's Central Arizona Project water on or off of the Nation's Reservation for the purposes of the Nation consistent with this title;

[“(6) as authorized by subparagraph (A) of section 403(f)(2) of the Colorado River Basin

Project Act (43 U.S.C. 1543(f)(2)) (as amended by section 107(a)) and to the extent that funds are available in the Lower Colorado River Basin Development Fund established by section 403 of that Act (43 U.S.C. 1543), the United States shall pay to the Central Arizona Project operating agency the fixed operation, maintenance, and replacement charges associated with the delivery of the Nation's Central Arizona Project water, except for the Nation's Central Arizona Project water leased by others;

[“(7) the costs associated with the construction of the delivery and distribution system—

[“(A) shall be nonreimbursable; and

[“(B) shall be excluded from any repayment obligation of the Nation;

[“(8) no water service capital charges shall be due or payable for the Nation's Central Arizona Project water, regardless of whether the Central Arizona Project water is delivered for use by the Nation or is delivered pursuant to any leases or options to lease or exchanges or options to exchange the Nation's Central Arizona Project water entered into by the Nation;

[“(9) the agreement of December 11, 1980, conforms with section 104(d) and section 306(a) of the Arizona Water Settlements Act; and

[“(10) the amendments required by this subsection shall not apply to the 8,000 acre feet of Central Arizona Project water contracted by the Nation in the agreement of December 11, 1980 for the Sif Oidak District.

[“(h) Ratification of Agreements.—

[“(1) In general.—Notwithstanding any other provision of law, each of the agreements described in paragraph (2)—

[“(A) is authorized, ratified, and confirmed; and

[“(B) shall be executed by the Secretary.

[“(2) Agreements.—The agreements described in this paragraph are—

[“(A) the Tohono O'odham settlement agreement, to the extent that—

[“(i) the Tohono O'odham settlement agreement is consistent with this title; and

[“(ii) parties to the Tohono O'odham settlement agreement other than the Secretary have executed that agreement;

[“(B) the Tucson agreement (attached to the Tohono O'odham settlement agreement as exhibit 12.1); and

[“(C)(i) the Asarco agreement (attached to the Tohono O'odham settlement agreement as exhibit 13.1 to the Tohono O'odham settlement agreement);

[“(ii) lease No. H54-16-72, dated April 26, 1972, and approved by the United States on November 14, 1972; and

[“(iii) any new well site lease as provided for in the Asarco agreement; and

[“(D) the FICO agreement (attached to the Tohono O'odham settlement agreement as Exhibit 14.1).

[“(3) Relation to other law.—

[“(A) In general.—Execution of an agreement described in paragraph (2) shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

[“(B) Environmental compliance activities.—The Secretary shall carry out all necessary environmental compliance activities during the implementation of the agreements described in paragraph (2), including activities under—

[“(i) the National Environmental Policy Act (42 U.S.C. 4321 et seq.); and

[“(ii) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

[“(C) Lead agency.—The Bureau of Reclamation shall be the lead agency with respect to environmental compliance under the agreements described in paragraph (2).

[“(i) Disbursements From Tucson Interim Water Lease.—The Secretary shall disburse to the Nation, without condition, all proceeds from the Tucson interim water lease.

[“(j) Use of Gross Proceeds.—

[“(1) Definition of gross proceeds.—In this subsection, the term 'gross proceeds' means all proceeds, without reduction, received by the Nation from—

[“(A) the Tucson interim water lease;

[“(B) the Asarco agreement; and

[“(C) any agreement similar to the Asarco agreement to store Central Arizona Project water of the Nation, instead of pumping groundwater, for the purpose of protecting water of the Nation.

[“(2) Entitlement.—The Nation shall be entitled to receive all gross proceeds.

[“(k) Statutory Construction.—Nothing in this title establishes whether reserved water may be put to use, or sold for use, off any reservation to which reserved water rights attach.

**[“SEC. 310. COOPERATIVE FUND.**

[“(a) Reauthorization.—

[“(1) In general.—Congress reauthorizes, for use in carrying out this title, the cooperative fund established in the Treasury of the United States by section 313 of the 1982 Act.

[“(2) Amounts in cooperative fund.—The cooperative fund shall consist of—

[“(A)(i) $5,250,000, as appropriated to the cooperative fund under section 313(b)(3)(A) of the 1982 Act; and

[“(ii) such amount, not to exceed $32,000,000, as the Secretary determines, after providing notice to Congress, is necessary to carry out this title;

[“(B) any additional Federal funds deposited to the cooperative fund under Federal law;

[“(C) $5,250,000, as deposited in the cooperative fund under section 313(b)(1)(B) of the 1982 Act, of which—

[“(i) $2,750,000 was contributed by the State;

[“(ii) $1,500,000 was contributed by the city of Tucson; and

[“(iii) $1,000,000 was contributed by—

[“(I) the Anamax Mining Company;

[“(II) the Cyprus-Pima Mining Company;

[“(III) the American Smelting and Refining Company;

[“(IV) the Duval Corporation; and

[“(V) the Farmers Investment Company;

[“(D) all interest accrued on all amounts in the cooperative fund beginning on October 12, 1982, less any interest expended under subsection (b)(2); and

[“(E) all revenues received from—

[“(i) the sale or lease of effluent received by the Secretary under the contract between the United States and the city of Tucson to provide for delivery of reclaimed water to the Secretary, dated October 11, 1983; and

[“(ii) the sale or lease of storage credits derived from the storage of that effluent.

[“(b) Expenditures From Fund.—

[“(1) In general.—Subject to paragraph (2), upon request by the Secretary, the Secretary of the Treasury shall transfer from the cooperative fund to the Secretary such amounts as the Secretary determines are necessary to carry out obligations of the Secretary under this title, including to pay—

[“(A) the variable costs relating to the delivery of water under sections 304 through 306;

[“(B) fixed operation maintenance and replacement costs relating to the delivery of water under sections 304 through 306, to the extent that funds are not available from the Lower Colorado River Basin Development Fund to pay those costs;

[“(C) the costs of acquisition and delivery of water from alternative sources under section 305; and

[“(D) any compensation provided by the Secretary under section 305(e).

[“(2) Expenditure of interest.—With respect to interest income accruing from amounts in the cooperative fund—

[“(A) except as provided in paragraph (3), the Secretary of the Interior may expend only interest income accruing after the effective date; and

[“(B) that interest income may be expended by the Secretary of the Interior, without further appropriation.

[“(3) Expenditure of revenues.—Revenues described in subpargraph (a)(2)(E) shall be available for expenditure under paragraph (1).

[“(c) Investment of Amounts.—

[“(1) In general.—The Secretary of the Treasury shall invest such portion of the cooperative fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals determined by the Secretary. Investments may be made only in interest-bearing obligations of the United States.

[“(2) Credits to cooperative fund.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the cooperative fund shall be credited to and form a part of the cooperative fund.

[“(d) Transfers of Amounts.—

[“(1) In general.—The amounts required to be transferred to the cooperative fund under this section shall be transferred at least monthly from the general fund of the Treasury to the cooperative fund on the basis of estimates made by the Secretary of the Treasury.

[“(2) Adjustments.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

**[“SEC. 311. CONTRACTING AUTHORITY; WATER QUALITY; STUDIES; ARID LAND ASSISTANCE.**

[“(a) Functions of Secretary.—Except as provided in subsection (f), the functions of the Secretary (or the Commissioner of Reclamation, acting on behalf of the Secretary) under this title shall be subject to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to the same extent as if those functions were carried out by the Assistant Secretary for Indian Affairs.

[“(b) San Xavier District as Contractor.—

[“(1) In general.—Subject to the consent of the Nation and other requirements under section 307(a)(1)(E), the San Xavier District shall be considered to be an eligible contractor for purposes of this title.

[“(2) Technical assistance.—The Secretary shall provide to the San Xavier District technical assistance in carrying out the contracting requirements under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

[“(c) Groundwater Monitoring Programs.—

[“(1) San xavier indian reservation program.—

[“(A) In general.—Not later than 180 days after the enforceability date, the Secretary shall design and carry out a comprehensive groundwater monitoring program (including the drilling of wells and other appropriate actions) to test, assess, and provide for the long-term monitoring of the quality of groundwater withdrawn from exempt wells and other wells within the San Xavier Reservation.

[“(B) Limitation on expenditures.—In carrying out this paragraph, the Secretary shall expend not more than $215,000.

[“(2) Eastern Schuk Toak district program.—

[“(A) In general.—Not later than 180 days after the enforceability date, the Secretary shall design and carry out a comprehensive groundwater monitoring program (including the drilling of wells and other appropriate actions) to test, assess, and provide for the long-term monitoring of the quality of groundwater withdrawn from exempt wells and other wells within the eastern Schuk Toak District.

[“(B) Limitation on expenditures.—In carrying out this paragraph, the Secretary shall expend not more than $175,000.

[“(3) Duties of secretary.—

[“(A) Consultation.—In carrying out paragraphs (1) and (2), the Secretary shall consult with representatives of—

[“(i) the Nation;

[“(ii) the San Xavier District and Schuk Toak District, respectively; and

[“(iii) appropriate State and local entities.

[“(B) Limitation on obligations of secretary.—With respect to the groundwater monitoring programs described in paragraphs (1) and (2), the Secretary shall have no continuing obligation relating to those programs beyond the obligations described in those paragraphs.

[“(d) Water Resources Study.—To assist the Nation in developing sources of water, the Secretary shall conduct a study to determine the availability and suitability of water resources that are located—

[“(1) within the Nation's Reservation; but

[“(2) outside the Tucson management area.

[“(e) Arid Land Renewable Resources.—If a Federal entity is established to provide financial assistance to carry out arid land renewable resources projects and to encourage and ensure investment in the development of domestic sources of arid land renewable resources, the entity shall—

[“(1) give first priority to the needs of the Nation in providing that assistance; and

[“(2) make available to the Nation, San Xavier District, Schuk Toak District, and San Xavier Cooperative Association price guarantees, loans, loan guarantees, purchase agreements, and joint venture projects at a level that the entity determines will—

[“(A) facilitate the cultivation of such minimum number of acres as is determined by the entity to be necessary to ensure economically successful cultivation of arid land crops; and

[“(B) contribute significantly to the economy of the Nation.

[“(f) Asarco Land Exchange Study.—

[“(1) In general.—Not later than 2 years after the enforceability date, the Secretary, in consultation with the Nation, the San Xavier District, the San Xavier Allottees' Association, and Asarco, shall conduct and submit to Congress a study on the feasibility of a land exchange or land exchanges with Asarco to provide land for future use by—

[“(A) beneficial landowners of the Mission Complex Mining Leases of September 18, 1959; and

[“(B) beneficial landowners of the Mission Complex Business Leases of May 12, 1959.

[“(2) Components.—The study under paragraph (1) shall include—

[“(A) an analysis of the manner in which land exchanges could be accomplished to maintain a contiguous land base for the San Xavier Reservation; and

[“(B) a description of the legal status exchanged land should have to maintain the political integrity of the San Xavier Reservation.

[“(3) Limitation on expenditures.—In carrying out this paragraph, the Secretary shall expend not more than $250,000.

**[“SEC. 312. WAIVER AND RELEASE OF CLAIMS.**

[“(a) Waiver of Claims by the Nation.—Except as provided in subsection (d), the Tohono O'odham settlement agreement shall provide that the Nation waives and releases—

[“(1) any and all past, present, and future claims for water rights (including claims based on aboriginal occupancy) arising from time immemorial and, thereafter, forever, and claims for injuries to water rights arising from time immemorial through the enforceability date, for land within the Tucson management area, against—

[“(A) the State (or any agency or political subdivision of the State);

[“(B) any municipal corporation; and

[“(C) any other person or entity;

[“(2) any and all claims for water rights arising from time immemorial and, thereafter, forever, claims for injuries to water rights arising from time immemorial through the enforceability date, and claims for failure to protect, acquire, or develop water rights for land within the San Xavier Reservation and the eastern Schuk Toak District from time immemorial through the enforceability date, against the United States (including any agency, officer, and employee of the United States);

[“(3) any and all claims for injury to water rights arising after the enforceability date for land within the San Xavier Reservation and the eastern Schuk Toak District resulting from the off-Reservation diversion or use of water in a manner not in violation of the Tohono O'odham settlement agreement or State law against—

[“(A) the United States;

[“(B) the State (or any agency or political subdivision of the State);

[“(C) any municipal corporation; and

[“(D) any other person or entity;

[“(4) any and all past, present, and future claims arising out of or relating to the negotiation or execution of the Tohono O'odham settlement agreement or the negotiation or enactment of this title, against—

[“(A) the United States;

[“(B) the State (or any agency or political subdivision of the State);

[“(C) any municipal corporation; and

[“(D) any other person or entity.

[“(b) Waiver of Claims by the Allottee Classes.—The Tohono O'odham settlement agreement shall provide that each allottee class waives and releases—

[“(1) any and all past, present, and future claims for water rights (including claims based on aboriginal occupancy) arising from time immemorial and, thereafter, forever, claims for injuries to water rights arising from time immemorial through the enforceability date for land within the San Xavier Reservation, against—

[“(A) the State (or any agency or political subdivision of the State);

[“(B) any municipal corporation; and

[“(C) any other person or entity (other than the Nation);

[“(2) any and all claims for water rights arising from time immemorial and, thereafter, forever, claims for injuries to water rights arising from time immemorial through the enforceability date, and claims for failure to protect, acquire, or develop water rights for land within the San Xavier Reservation from time immemorial through the enforceability date, against the United States (including any agency, officer, and employee of the United States);

[“(3) any and all claims for injury to water rights arising after the enforceability date for land within the San Xavier Reservation resulting from the off-Reservation diversion or use of water in a manner not in violation of the Tohono O'odham settlement agreement or State law against—

[“(A) the United States;

[“(B) the State (or any agency or political subdivision of the State);

[“(C) any municipal corporation; and

[“(D) any other person or entity; and

[“(4) any and all past, present, and future claims arising out of or relating to the negotiation or execution of the Tohono O'odham settlement agreement or the negotiation or enactment of this title, against—

[“(A) the United States;

[“(B) the State (or any agency or political subdivision of the State);

[“(C) any municipal corporation; and

[“(D) any other person or entity; and

[“(5) any and all past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, and claims for injuries to water rights arising from time immemorial through the enforceability date, against the Nation (except that under section 307(a)(1)(G) and subsections (a) and (b) of section 308, the allottees and fee owners of allotted land shall retain rights to share in the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement with respect to uses within the San Xavier Reservation).

[“(c) Waiver of Claims by the United States.—Except as provided in subsection (d), the Tohono O'odham settlement agreement shall provide that the United States as Trustee waives and releases—

[“(1) any and all past, present, and future claims for water rights (including claims based on aboriginal occupancy) arising from time immemorial and, thereafter, forever, and claims for injuries to water rights arising from time immemorial through the enforceability date, for land within the Tucson management area or State law against—

[“(A) the Nation;

[“(B) the State (or any agency or political subdivision of the State);

[“(C) any municipal corporation; and

[“(D) any other person or entity;

[“(2) any and all claims for injury to water rights arising after the enforceability date for land within the San Xavier Reservation and the eastern Schuk Toak District resulting from the off-Reservation diversion or use of water in a manner not in violation of the Tohono O'odham settlement agreement or State law against—

[“(A) the Nation;

[“(B) the State (or any agency or political subdivision of the State);

[“(C) any municipal corporation; and

[“(D) any other person or entity;

[“(3) on and after the enforceability date, any and all claims on behalf of the allottees for injuries to water rights against the Nation (except that under section 307(a)(1)(G) and subsections (a) and (b) of section 308, the allottees shall retain rights to share in the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement with respect to uses within the San Xavier Reservation); and

[“(4) contingent on the effectiveness of a waiver of such claims as are provided for in the Asarco agreement, claims against Asarco on behalf of the allottee class for the fourth cause of action in the Alvarez case, as defined in the Tohono O'odham settlement agreement.

[“(d) CLAIMS RELATING TO GROUNDWATER PROTECTION PROGRAM.—The Nation and the United States as Trustee—

[“(1) shall have the right to assert any claims granted by a State law implementing the groundwater protection program described in paragraph 8.8 of the Tohono O'odham settlement agreement; and

[“(2) if, after the enforceability date, the State law is amended so as to have a material adverse effect on the Nation, shall have a right to relief in the State court having jurisdiction over Gila River adjudication proceedings and decrees, against an owner of any nonexempt well drilled after the effective date of the amendment (if the well actually and substantially interferes with groundwater pumping occurring on the San Xavier Reservation), from the incremental effect of the groundwater pumping that exceeds that which would have been allowable had the State law not been amended.

[“(e) SUPPLEMENTAL WAIVERS OF CLAIMS.—Any party to the Tohono O'odham settlement agreement may waive and release, prohibit the assertion of, or agree not to assert, any claims (including claims for subsidence damage or injury to water quality) in addition to claims for water rights and injuries to water rights on such terms and conditions as may be agreed to by the parties.

[“(f) RIGHTS OF ALLOTTEES; PROHIBITION OF CLAIMS.—

[“(1) IN GENERAL.—As of the enforceability date—

[“(A) the water rights and other benefits granted or confirmed by this title and the Tohono O'odham settlement agreement shall be in full satisfaction of—

[“(i) all claims for water rights and claims for injuries to water rights of the Nation; and

[“(ii) all claims for water rights and injuries to water rights of the allottees;

[“(B) any entitlement to water within the Tucson management area of the Nation, or of any allottee, shall be satisfied out of the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement; and

[“(C) any rights of the allottees to groundwater, surface water, or effluent shall be limited to the water rights granted or confirmed under this title and the Tohono O'odham settlement agreement.

[“(2) LIMITATION OF CERTAIN CLAIMS BY ALLOTTEES.—No allottee within the San Xavier Reservation may—

[“(A) assert any past, present, or future claim for water rights arising from time immemorial and, thereafter, forever, or any claim for injury to water rights (including future injury to water rights) arising from time immemorial and thereafter, forever, against—

[“(i) the United States;

[“(ii) the State (or any agency or political subdivision of the State);

[“(iii) any municipal corporation; or

[“(iv) any other person or entity; or

[“(B) continue to assert a claim described in subparagraph (A), if the claim was first asserted before the enforceability date.

[“(3) CLAIMS BY FEE OWNERS OF ALLOTTED LAND.—

[“(A) IN GENERAL.—No fee owner of allotted land within the San Xavier Reservation may assert any claim to the extent that—

[“(i) the claim has been waived and released in the Tohono O'odham settlement agreement; and

[“(ii) the fee owner of allotted land asserting the claim is a member of the applicable allottee class.

[“(B) OFFSET.—Any benefits awarded to a fee owner of allotted land as a result of a successful claim shall be offset by benefits received by that fee owner of allotted land under this title.

[“(4) LIMITATION OF CLAIMS AGAINST THE NATION.—

[“(A) IN GENERAL.—Except as provided in subparagraph (B), no allottee may assert against the Nation any claims for water rights arising from time immemorial and, thereafter, forever, claims for injury to water rights arising from time immemorial and thereafter forever.

[“(B) EXCEPTION.—Under section 307(a)(1)(G) and subsections (a) and (b) of section 308, the allottees shall retain rights to share in the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement.

[“(g) CONSENT.—

[“(1) GRANT OF CONSENT.—Congress grants to the Nation and the San Xavier Cooperative Association under section 305(d) consent to maintain civil actions against the United States in the courts of the United States under section 1346, 1491, or 1505 of title 28, United States Code, respectively, to recover damages, if any, for the breach of any obligation of the Secretary under those sections.

[“(2) NO SUFFICIENT FUNDS DEFENSE.—The lack of sufficient funds in the cooperative fund to carry out the obligations of the Secretary may not be raised by the United States as a defense to any claim asserted under paragraph (1).

[“(3) REMEDY.—

[“(A) IN GENERAL.—Subject to subparagraph (B), the exclusive remedy for a civil action maintained under this subsection shall be monetary damages.

[“(B) OFFSET.—An award for damages for a claim under this subsection shall be offset against the amount of funds—

[“(i) made available by any Act of Congress; and

[“(ii) paid to the claimant by the Secretary in partial or complete satisfaction of the claim.

[“(4) NO CLAIMS ESTABLISHED.—Except as provided in paragraph (1), nothing in the subsection establishes any claim against the United States.

[“(h) JURISDICTION; WAIVER OF IMMUNITY; PARTIES.—

[“(1) JURISDICTION.—

[“(A) IN GENERAL.—Except as provided in subsection (i), the State court having jurisdiction over Gila River adjudication proceedings and decrees, shall have jurisdiction over—

[“(i) civil actions relating to the interpretation and enforcement of—

[“(I) this title;

[“(II) the Tohono O'odham settlement agreement; and

[“(III) agreements referred to in section 309(h)(2); and

[“(ii) civil actions brought by or against the allottees or fee owners of allotted land for the interpretation of, or legal or equitable remedies with respect to, claims of the allottees or fee owners of allotted land that are not claims for water rights, injuries to water rights or other claims that are barred or waived and released under this title or the Tohono O'odham settlement agreement.

[“(B) LIMITATION.—Except as provided in subparagraph (A), no State court or court of the Nation shall have jurisdiction over any civil action described in subparagraph (A).

[“(2) WAIVER.—

[“(A) IN GENERAL.—The United States and the Nation waive sovereign immunity solely for claims for—

[“(i) declaratory judgment or injunctive relief in any civil action arising under this title; and

[“(ii) such claims and remedies as may be prescribed in any agreement authorized under this title.

[“(B) LIMITATION ON STANDING.—If a governmental entity not described in subparagraph (A) asserts immunity in any civil action that arises under this title (unless the entity waives immunity for declaratory judgment or injunctive relief) or any agreement authorized under this title (unless the entity waives immunity for the claims and remedies prescribed in the agreement)—

[“(i) the governmental entity shall not have standing to initiate or assert any claim, or seek any remedy against the United States or the Nation, in the civil action; and

[“(ii) the waivers of sovereign immunity under subparagraph (A) shall have no effect in the civil action.

[“(C) MONETARY RELIEF.—A waiver of immunity under this paragraph shall not extend to any claim for damages, costs, attorneys' fees, or other monetary relief.

[“(3) NATION AS A PARTY.—

[“(A) IN GENERAL.—Not later than 60 days before the date on which a civil action under paragraph (1)(A)(ii) is filed by an allottee or fee owner of allotted land, the allottee or fee owner, as the case may be, shall provide to the Nation a notice of intent to file the civil action, accompanied by a request for consultation.

[“(B) JOINDER.—If the Nation is not a party to a civil action as originally commenced under paragraph (1)(A)(ii), the Nation shall be joined as a party.

[“(i) REGULATION AND JURISDICTION OVER DISPUTE RESOLUTION.—

[“(1) REGULATION.—The Nation shall have jurisdiction to manage, control, permit, administer, and otherwise regulate the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement—

[“(A) with respect to the use of those resources by—

[“(i) the Nation;

[“(ii) individual members of the Nation;

[“(iii) districts of the Nation; and

[“(iv) allottees; and

[“(B) with respect to any entitlement to those resources for which a fee owner of allotted land has received a final determination under applicable law.

[“(2) JURISDICTION.—Subject to a requirement of exhaustion of any administrative or other remedies prescribed under the laws of the Nation, jurisdiction over any disputes relating to the matters described in paragraph (1) shall be vested in the courts of the Nation.

[“(3) APPLICABLE LAW.—The regulatory and remedial procedures referred to in paragraphs (1) and (2) shall be subject to all applicable law.

[“(j) FEDERAL JURISDICTION.—The Federal Courts shall have concurrent jurisdiction over actions described in subsection 312(h) to the extent otherwise provided in Federal law.

### [“SEC. 313. AFTER-ACQUIRED TRUST LAND.

[“(a) IN GENERAL.—Except as provided in subsection (b)—

[“(1) the Nation may seek to have taken into trust by the United States, for the benefit of the Nation, legal title to additional land within the State and outside the exterior boundaries of the Nation's Reservation only in accordance with an Act of Congress specifically authorizing the transfer for the benefit of the Nation;

[“(2) it is the intent of Congress in enacting this title that future Acts of Congress described in paragraph (1) should provide that land taken into trust under that paragraph will include only such water rights and water use privileges as are consistent with State water law and State water management policy; and

[“(3) after-acquired trust land shall not include Federal reserved rights to surface water or groundwater.

[“(b) EXCEPTION.—Subsection (a) shall not apply to land acquired by the Nation under the Gila Bend Indian Reservation Lands Replacement Act (100 Stat. 1798).

### [“SEC. 314. NONREIMBURSABLE COSTS.

[“(a) CENTRAL ARIZONA WATER CONSERVATION DISTRICT.—For the purpose of determining the allocation and repayment of costs of any stage of the Central Arizona Project constructed after the effective date, the costs associated with the delivery of Central Arizona Project water acquired under sections 304(a) and 306(a), whether that water is delivered for use by the Nation or in accordance with any assignment, exchange, lease, option to lease, or other agreement for the temporary disposition of water entered into by the Nation—

[“(1) shall be nonreimbursable; and

[“(2) shall be excluded from the repayment obligation of the Central Arizona Water Conservation District.

[“(b) CLAIMS BY UNITED STATES.—The United States shall—

[“(1) make no claim against the Nation or any allottee for reimbursement or repayment of any cost associated with—

[“(A) the construction of facilities under the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.);

[“(B) the delivery of Central Arizona Project water for any use authorized under this title; or

[“(C) the implementation of this title;

[“(2) make no claim against the Nation for reimbursement or repayment of the costs associated with the construction of facilities described in paragraph (1)(A) for the benefit of and use on land that—

[“(A) is known as the 'San Lucy Farm'; and

[“(B) was acquired by the Nation under the Gila Bend Indian Reservation Lands Replacement Act (100 Stat. 1798); and

[“(3) impose no assessment with respect to the costs referred to in paragraphs (1) and (2) against—

[“(A) trust or allotted land within the Nation's Reservation; or

[“(B) the land described in paragraph (2).

### [“SEC. 315. TRUST FUND.

[“(a) REAUTHORIZATION.—Congress reauthorizes the trust fund established by section 309 of the 1982 Act, containing an initial deposit of $15,000,000 made under that section, for use in carrying out this title.

[“(b) EXPENDITURE AND INVESTMENT.—Subject to the limitations of subsection (d), the principal and all accrued interest and dividends in the trust fund established under section 309 of the 1982 Act may be—

[“(1) expended by the Nation for any governmental purpose; and

[“(2) invested by the Nation in accordance with such polices as the Nation may adopt.

[“(c) RESPONSIBILITY OF SECRETARY.—The Secretary shall not—

[“(A) be responsible for the review, approval, or audit of the use and expenditure of any funds from the trust fund reauthorized by subsection (a); or

[“(B) be subject to liability for any claim or cause of action arising from the use or expenditure by the Nation of those funds.

[“(d) CONDITIONS OF TRUST.—

[“(1) RESERVE FOR THE COST OF SUBJUGATION.—The Nation shall reserve in the trust fund reauthorized by subsection (a)—

[“(A) the principal amount of at least $3,000,000; and

[“(B) interest on that amount that accrues during the period beginning on the enforceability date and ending on the earlier of—

[“(i) the date on which full payment of such costs has been made; or

[“(ii) the date that is 10 years after the enforceability date.

[“(2) PAYMENT.—The costs described in paragraph (1) shall be paid in the amount, on the terms, and for the purposes prescribed in section 307(a)(1)(F).

[“(3) LIMITATION ON RESTRICTIONS.—On the occurrence of an event described in clause (i) or (ii) of paragraph (1)(B)—

[“(A) the restrictions imposed on funds from the trust fund described in paragraph (1) shall terminate; and

[“(B) any of those funds remaining that were reserved under paragraph (1) may be used by the Nation under subsection (b)(1).

### [“SEC. 316. MISCELLANEOUS PROVISIONS.

[“(a) IN GENERAL.—Nothing in this title—

[“(1) establishes the applicability or inapplicability to groundwater of any doctrine of Federal reserved rights;

[“(2) limits the ability of the Nation to enter into any agreement with the Arizona Water Banking Authority (or a successor agency) in accordance with State law;

[“(3) prohibits the Nation, any individual member of the Nation, an allottee, or a fee owner of allotted land in the San Xavier Reservation from lawfully acquiring water rights for use in the Tucson management area in addition to the water rights granted or confirmed under this title and the Tohono O'odham settlement agreement;

[“(4) abrogates any rights or remedies existing under section 1346 or 1491 of title 28, United States Code;

[“(5) affects the obligations of the parties under the Agreement of December 11, 1980 with respect to the 8,000 acre feet of Central Arizona Project water contracted by the Nation for the Sif Oidak District;

[“(6)(A) applies to any exempt well;

[“(B) prohibits or limits the drilling of any exempt well within—

[“(i) the San Xavier Reservation; or

[“(ii) the eastern Schuk Toak District; or

[“(C) subjects water from any exempt well to any pumping limitation under this title; or

[“(7) diminishes or abrogates rights to use water under—

[“(A) contracts of the Nation in existence before the enforceability date; or

[“(B) the well site agreement referred to in the Asarco agreement and any well site agreement entered into under the Asarco agreement.

[“(b) NO EFFECT ON FUTURE ALLOCATIONS.—Water received under a lease or exchange of Central Arizona Project water under this title does not affect any future allocation or reallocation of Central Arizona Project water by the Secretary.

### [“SEC. 317. AUTHORIZED COSTS.

[“(a) IN GENERAL.—There are authorized to be appropriated to the Secretary from the Lower Colorado River Basin Development Fund—

[“(1) to construct features of irrigation systems described in paragraphs (1) through (4) of section 304(c) that are not authorized to be constructed under any other provision of law, an amount equal to the sum of—

[“(A) $3,500,000; and

[“(B) such additional amount as the Secretary determines to be necessary to adjust the amount under subparagraph (A) to account for ordinary fluctuations in the costs of construction of irrigation features for the period beginning on October 12, 1982, and ending on the date on which the construction of the features described in this subparagraph is initiated, as indicated by engineering cost indices applicable to the type of construction involved;

[“(2) $18,300,000 in lieu of construction to implement section 304(c)(3)(B);

[“(3) $891,200 to implement a water management plan for the San Xavier Reservation under section 308(d);

[“(4) $237,200 to implement a water management plan for the eastern Schuk Toak District under section 308(d);

[“(5) $4,000,000 to complete the water resources study under section 311(d);

[“(6) $215,000 to develop and implement a groundwater monitoring program for the San Xavier Reservation under section 311(c)(1);

[“(7) $175,000 to develop and implement a groundwater monitoring program for the eastern Schuk Toak District under section 311(c)(2);

[“(8) $250,000 to complete the Asarco land exchange study under section 311(f); and

[“(9) such additional sums as are necessary to carry out the provisions of this title other than the provisions referred to in paragraphs (1) through (8).

[“(b) TREATMENT OF APPROPRIATED AMOUNTS.—Amounts made available under subsection (a) shall be considered to be authorized costs for purposes of section 403(f)(2)(D)(iii) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)(D)(iii)) (as amended by section 107(a) of the Arizona Water Settlements Act).”.

### [SEC. 302. SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT EFFECTIVE DATE.

[(a) DEFINITIONS.—The definitions under section 301 of the Southern Arizona Water Rights Settlement Amendments Act of 2003 (as contained in the amendment made by section 301) shall apply to this title.

[(b) EFFECTIVE DATE.—This title and the amendments made by this title take effect as of the date on which the Secretary publishes in the Federal Register a statement of findings that—

[(1)(A) to the extent that the Tohono O'odham settlement agreement conflicts with this title or an amendment made by this title, the Tohono O'odham settlement agreement has been revised through an amendment to eliminate those conflicts; and

[(B) the Tohono O'odham settlement agreement, as so revised, has been executed by the parties and the Secretary;

[(2) the Secretary and other parties to the agreements described in section 309(h)(2) of the Southern Arizona Water Rights Settlement Amendments Act of 2003 (as contained in the amendment made by section 301) have executed those agreements;

[(3) the Secretary has approved the interim allottee water rights code described in section 308(b)(3)(A) of the Southern Arizona Water Rights Settlement Amendments Act of 2003 (as contained in the amendment made by section 301);

[(4) final dismissal with prejudice has been entered in each of the Adams case, the Alvarez case, and the Tucson case on the sole condition that the Secretary publishes the findings specified in this section;

[(5) the judgment and decree attached to the Tohono O'odham settlement agreement as exhibit 17.1 has been approved by the State court having jurisdiction over the Gila River adjudication proceedings, and that judgment and decree have become final and nonappealable;

[(6) implementation costs have been identified and retained in the Lower Colorado River Basin Development Fund, specifically—

[(A) $18,300,000 in lieu of construction to implement section 304(c)(3)(A)(ii);

[(B) $891,200 to implement a water management plan for the San Xavier Reservation under section 308(d) of the Southern Arizona Water Rights Settlement Amendments Act of 2003 (as contained in the amendment made by section 301);

[(C) $237,200 to implement a water management plan for the eastern Schuk Toak District under section 308(d) of the Southern Arizona Water Rights Settlement Amendments Act of 2003 (as contained in the amendment made by section 301);

[(D) $4,000,000 to complete the water resources study under section 311(d) of the Southern Arizona Water Rights Settlement Amendments Act of 2003 (as contained in the amendment made by section 301);

[(E) $215,000 to develop and implement a groundwater monitoring program for the San Xavier Reservation under section 311(c)(1) of the Southern Arizona Water Rights Settlement Amendments Act of 2003 (as contained in the amendment made by section 301);

[(F) $175,000 to develop and implement a groundwater monitoring program for the eastern Schuk Toak District under section 311(c)(2) of the Southern Arizona Water Rights Settlement Amendments Act of 2003 (as contained in the amendment made by section 301); and

[(G) $250,000 to complete the Asarco land exchange study under section 311(f) of the Southern Arizona Water Rights Settlement Amendments Act of 2003 (as contained in the amendment made by section 301);

[(7) the State has enacted legislation that—

[(A) qualifies the Nation to earn long-term storage credits under the Asarco agreement;

[(B) implements the San Xavier groundwater protection program in accordance with paragraph 8.8 of the Tohono O'odham settlement agreement;

[(C) enables the State to carry out section 306(b); and

[(D) confirms the jurisdiction of the State court having jurisdiction over Gila River adjudication proceedings and decrees to carry out the provisions of sections 312(d) and 312(h) of the Southern Arizona Water Rights Settlement Amendments Act of 2003 (as contained in the amendment made by section 301);

[(8) the Secretary and the State have agreed to an acceptable firming schedule referred to in section 105(b)(2)(C); and

[(9) a final judgment has been entered in Central Arizona Water Conservation District v. United States (No. CIV 95-625-TUC-WDB(EHC), No. CIV 95-1720-PHX-EHC) (Consolidated Action) in accordance with the repayment stipulation as provided in section 207.

[(c) FAILURE TO PUBLISH STATEMENT OF FINDINGS.—If the Secretary does not publish a statement of findings under subsection (a) by December 31, 2007—

[(1) the 1982 Act shall remain in full force and effect;

[(2) this title shall not take effect; and

[(3) any funds made available by the State under this title that are not expended, together with any interest on those funds, shall immediately revert to the State.

## [TITLE IV—SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT]

***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the "Arizona Water Settlements Act".*

*(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:*

*Sec. 1. Short title; table of contents.*
*Sec. 2. Definitions.*
*Sec. 3. Arbitration.*
*Sec. 4. Antideficiency.*

*TITLE I—CENTRAL ARIZONA PROJECT SETTLEMENT*

*Sec. 101. Short title.*
*Sec. 102. Findings.*
*Sec. 103. General permissible uses of the Central Arizona Project.*
*Sec. 104. Allocation of Central Arizona Project water.*
*Sec. 105. Firming of Central Arizona Project Indian water.*
*Sec. 106. Acquisition of agricultural priority water.*
*Sec. 107. Lower Colorado River Basin Development Fund.*
*Sec. 108. Effect.*
*Sec. 109. Repeal.*
*Sec. 110. Authorization of appropriations.*
*Sec. 111. Repeal on failure of enforceability date under title II.*

*TITLE II—GILA RIVER INDIAN COMMUNITY WATER RIGHTS SETTLEMENT*

*Sec. 201. Short title.*
*Sec. 202. Purposes.*
*Sec. 203. Approval of the Gila River Indian Community Water Rights Settlement Agreement.*
*Sec. 204. Water rights.*
*Sec. 205. Community water delivery contract amendments.*
*Sec. 206. Satisfaction of claims.*
*Sec. 207. Waiver and release of claims.*
*Sec. 208. Gila River Indian Community Water OM&R Trust Fund.*
*Sec. 209. Subsidence remediation program.*
*Sec. 210. After-acquired trust land.*
*Sec. 211. Reduction of water rights.*
*Sec. 212. New Mexico Unit of the Central Arizona Project.*
*Sec. 213. Miscellaneous provisions.*
*Sec. 214. Authorization of appropriations.*
*Sec. 215. Repeal on failure of enforceability date.*

*TITLE III—SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT*

*Sec. 301. Southern Arizona water rights settlement.*
*Sec. 302. Southern Arizona water rights settlement effective date.*

*TITLE IV—SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT*

*Sec. 401. Effect of titles I, II, and III.*
*Sec. 402. Annual report.*

***SEC. 2. DEFINITIONS.***

*In titles I and II:*

*(1) ACRE-FEET.—The term "acre-feet" means acre-feet per year.*

*(2) AFTER-ACQUIRED TRUST LAND.—The term "after-acquired trust land" means land that—*

*(A) is located—*

*(i) within the State; but*

*(ii) outside the exterior boundaries of the Reservation; and*

*(B) is taken into trust by the United States for the benefit of the Community after the enforceability date.*

*(3) AGRICULTURAL PRIORITY WATER.—The term "agricultural priority water" means Central Arizona Project non-Indian agricultural priority water, as defined in the Gila River agreement.*

*(4) ALLOTTEE.—The term "allottee" means a person who holds a beneficial real property interest in an Indian allotment that is—*

*(A) located within the Reservation; and*

*(B) held in trust by the United States.*

*(5) ARIZONA INDIAN TRIBE.—The term "Arizona Indian tribe" means an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) that is located in the State.*

*(6) ASARCO.—The term "Asarco" means Asarco Incorporated, a New Jersey corporation of that name, and its subsidiaries operating mining operations in the State.*

*(7) CAP CONTRACTOR.—The term "CAP contractor" means a person or entity that has entered into a long-term contract (as that term is used in the repayment stipulation) with the United States for delivery of water through the CAP system.*

*(8) CAP OPERATING AGENCY.—The term "CAP operating agency" means the entity or entities authorized to assume responsibility for the care, operation, maintenance, and replacement of the CAP system.*

*(9) CAP REPAYMENT CONTRACT.—*

*(A) IN GENERAL.—The term "CAP repayment contract" means the contract dated December 1, 1988 (Contract No. 14-0906-09W-09245, Amendment No. 1) between the United States and the Central Arizona Water Conservation District for the delivery of water and the repayment of costs of the Central Arizona Project.*

*(B) INCLUSIONS.—The term "CAP repayment contract" includes all amendments to and revisions of that contract.*

*(10) CAP SUBCONTRACTOR.—The term "CAP subcontractor" means a person or entity that has entered into a long-term subcontract (as that term is used in the repayment stipulation) with the United States and the Central Arizona Water Conservation District for the delivery of water through the CAP system.*

*(11) CAP SYSTEM.—The term "CAP system" means—*

*(A) the Mark Wilmer Pumping Plant;*

*(B) the Hayden-Rhodes Aqueduct;*

*(C) the Fannin-McFarland Aqueduct;*

*(D) the Tucson Aqueduct;*

*(E) the pumping plants and appurtenant works of the Central Arizona Project aqueduct system that are associated with the features described in subparagraphs (A) through (D); and*

*(F) any extensions of, additions to, or replacements for the features described in subparagraphs (A) through (E).*

*(12) CENTRAL ARIZONA PROJECT.—The term "Central Arizona Project" means the reclamation project authorized and constructed by the United States in accordance with title III of the Colorado River Basin Project Act (43 U.S.C. 1521 et seq.).*

*(13) CENTRAL ARIZONA WATER CONSERVATION DISTRICT.—The term "Central Arizona Water Conservation District" means the political subdivision of the State that is the contractor under the CAP repayment contract.*

*(14) CITIES.—The term "Cities" means the cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, and Scottsdale, Arizona.*

*(15) COMMUNITY.—The term "Community" means the Gila River Indian Community, a government composed of members of the Pima Tribe and the Maricopa Tribe and organized under section 16 of the Act of June 18, 1934 (25 U.S.C. 476).*

*(16) COMMUNITY CAP WATER.—The term "Community CAP water" means water to which the*

*Community is entitled under the Community water delivery contract.*

*(17) COMMUNITY REPAYMENT CONTRACT.—*

*(A) IN GENERAL.—The term "Community repayment contract" means Contract No. 6-0907-0903-09W0345 between the United States and the Community dated July 20, 1998, providing for the construction of water delivery facilities on the Reservation.*

*(B) INCLUSIONS.—The term "Community repayment contract" includes any amendments to the contract described in subparagraph (A).*

*(18) COMMUNITY WATER DELIVERY CONTRACT.—*

*(A) IN GENERAL.—The term "Community water delivery contract" means Contract No. 3-0907-0930-09W0284 between the Community and the United States dated October 22, 1992.*

*(B) INCLUSIONS.—The term "Community water delivery contract" includes any amendments to the contract described in subparagraph (A).*

*(19) CRR PROJECT WORKS.—*

*(A) IN GENERAL.—The term "CRR project works" means the portions of the San Carlos Irrigation Project located on the Reservation.*

*(B) INCLUSION.—The term "CRR Project works" includes the portion of the San Carlos Irrigation Project known as the "Southside Canal", from the point at which the Southside Canal connects with the Pima Canal to the boundary of the Reservation.*

*(20) DIRECTOR.—The term "Director" means—*

*(A) the Director of the Arizona Department of Water Resources; or*

*(B) with respect to an action to be carried out under this title, a State official or agency designated by the Governor or the State legislature.*

*(21) ENFORCEABILITY DATE.—The term "enforceability date" means the date on which the Secretary publishes in the Federal Register the statement of findings described in section 207(c).*

*(22) FEE LAND.—The term "fee land" means land, other than off-Reservation trust land, owned by the Community outside the exterior boundaries of the Reservation as of December 31, 2002.*

*(23) FIXED OM&R CHARGE.—The term "fixed OM&R charge" has the meaning given the term in the repayment stipulation.*

*(24) FRANKLIN IRRIGATION DISTRICT.—The term "Franklin Irrigation District" means the entity of that name that is a political subdivision of the State and organized under the laws of the State.*

*(25) GILA RIVER ADJUDICATION PROCEEDINGS.—The term "Gila River adjudication proceedings" means the action pending in the Superior Court of the State of Arizona in and for the County of Maricopa styled "In Re the General Adjudication of All Rights To Use Water In The Gila River System and Source" W-091 (Salt), W-092 (Verde), W-093 (Upper Gila), W-094 (San Pedro) (Consolidated).*

*(26) GILA RIVER AGREEMENT.—*

*(A) IN GENERAL.—The term "Gila River agreement" means the agreement entitled the "Gila River Indian Community Water Rights Settlement Agreement", dated February 4, 2003.*

*(B) INCLUSIONS.—The term "Gila River agreement" includes—*

*(i) all exhibits to that agreement (including the New Mexico Risk Allocation Agreement, which is also an exhibit to the UVD Agreement); and*

*(ii) any amendment to that agreement or to an exhibit to that agreement made or added pursuant to that agreement.*

*(27) GILA VALLEY IRRIGATION DISTRICT.—The term "Gila Valley Irrigation District" means the entity of that name that is a political subdivision of the State and organized under the laws of the State.*

*(28) GLOBE EQUITY DECREE.—*

*(A) IN GENERAL.—The term "Globe Equity Decree" means the decree dated June 29, 1935, entered in United States of America v. Gila Valley Irrigation District, Globe Equity No. 59, et al., by the United States District Court for the District of Arizona.*

*(B) INCLUSIONS.—The term "Globe Equity Decree" includes all court orders and decisions supplemental to that decree.*

*(29) HAGGARD DECREE.—*

*(A) IN GENERAL.—The term "Haggard Decree" means the decree dated June 11, 1903, entered in United States of America, as guardian of Chief Charley Juan Saul and Cyrus Sam, Maricopa Indians and 400 other Maricopa Indians similarly situated v. Haggard, et al., Cause No. 19, in the District Court for the Third Judicial District of the Territory of Arizona, in and for the County of Maricopa.*

*(B) INCLUSIONS.—The term "Haggard Decree" includes all court orders and decisions supplemental to that decree.*

*(30) INCLUDING.—The term "including" has the same meaning as the term "including, but not limited to".*

*(31) INJURY TO WATER QUALITY.—The term "injury to water quality" means any contamination, diminution, or deprivation of water quality under Federal, State, or other law.*

*(32) INJURY TO WATER RIGHTS.—*

*(A) IN GENERAL.—The term "injury to water rights" means an interference with, diminution of, or deprivation of water rights under Federal, State, or other law.*

*(B) INCLUSION.—The term "injury to water rights" includes a change in the underground water table and any effect of such a change.*

*(C) EXCLUSION.—The term "injury to water rights" does not include subsidence damage or injury to water quality.*

*(33) LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.—The term "Lower Colorado River Basin Development Fund" means the fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543).*

*(34) MASTER AGREEMENT.—The term "master agreement" means the agreement entitled "Arizona Water Settlement Agreement" among the Director, the Central Arizona Water Conservation District, and the Secretary, dated August 16, 2004.*

*(35) NM CAP ENTITY.—The term "NM CAP entity" means the entity or entities that the State of New Mexico may authorize to assume responsibility for the design, construction, operation, maintenance, and replacement of the New Mexico Unit.*

*(36) NEW MEXICO CONSUMPTIVE USE AND FORBEARANCE AGREEMENT.—*

*(A) IN GENERAL.—The term "New Mexico Consumptive Use and Forbearance Agreement" means that agreement entitled the "New Mexico Consumptive Use and Forbearance Agreement," entered into by and among the United States, the Community, the San Carlos Irrigation and Drainage District, and all of the signatories to the UVD Agreement, and approved by the State of New Mexico, and authorized, ratified, and approved by section 212(b).*

*(B) INCLUSIONS.—The "New Mexico Consumptive Use and Forbearance Agreement" includes—*

*(i) all exhibits to that agreement (including the New Mexico Risk Allocation agreement, which is also an exhibit to the UVD agreement); and*

*(ii) any amendment to that agreement made or added pursuant to that agreement.*

*(37) NEW MEXICO UNIT.—The term "New Mexico Unit" means that unit or units of the Central Arizona Project authorized by sections 301(a)(4) and 304 of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(4), 1524) (as amended by section 212).*

*(38) NEW MEXICO UNIT AGREEMENT.—*

*(A) IN GENERAL.—The term "New Mexico Unit Agreement" means that agreement entitled the "New Mexico Unit Agreement," to be entered into by and between the United States and the NM CAP entity upon notice to the Secretary from the State of New Mexico that the State of New Mexico intends to have the New Mexico Unit constructed or developed.*

*(B) INCLUSIONS.—The "New Mexico Unit Agreement" includes—*

*(i) all exhibits to that agreement; and*

*(ii) any amendment to that agreement made or added pursuant to that agreement.*

*(39) OFF-RESERVATION TRUST LAND.—The term "off-Reservation trust land" means land outside the exterior boundaries of the Reservation that is held in trust by the United States for the benefit of the Community as of the enforceability date.*

*(40) PHELPS DODGE.—The term "Phelps Dodge" means the Phelps Dodge Corporation, a New York corporation of that name, and Phelps Dodge's subsidiaries (including Phelps Dodge Morenci, Inc., a Delaware corporation of that name), and Phelps Dodge's successors or assigns.*

*(41) REPAYMENT STIPULATION.—The term "repayment stipulation" means the Revised Stipulation Regarding a Stay of Litigation, Resolution of Issues During the Stay, and for Ultimate Judgment Upon the Satisfaction of Conditions, filed with the United States District Court for the District of Arizona in Central Arizona Water Conservation District v. United States, et al., No. CIV 95-09625-09TUC-09WDB(EHC), No. CIV 95-091720-09PHX-09EHC (Consolidated Action), and that court's order dated April 28, 2003, and any amendments or revisions thereto.*

*(42) RESERVATION.—*

*(A) IN GENERAL.—Except as provided in sections 207(d) and 210(d), the term "Reservation" means the land located within the exterior boundaries of the reservation created under sections 3 and 4 of the Act of February 28, 1859 (11 Stat. 401, chapter LXVI) and Executive Orders of August 31, 1876, June 14, 1879, May 5, 1882, November 15, 1883, July 31, 1911, June 2, 1913, August 27, 1914, and July 19, 1915.*

*(B) EXCLUSION.—The term "Reservation" does not include the land located in sections 16 and 36, Township 4 South, Range 4 East, Salt and Gila River Base and Meridian.*

*(43) ROOSEVELT HABITAT CONSERVATION PLAN.—The term "Roosevelt Habitat Conservation Plan" means the habitat conservation plan approved by the United States Fish and Wildlife Service under section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)(1)(B)) for the incidental taking of endangered, threatened, and candidate species resulting from the continued operation by the Salt River Project of Roosevelt Dam and Lake, near Phoenix, Arizona.*

*(44) ROOSEVELT WATER CONSERVATION DISTRICT.—The term "Roosevelt Water Conservation District" means the entity of that name that is a political subdivision of the State and an irrigation district organized under the law of the State.*

*(45) SAFFORD.—The term "Safford" means the city of Safford, Arizona.*

*(46) SALT RIVER PROJECT.—The term "Salt River Project" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State, and the Salt River Valley Water Users' Association, an Arizona Territorial corporation.*

*(47) SAN CARLOS APACHE TRIBE.—The term "San Carlos Apache Tribe" means the San Carlos Apache Tribe, a tribe of Apache Indians organized under Section 16 of the Indian Reorganization Act of June 18, 1934, 48 Stat. 987 (25 U.S.C. 476).*

*(48) SAN CARLOS IRRIGATION AND DRAINAGE DISTRICT.—The term "San Carlos Irrigation and Drainage District" means the entity of that*

*name that is a political subdivision of the State and an irrigation and drainage district organized under the laws of the State.*

*(49) SAN CARLOS IRRIGATION PROJECT.—*

*(A) IN GENERAL.—The term "San Carlos Irrigation Project" means the San Carlos irrigation project authorized under the Act of June 7, 1924 (43 Stat. 475).*

*(B) INCLUSIONS.—The term "San Carlos Irrigation Project" includes any amendments and supplements to the Act described in subparagraph (A).*

*(50) SECRETARY.—The term "Secretary" means the Secretary of the Interior.*

*(51) SPECIAL HOT LANDS.—The term "special hot lands" has the meaning given the term in subparagraph 2.34 of the UVD agreement.*

*(52) STATE.—The term "State" means the State of Arizona.*

*(53) SUBCONTRACT.—*

*(A) IN GENERAL.—The term "subcontract" means a Central Arizona Project water delivery subcontract.*

*(B) INCLUSION.—The term "subcontract" includes an amendment to a subcontract.*

*(54) SUBSIDENCE DAMAGE.—The term "subsidence damage" means injury to land, water, or other real property resulting from the settling of geologic strata or cracking in the surface of the Earth of any length or depth, which settling or cracking is caused by the pumping of underground water.*

*(55) TBI ELIGIBLE ACRES.—The term "TBI eligible acres" has the meaning given the term in subparagraph 2.37 of the UVD agreement.*

*(56) UNCONTRACTED MUNICIPAL AND INDUSTRIAL WATER.—The term "uncontracted municipal and industrial water" means Central Arizona Project municipal and industrial priority water that is not subject to subcontract on the date of enactment of this Act.*

*(57) UV DECREED ACRES.—*

*(A) IN GENERAL.—The term "UV decreed acres" means the land located upstream and to the east of the Coolidge Dam for which water may be diverted pursuant to the Globe Equity Decree.*

*(B) EXCLUSION.—The term "UV decreed acres" does not include the reservation of the San Carlos Apache Tribe.*

*(58) UV DECREED WATER RIGHTS.—The term "UV decreed water rights" means the right to divert water for use on UV decreed acres in accordance with the Globe Equity Decree.*

*(59) UV IMPACT ZONE.—The term "UV impact zone" has the meaning given the term in subparagraph 2.47 of the UVD agreement.*

*(60) UV SUBJUGATED LAND.—The term "UV subjugated land" has the meaning given the term in subparagraph 2.50 of the UVD agreement.*

*(61) UVD AGREEMENT.—The term "UVD agreement" means the agreement among the Community, the United States, the San Carlos Irrigation and Drainage District, the Franklin Irrigation District, the Gila Valley Irrigation District, Phelps Dodge, and other parties located in the upper valley of the Gila River, dated September 2, 2004.*

*(62) UV SIGNATORIES PARTIES.—The term "UV signatories" means the parties to the UVD agreement other than the United States, the San Carlos Irrigation and Drainage District, and the Community.*

*(63) WATER OM&R FUND.—The term "Water OM&R Fund" means the Gila River Indian Community Water OM&R Trust Fund established by section 208.*

*(64) WATER RIGHT.—The term "water right" means any right in or to groundwater, surface water, or effluent under Federal, State, or other law.*

*(65) WATER RIGHTS APPURTENANT TO NEW MEXICO 381 ACRES.—The term "water rights appurtenant to New Mexico 381 acres" means the water rights—*

*(A) appurtenant to the 380.81 acres described in the decree in Arizona v. California, 376 U.S. 340, 349 (1964); and*

*(B) appurtenant to other land, or for other uses, for which the water rights described in subparagraph (A) may be modified or used in accordance with that decree.*

*(66) WATER RIGHTS FOR NEW MEXICO DOMESTIC PURPOSES.—The term "water rights for New Mexico domestic purposes" means the water rights for domestic purposes of not more than 265 acre-feet of water for consumptive use described in paragraph IV(D)(2) of the decree in Arizona v. California, 376 U.S. 340, 350 (1964).*

*(67) 1994 BIOLOGICAL OPINION.—The term "1994 biological opinion" means the biological opinion, numbered 2-21-90-F-119, and dated April 15, 1994, relating to the transportation and delivery of Central Arizona Project water to the Gila River basin.*

*(68) 1996 BIOLOGICAL OPINION.—The term "1996 biological opinion" means the biological opinion, numbered 2-21-95-F-462 and dated July 23, 1996, relating to the impacts of modifying Roosevelt Dam on the southwestern willow flycatcher.*

*(69) 1999 BIOLOGICAL OPINION.—The term "1999 biological opinion" means the draft biological opinion numbered 2-21-91-F-706, and dated May 1999, relating to the impacts of the Central Arizona Project on Gila Topminnow in the Santa Cruz River basin through the introduction and spread of nonnative aquatic species.*

### ***SEC. 3. ARBITRATION.***

*(a) No arbitration decision rendered pursuant to subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River agreement (including the joint control board agreement attached to exhibit 20.1) shall be considered invalid solely because the United States failed or refused to participate in such arbitration proceedings that resulted in such arbitration decision.*

*(b) Notwithstanding any provision of any agreement, exhibit, attachment, or other document ratified by this Act, if the Secretary is required to enter arbitration pursuant to this Act or any such document, the Secretary shall follow the procedures for arbitration established by chapter 5 of title 5, United States Code.*

### ***SEC. 4. ANTIDEFICIENCY.***

*The United States shall not be liable for failure to carry out any obligation or activity required by this Act, including all titles and all agreements or exhibits ratified or confirmed by this Act, funded by—*

*(1) the Lower Basin Development Fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543), if there are not enough monies in that fund to fulfill those obligations or carry out those activities; or*

*(2) appropriations, if appropriations are not provided by Congress.*

## ***TITLE I—CENTRAL ARIZONA PROJECT SETTLEMENT***

### ***SEC. 101. SHORT TITLE.***

*This title may be cited as the "Central Arizona Project Settlement Act of 2004".*

### ***SEC. 102. FINDINGS.***

*Congress finds that—*

*(1) the water provided by the Central Arizona Project to Maricopa, Pinal, and Pima Counties in the State of Arizona, is vital to citizens of the State; and*

*(2) an agreement on the allocation of Central Arizona Project water among interested persons, including Federal and State interests, would provide important benefits to the Federal Government, the State of Arizona, Arizona Indian Tribes, and the citizens of the State.*

### ***SEC. 103. GENERAL PERMISSIBLE USES OF THE CENTRAL ARIZONA PROJECT.***

*In accordance with the CAP repayment contract, the Central Arizona Project may be used to transport nonproject water for—*

*(1) domestic, municipal, fish and wildlife, and industrial purposes; and*

*(2) any purpose authorized under the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.).*

### ***SEC. 104. ALLOCATION OF CENTRAL ARIZONA PROJECT WATER.***

*(a) NON-INDIAN AGRICULTURAL PRIORITY WATER.—*

*(1) REALLOCATION TO ARIZONA INDIAN TRIBES.—*

*(A) IN GENERAL.—The Secretary shall reallocate 197,500 acre-feet of agricultural priority water made available pursuant to the master agreement for use by Arizona Indian tribes, of which—*

*(i) 102,000 acre-feet shall be reallocated to the Gila River Indian Community;*

*(ii) 28,200 acre-feet shall be reallocated to the Tohono O'odham Nation; and*

*(iii) subject to the conditions specified in subparagraph (B), 67,300 acre-feet shall be reallocated to Arizona Indian tribes.*

*(B) CONDITIONS.—The reallocation of agricultural priority water under subparagraph (A)(iii) shall be subject to the conditions that—*

*(i) such water shall be used to resolve Indian water claims in Arizona, and may be allocated by the Secretary to Arizona Indian Tribes in fulfillment of future Arizona Indian water rights settlement agreements approved by an Act of Congress. In the absence of an Arizona Indian water rights settlement that is approved by an Act of Congress after the date of enactment of this Act, the Secretary shall not allocate any such water until December 31, 2030. Any allocations made by the Secretary after such date shall be accompanied by a certification that the Secretary is making the allocation in order to assist in the resolution of an Arizona Indian water right claim. Any such water allocated to an Arizona Indian Tribe pursuant to a water delivery contract with the Secretary under this clause shall be counted on an acre-foot per acre-foot basis against any claim to water for that Tribe's reservation;*

*(ii) notwithstanding clause (i), the Secretary shall retain 6,411 acre-feet of water for use for a future water rights settlement agreement approved by an Act of Congress that settles the Navajo Nation's claims to water in Arizona. If Congress does not approve this settlement before December 31, 2030, the 6,411 acre-feet of CAP water shall be available to the Secretary under clause (i); and*

*(iii) the agricultural priority water shall not, without specific authorization by Act of Congress, be leased, exchanged, forborne, or otherwise transferred by an Arizona Indian tribe for any direct or indirect use outside the reservation of the Arizona Indian tribe.*

*(C) REPORT.—The Secretary, in consultation with Arizona Indian tribes and the State, shall prepare a report for Congress by December 31, 2016, that assesses whether the potential benefits of subparagraph (A) are being conveyed to Arizona Indian tribes pursuant to water rights settlements enacted subsequent to this Act. For those Arizona Indian tribes that have not yet settled water rights claims, the Secretary shall describe whether any active negotiations are taking place, and identify any critical water needs that exist on the reservation of each such Arizona Indian tribe. The Secretary shall also identify and report on the use of unused quantities of agricultural priority water made available to Arizona Indian tribes under subparagraph (A).*

*(2) REALLOCATION TO THE ARIZONA DEPARTMENT OF WATER RESOURCES.—*

(A) IN GENERAL.—Subject to subparagraph (B) and subparagraph 9.3 of the master agreement, the Secretary shall reallocate up to 96,295 acre-feet of agricultural priority water made available pursuant to the master agreement to the Arizona Department of Water Resources, to be held under contract in trust for further allocation under subparagraph (C).

(B) REQUIRED DOCUMENTATION.—The reallocation of agricultural priority water under subparagraph (A) is subject to the condition that the Secretary execute any appropriate documents to memorialize the reallocation, including—

(i) an allocation decision; and

(ii) a contract that prohibits the direct use of the agricultural priority water by the Arizona Department of Water Resources.

(C) FURTHER ALLOCATION.—With respect to the allocation of agricultural priority water under subparagraph (A)—

(i) before that water may be further allocated—

(I) the Director shall submit to the Secretary, and the Secretary shall receive, a recommendation for reallocation;

(II) as soon as practicable after receiving the recommendation, the Secretary shall carry out all necessary reviews of the proposed reallocation, in accordance with applicable Federal law; and

(III) if the recommendation is rejected by the Secretary, the Secretary shall—

(aa) request a revised recommendation from the Director; and

(bb) proceed with any reviews required under subclause (II); and

(ii) as soon as practicable after the date on which agricultural priority water is further allocated, the Secretary shall offer to enter into a subcontract for that water in accordance with paragraphs (1) and (2) of subsection (d).

(D) MASTER AGREEMENT.—The reallocation of agricultural priority water under subparagraphs (A) and (C) is subject to the master agreement, including certain rights provided by the master agreement to water users in Pinal County, Arizona.

(3) PRIORITY.—The agricultural priority water reallocated under paragraphs (1) and (2) shall be subject to the condition that the water retain its non-Indian agricultural delivery priority.

(b) UNCONTRACTED CENTRAL ARIZONA PROJECT MUNICIPAL AND INDUSTRIAL PRIORITY WATER.—

(1) REALLOCATION.—The Secretary shall, on the recommendation of the Director, reallocate 65,647 acre-feet of uncontracted municipal and industrial water, of which—

(A) 285 acre-feet shall be reallocated to the town of Superior, Arizona;

(B) 806 acre-feet shall be reallocated to the Cave Creek Water Company;

(C) 1,931 acre-feet shall be reallocated to the Chaparral Water Company;

(D) 508 acre-feet shall be reallocated to the town of El Mirage, Arizona;

(E) 7,211 acre-feet shall be reallocated to the city of Goodyear, Arizona;

(F) 147 acre-feet shall be reallocated to the H2O Water Company;

(G) 7,115 acre-feet shall be reallocated to the city of Mesa, Arizona;

(H) 5,527 acre-feet shall be reallocated to the city of Peoria, Arizona;

(I) 2,981 acre-feet shall be reallocated to the city of Scottsdale, Arizona;

(J) 808 acre-feet shall be reallocated to the AVRA Cooperative;

(K) 4,986 acre-feet shall be reallocated to the city of Chandler, Arizona;

(L) 1,071 acre-feet shall be reallocated to the Del Lago (Vail) Water Company;

(M) 3,053 acre-feet shall be reallocated to the city of Glendale, Arizona;

(N) 1,521 acre-feet shall be reallocated to the Community Water Company of Green Valley, Arizona;

(O) 4,602 acre-feet shall be reallocated to the Metropolitan Domestic Water Improvement District;

(P) 3,557 acre-feet shall be reallocated to the town of Oro Valley, Arizona;

(Q) 8,206 acre-feet shall be reallocated to the city of Phoenix, Arizona;

(R) 2,876 acre-feet shall be reallocated to the city of Surprise, Arizona;

(S) 8,206 acre-feet shall be reallocated to the city of Tucson, Arizona; and

(T) 250 acre-feet shall be reallocated to the Valley Utilities Water Company.

(2) SUBCONTRACTS.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, and in accordance with paragraphs (1) and (2) of subsection (d) and any other applicable Federal laws, the Secretary shall offer to enter into subcontracts for the delivery of the uncontracted municipal and industrial water reallocated under paragraph (1).

(B) REVISED RECOMMENDATION.—If the Secretary is precluded under applicable Federal law from entering into a subcontract with an entity identified in paragraph (1), the Secretary shall—

(i) request a revised recommendation from the Director; and

(ii) on receipt of a recommendation under clause (i), reallocate and enter into a subcontract for the delivery of the water in accordance with subparagraph (A).

(c) LIMITATIONS.—

(1) AMOUNT.—

(A) IN GENERAL.—The total amount of entitlements under long-term contracts (as defined in the repayment stipulation) for the delivery of Central Arizona Project water in the State shall not exceed 1,415,000 acre-feet, of which—

(i) 650,724 acre-feet shall be—

(I) under contract to Arizona Indian tribes; or

(II) available to the Secretary for allocation to Arizona Indian tribes; and

(ii) 764,276 acre-feet shall be under contract or available for allocation to—

(I) non-Indian municipal and industrial entities;

(II) the Arizona Department of Water Resources; and

(III) non-Indian agricultural entities.

(B) EXCEPTION.—Subparagraph (A) shall not apply to Central Arizona Project water delivered to water users in Arizona in exchange for Gila River water used in New Mexico as provided in section 304 of the Colorado River Basin Project Act (43 U.S.C. 1524) (as amended by section 212).

(2) TRANSFER.—

(A) IN GENERAL.—Except pursuant to the master agreement, Central Arizona Project water may not be transferred from—

(i) a use authorized under paragraph (1)(A)(i) to a use authorized under paragraph (1)(A)(ii); or

(ii) a use authorized under paragraph (1)(A)(ii) to a use authorized under paragraph (1)(A)(i).

(B) EXCEPTIONS.—

(i) LEASES.—A lease of Central Arizona Project water by an Arizona Indian tribe to an entity described in paragraph (1)(A)(ii) under an Indian water rights settlement approved by an Act of Congress shall not be considered to be a transfer for purposes of subparagraph (A).

(ii) EXCHANGES.—An exchange of Central Arizona Project water by an Arizona Indian tribe to an entity described in paragraph (1)(A)(ii) shall not be considered to be a transfer for purposes of subparagraph (A).

(iii) Notwithstanding subparagraph (A), up to 17,000 acre-feet of CAP municipal and industrial water under the subcontract among the United States, the Central Arizona Water Conservation District, and Asarco, subcontract No. 3-07-30-W0307, dated November 7, 1993, may be reallocated to the Community on execution of an exchange and lease agreement among the Community, the United States, and Asarco.

(d) CENTRAL ARIZONA PROJECT CONTRACTS AND SUBCONTRACTS.—

(1) IN GENERAL.—Notwithstanding section 6 of the Reclamation Project Act of 1939 (43 U.S.C. 485e), and paragraphs (2) and (3) of section 304(b) of the Colorado River Basin Project Act (43 U.S.C. 1524(b)), as soon as practicable after the date of enactment of this Act, the Secretary shall offer to enter into subcontracts or to amend all Central Arizona Project contracts and subcontracts in effect as of that date in accordance with paragraph (2).

(2) REQUIREMENTS.—All subcontracts and amendments to Central Arizona Project contracts and subcontracts under paragraph (1)—

(A) shall be for permanent service (within the meaning of section 5 of the Boulder Canyon Project Act of 1928 (43 U.S.C. 617d));

(B) shall have an initial delivery term that is the greater of—

(i) 100 years; or

(ii) a term—

(I) authorized by Congress; or

(II) provided under the appropriate Central Arizona Project contract or subcontract in existence on the date of enactment of this Act;

(C) shall conform to the shortage sharing criteria described in paragraph 5.3 of the Tohono O'odham settlement agreement;

(D) shall include the prohibition and exception described in subsection (e); and

(E) shall not require—

(i) that any Central Arizona Project water received in exchange for effluent be deducted from the contractual entitlement of the CAP contractor or CAP subcontractor; or

(ii) that any additional modification of the Central Arizona Project contracts or subcontracts be made as a condition of acceptance of the subcontract or amendments.

(3) APPLICABILITY.—This subsection does not apply to—

(A) a subcontract for non-Indian agricultural use; or

(B) a contract executed under paragraph 5(d) of the repayment stipulation.

(e) PROHIBITION ON TRANSFER.—

(1) IN GENERAL.—Except as provided in paragraph (2), no Central Arizona Project water shall be leased, exchanged, forborne, or otherwise transferred in any way for use directly or indirectly outside the State.

(2) EXCEPTIONS.—Central Arizona Project water may be—

(A) leased, exchanged, forborne, or otherwise transferred under an agreement with the Arizona Water Banking Authority that is in accordance with part 414 of title 43, Code of Federal Regulations; and

(B) delivered to users in Arizona in exchange for Gila River water used in New Mexico as provided in section 304 of the Colorado River Basin Project Act (43 U.S.C. 1524) (as amended by section 212).

(3) EFFECT OF SUBSECTION.—Nothing in this subsection prohibits any entity from entering into a contract with the Arizona Water Banking Authority or a successor of the Authority under State law.

### SEC. 105. FIRMING OF CENTRAL ARIZONA PROJECT INDIAN WATER.

(a) FIRMING PROGRAM.—The Secretary and the State shall develop a firming program to ensure that 60,648 acre-feet of the agricultural priority water made available pursuant to the master agreement and reallocated to Arizona Indian tribes under section 104(a)(1), shall, for a 100-

year period, be delivered during water shortages in the same manner as water with a municipal and industrial delivery priority in the Central Arizona Project system is delivered during water shortages.

(b) DUTIES.—

(1) SECRETARY.—The Secretary shall—

(A) firm 28,200 acre-feet of agricultural priority water reallocated to the Tohono O'odham Nation under section 104(a)(1)(A)(ii); and

(B) firm 8,724 acre-feet of agricultural priority water reallocated to Arizona Indian tribes under section 104(a)(1)(A)(iii).

(2) STATE.—The State shall—

(A) firm 15,000 acre-feet of agricultural priority water reallocated to the Community under section 104(a)(1)(A)(i);

(B) firm 8,724 acre-feet of agricultural priority water reallocated to Arizona Indian tribes under section 104(a)(1)(A)(iii); and

(C) assist the Secretary in carrying out obligations of the Secretary under paragraph (1)(A) in accordance with section 306 of the Southern Arizona Water Rights Settlement Amendments Act (as added by section 301).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the duties of the Secretary under subsection (b)(1).

### SEC. 106. ACQUISITION OF AGRICULTURAL PRIORITY WATER.

(a) APPROVAL OF AGREEMENT.—

(1) IN GENERAL.—Except to the extent that any provision of the master agreement conflicts with any provision of this title, the master agreement is authorized, ratified, and confirmed. To the extent that amendments are executed to make the master agreement consistent with this title, such amendments are also authorized, ratified, and confirmed.

(2) EXHIBITS.—The Secretary is directed to and shall execute the master agreement and any of the exhibits to the master agreement that have not been executed as of the date of enactment of this Act.

(3) DEBT COLLECTION.—For any agricultural priority water that is not relinquished under the master agreement, the subcontractor shall continue to pay, consistent with the master agreement, the portion of the debt associated with any retained water under section 9(d) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(d)), and the Secretary shall apply such revenues toward the reimbursable section 9(d) debt of that subcontractor.

(4) EFFECTIVE DATE.—The provisions of subsections (b) and (c) shall take effect on the date of enactment of this Act.

(b) NONREIMBURSABLE DEBT.—

(1) IN GENERAL.—In accordance with the master agreement, the portion of debt incurred under section 9(d) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(d)), and identified in the master agreement as nonreimbursable to the United States, shall be nonreimbursable and nonreturnable to the United States in an amount not to exceed $73,561,337.

(2) EXTENSION.—In accordance with the master agreement, the Secretary may extend, on an annual basis, the repayment schedule of debt incurred under section 9(d) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(d)) by CAP subcontractors.

(c) EXEMPTION.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) and any other acreage limitation or full cost pricing provisions of Federal law shall not apply to—

(1) land within the exterior boundaries of the Central Arizona Water Conservation District or served by Central Arizona Project water;

(2) land within the exterior boundaries of the Salt River Reservoir District;

(3) land held in trust by the United States for an Arizona Indian tribe that is—

(A) within the exterior boundaries of the Central Arizona Water Conservation District; or

(B) served by Central Arizona Project water; or

(4) any person, entity, or land, solely on the basis of—

(A) receipt of any benefits under this Act;

(B) execution or performance of the Gila River agreement; or

(C) the use, storage, delivery, lease, or exchange of Central Arizona Project water.

### SEC. 107. LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.

(a) IN GENERAL.—Section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543) is amended by striking subsection (f) and inserting the following:

"(f) ADDITIONAL USES OF REVENUE FUNDS.—

"(1) CREDITING AGAINST CENTRAL ARIZONA WATER CONSERVATION DISTRICT PAYMENTS.—Funds credited to the development fund pursuant to subsection (b) and paragraphs (1) and (3) of subsection (c), the portion of revenues derived from the sale of power and energy for use in the State of Arizona pursuant to subsection (c)(2) in excess of the amount necessary to meet the requirements of paragraphs (1) and (2) of subsection (d), and any annual payment by the Central Arizona Water Conservation District to effect repayment of reimbursable Central Arizona Project construction costs, shall be credited annually against the annual payment owed by the Central Arizona Water Conservation District to the United States for the Central Arizona Project.

"(2) FURTHER USE OF REVENUE FUNDS CREDITED AGAINST PAYMENTS OF CENTRAL ARIZONA WATER CONSERVATION DISTRICT.—After being credited in accordance with paragraph (1), the funds and portion of revenues described in that paragraph shall be available annually, without further appropriation, in order of priority—

"(A) to pay annually the fixed operation, maintenance, and replacement charges associated with the delivery of Central Arizona Project water held under long-term contracts for use by Arizona Indian tribes (as defined in section 2 of the Arizona Water Settlements Act);

"(B) to make deposits, totaling $53,000,000 in the aggregate, in the Gila River Indian Community Water OM&R Trust Fund established by section 208 of the Arizona Water Settlements Act;

"(C) to pay $147,000,000 for the rehabilitation of the San Carlos Irrigation Project, of which not more than $25,000,000 shall be available annually consistent with attachment 6.5.1 of exhibit 20.1 of the Gila River agreement, except that the total amount of $147,000,000 shall be increased or decreased, as appropriate, based on ordinary fluctuations since January 1, 2000, in construction cost indices applicable to the types of construction involved in the rehabilitation;

"(D) in addition to amounts made available for the purpose through annual appropriations, as reasonably allocated by the Secretary without regard to any trust obligation on the part of the Secretary to allocate the funding under any particular priority and without regard to priority (except that payments required by clause (i) shall be made first)—

"(i) to make deposits totaling $66,000,000, adjusted to reflect changes since January 1, 2004, in the construction cost indices applicable to the types of construction involved in construction of the New Mexico Unit, into the New Mexico Unit Fund as provided by section 212(i) of the Arizona Water Settlements Act in 10 equal annual payments beginning in 2012;

"(ii) upon satisfaction of the conditions set forth in subsections (j) and (k) of section 212, to pay certain of the costs associated with construction of the New Mexico Unit, in addition to any amounts that may be expended from the New Mexico Unit Fund, in a minimum amount of $34,000,000 and a maximum amount of $62,000,000, as provided in section 212 of the Arizona Water Settlements Act, as adjusted to reflect changes since January 1, 2004, in the construction cost indices applicable to the types of construction involved in construction of the New Mexico Unit;

"(iii) to pay the costs associated with the construction of distribution systems required to implement the provisions of—

"(I) the contract entered into between the United States and the Gila River Indian Community, numbered 6-07-03-W0345, and dated July 20, 1998;

"(II) section 3707(a)(1) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (106 Stat. 4747); and

"(III) section 304 of the Southern Arizona Water Rights Settlement Amendments Act of 2004;

"(iv) to pay $52,396,000 for the rehabilitation of the San Carlos Irrigation Project as provided in section 203(d)(4) of the Arizona Water Settlements Act, of which not more than $9,000,000 shall be available annually, except that the total amount of $52,396,000 shall be increased or decreased, as appropriate, based on ordinary fluctuations since January 1, 2000, in construction cost indices applicable to the types of construction involved in the rehabilitation;

"(v) to pay other costs specifically identified under—

"(I) sections 213(g)(1) and 214 of the Arizona Water Settlements Act; and

"(II) the Southern Arizona Water Rights Settlement Amendments Act of 2004;

"(vi) to pay a total of not more than $250,000,000 to the credit of the Future Indian Water Settlement Subaccount of the Lower Colorado Basin Development Fund, for use for Indian water rights settlements in Arizona approved by Congress after the date of enactment of the Arizona Water Settlements Act, subject to the requirement that, notwithstanding any other provision of this Act, any funds credited to the Future Indian Water Settlement Subaccount that are not used in furtherance of a congressionally approved Indian water rights settlement in Arizona by December 31, 2030, shall be returned to the main Lower Colorado Basin Development Fund for expenditure on authorized uses pursuant to this Act, provided that any interest earned on funds held in the Future Indian Water Settlement Subaccount shall remain in such subaccount until disbursed or returned in accordance with this section; and

"(vii) to pay costs associated with the installation of gages on the Gila River and its tributaries to measure the water level of the Gila River and its tributaries for purposes of the New Mexico Consumptive Use and Forbearance Agreement in an amount not to exceed $500,000;

"(E) in addition to amounts made available for the purpose through annual appropriations—

"(i) to pay the costs associated with the construction of on-reservation Central Arizona Project distribution systems for the Yavapai Apache (Camp Verde), Tohono O'odham Nation (Sif Oidak District), Pascua Yaqui, and Tonto Apache tribes; and

"(ii) to make payments to those tribes in accordance with paragraph 8(d)(i)(1)(iv) of the repayment stipulation (as defined in section 2 of the Arizona Water Settlements Act), except that if a water rights settlement Act of Congress authorizes such construction, payments to those tribes shall be made from funds in the Future Indian Water Settlement Subaccount; and

"(F) if any amounts remain in the development fund at the end of a fiscal year, to be carried over to the following fiscal year for use for the purposes described in subparagraphs (A) through (E).

"(3) REVENUE FUNDS IN EXCESS OF REVENUE FUNDS CREDITED AGAINST CENTRAL ARIZONA WATER CONSERVATION DISTRICT PAYMENTS.—The funds and portion of revenues described in paragraph (1) that are in excess of amounts credited under paragraph (1) shall be available, on an annual basis, without further appropriation, in order of priority—

"(A) to pay annually the fixed operation, maintenance and replacement charges associated with the delivery of Central Arizona Project water under long-term contracts held by Arizona Indian tribes (as defined in section 2 of the Arizona Water Settlements Act);

"(B) to make the final outstanding annual payment for the costs of each unit of the projects authorized under title III that are to be repaid by the Central Arizona Water Conservation District;

"(C) to reimburse the general fund of the Treasury for fixed operation, maintenance, and replacement charges previously paid under paragraph (2)(A);

"(D) to reimburse the general fund of the Treasury for costs previously paid under subparagraphs (B) through (E) of paragraph (2);

"(E) to pay to the general fund of the Treasury the annual installment on any debt relating to the Central Arizona Project under section 9(d) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(d)), made nonreimbursable under section 106(b) of the Arizona Water Settlements Act;

"(F) to pay to the general fund of the Treasury the difference between—

"(i) the costs of each unit of the projects authorized under title III that are repayable by the Central Arizona Water Conservation District; and

"(ii) any costs allocated to reimbursable functions under any Central Arizona Project cost allocation undertaken by the United States; and

"(G) for deposit in the general fund of the Treasury.

"(4) INVESTMENT OF AMOUNTS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the development fund as is not, in the judgment of the Secretary of the Interior, required to meet current needs of the development fund.

"(B) PERMITTED INVESTMENTS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, including any provision requiring the consent or concurrence of any party, the investments referred to in subparagraph (A) shall include 1 or more of the following:

"(I) Any investments referred to in the Act of June 24, 1938 (25 U.S.C. 162a).

"(II) Investments in obligations of government corporations and government-sponsored entities whose charter statutes provide that their obligations are lawful investments for federally managed funds.

"(III) The obligations referred to in section 201 of the Social Security Act (42 U.S.C. 401).

"(ii) LAWFUL INVESTMENTS.—For purposes of clause (i), obligations of government corporations and government-sponsored entities whose charter statutes provide that their obligations are lawful investments for federally managed funds includes any of the following securities or securities with comparable language concerning the investment of federally managed funds:

"(I) Obligations of the United States Postal Service as authorized by section 2005 of title 39, United States Code.

"(II) Bonds and other obligations of the Tennessee Valley Authority as authorized by section 15d of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4).

"(III) Mortgages, obligations, or other securities of the Federal Home Loan Mortgage Corporation as authorized by section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452).

"(IV) Bonds, notes, or debentures of the Commodity Credit Corporation as authorized by section 4 of the Act of March 4, 1939 (15 U.S.C. 713a–4).

"(C) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under subparagraph (A), obligations may be acquired—

"(i) on original issue at the issue price; or

"(ii) by purchase of outstanding obligations at the market price.

"(D) SALE OF OBLIGATIONS.—Any obligation acquired by the development fund may be sold by the Secretary of the Treasury at the market price.

"(E) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the development fund shall be credited to and form a part of the development fund.

"(5) AMOUNTS NOT AVAILABLE FOR CERTAIN FEDERAL OBLIGATIONS.—None of the provisions of this section, including paragraphs (2)(A) and (3)(A), shall be construed to make any of the funds referred to in this section available for the fulfillment of any Federal obligation relating to the payment of OM&R charges if such obligation is undertaken pursuant to Public Law 95–328, Public Law 98–530, or any settlement agreement with the United States (or amendments thereto) approved by or pursuant to either of those acts.".

(b) LIMITATION.—Amounts made available under the amendment made by subsection (a)—

(1) shall be identified and retained in the Lower Colorado River Basin Development Fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543); and

(2) shall not be expended or withdrawn from that fund until the later of—

(A) the date on which the findings described in section 207(c) are published in the Federal Register; or

(B) January 1, 2010.

(c) TECHNICAL AMENDMENTS.—The Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) is amended—

(1) in section 403(g), by striking "clause (c)(2)" and inserting "subsection (c)(2)";

(2) by striking "clause" each other place it appears and inserting "paragraph";

(3) by striking "clauses" each place it appears and inserting "paragraphs"; and

(4) in section 403(e), by deleting the first word and inserting "Except as provided in subsection (f), revenues".

### SEC. 108. EFFECT.

Except for provisions relating to the allocation of Central Arizona Project water and the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.), nothing in this title affects—

(1) any treaty, law, or agreement governing the use of water from the Colorado River; or

(2) any rights to use Colorado River water existing on the date of enactment of this Act.

### SEC. 109. REPEAL.

Section 11(h) of the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988 (102 Stat. 2559) is repealed.

### SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to comply with—

(1) the 1994 biological opinion, including any funding transfers required by the opinion;

(2) the 1996 biological opinion, including any funding transfers required by the opinion; and

(3) any final biological opinion resulting from the 1999 biological opinion, including any funding transfers required by the opinion.

(b) CONSTRUCTION COSTS.—Amounts made available under subsection (a) shall be treated as Central Arizona Project construction costs.

(c) AGREEMENTS.—

(1) IN GENERAL.—Any amounts made available under subsection (a) may be used to carry out agreements to permanently fund long-term reasonable and prudent alternatives in accepted biological opinions relating to the Central Arizona Project.

(2) REQUIREMENTS.—To ensure that long-term environmental compliance may be met without further appropriations, an agreement under paragraph (1) shall include a provision requiring that the contractor manage the funds through interest-bearing investments.

### SEC. 111. REPEAL ON FAILURE OF ENFORCEABILITY DATE UNDER TITLE II.

(a) IN GENERAL.—Except as provided in subsection (b), if the Secretary does not publish a statement of findings under section 207(c) by December 31, 2007—

(1) this title is repealed effective January 1, 2008, and any action taken by the Secretary and any contract entered under any provision of this title shall be void; and

(2) any amounts appropriated under section 110 that remain unexpended shall immediately revert to the general fund of the Treasury.

(b) EXCEPTION.—No subcontract amendment executed by the Secretary under the notice of June 18, 2003 (67 Fed. Reg. 36578), shall be considered to be a contract entered into by the Secretary for purposes of subsection (a)(1).

## TITLE II—GILA RIVER INDIAN COMMUNITY WATER RIGHTS SETTLEMENT

### SEC. 201. SHORT TITLE.

This title may be cited as the "Gila River Indian Community Water Rights Settlement Act of 2004".

### SEC. 202. PURPOSES.

The purposes of this title are—

(1) to resolve permanently certain damage claims and all water rights claims among the United States on behalf of the Community, its members, and allottees, and the Community and its neighbors;

(2) to authorize, ratify, and confirm the Gila River agreement;

(3) to authorize and direct the Secretary to execute and perform all obligations of the Secretary under the Gila River agreement;

(4) to authorize the actions and appropriations necessary for the United States to meet obligations of the United States under the Gila River agreement and this title; and

(5) to authorize and direct the Secretary to execute the New Mexico Consumptive Use and Forbearance Agreement to allow the Secretary to exercise the rights authorized by subsections (d) and (f) of section 304 of the Colorado River Basin Project Act (43 U.S.C. 1524).

### SEC. 203. APPROVAL OF THE GILA RIVER INDIAN COMMUNITY WATER RIGHTS SETTLEMENT AGREEMENT.

(a) IN GENERAL.—Except to the extent that any provision of the Gila River agreement conflicts with any provision of this title, the Gila River agreement is authorized, ratified, and confirmed. To the extent amendments are executed to make the Gila River agreement consistent with this title, such amendments are also authorized, ratified, and confirmed.

(b) EXECUTION OF AGREEMENT.—To the extent that the Gila River agreement does not conflict with this title, the Secretary is directed to and shall execute the Gila River agreement, including all exhibits to the Gila River agreement requiring the signature of the Secretary and any amendments necessary to make the Gila River agreement consistent with this title, after the Community has executed the Gila River agreement and any such amendments.

(c) NATIONAL ENVIRONMENTAL POLICY ACT.—

(1) NO MAJOR FEDERAL ACTION.—Execution of the Gila River agreement by the Secretary under

*this section shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*(2) ENVIRONMENTAL COMPLIANCE ACTIVITIES.—The Secretary shall promptly carry out the environmental compliance activities necessary to implement the Gila River agreement, including activities under the National Environmental Policy Act of 1969 and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).*

*(3) LEAD AGENCY.—The Bureau of Reclamation shall be designated as the lead agency with respect to environmental compliance.*

*(d) REHABILITATION AND OPERATION, MAINTENANCE, AND REPLACEMENT OF CERTAIN WATER WORKS.—*

*(1) IN GENERAL.—In addition to any obligations of the Secretary with respect to the San Carlos Irrigation Project, including any operation or maintenance responsibility existing on the date of enactment of this Act, the Secretary shall—*

*(A) in accordance with exhibit 20.1 to the Gila River agreement, provide for the rehabilitation of the San Carlos Irrigation Project water diversion and delivery works with the funds provided for under section 403(f)(2) of the Colorado River Basin Project Act; and*

*(B) provide electric power for San Carlos Irrigation Project wells and irrigation pumps at the Secretary's direct cost of transmission, distribution, and administration, using the least expensive source of power available.*

*(2) JOINT CONTROL BOARD AGREEMENT.—*

*(A) IN GENERAL.—Except to the extent that it is in conflict with this title, the Secretary shall execute the joint control board agreement described in exhibit 20.1 to the Gila River agreement, including all exhibits to the joint control board agreement requiring the signature of the Secretary and any amendments necessary to the joint control board agreement consistent with this title.*

*(B) CONTROLS.—The joint control board agreement shall contain the following provisions, among others:*

*(i) The Secretary, acting through the Bureau of Indian Affairs, shall continue to be responsible for the operation and maintenance of Picacho Dam and Coolidge Dam and Reservoir, and for scheduling and delivering water to the Community and the District through the San Carlos Irrigation Project joint works.*

*(ii) The actions and decisions of the joint control board that pertain to construction and maintenance of those San Carlos Irrigation Project joint works that are the subject of the joint control board agreement shall be subject to the approval of the Secretary, acting through the Bureau of Indian Affairs within 30 days thereof, or sooner in emergency situations, which approval shall not be unreasonably withheld. Should a required decision of the Bureau of Indian Affairs not be received by the joint control board within 60 days following an action or decision of the joint control board, the joint control board action or decision shall be deemed to have been approved by the Secretary.*

*(3) REHABILITATION COSTS ALLOCABLE TO THE COMMUNITY.—The rehabilitation costs allocable to the Community under exhibit 20.1 to the Gila River agreement shall be paid from the funds available under paragraph (2)(C) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)).*

*(4) REHABILITATION COSTS NOT ALLOCABLE TO THE COMMUNITY.—*

*(A) IN GENERAL.—The rehabilitation costs not allocable to the Community under exhibit 20.1 to the Gila River agreement shall be provided from funds available under paragraph (2)(D)(iv) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)).*

*(B) SUPPLEMENTARY REPAYMENT CONTRACT.—Prior to the advance of any funds made available to the San Carlos Irrigation and Drainage District pursuant to the provisions of this Act, the Secretary shall execute a supplementary repayment contract with the San Carlos Irrigation and Drainage District in the form provided for in exhibit 20.1 to the Gila River agreement which shall, among other things, provide that—*

*(i) in accomplishing the work under the supplemental repayment contract, the San Carlos Irrigation and Drainage District may use locally accepted engineering standards and the labor and contracting authorities that are available to the District under State law;*

*(ii) up to 18,000 acre-feet annually of conserved water will be made available by the San Carlos Irrigation and Drainage District to the United States pursuant to the terms of exhibit 20.1 to the Gila River agreement; and*

*(iii) a portion of the San Carlos Irrigation and Drainage District's share of the rehabilitation costs specified in exhibit 20.1 to the Gila River agreement shall be nonreimbursable.*

*(5) LEAD AGENCY.—The Bureau of Reclamation shall be designated as the lead agency for oversight of the construction and rehabilitation of the San Carlos Irrigation Project authorized by this section.*

*(6) FINANCIAL RESPONSIBILITY.—Except as expressly provided by this section, nothing in this Act shall affect—*

*(A) any responsibility of the Secretary under the provisions of the Act of June 7, 1924 (commonly known as the "San Carlos Irrigation Project Act of 1924") (43 Stat. 475); or*

*(B) any other financial responsibility of the Secretary relating to operation and maintenance of the San Carlos Irrigation Project existing on the date of enactment of this Act.*

**SEC. 204. WATER RIGHTS.**

*(a) RIGHTS HELD IN TRUST; ALLOTTEES.—*

*(1) INTENT OF CONGRESS.—It is the intent of Congress to provide allottees with benefits that are equal to or that exceed the benefits that the allottees currently possess, taking into account—*

*(A) the potential risks, cost, and time delay associated with the litigation that will be resolved by the Gila River agreement;*

*(B) the availability of funding under title I for the rehabilitation of the San Carlos Irrigation Project and for other benefits;*

*(C) the availability of water from the CAP system and other sources after the enforceability date, which will supplement less secure existing water supplies; and*

*(D) the applicability of section 7 of the Act of February 8, 1887 (25 U.S.C. 381), and this title to protect the interests of allottees.*

*(2) HOLDING IN TRUST.—The water rights and resources described in the Gila River agreement shall be held in trust by the United States on behalf of the Community and the allottees as described in this section.*

*(3) ALLOTTED LAND.—As specified in and provided for under this Act—*

*(A) agricultural allottees, other than allottees with rights under the Globe Equity Decree, shall be entitled to a just and equitable allocation of water from the Community for irrigation purposes from the water resources described in the Gila River agreement;*

*(B) allotted land with rights under the Globe Equity Decree shall be entitled to receive—*

*(i) a similar quantity of water from the Community to the quantity historically delivered under the Globe Equity Decree; and*

*(ii) the benefit of the rehabilitation of the San Carlos Irrigation Project as provided in this Act, a more secure source of water, and other benefits under this Act;*

*(C) the water rights and resources and other benefits provided by this Act are a complete substitution of any rights that may have been held by, or any claims that may have been asserted by, the allottees before the date of enactment of this Act for land within the exterior boundaries of the Reservation;*

*(D) any entitlement to water of allottees for land located within the exterior boundaries of the Reservation shall be satisfied by the Community using the water resources described in subparagraph 4.1 in the Gila River agreement;*

*(E) before asserting any claim against the United States under section 1491(a) of title 28, United States Code, or under section 7 of the Act of February 8, 1887 (25 U.S.C. 381), an allottee shall first exhaust remedies available to the allottee under the Community's water code and Community law; and*

*(F) following exhaustion of remedies on claims relating to section 7 of the Act of February 8, 1887 (25 U.S.C. 381), a claimant may petition the Secretary for relief.*

*(4) ACTIONS, CLAIMS, AND LAWSUITS.—*

*(A) IN GENERAL.—Nothing in this Act authorizes any action, claim, or lawsuit by an allottee against any person, entity, corporation, or municipal corporation, under Federal, State, or other law.*

*(B) THE COMMUNITY AND THE UNITED STATES.—Except as provided in subparagraphs (E) and (F) of paragraph (3) and subsection (e)(2)(C), nothing in this Act either authorizes any action, claim, or lawsuit by an allottee against the Community or the United States under Federal, State, or other law, or alters available actions pursuant to section 1491(a) of title 28, of the United States Code, or section 381 of title 25, of the United States Code.*

*(b) REALLOCATION.—*

*(1) IN GENERAL.—In accordance with this title and the Gila River agreement, the Secretary shall reallocate and contract with the Community for the delivery in accordance with this section of—*

*(A) an annual entitlement to 18,600 acre-feet of CAP agricultural priority water in accordance with the agreement among the Secretary, the Community, and Roosevelt Water Conservation District dated August 7, 1992;*

*(B) an annual entitlement to 18,100 acre-feet of CAP Indian priority water, which was permanently relinquished by Harquahala Valley Irrigation District in accordance with Contract No. 3–0907–0930–09W0290 among the Central Arizona Water Conservation District, the Harquahala Valley Irrigation District, and the United States, and converted to CAP Indian priority water under the Fort McDowell Indian Community Water Rights Settlement Act of 1990 (104 Stat. 4480);*

*(C) on execution of an exchange and lease agreement among the Community, the United States, and Asarco, an annual entitlement of up to 17,000 acre-feet of CAP municipal and industrial priority water under the subcontract among the United States, the Central Arizona Water Conservation District, and Asarco, Subcontract No. 3–07–30–W0307, dated November 7, 1993; and*

*(D) as provided in section 104(a)(1)(A)(i), an annual entitlement to 102,000 acre-feet of CAP agricultural priority water acquired pursuant to the master agreement.*

*(2) SOLE AUTHORITY.—In accordance with this section, the Community shall have the sole authority, subject to the Secretary's approval pursuant to section 205(a)(2), to lease, distribute, exchange, or allocate the CAP water described in this subsection, except that this paragraph shall not impair the right of an allottee to lease land of the allottee together with the water rights appurtenant to the land. Nothing in this paragraph shall affect the validity of any lease or exchange ratified in section 205(c) or 205(d).*

*(c) WATER SERVICE CAPITAL CHARGES.—The Community shall not be responsible for water service capital charges for CAP water.*

*(d) ALLOCATION AND REPAYMENT.—For the purpose of determining the allocation and repayment of costs of any stages of the Central Arizona Project constructed after the date of enactment of this Act, the costs associated with the delivery of water described in subsection (b), whether that water is delivered for use by the Community or in accordance with any assignment, exchange, lease, option to lease, or other agreement for the temporary disposition of water entered into by the Community—*

*(1) shall be nonreimbursable; and*

*(2) shall be excluded from the repayment obligation of the Central Arizona Water Conservation District.*

*(e) APPLICATION OF PROVISIONS.—*

*(1) IN GENERAL.—The water rights recognized and confirmed to the Community and allottees by the Gila River agreement and this title shall be subject to section 7 of the Act of February 8, 1887 (25 U.S.C. 381).*

*(2) WATER CODE.—*

*(A) IN GENERAL.—Not later than 18 months after the enforceability date, the Community shall enact a water code, subject to any applicable provision of law (including subsection (a)(3)), that—*

*(i) manages, regulates, and controls the water resources on the Reservation;*

*(ii) governs all of the water rights that are held in trust by the United States; and*

*(iii) provides that, subject to approval of the Secretary—*

*(I) the Community shall manage, regulate, and control the water resources described in the Gila River agreement and allocate water to all water users on the Reservation pursuant to the water code;*

*(II) the Community shall establish conditions, limitations, and permit requirements relating to the storage, recovery, and use of the water resources described in the Gila River agreement;*

*(III) any allocation of water shall be from the pooled water resources described in the Gila River agreement;*

*(IV) charges for delivery of water for irrigation purposes to water users on the Reservation (including water users on allotted land) shall be assessed on a just and equitable basis without regard to the status of the Reservation land on which the water is used;*

*(V) there is a process by which any user of or applicant to use water for irrigation purposes (including water users on allotted land) may request that the Community provide water for irrigation use in accordance with this title;*

*(VI) there is a due process system for the consideration and determination by the Community of any request by any water user on the Reservation (including water users on allotted land), for an allocation of water, including a process for appeal and adjudication of denied or disputed distributions of water and for resolution of contested administrative decisions; and*

*(VII) there is a requirement that any allottee with a claim relating to the enforcement of rights of the allottee under the water code or relating to the amount of water allocated to land of the allottee must first exhaust remedies available to the allottee under Community law and the water code before initiating an action against the United States or petitioning the Secretary pursuant to subsection (a)(3)(F).*

*(B) APPROVAL.—Any provision of the water code and any amendments to the water code that affect the rights of the allottees shall be subject to the approval of the Secretary, and no such provision or amendment shall be valid until approved by the Secretary.*

*(C) INCLUSION OF REQUIREMENT IN WATER CODE.—The Community is authorized to and shall include in the water code the requirement in subparagraph (A)(VII) that any allottee with a claim relating to the enforcement of rights of the allottee under the water code or relating to the amount of water allocated to land of the allottee must first exhaust remedies available to the allottee under Community law and the water code before initiating an action against the United States.*

*(3) ADMINISTRATION.—The Secretary shall administer all rights to water granted or confirmed to the Community and allottees by the Gila River agreement and this Act until such date as the water code described in paragraph (2) has been enacted and approved by the Secretary, at which time the Community shall have authority, subject to the Secretary's authority under section 7 of the Act of February 8, 1887 (25 U.S.C. 381), to manage, regulate, and control the water resources described in the Gila River agreement, subject to paragraph (2), except that this paragraph shall not impair the right of an allottee to lease land of the allottee together with the water rights appurtenant to the land.*

### SEC. 205. COMMUNITY WATER DELIVERY CONTRACT AMENDMENTS.

*(a) IN GENERAL.—The Secretary shall amend the Community water delivery contract to provide, among other things, in accordance with the Gila River agreement, that—*

*(1) the contract shall be—*

*(A) for permanent service (as that term is used in section 5 of the Boulder Canyon Project Act (43 U.S.C. 617d)); and*

*(B) without limit as to term;*

*(2) the Community may, with the approval of the Secretary, including approval as to the Secretary's authority under section 7 of the Act of February 8, 1887 (25 U.S.C. 381)—*

*(A) enter into contracts or options to lease (for a term not to exceed 100 years) or contracts or options to exchange, Community CAP water within Maricopa, Pinal, Pima, La Paz, Yavapai, Gila, Graham, Greenlee, Santa Cruz, or Coconino Counties, Arizona, providing for the temporary delivery to others of any portion of the Community CAP water; and*

*(B) renegotiate any lease at any time during the term of the lease, so long as the term of the renegotiated lease does not exceed 100 years;*

*(3)(A) the Community, and not the United States, shall be entitled to all consideration due to the Community under any leases or options to lease and exchanges or options to exchange Community CAP water entered into by the Community; and*

*(B) the United States shall have no trust obligation or other obligation to monitor, administer, or account for—*

*(i) any funds received by the Community as consideration under any such leases or options to lease and exchanges or options to exchange; or*

*(ii) the expenditure of such funds;*

*(4)(A) all Community CAP water shall be delivered through the CAP system; and*

*(B) if the delivery capacity of the CAP system is significantly reduced or is anticipated to be significantly reduced for an extended period of time, the Community shall have the same CAP delivery rights as other CAP contractors and CAP subcontractors, if such CAP contractors or CAP subcontractors are allowed to take delivery of water other than through the CAP system;*

*(5) the Community may use Community CAP water on or off the Reservation for Community purposes;*

*(6) as authorized by subparagraph (A) of section 403(f)(2) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)) (as amended by section 107(a)) and to the extent that funds are available in the Lower Colorado River Basin Development Fund established by section 403 of that Act (43 U.S.C. 1543), the United States shall pay to the CAP operating agency the fixed OM&R charges associated with the delivery of Community CAP water, except for Community CAP water leased by others;*

*(7) the costs associated with the construction of the CAP system allocable to the Community—*

*(A) shall be nonreimbursable; and*

*(B) shall be excluded from any repayment obligation of the Community; and*

*(8) no CAP water service capital charges shall be due or payable for Community CAP water, whether CAP water is delivered for use by the Community or is delivered under any leases, options to lease, exchanges or options to exchange Community CAP water entered into by the Community.*

*(b) AMENDED AND RESTATED COMMUNITY WATER DELIVERY CONTRACT.—To the extent it is not in conflict with the provisions of this Act, the Amended and Restated Community CAP Water Delivery Contract set forth in exhibit 8.2 to the Gila River agreement is authorized, ratified, and confirmed, and the Secretary is directed to and shall execute the contract. To the extent amendments are executed to make the Amended and Restated Community CAP Water Delivery Contract consistent with this title, such amendments are also authorized, ratified, and confirmed.*

*(c) LEASES.—To the extent they are not in conflict with the provisions of this Act, the leases of Community CAP water by the Community to Phelps Dodge, and any of the Cities, attached as exhibits to the Gila River agreement, are authorized, ratified, and confirmed, and the Secretary is directed to and shall execute the leases. To the extent amendments are executed to make such leases consistent with this title, such amendments are also authorized, ratified, and confirmed.*

*(d) RECLAIMED WATER EXCHANGE AGREEMENT.—To the extent it is not in conflict with the provisions of this Act, the Reclaimed Water Exchange Agreement among the cities of Chandler and Mesa, Arizona, the Community, and the United States, attached as exhibit 18.1 to the Gila River agreement, is authorized, ratified, and confirmed, and the Secretary shall execute the agreement. To the extent amendments are executed to make the Reclaimed Water Exchange Agreement consistent with this title, such amendments are also authorized, ratified, and confirmed.*

*(e) PAYMENT OF CHARGES.—Neither the Community nor any recipient of Community CAP water through lease or exchange shall be obligated to pay water service capital charges or any other charges, payments, or fees for the CAP water, except as provided in the lease or exchange agreement.*

*(f) PROHIBITIONS.—*

*(1) USE OUTSIDE THE STATE.—None of the Community CAP water shall be leased, exchanged, forborne, or otherwise transferred in any way by the Community for use directly or indirectly outside the State.*

*(2) USE OFF RESERVATION.—Except as authorized by this section and subparagraph 4.7 of the Gila River agreement, no water made available to the Community under the Gila River agreement, the Globe Equity Decree, the Haggard Decree, or this title may be sold, leased, transferred, or used off the Reservation other than by exchange.*

*(3) AGREEMENTS WITH THE ARIZONA WATER BANKING AUTHORITY.—Nothing in this Act or the Gila River agreement limits the right of the Community to enter into any agreement with the Arizona Water Banking Authority, or any successor agency or entity, in accordance with State law.*

### SEC. 206. SATISFACTION OF CLAIMS.

*(a) IN GENERAL.—The benefits realized by the Community, Community members, and allottees under this title shall be in complete replacement of and substitution for, and full satisfaction of, all claims of the Community, Community members, and allottees for water rights, injury to*

water rights, injury to water quality and subsidence damage, except as set forth in the Gila River agreement, under Federal, State, or other law with respect to land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land.

(b) NO RECOGNITION OF WATER RIGHTS.—Notwithstanding subsection (a) and except as provided in section 204(a), nothing in this title has the effect of recognizing or establishing any right of a Community member or allottee to water on the Reservation.

**SEC. 207. WAIVER AND RELEASE OF CLAIMS.**

(a) IN GENERAL.—

(1) CLAIMS AGAINST THE STATE AND OTHERS.—

(A) CLAIMS FOR WATER RIGHTS AND INJURY TO WATER RIGHTS BY THE COMMUNITY AND THE UNITED STATES ON BEHALF OF THE COMMUNITY.—Except as provided in subparagraph 25.12 of the Gila River agreement, the Community, on behalf of the Community and Community members (but not members in their capacities as allottees), and the United States, on behalf of the Community and Community members (but not members in their capacities as allottees), as part of the performance of their obligations under the Gila River agreement, are authorized to execute a waiver and release of any claims against the State (or any agency or political subdivision of the State) or any other person; entity, corporation, or municipal corporation under Federal, State, or other law for—

(i)(I) past, present, and future claims for water rights for land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land arising from time immemorial and, thereafter, forever; and

(II) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Community and Community members, or their predecessors;

(ii)(I) past and present claims for injury to water rights for land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land arising from time immemorial through the enforceability date;

(II) past, present, and future claims for injury to water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Community and Community members, or their predecessors; and

(III) claims for injury to water rights arising after the enforceability date for land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land resulting from the off-Reservation diversion or use of water in a manner not in violation of the Gila River agreement or State law;

(iii) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Gila River agreement or the negotiation or enactment of titles I and II; and

(iv)(I) past and present claims for subsidence damage occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land, or fee land arising from time immemorial through the enforceability date; and

(II) claims for subsidence damage arising after the enforceability date occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land, or fee land resulting from the diversion of underground water in a manner not in violation of the Gila River agreement or State law.

(B) CLAIMS FOR WATER RIGHTS AND INJURY TO WATER RIGHTS BY THE UNITED STATES AS TRUSTEE FOR THE ALLOTTEES.—Except as provided in subparagraph 25.12 of the Gila River agreement, the United States, as trustee for the allottees, as part of the performance of its obligations under the Gila River agreement, is authorized to execute a waiver and release of any claims against the State (or any agency or political subdivision of the State) or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for—

(i)(I) past, present, and future claims for water rights for land within the exterior boundaries of the Reservation arising from time immemorial and, thereafter, forever; and

(II) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by allottees, or their predecessors;

(ii)(I) past and present claims for injury to water rights for land within the exterior boundaries of the Reservation arising from time immemorial through the enforceability date;

(II) past, present, and future claims for injury to water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by allottees or their predecessors; and

(III) claims for injury to water rights arising after the enforceability date for land within the exterior boundaries of the Reservation resulting from the off-Reservation diversion or use of water in a manner not in violation of the Gila River agreement or State law;

(iii) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Gila River agreement or the negotiation or enactment of titles I and II; and

(iv) past and present claims for subsidence damage occurring to land within the exterior boundaries of the Reservation arising from time immemorial through the enforceability date.

(C) CLAIMS FOR INJURY TO WATER QUALITY BY THE COMMUNITY.—Except as provided in subparagraph 25.12 of the Gila River agreement, the Community, on behalf of the Community and Community members (but not members in their capacities as allottees), as part of the performance of its obligations under the Gila River agreement, is authorized to execute a waiver and release of any claims, and to agree to waive its right to request the United States to bring any claims, against the State (or any agency or political subdivision of the State) or any other person, entity, corporation, or municipal corporation under Federal, State, or other law for—

(i) past and present claims for injury to water quality (other than claims arising out of the actions that resulted in the remediations described in exhibit 25.4.1.1 to the Gila River agreement), including claims for trespass, nuisance, and real property damage and claims under all current and future Federal, State, and other environmental laws and regulations, including claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Arizona Water Quality Assurance Revolving-Fund (Ariz. Rev. Stat. 49–281 et seq. as amended) arising from time immemorial through December 31, 2002, for land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land;

(ii) past, present, and future claims for injury to water quality (other than claims arising out of actions that resulted in the remediations described in exhibit 25.4.1.1 to the Gila River agreement), including claims for trespass, nuisance, and real property damage and claims under all current and future Federal, State, and other environmental laws and regulations, including claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Arizona Water Quality Assurance Revolving Fund (Ariz. Rev. Stat. 49–281 et seq.), arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Community and Community members, or their predecessors;

(iii) claims for injury to water quality (other than claims arising out of actions that resulted in the remediations described in exhibit 25.4.1.1 to the Gila River agreement) arising after December 31, 2002, including claims for trespass, nuisance, and real property damage and claims under all current and future Federal, State, and other environmental laws and regulations, including claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Arizona Water Quality Assurance Revolving Fund (Ariz. Rev. Stat. 49–9281 et seq.), that result from—

(I) the delivery of water to the Community;

(II) the off-Reservation diversion (other than pumping), or ownership or operation of structures for the off-Reservation diversion (other than pumping), of water;

(III) the off-Reservation pumping, or ownership or operation of structures for the off-Reservation pumping, of water in a manner not in violation of the Gila River agreement or of any applicable pumping limitations under State law;

(IV) the recharge, or ownership or operation of structures for the recharge, of water under a State permit; and

(V) the off-Reservation application of water to land for irrigation,

except that the waiver provided in this clause shall extend only to the State (or any agency or political subdivision of the State) or any other person, entity, or municipal or other corporation to the extent that the person, entity, or corporation is engaged in an activity specified in this clause.

(D) PAST AND PRESENT CLAIMS FOR INJURY TO WATER QUALITY BY THE UNITED STATES.—Except as provided in subparagraph 25.12 of the Gila River agreement and except for any claims arising out of the actions that resulted in the remediations described in exhibit 25.4.1.1 to the Gila River agreement, the United States, acting as trustee for the Community, Community members and allottees, and as part of the performance of its obligations under the Gila River agreement, to the extent consistent with this section, is authorized to execute a waiver and release of any claims arising from time immemorial through December 31, 2002, for injury to water quality where all of the following conditions are met:

(i) The claims are brought solely on behalf of the Community, members, or allottees.

(ii) The claims are brought against the State (or any agency or political subdivision of the State) or any person, entity, corporation, or municipal corporation.

(iii) The claims arise under Federal, State, or other law, including claims, if any, for trespass, nuisance, and real property damage, and claims, if any, under any current or future Federal, State, or other environmental laws or regulation, including under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or the Arizona Water Quality Assurance Revolving Fund (Ariz. Rev. Stat. 49–281 et seq.).

(iv) The claimed injury is to land, water, or natural resources located on trust land within the exterior boundaries of the Reservation or on off-Reservation trust land.

(E) FUTURE CLAIMS FOR INJURY TO WATER QUALITY BY THE UNITED STATES.—Except as provided in subparagraph 25.12 of the Gila River agreement and except for any claims arising out of the actions that resulted in the remediations described in exhibit 25.4.1.1 to the Gila River agreement, the United States, in its own right and as trustee for the Community, its members and allottees, as part of the performance of its obligations under the Gila River agreement, to the extent consistent with this section, is authorized to execute a waiver and release of the *following claims for injury or threat of injury to water quality arising after December 31, 2002, against the State (or any agency or political subdivision of the State) or any other person, entity, corporation, or municipal corporation under Federal, State, or other law:*

*(i) All common law claims for injury or threat of injury to water quality where the injury or threat of injury asserted is to the Community's, Community members' or allottees' interests in trust land, water, or natural resources located within the exterior boundaries of the Reservation or within off-Reservation trust lands caused by—*

*(I) the delivery of water to the Community;*

*(II) the off-Reservation diversion (other than pumping), or ownership or operation of structures for the off-Reservation diversion (other than pumping), of water;*

*(III) the off-Reservation pumping, or ownership or operation of structures for the off-Reservation pumping, of water in a manner not in violation of the Gila River agreement or of any applicable pumping limitations under State law;*

*(IV) the recharge, or ownership or operation of structures for the recharge, of water under a State permit; and*

*(V) the off-Reservation application of water to land for irrigation.*

*(ii) All natural resource damage claims for injury or threat of injury to water quality where the United States, through the Secretary of the Interior or other designated officials, would act on behalf of the Community, its members or allottees as a natural resource trustee pursuant to the National Contingency Plan, (as currently set forth in section 300.600(b)(2) of title 40, Code of Federal Regulations, or as it may hereafter be amended), and where the claim is based on injury to natural resources or threat of injury to natural resources within the exterior boundaries of the Reservation or off-Reservation trust lands, caused by—*

*(I) the delivery of water to the Community;*

*(II) the off-Reservation diversion (other than pumping), or ownership or operation of structures for the off-Reservation diversion (other than pumping), of water;*

*(III) the off-Reservation pumping, or ownership or operation of structures for the off-Reservation pumping, of water in a manner not in violation of the Gila River agreement or of any applicable pumping limitations under State law;*

*(IV) the recharge, or ownership or operation of structures for the recharge, of water under a State permit; and*

*(V) the off-Reservation application of water to land for irrigation.*

*(F) CLAIMS BY THE COMMUNITY AGAINST THE SALT RIVER PROJECT.—*

*(i) IN GENERAL.—Except as provided in subparagraph 25.12 of the Gila River agreement, to the extent consistent with this section, the Community, on behalf of the Community and Community members (but not members in their capacities as allottees), as part of the performance of its obligations under the Gila River agreement, is authorized to execute a waiver and release of claims against the Salt River Project (or its successors or assigns or its officers, governors, directors, employees, agents, or shareholders), where all of the following conditions are met:*

*(I) The claims are brought solely on behalf of the Community or its, members.*

*(II) The claims arise from the discharge, transportation, seepage, or other movement of water in, through, or from drains, canals, or other facilities or land in the Salt River Reservoir District to trust land located within the exterior boundaries of the Reservation.*

*(III) The claims arise from time immemorial through the enforceability date.*

*(IV) The claims assert a past or present injury to water rights, injury on the Reservation to water quality, or injury to trust property located within the exterior boundaries of the Reservation.*

*(ii) EFFECT OF WAIVER.—The waiver provided for in this subparagraph is effective as of December 31, 2002, and shall continue to preclude claims as they may arise until the enforceability date, or until such time as the Salt River Project alters its historical operations of the drains, canals, or other facilities within the Salt River Reservoir District in a manner that would cause significant harm to trust lands within the exterior boundaries of the Reservation, whichever occurs earlier.*

*(G) CLAIMS BY THE UNITED STATES AGAINST THE SALT RIVER PROJECT.—*

*(i) IN GENERAL.—Except as provided in subparagraph 25.12 of the Gila River agreement, to the extent consistent with this section, the United States, acting as trustee for the Community, Community members and allottees, and as part of the performance of its obligations under the Gila River agreement, is authorized to execute a waiver and release of claims against the Salt River Project (or its successors or assigns or its officers, governors, directors, employees, agents, or shareholders), where all of the following conditions are met:*

*(I) The claims are brought solely on behalf of the Community, members, or allottees.*

*(II) The claims arise from the discharge, transportation, seepage, or other movement of water in, through, or from drains, canals, or other facilities or land in the Salt River Reservoir District to trust land located within the exterior boundaries of the Reservation.*

*(III) The claims arise from time immemorial through the enforceability date.*

*(IV) The claims assert a past or present injury to water rights, injury on the Reservation to water quality, or injury to trust property located within the exterior boundaries of the Reservation.*

*(ii) EFFECT OF WAIVER.—The waiver provided for in this subsection is effective as of December 31, 2002, and shall continue to preclude claims as they may arise until the enforceability date, or until such time as the Salt River Project alters its historical operations of the drains, canals, or other facilities within the Salt River Reservoir District in a manner that would cause significant harm to trust lands within the exterior boundaries of the Reservation, whichever occurs earlier.*

*(H) UNITED STATES ENFORCEMENT AUTHORITY.—Except as provided in subparagraphs (D), (E), and (G), nothing in this Act or the Gila River agreement affects any right of the United States, or the State, to take any action, including environmental actions, under any laws (including regulations and the common law) relating to human health, safety, or the environment.*

*(2) CLAIMS FOR SUBSIDENCE BY THE COMMUNITY, ALLOTTEES, AND THE UNITED STATES ON BEHALF OF THE COMMUNITY AND ALLOTTEES.—In accordance with the subsidence remediation program under section 209, the Community, a Community member, or an allottee, and the United States, on behalf of the Community, a Community member, or an allottee, as part of the performance of obligations under the Gila River agreement, are authorized to execute a waiver and release of all claims against the State (or any agency or political subdivision of the State) or any other person, entity, corporation or municipal corporation under Federal, State, or other law for the damage claimed.*

*(3) CLAIMS AGAINST THE COMMUNITY.—*

*(A) IN GENERAL.—Except as provided in subparagraph 25.12 of the Gila River agreement, to the extent consistent with this Act, the United States, in all its capacities (except as trustee for an Indian tribe other than the Community), as part of the performance of obligations under the Gila River agreement, is authorized to execute a waiver and release of any and all claims against the Community, or any agency, official, or employee of the Community, under Federal, State, or any other law for—*

*(i) past and present claims for subsidence damage to trust land within the exterior boundaries of the Reservation, off-Reservation trust lands, and fee land arising from time immemorial through the enforceability date; and*

*(ii) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Gila River agreement or the negotiation or enactment of titles I and II.*

*(4) CLAIMS AGAINST THE UNITED STATES.—*

*(A) IN GENERAL.—Except as provided in subparagraph 25.12 of the Gila River agreement, the Community, on behalf of the Community and Community members (but not members in their capacities as allottees), as part of the performance of obligations under the Gila River agreement, is authorized to execute a waiver and release of any claim against the United States (or agencies, officials, or employees of the United States) under Federal, State, or other law for—*

*(i)(I) past, present, and future claims for water rights for land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land arising from time immemorial and, thereafter, forever; and*

*(II) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Community and Community members, or their predecessors;*

*(ii)(I) past and present claims for injury to water rights for land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land arising from time immemorial through the enforceability date;*

*(II) past, present, and future claims for injury to water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Community and Community members, or their predecessors; and*

*(III) claims for injury to water rights arising after the enforceability date for land within the exterior boundaries of the Reservation, off-Reservation trust land, or fee land resulting from the off-Reservation diversion or use of water in a manner not in violation of the Gila River agreement or applicable law;*

*(iii) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Gila River agreement or the negotiation or enactment of titles I and II;*

*(iv)(I) past and present claims for subsidence damage occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land, or fee land arising from time immemorial through the enforceability date; and*

*(II) claims for subsidence damage arising after the enforceability date occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land or fee land resulting from the diversion of underground water in a manner not in violation of the Gila River agreement or applicable law; and*

*(v) past and present claims for failure to protect, acquire, or develop water rights for or on behalf of the Community and Community members arising before December 31, 2002.*

*(B) EXHAUSTION OF REMEDIES.—To the extent that members in their capacity as allottees assert that this title impairs or alters their present or future claims to water or constitutes an injury to present or future water rights, the members shall be required to exhaust their remedies pursuant to the tribal water code prior to asserting claims against the United States.*

*(5) CLAIMS AGAINST CERTAIN PERSONS AND ENTITIES IN THE UPPER GILA VALLEY.—*

*(A) BY THE COMMUNITY AND THE UNITED STATES.—Except as provided in the UVD agreement, the Community, on behalf of the Community and Community members (but not members in their capacities as allottees), and the United States on behalf of the Community and Community members (but not members in their capacities as allottees), are authorized, as part of the performance of obligations under the UVD agreement, to execute a waiver and release of the following claims against the UV signatories and the UV Non-signatories (and the predecessors in interest of each) for—*

*(i)(I) past, present, and future claims for water rights for land within the exterior boundaries of the Reservation and the San Carlos Irrigation Project arising from time immemorial and, thereafter, forever; and*

*(II) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Community, Community members, or predecessors of the Community or Community members;*

*(ii)(I) past, present, and future claims for water rights for land within the exterior boundaries of the Reservation or the San Carlos Irrigation Project arising from time immemorial and, thereafter, forever;*

*(II) past, present, and future claims for injury to water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Community, Community members, or predecessors of Community members, for so long as and to the extent that any individual beneficiary of such waiver is acting in a manner that is consistent with and not in violation of or contrary to the terms, conditions, requirements, limitations, or other provisions of the UVD agreement;*

*(III) claims for injury to water rights arising after the enforceability date for land within the exterior boundaries of the Reservation and the San Carlos Irrigation Project, resulting from the diversion, pumping, or use of water in a manner that is consistent with and not in violation of or contrary to the terms, conditions, limitations, requirements, or provisions of the UVD agreement; and*

*(IV) claims for injury to water rights arising after the enforceability date for water rights transferred to the Project pursuant to section 211 resulting from the diversion, pumping or use of water in a manner that is consistent with and not in violation of or contrary to the terms, conditions, limitations, requirements, or provisions of the UVD agreement;*

*(iii)(I) past, present, and future claims arising out of or relating to the use of water rights appurtenant to New Mexico 381 acres, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and*

*(II) past, present, and future claims arising out of and relating to the use of water rights for New Mexico domestic purposes, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and*

*(iv) past, present, and future claims arising out of or relating to the negotiation or execution of the UVD agreement, or the negotiation or enactment of titles I and II.*

*(B) BY THE UNITED STATES ON BEHALF OF ALLOTTEES.—Except as provided in the UVD agreement, to the extent consistent with this section, the United States as trustee for the allottees, as part of the performance under the UVD agreement, is authorized to execute a waiver and release of the following claims under Federal, State, or other law against the UV signatories and the UV Non-signatories (and the predecessors in interest of each) for—*

*(i)(I) past, present, and future claims for water rights for land within the exterior boundaries of the Reservation arising from time immemorial, and thereafter, forever; and*

*(II) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of lands by allottees or their predecessors;*

*(ii)(I) past and present claims for injury to water rights for lands within the exterior boundaries of the Reservation arising from time immemorial, through the enforceability date, for so long as and to the extent that any individual beneficiary of such waiver is acting in a manner that is consistent with and not in violation of or contrary to the terms, conditions, requirements, limitations, or other provisions of the UVD agreement;*

*(II) past, present, and future claims for injury to water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of lands by allottees or their predecessors, for so long as and to the extent that any individual beneficiary of such waiver is acting in a manner that is consistent with and not in violation of or contrary to the terms, conditions, requirements, limitations, or other provisions of the UVD agreement; and*

*(III) claims for injury to water rights for land within the exterior boundaries of the Reservation arising after the enforceability date resulting from the diversion, pumping, or use of water in a manner that is consistent with and not in violation of or contrary to the terms, conditions, limitations, requirements, or provisions of the UVD agreement;*

*(iii)(I) past, present, and future claims arising out of or relating to the use of water rights appurtenant to New Mexico 381 acres, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), as supplemented, and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and*

*(II) past, present, and future claims arising out of or relating to the use of water rights for New Mexico domestic purposes, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), as supplemented, and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and*

*(iv) past, present, and future claims arising out of or relating to the negotiation or execution of the UVD agreement, or the negotiation or enactment of titles I and II.*

*(C) ADDITIONAL WAIVER OF CERTAIN CLAIMS BY THE UNITED STATES.—Except as provided in the UVD Agreement, the United States (to the extent the waiver and release authorized by this subparagraph is not duplicative of the waiver and release provided in subparagraph (B) and the extent the United States holds legal title to the water rights as described in article V or VI of the Globe Equity Decree on behalf of lands within the San Carlos Irrigation and Drainage District and the Miscellaneous Flow Lands) shall execute a waiver and release of the following claims under Federal, State or other law against the UV signatories and the UV Non-signatories (and the predecessors of each) for—*

*(i) past, present, and future claims for water rights for land within the San Carlos Irrigation and Drainage District and the Miscellaneous Flow Lands arising from time immemorial, and thereafter, forever;*

*(ii)(I) past and present claims for injury to water rights for land within the San Carlos Irrigation and Drainage District and the Miscellaneous Flow Lands arising from time immemorial through the enforceability date, for so long as and to the extent that any individual beneficiary of such waiver is acting in a manner that is consistent with and not in violation of or contrary to the terms, conditions, requirements, limitations, or other provisions of the UVD agreement;*

*(II) claims for injury to water rights arising after the enforceability date for land within the San Carlos Irrigation and Drainage District and the Miscellaneous Flow Lands resulting from the diversion, pumping, or use of water in a manner that is consistent with and not in violation of or contrary to the terms, conditions, limitations, requirements, or provisions of the UVD agreement;*

*(iii)(I) past, present, and future claims arising out of or relating to the use of water rights appurtenant to New Mexico 381 acres, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), as supplemented, and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and*

*(II) past, present, and future claims arising out of or relating to the use of water rights for New Mexico domestic purposes, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), as supplemented, and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and*

*(iv) past, present, and future claims arising out of or relating to the negotiation or execution of the UVD agreement, or the negotiation or enactment of titles I and II.*

*(6) TRIBAL WATER QUALITY STANDARDS.—The Community, on behalf of the Community and Community members, as part of the performance of its obligations under the Gila River agreement, is authorized to agree never to adopt any water quality standards, or ask the United States to promulgate such standards, that are more stringent than water quality standards adopted by the State if the Community's adoption of such standards could result in the imposition by the State or the United States of more stringent water quality limitations or requirements than those that would otherwise be imposed by the State or the United States on—*

*(A) any water delivery system used to deliver water to the Community; or*

*(B) the discharge of water into any such system.*

*(b) EFFECTIVENESS OF WAIVER AND RELEASES.—*

*(1) IN GENERAL.—The waivers under paragraphs (1) and (3) through (5) of subsection (a) shall become effective on the enforceability date.*

*(2) CLAIMS FOR SUBSIDENCE DAMAGE.—The waiver under subsection (a)(2) shall become effective on execution of the waiver by—*

*(A) the Community, a Community member, or an allottee; and*

*(B) the United States, on behalf of the Community, a Community member, or an allottee.*

*(c) ENFORCEABILITY DATE.—*

*(1) IN GENERAL.—This section takes effect on the date on which the Secretary publishes in the Federal Register a statement of findings that—*

*(A) to the extent the Gila River agreement conflicts with this title, the Gila River agreement has been revised through an amendment to*

*eliminate the conflict and the Gila River agreement, so revised, has been executed by the Secretary and the Governor of the State;*

*(B) the Secretary has fulfilled the requirements of—*

*(i) paragraphs (1)(A)(i) and (2) of subsection (a) and subsections (b) and (d) of section 104; and*

*(ii) sections 204, 205, and 209(a);*

*(C) the master agreement authorized, ratified, and confirmed by section 106(a) has been executed by the parties to the master agreement, and all conditions to the enforceability of the master agreement have been satisfied;*

*(D) $53,000,000 has been identified and retained in the Lower Colorado River Basin Development Fund for the benefit of the Community in accordance with section 107(b);*

*(E) the State has appropriated and paid to the Community any amount to be paid under paragraph 27.4 of the Gila River agreement;*

*(F) the Salt River Project has paid to the Community $500,000 under subparagraph 16.9 of the Gila River agreement;*

*(G) the judgments and decrees attached to the Gila River agreement as exhibits 25.18A (Gila River adjudication proceedings) and 25.18B (Globe Equity Decree proceedings) have been approved by the respective courts;*

*(H) the dismissals attached to the Gila River agreement as exhibits 25.17.1A and B, 25.17.2, and 25.17.3A and B have been filed with the respective courts and any necessary dismissal orders entered;*

*(I) legislation has been enacted by the State to—*

*(i) implement the Southside Replenishment Program in accordance with subparagraph 5.3 of the Gila River agreement;*

*(ii) authorize the firming program required by section 105; and*

*(iii) establish the Upper Gila River Watershed Maintenance Program in accordance with subparagraph 26.8.1 of the Gila River agreement;*

*(J) the State has entered into an agreement with the Secretary to carry out the obligation of the State under section 105(b)(2)(A); and*

*(K) a final judgment has been entered in Central Arizona Water Conservation District v. United States (No. CIV 95-625-TUC-WDB(EHC), No. CIV 95-1720PHX-EHC) (Consolidated Action) in accordance with the repayment stipulation.*

*(2) Failure of Enforceability Date to Occur.—If, because of the failure of the enforceability date to occur by December 31, 2007, this section does not become effective, the Community, Community members, and allottees, and the United States on behalf of the San Carlos Irrigation and Drainage District, the Community, Community members, and allottees, shall retain the right to assert past, present, and future water rights claims, claims for injury to water rights, claims for injury to water quality, and claims for subsidence damage as to all land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land.*

*(d) All Land Within Exterior Boundaries of the Reservation.—Notwithstanding section 2(42), for purposes of this section, section 206, and section 210(d)—*

*(1) the term "land within the exterior boundaries of the Reservation" includes—*

*(A) land within the Reservation created pursuant to the Act of February 28, 1859, and modified by the executive orders of August 31, 1876, June 14, 1879, May 5, 1882, November 15, 1883, July 31, 1911, June 2, 1913, August 27, 1914, and July 19, 1915; and*

*(B) land located in sections 16 and 36, T. 4 S., R. 4 E., Salt and Gila River Baseline and Meridian; and*

*(2) the term "off-Reservation" refers to land located outside the exterior boundaries of the Reservation (as defined in paragraph (1)).*

*(e) No Rights to Water.—Upon the occurrence of the enforceability date—*

*(1) all land held by the United States in trust for the Community, Community members, and allottees and all land held by the Community within the exterior boundaries of the Reservation shall have no rights to water other than those specifically granted to the Community and the United States for the Reservation pursuant to paragraph 4.0 of the Gila River agreement; and*

*(2) all water usage on land within the exterior boundaries of the Reservation, including the land located in sections 16 and 36, T. 4 S., R. 4 E., Salt and Gila River Baseline and Meridian, upon acquisition by the Community or the United States on behalf of the Community, shall be taken into account in determining compliance by the Community and the United States with the limitations on total diversions specified in subparagraph 4.2 of the Gila River agreement.*

### *SEC. 208. GILA RIVER INDIAN COMMUNITY WATER OM&R TRUST FUND.*

*(a) Establishment.—There is established in the Treasury of the United States a fund to be known as the "Gila River Indian Community Water OM&R Fund", to be managed and invested by the Secretary, consisting of $53,000,000, the amount made available for this purpose under paragraph (2)(B) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)).*

*(b) Management.—The Secretary shall manage the Water OM&R Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Community consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), hereafter referred to in this section as the "Trust Fund Reform Act".*

*(c) Investment of the Fund.—The Secretary shall invest amounts in the Fund in accordance with—*

*(1) the Act of April 1, 1880 (21 Stat. 70, chapter 41; 25 U.S.C. 161);*

*(2) the first section of the Act of June 24, 1938 (52 Stat. 1037, chapter 648; 25 U.S.C. 162a); and*

*(3) subsection (b).*

*(d) Expenditures and Withdrawals.—*

*(1) Tribal Management Plan.—*

*(A) In General.—The Community may withdraw all or part of the Water OM&R Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.*

*(B) Requirements.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Community only spend any funds, as provided in the Gila River agreement, to assist in paying operation, maintenance, and replacement costs associated with the delivery of CAP water for Community purposes.*

*(2) Enforcement.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that the monies withdrawn from the Water OM&R Fund are used in accordance with this Act.*

*(3) Liability.—If the Community exercises the right to withdraw monies from the Water OM&R Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.*

*(4) Expenditure Plan.—*

*(A) In General.—The Community shall submit to the Secretary for approval an expenditure plan for any portion of the funds made available under this section that the Community does not withdraw under this subsection.*

*(B) Description.—The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Community remaining in the Water OM&R Fund will be used.*

*(C) Approval.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act.*

*(5) Annual Report.—The Community shall submit to the Secretary an annual report that describes all expenditures from the Water OM&R Fund during the year covered by the report.*

*(e) No Distribution to Members.—No part of the principal of the Water OM&R Fund, or of the interest or income accruing on the principal, shall be distributed to any Community member on a per capita basis.*

*(f) Funds Not Available Until Enforceability Date.—Amounts in the Water OM&R Fund shall not be available for expenditure or withdrawal by the Community until the enforceability date, or until January 1, 2010, whichever is later.*

### *SEC. 209. SUBSIDENCE REMEDIATION PROGRAM.*

*(a) In General.—Subject to the availability of funds and consistent with the provisions of section 107(a), the Secretary shall establish a program under which the Bureau of Reclamation shall repair and remediate subsidence damage and related damage that occurs after the enforceability date.*

*(b) Damage.—Under the program, the Community, a Community member, or an allottee may submit to the Secretary a request for the repair or remediation of—*

*(1) subsidence damage; and*

*(2) damage to personal property caused by the settling of geologic strata or cracking in the earth's surface of any length or depth, which settling or cracking is caused by pumping of underground water.*

*(c) Repair or Remediation.—The Secretary shall perform the requested repair or remediation if—*

*(1) the Secretary determines that the Community has not exceeded its right to withdraw underground water under the Gila River agreement; and*

*(2) the Community, Community member, or allottee, and the Secretary as trustee for the Community, Community member, or allottee, execute a waiver and release of claim in the form specified in exhibit 25.9.1, 25.9.2, or 25.9.3 to the Gila River agreement, as applicable, to become effective on satisfactory completion of the requested repair or remediation, as determined under the Gila River agreement.*

*(d) Specific Subsidence Damage.—Subject to the availability of funds, the Secretary, acting through the Commissioner of Reclamation, shall repair, remediate, and rehabilitate the subsidence damage that has occurred to land before the enforceability date within the Reservation, as specified in exhibit 30.21 to the Gila River agreement.*

### *SEC. 210. AFTER-ACQUIRED TRUST LAND.*

*(a) Requirement of Act of Congress.—The Community may seek to have legal title to additional land in the State located outside the exterior boundaries of the Reservation taken into trust by the United States for the benefit of the Community pursuant only to an Act of Congress enacted after the date of enactment of this Act specifically authorizing the transfer for the benefit of the Community.*

*(b) Water Rights.—After-acquired trust land shall not include federally reserved rights to surface water or groundwater.*

*(c) Sense of Congress.—It is the sense of Congress that future Acts of Congress authorizing land to be taken into trust under subsection (a) should provide that such land will have only such water rights and water use privileges as would be consistent with State water law and State water management policy.*

*(d) Acceptance of Land in Trust Status.—*

*(1) IN GENERAL.—If the Community acquires legal fee title to land that is located within the exterior boundaries of the Reservation (as defined in section 207(d)), the Secretary shall accept the land in trust status for the benefit of the Community upon receipt by the Secretary of a submission from the Community that provides evidence that—*

*(A) the land meets the Department of the Interior's minimum environmental standards and requirements for real estate acquisitions set forth in 602 DM 2.6, or any similar successor standards or requirements for real estate acquisitions in effect on the date of the Community's submission; and*

*(B) the title to the land meets applicable Federal title standards in effect on the date of the Community's submission.*

*(2) RESERVATION STATUS.—Land taken or held in trust by the Secretary under paragraph (1) shall be deemed part of the Community's reservation.*

### **SEC. 211. REDUCTION OF WATER RIGHTS.**

*(a) REDUCTION OF TBI ELIGIBLE ACRES.—*

*(1) IN GENERAL.—Consistent with this title and as provided in the UVD agreement to assist in reducing the total water demand for irrigation use in the upper valley of the Gila River, the Secretary shall provide funds to the Gila Valley Irrigation District and the Franklin Irrigation District (hereafter in this section referred to as "the Districts") for the acquisition of UV decreed water rights and the extinguishment of those rights to decrease demands on the Gila River, or severance and transfer of those rights to the San Carlos Irrigation Project for the benefit of the Community and the San Carlos Irrigation and Drainage District in accordance with applicable law.*

*(2) ACQUISITIONS.—*

*(A) REQUIRED PHASE I ACQUISITION.—Not later than December 31 of the third calendar year that begins after the enforceability date (or December 31 of the first calendar year that begins after the payment provided by subparagraph (D)(iii), if later), the Districts shall acquire the UV decreed water rights appurtenant to 1,000 acres of land (other than special hot lands).*

*(B) REQUIRED PHASE II ACQUISITION.—Not later than December 31 of the sixth calendar year that begins after the enforceability date (or December 31 of the first calendar year that begins after the payment provided by subparagraph (D)(iii), if later), the Districts shall acquire the UV decreed water rights appurtenant to 1,000 acres of land (other than special hot lands). The reduction of TBI eligible acres under this subparagraph shall be in addition to that accomplished under subparagraph (A).*

*(C) ADDITIONAL ACQUISITION IN CASE OF SETTLEMENT.—If the San Carlos Apache Tribe reaches a comprehensive settlement that is approved by Congress and finally approved by all courts the approval of which is required, the Secretary shall offer to acquire for fair market value the UV decreed water rights associated with not less than 500 nor more than 3,000 TBI eligible acres of land (other than special hot lands).*

*(D) METHODS OF ACQUISITION FOR RIGHTS ACQUIRED PURSUANT TO SUBPARAGRAPHS (A) AND (B).—*

*(i) DETERMINATION OF VALUE.—*

*(I) APPRAISALS.—Not later than December 31 of the first calendar year that begins after the enforceability date in the case of the phase I acquisition, and not later than December 31 of the fourth calendar year that begins after the enforceability date in the case of the phase II acquisition, the Districts shall submit to the Secretary an appraisal of the average value of water rights appurtenant to 1,000 TBI eligible acres.*

*(II) REVIEW.—The Secretary shall review the appraisal submitted to ensure its consistency with the Uniform Appraisal Standards for Federal Land Acquisition and notify the Districts of the results of the review within 30 days of submission of the appraisal. In the event that the Secretary finds that the appraisal is not consistent with such standards, the Secretary shall so notify the Districts with a full explanation of the reasons for that finding. Within 60 days of being notified by the Secretary that the appraisal is not consistent with such Standards, the Districts shall resubmit an appraisal to the Secretary that is consistent with such standards. The Secretary shall review the resubmitted appraisal to ensure its consistency with nationally approved standards and notify the Districts of the results of the review within 30 days of resubmission.*

*(III) PETITION.—In the event that the Secretary finds that such resubmitted appraisal is not consistent with those Standards, either the Districts or the Secretary may petition a Federal court in the District of Arizona for a determination of whether the appraisal is consistent with nationally approved Standards. If such court finds the appraisal is so consistent, the value stated in the appraisal shall be final for all purposes. If such court finds the appraisal is not so consistent, the court shall determine the average value of water rights appurtenant to 1,000 TBI eligible acres.*

*(IV) NO OBJECTION.—If the Secretary does not object to an appraisal within the time periods provided in this clause (i), the value determined in the appraisal shall be final for all purposes.*

*(ii) APPRAISAL.—In determining the value of water rights pursuant to this paragraph, any court, the Districts, the Secretary, and any appraiser shall take into account the obligations the owner of the land (to which the rights are appurtenant) will have after acquisition for phreatophyle control as provided in the UVD agreement and to comply with environmental laws because of the acquisition and severance and transfer or extinguishment of the water rights.*

*(iii) PAYMENT.—No more than 30 days after the average value of water rights appurtenant to 1,000 acres of land has been determined in accordance with clauses (i) and (ii), the Secretary shall pay 125 percent of such values to the Districts.*

*(iv) REDUCTION OF ACREAGE.—No later than December 31 of the first calendar year that begins after each such payment, the Districts shall acquire the UV decreed water rights appurtenant to one thousand (1,000) acres of lands that would have been included in the calculation of TBI eligible acres (other than special hot lands), if the calculation of TBI eligible acres had been undertaken at the time of acquisition. To the extent possible, the Districts shall select the rights to be acquired in compliance with subsection 5.3.7 of the UVD agreement.*

*(3) REDUCTION OF TBI ELIGIBLE ACRES.—Simultaneously with the acquisition of UV decreed water rights under paragraph (2), the number of TBI eligible acres, but not the number of acres of UV subjugated land, shall be reduced by the number of acres associated with those UV decreed water rights.*

*(4) ALTERNATIVES TO ACQUISITION.—*

*(A) SPECIAL HOT LANDS.—After the payments provided by paragraph (2)(D)(iii), the Districts may fulfill the requirements of paragraphs (2) and (3) in full or in part, by entering into an agreement with an owner of special hot lands to prohibit permanently future irrigation of the special hot lands if the UVD settling parties simultaneously—*

*(i) acquire UV decreed water rights associated with a like number of UV decreed acres that are not TBI eligible acres; and*

*(ii) sever and transfer those rights to the San Carlos Irrigation Project for the benefit of the Community and the San Carlos Irrigation and Drainage District.*

*(B) FALLOWING AGREEMENT.—After the payment provided by paragraph (2)(D)(iii), the Districts may fulfill the requirements of paragraphs (2) and (3) in full or in part, by entering into an agreement with 1 or more owners of UV decreed acres and the UV irrigation district in which the acres are located, if any, under which—*

*(i) the number of TBI eligible acres is reduced; but*

*(ii) the owner of the UV decreed acres subject to the reduction is permitted to periodically irrigate the UV decreed acres under a fallowing agreement authorized under the UVD agreement.*

*(5) DISPOSITION OF ACQUIRED WATER RIGHTS.—*

*(A) IN GENERAL.—Of the UV decreed water rights acquired by the Districts pursuant to subparagraphs (A) and (B) of paragraph (2), the Districts shall, in accordance with all applicable law and the UVD agreement—*

*(i) sever, and transfer to the San Carlos Irrigation Project for the benefit of the Community and the San Carlos Irrigation and Drainage District, the UV decreed water rights associated with up to 900 UV decreed acres; and*

*(ii) extinguish the balance of the UV decreed water rights so acquired (except and only to the extent that those rights are associated with a fallowing agreement authorized under paragraph (4)(B)).*

*(B) SAN CARLOS APACHE SETTLEMENT.—With respect to water rights acquired by the Secretary pursuant to paragraph (2)(C), the Secretary shall, in accordance with applicable law—*

*(i) cause to be severed and transferred to the San Carlos Irrigation Project, for the benefit of the Community and the San Carlos Irrigation and Drainage District, the UV decreed water rights associated with 200 UV decreed acres;*

*(ii) cause to be extinguished the UV decreed water rights associated with 300 UV decreed acres; and*

*(iii) cause to be transferred the balance of those acquired water rights to the San Carlos Apache Tribe pursuant to the terms of the settlement described in paragraph (2)(C).*

*(6) MITIGATION.—To the extent the Districts, after the payments provided by paragraph (2)(D)(iii), do not comply with the acquisition requirements of paragraph (2) or otherwise comply with the alternatives to acquisition provided by paragraph (4), the Districts shall provide mitigation to the San Carlos Irrigation Project as provided by the UVD agreement.*

*(b) ADDITIONAL REDUCTIONS.—*

*(1) COOPERATIVE PROGRAM.—In addition to the reduction of TBI eligible acres to be accomplished under subsection (a), not later than 1 year after the enforceability date, the Secretary and the UVD settling parties shall cooperatively establish a program to purchase and extinguish UV decreed water rights associated with UV decreed acres that have not been recently irrigated.*

*(2) FOCUS.—The primary focus of the program under paragraph (1) shall be to prevent any land that contains riparian habitat from being reclaimed for irrigation.*

*(3) FUNDS AND RESOURCES.—The program under this subsection shall not require any expenditure of funds, or commitment of resources, by the UVD signatories other than such incidental expenditures of funds and commitments of resources as are required to cooperatively participate in the program.*

### **SEC. 212. NEW MEXICO UNIT OF THE CENTRAL ARIZONA PROJECT.**

*(a) REQUIRED APPROVALS.—The Secretary shall not execute the Gila River agreement pursuant to section 203(b), and the agreement shall not become effective, unless and until the New Mexico Consumptive Use and Forbearance*

*Agreement has been executed by all signatory parties and approved by the State of New Mexico.*

*(b) NEW MEXICO CONSUMPTIVE USE AND FORBEARANCE AGREEMENT.—*

*(1) IN GENERAL.—Except to the extent a provision of the New Mexico Consumptive Use and Forbearance Agreement conflicts with a provision of this title, the New Mexico Consumptive Use and Forbearance Agreement is authorized, ratified, and confirmed. To the extent amendments are executed to make the New Mexico Consumptive Use and Forbearance Agreement consistent with this title, such amendments are also authorized, ratified, and confirmed.*

*(2) EXECUTION.—To the extent the New Mexico Consumptive Use and Forbearance Agreement does not conflict with this title, the Secretary shall execute the New Mexico Consumptive Use and Forbearance Agreement, including all exhibits to which the Secretary is a party to the New Mexico Consumptive Use and Forbearance Agreement and any amendments to the New Mexico Consumptive Use and Forbearance necessary to make it consistent with this title.*

*(c) NEW MEXICO UNIT AGREEMENT.—The Secretary is authorized to execute the New Mexico Unit Agreement, which agreement shall be executed within 1 year of receipt by the Secretary of written notice from the State of New Mexico that the State of New Mexico intends to build the New Mexico Unit, which notice must be received not later than December 31, 2014. The New Mexico Unit Agreement shall, among other things, provide that—*

*(1) all funds from the Lower Colorado River Basin Development Fund disbursed in accordance with section 403(f)(2)(D) (i) and (ii) of the Colorado River Basin Project Act (as amended by section 107(a)) shall be nonreimbursable (and such costs shall be excluded from the repayment obligation, if any, of the NM CAP entity under the New Mexico Unit Agreement);*

*(2) in determining payment for CAP water under the New Mexico Unit Agreement, the NM CAP entity shall be responsible only for its share of operations, maintenance, and replacement costs (and no capital costs attendant to other units or portions of the Central Arizona Project shall be charged to the NM CAP entity);*

*(3) upon request by the NM CAP entity, the Secretary shall transfer to the NM CAP entity the responsibility to design, build, or operate and maintain the New Mexico Unit, or all or any combination of those responsibilities, provided that the Secretary shall not transfer the authority to divert water pursuant to the New Mexico Consumptive Use and Forbearance Agreement, provided further that the Secretary, shall remain responsible to the parties to the New Mexico Consumptive Use and Forbearance Agreement for the NM CAP entity's compliance with the terms and conditions of that agreement;*

*(4) the Secretary shall divert water and otherwise exercise her rights and authorities pursuant to the New Mexico Consumptive Use and Forbearance Agreement solely for the benefit of the NM CAP entity and for no other purpose;*

*(5) the NM CAP entity shall own and hold title to all portions of the New Mexico Unit constructed pursuant to the New Mexico Unit Agreement; and*

*(6) the Secretary shall provide a waiver of sovereign immunity for the sole and exclusive purpose of resolving a dispute in Federal court of any claim, dispute, or disagreement arising under the New Mexico Unit Agreement.*

*(d) AMENDMENT TO SECTION 304.—Section 304(f) of the Colorado River Basin Project Act (43 U.S.C. 1524(f)) is amended—*

*(1) by striking paragraph (1) and inserting the following: "(1) In the operation of the Central Arizona Project, the Secretary shall offer to contract with water users in the State of New Mexico, with the approval of its Interstate Stream Commission, or with the State of New Mexico, through its Interstate Stream Commission, for water from the Gila River, its tributaries and underground water sources in amounts that will permit consumptive use of water in New Mexico of not to exceed an annual average in any period of 10 consecutive years of 14,000 acre-feet, including reservoir evaporation, over and above the consumptive uses provided for by article IV of the decree of the Supreme Court of the United States in Arizona v. California (376 U.S. 340). Such increased consumptive uses shall continue only so long as delivery of Colorado River water to downstream Gila River users in Arizona is being accomplished in accordance with this Act, in quantities sufficient to replace any diminution of their supply resulting from such diversion from the Gila River, its tributaries and underground water sources. In determining the amount required for this purpose, full consideration shall be given to any differences in the quality of the water involved.";*

*(2) by striking paragraph (2); and*

*(3) by redesignating paragraph (3) as paragraph (2).*

*(e) COST LIMITATION.—In determining payment for CAP water under the New Mexico Consumptive Use and Forbearance Agreement, the NM CAP entity shall be responsible only for its share of operations, maintenance, and repair costs. No capital costs attendant to other Units or portions of the Central Arizona Project shall be charged to the NM CAP entity.*

*(f) EXCLUSION OF COSTS.—For the purpose of determining the allocation and repayment of costs of the Central Arizona Project under the CAP Repayment Contract, the costs associated with the New Mexico Unit and the delivery of Central Arizona Project water pursuant to the New Mexico Consumptive Use and Forbearance Agreement shall be nonreimbursable, and such costs shall be excluded from the Central Arizona Water Conservation District's repayment obligation.*

*(g) NEW MEXICO UNIT CONSTRUCTION AND OPERATIONS.—The Secretary is authorized to design, build, and operate and maintain the New Mexico Unit. Upon request by the State of New Mexico, the Secretary shall transfer to the NM CAP entity responsibility to design, build, or operate and maintain the New Mexico Unit, or all or any combination of those functions.*

*(h) NATIONAL ENVIRONMENTAL POLICY ACT.—*

*(1) NO MAJOR FEDERAL ACTION.—Execution of the New Mexico Consumptive Use and Forbearance Agreement and of the New Mexico Unit Agreement shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*(2) ENVIRONMENTAL COMPLIANCE ACTIVITIES.—Upon execution of the New Mexico Unit Agreement, the Secretary shall promptly carry out the environmental compliance activities necessary to implement such agreement, including activities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).*

*(3) LEAD AGENCY.—The Bureau of Reclamation shall be designated as the lead agency with respect to environmental compliance. Upon request by the State of New Mexico to the Secretary, the State of New Mexico shall be designated as joint lead agency with respect to environmental compliance.*

*(i) NEW MEXICO UNIT FUND.—The Secretary shall deposit the amounts made available under paragraph (2)(D)(i) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)) into the New Mexico Unit Fund, a State of New Mexico Fund established and administered by the New Mexico Interstate Stream Commission. Withdrawals from the New Mexico Unit Fund shall be for the purpose of paying costs of the New Mexico Unit or other water utilization alternatives to meet water supply demands in the Southwest Water Planning Region of New Mexico, as determined by the New Mexico Interstate Stream Commission in consultation with the Southwest New Mexico Water Study Group or its successor, including costs associated with planning and environmental compliance activities and environmental mitigation and restoration.*

*(j) ADDITIONAL FUNDING FOR NEW MEXICO UNIT.—The Secretary shall pay for an additional portion of the costs of constructing the New Mexico Unit from funds made available under paragraph (2)(D)(ii) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)) on a construction schedule basis, up to a maximum amount under this subparagraph (j) of $34,000,000, as adjusted to reflect changes since January 1, 2004, in the construction cost indices applicable to the types of construction involved in construction of the New Mexico Unit, upon satisfaction of the conditions that—*

*(1) the State of New Mexico must provide notice to the Secretary in writing not later than December 31, 2014, that the State of New Mexico intends to have constructed or developed the New Mexico Unit; and*

*(2) the Secretary must have issued in the Federal Register not later than December 31, 2019, a Record of Decision approving the project based on an environmental analysis required pursuant to applicable Federal law and on a demonstration that construction of a project for the New Mexico Unit that would deliver an average annual safe yield, based on a 50-year planning period, greater than 10,000 acre feet per year, would not cost more per acre foot of water diverted than a project sized to produce an average annual safe yield of 10,000 acre feet per year. If New Mexico exercises all reasonable efforts to obtain the issuance of such Record of Decision, but the Secretary is not able to issue such Record of Decision by December 31, 2019, for reasons outside the control of the State of New Mexico, the Secretary may extend the deadline for a reasonable period of time, not to extend beyond December 31, 2030.*

*(k) RATE OF RETURN EXCEEDING 4 PERCENT.—If the rate of return on carryover funds held in the Lower Colorado Basin Development Fund on the date that construction of the New Mexico Unit is initiated exceeds an average effective annual rate of 4 percent for the period beginning on the date of enactment of this Act through the date of initiation of construction of the New Mexico Unit, the Secretary shall pay an additional portion of the costs of the construction costs associated with the New Mexico Unit, on a construction schedule basis, using funds made available under paragraph (2)(D)(ii) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)). The amount of such additional payments shall be equal to 25 percent of the total return on the carryover funds earned during the period in question that is in excess of a return on such funds at an annual average effective return of 4 percent, up to a maximum total of not more than $28,000,000, as adjusted to reflect changes since January 1, 2004, in the construction cost indices applicable to the types of construction involved in construction of the New Mexico Unit.*

*(l) DISCLAIMER.—Nothing in this Act shall affect, alter, or diminish rights to use of water of the Gila River within New Mexico, or the authority of the State of New Mexico to administer such rights for use within the State, as such rights are quantified by article IV of the decree of the United States Supreme Court in Arizona v. California (376 U.S. 340).*

*(m) PRIORITY OF OTHER EXCHANGES.—The Secretary shall not approve any exchange of Gila River water for water supplied by the CAP that would amend, alter, or conflict with the exchanges authorized by section 304(f) of the Colorado River Basin Project Act (43 U.S.C. 1524(f)).*

***SEC. 213. MISCELLANEOUS PROVISIONS.***

*(a) WAIVER OF SOVEREIGN IMMUNITY.—If any party to the Gila River agreement or signatory to an exhibit executed pursuant to section 203(b) or to the New Mexico Consumptive Use and Forbearance Agreement brings an action in any court of the United States or any State court relating only and directly to the interpretation or enforcement of this title or the Gila River agreement (including enforcement of any indemnity provisions contained in the Gila River agreement) or the New Mexico Consumptive Use and Forbearance Agreement, and names the United States or the Community as a party, or if any other landowner or water user in the Gila River basin in Arizona (except any party referred to in subparagraph 28.1.4 of the Gila River agreement) files a lawsuit relating only and directly to the interpretation or enforcement of subparagraph 6.2, subparagraph 6.3, paragraph 25, subparagraph 26.2, subparagraph 26.8, and subparagraph 28.1.3 of the Gila River agreement, naming the United States or the Community as a party—*

*(1) the United States, the Community, or both, may be joined in any such action; and*

*(2) any claim by the United States or the Community to sovereign immunity from the action is waived, but only for the limited and sole purpose of such interpretation or enforcement (including any indemnity provisions contained in the Gila River agreement).*

*(b) EFFECT OF ACT.—Nothing in this title quantifies or otherwise affects the water rights, or claims or entitlements to water, of any Indian tribe, band, or community, other than the Community.*

*(c) LIMITATION ON CLAIMS FOR REIMBURSEMENT.—The United States shall not make a claim for reimbursement of costs arising out of the implementation of this title or the Gila River agreement against any Indian-owned land within the Reservation, and no assessment shall be made in regard to those costs against that land.*

*(d) NO EFFECT ON FUTURE ALLOCATIONS.—Water received under a lease or exchange of Community CAP water under this title shall not affect any future allocation or reallocation of CAP water by the Secretary.*

*(e) COMMUNITY REPAYMENT CONTRACT.—To the extent it is not in conflict with this Act, the Secretary is directed to and shall execute Amendment No. 1 to the Community repayment contract, attached as exhibit 8.1 to the Gila River agreement, to provide, among other things, that the costs incurred under that contract shall be nonreimbursable by the Community. To the extent amendments are executed to make Amendment No. 1 consistent with this title, such amendments are also authorized, ratified, and confirmed.*

*(f) SALT RIVER PROJECT RIGHTS AND CONTRACTS.—*

*(1) IN GENERAL.—Subject to paragraph (2), the agreement between the United States and the Salt River Valley Water Users' Association dated September 6, 1917, as amended, and the rights of the Salt River Project to store water from the Salt River and Verde River at Roosevelt Dam, Horse Mesa Dam, Mormon Flat Dam, Stewart Mountain Dam, Horseshoe Dam, and Bartlett Dam and to deliver the stored water to shareholders of the Salt River Project and others for all beneficial uses and purposes recognized under State law and to the Community under the Gila River agreement, are authorized, ratified, and confirmed.*

*(2) PRIORITY DATE; QUANTIFICATION.—The priority date and quantification of rights described in paragraph (1) shall be determined in an appropriate proceeding in State court.*

*(3) CARE, OPERATION, AND MAINTENANCE.—The Salt River Project shall retain authority and responsibility existing on the date of enactment of this Act for decisions relating to the care, operation, and maintenance of the Salt River Project water delivery system, including the Salt River Project reservoirs on the Salt River and Verde River, vested in Salt River Project under the 1917 agreement, as amended, described in paragraph (1).*

*(g) UV IRRIGATION DISTRICTS.—*

*(1) IN GENERAL.—As partial consideration for obligations the UV irrigation districts shall be undertaking, the obligation to comply with the terms and conditions of term 5 of exhibit 2.30 (New Mexico Risk Allocation Terms) to the New Mexico Consumptive Use and Forbearance Agreement, the Gila Valley Irrigation District, in 2010, shall receive funds from the Secretary in an amount of $15,000,000 (adjusted to reflect changes since the date of enactment of this Act in the cost indices applicable to the type of design and construction involved in the design and construction of a pipeline at or upstream from the Ft. Thomas Diversion Dam to the lands farmed by the San Carlos Apache Tribe, together with canal connections upstream from the Ft. Thomas Diversion Dam and connection devices appropriate to introduce pumped water into the Pipeline).*

*(2) RESTRICTION.—The funds to be received by the Gila Valley Irrigation District shall be used solely for the purpose of developing programs or constructing facilities to assist with mitigating the risks and costs associated with compliance with the terms and conditions of term 5 of exhibit 2.30 (New Mexico Risk Allocation Terms) of the New Mexico Consumptive and Forbearance Agreement, and for no other purpose.*

*(h) LIMITATION ON LIABILITY OF UNITED STATES.—*

*(1) IN GENERAL.—The United States shall have no trust or other obligation—*

*(A) to monitor, administer, or account for, in any manner, any of the funds paid to the Community by any party to the Gila River agreement; or*

*(B) to review or approve the expenditure of those funds.*

*(2) INDEMNIFICATION.—The Community shall indemnify the United States, and hold the United States harmless, with respect to any and all claims (including claims for takings or breach of trust) arising out of the receipt or expenditure of funds described in paragraph (1)(A).*

*(i) BLUE RIDGE PROJECT TRANSFER AUTHORIZATION.—*

*(1) DEFINITIONS.—In this subsection:*

*(A) BLUE RIDGE PROJECT.—The term "Blue Ridge Project" means the water storage reservoir known as "Blue Ridge Reservoir" situated in Coconino and Gila Counties, Arizona, consisting generally of—*

*(i) Blue Ridge Dam and all pipelines, tunnels, buildings, hydroelectric generating facilities, and other structures of every kind, transmission, telephone and fiber optic lines, pumps, machinery, tools, and appliances; and*

*(ii) all real or personal property, appurtenant to or used, or constructed or otherwise acquired to be used, in connection with Blue Ridge Reservoir.*

*(B) SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT.—The term "Salt River Project Agricultural Improvement and Power District" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona.*

*(2) TRANSFER OF TITLE.—The United States, acting through the Secretary of the Interior, shall accept from the Salt River Project Agricultural Improvement and Power District the transfer of title to the Blue Ridge Project. The transfer of title to the Blue Ridge Project from the Salt River Project Agricultural Improvement and Power District to the United States shall be without cost to the United States. The transfer, change of use or change of place of use of any water rights associated with the Blue Ridge Project shall be made in accordance with Arizona law.*

*(3) USE AND BENEFIT OF SALT RIVER FEDERAL RECLAMATION PROJECT.—*

*(A) IN GENERAL.—Subject to subparagraph (B), the United States shall hold title to the Blue Ridge Project for the exclusive use and benefit of the Salt River Federal Reclamation Project.*

*(B) AVAILABILITY OF WATER.—Up to 3,500 acre-feet of water per year may be made available from Blue Ridge Reservoir for municipal and domestic uses in Northern Gila County, Arizona, without cost to the Salt River Federal Reclamation Project.*

*(4) TERMINATION OF JURISDICTION.—*

*(A) LICENSING AND REGULATORY AUTHORITY.—Upon the transfer of title of the Blue Ridge Project to the United States under paragraph (2), the Federal Energy Regulatory Commission shall have no further licensing and regulatory authority over Project Number 2304, the Blue Ridge Project, located within the State.*

*(B) ENVIRONMENTAL LAWS.—All other applicable Federal environmental laws shall continue to apply to the Blue Ridge Project, including the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*(5) CARE, OPERATION, AND MAINTENANCE.—Upon the transfer of title of the Blue Ridge Project to the United States under paragraph (2), the Salt River Valley Water Users' Association and the Salt River Project Agricultural Improvement and Power District shall be responsible for the care, operation, and maintenance of the project pursuant to the contract between the United States and the Salt River Valley Water Users' Association, dated September 6, 1917, as amended.*

*(6) C.C. CRAGIN DAM & RESERVOIR.—Upon the transfer of title of the Blue Ridge Project to the United States under paragraph (2), Blue Ridge Dam and Reservoir shall thereafter be known as the "C.C. Cragin Dam and Reservoir".*

*(j) EFFECT ON CURRENT LAW; JURISDICTION OF COURTS.—Nothing in this section—*

*(1) alters law in effect on the day before the date of enactment of this Act with respect to pre-enforcement review of Federal environmental enforcement actions; or*

*(2) confers jurisdiction on any State court to interpret subparagraphs (D), (E), and (G) of section 207(a)(1) where such jurisdiction does not otherwise exist.*

***SEC. 214. AUTHORIZATION OF APPROPRIATIONS.***

*(a) AUTHORIZATION OF APPROPRIATIONS.—*

*(1) REHABILITATION OF IRRIGATION WORKS.—*

*(A) IN GENERAL.—There is authorized to be appropriated $52,396,000, adjusted to reflect changes since January 1, 2000, under subparagraph (B) for the rehabilitation of irrigation works under section 203(d)(4).*

*(B) ADJUSTMENT.—The amount under subparagraph (A) shall be adjusted by such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indices applicable to the types of construction required by the rehabilitation.*

*(2) BUREAU OF RECLAMATION CONSTRUCTION OVERSIGHT.—There are authorized to be appropriated such sums as are necessary for the Bureau of Reclamation to undertake the oversight of the construction projects authorized under section 203.*

*(3) SUBSIDENCE REMEDIATION PROGRAM.—There are authorized to be appropriated such sums as are necessary to carry out the subsidence remediation program under section 209 (including such sums as are necessary, not to exceed $4,000,000, to carry out the subsidence remediation and repair required under section 209(d)).*

*(4) WATER RIGHTS REDUCTION.—There are authorized to be appropriated such sums as are necessary to carry out the water rights reduction program under section 211.*

*(5) SAFFORD FACILITY.—There are authorized to be appropriated such sums as are necessary to—*

*(A) retire $13,900,000, minus any amounts appropriated for this purpose, of the debt incurred by Safford to pay costs associated with the construction of the Safford facility as identified in exhibit 26.1 to the Gila River agreement; and*

*(B) pay the interest accrued on that amount.*

*(6) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated—*

*(A) such sums as are necessary to carry out—*

*(i) all necessary environmental compliance activities undertaken by the Secretary associated with the Gila River agreement and this title;*

*(ii) any mitigation measures adopted by the Secretary that are the responsibility of the Community associated with the construction of the diversion and delivery facilities of the water referred to in section 204 for use on the reservation; and*

*(iii) no more than 50 percent of the cost of any mitigation measures adopted by the Secretary that are the responsibility of the Community associated with the diversion or delivery of the water referred to in section 204 for use on the Reservation, other than any responsibility related to water delivered to any other person by lease or exchange; and*

*(B) to carry out the mitigation measures in the Roosevelt Habitat Conservation Plan, not more than $10,000,000.*

*(7) UV IRRIGATION DISTRICTS.—There are authorized to be appropriated such sums as are necessary to pay the Gila Valley Irrigation District an amount of $15,000,000 (adjusted to reflect changes since the date of enactment of the Arizona Water Settlements Act of 2004 in the cost indices applicable to the type of design and construction involved in the design and construction of a pipeline at or upstream from the Ft. Thomas Diversion Dam to the lands farmed by the San Carlos Apache Tribe, together with canal connections upstream from the Ft. Thomas Diversion Dam and connection devices appropriate to introduce pumped water into the Pipeline).*

*(b) IDENTIFIED COSTS.—*

*(1) IN GENERAL.—Amounts made available under subsection (a) shall be considered to be identified costs for purposes of paragraph (2)(D)(v)(I) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)).*

*(2) EXCEPTION.—Amounts made available under subsection (a)(4) to carry out section 211(b) shall not be considered to be identified costs for purposes of section 403(f)(2)(D)(v)(I) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)(D)(v)(I)) (as amended by section 107(a)).*

### *SEC. 215. REPEAL ON FAILURE OF ENFORCEABILITY DATE.*

*If the Secretary does not publish a statement of findings under section 207(c) by December 31, 2007—*

*(1) except for section 213(i), this title is repealed effective January 1, 2008, and any action taken by the Secretary and any contract entered under any provision of this title shall be void;*

*(2) any amounts appropriated under paragraphs (1) through (7) of section 214(a), together with any interest on those amounts, shall immediately revert to the general fund of the Treasury;*

*(3) any amounts made available under section 214(b) that remain unexpended shall immediately revert to the general fund of the Treasury; and*

*(4) any amounts paid by the Salt River Project in accordance with the Gila River agreement shall immediately be returned to the Salt River Project.*

## *TITLE III—SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT*

### *SEC. 301. SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT.*

*The Southern Arizona Water Rights Settlement Act of 1982 (96 Stat. 1274) is amended to read as follows:*

## *"TITLE III—SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT*

### *"SEC. 301. SHORT TITLE.*

*"This title may be cited as the 'Southern Arizona Water Rights Settlement Amendments Act of 2004'.*

### *"SEC. 302. PURPOSES.*

*"The purposes of this title are—*

*"(1) to authorize, ratify, and confirm the agreements referred to in section 309(h);*

*"(2) to authorize and direct the Secretary to execute and perform all obligations of the Secretary under those agreements; and*

*"(3) to authorize the actions and appropriations necessary for the United States to meet obligations of the United States under those agreements and this title.*

### *"SEC. 303. DEFINITIONS.*

*"In this title:*

*"(1) ACRE-FOOT.—The term 'acre-foot' means the quantity of water necessary to cover 1 acre of land to a depth of 1 foot.*

*"(2) AFTER-ACQUIRED TRUST LAND.—The term 'after-acquired trust land' means land that—*

*"(A) is located—*

*"(i) within the State; but*

*"(ii) outside the exterior boundaries of the Nation's Reservation; and*

*"(B) is taken into trust by the United States for the benefit of the Nation after the enforceability date.*

*"(3) AGREEMENT OF DECEMBER 11, 1980.—The term 'agreement of December 11, 1980' means the contract entered into by the United States and the Nation on December 11, 1980.*

*"(4) AGREEMENT OF OCTOBER 11, 1983.—The term 'agreement of October 11, 1983' means the contract entered into by the United States and the Nation on October 11, 1983.*

*"(5) ALLOTTEE.—The term 'allottee' means a person that holds a beneficial real property interest in an Indian allotment that is—*

*"(A) located within the Reservation; and*

*"(B) held in trust by the United States.*

*"(6) ALLOTTEE CLASS.—The term 'allottee class' means an applicable plaintiff class certified by the court of jurisdiction in—*

*"(A) the Alvarez case; or*

*"(B) the Tucson case.*

*"(7) ALVAREZ CASE.—The term 'Alvarez case' means the first through third causes of action of the third amended complaint in Alvarez v. City of Tucson (Civ. No. 93–09039 TUC FRZ (D. Ariz., filed April 21, 1993)).*

*"(8) APPLICABLE LAW.—The term 'applicable law'' means any applicable Federal, State, tribal, or local law.*

*"(9) ASARCO.—The term 'Asarco' means Asarco Incorporated, a New Jersey corporation of that name, and its subsidiaries operating mining operations in the State.*

*"(10) ASARCO AGREEMENT.—The term 'Asarco agreement' means the agreement by that name attached to the Tohono O'odham settlement agreement as exhibit 13.1.*

*"(11) CAP REPAYMENT CONTRACT.—*

*"(A) IN GENERAL.—The term 'CAP repayment contract' means the contract dated December 1, 1988 (Contract No. 14-0906-09W-09245, Amendment No. 1) between the United States and the Central Arizona Water Conservation District for the delivery of water and the repayment of costs of the Central Arizona Project.*

*"(B) INCLUSIONS.—The term 'CAP repayment contract' includes all amendments to and revisions of that contract.*

*"(12) CENTRAL ARIZONA PROJECT.—The term 'Central Arizona Project' means the reclamation project authorized and constructed by the United States in accordance with title III of the Colorado River Basin Project Act (43 U.S.C. 1521 et seq.).*

*"(13) CENTRAL ARIZONA PROJECT LINK PIPELINE.—The term 'Central Arizona Project link pipeline' means the pipeline extending from the Tucson Aqueduct of the Central Arizona Project to Station 293+36.*

*"(14) CENTRAL ARIZONA PROJECT SERVICE AREA.—The term 'Central Arizona Project service area' means—*

*"(A) the geographical area comprised of Maricopa, Pinal, and Pima Counties, Arizona, in which the Central Arizona Water Conservation District delivers Central Arizona Project water; and*

*"(B) any expansion of that area under applicable law.*

*"(15) CENTRAL ARIZONA WATER CONSERVATION DISTRICT.—The term 'Central Arizona Water Conservation District' means the political subdivision of the State that is the contractor under the CAP repayment contract.*

*"(16) COOPERATIVE FARM.—The term 'cooperative farm' means the farm on land served by an irrigation system and the extension of the irrigation system provided for under paragraphs (1) and (2) of section 304(c).*

*"(17) COOPERATIVE FUND.—The term 'cooperative fund' means the cooperative fund established by section 313 of the 1982 Act and reauthorized by section 310.*

*"(18) DELIVERY AND DISTRIBUTION SYSTEM.—*

*"(A) IN GENERAL.—The term 'delivery and distribution system' means—*

*"(i) the Central Arizona Project aqueduct;*

*"(ii) the Central Arizona Project link pipeline; and*

*"(iii) the pipelines, canals, aqueducts, conduits, and other necessary facilities for the delivery of water under the Central Arizona Project.*

*"(B) INCLUSIONS.—The term 'delivery and distribution system' includes pumping facilities, power plants, and electric power transmission facilities external to the boundaries of any farm to which the water is distributed.*

*"(19) EASTERN SCHUK TOAK DISTRICT.—The term 'eastern Schuk Toak District' means the portion of the Schuk Toak District (1 of 11 political subdivisions of the Nation established under the constitution of the Nation) that is located within the Tucson management area.*

*"(20) ENFORCEABILITY DATE.—The term 'enforceability date' means the date on which title III of the Arizona Water Settlements Act takes effect (as described in section 302(b) of the Arizona Water Settlements Act).*

*"(21) EXEMPT WELL.—The term 'exempt well' means a water well—*

*"(A) the maximum pumping capacity of which is not more than 35 gallons per minute; and*

*"(B) the water from which is used for—*

*"(i) the supply, service, or activities of households or private residences;*

*"(ii) landscaping;*

*"(iii) livestock watering; or*

*"(iv) the irrigation of not more than 2 acres of land for the production of 1 or more agricultural or other commodities for—*

"(I) sale;

"(II) human consumption; or

"(III) use as feed for livestock or poultry.

"(22) FEE OWNER OF ALLOTTED LAND.—The term 'fee owner of allotted land' means a person that holds fee simple title in real property on the Reservation that, at any time before the date on which the person acquired fee simple title, was held in trust by the United States as an Indian allotment.

"(23) FICO.—The term 'FICO' means collectively the Farmers Investment Co., an Arizona corporation of that name, and the Farmers Water Co., an Arizona corporation of that name.

"(24) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(25) INJURY TO WATER QUALITY.—The term 'injury to water quality' means any contamination, diminution, or deprivation of water quality under applicable law.

"(26) INJURY TO WATER RIGHTS.—

"(A) IN GENERAL.—The term 'injury to water rights' means an interference with, diminution of, or deprivation of water rights under applicable law.

"(B) INCLUSION.—The term 'injury to water rights' includes a change in the underground water table and any effect of such a change.

"(C) EXCLUSION.—The term 'injury to water rights' does not include subsidence damage or injury to water quality.

"(27) IRRIGATION SYSTEM.—

"(A) IN GENERAL.—The term 'irrigation system' means canals, laterals, ditches, sprinklers, bubblers, and other irrigation works used to distribute water within the boundaries of a farm.

"(B) INCLUSIONS.—The term 'irrigation system', with respect to the cooperative farm, includes activities, procedures, works, and devices for—

"(i) rehabilitation of fields;

"(ii) remediation of sinkholes, sinks, depressions, and fissures; and

"(iii) stabilization of the banks of the Santa Cruz River.

"(28) LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.—The term 'Lower Colorado River Basin Development Fund' means the fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543).

"(29) M&I PRIORITY WATER.—The term 'M&I priority water' means Central Arizona Project water that has municipal and industrial priority.

"(30) NATION.—The term 'Nation' means the Tohono O'odham Nation (formerly known as the Papago Tribe) organized under a constitution approved in accordance with section 16 of the Act of June 18, 1934 (25 U.S.C. 476).

"(31) NATION'S RESERVATION.—The term 'Nation's Reservation' means all land within the exterior boundaries of—

"(A) the Sells Tohono O'odham Reservation established by the Executive order of February 1, 1917, and the Act of February 21, 1931 (46 Stat. 1202, chapter 267);

"(B) the San Xavier Reservation established by the Executive order of July 1, 1874;

"(C) the Gila Bend Indian Reservation established by the Executive order of December 12, 1882, and modified by the Executive order of June 17, 1909;

"(D) the Florence Village established by Public Law 95-361 (92 Stat. 595);

"(E) all land acquired in accordance with the Gila Bend Indian Reservation Lands Replacement Act (100 Stat. 1798), if title to the land is held in trust by the Secretary for the benefit of the Nation; and

"(F) all other land to which the United States holds legal title in trust for the benefit of the Nation and that is added to the Nation's Reservation or granted reservation status in accordance with applicable Federal law before the enforceability date.

"(32) NET IRRIGABLE ACRES.—The term 'net irrigable acres' means, with respect to a farm, the acreage of the farm that is suitable for agriculture, as determined by the Nation and the Secretary.

"(33) NIA PRIORITY WATER.—The term 'NIA priority water' means Central Arizona Project water that has non-Indian agricultural priority.

"(34) SAN XAVIER ALLOTTEES ASSOCIATION.—The term 'San Xavier Allottees Association' means the nonprofit corporation established under State law for the purpose of representing and advocating the interests of allottees.

"(35) SAN XAVIER COOPERATIVE ASSOCIATION.—The term 'San Xavier Cooperative Association' means the entity chartered under the laws of the Nation (or a successor of that entity) that is a lessee of land within the cooperative farm.

"(36) SAN XAVIER DISTRICT.—The term 'San Xavier District' means the district of that name, 1 of 11 political subdivisions of the Nation established under the constitution of the Nation.

"(37) SAN XAVIER DISTRICT COUNCIL.—The term 'San Xavier District Council' means the governing body of the San Xavier District, as established under the constitution of the Nation.

"(38) SAN XAVIER RESERVATION.—The term 'San Xavier Reservation' means the San Xavier Indian Reservation established by the Executive order of July 1, 1874.

"(39) SCHUK TOAK FARM.—The term 'Schuk Toak Farm' means a farm constructed in the eastern Schuk Toak District served by the irrigation system provided for under section 304(c)(4).

"(40) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(41) STATE.—The term 'State' means the State of Arizona.

"(42) SUBJUGATE.—The term 'subjugate' means to prepare land for agricultural use through irrigation.

"(43) SUBSIDENCE DAMAGE.—The term 'subsidence damage' means injury to land, water, or other real property resulting from the settling of geologic strata or cracking in the surface of the earth of any length or depth, which settling or cracking is caused by the pumping of water.

"(44) SURFACE WATER.—The term 'surface water' means all water that is appropriable under State law.

"(45) TOHONO O'ODHAM SETTLEMENT AGREEMENT.—The term 'Tohono O'odham settlement agreement' means the agreement dated April 30, 2003 (including all exhibits of and attachments to the agreement).

"(46) TUCSON CASE.—The term 'Tucson case' means United States et al. v. City of Tucson, et al. (Civ. No. 75–0939 TUC consol. with Civ. No. 75–0951 TUC FRZ (D. Ariz., filed February 20, 1975)).

"(47) TUCSON INTERIM WATER LEASE.—The term 'Tucson interim water lease' means the lease, and any pre-2004 amendments and extensions of the lease, approved by the Secretary, between the city of Tucson, Arizona, and the Nation, dated October 24, 1992.

"(48) TUCSON MANAGEMENT AREA.—The term 'Tucson management area' means the area in the State comprised of—

"(A) the area—

"(i) designated as the Tucson Active Management Area under the Arizona Groundwater Management Act of 1980 (1980 Ariz. Sess. Laws 1); and

"(ii) subsequently divided into the Tucson Active Management Area and the Santa Cruz Active Management Area (1994 Ariz. Sess. Laws 296); and

"(B) the portion of the Upper Santa Cruz Basin that is not located within the area described in subparagraph (A)(i).

"(49) TURNOUT.—The term 'turnout' means a point of water delivery on the Central Arizona Project aqueduct.

"(50) UNDERGROUND STORAGE.—The term 'underground storage' means storage of water accomplished under a project authorized under section 308(e).

"(51) UNITED STATES AS TRUSTEE.—The term 'United States as Trustee' means the United States, acting on behalf of the Nation and allottees, but in no other capacity.

"(52) VALUE.—The term 'value' means the value attributed to water based on the greater of—

"(A) the anticipated or actual use of the water; or

"(B) the fair market value of the water.

"(53) WATER RIGHT.—The term 'water right' means any right in or to groundwater, surface water, or effluent under applicable law.

"(54) 1982 ACT.—The term '1982 Act' means the Southern Arizona Water Rights Settlement Act of 1982 (96 Stat. 1274; 106 Stat. 3256), as in effect on the day before the enforceability date.

### "SEC. 304. WATER DELIVERY AND CONSTRUCTION OBLIGATIONS.

"(a) WATER DELIVERY.—The Secretary shall deliver annually from the main project works of the Central Arizona Project, a total of 37,800 acre-feet of water suitable for agricultural use, of which—

"(1) 27,000 acre-feet shall—

"(A) be deliverable for use to the San Xavier Reservation; or

"(B) otherwise be used in accordance with section 309; and

"(2) 10,800 acre-feet shall—

"(A) be deliverable for use to the eastern Schuk Toak District; or

"(B) otherwise be used in accordance with section 309.

"(b) DELIVERY AND DISTRIBUTION SYSTEMS.—The Secretary shall (without cost to the Nation, any allottee, the San Xavier Cooperative Association, or the San Xavier Allottees Association), as part of the main project works of the Central Arizona Project, design, construct, operate, maintain, and replace the delivery and distribution systems necessary to deliver the water described in subsection (a).

"(c) DUTIES OF THE SECRETARY.—

"(1) COMPLETION OF DELIVERY AND DISTRIBUTION SYSTEM AND IMPROVEMENT TO EXISTING IRRIGATION SYSTEM.—Except as provided in subsection (d), not later than 8 years after the enforceability date, the Secretary shall complete the design and construction of improvements to the irrigation system that serves the cooperative farm.

"(2) EXTENSION OF EXISTING IRRIGATION SYSTEM WITHIN THE SAN XAVIER RESERVATION.—

"(A) IN GENERAL.—Except as provided in subsection (d), not later than 8 years after the enforceability date, in addition to the improvements described in paragraph (1), the Secretary shall complete the design and construction of the extension of the irrigation system for the cooperative farm.

"(B) CAPACITY.—On completion of the extension, the extended cooperative farm irrigation system shall serve 2,300 net irrigable acres on the San Xavier Reservation, unless the Secretary and the San Xavier Cooperative Association agree on fewer net irrigable acres.

"(3) CONSTRUCTION OF NEW FARM.—

"(A) IN GENERAL.—Except as provided in subsection (d), not later than 8 years after the enforceability date, the Secretary shall—

"(i) design and construct within the San Xavier Reservation such additional canals, laterals, farm ditches, and irrigation works as are necessary for the efficient distribution for agricultural purposes of that portion of the 27,000 acre-feet annually of water described in *subsection (a)(1) that is not required for the irrigation systems described in paragraphs (1) and (2) of subsection (c); or*

*"(ii) in lieu of the actions described in clause (i), pay to the San Xavier District $18,300,000 (adjusted as provided in section 317(a)(2)) in full satisfaction of the obligations of the United States described in clause (i).*

*"(B) ELECTION.—*

*"(i) IN GENERAL.—The San Xavier District Council may make a nonrevocable election whether to receive the benefits described under clause (i) or (ii) of subparagraph (A) by notifying the Secretary by not later than 180 days after the enforceability date or January 1, 2010, whichever is later, by written and certified resolution of the San Xavier District Council.*

*"(ii) NO RESOLUTION.—If the Secretary does not receive such a resolution by the deadline specified in clause (i), the Secretary shall pay $18,300,000 (adjusted as provided in section 317(a)(2)) to the San Xavier District in lieu of carrying out the obligations of the United States under subparagraph (A)(i).*

*"(C) SOURCE OF FUNDS AND TIME OF PAYMENT.—*

*"(i) IN GENERAL.—Payment of $18,300,000 (adjusted as provided in section 317(a)(2)) under this paragraph shall be made by the Secretary from the Lower Colorado River Basin Development Fund—*

*"(I) not later than 60 days after an election described in subparagraph (B) is made (if such an election is made), but in no event earlier than the enforceability date or January 1, 2010, whichever is later; or*

*"(II) not later than 240 days after the enforceability date or January 1, 2010, whichever is later, if no timely election is made.*

*"(ii) PAYMENT FOR ADDITIONAL STRUCTURES.—Payment of amounts necessary to design and construct such additional canals, laterals, farm ditches, and irrigation works as are described in subparagraph (A)(i) shall be made by the Secretary from the Lower Colorado River Basin Development Fund, if an election is made to receive the benefits under subparagraph (A)(i).*

*"(4) IRRIGATION AND DELIVERY AND DISTRIBUTION SYSTEMS IN THE EASTERN SCHUK TOAK DISTRICT.—Except as provided in subsection (d), not later than 1 year after the enforceability date, the Secretary shall complete the design and construction of an irrigation system and delivery and distribution system to serve the farm that is constructed in the eastern Schuk Toak District.*

*"(d) EXTENSION OF DEADLINES.—*

*"(1) IN GENERAL.—The Secretary may extend a deadline under subsection (c) if the Secretary determines that compliance with the deadline is impracticable by reason of—*

*"(A) a material breach by a contractor of a contract that is relevant to carrying out a project or activity described in subsection (c);*

*"(B) the inability of such a contractor, under such a contract, to carry out the contract by reason of force majeure, as defined by the Secretary in the contract;*

*"(C) unavoidable delay in compliance with applicable Federal and tribal laws, as determined by the Secretary, including—*

*"(i) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and*

*"(ii) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or*

*"(D) stoppage in work resulting from the assessment of a tax or fee that is alleged in any court of jurisdiction to be confiscatory or discriminatory.*

*"(2) NOTICE OF FINDING.—If the Secretary extends a deadline under paragraph (1), the Secretary shall—*

*"(A) publish a notice of the extension in the Federal Register; and*

*"(B)(i) include in the notice an estimate of such additional period of time as is necessary to complete the project or activity that is the subject of the extension; and*

*"(ii) specify a deadline that provides for a period for completion of the project before the end of the period described in clause (i).*

*"(e) AUTHORITY OF SECRETARY.—*

*"(1) IN GENERAL.—In carrying out this title, after providing reasonable notice to the Nation, the Secretary, in compliance with all applicable law, may enter, construct works on, and take such other actions as are related to the entry or construction on land within the San Xavier District and the eastern Schuk Toak District.*

*"(2) EFFECT ON FEDERAL ACTIVITY.—Nothing in this subsection affects the authority of the United States, or any Federal officer, agent, employee, or contractor, to conduct official Federal business or carry out any Federal duty (including any Federal business or duty under this title) on land within the eastern Schuk Toak District or the San Xavier District.*

*"(f) USE OF FUNDS.—*

*"(1) IN GENERAL.—With respect to any funds received under subsection (c)(3)(A), the San Xavier District—*

*"(A) shall hold the funds in trust, and invest the funds in interest-bearing deposits and securities, until expended;*

*"(B) may expend the principal of the funds, and any interest and dividends that accrue on the principal, only in accordance with a budget that is—*

*"(i) authorized by the San Xavier District Council; and*

*"(ii) approved by resolution of the Legislative Council of the Nation; and*

*"(C) shall expend the funds—*

*"(i) for any subjugation of land, development of water resources, or construction, operation, maintenance, or replacement of facilities within the San Xavier Reservation that is not required to be carried out by the United States under this title or any other provision of law;*

*"(ii) to provide governmental services, including—*

*"(I) programs for senior citizens;*

*"(II) health care services;*

*"(III) education;*

*"(IV) economic development loans and assistance; and*

*"(V) legal assistance programs;*

*"(iii) to provide benefits to allottees;*

*"(iv) to pay the costs of activities of the San Xavier Allottees Association; or*

*"(v) to pay any administrative costs incurred by the Nation or the San Xavier District in conjunction with any of the activities described in clauses (i) through (iv).*

*"(2) NO LIABILITY OF SECRETARY; LIMITATION.—*

*"(A) IN GENERAL.—The Secretary shall not—*

*"(i) be responsible for any review, approval, or audit of the use and expenditure of the funds described in paragraph (1); or*

*"(ii) be subject to liability for any claim or cause of action arising from the use or expenditure, by the Nation or the San Xavier District, of those funds.*

*"(B) LIMITATION.—No portion of any funds described in paragraph (f) shall be used for per capita payments to any individual member of the Nation or any allottee.*

***"SEC. 305. DELIVERIES UNDER EXISTING CONTRACT; ALTERNATIVE WATER SUPPLIES.***

*"(a) DELIVERY OF WATER.—*

*"(1) IN GENERAL.—The Secretary shall deliver water from the main project works of the Central Arizona Project, in such quantities, and in accordance with such terms and conditions, as are contained in the agreement of December 11, 1980, the 1982 Act, the agreement of October 11, 1983, and the Tohono O'odham settlement agreement (to the extent that the settlement agreement does not conflict with this Act), to 1 or more of—*

*"(A) the cooperative farm;*

*"(B) the eastern Schuk Toak District;*

*"(C) turnouts existing on the enforceability date; and*

*"(D) any other point of delivery on the Central Arizona Project main aqueduct that is agreed to by—*

*"(i) the Secretary;*

*"(ii) the operator of the Central Arizona Project; and*

*"(iii) the Nation.*

*"(2) DELIVERY.—The Secretary shall deliver the water covered by sections 304(a) and 306(a), or an equivalent quantity of water from a source identified under subsection (b)(1), notwithstanding—*

*"(A) any declaration by the Secretary of a water shortage on the Colorado River; or*

*"(B) any other occurrence affecting water delivery caused by an act or omission of—*

*"(i) the Secretary;*

*"(ii) the United States; or*

*"(iii) any officer, employee, contractor, or agent of the Secretary or United States.*

*"(b) ACQUISITION OF LAND AND WATER.—*

*"(1) DELIVERY.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), if the Secretary, under the terms and conditions of the agreements referred to in subsection (a)(1), is unable, during any year, to deliver annually from the main project works of the Central Arizona Project any portion of the quantity of water covered by sections 304(a) and 306(a), the Secretary shall identify, acquire and deliver an equivalent quantity of water from, any appropriate source.*

*"(B) EXCEPTION.—The Secretary shall not acquire any water under subparagraph (A) through any transaction that would cause depletion of groundwater supplies or aquifers in the San Xavier District or the eastern Schuk Toak District.*

*"(2) PRIVATE LAND AND INTERESTS.—*

*"(A) ACQUISITION.—*

*"(i) IN GENERAL.—Subject to subparagraph (B), the Secretary may acquire, for not more than market value, such private land, or interests in private land, that include rights in surface or groundwater recognized under State law, as are necessary for the acquisition and delivery of water under this subsection.*

*"(ii) COMPLIANCE.—In acquiring rights in surface water under clause (i), the Secretary shall comply with all applicable severance and transfer requirements under State law.*

*"(B) PROHIBITION ON TAKING.—The Secretary shall not acquire any land, water, water rights, or contract rights under subparagraph (A) without the consent of the owner of the land, water, water rights, or contract rights.*

*"(C) PRIORITY.—In acquiring any private land or interest in private land under this paragraph, the Secretary shall give priority to the acquisition of land on which water has been put to beneficial use during any 1-year period during the 5-year period preceding the date of acquisition of the land by the Secretary.*

*"(3) DELIVERIES FROM ACQUIRED LAND.—Deliveries of water from land acquired under paragraph (2) shall be made only to the extent that the water may be transported within the Tucson management area under applicable law.*

*"(4) DELIVERY OF EFFLUENT.—*

*"(A) IN GENERAL.—Except on receipt of prior written consent of the Nation, the Secretary shall not deliver effluent directly to the Nation under this subsection.*

*"(B) NO SEPARATE DELIVERY SYSTEM.—The Secretary shall not construct a separate delivery system to deliver effluent to the San Xavier Reservation or the eastern Schuk Toak District.*

*"(C) NO IMPOSITION OF OBLIGATION.—Nothing in this paragraph imposes any obligation on the United States to deliver effluent to the Nation.*

*"(c) AGREEMENTS AND CONTRACTS.—To facilitate the delivery of water to the San Xavier Reservation and the eastern Schuk Toak District under this title, the Secretary may enter into a contract or agreement with the State, an irrigation district or project, or entity—*

*"(1) for—*

*"(A) the exchange of water; or*

*"(B) the use of aqueducts, canals, conduits, and other facilities (including pumping plants) for water delivery; or*

*"(2) to use facilities constructed, in whole or in part, with Federal funds.*

*"(d) COMPENSATION AND DISBURSEMENTS.—*

*"(1) COMPENSATION.—If the Secretary is unable to acquire and deliver sufficient quantities of water under section 304(a), this section, or section 306(a), the Secretary shall provide compensation in accordance with paragraph (2) in amounts equal to—*

*"(A)(i) the value of such quantities of water as are not acquired and delivered, if the delivery and distribution system for, and the improvements to, the irrigation system for the cooperative farm have not been completed by the deadline required under section 304(c)(1); or*

*"(ii) the value of such quantities of water as—*

*"(I) are ordered by the Nation for use by the San Xavier Cooperative Association in the irrigation system; but*

*"(II) are not delivered in any calendar year;*

*"(B)(i) the value of such quantities of water as are not acquired and delivered, if the extension of the irrigation system is not completed by the deadline required under section 304(c)(2); or*

*"(ii) the value of such quantities of water as—*

*"(I) are ordered by the Nation for use by the San Xavier Cooperative Association in the extension to the irrigation system; but*

*"(II) are not delivered in any calendar year; and*

*"(C)(i) the value of such quantities of water as are not acquired and delivered, if the irrigation system is not completed by the deadline required under section 304(c)(4); or*

*"(ii) except as provided in clause (i), the value of such quantities of water as—*

*"(I) are ordered by the Nation for use in the irrigation system, or for use by any person or entity (other than the San Xavier Cooperative Association); but*

*"(II) are not delivered in any calendar year.*

*"(2) DISBURSEMENT.—Any compensation payable under paragraph (1) shall be disbursed—*

*"(A) with respect to compensation payable under subparagraphs (A) and (B) of paragraph (1), to the San Xavier Cooperative Association; and*

*"(B) with respect to compensation payable under paragraph (1)(C), to the Nation for retention by the Nation or disbursement to water users, under the provisions of the water code or other applicable laws of the Nation.*

*"(e) NO EFFECT ON WATER RIGHTS.—Nothing in this section authorizes the Secretary to acquire or otherwise affect the water rights of any Indian tribe.*

***"SEC. 306. ADDITIONAL WATER DELIVERY.***

*"(a) IN GENERAL.—In addition to the delivery of water described in section 304(a), the Secretary shall deliver annually from the main project works of the Central Arizona Project, a total of 28,200 acre-feet of NIA priority water suitable for agricultural use, of which—*

*"(1) 23,000 acre-feet shall—*

*"(A) be delivered to, and used by, the San Xavier Reservation; or*

*"(B) otherwise be used by the Nation in accordance with section 309; and*

*"(2) 5,200 acre-feet shall—*

*"(A) be delivered to, and used by, the eastern Schuk Toak District; or*

*"(B) otherwise be used by the Nation in accordance with section 309.*

*"(b) STATE CONTRIBUTION.—To assist the Secretary in firming water under section 105(b)(1)(A) of the Arizona Water Settlements Act, the State shall contribute $3,000,000—*

*"(1) in accordance with a schedule that is acceptable to the Secretary and the State; and*

*"(2) in the form of cash or in-kind goods and services.*

***"SEC. 307. CONDITIONS ON CONSTRUCTION, WATER DELIVERY, REVENUE SHARING.***

*"(a) CONDITIONS ON ACTIONS OF SECRETARY.—The Secretary shall carry out section 304(c), subsections (a), (b), and (d) of section 305, and section 306, only if—*

*"(1) the Nation agrees—*

*"(A) except as provided in section 308(f)(1), to limit the quantity of groundwater withdrawn by nonexempt wells from beneath the San Xavier Reservation to not more than 10,000 acre-feet;*

*"(B) except as provided in section 308(f)(2), to limit the quantity of groundwater withdrawn by nonexempt wells from beneath the eastern Schuk Toak District to not more than 3,200 acre-feet;*

*"(C) to comply with water management plans established by the Secretary under section 308(d);*

*"(D) to consent to the San Xavier District being deemed a tribal organization (as defined in section 900.6 of title 25, Code of Federal Regulations (or any successor regulations)) for purposes identified in subparagraph (E)(iii)(I), as permitted with respect to tribal organizations under title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);*

*"(E) subject to compliance by the Nation with other applicable provisions of part 900 of title 25, Code of Federal Regulations (or any successor regulations), to consent to contracting by the San Xavier District under section 311(b), on the conditions that—*

*"(i)(I) the plaintiffs in the Alvarez case and Tucson case have stipulated to the dismissal, with prejudice, of claims in those cases; and*

*"(II) those cases have been dismissed with prejudice;*

*"(ii) the San Xavier Cooperative Association has agreed to assume responsibility, after completion of each of the irrigation systems described in paragraphs (1), (2), and (3) of section 304(c) and on the delivery of water to those systems, for the operation, maintenance, and replacement of those systems in accordance with the first section of the Act of August 1, 1914 (25 U.S.C. 385); and*

*"(iii) with respect to the consent of the Nation to contracting—*

*"(I) the consent is limited solely to contracts for—*

*"(aa) the design and construction of the delivery and distribution system and the rehabilitation of the irrigation system for the cooperative farm;*

*"(bb) the extension of the irrigation system for the cooperative farm;*

*"(cc) the subjugation of land to be served by the extension of the irrigation system;*

*"(dd) the design and construction of storage facilities solely for water deliverable for use within the San Xavier Reservation; and*

*"(ee) the completion by the Secretary of a water resources study of the San Xavier Reservation and subsequent preparation of a water management plan under section 308(d);*

*"(II) the Nation shall reserve the right to seek retrocession or reassumption of contracts described in subclause (I), and recontracting under subpart P and other applicable provisions of part 900 of title 25, Code of Federal Regulations (or any successor regulations);*

*"(III) the Nation, on granting consent to such contracting, shall be released from any responsibility, liability, claim, or cost from and after the date on which consent is given, with respect to past action or inaction by the Nation, and subsequent action or inaction by the San Xavier District, relating to the design and construction of irrigation systems for the cooperative farm or the Central Arizona Project link pipeline; and*

*"(IV) the Secretary shall, on the request of the Nation, execute a waiver and release to carry out subclause (III);*

*"(F) to subjugate, at no cost to the United States, the land for which the irrigation systems under paragraphs (2) and (3) of section 304(c) will be planned, designed, and constructed by the Secretary, on the condition that—*

*"(i) the obligation of the Nation to subjugate the land in the cooperative farm that is to be served by the extension of the irrigation system under section 304(c)(2) shall be determined by the Secretary, in consultation with the Nation and the San Xavier Cooperative Association; and*

*"(ii) subject to approval by the Secretary of a contract with the San Xavier District executed under section 311, to perform that subjugation, a determination by the Secretary of the subjugation costs under clause (i), and the provision of notice by the San Xavier District to the Nation at least 180 days before the date on which the San Xavier District Council certifies by resolution that the subjugation is scheduled to commence, the Nation pays to the San Xavier District, not later than 90 days before the date on which the subjugation is scheduled to commence, from the trust fund under section 315, or from other sources of funds held by the Nation, the amount determined by the Secretary under clause (i); and*

*"(G) subject to business lease No. H54-16-72 dated April 26, 1972, of San Xavier Reservation land to Asarco and approved by the United States on Novermber 14, 1972, that the Nation—*

*"(i) shall allocate as a first right of beneficial use by allottees, the San Xavier District, and other persons within the San Xavier Reservation—*

*"(I) 35,000 acre-feet of the 50,000 acre-feet of water deliverable under sections 304(a)(1) and 306(a)(1), including the use of the allocation—*

*"(aa) to fulfill the obligations prescribed in the Asarco agreement; and*

*"(bb) for groundwater storage, maintenance of instream flows, and maintenance of riparian vegetation and habitat;*

*"(II) the 10,000 acre-feet of groundwater identified in subsection (a)(1)(A);*

*"(III) the groundwater withdrawn from exempt wells;*

*"(IV) the deferred pumping storage credits authorized by section 308(f)(1)(B); and*

*"(V) the storage credits resulting from a project authorized in section 308(e) that cannot be lawfully transferred or otherwise disposed of to persons for recovery outside the Nation's Reservation;*

*"(ii) subject to section 309(b)(2), has the right—*

*"(I) to use, or authorize other persons or entities to use, any portion of the allocation of 35,000 acre-feet of water deliverable under sections 304(a)(1) and 306(a)(1) outside the San Xavier Reservation for any period during which there is no identified actual use of the water within the San Xavier Reservation;*

*"(II) as a first right of use, to use the remaining acre-feet of water deliverable under sections 304(a)(1) and 306(a)(1) for any purpose and duration authorized by this title within or outside the Nation's Reservation; and*

*"(III) subject to section 308(e), as an exclusive right, to transfer or otherwise dispose of the storage credits that may be lawfully transferred*

*or otherwise disposed of to persons for recovery outside the Nation's Reservation;*

*‘‘(iii) shall issue permits to persons or entities for use of the water resources referred to in clause (i);*

*‘‘(iv) shall, on timely receipt of an order for water by a permittee under a permit for Central Arizona Project water referred to in clause (i), submit the order to—*

*‘‘(I) the Secretary; or*

*‘‘(II) the operating agency for the Central Arizona Project;*

*‘‘(v) shall issue permits for water deliverable under sections 304(a)(2) and 306(a)(2), including quantities of water reasonably necessary for the irrigation system referred to in section 304(c)(3);*

*‘‘(vi) shall issue permits for groundwater that may be withdrawn from nonexempt wells in the eastern Schuk Toak District; and*

*‘‘(vii) shall, on timely receipt of an order for water by a permittee under a permit for water referred to in clause (v), submit the order to—*

*‘‘(I) the Secretary; or*

*‘‘(II) the operating agency for the Central Arizona Project; and*

*‘‘(2) the Alvarez case and Tucson case have been dismissed with prejudice.*

*‘‘(b) RESPONSIBILITIES ON COMPLETION.—On completion of an irrigation system or extension of an irrigation system described in paragraph (1) or (2) of section 304(c), or in the case of the irrigation system described in section 304(c)(3), if such irrigation system is constructed on individual Indian trust allotments, neither the United States nor the Nation shall be responsible for the operation, maintenance, or replacement of the system.*

*‘‘(c) PAYMENT OF CHARGES.—The Nation shall not be responsible for payment of any water service capital charge for Central Arizona Project water delivered under section 304, subsection (a) or (b) of section 305, or section 306.*

### **“SEC. 308. WATER CODE; WATER MANAGEMENT PLAN; STORAGE PROJECTS; STORAGE ACCOUNTS; GROUNDWATER.**

*‘‘(a) WATER RESOURCES.—Water resources described in clauses (i) and (ii) of section 307(a)(1)(G)—*

*‘‘(1) shall be subject to section 7 of the Act of February 8, 1887 (25 U.S.C. 381); and*

*‘‘(2) shall be apportioned pursuant to clauses (i) and (ii) of section 307(a)(1)(G).*

*‘‘(b) WATER CODE.—Subject to this title and any other applicable law, the Nation shall—*

*‘‘(1) manage, regulate, and control the water resources of the Nation and the water resources granted or confirmed under this title;*

*‘‘(2) establish conditions, limitations, and permit requirements, and promulgate regulations, relating to the storage, recovery, and use of surface water and groundwater within the Nation's Reservation;*

*‘‘(3) enact and maintain—*

*‘‘(A) an interim allottee water rights code that—*

*‘‘(i) is consistent with subsection (a);*

*‘‘(ii) prescribes the rights of allottees identified in paragraph (4); and*

*‘‘(iii) provides that the interim allottee water rights code shall be incorporated in the comprehensive water code referred to in subparagraph (B); and*

*‘‘(B) not later than 3 years after the enforceability date, a comprehensive water code applicable to the water resources granted or confirmed under this title;*

*‘‘(4) include in each of the water codes enacted under subparagraphs (A) and (B) of paragraph (3)—*

*‘‘(A) an acknowledgement of the rights described in subsection (a);*

*‘‘(B) a process by which a just and equitable distribution of the water resources referred to in subsection (a), and any compensation provided under section 305(d), shall be provided to allottees;*

*‘‘(C) a process by which an allottee may request and receive a permit for the use of any water resources referred to in subsection (a), except the water resources referred to in section 307(a)(1)(G)(ii)(III) and subject to the Nation's first right of use under section 307(a)(1)(G)(ii)(II);*

*‘‘(D) provisions for the protection of due process, including—*

*‘‘(i) a fair procedure for consideration and determination of any request by—*

*‘‘(I) a member of the Nation, for a permit for use of available water resources granted or confirmed by this title; and*

*‘‘(II) an allottee, for a permit for use of—*

*‘‘(aa) the water resources identified in section 307(a)(1)(G)(i) that are subject to a first right of beneficial use; or*

*‘‘(bb) subject to the first right of use of the Nation, available water resources identified in section 307(a)(1)(G)(i)(II);*

*‘‘(ii) provisions for—*

*‘‘(I) appeals and adjudications of denied or disputed permits; and*

*‘‘(II) resolution of contested administrative decisions; and*

*‘‘(iii) a waiver by the Nation of the sovereign immunity of the Nation only with respect to proceedings described in clause (ii) for claims of declaratory and injunctive relief; and*

*‘‘(E) a process for satisfying any entitlement to the water resources referred to in section 307(a)(1)(G)(i) for which fee owners of allotted land have received final determinations under applicable law; and*

*‘‘(5) submit to the Secretary the comprehensive water code, for approval by the Secretary only of the provisions of the water code (and any amendments to the water code), that implement, with respect to the allottees, the standards described in paragraph (4).*

*‘‘(c) WATER CODE APPROVAL.—*

*‘‘(1) IN GENERAL.—On receipt of a comprehensive water code under subsection (b)(5), the Secretary shall—*

*‘‘(A) issue a written approval of the water code; or*

*‘‘(B) provide a written notification to the Nation that—*

*‘‘(i) identifies such provisions of the water code that do not conform to subsection (b) or other applicable Federal law; and*

*‘‘(ii) recommends specific corrective language for each nonconforming provision.*

*‘‘(2) REVISION BY NATION.—If the Secretary identifies nonconforming provisions in the water code under paragraph (1)(B)(i), the Nation shall revise the water code in accordance with the recommendations of the Secretary under paragraph (1)(B)(ii).*

*‘‘(3) INTERIM AUTHORITY.—Until such time as the Nation revises the water code of the Nation in accordance with paragraph (2) and the Secretary subsequently approves the water code, the Secretary may exercise any lawful authority of the Secretary under section 7 of the Act of February 8, 1887 (25 U.S.C. 381).*

*‘‘(4) LIMITATION.—Except as provided in this subsection, nothing in this title requires the approval of the Secretary of the water code of the Nation (or any amendment to that water code).*

*‘‘(d) WATER MANAGEMENT PLANS.—*

*‘‘(1) IN GENERAL.—The Secretary shall establish, for the San Xavier Reservation and the eastern Schuk Toak District, water management plans that meet the requirements described in paragraph (2).*

*‘‘(2) REQUIREMENTS.—Water management plans established under paragraph (1)—*

*‘‘(A) shall be developed under contracts executed under section 311 between the Secretary and the San Xavier District for the San XavierReservation, and between the Secretary and the Nation for the eastern Schuk Toak District, as applicable, that permit expenditures, exclusive of administrative expenses of the Secretary, of not more than—*

*‘‘(i) with respect to a contract between the Secretary and the San Xavier District, $891,200; and*

*‘‘(ii) with respect to a contract between the Secretary and the Nation, $237,200;*

*‘‘(B) shall, at a minimum—*

*‘‘(i) provide for the measurement of all groundwater withdrawals, including withdrawals from each well that is not an exempt well;*

*‘‘(ii) provide for—*

*‘‘(I) reasonable recordkeeping of water use, including the quantities of water stored underground and recovered each calendar year; and*

*‘‘(II) a system for the reporting of withdrawals from each well that is not an exempt well;*

*‘‘(iii) provide for the direct storage and deferred storage of water, including the implementation of underground storage and recovery projects, in accordance with this section;*

*‘‘(iv) provide for the annual exchange of information collected under clauses (i) through (iii)—*

*‘‘(I) between the Nation and the Arizona Department of Water Resources; and*

*‘‘(II) between the Nation and the city of Tucson, Arizona;*

*‘‘(v) provide for—*

*‘‘(I) the efficient use of water; and*

*‘‘(II) the prevention of waste;*

*‘‘(vi) except on approval of the district council for a district in which a direct storage project is established under subsection (e), provide that no direct storage credits earned as a result of the project shall be recovered at any location at which the recovery would adversely affect surface or groundwater supplies, or lower the water table at any location, within the district; and*

*‘‘(vii) provide for amendments to the water plan in accordance with this title;*

*‘‘(C) shall authorize the establishment and maintenance of 1 or more underground storage and recovery projects in accordance with subsection (e), as applicable, within—*

*‘‘(i) the San Xavier Reservation; or*

*‘‘(ii) the eastern Schuk Toak District; and*

*‘‘(D) shall be implemented and maintained by the Nation, with no obligation by the Secretary.*

*‘‘(e) UNDERGROUND STORAGE AND RECOVERY PROJECTS.—The Nation is authorized to establish direct storage and recovery projects in accordance with the Tohono O'odham settlement agreement. The Secretary shall have no responsibility to fund or otherwise administer such projects.*

*‘‘(f) GROUNDWATER.—*

*‘‘(1) SAN XAVIER RESERVATION.—*

*‘‘(A) IN GENERAL.—In accordance with section 307(a)(1)(A), 10,000 acre-feet of groundwater may be pumped annually within the San Xavier Reservation.*

*‘‘(B) DEFERRED PUMPING.—*

*‘‘(i) IN GENERAL.—Subject to clause (ii), all or any portion of the 10,000 acre-feet of water not pumped under subparagraph (A) in a year—*

*‘‘(I) may be withdrawn in a subsequent year; and*

*‘‘(II) if any of that water is withdrawn, shall be accounted for in accordance with the Tohono O'odham settlement agreement as a debit to the deferred pumping storage account.*

*‘‘(ii) LIMITATION.—The quantity of water authorized to be recovered as deferred pumping storage credits under this subparagraph shall not exceed—*

*‘‘(I) 50,000 acre-feet for any 10-year period; or*

*‘‘(II) 10,000 acre-feet in any year.*

*‘‘(C) RECOVERY OF ADDITIONAL WATER.—In addition to the quantity of groundwater authorized to be pumped under subparagraphs (A) and*

(B), the Nation may annually recover within the San Xavier Reservation all or a portion of the credits for water stored under a project described in subsection (e).

"(2) EASTERN SCHUK TOAK DISTRICT.—

"(A) IN GENERAL.—In accordance with section 307(a)(1)(B), 3,200 acre-feet of groundwater may be pumped annually within the eastern Schuk Toak District.

"(B) DEFERRED PUMPING.—

"(i) IN GENERAL.—Subject to clause (ii), all or any portion of the 3,200 acre-feet of water not pumped under subparagraph (A) in a year—

"(I) may be withdrawn in a subsequent year; and

"(II) if any of that water is withdrawn, shall be accounted for in accordance with the Tohono O'odham settlement agreement as a debit to the deferred pumping storage account.

"(ii) LIMITATION.—The quantity of water authorized to be recovered as deferred pumping storage credits under this subparagraph shall not exceed—

"(I) 16,000 acre-feet for any 10-year period; or

"(II) 3,200 acre-feet in any year.

"(C) RECOVERY OF ADDITIONAL WATER.—In addition to the quantity of groundwater authorized to be pumped under subparagraphs (A) and (B), the Nation may annually recover within the eastern Schuk Toak District all or a portion of the credits for water stored under a project described in subsection (e).

"(3) INABILITY TO RECOVER GROUNDWATER.—

"(A) IN GENERAL.—The authorizations to pump groundwater in paragraphs (1) and (2) neither warrant nor guarantee that the groundwater—

"(i) physically exists; or

"(ii) is recoverable.

"(B) CLAIMS.—With respect to groundwater described in subparagraph (A)—

"(i) subject to paragraph 8.8 of the Tohono O'odham settlement agreement, the inability of any person to pump or recover that groundwater shall not be the basis for any claim by the United States or the Nation against any person or entity withdrawing or using the water from any common supply; and

"(ii) the United States and the Nation shall be barred from asserting any and all claims for reserved water rights with respect to that groundwater.

"(g) EXEMPT WELLS.—Any groundwater pumped from an exempt well located within the San Xavier Reservation or the eastern Schuk Toak District shall be exempt from all pumping limitations under this title.

"(h) INABILITY OF SECRETARY TO DELIVER WATER.—The Nation is authorized to pump additional groundwater in any year in which the Secretary is unable to deliver water required to carry out sections 304(a) and 306(a) in accordance with the Tohono O'odham settlement agreement.

"(i) PAYMENT OF COMPENSATION.—Nothing in this section affects any obligation of the Secretary to pay compensation in accordance with section 305(d).

**"SEC. 309. USES OF WATER.**

"(a) PERMISSIBLE USES.—Subject to other provisions of this section and other applicable law, the Nation may devote all water supplies granted or confirmed under this title, whether delivered by the Secretary or pumped by the Nation, to any use (including any agricultural, municipal, domestic, industrial, commercial, mining, underground storage, instream flow, riparian habitat maintenance, or recreational use).

"(b) USE AREA.—

"(1) USE WITHIN NATION'S RESERVATION.—Subject to subsection (d), the Nation may use at any location within the Nation's Reservation—

"(A) the water supplies acquired under sections 304(a) and 306(a);

"(B) groundwater supplies; and

"(C) storage credits acquired as a result of projects authorized under section 308(e), or deferred storage credits described in section 308(f), except to the extent that use of those storage credits causes the withdrawal of groundwater in violation of applicable Federal law.

"(2) USE OUTSIDE THE NATION'S RESERVATION.—

"(A) IN GENERAL.—Water resources granted or confirmed under this title may be sold, leased, transferred, or used by the Nation outside of the Nation's Reservation only in accordance with this title.

"(B) USE WITHIN CERTAIN AREA.—Subject to subsection (c), the Nation may use the Central Arizona Project water supplies acquired under sections 304(a) and 306(a) within the Central Arizona Project service area.

"(C) STATE LAW.—With the exception of Central Arizona Project water and groundwater withdrawals under the Asarco agreement, the Nation may sell, lease, transfer, or use any water supplies and storage credits acquired as a result of a project authorized under section 308(e) at any location outside of the Nation's Reservation, but within the State, only in accordance with State law.

"(D) LIMITATION.—Deferred pumping storage credits provided for in section 308(f) shall not be sold, leased, transferred, or used outside the Nation's Reservation.

"(E) PROHIBITION ON USE OUTSIDE THE STATE.—No water acquired under section 304(a) or 306(a) shall be leased, exchanged, forborne, or otherwise transferred by the Nation for any direct or indirect use outside the State.

"(c) EXCHANGES AND LEASES; CONDITIONS ON EXCHANGES AND LEASES.—

"(1) IN GENERAL.—With respect to users outside the Nation's Reservation, the Nation may, for a term of not to exceed 100 years, assign, exchange, lease, provide an option to lease, or otherwise temporarily dispose of to the users, Central Arizona Project water to which the Nation is entitled under sections 304(a) and 306(a) or storage credits acquired under section 308(e), if the assignment, exchange, lease, option, or temporary disposal is carried out in accordance with—

"(A) this subsection; and

"(B) subsection (b)(2).

"(2) LIMITATION ON ALIENATION.—The Nation shall not permanently alienate any water right under paragraph (1).

"(3) AUTHORIZED USES.—The water described in paragraph (1) shall be delivered within the Central Arizona Project service area for any use authorized under applicable law.

"(4) CONTRACT.—An assignment, exchange, lease, option, or temporary disposal described in paragraph (1) shall be executed only in accordance with a contract that—

"(A) is accepted by the Nation;

"(B) is ratified under a resolution of the Legislative Council of the Nation;

"(C) is approved by the United States as Trustee; and

"(D) with respect to any contract to which the United States or the Secretary is a party, provides that an action may be maintained by the contracting party against the United States and the Secretary for a breach of the contract by the United States or Secretary, as appropriate.

"(5) TERMS EXCEEDING 25 YEARS.—The terms and conditions established in paragraph 11 of the Tohono O'odham settlement agreement shall apply to any contract under paragraph (4) that has a term of greater than 25 years.

"(d) LIMITATIONS ON USE, EXCHANGES, AND LEASES.—The rights of the Nation to use water supplies under subsection (a), and to assign, exchange, lease, provide options to lease, or temporarily dispose of the water supplies under subsection (c), shall be exercised on conditions that ensure the availability of water supplies to satisfy the first right of beneficial use under section 307(a)(1)(G)(i).

"(e) WATER SERVICE CAPITAL CHARGES.—In any transaction entered into by the Nation and another person under subsection (c) with respect to Central Arizona Project water of the Nation, the person shall not be obligated to pay to the United States or the Central Arizona Water Conservation District any water service capital charge.

"(f) WATER RIGHTS UNAFFECTED BY USE OR NONUSE.—The failure of the Nation to make use of water provided under this title, or the use of, or failure to make use of, that water by any other person that enters into a contract with the Nation under subsection (c) for the assignment, exchange, lease, option for lease, or temporary disposal of water, shall not diminish, reduce, or impair—

"(1) any water right of the Nation, as established under this title or any other applicable law; or

"(2) any water use right recognized under this title, including—

"(A) the first right of beneficial use referred to in section 307(a)(1)(G)(i); or

"(B) the allottee use rights referred to in section 308(a).

"(g) AMENDMENT TO AGREEMENT OF DECEMBER 11, 1980.—The Secretary shall amend the agreement of December 11, 1980, to provide that—

"(1) the contract shall be—

"(A) for permanent service (within the meaning of section 5 of the Boulder Canyon Project Act of 1928 (43 U.S.C. 617d)); and

"(B) without limit as to term;

"(2) the Nation may, with the approval of the Secretary—

"(A) in accordance with subsection (c), assign, exchange, lease, enter into an option to lease, or otherwise temporarily dispose of water to which the Nation is entitled under sections 304(a) and 306(a); and

"(B) renegotiate any lease at any time during the term of the lease if the term of the renegotiated lease does not exceed 100 years;

"(3)(A) the Nation shall be entitled to all consideration due to the Nation under any leases and any options to lease or exchanges or options to exchange the Nation's Central Arizona Project water entered into by the Nation; and

"(B) the United States shall have no trust obligation or other obligation to monitor, administer, or account for any consideration received by the Nation under those leases or options to lease and exchanges or options to exchange;

"(4)(A) all of the Nation's Central Arizona Project water shall be delivered through the Central Arizona Project aqueduct; and

"(B) if the delivery capacity of the Central Arizona Project aqueduct is significantly reduced or is anticipated to be significantly reduced for an extended period of time, the Nation shall have the same Central Arizona Project delivery rights as other Central Arizona Project contractors and Central Arizona Project subcontractors, if the Central Arizona Project contractors or Central Arizona Project subcontractors are allowed to take delivery of water other than through the Central Arizona Project aqueduct;

"(5) the Nation may use the Nation's Central Arizona Project water on or off of the Nation's Reservation for the purposes of the Nation consistent with this title;

"(6) as authorized by subparagraph (A) of section 403(f)(2) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)) (as amended by section 107(a)) and to the extent that funds are available in the Lower Colorado River Basin

Development Fund established by section 403 of that Act (43 U.S.C. 1543), the United States shall pay to the Central Arizona Project operating agency the fixed operation, maintenance, and replacement charges associated with the delivery of the Nation's Central Arizona Project water, except for the Nation's Central Arizona Project water leased by others;

"(7) the allocated costs associated with the construction of the delivery and distribution system—

"(A) shall be nonreimbursable; and

"(B) shall be excluded from any repayment obligation of the Nation;

"(8) no water service capital charges shall be due or payable for the Nation's Central Arizona Project water, regardless of whether the Central Arizona Project water is delivered for use by the Nation or is delivered pursuant to any leases or options to lease or exchanges or options to exchange the Nation's Central Arizona Project water entered into by the Nation;

"(9) the agreement of December 11, 1980, conforms with section 104(d) and section 306(a) of the Arizona Water Settlements Act; and

"(10) the amendments required by this subsection shall not apply to the 8,000 acre feet of Central Arizona Project water contracted by the Nation in the agreement of December 11, 1980, for the Sif Oidak District.

"(h) RATIFICATION OF AGREEMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, each agreement described in paragraph (2), to the extent that the agreement is not in conflict with this Act—

"(A) is authorized, ratified, and confirmed; and

"(B) shall be executed by the Secretary.

"(2) AGREEMENTS.—The agreements described in this paragraph are—

"(A) the Tohono O'odham settlement agreement, to the extent that—

"(i) the Tohono O'odham settlement agreement is consistent with this title; and

"(ii) parties to the Tohono O'odham settlement agreement other than the Secretary have executed that agreement;

"(B) the Tucson agreement (attached to the Tohono O'odham settlement agreement as exhibit 12.1); and

"(C)(i) the Asarco agreement (attached to the Tohono O'odham settlement agreement as exhibit 13.1 to the Tohono O'odham settlement agreement);

"(ii) lease No. H54-0916-0972, dated April 26, 1972, and approved by the United States on November 14, 1972; and

"(iii) any new well site lease as provided for in the Asarco agreement; and

"(D) the FICO agreement (attached to the Tohono O'odham settlement agreement as Exhibit 14.1).

"(3) RELATION TO OTHER LAW.—

"(A) IN GENERAL.—Execution of an agreement described in paragraph (2) shall not constitute major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) ENVIRONMENTAL COMPLIANCE ACTIVITIES.—The Secretary shall carry out all necessary environmental compliance activities during the implementation of the agreements described in paragraph (2), including activities under—

"(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(ii) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

"(C) LEAD AGENCY.—The Bureau of Reclamation shall be the lead agency with respect to environmental compliance under the agreements described in paragraph (2).

"(i) DISBURSEMENTS FROM TUCSON INTERIM WATER LEASE.—The Secretary shall disburse to the Nation, without condition, all proceeds from the Tucson interim water lease.

"(j) USE OF GROSS PROCEEDS.—

"(1) DEFINITION OF GROSS PROCEEDS.—In this subsection, the term 'gross proceeds' means all proceeds, without reduction, received by the Nation from—

"(A) the Tucson interim water lease;

"(B) the Asarco agreement; and

"(C) any agreement similar to the Asarco agreement to store Central Arizona Project water of the Nation, instead of pumping groundwater, for the purpose of protecting water of the Nation; provided, however, that gross proceeds shall not include proceeds from the transfer of Central Arizona Project water in excess of 20,000 acre feet annually pursuant to any agreement under this subparagraph or under the Asarco agreement referenced in subparagraph (B).

"(2) ENTITLEMENT.—The Nation shall be entitled to receive all gross proceeds.

"(k) STATUTORY CONSTRUCTION.—Nothing in this title establishes whether reserved water may be put to use, or sold for use, off any reservation to which reserved water rights attach.

**"SEC. 310. COOPERATIVE FUND.**

"(a) REAUTHORIZATION.—

"(1) IN GENERAL.—Congress reauthorizes, for use in carrying out this title, the cooperative fund established in the Treasury of the United States by section 313 of the 1982 Act.

"(2) AMOUNTS IN COOPERATIVE FUND.—The cooperative fund shall consist of—

"(A)(i) $5,250,000, as appropriated to the cooperative fund under section 313(b)(3)(A) of the 1982 Act; and

"(ii) such amount, not to exceed $32,000,000, as the Secretary determines, after providing notice to Congress, is necessary to carry out this title;

"(B) any additional Federal funds deposited to the cooperative fund under Federal law;

"(C) $5,250,000, as deposited in the cooperative fund under section 313(b)(1)(B) of the 1982 Act, of which—

"(i) $2,750,000 was contributed by the State;

"(ii) $1,500,000 was contributed by the city of Tucson; and

"(iii) $1,000,000 was contributed by—

"(I) the Anamax Mining Company;

"(II) the Cyprus-Pima Mining Company;

"(III) the American Smelting and Refining Company;

"(IV) the Duval Corporation; and

"(V) the Farmers Investment Company;

"(D) all interest accrued on all amounts in the cooperative fund beginning on October 12, 1982, less any interest expended under subsection (b)(2); and

"(E) all revenues received from—

"(i) the sale or lease of effluent received by the Secretary under the contract between the United States and the city of Tucson to provide for delivery of reclaimed water to the Secretary, dated October 11, 1983; and

"(ii) the sale or lease of storage credits derived from the storage of that effluent.

"(b) EXPENDITURES FROM FUND.—

"(1) IN GENERAL.—Subject to paragraph (2), upon request by the Secretary, the Secretary of the Treasury shall transfer from the cooperative fund to the Secretary such amounts as the Secretary determines are necessary to carry out obligations of the Secretary under this title, including to pay—

"(A) the variable costs relating to the delivery of water under sections 304 through 306;

"(B) fixed operation maintenance and replacement costs relating to the delivery of water under sections 304 through 306, to the extent that funds are not available from the Lower Colorado River Basin Development Fund to pay those costs;

"(C) the costs of acquisition and delivery of water from alternative sources under section 305; and

"(D) any compensation provided by the Secretary under section 305(d).

"(2) EXPENDITURE OF INTEREST.—Except as provided in paragraph (3), the Secretary may expend only interest income accruing to the cooperative fund, and that interest income may be expended by the Secretary, without further appropriation.

"(3) EXPENDITURE OF REVENUES.—Revenues described in subsection (a)(2)(E) shall be available for expenditure under paragraph (1).

"(c) INVESTMENT OF AMOUNTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the cooperative fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals determined by the Secretary. Investments may be made only in interest-bearing obligations of the United States.

"(2) CREDITS TO COOPERATIVE FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the cooperative fund shall be credited to and form a part of the cooperative fund.

"(d) TRANSFERS OF AMOUNTS.—

"(1) IN GENERAL.—The amounts required to be transferred to the cooperative fund under this section shall be transferred at least monthly from the general fund of the Treasury to the cooperative fund on the basis of estimates made by the Secretary of the Treasury.

"(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(e) DAMAGES.—Damages arising under this title or any contract for the delivery of water recognized by this title shall not exceed, in any given year, the amounts available for expenditure in that year from the cooperative fund.

**"SEC. 311. CONTRACTING AUTHORITY; WATER QUALITY; STUDIES; ARID LAND ASSISTANCE.**

"(a) FUNCTIONS OF SECRETARY.—Except as provided in subsection (f), the functions of the Secretary (or the Commissioner of Reclamation, acting on behalf of the Secretary) under this title shall be subject to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to the same extent as if those functions were carried out by the Assistant Secretary for Indian Affairs.

"(b) SAN XAVIER DISTRICT AS CONTRACTOR.—

"(1) IN GENERAL.—Subject to the consent of the Nation and other requirements under section 307(a)(1)(E), the San Xavier District shall be considered to be an eligible contractor for purposes of this title.

"(2) TECHNICAL ASSISTANCE.—The Secretary shall provide to the San Xavier District technical assistance in carrying out the contracting requirements under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(c) GROUNDWATER MONITORING PROGRAMS.—

"(1) SAN XAVIER INDIAN RESERVATION PROGRAM.—

"(A) IN GENERAL.—Not later than 180 days after the enforceability date, the Secretary shall develop and initiate a comprehensive groundwater monitoring program (including the drilling of wells and other appropriate actions) to test, assess, and provide for the long-term monitoring of the quality of groundwater withdrawn from exempt wells and other wells within the San Xavier Reservation.

"(B) LIMITATION ON EXPENDITURES.—In carrying out this paragraph, the Secretary shall expend not more than $215,000.

"(2) EASTERN SCHUK TOAK DISTRICT PROGRAM.—

*“(A) IN GENERAL.—Not later than 180 days after the enforceability date, the Secretary shall develop and initiate a comprehensive groundwater monitoring program (including the drilling of wells and other appropriate actions) to test, assess, and provide for the long-term monitoring of the quality of groundwater withdrawn from exempt wells and other wells within the eastern Schuk Toak District.*

*“(B) LIMITATION ON EXPENDITURES.—In carrying out this paragraph, the Secretary shall expend not more than $175,000.*

*“(3) DUTIES OF SECRETARY.—*

*“(A) CONSULTATION.—In carrying out paragraphs (1) and (2), the Secretary shall consult with representatives of—*

*“(i) the Nation;*

*“(ii) the San Xavier District and Schuk Toak District, respectively; and*

*“(iii) appropriate State and local entities.*

*“(B) LIMITATION ON OBLIGATIONS OF SECRETARY.—With respect to the groundwater monitoring programs described in paragraphs (1) and (2), the Secretary shall have no continuing obligation relating to those programs beyond the obligations described in those paragraphs.*

*“(d) WATER RESOURCES STUDY.—To assist the Nation in developing sources of water, the Secretary shall conduct a study to determine the availability and suitability of water resources that are located—*

*“(1) within the Nation's Reservation; but*

*“(2) outside the Tucson management area.*

*“(e) ARID LAND RENEWABLE RESOURCES.—If a Federal entity is established to provide financial assistance to carry out arid land renewable resources projects and to encourage and ensure investment in the development of domestic sources of arid land renewable resources, the entity shall—*

*“(1) give first priority to the needs of the Nation in providing that assistance; and*

*“(2) make available to the Nation, San Xavier District, Schuk Toak District, and San Xavier Cooperative Association price guarantees, loans, loan guarantees, purchase agreements, and joint venture projects at a level that the entity determines will—*

*“(A) facilitate the cultivation of such minimum number of acres as is determined by the entity to be necessary to ensure economically successful cultivation of arid land crops; and*

*“(B) contribute significantly to the economy of the Nation.*

*“(f) ASARCO LAND EXCHANGE STUDY.—*

*“(1) IN GENERAL.—Not later than 2 years after the enforceability date, the Secretary, in consultation with the Nation, the San Xavier District, the San Xavier Allottees' Association, and Asarco, shall conduct and submit to Congress a study on the feasibility of a land exchange or land exchanges with Asarco to provide land for future use by—*

*“(A) beneficial landowners of the Mission Complex Mining Leases of September 18, 1959; and*

*“(B) beneficial landowners of the Mission Complex Business Leases of May 12, 1959.*

*“(2) COMPONENTS.—The study under paragraph (1) shall include—*

*“(A) an analysis of the manner in which land exchanges could be accomplished to maintain a contiguous land base for the San Xavier Reservation; and*

*“(B) a description of the legal status exchanged land should have to maintain the political integrity of the San Xavier Reservation.*

*“(3) LIMITATION ON EXPENDITURES.—In carrying out this subsection, the Secretary shall expend not more than $250,000.*

***“SEC. 312. WAIVER AND RELEASE OF CLAIMS.***

*“(a) WAIVER OF CLAIMS BY THE NATION.—Except as provided in subsection (d), the Tohono O'odham settlement agreement shall provide that the Nation waives and releases—*

*“(1) any and all past, present, and future claims for water rights (including claims based on aboriginal occupancy) arising from time immemorial and, thereafter, forever, and claims for injuries to water rights arising from time immemorial through the enforceability date, for land within the Tucson management area, against—*

*“(A) the State (or any agency or political subdivision of the State);*

*“(B) any municipal corporation; and*

*“(C) any other person or entity;*

*“(2) any and all claims for water rights arising from time immemorial and, thereafter, forever, claims for injuries to water rights arising from time immemorial through the enforceability date, and claims for failure to protect, acquire, or develop water rights for land within the San Xavier Reservation and the eastern Schuk Toak District from time immemorial through the enforceability date, against the United States (including any agency, officer, and employee of the United States);*

*“(3) any and all claims for injury to water rights arising after the enforceability date for land within the San Xavier Reservation and the eastern Schuk Toak District resulting from the off-Reservation diversion or use of water in a manner not in violation of the Tohono O'odham settlement agreement or State law against—*

*“(A) the United States;*

*“(B) the State (or any agency or political subdivision of the State);*

*“(C) any municipal corporation; and*

*“(D) any other person or entity; and*

*“(4) any and all past, present, and future claims arising out of or relating to the negotiation or execution of the Tohono O'odham settlement agreement or the negotiation or enactment of this title, against—*

*“(A) the United States;*

*“(B) the State (or any agency or political subdivision of the State);*

*“(C) any municipal corporation; and*

*“(D) any other person or entity.*

*“(b) WAIVER OF CLAIMS BY THE ALLOTTEE CLASSES.—The Tohono O'odham settlement agreement shall provide that each allottee class waives and releases—*

*“(1) any and all past, present, and future claims for. water rights (including claims based on aboriginal occupancy) arising from time immemorial and, thereafter, forever, claims for injuries to water rights arising from time immemorial through the enforceability date for land within the San Xavier Reservation, against—*

*“(A) the State (or any agency or political subdivision of the State);*

*“(B) any municipal corporation; and*

*“(C) any other person or entity (other than the Nation);*

*“(2) any and all claims for water rights arising from time immemorial and, thereafter, forever, claims for injuries to water rights arising from time immemorial through the enforceability date, and claims for failure to protect, acquire, or develop water rights for land within the San Xavier Reservation from time immemorial through the enforceability date, against the United States (including any agency, officer, and employee of the United States);*

*“(3) any and all claims for injury to water rights arising after the enforceability date for land within the San Xavier Reservation resulting from the off-Reservation diversion or use of water in a manner not in violation of the Tohono O'odham settlement agreement or State law against—*

*“(A) the United States;*

*“(B) the State (or any agency or political subdivision of the State);*

*“(C) any municipal corporation; and*

*“(D) any other person or entity;*

*“(4) any and all past, present, and future claims arising out of or relating to the negotiation or execution of the Tohono O'odham settlement agreement or the negotiation or enactment of this title, against—*

*“(A) the United States;*

*“(B) the State (or any agency or political subdivision of the State);*

*“(C) any municipal corporation; and*

*“(D) any other person or entity; and*

*“(5) any and all past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, and claims for injuries to water rights arising from time immemorial through the enforceability date, against the Nation (except that under section 307(a)(1)(G) and subsections (a) and (b) of section 308, the allottees and fee owners of allotted land shall retain rights to share in the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement with respect to uses within the San Xavier Reservation).*

*“(c) WAIVER OF CLAIMS BY THE UNITED STATES.—Except as provided in subsection (d), the Tohono O'odham settlement agreement shall provide that the United States as Trustee waives and releases—*

*“(1) any and all past, present, and future claims for water rights (including claims based on aboriginal occupancy) arising from time immemorial and, thereafter, forever, and claims for injuries to water rights arising from time immemorial through the enforceability date, for land within the Tucson management area against—*

*“(A) the Nation;*

*“(B) the State (or any agency or political subdivision of the State);*

*“(C) any municipal corporation; and*

*“(D) any other person or entity;*

*“(2) any and all claims for injury to water rights arising after the enforceability date for land within the San Xavier Reservation and the eastern Schuk Toak District resulting from the off-Reservation diversion or use of water in a manner not in violation of the Tohono O'odham settlement agreement or State law against—*

*“(A) the Nation;*

*“(B) the State (or any agency or political subdivision of the State);*

*“(C) any municipal corporation; and*

*“(D) any other person or entity;*

*“(3) on and after the enforceability date, any and all claims on behalf of the allottees for injuries to water rights against the Nation (except that under section 307(a)(1)(G) and subsections (a) and (b) of section 308, the allottees shall retain rights to share in the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement with respect to uses within the San Xavier Reservation); and*

*“(4) claims against Asarco on behalf of the allottee class for the fourth cause of action in Alvarez v. City of Tucson (Civ. No. 93–039 TUC FRZ (D. Ariz., filed April 21, 1993)), in accordance with the terms and conditions of the Asarco agreement.*

*“(d) CLAIMS RELATING TO GROUNDWATER PROTECTION PROGRAM.—The Nation and the United States as Trustee—*

*“(1) shall have the right to assert any claims granted by a State law implementing the groundwater protection program described in paragraph 8.8 of the Tohono O'odham settlement agreement; and*

*“(2) if, after the enforceability date, the State law is amended so as to have a material adverse effect on the Nation, shall have a right to relief in the State court having jurisdiction over Gila River adjudication proceedings and decrees, against an owner of any nonexempt well drilled after the effective date of the amendment (if the well actually and substantially interferes with groundwater pumping occurring on the San Xavier Reservation), from the incremental effect of*

*the groundwater pumping that exceeds that which would have been allowable had the State law not been amended.*

*"(e) SUPPLEMENTAL WAIVERS OF CLAIMS.—Any party to the Tohono O'odham settlement agreement may waive and release, prohibit the assertion of, or agree not to assert, any claims (including claims for subsidence damage or injury to water quality) in addition to claims for water rights and injuries to water rights on such terms and conditions as may be agreed to by the parties.*

*"(f) RIGHTS OF ALLOTTEES; PROHIBITION OF CLAIMS.—*

*"(1) IN GENERAL.—As of the enforceability date—*

*"(A) the water rights and other benefits granted or confirmed by this title and the Tohono O'odham settlement agreement shall be in full satisfaction of—*

*"(i) all claims for water rights and claims for injuries to water rights of the Nation; and*

*"(ii) all claims for water rights and injuries to water rights of the allottees;*

*"(B) any entitlement to water within the Tucson management area of the Nation, or of any allottee, shall be satisfied out of the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement; and*

*"(C) any rights of the allottees to groundwater, surface water, or effluent shall be limited to the water rights granted or confirmed under this title and the Tohono O'odham settlement agreement.*

*"(2) LIMITATION OF CERTAIN CLAIMS BY ALLOTTEES.—No allottee within the San Xavier Reservation may—*

*"(A) assert any past, present, or future claim for water rights arising from time immemorial and, thereafter, forever, or any claim for injury to water rights (including future injury to water rights) arising from time immemorial and thereafter, forever, against—*

*"(i) the United States;*

*"(ii) the State (or any agency or political subdivision of the State);*

*"(iii) any municipal corporation; or*

*"(iv) any other person or entity; or*

*"(B) continue to assert a claim described in subparagraph (A), if the claim was first asserted before the enforceability date.*

*"(3) CLAIMS BY FEE OWNERS OF ALLOTTED LAND.—*

*"(A) IN GENERAL.—No fee owner of allotted land within the San Xavier Reservation may assert any claim to the extent that—*

*"(i) the claim has been waived and released in the Tohono O'odham settlement agreement; and*

*"(ii) the fee owner of allotted land asserting the claim is a member of the applicable allottee class.*

*"(B) OFFSET.—Any benefits awarded to a fee owner of allotted land as a result of a successful claim shall be offset by benefits received by that fee owner of allotted land under this title.*

*"(4) LIMITATION OF CLAIMS AGAINST THE NATION.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), no allottee may assert against the Nation any claims for water rights arising from time immemorial and, thereafter, forever, claims for injury to water rights arising from time immemorial and thereafter forever.*

*"(B) EXCEPTION.—Under section 307(a)(1)(G) and subsections (a) and (b) of section 308, the allottees shall retain rights to share in the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement.*

*"(g) CONSENT.—*

*"(1) GRANT OF CONSENT.—Congress grants to the Nation and the San Xavier Cooperative Association under section 305(d) consent to maintain civil actions against the United States in the courts of the United States under section 1346, 1491, or 1505 of title 28, United States Code, respectively, to recover damages, if any, for the breach of any obligation of the Secretary under those sections.*

*"(2) REMEDY.—*

*"(A) IN GENERAL.—Subject to subparagraph (B), the exclusive remedy for a civil action maintained under this subsection shall be monetary damages.*

*"(B) OFFSET.—An award for damages for a claim under this subsection shall be offset against the amount of funds—*

*"(i) made available by any Act of Congress; and*

*"(ii) paid to the claimant by the Secretary in partial or complete satisfaction of the claim.*

*"(3) NO CLAIMS ESTABLISHED.—Except as provided in paragraph (1), nothing in the subsection establishes any claim against the United States.*

*"(h) JURISDICTION; WAIVER OF IMMUNITY; PARTIES.—*

*"(1) JURISDICTION.—*

*"(A) IN GENERAL.—Except as provided in subsection (i), the State court having jurisdiction over Gila River adjudication proceedings and decrees, shall have jurisdiction over—*

*"(i) civil actions relating to the interpretation and enforcement of—*

*"(I) this title;*

*"(II) the Tohono O'odham settlement agreement; and*

*"(III) agreements referred to in section 309(h)(2); and*

*"(ii) civil actions brought by or against the allottees or fee owners of allotted land for the interpretation of, or legal or equitable remedies with respect to, claims of the allottees or fee owners of allotted land that are not claims for water rights, injuries to water rights or other claims that are barred or waived and released under this title or the Tohono O'odham settlement agreement.*

*"(B) LIMITATION.—Except as provided in subparagraph (A), no State court or court of the Nation shall have jurisdiction over any civil action described in subparagraph (A).*

*"(2) WAIVER.—*

*"(A) IN GENERAL.—The United States and the Nation waive sovereign immunity solely for claims for—*

*"(i) declaratory judgment or injunctive relief in any civil action arising under this title; and*

*"(ii) such claims and remedies as may be prescribed in any agreement authorized under this title.*

*"(B) LIMITATION ON STANDING.—If a governmental entity not described in subparagraph (A) asserts immunity in any civil action that arises under this title (unless the entity waives immunity for declaratory judgment or injunctive relief) or any agreement authorized under this title (unless the entity waives immunity for the claims and remedies prescribed in the agreement)—*

*"(i) the governmental entity shall not have standing to initiate or assert any claim, or seek any remedy against the United States or the Nation, in the civil action; and*

*"(ii) the waivers of sovereign immunity under subparagraph (A) shall have no effect in the civil action.*

*"(C) MONETARY RELIEF.—A waiver of immunity under this paragraph shall not extend to any claim for damages, costs, attorneys' fees, or other monetary relief.*

*"(3) NATION AS A PARTY.—*

*"(A) IN GENERAL.—Not later than 60 days before the date on which a civil action under paragraph (1)(A)(ii) is filed by an allottee or fee owner of allotted land, the allottee or fee owner, as the case may be, shall provide to the Nation a notice of intent to file the civil action, accompanied by a request for consultation.*

*"(B) JOINDER.—If the Nation is not a party to a civil action as originally commenced under paragraph (1)(A)(ii), the Nation shall be joined as a party.*

*"(i) REGULATION AND JURISDICTION OVER DISPUTE RESOLUTION.—*

*"(1) REGULATION.—The Nation shall have jurisdiction to manage, control, permit, administer, and otherwise regulate the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement—*

*"(A) with respect to the use of those resources by—*

*"(i) the Nation;*

*"(ii) individual members of the Nation;*

*"(iii) districts of the Nation; and*

*"(iv) allottees; and*

*"(B) with respect to any entitlement to those resources for which a fee owner of allotted land has received a final determination under applicable law.*

*"(2) JURISDICTION.—Subject to a requirement of exhaustion of any administrative or other remedies prescribed under the laws of the Nation, jurisdiction over any disputes relating to the matters described in paragraph (1) shall be vested in the courts of the Nation.*

*"(3) APPLICABLE LAW.—The regulatory and remedial procedures referred to in paragraphs (1) and (2) shall be subject to all applicable law.*

*"(j) FEDERAL JURISDICTION.—The Federal Courts shall have concurrent jurisdiction over actions described in subsection 312(h) to the extent otherwise provided in Federal law.*

***"SEC. 313. AFTER-ACQUIRED TRUST LAND.***

*"(a) IN GENERAL.—Except as provided in subsection (b)—*

*"(1) the Nation may seek to have taken into trust by the United States, for the benefit of the Nation, legal title to additional land within the State and outside the exterior boundaries of the Nation's Reservation only in accordance with an Act of Congress specifically authorizing the transfer for the benefit of the Nation;*

*"(2) lands taken into trust under paragraph (1) shall include only such water rights and water use privileges as are consistent with State water law and State water management policy; and*

*"(3) after-acquired trust land shall not include Federal reserved rights to surface water or groundwater.*

*"(b) EXCEPTION.—Subsection (a) shall not apply to land acquired by the Nation under the Gila Bend Indian Reservation Lands Replacement Act (100 Stat. 1798).*

***"SEC. 314. NONREIMBURSABLE COSTS.***

*"(a) CENTRAL ARIZONA WATER CONSERVATION DISTRICT.—For the purpose of determining the allocation and repayment of costs of any stage of the Central Arizona Project, the costs associated with the delivery of Central Arizona Project water acquired under sections 304(a) and 306(a), whether that water is delivered for use by the Nation or in accordance with any assignment, exchange, lease, option to lease, or other agreement for the temporary disposition of water entered into by the Nation—*

*"(1) shall be nonreimbursable; and*

*"(2) shall be excluded from the repayment obligation of the Central Arizona Water Conservation District.*

*"(b) CLAIMS BY UNITED STATES.—The United States shall—*

*"(1) make no claim against the Nation or any allottee for reimbursement or repayment of any cost associated with—*

*"(A) the construction of facilities under the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.);*

*"(B) the delivery of Central Arizona Project water for any use authorized under this title; or*

*"(C) the implementation of this title;*

*"(2) make no claim against the Nation for reimbursement or repayment of the costs associated with the construction of facilities described*

*in paragraph (1)(A) for the benefit of and use on land that—*

*"(A) is known as the 'San Lucy Farm'; and*

*"(B) was acquired by the Nation under the Gila Bend Indian Reservation Lands Replacement Act (100 Stat. 1798); and*

*"(3) impose no assessment with respect to the costs referred to in paragraphs (1) and (2) against—*

*"(A) trust or allotted land within the Nation's Reservation; or*

*"(B) the land described in paragraph (2).*

### *"SEC. 315. TRUST FUND.*

*"(a) REAUTHORIZATION.—Congress reauthorizes the trust fund established by section 309 of the 1982 Act, containing an initial deposit of $15,000,000 made under that section, for use in carrying out this title.*

*"(b) EXPENDITURE AND INVESTMENT.—Subject to the limitations of subsection (d), the principal and all accrued interest and dividends in the trust fund established under section 309 of the 1982 Act may be—*

*"(1) expended by the Nation for any governmental purpose; and*

*"(2) invested by the Nation in accordance with such policies as the Nation may adopt.*

*"(c) RESPONSIBILITY OF SECRETARY.—The Secretary shall not—*

*"(1) be responsible for the review, approval, or audit of the use and expenditure of any funds from the trust fund reauthorized by subsection (a); or*

*"(2) be subject to liability for any claim or cause of action arising from the use or expenditure by the Nation of those funds.*

*"(d) CONDITIONS OF TRUST.—*

*"(1) RESERVE FOR THE COST OF SUBJUGATION.—The Nation shall reserve in the trust fund reauthorized by subsection (a)—*

*"(A) the principal amount of at least $3,000,000; and*

*"(B) interest on that amount that accrues during the period beginning on the enforceability date and ending on the earlier of—*

*"(i) the date on which full payment of such costs has been made; or*

*"(ii) the date that is 10 years after the enforceability date.*

*"(2) PAYMENT.—The costs described in paragraph (1) shall be paid in the amount, on the terms, and for the purposes prescribed in section 307(a)(1)(F).*

*"(3) LIMITATION ON RESTRICTIONS.—On the occurrence of an event described in clause (i) or (ii) of paragraph (1)(B)—*

*"(A) the restrictions imposed on funds from the trust fund described in paragraph (1) shall terminate; and*

*"(B) any of those funds remaining that were reserved under paragraph (1) may be used by the Nation under subsection (b)(1).*

### *"SEC. 316. MISCELLANEOUS PROVISIONS.*

*"(a) IN GENERAL.—Nothing in this title—*

*"(1) establishes the applicability or inapplicability to groundwater of any doctrine of Federal reserved rights;*

*"(2) limits the ability of the Nation to enter into any agreement with the Arizona Water Banking Authority (or a successor agency) in accordance with State law;*

*"(3) prohibits the Nation, any individual member of the Nation, an allottee, or a fee owner of allotted land in the San Xavier Reservation from lawfully acquiring water rights for use in the Tucson management area in addition to the water rights granted or confirmed under this title and the Tohono O'odham settlement agreement;*

*"(4) abrogates any rights or remedies existing under section 1346 or 1491 of title 28, United States Code;*

*"(5) affects the obligations of the parties under the Agreement of December 11, 1980, with respect to the 8,000 acre feet of Central Arizona Project water contracted by the Nation for the Sif Oidak District;*

*"(6)(A) applies to any exempt well;*

*"(B) prohibits or limits the drilling of any exempt well within—*

*"(i) the San Xavier Reservation; or*

*"(ii) the eastern Schuk Toak District; or*

*"(C) subjects water from any exempt well to any pumping limitation under this title; or*

*"(7) diminishes or abrogates rights to use water under—*

*"(A) contracts of the Nation in existence before the enforceability date; or*

*"(B) the well site agreement referred to in the Asarco agreement and any well site agreement entered into under the Asarco agreement.*

*"(b) NO EFFECT ON FUTURE ALLOCATIONS.—Water received under a lease or exchange of Central Arizona Project water under this title does not affect any future allocation or reallocation of Central Arizona Project water by the Secretary.*

*"(c) LIMITATION ON LIABILITY OF UNITED STATES.—*

*"(1) IN GENERAL.—The United States shall have no trust or other obligation—*

*"(A) to monitor, administer, or account for, in any manner, any of the funds paid to the Nation or the San Xavier District under this Act; or*

*"(B) to review or approve the expenditure of those funds.*

*"(2) INDEMNIFICATION.—The Nation shall indemnify the United States, and hold the United States harmless, with respect to any and all claims (including claims for takings or breach of trust) arising out of the receipt or expenditure of funds described in paragraph (1)(A).*

### *"SEC. 317. AUTHORIZED COSTS.*

*"(a) IN GENERAL.—There are authorized to be appropriated—*

*"(1) to construct features of irrigation systems described in paragraphs (1) through (4) of section 304(c) that are not authorized to be constructed under any other provision of law, an amount equal to the sum of—*

*"(A) $3,500,000; and*

*"(B) such additional amount as the Secretary determines to be necessary to adjust the amount under subparagraph (A) to account for ordinary fluctuations in the costs of construction of irrigation features for the period beginning on October 12, 1982, and ending on the date on which the construction of the features described in this subparagraph is initiated, as indicated by engineering cost indices applicable to the type of construction involved;*

*"(2) $18,300,000 in lieu of construction to implement section 304(c)(3)(B), including an adjustment representing interest that would have been earned if this amount had been deposited in the cooperative fund during the period beginning on January 1, 2008, and ending on the date the amount is actually paid to the San Xavier District;*

*"(3) $891,200 to develop and initiate a water management plan for the San Xavier Reservation under section 308(d);*

*"(4) $237,200 to develop and initiate a water management plan for the eastern Schuk Toak District under section 308(d);*

*"(5) $4,000,000 to complete the water resources study under section 311(d);*

*"(6) $215,000 to develop and initiate a groundwater monitoring program for the San Xavier Reservation under section 311(c)(1);*

*"(7) $175,000 to develop and implement a groundwater monitoring program for the eastern Schuk Toak District under section 311(c)(2);*

*"(8) $250,000 to complete the Asarco land exchange study under section 311(f); and*

*"(9) such additional sums as are necessary to carry out the provisions of this title other than the provisions referred to in paragraphs (1) through (8).*

*"(b) TREATMENT OF APPROPRIATED AMOUNTS.—Amounts made available under subsection (a) shall be considered to be authorized costs for purposes of section 403(f)(2)(D)(iii) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)(D)(iii)) (as amended by section 107(a) of the Arizona Water Settlements Act).".*

### *SEC. 302. SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT EFFECTIVE DATE.*

*(a) DEFINITIONS.—The definitions under section 301 of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301) shall apply to this title.*

*(b) EFFECTIVE DATE.—This title and the amendments made by this title take effect as of the enforceability date, which is the date the Secretary publishes in the Federal Register a statement of findings that—*

*(1)(A) to the extent that the Tohono O'odham settlement agreement conflicts with this title or an amendment made by this title, the Tohono O'odham settlement agreement has been revised through an amendment to eliminate those conflicts; and*

*(B) the Tohono O'odham settlement agreement, as so revised, has been executed by the parties and the Secretary;*

*(2) the Secretary and other parties to the agreements described in section 309(h)(2) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301) have executed those agreements;*

*(3) the Secretary has approved the interim allottee water rights code described in section 308(b)(3)(A) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301);*

*(4) final dismissal with prejudice has been entered in each of the Alvarez case and the Tucson case on the sole condition that the Secretary publishes the findings specified in this section;*

*(5) the judgment and decree attached to the Tohono O'odham settlement agreement as exhibit 17.1 has been approved by the State court having jurisdiction over the Gila River adjudication proceedings, and that judgment and decree have become final and nonappealable;*

*(6) implementation costs have been identified and retained in the Lower Colorado River Basin Development Fund, specifically—*

*(A) $18,300,000 to implement section 304(c)(3);*

*(B) $891,200 to implement a water management plan for the San Xavier Reservation under section 308(d) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301);*

*(C) $237,200 to implement a water management plan for the eastern Schuk Toak District under section 308(d) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301);*

*(D) $4,000,000 to complete the water resources study under section 311(d) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301);*

*(E) $215,000 to develop and implement a groundwater monitoring program for the San Xavier Reservation under section 311(c)(1) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301);*

*(F) $175,000 to develop and implement a groundwater monitoring program for the eastern Schuk Toak District under section 311(c)(2) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301); and*

*(G) $250,000 to complete the Asarco land exchange study under section 311(f) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301);*

*(7) the State has enacted legislation that—*

*(A) qualifies the Nation to earn long-term storage credits under the Asarco agreement;*

*(B) implements the San Xavier groundwater protection program in accordance with paragraph 8.8 of the Tohono O'odham settlement agreement;*

*(C) enables the State to carry out section 306(b); and*

*(D) confirms the jurisdiction of the State court having jurisdiction over Gila River adjudication proceedings and decrees to carry out the provisions of sections 312(d) and 312(h) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301);*

*(8) the Secretary and the State have agreed to an acceptable firming schedule referred to in section 105(b)(2)(C); and*

*(9) a final judgment has been entered in Central Arizona Water Conservation District v. United States (No. CIV 95-625-TUC-WDB(EHC), No. CIV 95-1720-PHX-EHC) (Consolidated Action) in accordance with the repayment stipulation as provided in section 207.*

*(c) FAILURE TO PUBLISH STATEMENT OF FINDINGS.—If the Secretary does not publish a statement of findings under subsection (a) by December 31, 2007—*

*(1) the 1982 Act shall remain in full force and effect;*

*(2) this title shall not take effect; and*

*(3) any funds made available by the State under this title that are not expended, together with any interest on those funds, shall immediately revert to the State.*

### *TITLE IV—SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT*

### *SEC. 401. EFFECT OF TITLES I, II, AND III.*

*None of the provisions of title I, II, or III shall be construed to amend, alter, or limit the authority of—*

*(1) the United States to assert any claim against any party, including any claim for water rights, injury to water rights, or injury to water quality in its capacity as trustee for the San Carlos Apache Tribe, its members and allottees, or in any other capacity on behalf of the San Carlos Apache Tribe, its members, and allottees, in any judicial, administrative, or legislative proceeding; or*

*(2) the San Carlos Apache Tribe to assert any claim against any party, including any claim for water rights, injury to water rights, or injury to water quality in its own behalf or on behalf of its members and allottees in any judicial, administrative, or legislative proceeding consistent with title XXXVII of Public Law 102–575 (106 Stat. 4600, 4740).*

### *SEC. 402. ANNUAL REPORT.*

*(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes the status of efforts to reach a negotiated agreement covering the Gila River water rights claims of the San Carlos Apache Tribe.*

*(b) TERMINATION.—This section shall be of no effect after the later of—*

*(1) the date that is 3 years after the date of enactment of this Act; or*

*(2) the date on which the Secretary submits a third annual report under this section.*

The amendment (No. 3730) was agreed to.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 437), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

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## UPPER WHITE SALMON WILD AND SCENIC RIVERS ACT

The Senate proceeded to consider the bill (S. 1614) to designate a portion of White Salmon River as a component of the National Wild and Scenic Rivers System, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1614

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### [SECTION 1. SHORT TITLE.

[This Act may be cited as the "Upper White Salmon Wild and Scenic Rivers Act".

### [SEC. 2. FINDINGS.

[The Congress finds the following:

[(1) The Columbia River Gorge National Scenic Area Act (16 U.S.C. 544 et seq.) directed the Secretary of Agriculture to study the Upper White Salmon River for possible designation as a component of the National Wild and Scenic Rivers System.

[(2) The study, conducted by the Forest Service, included extensive public involvement by a broadly inclusive task force.

[(3) The study determined that the Upper White Salmon River and its tributary, Cascade Creek, are eligible for inclusion in the National Wild and Scenic Rivers System based on their free-flowing condition and outstandingly remarkable scenic, hydrologic, geologic, and wildlife values.

### [SEC. 3. UPPER WHITE SALMON WILD AND SCENIC RIVER.

[Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

["( ) WHITE SALMON RIVER, WASHINGTON.—

["(A) DESIGNATION.—Segments of the main stem and Cascade Creek, totaling 20 miles, to be administered by the Secretary of Agriculture as follows:

["(i) 1.6-MILE SEGMENT.—The 1.6-mile segment of the main stem of the White Salmon River from the headwaters on Mount Adams in Sec. 17, T. 8 N., R. 10 E., downstream to the Mount Adams wilderness boundary shall be administered as a wild river.

["(ii) 5.1-MILE SEGMENT.—The 5.1-mile segment of Cascade Creek from its headwaters on Mount Adams in Sec. 10, T. 8 N., R. 10 E. downstream to the Mount Adams Wilderness boundary shall be administered as a wild river.

["(iii) 1.5-MILE SEGMENT.—The 1.5-mile segment of Cascade Creek from the Mount Adams Wilderness boundary downstream to its confluence with the White Salmon River shall be administered as a scenic river.

["(iv) 11.8-MILE SEGMENT.—The 11.8-mile segment of the main stem of the White Salmon River from the Mount Adams Wilderness boundary downstream to the Gifford Pinchot National Forest boundary shall be administered as a scenic river.".

### [SEC. 4. ADDITIONAL SECTIONS.

[Nothing in this Act, or any amendment made by this Act, shall limit the suitability of the 18.4-mile segment from the Gifford Pinchot National Forest boundary to the confluence with Gilmer Creek for designation as a wild and scenic river under section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)).

### [SEC. 5. MANAGEMENT.

[The Secretary of Agriculture shall develop and administer the comprehensive management plan required by section 3(d)(1) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(d)(1)) for the designated sections of the Upper White Salmon River in general accordance with that portion of the preferred alternative of the Forest Service Wild and Scenic River Study Report and Final Legislative Environmental Impact Statement for the Upper White Salmon River dated July 7, 1997, addressing only the designated sections.

### [SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as may be necessary to carry out this Act.]

### *SECTION 1. SHORT TITLE.*

*This Act may be cited as the "Upper White Salmon Wild and Scenic Rivers Act".*

### *SEC. 2. UPPER WHITE SALMON WILD AND SCENIC RIVER.*

*Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:*

*"( ) WHITE SALMON RIVER, WASHINGTON.—The 20 miles of river segments of the main stem of the White Salmon River and Cascade Creek, Washington, to be administered by the Secretary of Agriculture in the following classifications:*

*"(A) The approximately 1.6-mile segment of the main stem of the White Salmon River from the headwaters on Mount Adams in section 17, township 8 north, range 10 east, downstream to the Mount Adams wilderness boundary as a wild river.*

*"(B) The approximately 5.1-mile segment of Cascade Creek from its headwaters on Mount Adams in section 10, township 8 north, range 10 east, downstream to the Mount Adams Wilderness boundary as a wild river.*

*"(C) The approximately 1.5-mile segment of Cascade Creek from the Mount Adams Wilderness boundary downstream to its confluence with the White Salmon River as a scenic river.*

*"(D) The approximately 11.8-mile segment of the main stem of the White Salmon River from the Mount Adams Wilderness boundary downstream to the Gifford Pinchot National Forest boundary as a scenic river.".*

### *SEC. 3. AUTHORIZATION OF APPROPRIATIONS.*

*There are authorized to be appropriated such sums as are necessary to carry out this Act.*

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1614), as amended, was read the third time and passed.

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## UINTAH RESEARCH AND CURATORIAL CENTER ACT

The Senate proceeded to consider the bill (S. 1678) to establish a program and criteria for National Heritage Areas in the United States, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1678

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### [SECTION 1. SHORT TITLE.

[This Act may be cited as the "Uintah Research and Curatorial Center Act".

### [SEC. 2. DEFINITIONS.

[In this Act:

[(1) Center.—The term "Center" means the Uintah Research and Curatorial Center.

[(2) Map.—The term "map" means the map entitled "Proposed Location of the Uintah Research and Curatorial Center", numbered 122/80074, IMDE, and dated March 31, 2003.

[(3) Monument.—The term "Monument" means the Dinosaur National Monument in the States of Colorado and Utah.

[(4) Secretary.—The term "Secretary" means the Secretary of the Interior.

### [SEC. 3. UINTAH RESEARCH AND CURATORIAL CENTER.

[(a) In General.—To provide for the unified and cost-effective curation of the paleontological, natural, and cultural objects of the Monument and the surrounding area, the Secretary shall establish the Uintah Research and Curatorial Center on land located outside the boundary of the Monument acquired under subsection (b).

[(b) Acquisition of Land.—The Secretary may acquire by donation land for the Center consisting of not more than 5 acres located in Uintah County, in the vicinity of Vernal, Utah, as generally depicted on the map.

[(c) Availability of Map.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

[(d) Use.—The Center shall be used for the curation of, storage of, and research on items in—

[(1) the museum collection of the Monument; and

[(2) any collection maintained by an entity described in subsection (e)(2) that enters into a cooperative agreement with the Secretary.

[(e) Administration.—

[(1) In general.—The Secretary shall—

[(A) administer the land acquired under subsection (b); and

[(B) promulgate any regulations that the Secretary determines to be appropriate for the use and management of the land.

[(2) Cooperative agreements.—The Secretary may enter into a cooperative agreement with a Federal, State, and local agency, academic institution, Indian tribe, or nonprofit entity to provide for—

[(A) the curation of and research on the museum collection at the Center; and

[(B) the development, use, management, and operation of the Center.

[(3) Limitation.—The land acquired by the Secretary under subsection (b) shall not—

[(A) be a part of the Monument; or

[(B) be subject to the laws (including regulations) applicable to the Monument.

### [SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to carry out this Act.]

### *SECTION 1. SHORT TITLE.*

*This Act may be cited as the "Uintah Research and Curatorial Center Act".*

### *SEC. 2. DEFINITIONS.*

*In this Act:*

*(1) Center.—The term "Center" means the Uintah Research and Curatorial Center.*

*(2) Map.—The term "map" means the map entitled "Proposed Location of the Uintah Research and Curatorial Center", numbered 122/80,080, and dated May 2004.*

*(3) Monument.—The term "Monument" means the Dinosaur National Monument in the States of Colorado and Utah.*

*(4) Secretary.—The term "Secretary" means the Secretary of the Interior.*

### *SEC. 3. UINTAH RESEARCH AND CURATORIAL CENTER.*

*(a) In General.—To provide for the unified and cost-effective curation of the paleontological, natural, and cultural objects of the Monument and the surrounding area, the Secretary shall establish the Uintah Research and Curatorial Center on land located outside the boundary of the Monument acquired under subsection (b).*

*(b) Acquisition of Land.—The Secretary may acquire by donation land for the Center consisting of not more than 5 acres located in Uintah County, in the vicinity of Vernal, Utah, as generally depicted on the map.*

*(c) Availability of Map.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.*

*(d) Use.—The Center shall be used for the curation of, storage of, and research on items in—*

*(1) the museum collection of the Monument; and*

*(2) any collection maintained by an entity described in subsection (e)(2) that enters into a cooperative agreement with the Secretary.*

*(e) Administration.—*

*(1) In general.—The Secretary shall—*

*(A) administer the land acquired under subsection (b); and*

*(B) promulgate any regulations that the Secretary determines to be appropriate for the use and management of the land.*

*(2) Cooperative agreements.—The Secretary may enter into a cooperative agreement with a Federal, State, and local agency, academic institution, Indian tribe, or nonprofit entity to provide for—*

*(A) the curation of and research on the museum collection at the Center; and*

*(B) the development, use, management, and operation of the Center.*

*(3) Limitation.—The land acquired by the Secretary under subsection (b) shall not—*

*(A) be a part of the Monument; or*

*(B) be subject to the laws (including regulations) applicable to the Monument.*

### *SEC. 4. AUTHORIZATION OF APPROPRIATIONS.*

*There is authorized to be appropriated to carry out this Act $8,800,000.*

Amend the title so as to read: "A bill to provide for the establishment of the Uintah Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes.".

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1678), as amended, was read the third time and passed.

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## REHABILITATION OF THE BENJAMIN FRANKLIN MEMORIAL IN PHILADELPHIA

The Senate proceeded to consider the bill (S. 1852) to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1852

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### [SECTION 1. BENJAMIN FRANKLIN NATIONAL MEMORIAL.

[(a) Findings.—Congress finds that—

[(1) in Public Law 92–551 (86 Stat. 1164), Congress—

[(A) designated the Benjamin Franklin Memorial Hall as the Benjamin Franklin National Memorial; and

[(B) directed the Secretary of the Interior to enter into a cooperative agreement with the Franklin Institute; and

[(2) in a memorandum of understanding entered into on November 6, 1973, the Secretary of the Interior agreed to cooperate in the preservation and presentation of the Benjamin Franklin Memorial Hall as a national memorial.

[(b) In General.—The Secretary of the Interior shall provide a grant to the Franklin Institute to—

[(1) rehabilitate the Benjamin Franklin National Memorial (including the Franklin statue) in Philadelphia, Pennsylvania; and

[(2) develop an exhibit featuring artifacts and multimedia collections relating to Benjamin Franklin, to be displayed at a museum adjacent to the Benjamin Franklin National Memorial.

[(c) Authorization of Appropriations.—There is authorized to be appropriated to carry out this Act for fiscal years 2004 through 2008 $10,000,000.]

### *SECTION 1. BENJAMIN FRANKLIN NATIONAL MEMORIAL.*

*The Secretary of the Interior may provide a grant to the Franklin Institute to—*

*(1) rehabilitate the Benjamin Franklin National Memorial (including the Franklin statue) in Philadelphia, Pennsylvania; and*

*(2) develop an interpretive exhibit relating to Benjamin Franklin, to be displayed at a museum adjacent to the Benjamin Franklin National Memorial.*

### *SEC. 2. AUTHORIZATION OF APPROPRIATIONS.*

*(a) In General.—There is authorized to be appropriated to carry out this Act $10,000,000.*

*(b) Required Match.—The Secretary of the Interior shall require the Franklin Institute to match any amounts provided to the Franklin Institute under this Act.*

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1852), as amended, was read the third time and passed.

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## NEW JERSEY COASTAL HERITAGE TRAIL ROUTE

The bill (S. 2142) to authorize appropriations for the New Jersey Coastal Heritage Trail Route, and for other purposes, was considered, read the third time, and passed; as follows:

S. 2142

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. NEW JERSEY COASTAL HERITAGE TRAIL ROUTE.

(a) Authorization of Appropriations.—Section 6 of Public Law 100-515 (16 U.S.C. 1244 note) is amended—

(1) in subsection (b)(1), by striking "$4,000,000" and inserting "$8,000,000"; and

(2) in subsection (c), by striking "10" and inserting "15".

(b) GRANTS.—Public Law 100–515 (16 U.S.C. 1244 note) is amended—

(1) in section 4, by inserting "and, subject to the availability of appropriations, grants for," after "technical assistance in"; and

(2) in section 6(b)(2) by inserting "and grants" after "technical assistance".

(c) STRATEGIC PLAN.—Public Law 100–515 (16 U.S.C. 1244 note) is amended by adding at the end the following:

**"SEC. 8. STRATEGIC PLAN.**

"(a) IN GENERAL.—Not later than 4 years after the date of the enactment of this section, the Secretary shall prepare a strategic plan for the route.

"(b) CONTENTS.—The strategic plan prepared under subsection (a) shall describe—

"(1) opportunities to increase participation by national and local private and public interests in the planning, development, and administration of the route; and

"(2) organizational options for sustaining the route.".

## ROCKY MOUNTAIN NATIONAL PARK BOUNDARY ADJUSTMENT OF ACT OF 2004

The Senate proceeded to consider the bill (S. 2181) to adjust the boundary of Rocky Mountain National Park in the State of Colorado, which had been reported from the Committee on Energy and Natural Resources with an amendment, as follows:

(Strike the parts shown in black brackets and insert the parts shown in italic.)

S. 2181

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Rocky Mountain National Park Boundary Adjustment Act of 2004".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) FEDERAL PARCEL.—The term "Federal parcel" means the parcel of approximately 70 acres of Federal land near MacGregor Ranch, Larimer County, Colorado, as depicted on the map.

(2) MAP.—The term "map" means the map numbered [121/60,467, dated September 12, 2003] *121/80,154, dated June 2004.*

(3) NON-FEDERAL PARCELS.—The term "non-Federal parcels" means the 3 parcels of non-Federal land comprising approximately 5.9 acres that are located near MacGregor Ranch, Larimer County, Colorado, as depicted on the map.

(4) PARK.—The term "Park" means Rocky Mountain National Park in the State of Colorado.

**SEC. 3. ROCKY MOUNTAIN NATIONAL PARK BOUNDARY ADJUSTMENT.**

(a) EXCHANGE OF LAND.—

(1) IN GENERAL.—The Secretary shall accept an offer to convey all right, title, and interest in and to the non-Federal parcels to the United States in exchange for the Federal parcel.

(2) CONVEYANCE.—Not later than 60 days after the date on which the Secretary receives an offer under paragraph (1), the Secretary shall convey the Federal parcel in exchange for the non-Federal parcels.

(3) CONSERVATION EASEMENT.—As a condition of the exchange of land under paragraph (2), the Secretary shall reserve a perpetual easement to the Federal parcel for the purposes of protecting, preserving, and enhancing the conservation values of the Federal parcel.

(b) BOUNDARY ADJUSTMENT; MANAGEMENT OF LAND.—On acquisition of the non-Federal parcels under subsection (a)(2), the Secretary shall—

(1) adjust the boundary of the Park to reflect the acquisition of the non-Federal parcels; and

(2) manage the non-Federal parcels as part of the Park, in accordance with any laws (including regulations) applicable to the Park.

The committee amendment was agreed to.

The bill (S. 2181), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

## CARIBBEAN NATIONAL FOREST ACT OF 2004

The bill (S. 2334) to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System, was considered, read the third time, and passed; as follows:

S. 2334

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Caribbean National Forest Act of 2004".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) MAP.—The term "map" means the map dated April 13, 2004 and entitled "El Toro Proposed Wilderness Area".

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

**SEC. 3. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.**

(a) EL TORO WILDERNESS.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1113 et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico described in the map are designated as wilderness and as a component of the National Wilderness Preservation System.

(2) DESIGNATION.—The land designated in paragraph (1) shall be known as the El Toro Wilderness.

(3) WILDERNESS BOUNDARIES.—The El Toro Wilderness shall consist of the land described in the map.

(b) MAP AND BOUNDARY DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall—

(A) prepare a boundary description of the El Toro Wilderness; and

(B) submit the map and the boundary description to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) PUBLIC INSPECTION AND TREATMENT.—The map and the boundary description prepared under paragraph (1)(A)—

(A) shall be on file and available for public inspection in the office of the Chief of the Forest Service; and

(B) shall have the same force and effect as if included in this Act.

(3) ERRORS.—The Secretary may correct clerical and typographical errors in the map and the boundary description prepared under paragraph (1)(A).

(c) ADMINISTRATION.—

(1) IN GENERAL.—Subject to valid existing rights, the Secretary shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act.

(2) EFFECTIVE DATE OF WILDERNESS ACT.—With respect to the El Toro Wilderness, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be deemed to be a reference to the date of the enactment of this Act.

(d) SPECIAL MANAGEMENT CONSIDERATIONS.—Consistent with the Wilderness Act (16 U.S.C. 1131 et seq.), nothing in this Act precludes the installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and remote transmission facilities, or any combination of those facilities, in any case in which the Secretary determines that the facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.

## MONTANA NATIONAL FORESTS BOUNDARY ADJUSTMENT ACT OF 2004

The Senate proceeded to consider the bill (S. 2408) to adjust the boundaries of the Helena, Lolo, and Beaverhead-Deerlodge National Forests in the State of Montana, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2408

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

[**SECTION 1. SHORT TITLE.**

[This Act may be cited as the "Montana National Forests Boundary Adjustment Act of 2004".

[**SEC. 2. DEFINITIONS.**

[In this Act:

[(1) FOREST.—The term "Forest" means the Helena National Forest, Lolo National Forest, and Beaverhead-Deerlodge National Forest in the State of Montana.

[(2) MAP.—The term "map" means—

[(A) the map entitled "Blackfoot Community Project Acquisition Proposed Adjustments, Helena National Forest Boundary" and dated March 11, 2004;

[(B) the map entitled "Blackfoot Community Project Acquisition Region One, Lolo National Forest Boundary" and dated March 11, 2004; and

[(C) the map entitled "Blackfoot Community Project Acquisition Proposed Adjustments, Beaverhead-Deerlodge National Forest Boundary Adjustment" and dated March 11, 2004.

[(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

**[SEC. 3. HELENA, LOLO, AND BEAVERHEAD-DEERLODGE NATIONAL FORESTS BOUNDARY ADJUSTMENT.**

[(a) In General.—The boundaries of the Forests are modified as depicted on the maps.

[(b) Maps.—

[(1) Availability.—The maps shall be on file and available for public inspection in—

[(A) the Office of the Chief of the Forest Service; and

[(B) the office of the Regional Forester, Missoula, Montana.

[(2) Correction authority.—The Secretary may make technical corrections to the maps.

[(c) Administration.—Any land or interest in land acquired within the boundaries of the Forests for National Forest System purposes shall be managed in accordance with—

[(1) the Act of March 1, 1911 (commonly known as the "Weeks Law") (16 U.S.C. 480 et seq.); and

[(2) the laws (including regulations) applicable to the National Forest System.

[(d) Land and Water Conservation Fund.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Forests, as adjusted under subsection (a), shall be considered to be the boundaries of the Forests as of January 1, 1965.

[(e) Effect.—Nothing in this Act limits the authority of the Secretary to adjust the boundaries of the Forests under section 11 of the Act of March 1, 1911 (16 U.S.C. 521).]

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Montana National Forests Boundary Adjustment Act of 2004".*

***SEC. 2. DEFINITIONS.***

*In this Act:*

*(1) Forests.—The term "Forests" means the Helena National Forest, Lolo National Forest, and Beaverhead-Deerlodge National Forest in the State of Montana.*

*(2) Map.—The term "map" means—*

*(A) the map entitled "Helena National Forest Boundary Adjustment Northern Region, USDA Forest Service" and dated September 13, 2004;*

*(B) the map entitled "Lolo National Forest Boundary Adjustment Northern Region, USDA Forest Service" and dated September 13, 2004; and*

*(C) the map entitled "Deerlodge National Forest Boundary Adjustment Northern Region USDA Forest Service" and dated September 13, 2004.*

*(3) Secretary.—The term "Secretary" means the Secretary of Agriculture.*

***SEC. 3. HELENA, LOLO, AND BEAVERHEAD-DEERLODGE NATIONAL FORESTS BOUNDARY ADJUSTMENT.***

*(a) In General.—The boundaries of the Forests are modified as depicted on the maps.*

*(b) Maps.—*

*(1) Availability.—The maps shall be on file and available for public inspection in—*

*(A) the Office of the Chief of the Forest Service; and*

*(B) the office of the Regional Forester, Missoula, Montana.*

*(2) Correction authority.—The Secretary may make technical corrections to the maps.*

*(c) Administration.—Any land or interest in land acquired within the boundaries of the Forests for National Forest System purposes shall be managed in accordance with—*

*(1) the Act of March 1, 1911 (commonly known as the "Weeks Law") (16 U.S.C. 480 et seq.); and*

*(2) the laws (including regulations) applicable to the National Forest System.*

*(d) Land and Water Conservation Fund.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Forests, as adjusted under subsection (a), shall be considered to be the boundaries of the Forests as of January 1, 1965.*

*(e) Effect.—Nothing in this Act limits the authority of the Secretary to adjust the boundaries of the Forests under section 11 of the Act of March 1, 1911 (16 U.S.C. 521).*

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2408), as amended, was read the third time and passed.

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## REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 2004

The bill (S. 2567) to adjust the boundary of Redwood National Park in the State of California, was considered, read the third time, and passed; as follows:

S. 2567

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Redwood National Park Boundary Adjustment Act of 2004".

**SEC. 2. REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT.**

Section 2(a) of the Act of Public Law 90-545 (16 U.S.C. 79b(a)) is amended—

(1) in the first sentence, by striking "(a) The area" and all that follows through the period at the end and inserting the following: "(a)(1) The Redwood National Park consists of the land generally depicted on the map entitled 'Redwood National Park, Revised Boundary', numbered 167/60502, and dated February, 2003.";

(2) by inserting after paragraph (1) (as designated by paragraph (1)) the following:

"(2) The map referred to in paragraph (1) shall be—

"(A) on file and available for public inspection in the appropriate offices of the National Park Service; and

"(B) provided by the Secretary of the Interior to the appropriate officers of Del Norte and Humboldt Counties, California."; and

(3) in the second sentence—

(A) by striking "The Secretary" and inserting the following:

"(3) The Secretary"; and

(B) by striking "one hundred and six thousand acres" and inserting "133,000 acres".

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## PECOS NATIONAL HISTORICAL PARK LAND EXCHANGE ACT OF 2004

The Senate proceeded to consider the bill (S. 2622) to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2622

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. SHORT TITLE.**

[This Act may be cited as the "Pecos National Historical Park Land Exchange Act of 2004".

**[SEC. 2. DEFINITIONS.**

[In this Act:

[(1) Federal land.—The term "Federal land" means the approximately 160 acres of Federal land within the Santa Fe National Forest in the State, as depicted on the map.

[(2) Landowner.—The term "landowner" means the 1 or more owners of the non-Federal land.

[(3) Map.—The term "map" means the map entitled "Proposed Land Exchange for Pecos National Historical Park", numbered 430/80,054, dated November 19, 1999, and revised September 18, 2000.

[(4) Non-federal land.—The term "non-Federal land" means the approximately 154 acres of non-Federal land in the Park, as depicted on the map.

[(5) Park.—The term "Park" means the Pecos National Historical Park in the State.

[(6) Secretaries.—The term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.

[(7) State.—The term "State" means the State of New Mexico.

**[SEC. 3. LAND EXCHANGE.**

[(a) In General.—On conveyance by the landowner to the Secretary of the Interior of the non-Federal land, title to which is acceptable to the Secretary of the Interior,

[(1) the Secretary of Agriculture shall, subject to the conditions of this Act, convey to the landowner the Federal land; and

[(2) the Secretary of the Interior shall, subject to the conditions of this Act, grant to the landowner the easement described in subsection (b).

[(b) Easement.—

[(1) In general.—The easement referred to in subsection (a)(2) is an easement (including an easement for service access) for water pipelines to 2 well sites located in the Park, as generally depicted on the map.

[(2) Route.—The Secretary of the Interior, in consultation with the landowner, shall determine the appropriate route of the easement through the Park.

[(3) Terms and conditions.—The easement shall include such terms and conditions relating to the use of, and access to, the well sites and pipeline, as the Secretary of the Interior, in consultation with the landowner, determines to be appropriate.

[(4) Applicable law.—The easement shall be established, operated, and maintained in compliance with applicable Federal law.

[(c) Valuation, Appraisals, and Equalization.—

[(1) In general.—The value of the Federal land and non-Federal land—

[(A) shall be equal, as determined by appraisals conducted in accordance with paragraph (2); or

[(B) if the value is not equal, shall be equalized in accordance with paragraph (3).

[(2) Appraisals.—

[(A) In general.—The Federal land and non-Federal land shall be appraised by an independent appraiser selected by the Secretaries.

[(B) Requirements.—An appraisal conducted under subparagraph (A) shall be conducted in accordance with—

[(i) the Uniform Appraisal Standards for Federal Land Acquisition; and [(ii) the Uniform Standards of Professional Appraisal Practice.

[(C) APPROVAL.—The appraisals conducted under this paragraph shall be submitted to the Secretary of the Interior for approval.

[(3) EQUALIZATION OF VALUES.—

[(A) IN GENERAL.—If the values of the non-Federal land and the Federal land are not equal, the values may be equalized by—

[(i) the Secretary of the Interior making a cash equalization payment to the landowner;

[(ii) the landowner making a cash equalization payment to the Secretary of Agriculture; or

[(iii) reducing the acreage of the non-Federal land or the Federal land, as appropriate.

[(B) CASH EQUALIZATION PAYMENTS.—Any amounts received by the Secretary of Agriculture as a cash equalization payment under section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) shall—

[(i) be deposited in the fund established by Public Law 90–171 (commonly known as the "Sisk Act") (16 U.S.C. 484a); and

[(ii) be available for expenditure, without further appropriation, for the acquisition of land and interests in land in the State.

[(d) COSTS.—Before the completion of the exchange under this section, the Secretaries and the landowner shall enter into an agreement that allocates the costs of the exchange between the Secretaries and the landowner.

[(e) APPLICABLE LAW.—Except as otherwise provided in this Act, the exchange of land and interests in land under this Act shall be in accordance with—

[(1) section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716); and

[(2) other applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

[(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretaries may require, in addition to any requirements under this Act, such terms and conditions relating to the exchange of Federal land and non-Federal land and the granting of easements under this Act as the Secretaries determine to be appropriate to protect the interests of the United States.

[(g) COMPLETION OF THE EXCHANGE.—

[(1) IN GENERAL.—The exchange of Federal land and non-Federal land shall be completed not later than 180 days after the later of—

[(A) the date on which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been met; or

[(B) the date on which the Secretary of the Interior approves the appraisals under subsection (c)(2)(C).

[(2) NOTICE.—The Secretaries shall submit to Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives notice of the completion of the exchange of Federal land and non-Federal land under this Act.

**[SEC. 4. ADMINISTRATION.**

[(a) IN GENERAL.—The Secretary of the Interior shall administer the non-Federal land acquired under this Act in accordance with the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the "National Park Service Organic Act") (16 U.S.C. 1 et seq.).

[(b) MAPS.—

[(1) IN GENERAL.—The map shall be on file and available for public inspection in the appropriate offices of the Secretaries.

[(2) TRANSMITTAL OF REVISED MAP TO CONGRESS.—Not later than 180 days after completion of the exchange, the Secretaries shall transmit to the Committee on Energy and Natural Resources of the United States and the Committee on Resources of the United States House of Representatives a revised map that depicts—

[(A) the Federal land and non-Federal land exchanged under this Act; and

[(B) the easement described in section 3(b).]

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Pecos National Historical Park Land Exchange Act of 2004".*

***SEC. 2. DEFINITIONS.***

*In this Act:*

*(1) FEDERAL LAND.—The term "Federal land" means the approximately 160 acres of Federal land within the Santa Fe National Forest in the State, as depicted on the map.*

*(2) LANDOWNER.—The term "landowner" means the 1 or more owners of the non-Federal land.*

*(3) MAP.—The term "map" means the map entitled "Proposed Land Exchange for Pecos National Historical Park", numbered 430/80,054, dated November 19, 1999, and revised September 18, 2000.*

*(4) NON-FEDERAL LAND.—The term "non-Federal land" means the approximately 154 acres of non-Federal land in the Park, as depicted on the map.*

*(5) PARK.—The term "Park" means the Pecos National Historical Park in the State.*

*(6) SECRETARIES.—The term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.*

*(7) STATE.—The term "State" means the State of New Mexico.*

***SEC. 3. LAND EXCHANGE.***

*(a) IN GENERAL.—On conveyance by the landowner to the Secretary of the Interior of the non-Federal land, title to which is acceptable to the Secretary of the Interior—*

*(1) the Secretary of Agriculture shall, subject to the conditions of this Act, convey to the landowner the Federal land; and*

*(2) the Secretary of the Interior shall, subject to the conditions of this Act, grant to the landowner the easement described in subsection (b).*

*(b) EASEMENT.—*

*(1) IN GENERAL.—The easement referred to in subsection (a)(2) is an easement (including an easement for service access) for water pipelines to 2 well sites located in the Park, as generally depicted on the map.*

*(2) ROUTE.—The Secretary of the Interior, in consultation with the landowner, shall determine the appropriate route of the easement through the Park.*

*(3) TERMS AND CONDITIONS.—The easement shall include such terms and conditions relating to the use of, and access to, the well sites and pipeline, as the Secretary of the Interior, in consultation with the landowner, determines to be appropriate.*

*(4) APPLICABLE LAW.—The easement shall be established, operated, and maintained in compliance with applicable Federal law.*

*(c) VALUATION, APPRAISALS, AND EQUALIZATION.—*

*(1) IN GENERAL.—The value of the Federal land and non-Federal land—*

*(A) shall be equal, as determined by appraisals conducted in accordance with paragraph (2); or*

*(B) if the value is not equal, shall be equalized in accordance with paragraph (3).*

*(2) APPRAISALS.—*

*(A) IN GENERAL.—The Federal land and non-Federal land shall be appraised by an independent appraiser selected by the Secretaries.*

*(B) REQUIREMENTS.—An appraisal conducted under subparagraph (A) shall be conducted in accordance with—*

*(i) the Uniform Appraisal Standards for Federal Land Acquisition; and*

*(ii) the Uniform Standards of Professional Appraisal Practice.*

*(C) APPROVAL.—The appraisals conducted under this paragraph shall be submitted to the Secretaries for approval.*

*(3) EQUALIZATION OF VALUES.—*

*(A) IN GENERAL.—If the values of the non-Federal land and the Federal land are not equal, the values may be equalized by—*

*(i) the Secretary of the Interior making a cash equalization payment to the landowner;*

*(ii) the landowner making a cash equalization payment to the Secretary of Agriculture; or*

*(iii) reducing the acreage of the non-Federal land or the Federal land, as appropriate.*

*(B) CASH EQUALIZATION PAYMENTS.—Any amounts received by the Secretary of Agriculture as a cash equalization payment under section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) shall—*

*(i) be deposited in the fund established by Public Law 90–171 (commonly known as the "Sisk Act") (16 U.S.C. 484a); and*

*(ii) be available for expenditure, without further appropriation, for the acquisition of land and interests in land in the State.*

*(d) COSTS.—Before the completion of the exchange under this section, the Secretaries and the landowner shall enter into an agreement that allocates the costs of the exchange among the Secretaries and the landowner.*

*(e) APPLICABLE LAW.—Except as otherwise provided in this Act, the exchange of land and interests in land under this Act shall be in accordance with—*

*(1) section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716); and*

*(2) other applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretaries may require, in addition to any requirements under this Act, such terms and conditions relating to the exchange of Federal land and non-Federal land and the granting of easements under this Act as the Secretaries determine to be appropriate to protect the interests of the United States.*

*(g) COMPLETION OF THE EXCHANGE.—*

*(1) IN GENERAL.—The exchange of Federal land and non-Federal land shall be completed not later than 180 days after the later of—*

*(A) the date on which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been met;*

*(B) the date on which the Secretary of the Interior approves the appraisals under subsection (c)(2)(C); or*

*(C) the date on which the Secretaries and the landowner agree on the costs of the exchange and any other terms and conditions of the exchange under this section.*

*(2) NOTICE.—The Secretaries shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives notice of the completion of the exchange of Federal land and non-Federal land under this Act.*

***SEC. 4. ADMINISTRATION.***

*(a) IN GENERAL.—The Secretary of the Interior shall administer the non-Federal land acquired under this Act in accordance with the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the "National Park Service Organic Act") (16 U.S.C. 1 et seq.).*

*(b) MAPS.—*

*(1) IN GENERAL.—The map shall be on file and available for public inspection in the appropriate offices of the Secretaries.*

*(2) TRANSMITTAL OF REVISED MAP TO CONGRESS.—Not later than 180 days after completion*

*of the exchange, the Secretaries shall transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a revised map that depicts—*

*(A) the Federal land and non-Federal land exchanged under this Act; and*

*(B) the easement described in section 3(b).*

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2622) as amended, was read the third time and passed.

## LAND EXCHANGE AT FORT FREDERICA NATIONAL MONUMENT

The Senate proceeded to consider the bill (H.R. 1113) to authorize an exchange of land at Fort Frederica National Monument, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

(Strike the part shown in black brackets and insert the part shown in italic.)

H.R. 1113

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXCHANGE OF LANDS.**

(a) IN GENERAL.—Notwithstanding [any other provision of law] *section 5(b) of Public Law 90-401 (16 U.S.C. 460l–22(b))*, the Secretary of the Interior is authorized to convey to Christ Church of St. Simons Island, Georgia, the approximately 6.0 acres of land within the boundary of Fort Frederica National Monument adjacent to Christ Church and depicted as "NPS Lands for Exchange" on the map entitled "Fort Frederica National Monument 2003 Boundary Revision" numbered 369/80016, and dated April 2003, in exchange for approximately 8.7 acres of land to be acquired by Christ Church, which is depicted as "Private Lands for Addition" on the same map.

(b) MAP AVAILABILITY.—The map referred to in subsection (a) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

**SEC. 2. BOUNDARY ADJUSTMENT.**

Upon completion of the land exchange under subsection (a) of section 1, the Secretary of the Interior shall revise the boundary of Fort Frederica National Monument to reflect the exchange and shall administer the land acquired through the exchange as part of that monument.

The committee amendment was agreed to.

The bill (H.R. 1113), as amended, was read the third time and passed.

## CALIFORNIA MISSIONS PRESERVATION ACT

The Senate proceeded to consider the bill (H.R. 1446) to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enactiing clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

H.R. 1446

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. SHORT TITLE.**

[This Act may be cited as the "California Missions Preservation Act".

**[SEC. 2. FINDINGS.**

[Congress finds the following:

[(1) The California missions represent some of our Nation's oldest historical treasures.

[(2) The first of the California missions was founded in 1769, and eventually a chain of 21 missions and various sub-missions extended along the coast of California on El Camino Real.

[(3) The California missions contribute greatly to the rich historical, cultural, and architectural heritage of California and the American West.

[(4) The knowledge and cultural influence of native California Indians made a lasting contribution to the early settlement of California and the development of the California missions.

[(5) More than 5,300,000 people visit the California missions annually, and the historical importance of the California missions extends worldwide as they have become a frequent destination for foreign visitors to the United States.

[(6) The history of the California missions is an important educational component in California schools, and the study of the California missions is part of the Statewide fourth grade curricula on California history.

[(7) Restoration and repair of the California missions, and the preservation of the Spanish colonial and mission-era artworks and artifacts of the California missions, for the public enjoyment will ensure that future generations also have the benefit of experiencing and appreciating these great symbols of the spirit of exploration and discovery in the American West.

**[SEC. 3. SUPPORT FOR THE RESTORATION AND PRESERVATION OF THE CALIFORNIA MISSIONS.**

[(a) DEFINITIONS.—In this section:

[(1) CALIFORNIA MISSIONS.—The term "California missions" means the following historic Spanish missions located in the State of California and designated as California Registered Historical Landmarks:

[(A) Mission La Purisima Concepcion, Lompoc.

[(B) Mission La Soledad, Soledad.

[(C) Mission San Antonio de Padua, Jolon.

[(D) Mission San Buenaventura, Ventura.

[(E) Mission San Carlos Borromeo del Rio Carmelo, Carmel.

[(F) Mission San Diego Alcala, San Diego.

[(G) Mission San Fernando Rey de Espana, Mission Hills.

[(H) Mission San Francisco de Asis, San Francisco.

[(I) Mission San Francisco Solano, Sonoma.

[(J) Mission San Gabriel Arcangel, San Gabriel.

[(K) Mission San Jose, Fremont.

[(L) Mission San Juan Bautista, San Juan Bautista.

[(M) Mission San Juan Capistrano, San Juan Capistrano.

[(N) Mission San Luis Obispo de Tolosa and its Asistencia (sub-mission) of Santa Margarita de Cortona, San Luis Obispo.

[(O) Mission San Luis Rey de Francia and its Asistencia (sub-mission), Oceanside.

[(P) Mission San Miguel Arcangel, San Miguel.

[(Q) Mission San Rafael Arcangel, San Rafael.

[(R) Mission Santa Barbara Virgen y Martir, Santa Barbara.

[(S) Mission Santa Clara de Asis, Santa Clara.

[(T) Mission Santa Cruz, Santa Cruz.

[(U) Mission Santa Ines Virgen y Martir, Solvang.

[(V) Asistencia San Antonio de Pala, Pala.

[(2) CALIFORNIA MISSIONS FOUNDATION.—The term "California Missions Foundation" means the charitable corporation established in the State of California in 1998 to fund the restoration and repair of the California missions and the preservation of the Spanish colonial and mission-era artworks and artifacts of the California missions. The Foundation is exempt from State franchise and income tax and is organized and operated exclusively for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986.

[(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[(b) GRANTS AUTHORIZED.—The Secretary of the Interior may make grants to the California Missions Foundation to support the efforts of the California Missions Foundation to restore and repair the California missions and to preserve the artworks and artifacts associated with the California missions. As provided in section 101(e)(4) of the National Historic Preservation Act (16 U.S.C. 470a(e)(4)), the Secretary shall ensure that the purpose of a grant under this section is secular, does not promote religion, and seeks to protect those qualities that are historically significant.

[(c) APPLICATION.—In order to receive a grant under this section for the preservation of the California missions, the California Missions Foundation shall submit to the Secretary an application that includes—

[(1) a status report on the condition of the infrastructure and artifacts for each of the California missions; and

[(2) a comprehensive program for restoration, repair, and preservation of such infrastructure and artifacts, including prioritized preservation efforts to be conducted over a 5-year period and the estimated costs of such preservation efforts.

[(d) MATCHING FUND REQUIREMENT.—The Secretary shall require the California Missions Foundation to match grant funds provided under this section.

[(e) REPORT.—As a condition of a grant under this section, the California Missions Foundation shall submit to the Secretary an annual report on the status of the preservation efforts undertaken using grant funds provided under this section. The Secretary shall submit a copy of each report to Congress.

[(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary a total of $10,000,000 during the five-fiscal year period beginning October 1, 2003, to make grants under this section. Funds appropriated pursuant to the authorization of appropriations in this section shall be in addition to any funds made available for preservation efforts in the State of California under the National Historic Preservation Act.]

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "California Missions Preservation Act".*

***SEC. 2. DEFINITIONS.***

*In this Act:*

*(1) CALIFORNIA MISSION.—The term "California mission" means each of the 21 historic Spanish missions and 1 asistencia that—*

*(A) are located in the State;*

*(B) were built between 1769 and 1798; and*

*(C) are designated as California Registered Historic Landmarks.*

*(2) FOUNDATION.—The term "Foundation" means the California Missions Foundation, a nonsectarian charitable corporation that—*

*(A) was established in the State in 1998 to fund the restoration and repair of the California missions; and*

*(B) is operated exclusively for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986.*

*(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.*

*(4) STATE.—The term "State" means the State of California.*

***SEC. 3. COOPERATIVE AGREEMENTS.***

*(a) IN GENERAL.—The Secretary may enter into a cooperative agreement with the Foundation to provide technical and financial assistance to the Foundation to restore and repair—*

*(1) the California missions; and*

*(2) the artwork and artifacts associated with the California missions.*

*(b) FINANCIAL ASSISTANCE.—*

*(1) IN GENERAL.—The cooperative agreement may authorize the Secretary to make grants to the Foundation to carry out the purposes described in subsection (a).*

*(2) ELIGIBILITY.—To be eligible to receive a grant or other form of financial assistance under this Act, a California mission must be listed on the National Register of Historic Places.*

*(3) APPLICATION.—To receive a grant or other form of financial assistance under this Act, the Foundation shall submit to the Secretary an application that—*

*(A) includes a status report on the condition of the infrastructure and associated artifacts of each of the California missions for which the Foundation is seeking financial assistance; and*

*(B) describes a comprehensive program for the restoration, repair, and preservation of the infrastructure and artifacts referred to in subparagraph (A), including—*

*(i) a description of the prioritized preservation activities to be conducted over a 5-year period; and*

*(ii) an estimate of the costs of the preservation activities.*

*(4) APPLICABLE LAW.—Consistent with section 101(e)(4) of the National Historic Preservation Act (16 U.S.C. 470a(e)(4)), the Secretary shall ensure that the purpose of any grant or other financial assistance provided by the Secretary to the Foundation under this Act—*

*(A) is secular;*

*(B) does not promote religion; and*

*(C) seeks to protect qualities that are historically significant.*

*(c) REVIEW AND DETERMINATION.—*

*(1) IN GENERAL.—The Secretary shall submit a proposed agreement to the Attorney General for review.*

*(2) DETERMINATION.—A cooperative agreement entered into under subsection (a) shall not take effect until the Attorney General issues a finding that the proposed agreement submitted under paragraph (1) does not violate the establishment clause of the first amendment of the Constitution.*

*(d) REPORT.—As a condition of receiving financial assistance under this Act, the Foundation shall annually submit to the Secretary and to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes the status of the preservation activities carried out using amounts made available under this Act.*

***SEC. 4. AUTHORIZATION OF APPROPRIATIONS.***

*(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000 for the period of fiscal years 2004 through 2009.*

*(b) MATCHING REQUIREMENT.—Any amounts made available to carry out this Act shall be matched on not less than a 1-to-1 basis by the Foundation.*

*(c) OTHER AMOUNTS.—Any amounts made available to carry out this Act shall be in addition to any amounts made available for preservation activities in the State under the National Historic Preservation Act (16 U.S.C. 470 et seq.).*

The committee amendment in the nature of a substitute was agreed to.

The bill (H.R. 1446), as amended, was read the third time and passed.

* * *

## HIGHLANDS CONSERVATION ACT

The Senate proceeded to consider the bill (H.R. 1964) to assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

### H.R. 1964

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. SHORT TITLE.**

[This Act may be cited as the "Highlands Conservation Act".

**[SEC. 2. FINDINGS.**

[Congress finds the following—

[(1) The Highlands region is a physiographic province that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

[(2) The Highlands region is an environmentally unique area that—

[(A) provides clean drinking water to over 15,000,000 people in metropolitan areas in the States of Connecticut, New Jersey, New York, and Pennsylvania;

[(B) provides critical wildlife habitat, including habitat for 247 threatened and endangered species;

[(C) maintains an important historic connection to early Native American culture, colonial settlement, the American Revolution, and the Civil War;

[(D) contains recreational resources for 14 million visitors annually;

[(E) provides other significant ecological, natural, tourism, recreational, educational, and economic benefits; and

[(F) provides homeownership opportunities and access to affordable housing that is safe, clean, and healthy.

[(3) An estimated 1 in 12 citizens of the United States live within a 2-hour drive of the Highlands region.

[(4) More than 1,400,000 residents live in the Highlands region.

[(5) The Highlands region forms a greenbelt adjacent to the Philadelphia-New York City-Hartford urban corridor that offers the opportunity to preserve water, forest and agricultural resources, wildlife habitat, recreational areas, and historic sites, while encouraging sustainable economic growth and development in a fiscally and environmentally sound manner.

[(6) Continued population growth and land use patterns in the Highlands region—

[(A) reduce the availability and quality of water;

[(B) reduce air quality;

[(C) fragment the forests;

[(D) destroy critical migration corridors and forest habitat; and

[(E) result in the loss of recreational opportunities and scenic, historic, and cultural resources.

[(7) The water, forest, wildlife, recreational, agricultural, and cultural resources of the Highlands region, in combination with the proximity of the Highlands region to the largest metropolitan areas in the United States, make the Highlands region nationally significant.

[(8) The national significance of the Highlands region has been documented in—

[(A) the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990;

[(B) the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service;

[(C) the bi-State Skylands Greenway Task Force Report;

[(D) the New Jersey State Development and Redevelopment Plan;

[(E) the New York State Open Space Conservation Plan;

[(F) the Connecticut Green Plan: Open Space Acquisition FY 2001–2006;

[(G) the open space plans of the State of Pennsylvania; and

[(H) other open space conservation plans for States in the Highlands region.

[(9) The Highlands region includes or is adjacent to numerous parcels of land owned by the Federal Government or federally designated areas that protect, conserve, or restore resources of the Highlands region, including—

[(A) the Wallkill River National Wildlife Refuge;

[(B) the Shawanagunk Grasslands Wildlife Refuge;

[(C) the Morristown National Historical Park;

[(D) the Delaware and Lehigh Canal Corridors;

[(E) the Hudson River Valley National Heritage Area;

[(F) the Delaware River Basin;

[(G) the Delaware Water Gap National Recreation Area;

[(H) the Upper Delaware Scenic and Recreational River;

[(I) the Appalachian National Scenic Trail;

[(J) the United States Military Academy at West Point, New York;

[(K) the Highlands National Millenium Trail;

[(L) the Great Swamp National Wildlife Refuge;

[(M) the proposed Crossroads of the Revolution National Heritage Area;

[(N) the proposed Musconetcong National Scenic and Recreational River in New Jersey; and

[(O) the Farmington River Wild and Scenic Area in Connecticut.

[(10) It is in the interest of the United States to protect, conserve, and restore the resources of the Highlands region for the residents of, and visitors to, the Highlands region.

[(11) The States of Connecticut, New Jersey, New York, and Pennsylvania, and units of local government in the Highlands region have the primary responsibility for protecting, conserving, preserving, restoring and promoting the resources of the Highlands region.

[(12) Because of the longstanding Federal practice of assisting States in creating, protecting, conserving, and restoring areas of significant natural and cultural importance, and the national significance of the Highlands region, the Federal Government should, in partnership with the Highlands States and units of local government in the Highlands region, protect, restore, and preserve the water, forest, agricultural, wildlife, recreational and cultural resources of the Highlands region.

### [SEC. 3. PURPOSES.

[The purposes of this Act are as follows:

[(1) To recognize the importance of the water, forest, agricultural, wildlife, recreational and cultural resources of the Highlands, and the national significance of the Highlands region to the United States.

[(2) To authorize the Secretary of the Interior to work in partnership with the Secretary of Agriculture to provide financial assistance to the Highlands States to preserve and protect high priority conservation lands in the Highlands region.

[(3) To continue the ongoing Forest Service programs in the Highlands region to assist the Highlands States, local units of government and private forest and farm landowners in the conservation of lands and natural resources in the Highlands region.

### [SEC. 4. DEFINITIONS.

[In this Act:

[(1) HIGHLANDS REGION.—The term "Highlands region" means the physiographic province, defined by the Reading Prong and ecologically similar adjacent upland areas, that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

[(2) HIGHLANDS STATE.—The term "Highlands State" means—

[(A) the State of Connecticut;

[(B) the State of New Jersey;

[(C) the State of New York;

[(D) the State of Pennsylvania; and

[(E) any agency or department of any Highlands State.

[(3) LAND CONSERVATION PARTNERSHIP PROJECT.—The term "land conservation partnership project" means a land conservation project located within the Highlands region identified as having high conservation value by the Forest Service in which a non-Federal entity acquires land or an interest in land from a willing seller for the purpose of permanently protecting, conserving, or preserving the land through a partnership with the Federal Government.

[(4) NON-FEDERAL ENTITY.—The term "non-Federal entity" means any Highlands State, or any agency or department of any Highlands State with authority to own and manage land for conservation purposes, including the Palisades Interstate Park Commission.

[(5) STUDY.—The term "study" means the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990.

[(6) UPDATE.—The term "update" means the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service.

### [SEC. 5. LAND CONSERVATION PARTNERSHIP PROJECTS IN THE HIGHLANDS REGION.

[(a) SUBMISSION OF PROPOSED PROJECTS.—Annually, the Governors of the Highlands States, with input from pertinent units of local government and the public, may jointly identify land conservation partnership projects in the Highlands region that shall be proposed for Federal financial assistance and submit a list of those projects to the Secretary of the Interior.

[(b) CONSIDERATION OF PROJECTS.—The Secretary of the Interior, in consultation with the Secretary of Agriculture, shall annually submit to Congress a list of those land conservation partnership projects submitted under subsection (a) that are eligible to receive financial assistance under this section.

[(c) ELIGIBILITY CONDITIONS.—To be eligible for financial assistance under this section for a land conservation partnership project, a non-Federal entity shall enter into an agreement with the Secretary of the Interior that—

[(1) identifies the non-Federal entity that shall own or hold and manage the land or interest in land;

[(2) identifies the source of funds to provide the non-Federal share required under subsection (d);

[(3) describes the management objectives for the land that will assure permanent protection and use of the land for the purpose for which the assistance will be provided;

[(4) provides that, if the non-Federal entity converts, uses, or disposes of the land conservation partnership project for a purpose inconsistent with the purpose for which the assistance was provided, as determined by the Secretary of the Interior, the United States may seek specific performance of the conditions of financial assistance in accordance with paragraph (3) in Federal court and shall be entitled to reimbursement from the non-Federal entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

[(A) the total amount of the financial assistance provided for the project by the Federal Government under this section; or

[(B) the amount by which the financial assistance increased the value of the land or interest in land; and

[(5) provides that land conservation partnership projects will be consistent with areas identified as having high conservation value in the following:

[(A) Important Areas portion of the Forest Service study.

[(B) Conservation Focal Areas portion of the Forest Service update.

[(C) Conservation Priorities portion of the update.

[(D) Lands identified as having higher or highest resource value in the Conservation Values Assessment portion of the update.

[(d) NON-FEDERAL SHARE REQUIREMENT.—The Federal share of the cost of carrying out a land conservation partnership project under this section shall not exceed 50 percent of the total cost of the land conservation partnership project.

[(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior from the general funds of the Treasury or the Land and Water Conservation Fund to carry out this section $10,000,000 for each of the fiscal years 2005 through 2014. Amounts appropriated pursuant to this authorization of appropriations shall remain available until expended.

### [SEC. 6. FOREST SERVICE AND USDA PROGRAMS IN THE HIGHLANDS REGION.

[(a) IN GENERAL.—In order to meet the land resource goals of, and the scientific and conservation challenges identified in, the study, update, and any future study that the Forest Service may undertake in the Highlands region, the Secretary of Agriculture, acting through the Chief of the Forest Service and in consultation with the Chief of the National Resources Conservation Service, shall continue to assist the Highlands States, local units of government, and private forest and farm landowners in the conservation of lands and natural resources in the Highlands region.

[(b) DUTIES.—The Forest Service shall—

[(1) in consultation with the Highlands States, undertake other studies and research as appropriate in the Highlands region consistent with the purposes of this Act;

[(2) communicate the findings of the study and update and maintain a public dialogue regarding implementation of the study and update; and

[(3) assist the Highland States, local units of government, individual landowners, and private organizations in identifying and using Forest Service and other technical and financial assistance programs of the Department of Agriculture.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture to carry out this section $1,000,000 for each of the fiscal years 2005 through 2014.

### [SEC. 7. PRIVATE PROPERTY PROTECTION AND LACK OF REGULATORY EFFECT.

[(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this Act shall be construed to—

[(1) require any private property owner to permit public access (including Federal, State, or local government access) to such private property; and

[(2) modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

[(b) LIABILITY.—Nothing in this Act shall be construed to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

[(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this Act shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

[(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS.—Nothing in this Act shall be construed to require the owner of any private property located in the Highlands region to participate in the land conservation, financial, or technical assistance or any other programs established under this Act.

[(e) PURCHASE OF LANDS OR INTERESTS IN LANDS FROM WILLING SELLERS ONLY.—Funds appropriated to carry out this Act shall be used to purchase lands or interests in lands only from willing sellers.]

### *SECTION 1. SHORT TITLE.*

*This Act may be cited as the "Highlands Conservation Act".*

### *SEC. 2. PURPOSES.*

*The purposes of this Act are—*

*(1) to recognize the importance of the water, forest, agricultural, wildlife, recreational, and cultural resources of the Highlands region, and the national significance of the Highlands region to the United States;*

*(2) to authorize the Secretary of the Interior to work in partnership with the Secretary of Agriculture to provide financial assistance to the Highlands States to preserve and protect high priority conservation land in the Highlands region; and*

*(3) to continue the ongoing Forest Service programs in the Highlands region to assist the*

*Highlands States, local units of government, and private forest and farm landowners in the conservation of land and natural resources in the Highlands region.*

### *SEC. 3. DEFINITIONS.*

*In this Act:*

*(1) HIGHLANDS REGION.—The term "Highlands region" means the area depicted on the map entitled "The Highlands Region", dated June 2004, including the list of municipalities included in the Highlands region, and maintained in the headquarters of the Forest Service in Washington, District of Columbia.*

*(2) HIGHLANDS STATE.—The term "Highlands State" means—*

*(A) the State of Connecticut;*

*(B) the State of New Jersey;*

*(C) the State of New York; and*

*(D) the State of Pennsylvania.*

*(3) LAND CONSERVATION PARTNERSHIP PROJECT.—The term "land conservation partnership project" means a land conservation project—*

*(A) located in the Highlands region;*

*(B) identified by the Forest Service in the Study, the Update, or any subsequent Pennsylvania and Connecticut Update as having high conservation value; and*

*(C) in which a non-Federal entity acquires land or an interest in land from a willing seller to permanently protect, conserve, or preserve the land through a partnership with the Federal Government.*

*(4) NON-FEDERAL ENTITY.—The term "non-Federal entity" means—*

*(A) any Highlands State; or*

*(B) any agency or department of any Highlands State with authority to own and manage land for conservation purposes, including the Palisades Interstate Park Commission.*

*(5) STUDY.—The term "Study" means the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990.*

*(6) UPDATE.—The term "Update" means the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service.*

*(7) PENNSYLVANIA AND CONNECTICUT UPDATE.—The term "Pennsylvania and Connecticut Update" means a report to be completed by the Forest Service that identifies areas having high conservation values in the States of Connecticut and Pennsylvania in a manner similar to that utilized in the Study and Update.*

### *SEC. 4. LAND CONSERVATION PARTNERSHIP PROJECTS IN THE HIGHLANDS REGION.*

*(a) SUBMISSION OF PROPOSED PROJECTS.—Each year, the governors of the Highlands States, with input from pertinent units of local government and the public, may—*

*(1) jointly identify land conservation partnership projects in the Highlands region from land identified as having high conservation values in the Study, the Update, or the Pennsylvania and Connecticut Update that shall be proposed for Federal financial assistance; and*

*(2) submit a list of those projects to the Secretary of the Interior.*

*(b) CONSIDERATION OF PROJECTS.—Each year, the Secretary of the Interior, in consultation with the Secretary of Agriculture, shall submit to Congress a list of the land conservation partnership projects submitted under subsection (a)(2) that are eligible to receive financial assistance under this section.*

*(c) ELIGIBILITY CONDITIONS.—To be eligible for financial assistance under this section for a land conservation partnership project, a non-Federal entity shall enter into an agreement with the Secretary of the Interior that—*

*(1) identifies the non-Federal entity that shall own or hold and manage the land or interest in land;*

*(2) identifies the source of funds to provide the non-Federal share under subsection (d);*

*(3) describes the management objectives for the land that will ensure permanent protection and use of the land for the purpose for which the assistance will be provided;*

*(4) provides that, if the non-Federal entity converts, uses, or disposes of the land conservation partnership project for a purpose inconsistent with the purpose for which the assistance was provided, as determined by the Secretary of the Interior, the United States—*

*(A) may seek specific performance of the conditions of financial assistance in accordance with paragraph (3) in Federal court; and*

*(B) shall be entitled to reimbursement from the non-Federal entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—*

*(i) the total amount of the financial assistance provided for the project by the Federal Government under this section; or*

*(ii) the amount by which the financial assistance increased the value of the land or interest in land; and*

*(5) provides that land conservation partnership projects will be consistent with areas identified as having high conservation value in—*

*(A) the Important Areas portion of the Study;*

*(B) the Conservation Focal Areas portion of the Update;*

*(C) the Conservation Priorities portion of the Update;*

*(D) land identified as having higher or highest resource value in the Conservation Values Assessment portion of the Update; and*

*(E) land identified as having high conservation value in the Pennsylvania and Connecticut Update.*

*(d) NON-FEDERAL SHARE REQUIREMENT.—The Federal share of the cost of carrying out a land conservation partnership project under this section shall not exceed 50 percent of the total cost of the land conservation partnership project.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior $10,000,000 for each of fiscal years 2005 through 2014, to remain available until expended.*

### *SEC. 5. FOREST SERVICE AND USDA PROGRAMS IN THE HIGHLANDS REGION.*

*(a) IN GENERAL.—To meet the land resource goals of, and the scientific and conservation challenges identified in, the Study, Update, and any future study that the Forest Service may undertake in the Highlands region, the Secretary of Agriculture, acting through the Chief of the Forest Service and in consultation with the Chief of the National Resources Conservation Service, shall continue to assist the Highlands States, local units of government, and private forest and farm landowners in the conservation of land and natural resources in the Highlands region.*

*(b) DUTIES.—The Forest Service shall—*

*(1) in consultation with the Highlands States, undertake other studies and research in the Highlands region consistent with the purposes of this Act, including a Pennsylvania and Connecticut Update;*

*(2) communicate the findings of the Study and Update and maintain a public dialogue regarding implementation of the Study and Update; and*

*(3) assist the Highland States, local units of government, individual landowners, and private organizations in identifying and using Forest Service and other technical and financial assistance programs of the Department of Agriculture.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture to carry out this section $1,000,000 for each of fiscal years 2005 through 2014.*

### *SEC. 6. PRIVATE PROPERTY PROTECTION AND LACK OF REGULATORY EFFECT.*

*(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this Act—*

*(1) requires a private property owner to permit public access (including Federal, State, or local government access) to private property; or*

*(2) modifies any provision of Federal, State, or local law with regard to public access to, or use of, private land.*

*(b) LIABILITY.—Nothing in this Act creates any liability, or has any effect on liability under any other law, of a private property owner with respect to any persons injured on the private property.*

*(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this Act modifies any authority of Federal, State, or local governments to regulate land use.*

*(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS.—Nothing in this Act requires the owner of any private property located in the Highlands region to participate in the land conservation, financial, or technical assistance or any other programs established under this Act.*

*(e) PURCHASE OF LAND OR INTERESTS IN LAND FROM WILLING SELLERS ONLY.—Funds appropriated to carry out this Act shall be used to purchase land or interests in land only from willing sellers.*

The committee amendment in the nature of a substitute was agreed to.

The bill (H.R. 1964), as amended, was read the third time and passed.

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## VOTING RIGHTS OF MEMBERS OF THE ARMED SERVICES FOR THE DELEGATE REPRESENTING AMERICAN SAMOA

The bill (H.R. 2010) to protect the voting rights of members of the Armed Services in elections for the Delegate representing American Samoa in the United States House of Representatives, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

### H.R. 2010

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. FINDINGS.

Congress finds the following:

(1) It is in the national interest that qualifying members of the Armed Forces on active duty and other overseas voters be allowed to vote in Federal elections.

(2) Since 1980, when the first election for the Congressional Delegate from American Samoa was held, general elections have been held in the first week of November in even-numbered years and runoff elections have been held 2 weeks later.

(3) This practice of holding a run-off election 2 weeks after a general election deprives members of the Armed Forces on active duty and other overseas voters of the opportunity to participate in the Federal election process in American Samoa.

(4) Prior to and since September 11, 2001, and due to limited air service, mail delays, and other considerations, it has been and remains impossible for absentee ballots to be prepared and returned within a 2-week period.

(5) American Samoa law requiring members of the Armed Forces on active duty and other overseas voters to register in person also prevents participation in the Federal election process and is contrary to the Uniformed and Overseas Citizens Absentee Voting Act.

(6) Given that 49 states elect their Representatives to the United States House of Representatives by plurality, it is in the national interest for American Samoa to do the same until such time as the American Samoa Legislature establishes primary elections and declares null and void the local practice of requiring members of the Armed Forces on active duty and other overseas voters to register in person which is contrary to the federal Uniformed and Overseas Citizens Absentee Voting Act.

### SEC. 2. PLURALITY OF VOTES REQUIRED FOR ELECTION OF DELEGATE.

Section 2 of the Act entitled "An Act to provide that the Territory of American Samoa be represented by a nonvoting Delegate to the United States House of Representatives, and for other purposes", approved October 31, 1978 (48 U.S.C. 1732; Public Law 95-556) is amended—

(1) in subsection (a)—

(A) by striking "majority" and inserting "plurality" the first place it appears; and

(B) by striking "If no candidate" and all that follows through "office of Delegate."; and

(2) by adding at the end the following new subsections:

"(c) Establishment of Primary Elections.—The legislature of American Samoa may, but is not required to, provide for primary elections for the election of Delegate.

"(d) Effect of Establishment of Primary Elections.—Notwithstanding subsection (a), if the legislature of American Samoa provides for primary elections for the election of Delegate, the Delegate shall be elected by a majority of votes cast in any subsequent general election for the office of Delegate for which such primary elections were held.".

### SEC. 3. EFFECTIVE DATES.

The amendments made by paragraph (1) of section 2 shall take effect on January 1, 2006. The amendment made by paragraph (2) of section 2 shall take effect on January 1, 2005.

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## JOHN MUIR NATIONAL HISTORIC SITE BOUNDARY ADJUSTMENT ACT

The bill (H.R. 3706) to adjust the boundary of the John Muir National Historic Site, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

H.R. 3706

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "John Muir National Historic Site Boundary Adjustment Act".

### SEC. 2. BOUNDARY ADJUSTMENT.

(a) Boundary.—The boundary of the John Muir National Historic Site is adjusted to include the lands generally depicted on the map entitled "Boundary Map, John Muir National Historic Site" numbered PWR–OL 426–80,044a and dated August 2001.

(b) Land Acquisition.—The Secretary of the Interior is authorized to acquire the lands and interests in lands identified as the "Boundary Adjustment Area" on the map referred to in subsection (a) by donation, purchase with donated or appropriated funds, exchange, or otherwise.

(c) Administration.—The lands and interests in lands described in subsection (b) shall be administered as part of the John Muir National Historic Site established by the Act of August 31, 1964 (78 Stat. 753; 16 U.S.C. 461 note).

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## DEPARTMENT OF ENERGY HIGH-END COMPUTING REVITALIZATION ACT OF 2004

The Senate proceeded to consider the bill (H.R. 4516) to require the Secretary of Energy to carry out a program of research and development to advance high-end computing, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

H.R. 4516

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### [SECTION 1. SHORT TITLE.

[This Act may be cited as the "Department of Energy High-End Computing Revitalization Act of 2004".

### [SEC. 2. DEFINITIONS.

[For purposes of this Act:

[(1) High-end computing system.—The term "high-end computing system" means a computing system with performance that substantially exceeds that of systems that are commonly available for advanced scientific and engineering applications.

[(2) Leadership system.—The term "Leadership System" means a high-end computing system that is among the most advanced in the world in terms of performance in solving scientific and engineering problems.

[(3) Institution of higher education.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

[(4) Secretary.—The term "Secretary" means the Secretary of Energy.

### [SEC. 3. DEPARTMENT OF ENERGY HIGH-END COMPUTING RESEARCH AND DEVELOPMENT PROGRAM.

[(a) In General.—The Secretary shall carry out a program of research and development (involving software and hardware) to advance high-end computing systems, and shall develop and deploy such systems for advanced scientific and engineering applications.

[(b) Program.—The program shall—

[(1) support both individual investigators and multidisciplinary teams of investigators;

[(2) conduct research in multiple architectures, which may include vector, reconfigurable logic, streaming, processor-in-memory, and multithreading architectures;

[(3) conduct research on software for high-end computing systems, including research on algorithms, programming environments, tools, languages, and operating systems for high-end computing systems, in collaboration with architecture development efforts;

[(4) provide for sustained access by the research community in the United States to high-end computing systems and to Leadership Systems, including provision for technical support for users of such systems;

[(5) support technology transfer to the private sector and others in accordance with applicable law; and

[(6) ensure that the high-end computing activities of the Department of Energy are coordinated with relevant activities in industry and with other Federal agencies, including the National Science Foundation, the Defense Advanced Research Projects Agency, the National Security Agency, the National Institutes of Health, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and the Environmental Protection Agency.

[(c) Leadership Systems Facilities.—

[(1) In general.—As part of the program carried out under this Act, the Secretary shall establish and operate Leadership Systems facilities to—

[(A) conduct advanced scientific and engineering research and development using Leadership Systems; and

[(B) develop potential advancements in high-end computing system hardware and software.

[(2) Administration.—In carrying out this subsection, the Secretary shall provide access to Leadership Systems on a competitive, merit-reviewed basis to researchers in United States industry, institutions of higher education, national laboratories, and other Federal agencies.

### [SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

[In addition to amounts otherwise made available for high-end computing, there are authorized to be appropriated to the Secretary to carry out this Act—

[(1) $50,000,000 for fiscal year 2005;

[(2) $55,000,000 for fiscal year 2006; and

[(3) $60,000,000 for fiscal year 2007.

### [SEC. 5. SOCIETAL IMPLICATIONS OF INFORMATION TECHNOLOGY.

[In carrying out its programs on the social, economic, legal, ethical, and cultural implications of information technology, the National Science Foundation shall support research into the implications of computers (including both hardware and software) that would be capable of mimicking human abilities to learn, reason, and make decisions.

### [SEC. 6. ASTRONOMY AND ASTROPHYSICS ADVISORY COMMITTEE.

[(a) Amendments.—Section 23 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–9) is amended—

[(1) by striking "and the National Aeronautics and Space Administration" each place it appears in subsections (a) and (b) and inserting ", the National Aeronautics and Space Administration, and the Department of Energy";

[(2) in subsection (b)(3), by inserting "the Secretary of Energy," after "the Administrator of the National Aeronautics and Space Administration,";

[(3) in subsection (c)—

[(A) by striking "5" in each of paragraphs (1) and (2) and inserting "4";

[(B) by striking "and" at the end of paragraph (2);

[(C) by redesignating paragraph (3) as paragraph (4), and in that paragraph by striking "3" and inserting "2"; and

[(D) by inserting after paragraph (2) the following new paragraph:

["(3) 3 members selected by the Secretary of Energy; and"; and

[(4) in subsection (f), by striking "the advisory bodies of other Federal agencies, such as the Department of Energy, which may engage in related research activities" and inserting "other Federal advisory committees that advise Federal agencies which engage in related research activities".

[(b) Effective Date.—The amendments made by subsection (a) shall take effect on March 15, 2005.

### [SEC. 7. REMOVAL OF SUNSET PROVISION FROM SAVINGS IN CONSTRUCTION ACT OF 1996.

[Section 14(e) of the Metric Conversion Act of 1975 (15 U.S.C. 205l(e)) is repealed.]

### *SECTION 1. SHORT TITLE.*

*This Act may be cited as the "Department of Energy High-End Computing Revitalization Act of 2004".*

### *SEC. 2. DEFINITIONS.*

*In this Act:*

*(1) CENTER.—The term "Center" means a High-End Software Development Center established under section 3(d).*

*(2) HIGH-END COMPUTING SYSTEM.—The term "high-end computing system" means a computing system with performance that substantially exceeds that of systems that are commonly available for advanced scientific and engineering applications.*

*(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).*

*(4) LEADERSHIP SYSTEM.—The term "Leadership System" means a high-end computing system that is among the most advanced in the world in terms of performance in solving scientific and engineering problems.*

*(5) SECRETARY.—The term "Secretary" means the Secretary of Energy, acting through the Director of the Office of Science of the Department of Energy.*

### *SEC. 3. DEPARTMENT OF ENERGY HIGH-END COMPUTING RESEARCH AND DEVELOPMENT PROGRAM.*

*(a) IN GENERAL.—The Secretary shall—*

*(1) carry out a program of research and development (including development of software and hardware) to advance high-end computing systems; and*

*(2) develop and deploy high-end computing systems for advanced scientific and engineering applications.*

*(b) PROGRAM.—The program shall—*

*(1) support both individual investigators and multidisciplinary teams of investigators;*

*(2) conduct research in multiple architectures, which may include vector, reconfigurable logic, streaming, processor-in-memory, and multithreading architectures;*

*(3) conduct research on software for high-end computing systems, including research on algorithms, programming environments, tools, languages, and operating systems for high-end computing systems, in collaboration with architecture development efforts;*

*(4) provide for sustained access by the research community in the United States to high-end computing systems and to Leadership Systems, including provision of technical support for users of such systems;*

*(5) support technology transfer to the private sector and others in accordance with applicable law; and*

*(6) ensure that the high-end computing activities of the Department of Energy are coordinated with relevant activities in industry and with other Federal agencies, including the National Science Foundation, the Defense Advanced Research Projects Agency, the National Nuclear Security Administration, the National Security Agency, the National Institutes of Health, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institutes of Standards and Technology, and the Environmental Protection Agency.*

*(c) LEADERSHIP SYSTEMS FACILITIES.—*

*(1) IN GENERAL.—As part of the program carried out under this Act, the Secretary shall establish and operate 1 or more Leadership Systems facilities to—*

*(A) conduct advanced scientific and engineering research and development using Leadership Systems; and*

*(B) develop potential advancements in high-end computing system hardware and software.*

*(2) ADMINISTRATION.—In carrying out this subsection, the Secretary shall provide to Leadership Systems, on a competitive, merit-reviewed basis, access to researchers in United States industry, institutions of higher education, national laboratories, and other Federal agencies.*

*(d) HIGH-END SOFTWARE DEVELOPMENT CENTER.—*

*(1) IN GENERAL.—As part of the program carried out under this Act, the Secretary shall establish at least 1 High-End Software Development Center.*

*(2) DUTIES.—A Center shall concentrate efforts to develop, test, maintain, and support optimal algorithms, programming environments, tools, languages, and operating systems for high-end computing systems.*

*(3) STAFF.—A Center shall include—*

*(A) a full-time research staff, to create a centralized knowledge base for high-end software development; and*

*(B) a rotating staff of researchers from other institutions and industry to assist in coordination of research efforts and promote technology transfer to the private sector.*

*(4) USE OF EXPERTISE.—The Secretary shall use the expertise of a Center to assess research and development in high-end computing system architecture.*

*(5) LOCATION.—The location of a Center shall be determined by a competitive proposal process administered by the Secretary.*

### *SEC. 4. AUTHORIZATION OF APPROPRIATIONS.*

*In addition to amounts otherwise made available for high-end computing, there are authorized to be appropriated to the Secretary to carry out this Act—*

*(1) $50,000,000 for fiscal year 2005;*

*(2) $55,000,000 for fiscal year 2006; and*

*(3) $60,000,000 for fiscal year 2007.*

### *SEC. 5. ASTRONOMY AND ASTROPHYSICS ADVISORY COMMITTEE.*

*(a) AMENDMENTS.—Section 23 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–9) is amended—*

*(1) in subsection (a) and paragraphs (1) and (2) of subsection (b), by striking "and the National Aeronautics and Space Administration" and inserting ", the National Aeronautics and Space Administration, and the Department of Energy";*

*(2) in subsection (b)(3), by stiking "Administration, and" and inserting "Administration, the Secretary of Energy,";*

*(3) in subsection (c)—*

*(A) in paragraphs (1) and (2), by striking "5" and inserting "4";*

*(B) in paragraph (2), by striking "and" at the end;*

*(C) by redesignating paragraph (3) as paragraph (4), and in that paragraph by striking "3" and inserting "2"; and*

*(D) by inserting after paragraph (2) the following:*

*"(3) 3 members selected by the Secretary of Energy; and"; and*

*(4) in subsection (f), by striking "the advisory bodies of other Federal agencies, such as the Department of Energy, which may engage in related research activities" and inserting "other Federal advisory committees that advise Federal agencies that engage in related research activities".*

*(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on March 15, 2005.*

### *SEC. 6. REMOVAL OF SUNSET PROVISION FROM SAVINGS IN CONSTRUCTION ACT OF 1996.*

*Section 14 of the Metric Conversion Act of 1975 (15 U.S.C. 2051) is amended by striking subsection (e).*

The amendment (No. 4053) was agreed to as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy High-End Computing Revitalization Act of 2004".

### SEC. 2. DEFINITIONS.

In this Act:

(1) CENTER.—The term "Center" means a High-End Software Development Center established under section 3(d).

(2) HIGH-END COMPUTING SYSTEM.—The term "high-end computing system" means a computing system with performance that substantially exceeds that of systems that are commonly available for advanced scientific and engineering applications.

(3) LEADERSHIP SYSTEM.—The term "Leadership System" means a high-end computing system that is among the most advanced in the world in terms of performance in solving scientific and engineering problems.

(4) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Energy, acting through the Director of the Office of Science of the Department of Energy.

### SEC. 3. DEPARTMENT OF ENERGY HIGH-END COMPUTING RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall—

(1) carry out a program of research and development (including development of software and hardware) to advance high-end computing systems; and

(2) develop and deploy high-end computing systems for advanced scientific and engineering applications.

(b) PROGRAM.—The program shall—

(1) support both individual investigators and multidisciplinary teams of investigators;

(2) conduct research in multiple architectures, which may include vector, reconfigurable logic, streaming, processor-in-memory, and multithreading architectures;

(3) conduct research on software for high-end computing systems, including research on algorithms, programming environments, tools, languages, and operating systems for high-end computing systems, in collaboration with architecture development efforts;

(4) provide for sustained access by the research community in the United States to high-end computing systems and to Leadership Systems, including provision of technical support for users of such systems;

(5) support technology transfer to the private sector and others in accordance with applicable law; and

(6) ensure that the high-end computing activities of the Department of Energy are coordinated with relevant activities in industry and with other Federal agencies, including the National Science Foundation, the Defense Advanced Research Projects Agency, the National Nuclear Security Administration, the National Security Agency, the National Institutes of Health, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institutes of Standards and Technology, and the Environmental Protection Agency.

(c) LEADERSHIP SYSTEMS FACILITIES.—

(1) IN GENERAL.—As part of the program carried out under this Act, the Secretary

shall establish and operate 1 or more Leadership Systems facilities to—

(A) conduct advanced scientific and engineering research and development using Leadership Systems; and

(B) develop potential advancements in high-end computing system hardware and software.

(2) ADMINISTRATION.—In carrying out this subsection, the Secretary shall provide to Leadership Systems, on a competitive, merit-reviewed basis, access to researchers in United States industry, institutions of higher education, national laboratories, and other Federal agencies.

(d) HIGH-END SOFTWARE DEVELOPMENT CENTER.—

(1) IN GENERAL.—As part of the program carried out under this Act, the Secretary shall establish at least 1 High-End Software Development Center.

(2) DUTIES.—A Center shall concentrate efforts to develop, test, maintain, and support optimal algorithms, programming environments, tools, languages, and operating systems for high-end computing systems.

(3) PROPOSALS.—In soliciting proposals for the Center, the Secretary shall encourage staffing arrangements that include both permanent staff and a rotating staff of researchers from other institutions and industry to assist in coordination of research efforts and promote technology transfer to the private sector.

(4) USE OF EXPERTISE.—The Secretary shall use the expertise of a Center to assess research and development in high-end computing system architecture.

(5) SELECTION.—The selection of a Center shall be determined by a competitive proposal process administered by the Secretary.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

In addition to amounts otherwise made available for high-end computing, there are authorized to be appropriated to the Secretary to carry out this Act—

(1) $50,000,000 for fiscal year 2005;

(2) $55,000,000 for fiscal year 2006; and

(3) $60,000,000 for fiscal year 2007.

**SEC. 5. ASTRONOMY AND ASTROPHYSICS ADVISORY COMMITTEE.**

(a) AMENDMENTS.—Section 23 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–9) is amended—

(1) in subsection (a) and paragraphs (1) and (2) of subsection (b), by striking "and the National Aeronautics and Space Administration" and inserting ", the National Aeronautics and Space Administration, and the Department of Energy";

(2) in subsection (b)(3), by striking "Administration, and" and inserting "Administration, the Secretary of Energy, ";

(3) in subsection (c)—

(A) in paragraphs (1) and (2), by striking "5" and inserting "4";

(B) in paragraph (2), by striking "and" at the end;

(C) by redesignating paragraph (3) as paragraph (4), and in that paragraph by striking "3" and inserting "2"; and

(D) by inserting after paragraph (2) the following:

"(3) 3 members selected by the Secretary of Energy; and

(4) in subsection (f), by striking "the advisory bodies of other Federal agencies, such as the Department of Energy, which may engage in related research activities" and inserting "other Federal advisory committees that advise Federal agencies that engage in related research activities".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on March 15, 2005.

**SEC. 6. REMOVAL OF SUNSET PROVISION FROM SAVINGS IN CONSTRUCTION ACT OF 1996.**

Section 14 of the Metric Conversion Act of 1975 (15 U.S.C. 205*l*) is amended by striking subsection (e).

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (H.R. 4516), as amended, was read the third time and passed.

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## BOUNDARY REVISION OF THE CHICKASAW NATIONAL RECREATION AREA

The bill (H.R. 4066) to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

H.R. 4066

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Chickasaw National Recreation Area Land Exchange Act of 2004".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds the following:

(1) By provision 64 of the agreement between the United States and the Choctaws and Chickasaws dated March 21, 1902 (32 Stat. 641, 655–56), approved July 1, 1902, 640 acres of property were ceded to the United States for the purpose of creating Sulphur Springs Reservation, later known as Platt National Park, to protect water and other resources and provide public access.

(2) In 1976, Platt National Park, the Arbuckle Recreation Area, and additional lands were combined to create Chickasaw National Recreation Area to protect and expand water and other resources as well as to memorialize the history and culture of the Chickasaw Nation.

(3) More recently, the Chickasaw Nation has expressed interest in establishing a cultural center inside or adjacent to the park.

(4) The Chickasaw National Recreation Area's Final Amendment to the General Management Plan (1994) found that the best location for a proposed Chickasaw Nation Cultural Center is within the Recreation Area's existing boundary and that the selected cultural center site should be conveyed to the Chickasaw Nation in exchange for land of equal value.

(5) The land selected to be conveyed to the Chickasaw Nation holds significant historical and cultural connections to the people of the Chickasaw Nation.

(6) The City of Sulphur, Oklahoma, is a key partner in this land exchange through its donation of land to the Chickasaw Nation for the purpose of exchange with the United States.

(7) The City of Sulphur, Oklahoma, has conveyed fee simple title to the non-Federal land described as Tract 102–26 to the Chickasaw Nation by Warranty Deed.

(8) The National Park Service, the Chickasaw Nation, and the City of Sulphur, Oklahoma, have signed a preliminary agreement to effect a land exchange for the purpose of the construction of a cultural center.

(b) PURPOSE.—The purpose of this Act is to authorize, direct, facilitate, and expedite the land conveyance in accordance with the terms and conditions of this Act.

**SEC. 3. DEFINITIONS.**

For the purposes of this Act, the following definitions apply:

(1) FEDERAL LAND.—The term "Federal land" means the Chickasaw National Recreational Area lands and interests therein, identified as Tract 102–25 on the Map.

(2) NON-FEDERAL LAND.—The term "non-Federal land" means the lands and interests therein, formerly owned by the City of Sulphur, Oklahoma, and currently owned by the Chickasaw Nation, located adjacent to the existing boundary of Chickasaw National Recreation Area and identified as Tract 102–26 on the Map.

(3) MAP.—The term "Map" means the map entitled "Proposed Land Exchange and Boundary Revision, Chickasaw National Recreation Area", dated September 8, 2003, and numbered 107/800035a.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 4. CHICKASAW NATIONAL RECREATION AREA LAND CONVEYANCE.**

(a) LAND CONVEYANCE.—Not later then 6 months after the Chickasaw Nation conveys all right, title, and interest in and to the non-Federal land to the United States, the Secretary shall convey all right, title, and interest in and to the Federal land to the Chickasaw Nation.

(b) VALUATION OF LAND TO BE CONVEYED.—The fair market values of the Federal land and non-Federal land shall be determined by an appraisal acceptable to the Secretary and the Chickasaw Nation. The appraisal shall conform with the Federal appraisal standards, as defined in the Uniform Appraisal Standards for Federal Land Acquisitions developed by the Interagency Land Acquisition Conference, 1992, and any amendments to these standards.

(c) EQUALIZATION OF VALUES.—If the fair market values of the Federal land and non-Federal land are not equal, the values may be equalized by the payment of a cash equalization payment by the Secretary or the Chickasaw Nation, as appropriate.

(d) CONDITIONS.—

(1) IN GENERAL.—Notwithstanding subsection (a), the conveyance of the non-Federal land authorized under subsection (a) shall not take place until the completion of all items included in the Preliminary Exchange Agreement among the City of Sulphur, the Chickasaw Nation, and the National Park Service, executed on July 16, 2002, except as provided in paragraph (2).

(2) EXCEPTION.—The item included in the Preliminary Exchange Agreement among the City of Sulphur, the Chickasaw Nation, and the National Park Service, executed on July 16, 2002, providing for the Federal land to be taken into trust for the benefit of the Chickasaw Nation shall not apply.

(e) ADMINISTRATION OF ACQUIRED LAND.—Upon completion of the land exchange authorized under subsection (a), the Secretary—

(1) shall revise the boundary of Chickasaw National Recreation Area to reflect that exchange; and

(2) shall administer the land acquired by the United States in accordance with applicable laws and regulations.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the en bloc consideration of H.R. 3391, H.R. 3479, H.R. 4593, H.R. 4827, H.R. 1630, and H.R. 4579 which are at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I ask unanimous consent that the amendments at the desk be agreed to, the bills, as amended, if amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and any statements relating to the bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROVO RIVER PROJECT TRANSFER ACT

The bill (H.R. 3391) to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project, was considered, ordered to a third reading, read the third time, and passed.

## BROWN TREE SNAKE CONTROL AND ERADICATION ACT OF 2004

The bill (H.R. 3479) to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

## LINCOLN COUNTY CONSERVATION, RECREATION, AND DEVELOPMENT ACT OF 2004

The Senate proceeded to consider the bill (H.R. 4593) to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes.

The amendment (No. 4054) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (H.R. 4593), as amended, was read the third time and passed.

## McINNIS CANYONS NATIONAL CONSERVATION AREA

The bill (H.R. 4827) to amend the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 to rename the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area, was considered, ordered to a third reading, read the third time, and passed.

## PETRIFIED FOREST NATIONAL PART EXPANSION ACT OF 2003

The Senate proceeded to consider the bill (H.R. 1630) to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes.

The amendment (No. 4055) was agreed to, as follows:

On page 2, line 9, strike "June" and insert "July".

The bill (H.R. 1630), as amended, was read the third time and passed.

## TRUMAN FARM HOUSE EXPANSION ACT

The bill (H.R. 4579) to modify the boundary of the Harry S. Truman National Historic Site in the State of Missouri, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

## LEWIS AND CLARK NATIONAL HISTORICAL PARK

## ALASKA LAND TRANSFER ACCELERATION ACT OF 2003

## WILSON'S CREEK NATIONAL BATTLEFIELD IN MISSOURI

## ORGANIC ACT OF GUAM AMENDMENT

## PONCE DE LEON DISCOVERY OF FLORIDA QUINCENTENNIAL ACT

## UPPER CONNECTICUT RIVER PARTNERSHIP ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Energy Committee be discharged from the following bills, en bloc: H.R. 3819, S. 1466, H.R. 4481, H.R. 2400, S. 2656, and S. 1433, and the Senate proceed to their immediate consideration, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the bills, en bloc.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendments at the desk be agreed to, the bills, as amended, be read a third time and passed, and the motions to reconsider be laid upon the table, en bloc, and that any statements related to the bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3819), Lewis and Clark National Historical Park Designation Act of 2004, was read the third time and passed.

The Senate proceeded to consider the bill (S. 1466) to facilitate the transfer of land in the State of Alaska, and for other purposes.

The amendment (No. 4056) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 1466), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

The bill (H.R. 4481), Wilson's Creek National Battlefield Boundary Adjustment Act of 2004, was read the third time and passed.

The bill (H.R. 2400), To amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam was read the third time and passed.

The Senate proceeded to consider the bill (S. 2656) to establish a National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon.

The amendment (No. 4057) was agreed to.

(The amendment is printed in Today's RECORD under "Text of Amendments.")

The bill (S. 2656), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

The Senate proceeded to consider the bill (S. 1433) to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont.

The bill (S. 1433) was read the third time and passed, as follows:

S. 1433

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Upper Connecticut River Partnership Act".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) the upper Connecticut River watershed in the States of New Hampshire and Vermont is a scenic region of historic villages located in a working landscape of farms, forests, and the mountainous headwaters and broad fertile floodplains of New England's longest river, the Connecticut River;

(2) the River provides outstanding fish and wildlife habitat, recreation, and hydropower generation for the New England region;

(3) the upper Connecticut River watershed has been recognized by Congress as part of the Silvio O. Conte National Fish and Wildlife Refuge, established by the Silvio O. Conte National Fish and Wildlife Refuge Act (16 U.S.C. 668dd note; Public Law 102–212);

(4) the demonstrated interest in stewardship of the River by the citizens living in the watershed led to the Presidential designation of the River as 1 of 14 American Heritage Rivers on July 30, 1998;

(5) the River is home to the bistate Connecticut River Scenic Byway, which will foster heritage tourism in the region;

(6) each of the legislatures of the States of Vermont and New Hampshire has established a commission for the Connecticut River watershed, and the 2 commissions, known collectively as the "Connecticut River Joint Commissions"—

(A) have worked together since 1989; and

(B) serve as the focal point for cooperation between Federal agencies, States, communities, and citizens;

(7) in 1997, as directed by the legislatures, the Connecticut River Joint Commissions, with the substantial involvement of 5 bistate local river subcommittees appointed to represent riverfront towns, produced the 6-volume Connecticut River Corridor Management Plan, to be used as a blueprint in educating agencies, communities, and the public in how to be good neighbors to a great river;

(8) this year, by Joint Legislative Resolution, the legislatures have requested that Congress provide for continuation of cooperative partnerships and support for the Connecticut River Joint Commissions from the New England Federal Partners for Natural Resources, a consortium of Federal agencies, in carrying out recommendations of the Connecticut River Corridor Management Plan;

(9) this Act effectuates certain recommendations of the Connecticut River Corridor Management Plan that are most appropriately directed by the States through the Connecticut River Joint Commissions, with assistance from the National Park Service and United States Fish and Wildlife Service; and

(10) where implementation of those recommendations involves partnership with local communities and organizations, support for the partnership should be provided by the Secretary.

(b) PURPOSE.—The purpose of this Act is to authorize the Secretary to provide to the States of New Hampshire and Vermont (including communities in those States), through the Connecticut River Joint Commissions, technical and financial assistance for management of the River.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STATE.—The term "State" means—

(A) the State of New Hampshire; or

(B) the State of Vermont.

**SEC. 4. CONNECTICUT RIVER GRANTS AND TECHNICAL ASSISTANCE PROGRAM.**

(a) IN GENERAL.—The Secretary shall establish a Connecticut River Grants and Technical Assistance Program to provide grants and technical assistance to State and local governments, nonprofit organizations, and the private sector to carry out projects for the conservation, restoration, and interpretation of historic, cultural, recreational, and natural resources in the Connecticut River watershed.

(b) CRITERIA.—The Secretary, in consultation with the Connecticut River Joint Commissions, shall develop criteria for determining the eligibility of applicants for, and reviewing and prioritizing applications for, grants or technical assistance under the program.

(c) COST-SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out a grant project under subsection (a) shall not exceed 75 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of a project may be provided in the form of in-kind contributions of services or materials.

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this Act $1,000,000 for each fiscal year.

## WORLD YEAR OF PHYSICS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 742, S. Con. Res. 121.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 121) supporting the goals and ideals of the World Year of Physics.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 121) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 121

Whereas throughout history, physics has contributed to knowledge, civilization, and culture around the world;

Whereas physics research has been and continues to be a driving force for scientific, technological, and economic development;

Whereas many emerging fields in science and technology, such as nanoscience, information technology, and biotechnology, are substantially based on, and derive many tools from, fundamental discoveries in physics and physics applications;

Whereas physics will continue to play a vital role in addressing many 21st-century challenges relating to sustainable development, including environmental conservation, clean sources of energy, public health, and security;

Whereas Albert Einstein is a widely recognized scientific figure who contributed enormously to the development of physics, beginning in 1905 with Einstein's groundbreaking papers on the photoelectric effect, the size of molecules, Brownian motion, and the theory of relativity that led to Einstein's most famous equation, $E = mc^2$;

Whereas 2005 will be the 100th anniversary of the publication of those groundbreaking papers;

Whereas the General Assembly of the International Union of Pure and Applied Physics unanimously approved the proposition designating 2005 as the World Year of Physics; and

Whereas the Department of Energy is the leading source of Federal support for academic physics research, accounting for a majority of Federal funding for physics: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress—

(1) supports the goals and ideals of the World Year of Physics, as designated by the General Assembly of the International Union of Pure and Applied Physics;

(2) encourages the people of the United States to observe the World Year of Physics as a special occasion for giving impetus to—

(A) education and research in physics; and

(B) the public's understanding of physics;

(3) calls on the Secretary of Energy to lead and coordinate Federal activities to commemorate the World Year of Physics;

(4) encourages the Secretary, all science-related organizations, the private sector, and the media to highlight and give enhanced recognition to—

(A) the role of physics in social, cultural, and economic development; and

(B) the positive impact and contributions of physics to society; and

(5) encourages the Secretary and all people involved in physics education and research to take additional steps (including strengthening existing and emerging fields of physics research and promoting the understanding of physics) to ensure that—

(A) support for physics continues; and

(B) physics studies at all levels continue to attract an adequate number of students.

## HIBBEN CENTER ACT

Mr. FRIST. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 643) to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

S. 643

*Resolved*, That the bill from the Senate (S. 643) entitled "An Act to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Hibben Center Act".*

***SEC. 2. LEASE AGREEMENT.***

*(a) AUTHORIZATION.—The Secretary of the Interior may enter into an agreement with the University of New Mexico to lease space in the Hibben Center for Archaeological Research at the University of New Mexico for research on, and curation of, the archaeological research collections of the National Park Service relating to the Chaco Culture National Historical Park and Aztec Ruins National Monument.*

*(b) TERM; RENT.—The lease shall provide for a term not exceeding 40 years and a nominal annual lease payment.*

*(c) IMPROVEMENTS.—The lease shall permit the Secretary to make improvements and install furnishings and fixtures related to the use and curation of the collections.*

***SEC. 3. GRANT.***

*Upon execution of the lease, the Secretary may contribute to the University of New Mexico:*

*(1) up to 37 percent of the cost of construction of the Hibben Center, not to exceed $1,750,000; and*

*(2) the cost of improvements, not to exceed $2,488,000.*

***SEC. 4. COOPERATIVE AGREEMENT.***

*The Secretary may enter into cooperative agreements with the University of New Mexico, Federal agencies, and Indian tribes for the curation of and conduct of research on artifacts, and to encourage collaborative management of the Chacoan archaeological artifacts associated with northwestern New Mexico.*

***SEC. 5. AUTHORIZATION OF APPROPRIATIONS.***

*There are authorized to be appropriated to the Secretary such sums as may be necessary for the purposes of this Act.*

## NOXIOUS WEED CONTROL AND ERADICATION ACT OF 2004

Mr. FRIST. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 144) to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

S. 144

*Resolved*, That the bill from the Senate (S. 144) entitled "An Act to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land", do pass with the following amendments:

Strike out all after the enacting clause and insert:

### *SECTION 1. NOXIOUS WEED CONTROL AND ERADICATION.*

*The Plant Protection Act (7 U.S.C. 7701 et seq.) is amended by adding at the end the following new subtitle:*

### *"Subtitle E—Noxious Weed Control and Eradication*

### *"SEC. 451. SHORT TITLE.*

*"This subtitle may be cited as the 'Noxious Weed Control and Eradication Act of 2004'.*

### *"SEC. 452. DEFINITIONS.*

*"In this subtitle:*

*"(1) INDIAN TRIBE.—The term 'Indian Tribe' has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).*

*"(2) WEED MANAGEMENT ENTITY.—The term 'weed management entity' means an entity that—*

*"(A) is recognized by the State in which it is established;*

*"(B) is established for the purpose of or has demonstrable expertise and significant experience in controlling or eradicating noxious weeds and increasing public knowledge and education concerning the need to control or eradicate noxious weeds;*

*"(C) may be multijurisdictional and multidisciplinary in nature;*

*"(D) may include representatives from Federal, State, local, or, where applicable, Indian Tribe governments, private organizations, individuals, and State-recognized conservation districts or State-recognized weed management districts; and*

*"(E) has existing authority to perform land management activities on Federal land if the proposed project or activity is on Federal lands.*

*"(3) FEDERAL LANDS.—The term 'Federal lands' means those lands owned and managed by the United States Forest Service or the Bureau of Land Management.*

### *"SEC. 453. ESTABLISHMENT OF PROGRAM.*

*"(a) IN GENERAL.—The Secretary shall establish a program to provide financial and technical assistance to control or eradicate noxious weeds.*

*"(b) GRANTS.—Subject to the availability of appropriations under section 457(a), the Secretary shall make grants under section 454 to weed management entities for the control or eradication of noxious weeds.*

*"(c) AGREEMENTS.—Subject to the availability of appropriations under section 457(b), the Secretary shall enter into agreements under section 455 with weed management entities to provide financial and technical assistance for the control or eradication of noxious weeds.*

### *"SEC. 454. GRANTS TO WEED MANAGEMENT ENTITIES.*

*"(a) CONSULTATION AND CONSENT.—In carrying out a grant under this subtitle, the weed management entity and the Secretary shall—*

*"(1) if the activities funded under the grant will take place on Federal land, consult with the heads of the Federal agencies having jurisdiction over the land; or*

*"(2) obtain the written consent of the non-Federal landowner.*

*"(b) GRANT CONSIDERATIONS.—In determining the amount of a grant to a weed management entity, the Secretary shall consider—*

*"(1) the severity or potential severity of the noxious weed problem;*

*"(2) the extent to which the Federal funds will be used to leverage non-Federal funds to address the noxious weed problem;*

*"(3) the extent to which the weed management entity has made progress in addressing the noxious weeds problem; and*

*"(4) other factors that the Secretary determines to be relevant.*

*"(c) USE OF GRANT FUNDS; COST SHARES.—*

*"(1) USE OF GRANTS.—A weed management entity that receives a grant under subsection (a) shall use the grant funds to carry out a project authorized by subsection (d) for the control or eradication of a noxious weed.*

*"(2) COST SHARES.—*

*"(A) FEDERAL COST SHARE.—The Federal share of the cost of carrying out an authorized project under this section exclusively on non-Federal land shall not exceed 50 percent.*

*"(B) FORM OF NON-FEDERAL COST SHARE.—The non-Federal share of the cost of carrying out an authorized project under this section may be provided in cash or in kind.*

*"(d) AUTHORIZED PROJECTS.—Projects funded by grants under this section include the following:*

*"(1) Education, inventories and mapping, management, monitoring, methods development, and other capacity building activities, including the payment of the cost of personnel and equipment that promote control or eradication of noxious weeds.*

*"(2) Other activities to control or eradicate noxious weeds or promote control or eradication of noxious weeds.*

*"(e) APPLICATION.—To be eligible to receive assistance under this section, a weed management entity shall prepare and submit to the Secretary an application containing such information as the Secretary shall by regulation require.*

*"(f) SELECTION OF PROJECTS.—Projects funded under this section shall be selected by the Secretary on a competitive basis, taking into consideration the following:*

*"(1) The severity of the noxious weed problem or potential problem addressed by the project.*

*"(2) The likelihood that the project will prevent or resolve the problem, or increase knowledge about resolving similar problems.*

*"(3) The extent to which the Federal funds will leverage non-Federal funds to address the noxious weed problem addressed by the project.*

*"(4) The extent to which the program will improve the overall capacity of the United States to address noxious weed control and management.*

*"(5) The extent to which the weed management entity has made progress in addressing noxious weed problems.*

*"(6) The extent to which the project will provide a comprehensive approach to the control or eradication of noxious weeds.*

*"(7) The extent to which the project will reduce the total population of noxious weeds.*

*"(8) The extent to which the project promotes cooperation and participation between States that have common interests in controlling and eradicating noxious weeds.*

*"(9) Other factors that the Secretary determines to be relevant.*

*"(g) REGIONAL, STATE, AND LOCAL INVOLVEMENT.—In determining which projects receive funding under this section, the Secretary shall, to the maximum extent practicable—*

*"(1) rely on technical and merit reviews provided by regional, State, or local weed management experts; and*

*"(2) give priority to projects that maximize the involvement of State, local and, where applicable, Indian Tribe governments.*

*"(h) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to States with approved weed management entities established by Indian Tribes and may provide an additional allocation to a State to meet the particular needs and projects that the weed management entity plans to address.*

### *"SEC. 455. AGREEMENTS.*

*"(a) CONSULTATION AND CONSENT.—In carrying out an agreement under this section, the Secretary shall—*

*"(1) if the activities funded under the agreement will take place on Federal land, consult with the heads of the Federal agencies having jurisdiction over the land; or*

*"(2) obtain the written consent of the non-Federal landowner.*

*"(b) APPLICATION OF OTHER LAWS.—The Secretary may enter into agreements under this section with weed management entities notwithstanding sections 6301 through 6309 of title 31, United States Code, and other laws relating to the procurement of goods and services for the Federal Government.*

*"(c) ELIGIBLE ACTIVITIES.—Activities carried out under an agreement under this section may include the following:*

*"(1) Education, inventories and mapping, management, monitoring, methods development, and other capacity building activities, including the payment of the cost of personnel and equipment that promote control or eradication of noxious weeds.*

*"(2) Other activities to control or eradicate noxious weeds.*

*"(d) SELECTION OF ACTIVITIES.—Activities funded under this section shall be selected by the Secretary taking into consideration the following:*

*"(1) The severity of the noxious weeds problem or potential problem addressed by the activities.*

*"(2) The likelihood that the activity will prevent or resolve the problem, or increase knowledge about resolving similar problems.*

*"(3) The extent to which the activity will provide a comprehensive approach to the control or eradication of noxious weeds.*

*"(4) The extent to which the program will improve the overall capacity of the United States to address noxious weed control and management.*

*"(5) The extent to which the project promotes cooperation and participation between States that have common interests in controlling and eradicating noxious weeds.*

*"(6) Other factors that the Secretary determines to be relevant.*

*"(e) REGIONAL, STATE, AND LOCAL INVOLVEMENT.—In determining which activities receive funding under this section, the Secretary shall, to the maximum extent practicable—*

*"(1) rely on technical and merit reviews provided by regional, State, or local weed management experts; and*

*"(2) give priority to activities that maximize the involvement of State, local, and, where applicable, representatives of Indian Tribe governments.*

*"(f) RAPID RESPONSE PROGRAM.—At the request of the Governor of a State, the Secretary may enter into a cooperative agreement with a weed management entity in that State to enable rapid response to outbreaks of noxious weeds at a stage which rapid eradication and control is possible and to ensure eradication or immediate control of the noxious weeds if—*

*"(1) there is a demonstrated need for the assistance;*

*"(2) the noxious weed is considered to be a significant threat to native fish, wildlife, or their habitats, as determined by the Secretary;*

*"(3) the economic impact of delaying action is considered by the Secretary to be substantial; and*

*"(4) the proposed response to such threat—*

*"(A) is technically feasible;*

*"(B) economically responsible; and*

*"(C) minimizes adverse impacts to the structure and function of an ecosystem and adverse effects on nontarget species and ecosystems.*

***"SEC. 456. RELATIONSHIP TO OTHER PROGRAMS.***

*"Funds under this Act (other than those made available for section 455(f)) are intended to supplement, not replace, assistance available to weed management entities, areas, and districts for control or eradication of noxious weeds on Federal lands and non-Federal lands. The provision of funds to a weed management entity under this Act (other than those made available for section 455(f)) shall have no effect on the amount of any payment received by a county from the Federal Government under chapter 69 of title 31, United States Code.*

***"SEC. 457. AUTHORIZATION OF APPROPRIATIONS.***

*"(a) GRANTS.—To carry out section 454, there are authorized to be appropriated to the Secretary $7,500,000 for each of fiscal years 2005 through 2009, of which not more than 5 percent of the funds made available for a fiscal year may be used by the Secretary for administrative costs.*

*"(b) AGREEMENTS.—To carry out section 455 of this subtitle, there are authorized to be appropriated to the Secretary $7,500,000 for each of fiscal years 2005 through 2009, of which not more than 5 percent of the funds made available for a fiscal year may be used by the Secretary for administrative costs of Federal agencies.".*

***SEC. 2. TECHNICAL AMENDMENT.***

*The table of sections in section 1(b) of the Agricultural Risk Protection Act of 2000 is amended by inserting after the item relating to section 442 the following:*

"Subtitle E—Noxious Weed Control and Eradication

"Sec. 451. Short title.
"Sec. 452. Definitions.
"Sec. 453. Establishment of program.
"Sec. 454. Grants to weed management entities.
"Sec. 455. Agreements.
"Sec. 456. Relationship to other programs.
"Sec. 457. Authorization of Appropriations.".

Amend the title so as to read "An Act to require the Secretary of Agriculture to establish a program to provide assistance to eligible weed management entities to control or eradicate noxious weeds on public and private land."

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate concur in the House amendment to both bills, and the motions to reconsider be laid upon the table, en bloc, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDERS FOR MONDAY, OCTOBER 11, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Monday, October 11. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of the conference report to accompany H.R. 4520, the FSC/ETI JOBS bill; and the time until 12 be divided as follows: Senator BOXER, 15 minutes; Senator LANDRIEU, 30 minutes; Senator BAUCUS or his designee, 15 minutes; Senator GRASSLEY or his designee, 60 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALENT. I was busy making notes. If I could ask the majority leader, would that include a few minutes for me to do morning business?

Mr. FRIST. Through the Chair, that would be for tonight?

Mr. TALENT. Yes.

Mr. FRIST. I will do that shortly.

## PROGRAM

Mr. FRIST. Tomorrow, the Senate will resume consideration of the FSC/ETI JOBS conference report. Under the previous order, at 12 we will proceed to a vote on adoption of that conference report. That will be a rollcall vote. Following that vote, the order provides for us to dispose of the Military Construction appropriations bill and the Homeland Security appropriations bill and a number of other housekeeping measures.

As we indicated earlier, those will be completed without rollcall votes. Therefore, for scheduling purposes we will have one rollcall vote at 12, and that should conclude our voting. Again, I thank Members for their participation over this weekend.

We had a very full day yesterday and a very, very full day today. I do appreciate the cooperation of everyone. It was a real inconvenience to people's schedules, but it has allowed us to reach conclusion at a much earlier time than we would otherwise.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I mentioned off the microphones today to the two leaders, an hour or so ago, we are here on a Sunday and our dear friend, the senior Senator from West Virginia, Mr. BYRD, talked about the Sabbath and we were all so impressed with his remarks, but I say that if there ever were a time legislatively when the ox was in the mire, it was this weekend. But for our being here as a result of the work of the two leaders, Senator FRIST and Senator DASCHLE, we would not have completed the people's business.

We basically have done that tonight. Tomorrow we come in for some formalities: the FSC bill; cloture was invoked today and it will pass tomorrow and that is our only recorded vote. So I want the RECORD to reflect that Senators DASCHLE and FRIST are the two leaders for a good reason. It is very hard to get where we are, and we all have apologized on a number of occasions for having to come in on Sunday. It is a rare occasion we do that. But I repeat, the ox was in the mire. We had to do that. The ox is out of the mire, and whether we do that on Sunday or Monday, I believe that is the appropriate thing to do.

I know the Chair will join with me in saying, these people here are glassy-eyed. They have worked so long and so hard. The Capitol Police, the official reporters, the enrolling clerks, the Parliamentarians, everyone here has worked so hard. Our staff has worked tireless hours. We are the ones who are here and people see us, but they see mere shells of what we would be but for their great work. They protect us. They cover for us. The mistakes we make, they find them and come back and correct legislation. So I want everyone who is here to know how much we appreciate what they do. They get so little attention. It is all of us who get the attention and we are the ones who depend on them so much. I know the majority leader joins me in this.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. I do again want to emphasize what the distinguished assistant minority leader has said. What the American people see and what our colleagues see on the floor is a tiny portion of what is going on, whether it is the pages, law enforcement, Capitol Police, and the hundreds of staff people who are here to make this operation work, from early this morning until late tonight, and they will actually be here well after we close down. So we do want to express our appreciation, especially on this weekend when it is not totally unprecedented, but it is very unusual.

## ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, finally, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following up to 20 minutes to be used in morning business by our colleague from the great State of Missouri.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri.

## TRUTH BEHIND OVERTIME: IT HELPS WORKERS

Mr. TALENT. Mr. President, I am very grateful to the majority leader and the Democratic whip for allowing me this time. I am sorry to run in breathless at the end of the evening to ask for it. I thought I would have an opportunity, perhaps in the wee hours of the morning, to make this statement. I think it will be evident when I get into it why I want to do it now. I will explain that also.

Let me say I agree completely with the statement of the Senator from Nevada regarding the staff. I have presided, myself, during this weekend, on several occasions. I am grateful to the staff for coming in and sorry to keep them a few minutes later than they would otherwise have to stay. I just want all the staff to know that, in compensation to them as a small token, if they would like to come to my desk after we adjourn, I have plenty of Russell Stover candy, pecan rolls and almond rolls—and low carb candy also. I say to the majority leader. I am more than happy to share it with all the staff who worked so hard this weekend.

I want to talk a little bit about overtime. I have not talked about overtime on the floor of the Senate despite the fact that there has been a lot of controversy over it. There are a lot of reasons I have not to this point. I have had other priorities. But the overtime regulations that went into effect about 6 weeks ago are actually, of course, having an impact in the United States. In other words, they are now the law. People are having to comply with them. Employers are having to comply with them.

So we have reached a new stage in the controversy over those rules because we don't have to speculate anymore what their impact is going to be. We know what their impact is because they have become law. What we are finding is that these overtime regulations, as many of us thought and as the Secretary of Labor said over and over again, are working the most significant enlargement of overtime pay, the most significant increase of overtime coverage in the history of the overtime law, at least since 1938.

I wanted to say this on the floor of the Senate before we left because I think it is owing, in particular, to the Secretary to say it. She has been criticized by many outside of this body and some in this body. They have said these overtime regulations the Department has issued would restrict overtime for people. It is not working that way, and there are a lot of us who knew it wouldn't work that way, which is why we always voted to allow that process to move forward.

So I want to say this evening, and I am going to go through the reasons why and then talk about what exactly is happening out there in my 20 minutes, but I want to repeat, these overtime regulations, far from restricting overtime coverage, are working the most significant enlargement in overtime protection since 1938.

I want to explain now why those of us who have some familiarity with this field of law always thought that would be the case. I read these proposed regulations when they came out about a year ago. I looked at them and said to myself, as a person who used to practice labor and employment law, my gosh, there are going to be a lot more people getting overtime under these regulations than have gotten it before. Let me explain why.

This is a rather arcane field of law, but it is possible to understand it. You have to start from the assumption that unless the law provides otherwise, every employee in the country is entitled to overtime if they work more than 40 hours a week. You are entitled to overtime unless the law exempts you from overtime, so the bigger the exemption, the less the overtime. When we talk about exemptions expanding, we are talking about overtime restricting, and it is important to keep that in mind.

We start from the proposition that all employees are covered by overtime. The law exempts management employees. It has always been an aspect of the law that if you are in management, if you are one of the people who run the company, you are not entitled to mandatory overtime.

So how does the law define management? First of all, to be a management employee you have to be salaried. If you are paid by the hour, you get overtime. It doesn't matter what else your job may entail, you get overtime. So you have to be salaried.

Second, you have to be salaried above a certain level. This is very significant because it has changed. Under the old regulations, before the new regulations were issued and took effect, under the old regulations, if your salary was below about $13,000 a year you automatically got overtime. You could not be considered management unless your salary was at least $13,000 a year. That wasn't much protection because just about everybody in the country who worked full time and got a salary earned more than $13,000 a year. But the new regulations raised that threshold to $23,600. What the law is now, if you get paid a salary of less than $23,600, you get overtime protection. You get mandatory overtime regardless of what the rest of your job may entail.

When I saw that, I knew immediately that there were going to be tens and tens of thousands of people who had been exempt, whose overtime had been denied them legally under the old regulations, who would now get it automatically. I am talking about people who work as assistant managers of restaurants or in some cases you might be a line leader in a plant or you might have some other job which looks like it may be management so you got exempted under the old regulations. But where you were not paid $23,600, automatically those people come under protection.

It is not enough to be paid a salary above $23,600 or above the threshold, whatever it is, to be considered management, and it never has been. The first step is, are you paid a salary? Is it above that certain level? If it is, you might be exempt. You might not be entitled to overtime if you fell into one of several categories of management.

I am not going to go through them all, but let me take two very briefly. One of them is if you were an executive. If you got a salary above the threshold and you were an executive, you were not entitled as management to overtime.

How do you define executive? The old rule said—I hope you are sticking with me here, Mr. President, and through you, all the vast numbers of Senators who are here on the floor listening to this—if you got paid a salary above the threshold and under the old regulations you supervised at least two people—and by "supervising," the law meant you did at least one of the things that typically supervisors did. So it might be directing their performance on the job; it might be deciding what their schedules were, when they could come in to work, when they took vacations; it might be training them on the job. If you did any of those things and you supervised two people and you had a salary above $13,000, you were exempt from coverage.

You can see that covered a lot of people, a lot of your first-line supervisors. Think about this for a second. A lot of your first-line supervisors, your shift foremen, your line leaders, your assistant managers, they get paid above $13,000, they have two people underneath them, and they decide, for example, when you come in to work or which clothesrack you should be working on, if it is an assistant manager in a clothing store, right? So those people were exempt from overtime.

Now under the new regulations you have to be paid at least $23,600, you have to supervise two people, and then here is the thing: You have to hire or fire or effectively recommend the hiring or firing of employees. If you don't do that, you are not exempt, under that exemption anyway.

Look at the difference. Under the old law you weren't exempt, you were exempt if you got above $13,000 in salary; you supervised two people, and you did anything in terms of the direction of their work. But now you have to get above $23,600, you have to supervise two people, and you have to effectively recommend hiring or firing on a day-to-day basis. That very substantially restricts the exemption, which very substantially increases the number of people who are covered by the overtime laws.

You may be exempt if you supervise people. I just went through that. You also may be exempt if you supervise functions. Under the old law, typically the classic example is somebody who is the lab director in a laboratory. They may not have people under them, but they supervise the lab. But that exemption has been restricted, too, under the new regulations because it always required that you exercise what is called independent judgment or discretion with respect to whatever function you are supervising. But now the independent judgment and discretion must be with respect to something, to an operation that has a significant impact on the workplace. It is no longer enough to supervise a piece of a function; you have to supervise the whole thing. This, too, increases the number of people who are covered by overtime by reducing the breadth of the exemption.

The same thing could be said with regard to the professional exemption. There are many aspects of these regulations which were designed to and do work an enlargement of overtime coverage.

How do we know they do that? Because the regulations have been in effect for 6 weeks and all the general counsels of all the big companies are looking at them. Do you know what they are recommending? They are telling their employers we have to reclassify these job duties. These job classifications, they are no longer exempt from overtime. We have to start paying people overtime.

A survey was recently done among Fortune 500 companies by the HR Policy Association, and the return was this: Half of the Fortune 500 companies said they were going to treat more employees as eligible for overtime. The other half said there would be little or no change.

The University of Missouri at Colombia—of course we all know that fine institution in Missouri—they said 400 to 500 workers would be reclassified as eligible for overtime who were not eligible before.

Sears Roebuck & Company said 2,000 employees will be reclassified as nonexempt, and nonexempt means you are covered. Overtime has to be paid to you.

Burdines-Macy's, 3M, McDonald's, St. Jude Children's Research Hospital, the University of Kansas, they are all reporting that they are going to reclassify employees so they are covered by overtime, where under the old regulations that Members of this body have been fighting for a year to preserve, these people did not get overtime.

Senator BOND and I were contacted by police sergeants of the St. Louis City Police Department. These sergeants had earlier, under the old regulations, been found exempt, not entitled on a mandatory basis to overtime. They believed, reading the new regulations, that they would be entitled. I believe they have a good case. I don't want to prejudge it. Senator BOND and I asked the Department of Labor to investigate. They are investigating. My prediction is—I can't be certain because this gets down to the details of the job on a day-to-day basis, but my belief is that they will be entitled to overtime unless the police department changes their duties or arranges for them to work under 40 hours a week.

The new regulations contain specific references to police sergeants and firefighters and say they are entitled to overtime as examples of people who would be entitled under the new rule who were not necessarily entitled under the old—this with respect to a regulation that again I say for the last year Members of this body have been saying over and over again will restrict overtime. Yet I tell you and the Senate that it will work out to be the most significant enlargement of overtime since 1938. Not a single company reported that they were going to reclassify people downward to make them exempt. We are aware of thousands and thousands of cases already, in 6 weeks, where we know people are going to be reclassified as covered by overtime when they were not covered before.

We don't yet know—I asked the Department of Labor this today. I asked them if they knew of a single case that had gotten up to their level where a person who had been receiving overtime under the old regulations had lost it under the new. They don't know of a single case where that happened.

It could happen. There is one aspect of the regulation that applies to people who are getting salaries of $100,000 a year or more. I talked with a lady today who worked in Wage and Hour and was responsible for this. She said: As I read it, I don't really think it is going to restrict overtime. It could. I could probably construct a law school hypothetical where somebody in that position lost overtime. It is possible. We may see a handful. I don't believe we will see more than that.

I am not going to go through all these remarks because I know the staff has worked all weekend and I don't want to keep them any later. I thought it was important to say this. It is owing to Secretary Chao and for the hard work she has put in to make this statement and to make clear to the Senate how significant these new regulations are in that they are going to enlarge overtime.

I do think it is important to say also that if the efforts of Members of this Senate who have fought these regulations had succeeded, then these thousands and thousands of people who are now getting overtime would not be getting it. If the bill that has been sponsored—I understand we are going to vote on it through a voice vote—were to pass, it would mean the withdrawal of overtime protection for all the people in the last 6 weeks who have been reclassified as entitled to it. That would be a great shame. But it will happen because, as I read these regulations and as they are working in practice, they are working a significant expansion of protection for employees around the United States.

I congratulate the Department. They have taken care of inequities that have existed in this system for decades and decades. When you look at the struggle they have gone through, you understand why it was not remedied before now.

This is an arcane and a difficult area. Misinterpretations are possible. I do think many outside this Senate and some inside the Senate have been subject to a misinterpretation of these regulations. I hope I have cleared it up, and I wanted to have the opportunity to do that before we adjourned, until the election.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. TALENT. I think I will give that 4 minutes as a gift to the staff and to you. I appreciate your staying afterwards to preside, Mr. President, and I yield my time.

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. tomorrow morning.

Thereupon, the Senate, at 9:26 p.m., adjourned until Monday, October 11, 2004, at 10 a.m.

## CONFIRMATION

Executive nomination confirmed by the Senate October 10, 2004:

### DEPARTMENT OF DEFENSE

RICHARD GRECO, JR., OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE ON THE SENATE.

# EXTENSIONS OF REMARKS

## SOUTH SAN FRANCISCO WOMEN'S CLUB—90 YEARS YOUNG AND STILL GOING STRONG

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. LANTOS. Mr. Speaker, in 1914 the South San Francisco Women's Club was founded to promote the educational, civic, and social well-being of the community. Today, on the occasion of the clubs 90th Anniversary, I am delighted to report that the South San Francisco Women's Club continues to deliver for the South City community.

Since its inception, the South San Francisco Women's Club has remained committed to its core goals. Their commitment to beautifying the town has never wavered. Whether hosting flower shows, sponsoring classes on floral arrangement, or planting trees and flowers throughout the city, the Women's Club continues to be one of the primary sources of beautification in South San Francisco. In addition to beautifying South San Francisco, the Club has also focused its efforts on conservation; both by adopting a recycling program and by purchasing many Penny Pines Plantations to help in the reforestation of our national forests.

Additionally, the club has continued to keep all aspects of children's well being a priority, a tradition dating back to the club's founding when members made layettes for babies of people who had fallen on hard times. Since then, the members of the club were instrumental in forming the first Parents Teachers Association (PTA) in South City, and for the past ten years have assisted the staff at the well baby clinic where club members help test pre-schoolers for amblyopia. Members of the club also continue to volunteer with the local Drug Abuse Resistance Education (DARE) program and with the Grandma Pen Pals program that fosters penmanship and communication skills with 5th graders.

Mr. Speaker, at the time of its founding, the Club lacked a permanent meeting place and was forced to hold meetings at various social halls or in member's homes. Although club dues were initially 10 cents a month, the ladies were determined to own their own clubhouse, and through hard work and a variety of fundraising activities including card parties, luncheons, dinners, auctions, rummage sales, musical shows, carnivals, and cook book sales, their dream became a reality when the clubhouse was completed and dedicated on October 15, 1940. Shortly after completion, the United States found herself at War, and the Club did its part, contributing to the USO and also allowing the Office of Price Administration to rent out the building. This partnership proved valuable as the rent greatly assisted the Club in paying down their mortgage as well as the fact that the OPA left a very large table behind that the club continues to use to this day in their main hall.

Over the course of the last 90 years the South San Francisco Women's Club has fully integrated itself into the South San Francisco community. Today under the stewardship of Club Chairman, Jean Altizio, the South San Francisco Women's Club continues to provide remarkable service to the Bay Area. Whether by providing refreshments and volunteers for the annual South San Francisco Scholarship Association Scholarship Tea or providing nursing homes with slippers and lap robes, or creating the Little Red Toy Box, which provides new toys for children undergoing chemotherapy, it is now impossible to think of valuable organizations in South San Francisco without the South San Francisco Women's Club coming to mind.

Mr. Speaker, although the industries of the "Industrial City" have changed during the 90 years of the Club's existence as companies such as Jupiter Steel and Shaw-Batcher Shipyard have been replaced by companies such as Genentech and other bio-tech firms, the South San Francisco Women's Club has remained steadfast to its original purpose of promoting the educations, civic and social well-being of the South City community. I urge all of my colleagues to join me in congratulating the organization on the occasion of its 90th Anniversary and to wish them continued success for the future.

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## PAYING TRIBUTE TO RENE WORKMAN

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to Rene Workman, a dedicated fire chief from my district. Rene is a caring and capable firefighter who is committed to saving the lives of families in Fruita, and will step down after 17 years of service with the Lower Valley Fire Protection District, and I am proud to join my colleagues here today in recognizing her tremendous service to the Colorado community before this body of Congress and our Nation.

Rene's dedication to help those in need began with her own family tragedy; her father died of a heart attack when she was 8 years old. Rene joined the department as a volunteer when she was 26 and worked towards her certification as a paramedic. She was hired as the chief in 1992, and seventeen years later she is remembered for her compassion for both her volunteers and her patients. Rene's husband Matt remains a volunteer.

Rene often sacrifices sleep, and the few days she has off, to come into work with the Fire District, where she also responds to house calls for medical problems because of her emergency medical technician. She has been a fearless leader who transformed the department by improving the training and standards within the Fire District. The people in Rene's district are safer as the result of her service and protection.

Mr. Speaker, Rene Workman is a dedicated individual who sacrifices her time to helping those in need. Her compassion and selfless service to our state definitely deserve the recognition of this body of Congress and this nation. Thanks for your service, Rene, and I wish you all the best in your future nursing career.

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## EL SENADOR

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to pay tribute to the nation's longest serving Hispanic Senator, Dennis Chavez.

Yesterday, as part of Hispanic Heritage Month, which runs September 15th to October 15th, I hosted a screening of a documentary about Senator Chavez called El Senador, in conjunction with the Congressional Hispanic Caucus. I was privileged to be joined by Senator Chavez's daughters, Mrs. Gloria Tristani and Mrs. Ymelda Dixon, his granddaughter, Ms. Gloria Tristani, and Wayne Coy, the husband of Cissie Coy, who is Mrs. Dixon's daughter.

It was a pleasure to work with the family and the rest of the Dennis Chavez Foundation to bring that event together. And many thanks are due to Paige Martinez, the extraordinary filmmaker behind El Senador, who has correctly deemed the legacy of Senator Chavez as an important part not only of New Mexican history, but also of American and world history.

I have the privilege of representing the 3rd district of New Mexico, the state that Senator Dennis Chavez represented for 32 long years. My father, Stewart Udall, served in the U.S. Congress with Dennis Chavez in the late fifties and early sixties. He has always said that what he saw in Senator Chavez was a visionary and a man of courage.

In 1944, Senator Chavez cosponsored a bill to prohibit discrimination in employment. Such forward thinking was not well received by the Southern senators at the time. A legendary filibuster and eventual interference by President Truman forced him to withdraw his bill. Twenty years later, in 1964, these rights were finally secured with the passage of the 1964 Civil Rights Act. A true visionary, Senator Chavez was far ahead of his time in progressive thinking.

Dennis Chavez was also a man of courage. At the height of anti-Communist sentiment in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the 1950s, he was one of the first to denounce the activities of Joseph McCarthy, and expose him for being a demagogue. Imagine the kind of courage it took speak out loudly against McCarthy's Committee on Un-American Activities during a time when spreading fear of Communist infiltration was rampant. The following is a quote by Senator Chavez from a speech he gave on the Senate floor about the McCarthy hearings in 1950:

> "I should like to be remembered as the man who raised a voice and I devoutly hope not a voice in the wilderness at a time in the history of this body when we seem bent upon placing limitations on the freedom of the individual. I would consider all of the legislation which I have supported meaningless if I were to sit idly by, silent, during a period which may go down in history as an era when we permitted the curtailment of our liberties, a period when we quietly shackled the growth of men's minds."

Just outside the Old Senate Chamber in the Capitol stands New Mexico's only statue in the building. At the base, there is a quote in three languages: Spanish, English, and Navajo—a testament to New Mexico's diverse population. It reads, "He left a mark that will never be forgotten in the hopes that others would follow." It's a tall statue, imposing statue—one with mighty big shoes to fill.

I appreciate this opportunity to celebrate the legacy of Senator Dennis Chavez during the 2004 Hispanic Heritage Month.

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## CONGRATULATING LT BART DOYLE ON HIS GRADUATION FROM THE U.S. AIR FORCE ACADEMY

### HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. TANNER. Mr. Speaker, I rise today to congratulate LT Bart Doyle on his graduation from the U.S. Air Force Academy in Colorado Springs, Colorado, on June 2. A history and philosophy major, LT Doyle finished his studies in the top 25 percent of his class.

LT Doyle graduated from Union City High School in 2000. Having wanted to be a pilot since he was in elementary school, LT Doyle entered the U.S. Air Force Academy, one in a class of only 1,250 other bright young men and women.

Having graduated in June, LT Doyle now is stationed at Hurlburt Field at Fort Walton Beach, Florida, where he serves in the Air Force Special Operations Command. He schedules training for crews of AC–130 Spectre gunships.

LT Doyle will begin his pilot training in the spring, with the goal of completing his studies in 2006. I congratulate him on what he has accomplished thus far and wish him continued success in the future. I know he is an inspiration for young people not only in Union City, but throughout the 8th District of Tennessee.

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## IN HONOR OF THE PUERTO RICAN ASSOCIATION FOR HUMAN DEVELOPMENT, INC.

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor the Puerto Rican Association for Human Development, Inc. (PRAHD) for its remarkable service to the community throughout the past three decades. On October 9, 2004, it will celebrate its 30th anniversary at the 18th annual Roberto Clemente Gala at the Hyatt Regency Hotel in New Brunswick, New Jersey.

This year's anniversary celebration will include community leaders from private, business, public, nonprofit, and community sectors throughout New Jersey. Since 1974, PRAHD has been serving the residents of Middlesex County in a variety of capacities and has established itself as an invaluable resource in the community.

In 1975, it opened the first bilingual day care center in New Jersey. Other educational programs it offers include tutoring and afterschool latch key programs. PRAHD also hosts summer recreation and youth activities. Committed to serving all members of the community, PRAHD offers employment for senior citizens, as well as home care for developmentally disabled people. This exceptional organization strives to improve the lives of its Middlesex residents by developing programs that address child abuse, HIV/AIDS, emergency food and shelter care, and substance abuse prevention. It also provides the community with advocacy, transportation, and interpretation services.

Today, I ask my colleagues to join me in honoring the Puerto Rican Association for Human Development, Inc., an organization that has demonstrated 30 years of dedicated service and has contributed greatly to the success and stability of New Jersey's Puerto Rican community.

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## CONVEYANCE OF CERTAIN LAND HELD IN TRUST FOR THE PAIUTE INDIAN TRIBE OF UTAH TO THE CITY OF RICHFIELD, UT

SPEECH OF

### HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Monday, October 4, 2004*

Mr. CANNON. Mr. Speaker, I rise today in support of H.R. 3982.

Mr. Speaker, due to pressing family matters, I was unable to be present on the floor while this bill was being considered. I want to go on record today strongly supporting this bill and want to thank the house for unanimously supporting this legislation.

H.R. 3982 directs the Secretary of Interior to convey certain land held in trust for the Paiute Indian Tribe of Utah to the City of Richfield, Utah. This legislation is a win-win for all involved. The bill has three major sections. First the Paiute Indian Tribe would sell a three-acre parcel to the City of Richfield. The Paiute Tribe has owned this land since 1974 and it has not been utilized by the Paiute Tribe for more then 20 years. This parcel will be used by the City to expand their municipal airport.

Second, the Paiute Tribe will transfer two parcels of an acre or less to the Kanosh Band. These two parcels are surrounded by 279 acres of land either owned by the Kanosh Bank or held by the United States in trust for the Kanosh Band. The sole use of one of the land parcels has been the Kanosh Band Community Center. The other parcel was originally intended to be taken by the United States in trust for the Kanosh Band of Paiute Indians in 1981, however, an administrative error mistakenly placed this land parcel in trust for the Paiute Tribe. The Kanosh Band has requested that this error be corrected in 1983, 1984 and 2002.

Finally, the Paiute Tribe would transfer a one-acre parcel that is held in trust by the United States for the Paiute Tribe to the Shivwits Band of Paiute Indians. This one-acre parcel is located at the Shivwits Indian Village, surrounded by several thousand acres of land held by the United States in trust for the Shivwits Band. The sole use of this land parcel for more then 20 years has been the Shivwits Band Community Center.

Mr. Speaker, I thank you and my other colleagues for supporting this important piece of legislation.

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## HONORING THE LATE GORDON COOPER, JR., ASTRONAUT

### HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. LAMPSON. Mr. Speaker, I salute Gordon Cooper, Jr. on behalf of the Ninth District of Texas and the Johnson Space Center community.

Gordon Cooper leaves in his legacy 225 hours and 15 minutes of human spaceflight; a 1965 endurance record aboard the first mission to spend 191 hours in space; even designation as the first astronaut to sleep in orbit. He is remembered as Air Force colonel, Astronaut, husband, father of four girls, and a man who at 71 years old said, "I get cranky if I don't fly at least three times a month."

Gordon Cooper's missions stretched the limits of human circumstance. He brought an aspiring spirit, determination, composure in tough circumstances and proven endurance to meet some of the loftiest challenges of his time.

Mr. Speaker, my constituents today carry on the mission begun by our space pioneers. I salute Gordon Cooper and hope his family may take comfort in the living merits of his achievements.

## U.S. MILITARY STRATEGY IN CENTRAL AMERICA

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### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. TOWNS. Mr. Speaker, I rise today to draw your attention to a shift in U.S. military strategy towards Latin America that has largely gone unnoticed. In the last few years the nation has been increasingly preoccupied with fighting terrorism, and defense and budgetary appropriations have overwhelmingly focused on the Middle East. Yet the U.S. Southern Command (SouthCom), encompassing the Caribbean Sea, the Gulf of Mexico, and parts of the Atlantic Ocean and monitoring 33 countries to our south, has quietly expanded its traditional counter-narcotics mission to that of counter-terrorism operations. All of this is occurring in a region more or less devoid of the fundamentalist Islamic terrorists currently threatening America. This change in approach has gone so far as to redefine terrorism, with drug-runners being termed "narco-terrorists." As a result, the U.S. is subsequently increasing its assistance to Latin American militaries. Since many nations in the region are young and relatively fragile democracies, their strengthened armies have raised fears about a possible reemergence of limits on free speech, human rights violations or even a return to military governments.

The following research memorandum about Washington's post-transition political and economic strategy for the region was authored by Eleanor Thomas and Lindsay Thomas, research associates at the Washington-based Council on Hemispheric Affairs. The Washington-based Council on Hemispheric Affairs, founded in 1975, is an independent, non-profit, non-partisan, tax-exempt research and information organization. It has been described on the Senate floor as being "one of the nation's most respected bodies of scholars and policy makers."

U.S. SOUTHERN COMMAND (SOUTHCOM) STRUGGLES TO JUSTIFY ITS ROLE IN THE WAR ON TERROR

This analysis was prepared by Eleanor Thomas and Lindsay Thomas, COHA Research Associates.

After decades of U.S. meddling in the Western hemisphere in the course of its Cold War crusade and subsequent War on Drugs, Washington has found a new justification for its heavy-handed intervention in the region. While there is little evidence that the rest of the hemisphere is a breeding ground for anti-American terrorist networks, the U.S. Southern Command (SouthCom) is attempting to promote such a misinterpretation to further its own self-serving agenda and above all, to guarantee its funding. Under its current commander, General James Hill, SouthCom has linked drug trafficking and armed leftist Latin American political movements to terrorist threats against U.S. national security. By extending the definition of terrorism to cover every bellicose act, the White House has rendered the term practically meaningless; it has become the definition du jour to provide Washington with an opportunity to continue its interventionist tactics based upon its antiterrorist crusade.

TERRORISM DISCOVERED

Two years ago, SouthCom received Congressional approval for a "mission expansion." Previously largely limited to counter-narcotics activities and the promotion of "regional cooperation," its duties are now increasingly being framed within the War on Terror. According to Lisa Haugaard, Executive Director of the Latin American Working Group, SouthCom is "clearly using rhetoric to justify [its] budgets." In November, General Hill will relinquish his command to Lieutenant General Bantz J. Craddock, but not before ensuring that SouthCom remains at the forefront of Washington's War on Terror. Through the distortion of the definition of terrorism, the term has become little more than a rhetorical device. By invoking the word "terrorism" on Capitol Hill, General Hill and his successor are pursuing additional resources for future expanded military initiatives that will likely strengthen Latin American military establishments,. which are too often infamous for their long records of violent oppression during the 1970s and 1980s. This maneuvering can be seen as a purely self-interested tactic that will stress the importance of Latin American armed forces throughout the region.

A NEW TWIST TO A FAMILIAR MISSION

Since September 11, 2001, national defense priorities and budgetary appropriations have concentrated on U.S. concerns in the Middle East. SouthCom's area of responsibility—encompassing all of Central and South America and the Caribbean—has remained of secondary importance as Washington has increasingly defined its international strategy according to the War on Terror. With al Qaeda seen as the gravest threat to U.S. national security, and with Latin America seemingly not a major claimant to such terrorist cells, aside from the tri-border area, SouthCom's operations are not a priority for the Pentagon. Perhaps because of this reduced role, Congress in 2002 granted SouthCom approval to expand its mission priorities. Military aid and training in Latin America, which previously were focused on counter-narcotics operations, have now been re-tasked as counter-terrorism responsibilities. Preying on the terrorist fears that are currently dominating Washington's defense plan, SouthCom claims that it is now pursuing narcoterrorists to justify its expanded congressionally-approved budget.

REDEFINING TERRORISM

SouthCom's new shift towards terrorism is more ominous than it first appears. In March, General Hill gave his annual report on SouthCom's activities before the House Armed Services Committee. According to his testimony, the commander reported that the U.S. must be alert to two "growing threats" to national security: the "traditional" danger of "narcoterrorists and their ilk," and the "emerging" menace of "radical populism" that taps into the "deep-seated frustrations of the failure of democratic reforms." Hill's somewhat skewed assessment of the Latin American situation suggests that ultimately any political opposition, arguably a necessary element in any healthy democracy, can be seen as a threat to American national security. The Bush administration over the past years has instructed its ambassadors to Bolivia, Nicaragua and El Salvador to inform local authorities that although Washington respects free elections, it will not necessarily respect electoral results if the "wrong" people are elected. Former SouthCom commander General Charles Wilhelm told COHA that while "I don't think any Latin American countries pose a specific threat... there is a threat to the U.S. if existing democracies are being undermined." However, by characterizing the region's struggles for social and economic equality as threats to U.S. security, SouthCom not only could be viewed as erroneously dismissing the importance of such movements, but could also divert attention away from the actual terrorist threats currently directed at the U.S.

SOUTHCOM'S HISTORY OF COUNTER OPERATIONS

SouthCom's official priorities have historically ranged from "counter-drug operations" and "engineering and medical exercises" to "security assistance" and "military-to-military contact." By aiming to strengthen militaries in the region, SouthCom under Hill has left behind a controversial legacy in Latin America. General Hill's recommendations to Congress and Lieutenant General Craddock's statements during his Senate confirmation hearing showed a firm commitment to "maintain and broaden our consistent military-to-military contacts as a means of irrevocably institutionalizing the professional nature of those militaries with which we have worked so closely over the past several decades."

Because U.S. law prohibits the direct training of foreign armed forces, the U.S. military's involvement in such matters is often classified as "security assistance." However, there are no safeguards in place to ensure that the Pentagon provides Congress with detailed information regarding its participation in current military-to-military interaction. Nor does Congress hold SouthCom closely accountable for its commitment to instruct Latin American militaries in the institutionalization of respect for human rights. It was this existing accountability loophole throughout the 1970s and 1980s that allowed the Pentagon, through the infamous School of the Americas as well as bilateral SouthCom missions, to both directly and covertly train the commanders of the death squads associated with Argentina's "dirty war" and the brutal contra campaigns that oppressed Nicaragua's civilian population during that country's unforgiving conflict.

The strengthening of Latin American armed forces to more effectively control drug trafficking, gang violence and so-called political insurgents has recently been used to justify SouthCom's new terrorism priorities. This could create a dangerous precedent for the reemergence of the de facto limits on free speech, human rights violations or even a return to the grim days of military rule that so traumatized the region in recent decades. Although violent crime plagues much of Latin America, defining it as a U.S. national security concern, and therefore justifiable as a valid SouthCom mission, will only continue the questionable trend of expanding U.S. military aid, cooperation and training throughout the hemisphere. While many Latin American militaries are still struggling to overcome the bitter effects and damaged reputations resulting from decades of human rights abuses and institutionalized corruption, it may be dangerous to instruct them in anti-terror tactics that could later be used to suppress their own citizens. Without a well-established commitment to protecting civil rights and proper limitations on the autonomy of military institutions, any renewed U.S. effort to fund and train rogue militaries could lead to an expansion of their power and an abuse of their authority, which could hinder the democratic process. Moreover, some Latin American nations have not yet reached a level of political maturation nor have maintained a commitment to democratic principles that are necessary to ensure such abuse will not occur.

### COLOMBIA—LATIN AMERICA'S SUPPOSED TERRORIST HOTBED

According to General Hill, the "narcoterrorists in Colombia remain the largest and most well known threat in our region." However, Hill fails to support this claim that narcoterrorists pose such a direct security threat to the U.S. In fact, the term narcoterrorist, while full of threatening implications, is rarely clearly defined by the U.S. government and its military agencies. At his confirmation hearing, Lieutenant General Craddock did attempt to define the highly dubious concept: "the terms insurgents or guerrillas are less applicable today than in the past. I believe the term narcoterrorists is more appropriate, given the fact that the center of gravity for these groups is the incredible financial support they get from illicit drug trafficking." The lack of clarity in Craddock's explanation inadvertently reveals how SouthCom arbitrarily reclassified the country's leftist armed political opposition, denominated as guerrillas during the Cold War and drug traffickers in the 1990s, as a blanket terrorist threat. In an attempt to link the situation in Colombia to Washington's global mission, Craddock explained, "supporting the government of Colombia's efforts to defeat illicit narco-trafficking also directly supports the global War on Terror." This assertion is a convenient attemot to validate this new allusion without any supporting evidence. The government's arbitrary use of inflammatory language and its efforts to rationalize Washington's allocation of $1.5 billion for Plan Colombia have failed to overcome its disappointing achievements in the War on Terror as Colombia had played no part in the 9/11 terrorist attacks.

For the past four years, the U.S. government has funded Plan Colombia as part of a patently ineffective War on Drugs. Even the head of the White House Office of National Drug Control Policy John Walters, upon returning from a recent South American visit, reported that Washington's anti-drug strategy has failed.

Despite SouthCom's dubious reports of its strategy's success, Plan Colombia's failures are numerous. Colombia's supply and the U.S.' demand for drugs remain essentially unchanged. While U.S. armed forces are already overextended, SouthCom is now seeking to further involve U.S. military personnel in Colombia's protracted civil war by requesting an increase from 400 to 800 military officers and from 400 to 600 private contractors allowed to be present in the country. Critics contend that the now militarized Plan Colombia has failed to effectively address the country's armed forces' proclivity for human rights violations. Additionally, in its own annual human rights report, the State Department has maintained that the U.S.-trained Colombian military continues to associate with illegal rightwing paramilitary groups—Colombia's prime human rights violators. This subject is continually under-addressed in SouthCom's public statements. Following in the footsteps of the U.S. Patriot Act, the Colombian Congress has passed anti-terror legislation that allows the military to arbitrarily conduct searches and tap the telephones of citizens without a warrant. U.S. support, along with high funding for Colombia, has contributed to a flawed domestic policy in the South American country. The latest attempts to recast the nation's perpetual unrest as a terrorism problem that threatens U.S. national security not only represents little regard for the facts and a twisting of reality, but is simply the latest stage in the repeating of a foreign policy project that has never worked.

### GUANTANAMO BAY—SOUTHCOM'S CONTRIBUTION TO THE WAR ON TERROR

SouthCom's insistence that it is engaged in responsible security practices and upholds human rights values awaits final judgment, especially considering its jurisdiction over the terrorist detention center in Guantánamo Bay, Cuba. Since its creation as a prison facility in 2002, Camp X-ray has faced consistent criticism from groups such as Amnesty International (AI) which claim U.S. officials have sanctioned illegal practices at the facility. Prisoner testimony and photographs have established that suspected al Qaeda detainees have been held without trial or proper legal representation and may have suffered some of the same torture tactics that took place at the now infamous Abu Ghraib prison in Iraq. AI alleged in its report that "despite public commitments to the humane treatment of detainees, it subsequently has been revealed that the U.S. administration's decision not to apply provisions of the Geneva Conventions to those being held in Guantanamo may have been motivated by a desire to apply harsher interrogation techniques than it perceived would be allowed under the Geneva Conventions." Though SouthCom officers may be just one link in the chain of command, the detention facility is ultimately located within its region of responsibility. While SouthCom continues to lobby Congress for increased funding, Camp X-ray remains a glaring black mark that contrasts with SouthCom's professed support for legal procedures and human rights practices.

### FINDING THE CAUSES, NOT JUST THE TERRORISTS

In the tumultuous history of U.S.-Latin American relations, Washington has developed a strategy wherein various political and military means have been used to deal with a range of challenges and security threats posed by its southern neighbors. As the world leader in the war on Communism, the United States carried out regime change in Latin America with singular tenacity. This included the training of the Nicaraguan contras, the support of brutal dictatorships in Guatemala, the endorsement of General Augusto Pinochet's repressive regime in Chile, and the backing of the particularly savage Argentina military junta after it came to power in 1976.

In an attempt to adapt to its post-9/11 antiterrorism focus, the U.S. has amalgamated drug trafficking and "radical populism" into its terrorist fighting tactics. This has been particularly evident in its policy formulations regarding Colombia, Bolivia and Venezuela. While the previous eras, inspired first by the Cold War and then by the War on Drugs, turned out to be based on a very sketchy rationale, they were more solidly rooted than the current War on Terror. Domestic conflicts throughout Latin America do not arise out of thin air. The urgent social conditions and volatile political environs that went unacknowledged by the U.S. in previous decades account for the instability that the region is currently experiencing. The causative agents behind the new threat of terrorism are no different. As the Latin American Working Group argues in its report on terrorism, "while law enforcement action against terrorists is essential, the most sustainable way to combat broader support for terrorist activities is to address the conditions that foster it—poverty, lack of social and economic development, and undemocratic and repressive regimes that leave their citizens scant hope of bettering their lives, and hence open space for those offering extreme alternatives."

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## THE SITUATION IN SRI LANKA

### HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. LEACH. Mr. Speaker, I rise today to express my growing concern at the increasing levels of politically-motivated violence and the rising risks to peace in Sri Lanka.

As my colleagues may know, Sri Lanka (or Serendib, as it was known in older times) is a tear drop shaped island located about 20 miles off the southeastern coast of India. The population of about 20 million is roughly three-quarters Sinhalese and a little less than 20% Tamil. The island was occupied by the Portuguese in the 16th century, the Dutch in the 17th century, and then ceded to the British in 1802. Known as Ceylon it became independent in 1948; the name of the country was changed to Sri Lanka in 1972.

By way of background, tensions between the Sinhalese majority and minority Tamils, which had existed since independence, escalated dramatically in the early 1980s. Devastating anti-Tamil riots, as well as acts of repression and discrimination by the majority Sinhalese, led to the rise of an armed Tamil insurgency. By the mid-1980s, the Liberation Tigers of Tamil Eelam (LTTE) emerged as the strongest Tamil separatist force. In a grim harbinger of the Tiger's ruthless reliance on violence (which includes the use of "Black Tiger" suicide squads), the LTTE came to dominate the separatist movement by systematically eliminating all rivals for leadership. The LTTE is currently designated as a terrorist organization by the United States and several other countries.

Originally, LTTE sought an independent homeland for the Tamils, but it eventually dropped that demand and expressed a willingness to negotiate devolution of autonomy under a federal model of governance. Meanwhile, the human and financial toll of the rebellion has been enormous: some 64,000 people have been killed and roughly 800,000 displaced, with commensurate losses to the island's economic growth and development.

In 2002, Norway brokered a ceasefire, which is still in effect today and also acted as a mediator in stalled peace talks. In April 2003, however, the LTTE pulled out of the talks, claiming that it was being marginalized. In late 2003, the situation was further complicated by a political struggle between Sri Lanka's President Chandrika Kumaratunga and then Prime Minister Ranil Wickramasinghe. In April 2004, Kumaratunga's party defeated Wickramasinghe in the general election and an ally of the President became the new prime minister. Although the new coalition government includes a hard-line party that is at best deeply skeptical of continued negotiations with the insurgents, the President has nevertheless remained committed to the peace process and invited Norway to approach the LTTE and to resume mediation.

Prospects for a resumption of dialogue between the government and the LTTE at this time, however, appear bleak.

In the first instance, the LTTE insists that the establishment of an interim administration over the "northeast"—modeled on the LTTE's proposed Interim Self Governing Authority (ISGA) that would give it sweeping powers over law enforcement, tax collection, military affairs, administration of foreign aid and other matters currently in the domain of the central government (GSL)—is an essential precondition for the resumption of peace negotiations. While at one level this stance might be thought to simply represent a maximalist bargaining position, at another level it might be thought to cast serious doubt on the sincerity of the LTTE's commitment to the peace process.

Even more concerning has been the LTTE's assertion that it is entitled to act as the "sole representative" of the Tamils in Sri Lanka. In practical terms, the LTTE's diktat means that Tamils who dare to advocate democratic change, independently contest elections and speak out against or actively oppose the Tigers will be targeted for assassination.

As noted earlier, this despicable practice of eliminating critics goes back almost to the group's inception. It has once again become acute in the wake of an attempt by a senior LTTE commander named Colonel "Karuna" to break away from the organization. Beginning in March 2004, a new escalation of killings, attacks and abductions of the LTTE's suspected opponents began to take place on almost a daily basis. For its part, the LTTE reportedly suspects the GSL of assisting the Karuna faction. In any case, through mid-August 2004, according to human rights advocates, there have been more than 40 such murders.

As the Indian newspaper The Hindu editorialized on September 30, "It is time for all concerned to acknowledge that the LTTE has done nothing less than unleash a terrorist campaign amounting to a sub-guerrilla war against the very people it claims to represent. From the recruitment of children, which continues unabated despite international outrage, to the harassment of Muslims, the discrimination against eastern Tamils, and the killings of opponents, the LTTE demonstrates on a daily basis that its rule is by fear and terror."

In this troubling circumstance, it is clear that the international community needs to consider additional steps to put pressure on the LTTE to abandon its tactics of terror and prove that its days of violence are over.

It is remarkable, for example, that only four countries—the U.S., U.K., Australia, and India—have declared the LTTE to be sponsors of terrorism, frozen their assets and prohibited financial transactions with the Tigers. It is well reported that alongside a finely tuned propaganda campaign, the LTTE also run a sophisticated international fundraising campaign. The majority of financial support comes from the Tamil Diaspora in countries where there is no ban on transactions with the Tigers, including Switzerland, Canada, and the Scandinavian countries. It is my understanding that the LTTE's overseas financing includes investments in real estate, restaurants, stocks, and money market funds. Even film, food festivals, and cultural events may contribute to insurgent income. The U.S. Department of State also reports that expatriate Tamil communities in Europe have been tied to narcotics smuggling, another potential source of funding. In this context, surely the stark record of LTTE terrorism demands a firmer response from our friends and allies abroad.

Likewise, in view of the current stalemate in the peace process and the new campaign of violence by the LTTE, it is appropriate that the U.S. review the adequacy of current levels of security assistance to Colombo. In particular, in view of the mixed operational success of the armed forces of Sri Lanka, the Department of Defense and U.S. Pacific Command may want to consider increasing senior level military exchanges as well as boosting technical assistance. In this regard, I understand that in recent months senior officials with PACOM visited Sri Lanka, including the Jaffna peninsula.

Similarly, given the long and sordid track record of the Tigers—including continued abductions of child soldiers—as well as ongoing concerns about disappearances and other abuses in government controlled areas, it is also high time to place on the table an explicit inclusion of human rights and humanitarian considerations in either the current cease-fire agreement or in a separate understanding between the GSL and the LTTE. All parties must promptly take steps to end ongoing grave human rights abuses.

Finally, it is imperative that all parties take steps to work to rebuild trust and schedule the promised talks as soon as possible. In particular, it is incumbent on the LTTE to show that it is committed to a political solution and to peace. Clearly, the ceasefire and a return to negotiations represent the best hope for Sri Lanka's future as a peaceful, prosperous, and unified nation. As the Department of State has made clear, the United States stands ready to implement commitments to aid in Sri Lanka's reconstruction, but this will only be possible through a continuation of the peace process.

## PAYING TRIBUTE TO TROY BLEDSOE

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. McINNIS. Mr. Speaker, I would like to pay tribute to Troy Bledsoe, a dedicated coach and athlete from Alamosa, Colorado. Troy was recently inducted in the Rocky Mountain Athletic Conference Hall of Fame for his long history of dedication to athletics in Colorado, and I am honored to recognize his accomplishments before this body of Congress and this Nation.

Troy knows what it means to be an athlete because he was a multiple letter winner in football, basketball, and tennis at Hendrix College in 1949. Troy began his coaching career with 6 years of high school coaching in Arkansas before moving onto the college level. He led several basketball, golf, football, and volleyball teams to championship seasons at Fort Lewis College and the University of Denver. Troy was also the chairman of the Exercise Science Department at Fort Lewis, and the Director of Athletics for 18 years. Troy was instrumental in the creation of the Fort Lewis College Athletic Hall of Fame, of which he himself was inducted into in 1995. One of Troy's biggest legacies is the award bearing his name for the male and female senior student-athletes with the highest grade point averages that are presented at the all-sports banquets every spring.

Mr. Speaker, Troy Bledsoe is an energetic coach that encourages his athletes to work hard to achieve their dreams both on and off the athletic arena. He has demonstrated a love for coaching that resonates in his compassionate and selfless service to the Colorado athletic community. Troy's enthusiasm and commitment certainly deserve the recognition of this body of Congress and this Nation. Congratulations on your induction, Troy, and I wish you all the best in your future endeavors.

## INTRODUCTION OF RULES CHANGE

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mrs. MALONEY. Mr. Speaker, today, I join in a bipartisan way, with my colleague Representative CHRISTOPHER SHAYS from Connecticut, Representative JOHN DINGELL, the distinguished Dean of the House, and my friends and colleagues Representatives ED CASE, MAX SANDLIN, and DENNIS CARDOZA to introduce a bill that addresses the serious security threats that are impacting our Nation. According to the recommendations of the 9/11 Commission, Congress must reorganize to provide more effective oversight of our Nation's intelligence and homeland security efforts. This bill effectively deals with the problems by doing the following things:

1. Creates a permanent standing Committee on Homeland Security—[According to the 9/11 Commission, leaders of the Department of Homeland Security now appear before 88 committees and subcommittee of Congress. This is "perhaps the single largest obstacle impeding the department's successful development." Currently, the Committee on Homeland Security is simply a Select Committee];

2. Creates a permanent standing Committee on Intelligence—[According to the 9/11 Commission, Congressional oversight for intelligence and counterterrorism is "dysfunctional" and the Intelligence Committee is simply a Select Committee];

3. Creates a 14th Appropriations Subcommittee on Intelligence—[According to the 9/11 Commission, the Intelligence Committee should have authorizing and appropriating authority].

Last week during markup of H.R. 10 in six committees, members and committees alike were uncertain of their jurisdiction over various parts of the bill. In fact, no single committee had overarching jurisdiction, so there was no mechanism to address the bill in its entirety. This proposed rules change will fix this problem. We cannot rely solely on the Executive Branch to solve our problems. We must not shirk our responsibilities as elected officials, and instead do everything in our power to prevent another tragedy from occurring. For these reasons, I am proud to introduce this important resolution.

## COMMEMORATING NATIONAL LATINO AIDS AWARENESS DAY

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Ms. SOLIS. Mr. Speaker, I stand before you today to recognize October 15 as National Latino AIDS Awareness Day. The theme for this year is "Abre los ojos: el VIH no tiene fronteras—Open Your Eyes: HIV Has No Boundaries." On this day, in over 150 cities throughout the United States, Latino leadership will honor the theme as they sponsor a variety of activities raising awareness of the state of AIDS among Latinos.

National Latino AIDS Awareness Day was first observed in 2003. Since then, the Centers for Disease Control and Prevention (CDC) has reported that HIV infections among Latinos have risen 26 percent. Latinos in the United States are disproportionately affected by the virus and make up 20 percent of reported AIDS cases, even though Latinos are only 14 percent of the total United States population. As of 2002, the CDC also estimates that 28,364 Latinos are living with HIV and 76,052 are living with AIDS.

Statistics are important in order to understand the epidemic. However, we must also recognize the needs of the Latino communities confronted with the virus. Latinos face several obstacles and cultural barriers when it comes to accessing HIV prevention services. The lack of funding for culturally competent HIV prevention education poses a threat to the Latino community and efforts to stop the spread of HIV.

National Latino AIDS Awareness Day allows us to actively open our eyes and bring light to the epidemic. It is a day of hope for the future of a world without HIV and AIDS. On National Latino AIDS Awareness Day, I ask that we remember those who have lost their lives because of AIDS, show compassion and support for those living with the disease, and pray for all families and communities whose lives have been touched by HIV/AIDS.

## PERSONAL EXPLANATION

### HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. BECERRA. Mr. Speaker, on Monday, October 4, 2004, I was unable to cast my floor vote on rollcall Nos. 487, 488, and 489. The votes I missed include rollcall vote No. 487 on the Motion to Suspend the Rules and Agree to S. Con. Res.76, recognizing that November 2, 2003, shall be dedicated to A Tribute to Survivors at the United States Holocaust Memorial Museum; rollcall vote No. 488 on the Motion to Suspend the Rules and Pass S. 1814, to transfer Federal lands between the Secretary of Agriculture and the Secretary of the Interior; and rollcall vote No. 489, on the Motion to Suspend the Rules and Agree to H. Res. 567, Congratulating the American Dental Association for sponsoring the second annual Give Kids a Smile program.

Had I been present for the votes, I would have voted "aye" on rollcall vote Nos. 487, 488, and 489.

## RECOGNIZING CHARLES PATRICK SHINOGLE FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Charles Patrick Shinogle, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 261, and in earning the most prestigious award of Eagle Scout.

Charles has been very active with his troop, participating in many scout activities. Over the many years Charles has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Charles Patrick Shinogle for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

## RECOGNIZING TREVOR MICHAEL CARVER FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Trevor Michael Carver, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 261, and in earning the most prestigious award of Eagle Scout.

Trevor has been very active with his troop, participating in many scout activities. Over the many years Trevor has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Trevor Michael Carver for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

## A BILL FOR LONG-TERM ENERGY SECURITY

### HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. LANGEVIN. Mr. Speaker, I am pleased to introduce a bill that would provide long-term energy security and greater consumer protection to the American people.

The legislation would permit the Secretary of Energy to use any supplies in the Strategic Petroleum Reserve in excess of 700 million barrels to address sustained price increases in gasoline or oil that could have an adverse impact on the Nation's economy. Currently, the President may authorize a release of supplies from the SPR to provide economic relief from petroleum price increases, though such an act would need to be in response to a sustained reduction in supply. This legislation would expand that authority for cases when price increases were not attributable to a shortage, such as international volatility, a major shift in demand, or a decline in refining capacity.

The consistently high prices our Nation is paying for petroleum—today, oil reached $53 per barrel—threaten to damage our economy and stifle growth. Furthermore, they remind us of how reliant our Nation is on foreign sources of oil. With volatility in Iraq and elsewhere, major hurricane damage to energy facilities in the Gulf of Mexico, rising demand in nations such as India and China, and OPEC's apparent inability or unwillingness to reduce world oil prices, the United States has reached a point where we have little influence over a major factor affecting our economic well-being. It is therefore imperative that we increase the size of the SPR both to protect our Nation in a time of strife as well as to insulate our economy from problems in the petroleum market.

I have no illusions that this legislation will solve our Nation's energy crisis. In fact, the new release authority would not even enter into effect until the SPR surpassed 700 million barrels, which will not occur until next year at the earliest. We must adopt this new long-term goal as part of a larger effort to reduce our reliance on foreign oil, pursuing a comprehensive energy policy that encourages alternative fuel sources and energy efficiency. I look forward to working with my colleagues to see this measure enacted into law.

## CONCERN ON PROPOSED NEW TAXES ON CIGAR MANUFACTURERS

### HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. PUTNAM. Mr. Speaker, today I rise to express my grave concern about the proposed new taxes on cigar manufacturers included in the FSC/ETI conference report. This new tax, which was not included in either the House or Senate version of the FSC/ETI legislation, amounts to $282 million. Companies in the State of Florida will pay more than 75 percent of this tax increase.

I do not know how this new tax provision appeared in the conference report, but it is bad policy. This is supposed to be a jobs bill for all Americans, but I am afraid that this new tax will cost jobs in my state. For the historic Florida cigar industry, this provision is nothing more than a tax increase and job killer.

Since cigar manufacturers generally do not use the types of tobacco being "bought out," it is improper to impose a new tax on them under this bill. We should not increase taxes on industries unless the new tax has something to do with the purpose of the new program. The cigar industry should not subsidize the cigarette and smokeless tobacco industry. I hope that this issue will be revisited in the near future and a correction can be made to reverse this ill-conceived tax increase.

## IRAQ IS EVER MORE DANGEROUS

### HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. KIND. Mr. Speaker, the land of the "not quite right" has turned into the land of the ever more dangerous and difficult. I returned to Iraq last week on a Congressional fact-finding mission after less than a year since my previous visit. The trip gave me an opportunity to hear from our troops in the field, meet with military commanders and visit with some Iraqi citizens.

Unquestionably, the mission in Iraq has become more dangerous and difficult. The insurgents have expanded their support. They are more sophisticated, coordinated and lethal in their tactics. They enjoy sanctuaries in some major cities and they are exploiting the lack of progress in rebuilding the Iraqi infrastructure to their advantage.

Our troops are doing a terrific job under difficult and dangerous circumstances. We can all be proud of our men and women in the military who are following their orders, carrying out their missions and sacrificing so much to give the Iraqi people a chance for a more peaceful and prosperous future. But they seem tired and stretched very thin. I had lunch and dinner with many of our soldiers from Wisconsin during my trip. Nothing makes you more proud to be an American than the chance to see our soldiers performing their duties under trying conditions. They are all well-trained, well-motivated and represent the best America has to offer.

Fortunately, the conditions for most of our soldiers have improved from a year ago. The supplies have caught up to them. They have a good selection of food and beverages. Most have air-conditioned places in which to sleep. Communications back home have gotten much better and on-line education courses are offered to those interested in continuing their education.

But when they go out on patrol, they don't know who the enemy is, where the next ambush is going to come, and whether they are going to get back to camp in one piece. Many have to go out on patrols seven days a week. They return to get some sleep before they go out again the next day. They would gladly welcome a cold beer when they do finish their shift (alcohol is prohibited in Iraq) and they hate the "stop-loss" orders that prevent them from being rotated out of Iraq at the end of their tours.

Forty percent of our troops in Iraq are Guard and Reserve Units. They are there for 1 year once their boots hit the ground. With training and preparation before deployment, our Guard and Reserve are away from their families and jobs for up to 18 months. And many that have returned home are being put on notice for future activation and deployment. Clearly, such a sacrifice on so few for so long is unsustainable.

I was surprised by the lack of progress in rebuilding the Iraqi infrastructure to meet the basic needs of the people, such as: running water, electricity, garbage pick-up and a good workable sewer system. Of the $19 billion appropriated to rebuild Iraq only $1 billion has been spent so far. I spoke to one Iraqi woman and asked if she felt her neighbors are growing impatient. She chuckled and said "we're tired of being patient. We've been patient for 35 years, we want results now."

The Iraqis are a people who believe that if the United States can put a person on the moon, then we are capable of helping them so much more. They see our impressive military with all the technology rolling through their communities and they are wondering why we can't get their water running or their electricity hooked up. And the insurgents are quick to pin the blame on us. But without security it will be difficult to make significant progress with reconstruction. It's hard to walk into a neighborhood with a hammer in one hand and a gun in the other.

Nor are the Iraqi Security Forces trained and equipped sufficiently to assume more of the security responsibility themselves. Many of the Iraqi forces and their families are being targeted themselves by the insurgents and there are numerous instances of insurgents penetrating these forces for their own advantage. But helping the Iraqis to develop the capability to provide for their own security is our ultimate exit strategy and it seems we've wasted a good year in doing that.

What then needs to be done? First and foremost, we need to make sure our troops are getting everything they need to do their job effectively and safely, which includes double reinforced steel vehicles to protect our troops against roadside bombs, the weapon of choice by the insurgents. We need to enhance security so there is a safe environment for the Iraqi people to participate in the national elections by January. That means trying to work with Iraqi Security forces to take away the insurgents' sanctuaries and diminish their capability. We need to step up our efforts in employing local Iraqis to rebuild their own country. There is a direct correlation between those areas with a high unemployment rate (70 percent in some places) and from where the insurgency is coming. We need to ask for more help from NATO and countries in the Arab League to provide training and equipment for a new Iraqi Security Force so we can begin to fade into the background and eventually bring our troops home.

Cutting and running is not an option. It would guarantee chaos, possible civil war, a sanctuary for international terrorism and a power vacuum that Iran would be more than happy to fill in the region. But our leaders in this country need to level with the American people. Our task in Iraq will not be easy. It has already become more difficult. More international support would alleviate the high cost we are now paying in both lives and money as well as add legitimacy to what we are trying to accomplish with the Iraqi people. It is not a lost cause, yet. But our window of opportunity is closing rapidly.

## LEGALITY OF AIRBUS SAS

### HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. TIAHRT. Mr. Speaker, I rise to express my support for President Bush's decision to seek a ruling from the World Trade Organization regarding the legality of subsidies to Airbus SAS from various European governments, as well as his decision to withdraw from the 1992 agreement in which the United States agreed to allow a reasonable amount of these subsidies.

Twelve years later it is clear that this aid, particularly launch assistance, has done tremendous harm to fair and open competition in the large aircraft marketplace.

It is unfortunate that this pact withdrawal and appeal to the WTO was necessary. However, our friends and allies across the Atlantic chose not to recognize that Airbus SAS is now a profitable company and that they no longer need this overly generous government assistance.

Mr. Speaker, this is a step towards creating a level playing field for America's workers in the aviation manufacturing industry.

I commend the President for taking this important step and I look forward to this Congress continuing to work with the administration to ensure that the men and women of our aircraft manufacturing workforce—the finest in the world—are able to continue to compete in the global market.

## INTRODUCTION OF THE TEACHER TRAINING EXPANSION ACT OF 2004

### HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. CUMMINGS. Mr. Speaker, I rise today to introduce the Teacher Training Expansion Act of 2004. Right now, too many of our Nation's "special needs" children are underserved. This bill seeks to improve education for all of our children by increasing support for public and private organizations that train teachers to meet the challenges of special education.

Specifically, the Teacher Training Expansion Act of 2004 would authorize the Secretary of Education, under the auspices of the Individuals With Disabilities Education Act (IDEA), to give grant preference to local educational agencies that train teachers to use special education techniques.

Currently, about 80 percent of students with learning disabilities receive the majority of their instruction in general education classrooms. According to the U.S. Department of Education, 50 percent of disabled students between the ages of 6 and 11, and 30 percent of disabled students between the ages of 11 and 12, are taught in regular classrooms. These numbers indicate a 10 percent increase in inclusion over the last 10 years.

Mr. Speaker, these numbers demonstrate that IDEA, one of the most comprehensive bills addressing equality in education, must continue to expand training of special education teachers. IDEA requires that:

> to the maximum extent appropriate, children with disabilities . . . are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be attained satisfactorily. IDEA Sec. 612 (5) (B)

As more children with disabilities enter general education classrooms, it is critical that general education teachers and personnel are adequately trained to adapt curricula to suit their needs. Regular education teachers and personnel must collaborate with special education teachers to ensure that the best individualized approaches are utilized for the integration of disabled students into the classroom.

My bill, the Teacher Training Expansion Act of 2004, encourages this crucial kind of staff development. Because local educational agencies, private and public organizations are at the forefront of training teachers who work with disabled students, these groups should be eligible to receive the highest consideration when awarding grants.

By enabling these agencies to receive grant preferences, we will help our teachers gain the skills they need to work effectively with disabled students in mainstream classrooms. Education is central to changing the way disabled students are viewed by their peers, but it also helps disabled students cultivate the intellectual and social skills they need to compete in society.

To ensure that inclusion and mainstreaming benefits all students, teachers must be trained appropriately. With adequate funding, the quality of education will continue to improve for all students. I urge my colleagues to join me in this effort by co-sponsoring the Teacher Training Expansion Act of 2004.

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## PAYING TRIBUTE TO DENNIS HERZOG

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to journalist Dennis Herzog from Grand Junction, Colorado. For a quarter century Dennis has served the people of Grand Junction and Colorado with distinction, and I would like to join my colleagues here today in recognizing his tremendous achievements before this body of Congress and this Nation.

Dennis Herzog earned his journalism degree from the University of Missouri School of Journalism. He soon took a job with a paper in Tennessee, then in New York before moving to Grand Junction. For 25 years, he has been with the Grand Junction Daily Sentinel, 20 of which he has served as the managing editor. In partnership with the paper's editor and publisher, he has helped the Daily Sentinel earn the nationally prestigious John Hancock Award for Business and Financial Reporting. In addition, Dennis is a member of the board of directors of the Colorado Press Association and the Cinema at the Avalon.

Mr. Speaker, it is a privilege to recognize Dennis Herzog for his exceptional service to the people of Grand Junction and Colorado. For 25 years, his dedication to his community and journalistic integrity has made the Grand Junction Sentinel a thriving and influential news source. It is with great pleasure that I recognize him today before this body of Congress and this Nation. Thanks for your service, Dennis, and I wish you well in your future endeavors.

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## NEW MEXICO BATAAN DEATH MARCH VETERANS

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to pay tribute to New Mexico's Bataan Death March veterans.

Last night, two units based in New Mexico that were part of the Bataan Death March were awarded the 2004 Citizen Patriot Unit Award by the Reserve Forces Policy Board, a senior board within the Office of the Secretary of Defense. Two of my constituents were able to represent the 44 survivors of the 200th and 515th Coast Artillery units of the New Mexico National Guard at the awards ceremony. They are Colonel Vicente Ojinaga, of Santa Fe, and Staff Sergeant Ernest Montoya, of Albuquerque.

Colonel Ojinaga and Staff Sergeant Montoya participated in one of the darkest hours of World War II. The defense of the Philippines in World War II was courageous and heroic, and the battle at Bataan was long and desperate. Outnumbered, short-supplied, diseased, starving and exhausted U.S. and Filipino soldiers surrendered on April 9, 1942. They were alone and the last to lay down their arms. What ensued has been called one of the most savage and brutal events of World War II.

Of the some 78,000 Prisoners of War who marched 65 miles and were then imprisoned, 1,800 were members of New Mexico's 200th and 515th Coast Artillery. Of these 1,800 New Mexicans, one-half did not survive during the inhuman ordeals. Of those who survived, one-third died during the first year after returning home.

I want to say to these two courageous and honored soldiers that few will ever be able to comprehend the magnitude of the extreme illness, starvation, loneliness, abuse and humiliation that you and your fellow soldiers endured. We will also never, ever be able to thank you enough for what you did to protect the very freedoms we enjoy today.

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## TENNESSEE MUNICIPAL LEAGUE HONORS GEORGE R. HARVELL, JR.

### HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. TANNER. Mr. Speaker, I wish to include in the CONGRESSIONAL RECORD this Tennessee Municipal League resolution honoring and commending George R. Harvell, Jr., who will retire in December after 20 years as mayor of Millington, Tenn.

Mr. Harvell has been more than a mayor, of course. He also has been a friend to his community and to me. He has been a very successful mayor, and he continues to be great man and a true friend.

RESOLUTION

Whereas, the Tennessee Municipal League proudly recognizes and acknowledges George Harvell for his outstanding leadership, vision, and dedication throughout his thirty-six years as an elected official of the City of Millington; and

Whereas, George Harvell served with distinction as Mayor of the City of Millington from the year 1985 until his retirement in 2004; and

Whereas, George Harvell ably served as a City of Millington Alderman beginning in the year 1968 and continuing until his election as Mayor in 1985; and

Whereas, George Harvell demonstrated his commitment to building a strong, vibrant, and vital city and always remained optimistic in the face of numerous challenges, including serious economic hardship and population loss resulting from the closure of the Millington Naval Air Station where he was instrumental as Chairman of the Millington Naval Base Re-use Committee which guided the planning and re-use of over 1,800 acres of surplus United States Department of Defense property; and

Whereas, George Harvell was nationally recognized for his innovative approach on an extensive flood control program following torrential rains where the City of Millington saw massive flooding; and

Whereas, George Harvell did a great service to the towns and cities of Tennessee by leading the Tennessee Municipal League as President in 1998 during one of the most challenging periods in the League's long and proud history;

Whereas, George Harvell dedicated nearly 20 years to the advancement of municipal government in Tennessee through his service as a member of Tennessee Municipal League Board of Directors since the year 1985; and

Whereas, George Harvell played a pivotal role in protecting public resources by serving ably as Chairman of the Board of Directors of the TML Risk Management Pool from the year 2003 until his retirement in 2004; and

Whereas, George Harvell served as an ex-officio board member of the Tennessee Municipal Bond Fund from the year 1998 to 1999 while serving as the Tennessee Municipal League President and continued as an alternate board member of the Tennessee Municipal Bond Fund until his retirement in 2004; and

Whereas, George Harvell devoted his energy to advance municipal government throughout the United States by serving as a member of the Board of Directors of the National League of Cities from the year 2002 to 2004; and

Whereas, George Harvell started his service to the nation early in his life by serving honorably in the United States Army during the Korean Conflict; and

Whereas, George Harvell has been an advocate for high-quality public education in Tennessee, including steadfast support of his alma mater, the University of Tennessee, where he earned bachelors and masters degrees in geology; and

Whereas, George Harvell and his wife of over 40 years, Virginia, have raised two sons and are the proud grandparents of six grandchildren; and

Whereas, George Harvell received the Tennessee Municipal League Mayor of the Year award in 1993 further designating and exemplifying himself as a public servant at its finest: Now, therefore, be it

*Resolved*, That the Tennessee Municipal League honors and commends George Harvell for his leadership of the City of Millington, the Tennessee Municipal League and all the towns and cities it serves, and towns and cities of this great nation.

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## IN HONOR OF THE UNION CITY POLICE OFFICERS

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor several members of the Union Police Force. Sergeant Frank Caputo and Police Officers Mike Ortega, Joe Botti, Phil Alvarado, Juan Silva, and Eddie Antommarchi deserve special recognition for their exceptional bravery and selfless service to the citizens of New York and New Jersey in the aftermath of the September, 11, 2001, terrorist attacks.

On the morning of September 11, the officers were called upon to assist the New York Port Authority in protecting the Lincoln Tunnel entrance from potential terrorists by closing it off to all vehicles and pedestrians. After securing the entrance, they moved to the New York City side to help secure the tunnel and ensure that it, too, was closed. In the midst of the chaos that followed the attacks, the officers worked diligently to maintain order and safety in their stationed areas and to calm frightened citizens. The officers are to be commended for their quick response time and their ability to work under the most stressful of situations.

Today, I ask my colleagues to join me in honoring Sergeant Frank Caputo and Police Officers Mike Ortega, Joe Botti, Phil Alvarado, Juan Silva, and Eddie Antommarchi for their heroic actions and sense of duty during one of America's most difficult times. Their dedicated service is a shining example of the quality of character of America's best citizens.

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## PAYING TRIBUTE TO MARTHA ROMER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Martha Romer, a dedicated public servant from Grand Junction, Colorado. I personally know Martha well, and when she has not been busy working on her farm, she dedicates her time to local government organizations. I am honored to stand before this body of Congress and this Nation today to recognize Martha's efforts in her community.

Martha grew up in Memphis, Tennessee and attended Southwestern College where she participated in the local USO during World War II. After the war, she married and moved to Colorado. Martha became active in the political system, hosting caucuses, campaigning, and volunteering as an election judge. Outside her volunteer work, she managed a hog farm with several breeds that were shown throughout the Midwest and garnered numerous awards. Martha also was the chairperson of three state pork associations and collaborated with Colorado State University to develop pork research. Since moving to Mesa County in 1974, Martha has continued to volunteer in the local political process, serving as a precinct committeewoman, and a district captain.

Mr. Speaker, Martha Romer is a warm and genuine individual who has dedicated herself to bettering her Grand Junction community for many years. It is a privilege to stand here before this body and recognize the efforts of such a selfless and benevolent woman. Thanks for all your hard work, Martha, and I wish you all the best in your future endeavors.

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## PROVO RIVER PROJECT TRANSFER ACT

SPEECH OF

### HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Monday, October 4, 2004*

Mr. CANNON. Mr. Speaker, I rise today in support of H.R. 3391.

Mr. Speaker, due to pressing family matters, I was unable to be present on the floor while this bill was being considered. I want to go on record strongly supporting this bill and want to thank the House for unanimously supporting this legislation.

H.R. 3391 authorizes the title transfer of certain features of the Provo River Project—including the Provo Reservoir Canal, as well as the Salt Lake Aqueduct and certain land in Pleasant Grove, Utah, from the Bureau of Reclamation to non-federal ownership.

For the past 60 years the Provo River Water Users Association has operated the Provo Reservoir Canal, also known as the Murdock Canal. As long as the title remains in the name of the federal government, the water users association and local communities who use the water are unable to obtain the tax-exempt financing necessary to properly improve and manage the canal. Passage of this title transfer will now allow that to happen.

There are additional benefits to this legislation. For example, significant water efficiencies will result from title transfer. Approximately 8 percent of the water is lost each year to evaporation and seepage since the canal is not enclosed. Transferring ownership will allow it to be enclosed. There are environmental benefits as well—for instance, some of the saved water will be made available to meet the needs of the endangered June sucker. Further, covering the canal will also allow for the development of recreational trails that can be used for hiking and cycling.

Mr. Speaker, I thank you and my other colleagues for supporting this important piece of legislation.

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## HONORING 2004 PERSON OF VISION "SHRUB" KEMPNER

### HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. LAMPSON. Mr. Speaker, I rise today to commend Harris L. "Shrub" Kempner of Galveston, Texas. Shrub is the 2004 Person of Vision chosen by Prevent Blindness Texas and will be honored Tuesday, October 12 in Galveston.

Shrub is President and Portfolio Manager of Kempner Capital Management and a Trustee of Kempner Trust Association. He has given his time in service for community boards including the American Jewish Committee, UTMB's Development Board, Galveston County Economic Development Alliance, Galveston Economic Development Alliance, Harry Ransom Humanities Research Center at UT and the City's Finance Committee.

Shrub is a graduate of Harvard and Stanford. He is a husband and father of two sons. He is the former director of Balmorhea Rances, the Imperial Sugar Company, the United States National Bank, the Frost Bank and Cullen-Frost Bankers, Inc.

Prevent Blindness Texas has chosen to honor someone who has served the Ninth District with distinction and continuing generosity. In announcing his award, Prevent Blindness said:

"We feel Shrub epitomizes a true person of vision. His clear perspective and farsightedness have made a difference in the life of so many. He has truly made a lifelong allegiance to improving and enhancing the quality of life for others and, his devoted friendship and extraordinary dedication deserve recognition."

Mr. Speaker, I want to echo those sentiments and congratulate Shrub Kempner on adding this honor to so many he has received from community organizations in the Ninth District of Texas.

## CRIMINAL VIOLENCE IN CENTRAL AMERICA

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. TOWNS. Mr. Speaker, I rise today to draw your attention to the wave of criminal violence, much of it targeting women and children, now engulfing America's neighbors in Central America. In Guatemala, human rights organizations have recorded an appalling 16,788 violent crimes between January and June of this year and report that one woman is murdered every day in a country smaller than the state of Tennessee. Unfortunately, violence is hardly a recent development in Guatemala, where citizens and leaders continue to grapple with a legacy of fifty years of political violence and humanitarian atrocities during the Cold War era that claimed more than 200,000 innocent lives.

Sadly, Guatemala's recently elected President Oscar Berger has been able to do little to curb the violent crime threatening his people or to punish those responsible for past human rights violations. Ironically, Berger has had to rely upon those very human rights violators still serving in the police and military to combat the current wave of violent crime. The frustration of the Guatemalan people with the ineffectiveness of their new leader in addressing the situation was painfully evident in the massive demonstrations in Guatemala City last August to protest the growing tide of criminal violence. The violence now plaguing Guatemala and other Central American countries should be of great interest to this congress because, as law and order deteriorate in the region, many Central Americans, out of desperation, will seek refuge abroad, with many immigrating illegally to the United States.

The following research memorandum about the criminal violence which plagues Guatemala was authored by Eleanor Thomas, a British research associate at the Washington-based Council on Hemispheric Affairs, an independent, non-profit, non partisan, tax-exempt research and information organization founded in 1975. It has been described on the Senate floor as being "one of the nation's most respected bodies of scholars and policy makers."

#### GUATEMALANS SPEAK OUT AGAINST VIOLENCE

On August 13, over 12,000 people took to the streets of Guatemala City to protest the horrific wave of violent crime currently engulfing the country. The march was organized by the Human Rights Protector's Office (PDH) and supported by 560 of the country's civil associations. PDH Director, Dr. Sergio Morales, said in an interview with COHA that the main purpose of the march was to draw attention to the "plight of women and children" who have been the most severely affected by the violence. The march in Guatemala built upon similar demonstrations in Argentina, where 130,000 people took to the streets in April to petition Congress for stiffer penalties against criminals. Mexico City also witnessed at least 300,000 people march through the capital protesting the high levels of violent crime and kidnapping that have plagued the country in recent months. The overriding message to come out of the march in Guatemala is that newly-elected President Oscar Berger must take bigger steps to tackle the endemic problem of violence that could swamp the country's most vital institutions if redress is not achieved.

#### SKYROCKETING LEVELS OF VIOLENT CRIME

Violent crime rates in Guatemala have risen to astronomical levels. According to the PDH, there have been 16,788 incidents of violence between January and June of this year, 15 percent more than the 14,606 cases recorded during the same period last year. Of this total, 1,662 people have been shot, 254 have been stabbed and 108 murdered with blunt instruments; there were also 43 strangulations and five lynchings. While an international outcry was mounted over the infamous murders of 300 women in the last decade in Ciudad Juarez, Mexico, little attention is paid to the fact that one woman is murdered every day in Guatemala.

To strike a sardonic note, in the same month that the PDH announced these hideous statistics, Guatemala celebrated the 50th anniversary of the CIA-sponsored invasion that ousted democratically-elected Jacabo Arbenz president. This wanton act of intervention on Washington's part plunged Guatemala into a bloody civil war that pitched government forces against guerrilla commandos, resulting in the brutal murders and disappearances of more than 200,000 people over the decades. The impact of the war was so extensive that it militarized every aspect of society. Despite the arrival of a nominal peace agreement in 1996 with the UN-peace accords, the country has struggled to deal with its oppressive violence. Alfonso Portillo (2000–04), the first to be elected president after the peace accords, paid little better than lip service to the accords while allowing impunity to reign and endemic corruption to flourish, especially when it came to the special treatment he afforded the country's most notorious human rights violator, the infamous General Rios Montt.

#### NEW PRESIDENT, BUT NO NEW SOLUTIONS

When President Berger took office on January 14, a new opportunity for peace and reconciliation seemed to present itself. During his election campaign, Berger portrayed himself as a man firmly committed to democratizing Guatemala. He pledged to fight crime, corruption and poverty and to apply the still dormant provisions of the peace accord. However, since taking office, his policies have been somewhat less than coherent.

The cornerstone of his reforms has been a commitment to implementing the international community's recommendations; especially those aimed at reducing the size of the military, the institution that was responsible for many of the worst human rights atrocities during the country's 36-year-long civil war. Although Berger was seen as substantially reducing the military from 27,000 to 15,500 active members as well as spearheading a campaign to close 13 of the country's 60 military bases, these statistics are somewhat misleading. While his moves to demilitarize the country generated immediate praise from the international community, Marvin Perez of the Rigoberta Menchu Foundation asserted that more than 6,000 of these soldiers never actually existed. They were "ghost soldiers," the result of creative auditing by the previous administration to siphon money away from the government for alleged salaries and food parcels for senior personnel. Moreover, of the remaining 5,663 soldiers who agreed to take early retirement, 99 percent were infantry recruits. This means that the high-ranking members of the officer corps—those who were subsequently found responsible for 93 percent of the atrocities committed during the civil war—are likely to still be on active duty.

#### UNSUCCESSFUL PLAN OF ATTACK

Berger's latest plan to stop the wave of violence has been to triple the number of soldiers and police officers on joint patrol in danger zones termed "red areas." Yet, the plan only makes it more likely that those who are now patrolling Guatemala's streets are the same military personnel who raped, tortured and murdered some 200,000 people during the civil war.

At a recent meeting in Washington, Vice President Eduardo Stein told COHA that the reason violent crime has reached a "level never seen before was because organized crime was reacting very violently against the reforms the government has enacted." Yet placing the blame on organized crime is too simplistic an answer to a complex question. Senior officials in the army and police force stand accused not only of being involved in this crime network, but of actually orchestrating criminal activities. If the government intends to blame today's increasing violence in Guatemalan society on shadowy networks of crime cartels, it must be willing to accept the involvement of its own functionaries in the country's burgeoning law and order calamity. Guatemala's historic tradition of violence will not be solved by simply increasing the presence of security forces on the streets. The problems are rooted too deeply in Guatemalan society for such superficial measures alone to be truly effective.

#### LOOKING TO THE FUTURE

Berger is clearly vulnerable in the eyes of the Guatemalan population. His public approval rating has slipped from 83 percent (the level recorded at the time of his inauguration) to 48 percent according to the latest CID-Gallup poll published in El Periódico. This is further compunded by the significant protest of thousands of anti-government marchers—it is clear that Berger must take more assertive acton if he wants to retain the populace's backing.

If the president wants to combat the situation, he must create an environment where every Guatemalan is equal in the eyes of the law. He needs to purge the military of not simply infantry soldiers, but also of those officers of superior rank who, as junior officers, planned and carried out unspeakable atrocities.

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## CONGRATULATING THE PEOPLE OF INDONESIA ON THEIR RECENT ELECTIONS

### HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. LEACH. Mr. Speaker, on September 20, 2004, Susilo Bambang Yudhoyono won a decisive victory in the final round of the first direct presidential election in the history of the Republic of Indonesia. However, the election was an even greater victory for the people of Indonesia in their remarkable transition to democracy.

This has been a pivotal year for democratic institutions in Indonesia. Indonesia has conducted not one, but three complex national elections in 2004. They were the largest single-day elections in the world, and involved hundreds of millions of ballots, and more than 500,000 polling stations spread across that vast archipelago. In April, I had the opportunity to visit the Indonesian National Elections Commission in Jakarta, and was impressed by the energy and determination with which its officials were confronting those logistical challenges. By any measure, their efforts were a profound success. Approximately 116 million people voted in the final round of the presidential election, over 10 million more than voted in the last presidential election in the United States.

The people of Indonesia have effected credible, orderly, and peaceful elections of which they are deservedly proud. The magnitude of this accomplishment becomes apparent when we recall that Indonesia emerged from authoritarianism only six years ago, during an extended period of acute economic and social turmoil.

Other observers have correctly cited Indonesia as proof that Islam and democracy can coexist, but it is more than that. Civil Islam in Indonesia has not been merely passive or coincidental with democratization, it has been a catalyst. We understand and appreciate the critical role that Islamic civil society has played in promoting democracy in Indonesia. I fully expect that Islamic mass organizations, universities, pesantren, and non-governmental organizations will continue to play an important part in developing the political culture and public expectations necessary to make Indonesia's nascent democratic institutions truly representative.

We have high hopes for the new administration as it begins to address the significant challenges facing Indonesia. We wish them every success in promoting economic growth, peacefully resolving separatist and communal conflicts, improving the implementation of decentralization and regional autonomy, combating terrorism, and ensuring that the institutions that wield public power are fully accountable to the people of Indonesia. In sum, we share the aspiration of the Indonesian people for expanding and deepening the process of reformasi—the reformation of public institutions away from the corruption, collusion, and nepotism that have weakened them in years past.

I would like to extend my personal congratulations to President-elect Susilo Bambang Yudhoyono and Vice President-elect Jusuf Kalla on their recent victory, and to thank President Megawati Sukarnoputri for her leadership and service to her country during the past three years. We look forward to the continuation of the cooperative relationship between our nations, and the steady growth in friendship between our peoples.

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## INTRODUCTION OF THE CHILDREN'S DEVELOPMENT COMMISSION ACT

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mrs. MALONEY. Mr. Speaker, today I am re-introducing legislation that is intended to help solve the shortage of available, affordable child care facilities. In my congressional district in New York City, more than half of all women with pre-school children are in the workforce and the need for child care is enormous. This is not a local problem but one that is national in nature.

The "Children's Development Commission Act" or "Kiddie Mac," will address this problem by authorizing HUD to issue guarantees to lenders who are willing to lend money to build or rehabilitate child care facilities. It also creates the Children's Development Commission which will certify the loans and create federal child care standards. Kiddie Mac will also give "micro-loans" to facilities which need to make the necessary changes to come up to licensing standards, as well as provide them with lower cost fire and liability insurance. Through some of the premiums paid by the lenders, a non-profit foundation will be formed which would focus on research on child care and development, as well as create educational materials to guide potential providers through the certification process.

It is late in the session but I urge my colleagues to consider the proposal and join me in enacting it this year or in a future Congress.

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## ECONOMIC DEVELOPMENT ADMINISTRATION REAUTHORIZATION ACT OF 2004

SPEECH OF

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Ms. SOLIS. Mr. Speaker, I rise today to applaud passage of the Economic Development Administration Reauthorization Act of 2003, S. 1134. This Authorization allows the Economic Development Administration to provide approximately $1.3 billion in economic development grants over the next 5 years.

The Economic Development Administration provides support for redevelopment of brownfields sites in otherwise underserved communities, like some I represent. For every acre of reused brownfields 4.5 acres of unused open space is preserved. Preserving this open space and redeveloping these sites is critical to the environment, public health, and economic stability of families in my community.

I am pleased that during Senate consideration of S. 1134, the Assistant Secretary of Commerce David Sampson testified before the Senate Environment and Public Works Committee that the EDA is "not seeking to in any way relieve a responsible party from liability under CERCLA nor to provide funds to a party to undertake clean-ups required under CERCLA, since to do so would undercut the 'Polluter Pays' principle on which CERCLA was founded." Taxpayers should not be saddled with the burden of paying to clean up pollution when polluters can be held accountable, and the limited grant funds available in this legislation should not be used to fund polluters.

On October 5, 2004, I joined Ranking Democratic Member of the House Energy and Commerce Committee JOHN DINGELL in sending a letter to the Economic Development Administration requesting information on the brownfields cleanup program. To the limited extent EDA is involved in funding assessment or cleanup of brownfields sites, the intent of the EDA bill is that grant funds shall only be provided consistent with the "Polluter Pays" principle. I intend to continue to follow the role of the EDA in brownfields, as successful brownfields redevelopment must be achieved without sacrificing environment and public health protections and without undermining the Polluter Pays principle.

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## PERSONAL EXPLANATION

### HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. BECERRA. Mr. Speaker, on Wednesday, October 6, 2004, I was unavoidably detained, and therefore unable to cast my floor vote on roll call number 497, on passage of H.R. 5107, the Justice for All Act.

Had I been present for the vote, I would have voted "aye" on roll call vote 497.

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## RECOGNIZING JONATHAN ADAM DAVIS FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Jonathan Adam Davis, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 261, and in earning the most prestigious award of Eagle Scout.

Jonathan has been very active with his troop, participating in many scout activities. Over the many years Jonathan has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Jonathan Adam Davis for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

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## PAYING TRIBUTE TO JUDGE DANIEL PETRE

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to Daniel Petre from Garfield County, Colorado. Daniel is an accomplished public servant who was recently chosen to succeed Thomas Ossola as a Judge in Colorado's Ninth Judicial District. His impressive service and contributions make him an excellent choice for this judgeship, and I would like to join my colleagues here today in recognizing his selection before this body of Congress and this Nation.

At fifty-three years of age, Judge Daniel Petre has established a rich legacy that will aid him on the district bench. After completing his bachelor's degree at Dartmouth, he went on to receive his law degree from Southern Methodist University. Daniel managed a law firm in Glenwood Springs for twenty-two years before becoming the Garfield County Magistrate and the District 5 water referee. Recently, Colorado Governor Bill Owens appointed him as a one of three judges for the Ninth District court. Daniel also serves on the board of Garfield Legal Services and is a former member of the Re-1 School Board.

Mr. Speaker, it is a privilege to recognize Judge Daniel Petre for his past service to Garfield County and the state of Colorado, and to congratulate him on his appointment to the Ninth District bench. I am confident he will serve with integrity and compassion, and I am honored to recognize him today before this body of Congress and this Nation.

## THE LOSS OF SERGEANT CHRISTOPHER S. POTTS

### HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. LANGEVIN. Mr. Speaker, it is with profound sorrow that I rise to recognize the death of Sergeant Christopher S. Potts, a brave soldier who served with dignity and honor in Iraq and as a member of the Rhode Island National Guard for 14 years. I join his family and the people of Rhode Island in mourning this great loss.

On Sunday, October 3, Sergeant Potts was killed by enemy fire while stationed at a traffic checkpoint in Taji, 13 miles north of Baghdad. That Sunday was also Sergeant Potts's 38th birthday. A member of A Battery, 1st Battalion, 103rd Field Artillery, Sergeant Potts was serving his first tour of duty in Iraq. A resident of Tiverton, Sergeant Potts led a life of service both to his country and to his community. When not on active duty, he worked as a marine mechanic at New England Boatworks in Portsmouth.

I extend my deepest condolences to his parents Jerry Potts and Betty Hackett, his sister Kim Evans, his wife Terri, and his sons Christopher Jr. and Jackson. The people of Tiverton and Rhode Island have demonstrated their appreciation for Sergeant Potts's sacrifice and have spoken highly of his contributions to their lives. Those who knew him well describe him as a true outdoorsman and a wonderful father. Our thoughts and prayers go out especially to his two sons, the greatest joy in Sergeant Potts's life.

His loss causes us to reflect on the bravery demonstrated by our men and women in uniform as they carry out their obligations in the face of danger. When their nation called them to duty to preserve freedom, liberty and the security of their neighbors, they answered without hesitation. We remember those who have fallen not only as soldiers, but also as patriots who made the ultimate sacrifice for their country. May we keep their loved ones in our thoughts and prayers as they struggle to endure this difficult period.

We will continue to hope for the safe and speedy return of all of our troops serving throughout the world.

## THANK YOU, CHAIRMAN TOM DAVIS OF VIRGINIA AND STAFF

### HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. PUTNAM. Mr. Speaker, for the past two years I have been privileged to serve as Chairman of the Government Reform Subcommittee on Technology, Information Policy, Intergovernmental Relations and the Census. Upon my appointment to the House Rules Committee, I was required to relinquish my chairmanship, and I would like to take this opportunity to thank Full Committee Chairman TOM DAVIS and the staff for their tremendous efforts.

In the 108th Congress, the Subcommittee held 39 hearings—substantive hearings—on issues ranging from the threats of cyber terrorism, to the President's Management Agenda, to Geospatial issues and to planning for the 2010 Census. During this time, I believe that we have put America on alert—in government, the private sector and home computer use—to the threats posed by cyber criminals and how best to protect our resources.

Much of the success that we enjoyed on the subcommittee is due to the hard work and expertise of the staff, which took a citrus farmer from Central Florida and brought him up to speed on the intricacies of new technologies and their importance to all Americans. My able Staff Director, Bob Dix, led a truly outstanding team of individuals who worked tirelessly to conduct thorough oversight of the areas of jurisdiction of my subcommittee. They deserve much of the credit for the positive impact that we have made.

Lastly, I would like to thank Chairman TOM DAVIS for the trust he placed in me. As my predecessor on the Technology Subcommittee, he left great shoes to fill. I appreciate his guidance and friendship, and I pledge to continue working on these issues of importance in the years to come.

## RECOGNIZING LIEUTENANT RYAN CASPER

### HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. KIND. Mr. Speaker, I rise today to recognize the good works of first Lieutenant Ryan Casper, who has served both his country and the Iraq community in an astounding manner. Lt. Casper, an Army Reservist serving in the 477th Ambulance Company, has demonstrated unyielding dedication to improving the dire situation thousands of Iraqi students are experiencing.

Lt. Casper, a history teacher from Ellsworth High School, has extended his passion for education from his classroom in Wisconsin into the Iraq community. He has been instrumental in meeting the needs of the students by restoring educational structures in Iraq. The deteriorating infrastructure of the education facilities and the absence of essential school supplies generated Lt. Casper's inspiration to create a charity that ministered to the needs of school-aged children. Lt. Casper understands that a sanitary and well-equipped facility is necessary before a quality education can be achieved.

As an active member of the military for twenty years, Lt. Casper is executive officer of a ground ambulance company that transports patients and medical supplies from Baghdad to Southern Iraq. Casper's charity, the 477th Hearts and Minds Club, has provided numerous children with school supplies. Lt. Casper's operation was made successful by the donations he received from citizens in the United States. The largest contributor to his cause were Ellsworth High School students who collected over a thousand items to be used by students in Iraq. The supplies donated to the Hearts and Minds Club were delivered to various schools during ambulance runs performed by Lt. Casper's unit.

Lt. Casper's actions were successful in furnishing Iraqi schools with essential supplies, but more importantly, his actions altered the mindset of students in Iraq. The poor perception of American soldiers by Iraqi children wavered with the arrival of new materials. The once feared soldier was transformed into a heroic character overnight.

In October of 2003, and September of 2004, to personally lend my support to the troops engaged in this war, I had the great privilege of visiting Iraq. I met with troops and received a first-hand assessment of the reconstruction activities. After witnessing the poor conditions facing many citizens of Iraq, I felt great inspiration that one of my constituents had demonstrated such steadfast leadership in serving both his country and the citizens of Iraq. I would like to congratulate and thank Lt. Ryan Casper for his perseverance and unselfish desire to improve the world around him. Lt. Casper once said, "A goodwill gesture can go a long way in this country and hopefully we can supply that gesture."

## MARRIAGE PROTECTION AMENDMENT

SPEECH OF

### HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 30, 2004*

Mr. TIAHRT. Mr. Speaker, I rise in support of H.J. Res. 106 offered by Representative Marilyn Musgrave.

The resolution, if passed by two-thirds of both the House and the Senate, and if ratified by three-fourths of the state legislatures, would amend the United States Constitution with the following language:

"Marriage in the United States shall consist solely of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman."

This nation once again finds itself wresting with monumental social questions of family. The way in which we choose to answer these questions will have far-reaching consequences upon ourselves and our descendants.

Throughout recorded history, civilizations have existed and perpetuated themselves with basic principles of social structure. Some cultures have emphasized different principles such as community responsibility while others have emphasized individual responsibility. But all civil peoples have survived and prospered only where raising children was ideally the responsibility of their mother and father.

Over the past century we have seen many changes in American culture. We have witnessed an explosion of new travel opportunities, access to information and advances in medicine. Certainly social norms have shifted. We have made progress, in the truest sense, such as recognizing the fundamental human rights of all people no matter their color or creed. And we have also made egregious regressions such as legalizing the aborting of unborn children. Even in this advanced age, we must continue to wage battles against injustices.

But with all the change the United States has undergone and will continue to undergo—there will always remain the goal to ensure that our children are able to perpetuate life and all things good. Any changes we allow to happen and support through legislation that affects this goal should be scrupulously considered.

The resolution before the House today seeks to articulate what constitutes a marriage—not because we have some new definition, but because a small number of judicial activists and social re-engineers are seeking to impose a new definition and experiment with the structure in which children are encouraged to be raised. If we do nothing and allow the courts to re-define marriage, State and Federal governments will soon have little or no authority to ultimately restrain any imaginable form of marital contract between couples and groups of people and even animals.

It is no secret marriage has been under assault in recent decades. With rising occurrences of extra-marital affairs, divorce, spousal abuse and teenage mothers becoming more commonplace among our population, many wonder why marriage is worth preserving at all. But just because the institution of marriage has experienced turbulent times is no reason to give up on it as the ideal for which we should strive.

I want to emphasize that millions of single moms and dads across this country are struggling to do what is right for their children. They love their children and want them to do well and succeed and someday have an opportunity to have a healthy family of their own. As we debate how to best help sustain the institution of marriage, we should acknowledge that these parents are doing a terrific job raising their children to the best of their ability. They should be commended, especially the single moms who probably have the toughest job in America.

While recognizing the honorable single moms and dads, we should also work to help reduce the number instances where children grow up in homes without both their mother and father as a part of the family.

As a representative to the United States Congress on behalf of the people from the Fourth Congressional District of Kansas, I took an oath to uphold the Constitution of the United States. The preamble to that great document states that two of the Constitution's purposes are to "promote the general Welfare" and "secure the Blessings of Liberty to ourselves and our Posterity." I consider how we raise our children and with whom that responsibility lies to be among the most crucial decisions we face in promoting the general well-being of all Americans and our descendants.

As the government seeks to provide for the general welfare of its citizens, I believe it should promote that which provides the maximum protection for our youngest generation. A child is best nurtured and protected when both the mother and father are sharing the responsibility of raising the child.

While not everyone who enters into marriage desires children or is able to have children, the context of their marriage is an example of how a man and a woman should live together in a way where children could be raised and cared for. We all know kids are observant and curious, and they watch how friends, neighbors and relatives live. And most children grow up mimicking the behaviors observed from adults.

So while two people of the same sex may express love for one another, it does not mean that the State has an obligation or duty to grant them marital status. Marriage is a privilege the State should protect, but it is not a right for same-sex partners, multiple partners, or any configuration of people and animals that express love for one another.

Fighting to protect marriage in America will likely be a very long and difficult process, but so is the struggle for a lot of worthy things in this country. Women fought for decades before they were finally allowed to vote. The struggle for slaves to become free and ultimately to have their full civil rights recognized was a terribly long process. But we must not give up. It is my hope that more and more Americans will realize the significance this issue has for all for us as Americans. I hope that as the debate continues on the issue of marriage we will have a growing concern for who this affects most: our children.

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## INTRODUCTION OF THE VOTER PROTECTION ACT OF 2004

### HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. CUMMINGS. Mr. Speaker, I rise today to introduce the Voter Protection Act of 2004. This bill would allow criminal prosecution of any individual, group, or organization that tries to mislead, intimidate, misrepresent or otherwise interfere with anyone exercising the right to vote. It would impose a fine, imprisonment for up to one year, or both against violators. I introduce this bill, because as the presidential election fast approaches, it is evident that there are concerted efforts to mislead or intimidate voters across the country, especially minority voters.

A recent report entitled The Long Shadow of Jim Crow: Voter Intimidation and Suppression in America Today, (September 2004), coauthored by the People for the American Way Foundation and the NAACP, highlights efforts to intimidate and suppress minority voters around the country. It contains many recent egregious examples during this election cycle that illustrate the necessity for this legislation:

In July 2004, Kentucky Black Republican officials joined to ask their State GOP party chairman to reject plans to place "vote challengers" in African American precincts during the upcoming election. (Source: Louisville Courier-Journal, 8/3/04).

Just this summer, a Member of the Michigan State Legislature, Representative John Pappageorge, was quoted as saying, "If we do not suppress the Detroit vote, we're going to have a tough time this election." Mr. Speaker, you may not be aware, but African-Americans comprise 83 percent of Detroit's population. (Source: Detroit Free Press).

In South Dakota's June 2004 primary, Native American voters were prevented from voting after they were asked for identification, which they are not required to present under state and federal laws.

In 2004 in Texas, students at Prairie View A&M once again are suing for the right to register to vote in Waller County—after being threatened with criminal prosecution by the district attorney. In fact, an earlier controversy had led to a lawsuit and a 1978 federal court order prohibiting the local registrar from treating Prairie View students differently from other county voters. (Source: Houston Chronicle, 2/6/04).

These are glaring examples that demonstrate that the problems surrounding the 2000 presidential election in Florida were not a fluke, but symptomatic of a larger nationwide problem.

I cite one other recent example from the press.

The New York Times recently reported that police officers visited the homes of elderly African Americans in Orlando, Florida flaunting their guns and questioning them about their legal voter registration activities.

Lastly, Mr. Speaker, I feel compelled to cite a not so long ago example of attempts to mislead voters in my own district:

In Baltimore, Maryland, in the 2002 election, anonymous fliers were posted in several predominantly Black neighborhoods with the heading "URGENT NOTICE". The flier listed the wrong date for Election Day and warned that parking tickets and overdue rent should be paid before voting. (Source: Baltimore Sun, 11/6/02).

I think my colleagues can see the pattern of suppression, misrepresentation and intimidation, especially in "high stakes" elections—it is both obvious and atrocious.

Mr. Speaker, as the men and women of all backgrounds in our armed services fight abroad to promote democracy in Iraq and Afghanistan, it is absolutely unconscionable and unpatriotic to allow illegal voter suppression activity to persist in our own country. Yet it does. Allowing such improprieties to continue—by those who actively seek to hinder or to deny altogether certain individuals' ability to vote—goes against the fundamental tenets of fairness and freedom woven into the fabric of our Nation.

Mr. Speaker, we are now 26 days away from what will be one of the most decisive elections of our lifetime. In order to ensure every person's "right to vote," voter intimidation and interference must be stopped.

Accordingly, we must combat these tactics by ensuring that there are sufficient repercussions—and that these individuals are held accountable for their actions. The Voter Protection Act of 2004 will help to ensure this accountability. It would do so by imposing criminal penalties and fines for anyone or group that engages in fraudulent tactics, including distributing fliers or calling potential voters with misinformation, or any other such attempts to mislead or intimidate voters.

Mr. Speaker, I stand before you, 40 years after the passage of the Voting Rights Act, asking that the Congress ensure that we not repeat the mistakes of the past, but indeed write a new page in history. I ask that we send a message to this country's citizens that they will be free to vote. I ask that we send a message to those so inclined that misleading, suppressing and intimidating voters is wrong and cannot continue. The Voter Protection Act of 2004 will help to assure Americans of the unencumbered right to vote.

Lastly, Mr. Speaker, when the Constitution of the United States was originally adopted in 1788, many of us would have been ineligible to vote. Thankfully, there were people in this country who resisted against that injustice—in fact, died to correct it. The Voter Protection Act of 2004 will continue this tradition of ensuring that every vote is precious and protected.

If Congress passes this legislation, we will demonstrate to the Nation and to the world that America does not tolerate any impositions on the sacred privilege of voting. I urge all of my colleagues to join me by co-sponsoring this legislation.

## PAYING TRIBUTE TO DOUG KING

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Doug King, a dedicated businessman from my hometown of Grand Junction, Colorado. Doug has been an empathetic and generous employer for the McDonald's company. Recently Doug was nominated for the Ronald Award that is given to owners and operators that are outstanding citizens in their communities and, it is my privilege to recognize his service before this body of Congress and Nation today.

Every year Doug donates his time and resources with thousands of programs like the Moab Senior Volunteer Program, The United Way, and several local, elementary, middle and high schools. Doug revolutionized the Mesa County Fair Program by spending thousands of dollars bidding up the price for third through last place animals at the fair, allowing many third place animals in Mesa County to bring in as much money as first place ones. At the end of the day the children always get to keep the animal that they have spent months raising with such special care.

I personally know Doug well, and he is one of the most generous people I have ever met. There are many occasions to point to like the time he bought hundreds of dictionaries for the Grand Junction Rotary so that every third grader in Grand Junction could have one. On another occasion he bought one-hundred extra-value meals to give to a mother who lost her child so she could give them to the homeless to feel better about herself. The one that really stands out is the bonus program that he developed for his employees. He developed the program to reward his employees for working hard, and initially it entailed giving away cash prizes at the end of every week up to four hundred dollars. The program was so effective Doug upped the ante giving away a Jeep Cherokee, a six-person spa, television sets, and a Ford Mustang Convertible.

Mr. Speaker, Doug King is a wonderful ambassador for the McDonald's company and a dedicated member of the Grand Junction community who has made public service a priority in his life. He is an excellent employer who truly cares for his employees and even more, he is a wonderful family man. He engenders the love and support of his wife, Kathy, his son Shane, daughter, Monica, and grandchildren, Riley and Charlotte. I am honored to rise before this body and recognize his many contributions to the State of Colorado. Thanks for all your hard work, Doug, and I wish you all the best in your future endeavors.

## INTRODUCTION OF THE AMERICAN INDIAN VETERANS PAY RESTORATION ACT

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. UDALL of New Mexico. Mr. Speaker, this week, as thousands of Native Americans from all over the country convene in Washington to celebrate the opening of the newest museum on the National Mall, I rise to introduce a bill that will restore justice to many of our Nation's Native American veterans, the American Indian Veterans Pay Restoration Act.

Prior to 2001, Native Americans who served their country in the armed forces had their active duty pay taxed by the state, despite claiming the reservation as their home. The law is now well established that this policy was wrong and, in keeping with tribal sovereignty, the policy of withholding states taxes on these soldiers' pay was changed. This position is reflected in administrative opinions, *Fatt* v. *Utah*, 884 P2d 1233 (Utah 1994), a 2000 Department of Justice (DOJ) opinion, a Department of Defense (DOD) policy instituted in 2001, and most recently, in Public Law 108–189, a law that passed this House unanimously.

However, while these changes stopped the improper practice of withholding taxes, the changes do not apply retroactively. Current federal law provides that statutes of limitations toll during a member's service, but the ability to recover withheld taxes is still limited by state statute of limitations on filing for refunds. The result is that hundreds, or perhaps thousands, of tribal members whose state taxes were improperly withheld during their service to our country are unable to recover the money that is owed to them.

The American Indian Veterans Pay Restoration Act remedies this situation by creating a program within DOD to return these erroneously withheld taxes to qualifying Native American veterans. This program will centralize and facilitate distribution of funds and recovery of funds from the states. Veterans seeking to recover their money will submit an application to DOD providing evidence of military service, improper taxation, and domicile on a reservation. In addition to veterans, the program will serve Native Americans who were on active duty prior to 2001 and who remain on active duty.

Nearly 16 percent of the Native population 16 years and older are veterans. Native Americans have the highest rate of service to our country of any ethnic group in the U.S. We are daily reminded of the sacrifice made by those who choose to don the uniform and serve our country, and this week we have also been reminded, of the importance of preserving and honoring Native American cultures and traditions. The introduction of this bill serves as a timely effort to keep our promise to our Nation's Native American veterans, and I ask the support of my colleagues.

I would like to thank the original cosponsors of the bill—Representative GEORGE MILLER, who led the effort to change the Pentagon's policy on withholding state taxes on Native American servicemembers in 2000, Representative NICK RAHALL, the Ranking Member of the House Resources Committee, and Representative DALE KILDEE, a co-chair of the Native American Caucus. I look forward to working with my colleagues to pass this common sense bill.

## TRIBUTE TO MRS. CATHERINE CARTER

### HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. TANNER. Mr. Speaker, I rise today to pay tribute to a longtime friend of mine, a great Tennessean and an outstanding American, Mrs. Catherine Carter.

At the age of 85, Mrs. Carter still puts in a full day's work six days a week at Grandma's Store in Mansfield, Tenn. Her father, Willie Thompson, built the store in 1935 and, with his wife Euna's help, ran the store until his death in 1969. Mrs. Carter has managed the store since her son Rex bought it and fixed it up for her in 1979.

Mrs. Carter is a lifelong resident of Mansfield. In fact, she grew up in the house next door to the store. She now lives down the road from the store.

Mrs. Carter remembers when Mansfield was a busy place. When she was a little girl, the town had a telegraph office, a railroad depot, a cotton gin and a potato house, where they stored potatoes until they were ready to be shipped. Mrs. Carter and her mother rode the train to Bruceton and to Paris.

These days things are pretty quiet, but Mrs. Carter still opens the store between 6:15 and 6:30 a.m. six days a week and stay open until 6:30 p.m. She sells everything from hunting supplies to household items. She also offers barbecue, bologna, ham and turkey sandwiches, as well as hamburgers. Patrons can wash down their food with ice cold Coca-Cola or Frostie root beers out of an old-fashioned metal cooler with sliding doors on top.

Mrs. Carter is an institution in Mansfield, and her service to her regulars as well as passersby and newcomers is to be applauded. What an inspiration she is to us all.

## IN HONOR OF THE STATEWIDE HISPANIC CHAMBER OF COMMERCE OF NEW JERSEY

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor the Statewide Hispanic Chamber of Commerce of New Jersey (SHCC), an organization that has contributed greatly to the development of the Hispanic business community. New Jersey's Hispanic Chamber of Commerce will be holding its 14th Annual Convention & Expo on October 8, 2004, at the Newark Airport Marriott Hotel in Newark, New Jersey.

For 15 years, the SHCC has been instrumental in the development and support of small businesses within the state. As the Hispanic market continues to be the fastest-growing sector in the United States, the SHCC plays a pivotal role in supporting Hispanic business owners and providing resources that help them succeed. Over the past ten years, the number of Hispanic-owned businesses in New Jersey has increased to more than 45,000, generating thousands of jobs and billions of dollars in sales.

At this year's convention, the SHCC will host a career fair for students and inner-city residents, informing them of internships and job opportunities. The convention will offer a variety of workshops on issues such as financial literacy and home ownership, and will provide government officials and business leaders the opportunity to attend luncheons and networking receptions to help build relationships and strengthen the community of small business owners.

Today, I ask my colleagues to join me in honoring the Statewide Hispanic Chamber of Commerce of New Jersey for its 15 years of service working to establish and promote Hispanic businesses, leaders and develop New Jersey's economy.

## PAYING TRIBUTE TO DENNIS KING

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Dennis King, a dedicated banker from my hometown of Grand Junction, Colorado. Dennis has been in the banking business for twenty-nine years and is an extremely active member of his community. It is my honor to stand before this body of Congress and this nation today to recognize his service.

A lifelong Coloradan, Dennis attended Mesa Junior College, Colorado State University, and graduated from Western State College before going on to the Colorado Graduate School of Banking. Dennis put his education to work in the bookkeeping department at United Bank of Delta in 1975. His business acumen and leadership helped him rise through the ranks at Norwest Bank, First National Bank of the Rockies, and recently he became the President of the Timberline Bank for the Grand Junction market.

Dennis has been extremely involved in his community throughout his entire life. He is an active member of the United Methodist Church, and the Delta and Grand Junction Kiwanis Clubs, taking on several leadership positions. He has been an advocate for youth, coaching several baseball teams and serving as a liaison to the Future Business Leaders of America in addition to his service on numerous advisory committees for the local high school.

Dennis prides himself on civic service and has been a longstanding activist in local government affairs, serving as a delegate to several Republican county assemblies, state conventions, Colorado State House assemblies, and the Third Congressional District of Colorado. Since 1974, he has spent thousands of hours as the County and Overall Campaign Chair for several campaigns and has been an involved member of Club 20. Dennis is committed to issues that affect Colorado and has correspondingly served on the Tri-County Water Conservancy Board of Directors and the Colorado Committee for Taxation per his appointment by Colorado Governor Bill Owens.

Mr. Speaker, Dennis King is a dedicated leader of the Grand Junction Community who has made public service a priority in his life. People like Dennis help keep our communities strong and I am honored to rise before this body and recognize his many contributions to the State of Colorado. Thank for all your hard work, Dennis, and I wish you all the best in your future endeavors.

## THE CHIMAYO WATER SUPPLY SYSTEM AND ESPAÑOLA FILTRATION FACILITY ACT OF 2004

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in support of S. 2511, the Chimayo Water Supply System and Española Filtration Facility Act of 2004. Both of these communities located in my district are in dire need of improvements to their water facilities and I am pleased that the House is acting today to address the needs.

The unincorporated community of Chimayo, home to 3,000 citizens and the world-famous Santuario de Chimayo, currently relies on individual wells for their potable water. They also are forced to rely on largely deteriorated septic sysgtems to dispose of wasterwater. The absence or deterioration of sewer and water infrastructure in the region results in 75 percent of well samples taken having significant contamination. Also, because of the unreliability of the well water, some residents use free-flowing water from irrigation ditches for drinking, also containing high levels of different types of contamination. This situation is so badly in need of remedy, that in 2001 the region was declared an emergency area and required National Guard tanker trucks to bring potable water to the area. Still today Chimayo remains an emergency area.

To address this situation, S. 2511 directs the Secretary of Interior, in cooperation with State and local authorities to conduct a feasibility study of constructing a water supply system for Chamayo. In conducting the feasibility study, the Secretary is to consider various options for supplying water, long-term operation and maintenance costs, and local water resources. The bill would also direct the Secretary to provide emergency water assistance to Chimayo, which may include water treatment, installation of an emergency water supply system and installation of transmission and distribution lines.

Similarly in need of improved water infrastructure is the City of Española. Currently the City's water system produces approximately 1,000 gallons per minute less than is needed to provide for its current population. This production shortfall has resulted in inadequate water pressure throughout the city. The chronic lack of pressure is prevalent especially in the portion of the City where the Española Hospital is located. The City has twice declared a state of emergency due to lack of adequate water and water pressure, and has been forced to call on the National Guard to supply water to the hospital.

S. 2511 authorizes the Secretary of Interior to provide financial assistance to the City of Española for the construction of a water filtration facility, and to the nearby Pueblos of Santa Clara and San Juan for related infrastructure.

Mr. Speaker, both of these communities will greatly benefit from this legislation. I urge my colleagues to support passage of this bill, and I would like to thank the two New Mexico Senators for their work on this bill.

## TRIBUTE TO MR. IKE PEEL, JR.

### HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. TANNER. Mr. Speaker, I rise today to pay tribute to a longtime friend of mine, a great Tennessean and an outstanding American, Mr. Ike Peel, Jr.

Ike was born to grocery store operators Ike and Ethel Peel on June 22, 1918. He graduated from Dyersburg High School in 1938 and attended the University of Tennessee at Knoxville on a football scholarship. There he met Judy "Jewell" Lady, whom he married on August 22, 1942.

Ike graduated from UT with a degree in agriculture in 1942. An ROTC member, Ike was called to active duty on August 28, 1943. He was sent to South England to join the 4th Infantry division in March of 1944, and in May, 25-year-old Ike was made second lieutenant of a 54-man command-assault section. The group of young men, mostly 19 and 20 years old, was part of the first wave that invaded Normandy on December 6, 1944.

Ike's unit landed on Utah Beach, close enough to witness the fighting that was taking place on Omaha Beach. But Ike's section did its job: to go inland and meet the paratroopers from the 101st Airborne.

Ike later served with General George S. Patton for six weeks before returning to the infantry. He was released from active duty on February 20, 1945.

Ike returned to coach at the University of Tennessee until 1957, when he, his wife and their two children returned to Dyer County. Ike ran the family business and began raising cattle on a farm that spanned 500 acres. Ike retired in 1984, selling the farming business that had grown to engulf more than 2,400 acres.

Now 86, Ike continues to be a vibrant part of the Dyersburg community, speaking to the Kiwanis Club about his D-Day experience on July 7 of this year. What an inspiration he is to us all.

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## INTRODUCTION OF THE CAPTIVE MAMMAL PROTECTION ACT

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. FARR. Mr. Speaker, today, I, along with Representative Chris Shays and 20 other members, introduced the Captive Mammal Protection Act. This bill gets at an issue that many would be surprised to learn even occurs, the "hunting" of an animal inside an enclosed area. By halting the interstate shipment of captive mammals for the purpose of being shot in a fenced enclosure for entertainment or for trophy, the bill we introduced today will lead to significant reduction in "canned hunt" operations.

At more than 1,000 of these commercial "canned hunt" operations around the country, trophy hunters pay a fee to shoot captive mammals—animals that have often lived their lives being fed by hand and thus have no fear of humans. Simply stated, there could be no easier target. Canned hunting ranches know this and can therefore offer guaranteed trophies, touting a "No Kill, No Pay" policy.

Who supports canned hunt operations? Not rank-and-file hunters. In fact, in a poll of their readership described in the July 2003 issue, the editors of Field and Stream magazine reported that 65 percent of sportsmen oppose canned hunts. Additionally, lifelong hunters in Montana, including members of the Montana Bowhunters Association, spearheaded a state ballot initiative in 2000 that led to a ban on shooting animals in fenced enclosures. In addition to Montana, 18 states have full or partial bans on canned hunts for mammals. The momentum to address canned hunt operations is no surprise given that an element of hunting that so many sportsmen hold dear, that of the "fair chase," is absolutely absent under canned hunt conditions. The time is long overdue for the federal government to participate in efforts to end this despicable practice.

By halting the interstate transport of mammals used in canned hunts, the Captive Mammal Protection Act will curb a practice so egregious that hunters and animal advocates alike view it as unfair and inhumane. This bill is supported by ten local and national groups representing more than ten million Americans.

Mr. Speaker, in closing, I encourage my colleagues to join me in putting a lid on canned hunts.

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## PAYING TRIBUTE TO JOHN AND ANGIE MOSS

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to John and Angie Moss, two dedicated community servants from Grand Junction, Colorado. John and Angie have been involved in the restaurant and real estate business for many years, their service to their community is highly commendable, and I am honored to stand before this body of Congress and this Nation today to recognize their accomplishments.

John moved to Grand Junction in 1971 and at the age of 24 he built his first Taco Bell restaurant. John has since expanded the business to include several locations in Southwest Colorado and California, which led to his Glen Bell Award from the Taco Bell Incorporated company. Their corporation, Moss Inc, which operates these Colorado and California locations, have been active in their community as donors and supporters of the most widely attended tennis tournament in Colorado. In recognition of their service to the community, they were awarded the Business of the Year by the Grand Junction Chamber of Commerce. John himself has served in the board of the Wells Fargo Trust Board, and is a former Rotarian. John is supported by his wife Angie, and their two adult children Leslie and Jay.

Both Angie and John went to Mesa State College and actively give back to their alma mater by providing scholarships, supporting projects, and have been intimately involved in the planning of the Moss Performing Arts Center. In addition to the restaurant business and college philanthropy, John and Angie also are involved in real estate, ranching, and farming that feed their enthusiasm for the outdoors. They are stewards of the land who have been awarded the Colorado Division of Wildlife's Landowner of the Year award in the past, and currently maintain a seventy-acre conservation project along the Colorado River.

Mr. Speaker, John and Angie Moss are strong, dedicated individuals who have served their community for over 20 years and I am honored to stand here before this body and recognize the efforts of two such selfless and benevolent people. Thanks for all your hard work over the years, John and Angie, and I wish you all the best in your future endeavors.

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## NORTHERN RIO GRANDE NATIONAL HERITAGE AREA ACT

SPEECH OF

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in support of S. 211, which includes language to establish the Northern Rio Grande National Heritage Area. I am pleased to have sponsored H.R. 505, companion legislation to S. 211 as introduced and passed in the Senate. That version of the Senate legislation only provided for establishment of the Northern Rio Grande National Heritage Area. The bill before us today, however, includes an additional 100 pages of legislative language pertaining to other heritage area designations. Nevertheless I am pleased that we will be moving one step closer to making the Northern Rio Grande Heritage area a reality.

The establishment of the Northern Rio Grande National Heritage Area is a citizen-driven effort to protect the remaining significant resources representative of the Spanish and Pueblo colonial era in north-central New Mexico. The bill identifies the northern New Mexico counties of Rio Arriba, Santa Fe and Taos as a National Heritage Area—an elite designation from Congress reserved for areas regarded as a significant resource.

Northern New Mexico boasts many sites of historic and cultural signficiance. Our state is a blend of pueblo and Hispanic cultures, making it a very unique and special place in our country. This legislation would identify many of the sites that tell northern New Mexico's story, help preserve them and, in the process, allow them to be more thoroughly enjoyed by New Mexicans and visitors to our state. Preservation would directly lead to economic development of this area through enhanced tourism.

The legislation creates a non-profit corporation governed by a 15 to 25 member board of trustees charged with developing a management plan for the heritage area. The board will consist of representatives from the state, affected counties, tribes, cities and others. The corporation's plan would consist of recommendations for identifying, conserving and preserving cultural, historical and natural resources within the heritage area, along with strategies to promote tourism of the region's natural and cultural assets.

The Northern Rio Grande Heritage Area is supported by the city of Española, the city of Santa Fe, Santa Fe County, Rio Arriba County, Taos. County, La Jicarita Enterprise Community, the Chimayo Cultural Preservation Association, and the Eight Northern Pueblos. I urge my colleagues to join me and these communities and organizations in support of this legislation by voting for its passage today.

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## TRIBUTE TO COBB COUNTY BOARD OF REALTORS

### HON. JOHNNY ISAKSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. ISAKSON. Mr. Speaker, I rise this morning to pay tribute to the Cobb County Board of Realtors on the occasion of their fiftieth anniversary.

Originally founded by a handful of local brokers, the Cobb County Board of Realtors has grown with its county to become one of Georgia's largest Boards of Real Estate Professionals.

Board members subscribe to a strict code of ethics as prescribed by the National Association of Realtors. Their members participate in the Realtors Political Action Committee, and the Board is active in Federal, State and local public affairs.

Many individuals and organizations have contributed to the dynamic growth of Cobb County, but none have contributed more than the Cobb County Board of Realtors.

Homeownership is the cornerstone of America's strength, and in Cobb County homeowners have no greater advocate than the Cobb County Board of Realtors.

I am pleased to commend the Realtors of Cobb County on this, the fiftieth anniversary of their Board, and wish them continued success and prosperity.

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## HONORING ROBERT R. SIMMONS, JR.

### HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of Robert R. Simmons, Jr., a dedicated servant to the Temple Terrace community, who sadly lost his battle with cancer last week.

A North Carolina native, Bob served in World War II and attended North Carolina State University. A few years after their wedding, Bob and his wife, Ann, made Temple Terrace their home, and Bob began building his business, R.R. Simmons Construction Corporation, in Tampa. He was among the first in his trade to employ Design/Build and Tilt-Up Wall construction, and throughout his career, Bob was highly regarded within the construction industry.

However, Bob may be best remembered for his contributions to the Temple Terrace community. Bob was a founding member of the Temple Terrace Presbyterian Church, an early member of the Temple Terrace Chamber of Commerce and active in the Lions Club and Sertoma Club.

Many will recall Bob's service on Temple Terrace community boards and his dedicated support for local historic preservation projects. Bob helped local 4–H students on animal and agriculture projects, championed a tree planting program for the community golf course and pushed for pine bore beetle infestation and eradication efforts to protect and save Temple Terrace's pine trees.

On behalf of the entire Tampa Bay community I would like to thank Bob Simmons for his leadership and service and extend my deepest sympathy to his loved ones.

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## PAYING TRIBUTE TO KAREN PAULSON

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. McINNIS. Mr. Speaker, I am honored to recognize an outstanding individual who for many years has selflessly served the interests of the people of my Congressional District and the State of Colorado. Karen Paulson has served as my Executive Assistant and Office Manager since 1998, and I am proud to bring attention to her accomplishments here today before this body of Congress and this Nation.

Karen has been an unwavering servant to Colorado for many years. She began her career of public service as the Clerk of the Colorado State House of Representatives, where Karen took on the administrative responsibilities of the Colorado General Assembly. Her duties there led to a position as the Executive Assistant to the Colorado Republican Party, where she was instrumental in efforts to recruit high quality candidates for public office in Colorado. In 1992, Karen served as the Executive Assistant to the Majority Leader of the Colorado House of Representatives, cultivating close working relationships with local, state, and federal officials.

Karen's experience with policy and procedure made her a perfect candidate for Executive Assistant in my Washington, DC office. She is a soft-spoken, dependable, kind and intelligent individual whose work ethic is strong. Karen's diligent guidance and tireless commitment have really set the tone for my Washington office over the last six years.

The adoring mother of two, Karen lovingly displays pictures of her sons Greg and Carl in her office, and beams with news of their latest exploits. Karen also serves as the "den mother" to her extended family—my Washington staff—always remembering their birthdays with a card, a cake and a smile. I cannot count the number of times that I have seen Karen go out of her way to brighten someone's day with a kind word or a sympathetic embrace. I have learned a lot in the twelve years since I first came to Congress, and Karen Paulson has demonstrated to me the true meaning of the phrase "public servant."

Mr. Speaker, Karen Paulson is a consummate professional. However, far more important, she is a truly humble, caring and selfless person. Her work in my office, and her constant devotion to the people of our state of Colorado, is remarkable. I am truly honored to stand today before my colleagues and recognize the service of such a devoted friend. I want to personally thank Karen for her many years of hard work and her impact on my life. I wish her all the best in her future endeavors.

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## LINCOLN COUNTY CONSERVATION, RECREATION, AND DEVELOPMENT ACT OF 2004

SPEECH OF

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Monday, October 4, 2004*

Mr. UDALL of New Mexico. I rise today to encourage my colleagues to vote for passage of H.R. 4593. Title II of this legislation is the Ojito Wilderness Act. The Ojito Wilderness Study Area consists of about 11,000 acres of BLM land characterized by pristine and dramatic landforms and rock structures, and by several rare plant populations that are indigenous to the area. Title II of H.R. 4593 designates this area as permanent wilderness and enables the Pueblo of Zia to buy land to unite the disparate pieces of their tribal lands. I sincerely appreciate the effort of Representative HEATHER WILSON, my New Mexico colleague and the cosponsor of H.R. 3176, The Ojito Wilderness Act, which was introduced last year and is being voted on today as part of Mr. GIBBONS' wilderness bill.

I am honored on many levels to have helped get this bill to the floor of the House of Representatives. Forty years ago last month, while my father Stewart Udall was Secretary of the Interior, President Johnson signed into law the Wilderness Act, written to assure that some lands of the United States were left in the natural state in which humans found them. I am proud to follow in my father's footsteps by doing my part to help create the first new wilderness designation in New Mexico in over 25 years. But even more so, I am humbled by the hard work of so many New Mexico residents who have come together and fought for years to make this a reality. The cooperation exhibited among the Pueblo of Zia, the New Mexico Wilderness Alliance, private landholders adjacent to the lands, corporations operating in this area, and government, state and local officials has been phenomenal, and all of New Mexico should be proud.

This proposal has been under consideration for many years, and I am pleased we have the opportunity today to take an important step toward making it law. In 1991, Manuel Lujan, the Secretary of the Interior in the former President Bush's cabinet, recommended the Ojito area to Congress for wilderness designation. The BLM has evaluated this area and found it qualifies for full wilderness status and protection.

The legislation has the explicit support of the Governor of New Mexico, the counties of Sandoval and Bernalillo, individual members of State government including our State Land Commissioner Patrick Lyons, the Pueblo of Zia and its members, the adjacent private land owners and individuals who graze their cattle on the land, numerous environmental groups, mineral extraction companies in the region, and business owners and private citizens living and working nearby.

Beyond its scenic and natural beauty, the Ojito Wilderness Study Area and the surrounding lands are also recognized for their high density of cultural and archeological sites, including sites that have religious significance to Pueblo Indians.

This legislation is extremely important to the Pueblo of Zia. The Pueblo's reservation lands currently lie in two noncontiguous sections. Zia has made a concerted effort over many years to adjoin its reservation lands. This legislation will help make this long-standing goal a reality. The Pueblo has consistently and openly worked in cooperation with other interested parties to reach a mutually satisfactory arrangement for the protection of these important lands as undeveloped open space with continued public access.

The Wilderness Act is one of the most poetic laws ever written, defining wilderness as "an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain'. The ability to experience our country's "untrammeled" natural beauty and to learn and teach our children about nature on publicly owned lands is one of the most important reasons for wilderness designations. I thank my cosponsor in the House HEATHER WILSON, Chairman POMBO and Ranking Member RAHALL of the Resources Committee, their staff and all of the people who worked on this legislation for helping us move one step closer to giving our children and grandchildren the legacy of nature's gifts.

I urge my fellow Members to support this legislation.

## HONORING THE LIFE OF FORMER WEST VIRGINIA FIRST LADY HOVAH HALL UNDERWOOD

### HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mrs. CAPITO. Mr. Speaker, I rise today to mark the passing and honor the life and contributions of a former First Lady of the state of West Virginia, Hovah Hall Underwood.

Hovah earned an AB Degree from Salem College and a certificate in Social Work from West Virginia University. She taught at Grantsville Elementary School, worked in a defense plant during World War II, and then served ten years as a child welfare worker in West Virginia before marrying Cecil Underwood in 1948.

Hovah was a young wife and mother when she and Cecil moved into the Governor's mansion in 1956—Cecelia was a toddler, and Craig and Sharon were both born while the family lived in the mansion. She served as a gracious first lady all the while focusing her energies on the task of raising three very young children.

In 1996, the citizens of West Virginia once again elected Cecil Underwood as Governor, and Hovah was once again our First Lady. Building upon a lifelong dedication to the work of Big Brothers/Big Sisters, she always liked to say that in this term she focused her energies on all the children of West Virginia. She was the driving force behind new programs to strengthen early learning and volunteerism in West Virginia.

Upon learning that our state has one of the highest rates of cancer among women in the nation, Hovah took the lead as the catalyst for expanded Breast Cancer Awareness and Screening initiatives. Hovah Underwood took seriously the charge to serve others each day of our lives, and her legacy is the many thousands of lives she touched.

At her Memorial Service, many remarked upon Hovah's wonderful smile. We know today that each time a young child learns to read, each time a "Big" and a "Little" share a special moment, each time a woman is saved from cancer, Hovah is smiling.

Our thoughts are with Governor Underwood, their children Cecelia Baker, Craig Underwood and Sharon Underwood, grandchildren Christopher and Coleman Richardson, Mary and Quintin Baker and Jordan and Myles Underwood.

All West Virginians have lost a very special friend.

## CELEBRATING THE LIFE OF DR. JAMES RICHARD RUTLEDGE

### HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. ADERHOLT. Mr. Speaker, it is with a heavy heart that I rise to mourn the death of Dr. James Rutledge, who recently passed away at the age of sixty-five. I am honored to stand before this body of Congress and this Nation to recognize his many accomplishments.

Jim was born December 8, 1938 in Ironton, Ohio. Shortly thereafter his family moved to Ashland, KY where he graduated from Ashland High School in 1956, received a Bachelor of Science degree from the University of Kentucky in 1960, and attended medical school at the University of Louisville and received his Doctorate of Medicine in 1964 followed by a 2-year rotating internship.

Jim joined the Air Force at the rank of Captain and served his country as a General Medical Officer at Warner Robbins Air Force Base and in Thailand during the Vietnam War in 1967 and 1968. He attained the National Defense Service Medal, Vietnam Service Medal and the Republic of Vietnam Campaign Medal.

Following his return from Thailand, Jim did a 4-year residency in Pathology at the University of Louisville and became board certified in Anatomical and Clinical Pathology in 1972. From 1973 until 1980 Jim was Pathologist and Medical Director of Laboratory Medicine at Greenview Hospital and Bowling Green-Warren County Hospital in Bowling Green, Kentucky.

Jim was married to Rhonda Martin in Bowling Green, Kentucky on July 8, 1978. They moved their family to Jasper, Alabama in February 1980 and Jim began his work with Pathology Associates as Surgical and Clinical Pathologist and Medical Director of Laboratory Medicine at Walker Baptist Medical Center.

Jim, along with Rhonda, supported good government by supporting candidates and the Republican Party in his county. As the years passed Jim continued to support many activities of the Republican Party at the local, state and national level. Jim was a man who loved his family and was devoted to them. He also loved and served his country with honor during his military service and as an active citizen dedicated to the security of our American heritage and the growth of good government.

The Town of Jasper, Alabama benefited tremendously from his kindness and selfless service to his fellow citizens. During Jim's life he served others as a physician helping care for those who needed his oversight, knowledge and expertise in their time of illness. Dr. Jim Rutledge was a man who loved his God, his wife, his family and his country. He was a true American Hero to so many during his life. He was a man many depended upon—a man of little fanfare but deep wisdom and compassion. All who knew Jim were encouraged and uplifted because of having crossed his path. He was a quiet man, a man of great dignity and character who served others and took great pride in the accomplishments of those he helped and loved. My thoughts and prayers go out to his family, friends, and community at this difficult time of bereavement.

## PAYING TRIBUTE TO GEORGE ORBANEK

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to George Orbanek from Grand Junction, Colorado. George is the Editor in Chief and Publisher of the Grand Junction Daily Sentinel, and has represented the paper, city and state with distinction. I know George well, and he is a man of the utmost integrity. I would like to join my colleagues here today in recognizing his dedication and leadership before this body of Congress and this Nation.

George first came to Colorado to study journalism, and in 1975 received his master's degree from the University of Colorado. He soon began his professional career at the Glenwood Springs Post Independent and in 1977 joined the staff of the Daily Sentinel in Grand Junction. He held positions as a reporter and editor in chief, before being named Editor and Publisher in 1985. Under George's leadership, the Sentinel was given the nationally renowned John Hancock Award for Excellence in Business and Financial Journalism. George is a member of the American Society of newspaper Editors and the National Newspaper Association of America.

In addition to being a decorated newsman, George also has served as campaign chairman of the Mesa County United Way, on the Colorado Press Association board of directors, the Grand Junction Area Chamber of Commerce board of directors, the Mesa County Economic Development Council and the St. Mary's Hospital foundation Board. He is currently a member of the Colorado forum, a group of Colorado business leaders, and the St. Mary's Hospital Board of Directors. A passionate fisherman and hunter, he also is active in local and national conservation groups.

Mr. Speaker, it is a privilege to honor George Orbanek's commitment to the people of Grand Junction and the journalism profession. George has been a good friend over the years and I am pleased to recognize him today before this body of Congress and this nation. Thanks, George, for your excellent service to the community, and I wish you well with all of your future endeavors.

## EXPRESSING SUPPORT OF HOUSE FOR ORGANIZATIONS PROVIDING EMERGENCY FOOD ASSISTANCE

SPEECH OF

### HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, October 5, 2004*

Ms. McCOLLUM. Mr. Speaker, I rise in strong support of H. Res. 261, to support the efforts of food-assistance organizations and charities in providing food to the nation's families. This resolution encourages Americans to volunteer services to local anti-hunger advocacy groups and food-assistance providers, food banks, soup kitchens, and homeless shelters.

Too many children and their families go hungry every day in a country that every year exports more than $56 billion worth of food around the world. More than 35 million Americans face hunger. Of these, 13 million are children. Chronic food insecurity remains a hard fact of life for thousands of Minnesotans.

Food-assistance organizations and food banks help our neighbors get enough food to keep them healthy. Seniors and working families are making impossible choices every day between heating their homes and buying their groceries. Seniors debate between whether to purchase prescription drugs or to buy food. Families choose between finding an affordable place to live and putting food on the table. These choices are simply unacceptable.

I am proud of the work of the food banks and food-assistance organizations in my district. Every year they help thousands of Minnesota families meet their nutritional needs. Groups like Second Harvest Heartland and its statewide network of 849 agencies distribute every year over 27 million pounds of food.

Second Harvest Heartland is leading the forces in Minnesota to fight hunger. When I visited them last year I saw first hand how they provide nutritious snacks and meals to kids during the summer and to after-school enrichment programs. They reiterated for me how they and food banks around the state distribute millions of pounds of food to families and provide nutrition education to mothers and children every year.

Unfortunately, their services are increasingly needed due to President Bush's jobs deficit. Between March 2001 and September 2003, 37 of 41 Minnesota counties served by Second Harvest Heartland saw an increase in new food support applications. Statewide, the demand for food support increased 10.2 percent.

Minnesota has a long, rich tradition of caring for those in need. Food-assistance organizations and food banks in Minnesota truly represent this heritage of compassion.

I am proud to support H. Res. 261 and honor Second Harvest Heartland and all organizations providing food to those in need. I hope my colleagues join me in supporting it as well.

## TRIBUTE TO REAR ADMIRAL KATHLEEN MARTIN

### HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. MURTHA. Mr. Speaker, I rise today to pay tribute to a great American, patriot, Naval Officer, and fellow Pennsylvanian, Rear Admiral Kathleen Martin. This spring, Admiral Martin will retire from the United States Navy after thirty-one years of distinguished leadership, selfless service, and tireless commitment to our Navy and nation.

Admiral Martin became the Deputy Surgeon General of the Navy and Vice Chief, Bureau of Medicine and Surgery on October 3, 2002. A native of Arnold, Pennsylvania, she is a graduate of Boston University School of Nursing and received her Master of Science degree in both Nursing Administration and Family Health Nursing from the University of San Diego. She is a member of the American College of Healthcare Executives, the American Society for Public Administration, the Association of Military Surgeons of the United States and Sigma Theta Tau.

Admiral Martin was commissioned an Ensign in the Navy Nurse Corps in May 1973, and was promoted to flag rank while serving as the Medical Inspector General in 1998. She has held a wide variety of clinical, staff and leadership positions, including Commanding Officer of Naval Medical Clinic, Port Hueneme, California; Commanding Officer, Naval Hospital Charleston, South Carolina; and Commander, National Naval Medical Center, Bethesda, Maryland.

A visionary naval officer and a decisive and inspirational leader throughout her career, Admiral Martin possesses an infectious enthusiasm to ensure that world-class health care is delivered throughout the military health care system. Her oversight of diverse areas of responsibility affecting the Medical Department and the Navy has resulted in bold initiatives and innovative programs that will support our sailors, Marines, and military beneficiaries well into the twenty-first century. Illustrative of her dynamic and visionary leadership is "Family Centered Care." Her breakthrough approach, shifting the fundamental approach of patient care from a traditional inpatient model based on disease-state and specialty services, to a patient-centered model that integrates related customer services around patients has become the standard of care throughout military medicine. Navy Medicine is applying these Family Centered Care principles to its unique capability to influence healthy habits and lifestyles during the building of a Navy family.

Her unquestionable integrity, passionate commitment in service to others and strong relationship-building skills mark her every contribution to the Navy and the nation. Admiral Martin leaves a legacy of distinction and accomplishments in which she should take great pride and satisfaction. During her tenure as the Deputy Navy Surgeon General, she has met every challenge posed including those of Operation Enduring Freedom, Operation Iraqi Freedom, and the Global War on Terror.

Mr. Speaker, I ask to extend best wishes on behalf of the Congress of the United States for continued happiness and success to Admiral Martin and her family as they begin the next chapter of their lives, with the thanks and gratitude of a grateful nation for Admiral Martin's loyal and dedicated service.

## 100TH ANNIVERSARY OF THE CITY OF STANDISH

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. STUPAK. Mr. Speaker, I rise today to honor a community in my district that is celebrating its 100th anniversary as a city. Last weekend, I joined the residents of Standish, Michigan as they marked this great milestone.

The land that is now Standish was originally surveyed and mapped in 1871 by P.M. Angus, who had to travel there on foot since the railroad had not yet been extended to the area. Mr. Angus was hired by John D. Standish, who owned most of the land, and whose saw mill was the first industry in the new settlement. The first official name of the settlement was Granton, but in 1884, the Village of Granton changed its name to the Village of Standish.

The same year that Standish was founded, the community built its first school, and the railroad was eventually extended to the area. The residents of Standish have a strong sense of their history, and the current Standish Elementary School stands at the same location as that original school. Also, the original railroad depot for the town is still in use, thanks to the local fundraising and restoration efforts of the community.

In 1904, Standish was first incorporated as a city. Over the following years and decades, the community grew and marked a series of firsts along with the rest of our nation. By 1938, it had 913 residents, and today its population is 2,091. The first cars came in 1907 with the arrival of a Buick dealership. Next came commercial electricity, speed limits, the first Prohibition arrests, battery operated radios, and city water and trash removal services. The story of growth and development in Standish is the story of small town America.

Mr. Speaker, Standish is a warm, welcoming community, and I can personally attest to that. The city was part of the area added to my district after the 2000 census, and I held a town hall meeting at Standish-Sterling High School in February of 2003 in order to get to know my new constituents. I was impressed by their thoughtful questions and touched by their welcome to me as their new Representative. I was, and continue to be, very proud to represent this fine community in Congress.

Mr. Speaker, I ask the United States House of Representatives to join me in congratulating the City of Standish and its residents on their first 100 years and in wishing them well through the next century.

## HONORING THE PEOPLE OF TAIWAN ON THEIR NATIONAL DAY

**HON. ILEANA ROS-LEHTINEN**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Ms. ROS-LEHTINEN. Mr. Speaker, today I join my colleagues in honoring the people of Taiwan on the occasion of their October 10 National Day.

With a flourishing democracy and a thriving economy, the people of Taiwan have much to be proud of.

Taiwan's economy is the 16th largest in the world with a democracy that gives its people a full range of political and civil rights, including freedom of speech and assembly.

Taiwan is also a key player in the international arena.

For the last 10 years, Taiwan has given $100 million dollars to 78 countries and is now providing humanitarian assistance to refugees in Afghanistan and Iraq.

Most importantly, Mr. Speaker, is the fact that the people of Taiwan and of America share the same values of democracy, freedom and liberty.

As the Secretary of State, Colin Powell, recently stated that "Taiwan has become a resilient economy, a vibrant democracy and a generous contributor to the international community."

Mr. Speaker, in a festive and joyful spirit I warmly congratulate the people of Taiwan, and their Representative, Dr. David Lee, on their National Day and wish them every success.

# SENATE—*Monday, October 11, 2004*

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Majestic and Holy God, we give You honor and praise. We thank You for the spiritual awareness that prompted statements about Sabbath rest in this Chamber yesterday. Thank You also for the love of the sacred that led Senators and staff to participate in a weekend worship service in this building. As You healed people on the Sabbath long ago, grant that our weekend work will bring healing to this great Nation.

Thank You, finally, for the treasure of superb staff, the wind beneath the wings of our lawmakers. Bless those unsung heroes and heroines who enable our leaders to succeed in their work. Help these supporters to see that their seemingly secondary role is really a primary one in freedom's cause.

Today, bless our Senators. Use them as instruments of Your will. Give them the humility to trust You and obey Your teachings. Give them traveling mercies in these dangerous times.

We pray in Your Holy Name, Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, a good Columbus Day to everyone.

We reconvene today for what I expect to be the final day of business before adjournment.

Yesterday, we invoked cloture on the conference report to accompany the FSC or JOBS bill. With that vote and the subsequent agreement from last night, we will be able to finish the remaining items before the close of business today. The agreement reached last night provides for a vote on adoption of the FSC conference report at 12 noon.

Following that vote, the Senate will vote on the adoption of the Military Construction appropriations conference report and the Homeland Security conference report, along with some other housekeeping matters.

As stated last night, we will conduct a rollcall vote on the FSC bill, and all other actions should be completed without the need for further rollcall votes. Therefore, the next vote will be at noon today. That should be the only vote of the day.

We will also continue to work through other legislative items that can be cleared by unanimous consent.

Again, I thank all Members who were here yesterday as well as Saturday allowing us to invoke cloture on the conference report so that we are now on a glide path to finishing our work today.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

## AMERICAN JOBS CREATION ACT OF 2004—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 4520, which the clerk will report.

The assistant legislative clerk read as follows:

> Conference report accompanying the bill (H.R. 4520) to amend the Internal Revenue Code of 1986.

The PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I am glad that Senator FRIST and other Senators were able to work out the parliamentary maneuvering that it takes to get us to finality on this JOBS bill.

We obviously want to encourage the creation of jobs and manufacturing in America. We want to reduce reasons for outsourcing. This bill deals with all of those and some others as well.

Throughout this debate, I feel as though I was whipsawed in arguments trotted out by opponents of this bill. They complain about accommodations we have made to Members. Some of these accomplishments and accommodations have even helped folks in States of the critics. Then they complain about what is not in this bill that should have been included in this bill.

First of all, I don't know how many times I have to say this, but I think it needs to be continually said. This bill is revenue neutral. Yes, we decrease taxes for partnerships, family-owned businesses, and corporations that are involved in manufacturing, reducing that from 35 to 32 percent. Obviously, that brings in less revenue, but that does not mean the deficit of the United States is going to be increased. We pay for it by raising revenue from businesses, by closing corporate tax loopholes, and we collect that new revenue coming in to small businesses, especially to any size business that manufactures—large or small.

This bill is basically about manufacturing jobs. That is where the revenue in this bill goes.

There are those who talk about this bill as somewhat of a giveaway to business. You have some businesses not paying taxes because they are abusing the Tax Code through corporate loophole abuse, and they pay more money. Then you have the socially good provisions such as encouraging manufacturing in the United States to create jobs in the United States. I don't think people are correct in saying this is a giveaway to business because it balances out within the business sector of our country—some paying more and some not paying more. Because we are taxing them more, they are paying more because they can't cheat anymore. We are giving some benefits from that same revenue to create jobs in the United States.

Those who call this a giveaway for business need to put on their reading glasses and take a look at revenue tables produced by the nonpartisan Joint Committee on Taxation. These people aren't Republican or Democrat. They are professionals who decide how many changes are in the Tax Code, where revenue comes from. These tables show that this bill is revenue neutral; that financial reductions are paid for in new revenue coming in from the closing of corporate loophole abuse.

For those who are talking about this bill being a giveaway for business, I want them to stop using that argument. One statement was made last night that was egregiously in error. One of the hard-line opponents of this bill claimed that the tobacco buyout was paid for by the taxpayers.

I don't support the tobacco buyout but realize it was necessary to get this bill through the other body. I insisted on one of the Senate's positions in the tobacco buyout, and that position is that tobacco companies pay for this buyout. Opponents need to read this bill and the revenue tables. If they bother to do so they will see the buyout is paid for not by the taxpayers of America but by the companies that produce tobacco.

Now, let's put in context the mischaracterization of this bill as

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

somewhat of a special interest bill. In part, the bill receives such widespread support because many Member items were accommodated. Literally dozens of tax benefits were adopted in committee and on the floor.

Let me define "Member items." Constituents of one State came to their Senator and said: This part of the Tax Code is wrong, it is hurtful; or they said: We think the Tax Code ought to be changed this way. Maybe they do not come to me. Maybe they do not go to the other 99 Senators; they go to 1 Senator. That Senator is a representative of his people. It is his responsibility to bring that issue to the Senate. He does not have to. He can say: I don't agree with you, I will not do that. If he feels his constituents are justified in what they are requesting, then the matter is brought to the committee that has jurisdiction. That is the Senate Finance Committee, which I chair. Somehow there is something negative or derogatory about a Member bringing forth an item for all to consider. If we think that Member is crazy. we do not have to do it. If we think there is some justification to what that Member brings before the Senate, we ought to consider that. That is how our representative system of government works.

Literally dozens of tax changes were adopted in committee or in the Chamber. Before the conference, Senator BAUCUS and I received letters from virtually every Member of the Senate. In some cases those letters asked for items from the Senate to be retained. In other cases those letters asked for the Senate to accept items from the House bill, and in still other cases Members wrote asking for items that were not in either bill. Finally, some Members asked us to not accept certain provisions not in either bill.

I have a stack of letters with me. These letters are not all the letters, of course. There is no sense carrying a pile of letters out here. But Members representing the interests of their State bring these issues for our consideration.

I will go to the first category and follow up items from the Senate bill.

National care scholarships for nurses—Senator MURRAY and CANTWELL asked for that. It is in the bill.

Sickle cell disease and Medicaid, consideration of sickle cell disease, which is not covered by Medicaid—Senators TALENT, SCHUMER, CAMPBELL, DAYTON, COCHRAN, BOND, SPECTER, MIKULSKI, CANTWELL, LANDRIEU, STABENOW, KENNEDY, SARBANES, VOINOVICH, LAUTENBERG, MURKOWSKI. It is in the bill.

Some are going to say that Members' provision brought to us under the leadership of Senator TALENT should not be considered by this body, and I will explain why this is all in one bill. People watching might think if you have a sickle cell disease issue come before the Senate, maybe it ought to come up as a separate issue. On the next item up is a life insurance taxation issue; maybe it ought to come as a separate bill. Why doesn't it? Because under the rules of the Senate every little bill that comes out here could be amended by anything that is in the Tax Code. Eventually you have a little life insurance bill that becomes a vehicle for every member to bring up any bill they want to bring up.

So we saved the Senate from going through that exercise. That is what committees are about. We consider these issues—not always in committee; sometimes they are discussed when the bill comes to the Senate floor. Most of the time we give them a thorough study in the Senate Finance Committee. Sometimes we reject them and sometimes we include them. If we do not include them, maybe when they come to the Senate Chamber, that Senator is irritated with the chairman of the Senate Finance Committee and they add it on the Senate floor. They always end up in one bill.

Somehow that makes all of our journalists concerned, those who seem to not have an understanding of how the Senate works, pointing out that this bill is full of a lot of little things in it that are unrelated to the underlying bill. That is true, but that is how the Senate works.

The House of Representatives does not work that way. They put a bill together, they adopt a rule, and there is never an amendment. I shouldn't say never, but very seldom is a Member allowed to offer an amendment to a Ways and Means bill on the floor of the House. That is why the House of Representatives is like the House of Lords. That is why the Senate is like a House of Representatives. We allow the people of this country to bring anything they want to the floor of the Senate.

Another item is suspension of section 815, a life insurance company taxation issue. That was brought to us by Senator SPECTER. It is in the bill.

New York City revitalization tax benefits directly related to the attack of September 11, 2001, and the rebuilding of New York was brought to us by Senators SCHUMER and CLINTON—most of that, but not all of it, is in the bill.

Brownfields, unrelated business income tax relief—Senators LAUTENBERG, REED, JEFFORDS, STABENOW, SPECTER, SARBANES DOLE, AKAKA, CHAFEE, INHOFE—is in the bill. The use of green bonds for economic development in certain areas is something I was not for, but it is in the bill to satisfy Senators ALLARD, SCHUMER, MILLER, CLINTON, and CHAMBLISS.

We have IRS private debt collection. Senator ALLEN was pushing this. That is something I very definitely favor because this is one way of getting the private sector bringing in money from people who are tax cheats and are not paying their taxes.

Tribal government bonds—Senator CAMPBELL, very active in the Senate Committee on Indian Affairs—was also a matter of importance to Senator BAUCUS and others, but it is not in the bill despite being raised in conference.

Comprehensive energy tax relief package—Senator HUTCHISON—is not in the bill despite being raised in conference because the House of Representatives took the position that there shouldn't be anything on energy in this bill because they think energy items need to be put together in a bill that ought to be dealt with separately, next session. Quite frankly, the House of Representatives passed a comprehensive energy bill last fall, and we were two votes short in the Senate because of a Democrat filibuster against the bill. They say that instead of doing the energy provisions in this bill before us now, the Senate ought to take up the bill that we obviously have a majority for—but because of a Democrat filibuster we are two votes short—and do the energy stuff there, not in bill before the Senate.

So I cannot blame the House of Representatives because they worked hard to get an energy bill passed, and it comes over here and you get a Democrat filibuster.

By the way, those two votes could be supplied by Senator KERRY and Senator EDWARDS because now they think we ought to have a national energy policy, and they did not vote last November. If they come in here before we go home and cast the 59th and 60th vote, we would have the comprehensive energy policy, not just little slivers of it that we get in a bill here and a bill there, but we would have a very comprehensive energy policy. They would be fulfilling what they are saying out there on the campaign trail we need to get done: have a national energy policy. We have 58 votes for it. We need a 59th and 60th vote, and they could be that. But at least I am telling you why we do not have the energy provisions in here that a Republican Senator, Senator HUTCHISON, wanted.

We have a request from Senators CRAPO, BINGAMAN, VOINOVICH, BIDEN, PRYOR, TALENT, ENZI, CHAFEE, CARPER, CLINTON, ALLARD, BOND, COLEMAN, SUNUNU; BENNETT, CHAMBLISS, HUTCHISON, HAGEL, NELSON of Florida, DAYTON, DOLE, REED of Rhode Island, DODD, KENNEDY, and LEVIN for mortgage revenue bonds liberalization. It is not in the bill, but it was raised in conference.

We have heard a lot about Senator LANDRIEU's Guard and Ready Reserve amendment. That was raised by Senators LANDRIEU, BOND, PRYOR, MURRAY, DODD, AKAKA, CANTWELL, DORGAN, SCHUMER, MIKULSKI, NELSON of Florida, LAUTENBERG, JOHNSON, FEINGOLD, LEAHY, DAYTON, LEVIN, SARBANES, WYDEN, and DURBIN. We discussed that provision a lot, and like the three items above, this item was raised at conference and rejected by the other body.

Mr. President, the letters I have cited reflect items Members raised. On some items we were able to reach agreement with the House, other items the House of Representatives rejected.

Let me point out that I offered three amendments that I filed. I won one and lost two. The House accepted an amendment I put in for rural letter carriers. The House rejected an amendment I had dealing with energy-efficient home appliances. The House rejected another amendment dealing with elderly housing connected to the Warrior Hotel in Sioux City, IA.

As the list above shows, a lot of Members of this body are satisfied because their items are in here; other Members are not satisfied. But that is not an unusual situation when you reach compromise. It also shows that for all of the unfair carping about this bill being a special interest bill, nearly every Member raised narrow-interest provisions. So if there is some fault about different provisions coming up, we all share that. We all do it. There is an old saying. It is: People who live in glass houses should not throw stones. We have a group of Members throwing stones at this JOBS bill. A lot of them are living in glass houses.

I will continue the discussion of Member items. We had the State sales tax deduction. Senators CANTWELL and HUTCHISON wrote Senator BAUCUS and me asking us to include the House sales tax deduction provision in the conference agreement. We also received letters from delegations of other States where the State tax base is a sales tax base. The House sales tax deduction is in this bill because we decided for our Senators from several States that it ought to be included.

We had timber tax relief provisions: Senators CHAMBLISS, PRYOR, CANTWELL, SESSIONS, SHELBY, COCHRAN, COLLINS, CRAPO, CRAIG, COLEMAN, GRAHAM of South Carolina, WYDEN, CORNYN, LUGAR, and MURRAY.

As many of these Senators know, the timber industry has been hard hit by the tax on our exports going to Europe. By the way, when this bill passes, those taxes go away. The industry is finally recovering from a long recession. Timber mills are reopening. Mill workers are returning to the mills. The House timber provisions are in this bill.

Charitable whaling activities. Senator MURKOWSKI wrote, asking us to accept the House provision that allows a deduction for charitable whaling activities. Now, some will criticize this provision, but it is important to the Natives of Alaska. Senator MURKOWSKI is looking out for the Natives of Alaska. She ought to be applauded for bringing that to our attention. This is in the bill. But it has also passed the Senate several times.

Senator BAUCUS and I received letters from Members asking us to take Senate provisions out of the conference agreement. One example is Senator STABENOW's letter regarding a revenue raiser involving donations of cars. As you heard yesterday, Senator HATCH shares Senator STABENOW's concerns. The conferees retained the Senate revenue raiser.

There is another category of letters that we received. An example is a letter from Senator MCCAIN and Senator REED of Rhode Island. In that letter they asked me to keep out a provision dealing with the church tax exemption and political activities. The provision was not in either bill. Chairman THOMAS and I kept provisions that were outside the scope of the bill out of the conference entirely. No matter what the merits of that proposal were, we played fair by Senator MCCAIN and Senator REED of Rhode Island.

The final category of requests dealt with the opposite of the MCCAIN and REED of Rhode Island request; that is, we had requests for items to be included that were not in either bill. I will give you a couple of sympathetic examples: a liberalization of tax-exempt rules as applied to charitable hospitals. Senator AKAKA raised this issue. Unfortunately, this provision was outside of scope.

Another example is penalty-free withdrawals from IRAs for hurricane victims. Right now, if you are hit by four hurricanes in Florida, who is going to argue with Senator NELSON of Florida bringing that to our conference? He asked us to raise this item. It was not in either the House or Senate bill. It would have been an entirely new item that we could have put in in conference. However, there was no way to address the proposal without then opening the door for a lot of other items that were not in either bill that somebody would want included at the last minute.

So at this point, Mr. President, I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 21, 2004.

Hon. CHARLES GRASSLEY,
*Chairman, Finance Committee, U.S. Senate, Hart Senate Office Building, Washington, DC.*
Hon. MAX BAUCUS,
*Ranking Member, Finance Committee, U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR FINANCE CHAIRMAN GRASSLEY AND RANKING MEMBER BAUCUS: We write to respectfully request that you include as part of the FSC/ETI (S. 1637) conference report the sickle cell amendment that would help treat and expand services for patients with the sickle cell blood disorder. Sickle cell disease affects approximately 70,000 Americans and more than 2,500,000 Americans, mostly African-Americans, have the sickle cell trait. There is still no comprehensive cure.

We are among the 49 Senate cosponsors of the bipartisan, bicameral legislation that is the basis for this amendment (S. 874/H.R. 1736) and strongly support its enactment into law. Passage of this amendment in the Senate was great news for the tens of thousands of Americans who suffer from this disease, which affects 1 in 300 African-American newborns. The disease causes normally round blood cells to take on a sickle shape that clog the bloodstream. These obstructions result in severe medical complications including strokes in infants and limit the average lifespan to 45 years of age.

In summary, this legislation is a disease management bill that allows states to combine Medicaid-reimbursed services to target sickle cell disease, and authorizes a small Health Resources and Services Administration grant for research, treatment and community outreach through qualifying community health centers. This bill does not expand Medicaid eligibility or change the federal Medicaid matching formula and has a very small cost to the federal government.

This legislation has received exceptional support from nationally prominent children's, health, African-American, church and union groups including the National Association of Children's Hospitals, the American Medical Association, the NAACP, and the Catholic Health Association of America.

We are hopeful that you will include the sickle cell amendment as part of the FSC/ETI (S. 1637) conference report to help tens of thousands of Americans lead longer, healthier and more productive lives.

Sincerely,

Jim Talent, Chuck Schumer, Ben Nighthorse Campbell, Thad Cochran, Arlen Specter, Maria Cantwell, Debbie Stabenow, Ted Kennedy, George V. Voinovich, Norm Coleman, Mark Dayton, Kit Bond, Barbara A. Mikulski, May L. Landrieu, Jon Corzine, Paul Sarbanes, Frank R. Lautenburg, Lisa Murkowski, Sam Brownback, Peter G. Fitzgerald, Mike DeWine, Lindsey Graham, Barbara Boxer, Elizabeth Dole, Lincoln Chafee, George Allen.

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U.S. SENATE,
*Washington, DC, September 30, 2004.*

Chairman CHARLES GRASSLEY,
*Hart Senate Office Building,*
*Washington, DC.*

DEAR CHAIRMAN GRASSLEY: As you continue your work on the FSC/ETI bill conference, I would like to ask your support for a Native Alaska subsistence whaling tax deduction. This legislation may be brought up as an amendment by Chairman Thomas in conference.

For your interest, I have enclosed a letter from the Inupiat community in Barrow, Alaska. I believe they give a good summary on the merits of this legislation. Thank you for your attention to this matter.

Sincerely,

LISA MURKOWSKI,
*U.S. Senator.*

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U.S. SENATE,
*Washington, DC, September 30, 2004.*

Hon. CHARLES E. GRASSLEY,
*Chairman, Committee on Finance,*
*U.S. Senate.*

DEAR CHUCK: As we move closer to consideration of the conference report on the JOBS bill, I write to reiterate my request that you retain the Senate two-year suspension of Internal Revenue Code Section 815.

I wrote to you on July 19, 2004, concerning this matter and its importance to several of my Pennsylvania constituents. It would allow stockholder-owned life insurance companies to eliminate the surtax based on earned income between 21 and 46 years ago that otherwise would be triggered upon reasonable corporate restructuring. As I had stated, three of my constituent companies would have large potential liability under Section 815.

Thank you very much for your consideration of this request.

Sincerely,

ARLEN SPECTER.

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U.S. SENATE,
*Washington, DC, September 30, 2004.*

Hon. CHARLES E. GRASSLEY,
*Chairman, Committee on Finance,*
*U.S. Senate.*
Hon. MAX BAUCUS,
*Ranking Member, Committee on Finance,*
*U.S. Senate.*
Hon. BILL THOMAS,
*Chairman, Committee on Ways and Means,*
*House of Representatives.*
Hon. CHARLES RANGEL,
*Ranking Member, Committee on Ways and Means,*
*House of Representatives.*

DEAR CHAIRMEN AND RANKING MEMBERS: The Senate-passed version of JOBS bill, S. 1637, contains an important provision that will give a well-deserved tax cut to employers who continue to pay the salaries of their employees who have been called to active duty in Iraq and Afghanistan. As you convene the conference committee on this important legislation, we want to encourage you to retain this provision in the final conference bill.

Over 410,000 members of the National Guard and Reserve have been activated to defend our Nation since September 11, 2001. They have done so with valor and honor, but the frequent and lengthy activations have exposed problems on the home front. The Government Accountability Office reports that forty-one percent of our Guard and Reserve personnel take pay cuts from their civilian jobs when they put on their uniforms. While a husband or wife is deployed overseas, spouses back home face difficulties in making ends meet because active duty paychecks are often far less than those received in the civilian world. This causes our troops to divert their attention from the mission to worrying whether or not their spouses can afford the mortgage, auto repairs, or child care.

Many employers have helped to ease this burden by making up the "pay-gap" between the civilian and military pay of their active duty employees, something that they are not required to do. However, the economic downturn has made it difficult for most employers to make up the pay-gap. Additionally, as we continue to rely on the Guard and Reserve for future deployments, those employers who currently make up the pay-gap may no longer be able to provide payments to employees frequently missing from work for months and years.

The provision in S. 1637 gives employers a 50 percent tax credit on the salaries they pay to employees during activations up to $30,000 of salary. This tax credit will encourage those employers already providing for their employees to continue this patriotic response. In addition, the provision also gives small businesses a $6,000 tax credit for hiring a worker to replace an active duty employee. Small manufacturers would receive a credit of up to $10,000 to help find a replacement.

We urge the Conference to retain the Reserve and Guard employer tax credits in the final JOBS Act. Our troops are putting everything on the line overseas. Their employers are helping them at home. These patriotic employers deserve this tax relief. Thank you for your consideration.

Sincerely,

Mary L. Landrieu, Mark Pryor, Chris Dodd, Daniel K. Akaka, Byron L. Dorgan, Barbara A. Mikulski, Frank R. Lautenberg, Kit Bond, Patty Murray, Jon Corzine, Maria Cantwell, Charles Schumer, Bill Nelson, Tim Johnson, Russ Feingold, Mark Dayton, Paul Sarbanes, Dick Durbin, Patrick Leahy, Carl Levin, Ron Wyden.

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U.S. SENATE,
*Washington, DC, October 1, 2004.*

Hon. CHARLES E. GRASSLEY,
*Chairman, Committee on Finance,*
*U.S. Senate.*
Hon. MAX BAUCUS,
*Ranking Member, Committee on Finance,*
*U.S. Senate.*
Hon. BILL THOMAS,
*Chairman, Committee on Ways and Means,*
*House of Representatives.*
Hon. CHARLES E. RANGEL,
*Ranking Member, Committee on Ways and Means,*
*House of Representatives.*

DEAR CHAIRMEN AND RANKING MEMBERS: I have been made aware that my colleague, Sen. Graham, submitted an amendment dealing with hurricane relief to the corporate tax bill currently before your conference committee.

Specifically, this amendment, which mirrors legislation Sen. Graham and I introduced in response to the recent wave of hurricanes that have ravaged Florida, would allow victims of disasters to withdraw funds from retirement accounts without incurring proscribed penalties.

I respectfully request you support Sen. Graham's provision. I understand that this amendment may go beyond the scope of the conference, however I would argue that had the spate of hurricanes happened prior to Senate-consideration of the tax bill, a similar provision would have been included in the tax bill.

As you know, along with much of the Southeast, Florida has withstood a barrage of hurricanes resulting in billions of dollars in damage. Providing citizens of disaster areas with the means to access funds that otherwise would carry a substantial penalty can play an important role in alleviating their financial hardships.

With the conference working through various amendments to the corporate tax bill, I would implore you to give serious consideration to this provision, and to providing Americans who have seen so much devastation access to the funds they need to repair damage to their property and their lives.

Sincerely,

BILL NELSON.

Mr. GRASSLEY. Mr. President, I have spent a little time going through a sample of the many items that Members weighed in with at the conference. This is a small sample of those items raised. Many others were brought to the attention of Senator BAUCUS and this Senator through letters or oral communications. It is safe to say, Senator BAUCUS and I can relate to what Senator BYRD and Chairman STEVENS go through on the appropriations bills.

My point is, those who want to distort this bill by describing it as a special interest bill are ignoring a couple things. One, they are ignoring—perhaps conveniently, perhaps deliberately—their own efforts to advance their interests. Secondly, as I have said before, this bill is paid for by raising revenue, largely by closing abusive corporate tax loopholes.

Let the record be clear that this bill is fair, this bill is balanced. It is a balanced effort at resolving four objectives. One objective is ending the European tax on our exports going to Europe that are legal and legitimate, even though I disagree that it should have been done. I disagree with that decision. The United States lost a World Trade Organization decision that our previous tax laws were violating the agreements that Congress had made with Europe, Congress made, because we passed these trade agreements as law.

If anybody thinks, well, it is wrong for Europe to levy a tax against us, we won a case against Europe on beef because they don't let our beef into Europe because we use hormones in the development of our beef, in the feed the cattle eat or that they are injected with, and Europe does not like that. But they are violating our right to send beef to Europe because they don't have a scientific basis for doing it. That is what the World Trade Organization said. But they still don't take our beef. So we put a tax on products coming from Europe to the United States to retaliate the same way they are retaliating for the reasons behind this bill.

This bill ends that European tax because we are conforming our tax laws to the international trading agreements Congress passed 10 years ago. We are also going beyond doing away with an impediment to our exports so that we lose jobs here in America because of that tax. We are putting a replacement benefit to manufacturers in the United States so jobs will be created here by lowering the corporate rate from 35 to 32.

No. 3, we are providing international tax reforms that will aid domestic manufacturers so we can compete in the global marketplace.

And lastly, we achieve these policy ends in a revenue-neutral way through the curtailment of abusive corporate tax shelters and abusive corporate loopholes by closing them.

I hope everybody agrees this bill is a well-balanced bill, accomplishing a goal we should have accomplished a year and a half ago, at least no later than March when these European taxes started on our products. I apologize to any Americans who have been laid off because our products are not competitive in Europe because of that tax and why it takes Congress so long to wake up, particularly when there are Members of Congress always complaining about outsourcing.

We started on this bill in March. It took us 15 days, over a period of 3 months, to get this bill through the Senate. And then we were a long period of time before the minority party agreed we could go to conference. But once we got to conference, thanks to the good cooperative working relationship between Senator BAUCUS and me for the Senate and between Mr. BAUCUS and me and Congressman THOMAS, chairman of the House Ways and Means Committee, we have this bill.

But for those laid-off workers, I am embarrassed this bill couldn't have been passed a long time ago and that we ran up against all of the impediments. Why? Because certain Members of this body don't want a Republican President signing a jobs bill a few days before the election.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from California.

### CHRISTOPHER REEVE

Mrs. BOXER. Madam President, I send my deepest condolences to the family of Christopher Reeve, one of the bravest Americans, who fought so hard to prove that even with the most horrific injuries, one could still be involved in community life, and who dedicated himself to raising awareness for stem-cell research, for the hope and the dream of so many of our people who suffer every day, that they may have a cure in their lifetime.

Christopher Reeve was Superman in the movies, but that was make-believe. He was Superman in real life.

My heart goes out to everyone who knew him and to the disabled community who counted on him. It is such a tragedy to lose him.

### EXPRESSIONS OF THANKS

Madam President, I have a number of people to thank.

On Friday night, the Senate passed the Veterans' Benefits Improvements Act and included my bill to designate the memorial being built at Riverside Veterans Cemetery as the National POW-MIA Memorial. Congressman CALVERT authored the House bill.

I am so proud the Senate acted first on this bill. I have been to the cemetery. I have seen a model of the memorial. This is going to be the veterans cemetery, national POW memorial. It is going to draw people from all across the country. So many of our people were at one time POWs. The numbers are staggering. And, of course, there are some who we don't know what happened to. They deserve this kind of memorial.

I thank Senators SPECTER and GRAHAM for helping me with this bill.

Second, last night the Senate passed a House bill by Representative GEORGE MILLER—I introduced the Senate companion piece—to adjust the boundaries of the John Muir National Historic Site in Martinez, CA. We are glad about this because it is going to bring some improvements to this area. I thank Senators DOMENICI and BINGAMAN for that.

Also last night something very special occurred here for the people of California and the people of this Nation. The Senate passed the California missions bill to help preserve the historic missions in the State of California. It has been a long, hard road. These missions are so important to the history of the West. These missions were built in the 1700s, and they are crumbling. We had to struggle to get the Senate into committee to pass the bill, and they did it.

I thank Senators DOMENICI, BINGAMAN, FEINSTEIN, and SMITH. I thank Judge William Clark, Stephen Hearst, Rick Ameil, Dr. Knox Mellon for everything they did. It is a very important day for us in California for these missions and for California history and American history.

### FSC/ETI CONFERENCE REPORT

That gets me to the business at hand. I want to start off by thanking Senator MARY LANDRIEU of Louisiana for her impassioned defense of our National Guard and Reserve. Like her, I am shocked and dismayed that the House conferees on the FSC bill before us stripped out an important provision to give tax relief for those employers who continue to pay their reservist employees after they are called up for Active Duty and deployed.

Four in 10 members of the Guard and Reserves suffer a pay cut when they are called up for Active Duty. In other words, the pay they receive when activated is not as much as the salary they receive in the private sector. As a result of this pay gap, their families suffer. Car payments are missed, medical insurance lapses, childcare is unaffordable. Our Guard and reservists are sent to the front lines with the burden of knowing their families back home will struggle to make ends meet.

I could not say anything that could match the eloquence of Senator LANDRIEU and, of course, her chart that she gave me to hold up again. This says, "What should $434 million pay for? One year of the Landrieu amendment on Guard and Reserve tax credit, or $44 million for ceiling fans?"

I think the answer is clear to most Americans. As a result of Senator LANDRIEU's eloquence, now America knows what happened in the back rooms, when the only thing missing was the cigar smoke—but maybe that was there as well when these bills were written.

Why is this so critical? Senator LANDRIEU explained it. Part of Senator LANDRIEU's amendment involves a bill that I wrote where we reimburse State and local governments who do the same thing. In other words, if a city in New York State suffers the loss of a policeman because he is called up and reactivated because he is in the Reserves, many cities across our great land are paying that differential to the Reservists or the National Guardsmen. I will tell you, it is hurting those entities very much to do this. I am very sad that part of the bill was dropped. And what we were able to get, with the help of Senator LANDRIEU, was a sense of the Senate that the conferees should, in fact, take a look at this, and the President ought to consider taking care of these governments and the cost of this payment to the Reservists and the Guard in his next budget.

I am very glad we were able to do that. I thank Senator DASCHLE, who phoned me late last night; Senator GRASSLEY, who was very helpful in writing that; of course, my staff, who worked hard with Senator LANDRIEU's staff to come to a solution; Senator HARRY REID, who is such a workhorse around here, who helped make it happen.

I have to hope that this President, who is sending our Guard there every day, sending our Reserves, and extending their time there, would feel a little compassion—compassionate conservative—for these reservists and these guardsmen who are suffering a cut in pay to put themselves in harm's way. As we all know, well over a thousand are dead—not just guardsmen and reservists, but other military personnel as well.

I am confident that if we have a President KERRY, he will be eager to work with us to solve this problem because he knows war firsthand. He knows the worst thing you can do to someone who has a family back home is to put on top of their worry about whether they are going to make it through the war without a serious injury, or perhaps not make it through at all—put on top of that the fear that their families are going to be driven into poverty. Forty percent of the troops now in Iraq are members of the Guard and Reserve.

Last year when I visited Walter Reed Army Medical Center to visit our wounded troops, I came across one young soldier who was severely wounded. During the course of the conversation, he told me that from the time he was wounded, every aspect of his care, treatment, and transportation was carried out by members of the Reserves. This soldier told me he had the highest respect for the capabilities of our Guard and Reserve, and he was eternally grateful for their professionalism.

It is important to speak out and say we are in support of our troops. But in those closed-door meetings they are handing out tax breaks to people who import ceiling fans. It seems to me the first thing the conferees should have done is ensure that the Landrieu provision and Boxer provision were kept in. Senator LANDRIEU is on the floor of the Senate and, again, I thank her for her leadership. We all look forward to the day when our guards and reservists can return home, be reunited with their families, and have their jobs back and make sure their families are whole.

I ask unanimous consent to have printed in the RECORD a list of the States that are paying this money to these reservists and are getting nothing from us, when the Federal Government is taking these people out—this President—and activating the Guard and Reserves, putting them in harm's way and not reimbursing State and local government.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXAMPLES OF STATE, COUNTY AND LOCAL GOVERNMENTS COVERING THE PAY GAP OF RESERVISTS

ALABAMA

State Government.

ARIZONA

City of Phoenix Police Department, Arizona.

ARKANSAS

State Government.

CALIFORNIA

State Government, City of Chula Vista, CA, Dos Palos Oro Loma School District, CA, City of Fremont, CA, City of Fresno, CA, City of Glendale, CA, City of Hercules, CA, City of Los Angeles, CA, Los Angeles County, City of Longbeach, CA, City of Sacramento, CA, City of San Diego, CA, City of San Diego Police Department, CA, City of San Francisco, CA, San Francisco County, CA, City of Santa Barbara, CA, City of Roseville, CA.

CONNECTICUT

State Government, City of Glastonbury, CT, City of New Britain, CT.

DELAWARE

State Government.

FLORIDA

State Government, Broward County School Board, FLA, City of Jacksonville Sheriff's Office, FLA, Miami-Dade County, FLA.

GEORGIA

DeKalb County School System, GA.

ILLINOIS

State Government, City of Chicago, Illinois, Cook County, Illinois.

IOWA

State Government.

KENTUCKY

State Government.

LOUISIANA

Caddo Parish Schools, LA.

MAINE

State Government.

MARYLAND

State Government, Howard County, MD.

MASSACHUSETTS

State Government.

MICHIGAN

State Government.

MINNESOTA

State Government.

NEVADA

State Government, City of Las Vegas, NV.

NEW HAMPSHIRE

State Government.

NEW JERSEY

State Government.

NEW YORK

State Government, New York City Police Department, Nassau County Police Department, City of Wallkill, NY, County of Westchester, NY.

NORTH CAROLINA

State Government, City of Charlotte, NC.

OHIO

State Government, City of Dayton, OH, City of Toledo, OH, Franklin County Police Department, OH, City of Kettering, OH.

OKLAHOMA

State Government.

PENNSYLVANIA

State Government.

RHODE ISLAND

State Government.

SOUTH CAROLINA

State Government.

TENNESSEE

State Government, Davidson County, Tenn., City of Nashville, Tenn.

TEXAS

State Government, City of Austin, TX, City of Grapevine, TX.

VIRGINIA

State Government, City of Bedford, VA, County of Henrico, VA, County of Prince William, VA.

WASHINGTON

City of Redmond, Washington.

WEST VIRGINIA

State Government.

WYOMING

State Government.

Mrs. BOXER. I see the Senator from Oklahoma here. His State pays for Guard and Reserve when they are called up, as do the others included in the list.

I say thank you to all of these States and cities for stepping up to the plate. You deserve the support of the Senate. You deserve to have legislation passed and not just a sense of the Senate, which I am happy we did, but I am not naive about these things; I have been here too long to know it is kiss-off to get a sense of the Senate. But at least we got there. What happened was this provision that passed the Senate was knocked out in conference while goodies were given all around.

I want to make a point about this bill. There are some good things in this bill. I wrote one of the main provisions, along with Senator ENSIGN, called the Invest In the USA Act. Some people don't understand it. It says we give a break to countries who have their funds abroad, and if they bring them home and put people to work with them, they get a tax break in the next 12 months. This is a stimulus and job creation. Economists, Democrats and Republicans, say it is going to be very effective.

Senator LINCOLN and I worked on runaway production. That is important. Of course, the underlying premise of a tax cut to encourage manufacturing is very important. We eliminate the preferential tax treatment of ethanol. That is important. We partially close the SUV loophole. I compliment Senator NICKLES for that. I think we can do more, but he stepped up to the plate on that. The thing with the $100,000 loophole was ridiculous. I am happy we have gone back to the original loophole of $25,000, which is still too much, but it is a big improvement.

I also thank Senator SNOWE for her tax fairness for naval shipbuilders, which is important. What is bad in the bill is the tobacco cave-in, where the FDA doesn't get the authority to regulate this tobacco, and there is a bailout. I don't have a problem with the bailout with farmers, but this was an opportunity to save our children.

The overtime regulation from Senator HARKIN is stripped from the bill. It is going to hurt our people badly when they no longer get overtime. Outsourcing—the provision by Senator DODD—passed 70-26. You would think we could have fought for that, but it is out. And, of course, the reservists tax credit that we talked about. There also was a tax credit for farmers for water conservation that I strongly supported. It was stripped from the bill.

The film industry was treated very badly in this bill.

We are killing the goose that lays the golden egg because the film business is a terrific export business and they get treated very badly.

So we had a chance to have a great bill. Instead, we have a bill that has some good provisions but also has some horrific provisions in it. It is a terrible way to legislate, but the Landrieu-Boxer provision that was stripped out which dealt with our reservists and our National Guard, all I can say to Senator LANDRIEU is that a picture speaks a thousand words. Her poster showing the choices that this Republican Congress made is something that I hope the American people are watching because this is unforgivable. I am going to fight with my friend from Louisiana until we fix this problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, under the agreement last night I have up to 30 minutes to speak, and I will be happy to yield additional time to Senator BOXER at a later time because I most certainly want to support her comments and to thank her for her great support of this amendment. Without Senator BOXER and many other Senators, the victory that we have achieved this morning would not have been possible.

Senator BOXER knows, because she represents the largest State in our Union, that 90,000 guardsmen and reservists reside in California. Today, as she and I are on this floor speaking on their behalf, 7,900 are currently on duty from California, having left their homes from Bakersfield—the home of Chairman THOMAS, or the center of his district—to San Francisco to Los Angeles, from Louisiana, from Oklahoma, and from Texas. Thousands of Guard and Reserve men and women have left their families, left their children, left their place of employment and gone to the front lines.

We decide where the front line is and we send them. Wherever we say to go, they go, and they have gone in large numbers.

I have spent the last few days speaking about this because it is of such critical importance for us in the Senate and for the Congress to understand that we are asking more and more of our Guard and Reserve. This was not always the case. It was not that way in World War I and World War II. It was not that way in the 1950s, 1960s, 1970s, or 1980s. but it is this way today.

From 1990 to 2004, we have called up 690,500 Guard and Reserve members. The Guard and Reserve now make up 40 percent of our whole force. We have 1.6 million active members of all of our services, and we have 1.2 million men and women in the Guard and Reserve.

Many of these men and women, as my colleagues know because I have said it—and I am sure my colleagues are now aware of this. that when many of our reservists signed up, they expected to make a sacrifice. They knew that one weekend a month they would go on duty. and they knew that in times of crisis they would be sent. What we did not tell them 10 years ago is that there would have been a terrorist attack on 9/11. What we were not able to tell them 10 years ago was that we would make a decision to reduce our Active Forces, thereby putting a greater burden on them.

They signed up under a different paradigm. Yet year after year some of us have come to this floor—not just this week, not just last year, but year after year. I have been here 8 years. There is not a year that I can think of that I have not mentioned this—maybe the first year I was here, but most certainly once I got on the Armed Services Committee and it became apparent to me and many others of the major shifts that we were making, and have argued, sometimes successfully and sometimes not successfully, not because I do not think our arguments are clear and compelling but because they seem to fall on deaf ears, that the Guard and Reserve need help.

I wish I could spend the time reading some of the hundreds, thousands of e-mails that I have received since this filibuster started. The filibuster is no longer in place because basically the amendment we asked for has been agreed to. It is going to be put in another bill. That is how this whole thing started, was to say that I know that it was impossible for us to amend $137 billion. We could not procedurally amend this bill. The only thing we could have done would have been to vote against it or send it to the President and ask him to veto it because the Guard and Reserve were left out. Both of those strategies were probably not going to happen. So I said that I would accept that, and I would stay here until Thursday or Friday, until I had to, with others helping me, to make sure we could find another vehicle that would be appropriate to put this amendment on as much intact as we could, and that is what happened.

There are a lot of Senators to thank, and I think I will spend a moment thanking the Senators before I go into more detail. First, I will just finish this one thought and then I will thank the Senators.

I was explaining how the paradigms changed and we are relying more and more on our Guard and Reserve. So when this bill began to be put together 2 years ago, some of us knew that this bill was going to start out at about $50 billion. But we also knew that it would grow because any time there is a tax bill before this Congress, lots of things get attached. NASCAR racing got attached; ceiling fans are in here; railroad reimbursements for maintenance of tracks is in here. I do not have a complaint about one of those items. That is not why we filibustered the bill.

What we complained about is the only item that was put in the Finance Committee and sent out of the Senate with 100 percent of us supporting it—all of the Republicans and all of the Democrats supported it—was stripped out by the House Republican leadership.

If we cannot find $2 billion of $137 billion in tax cuts to give to the men and women who are taking 100 percent of the risk, 100 percent of the bullets, what are we doing here? That was the point we made. The point was heard loudly and clearly.

So with the help of many colleagues, we have corrected the error. We have sent an amendment, in large measure whole. Senator BOXER is correct that a portion that she and I thought was very important, which was to help public entities that keep those paychecks whole as the Guard and Reserve go to the front line and lose 41 percent of their income, according to the GAO study—that was given to us not last week, not a month ago, this study was given to us 3 years ago. We knew 3 years ago that our Guard and Reserve take a 41-percent pay cut. The soldiers do not mind the pay cut. They are eating rations. They are living in tents. They are sleeping on the ground. This is not—well, it is about the soldiers, but it is more about the families they leave behind, about the children without health care, about the wives who have to take two jobs, about the gasoline that has to be put in the car, the car notes that have to be paid.

If we can find a tax bill and work on it for 2 years, which we did—2 years of work went into this bill. I am not on the Finance Committee, but I have a great member in Senator BREAUX. I know how hard he works, and I know how he supported this amendment as well. I have Congressman JIM MCCRERY and Congressman JEFFERSON who worked very hard. The Louisiana interests are well represented in this as well as in many other important bills. But what I objected to was that the Guard and Reserve amendment that would have given a tax credit to the thousands of businesses in this country that are doing the patriotic thing, the right thing, the good thing, and they are getting commended by our President and us, we could not provide them a 50-percent tax cut to keep this paycheck whole for those on the front line.

Mrs. BOXER. Will my friend yield for a very brief moment and I will be finished.

Ms. LANDRIEU. Yes.

Mrs. BOXER. I wonder if my friend would place in the RECORD a number of letters—I didn't have a chance to do it before—from various cities in California, also from the International Association of Firefighters. Will my friend do that?

Ms. LANDRIEU. Yes.

Mrs. BOXER. I wonder if my friend would mind if I could read one letter, which will take about 60 seconds.

Ms. LANDRIEU. No.

Mrs. BOXER. This is one of the typical letters from the City of Sacramento:

> DEAR SENATOR BOXER: On behalf of the City of Sacramento, I am pleased to offer our support for S. 1845, which would assist local governments that continue to pay employees who are deployed to active duty.
>
> Last year, eight of our permanent employees were activated to service in Iraq. We are proud of these employees and support them by making up the difference between military and civilian pay. We also pay the City contribution for their families to continue their health benefits.
>
> The cost to the City of Sacramento was approximately $73,000 last year. With the current budget crisis affecting California cities, S. 1845 is needed to ensure that cities like ours do not shoulder this financial burden alone.
>
> If we can provide any further information or support as your office moves this legislation, please contact Aaron Chong, Law and Legislation Coordination, at (916) 808-6762. Thank you for your support of our brave men and women and their families.

This is a specific letter that wraps it up just the way the Senator has, in a very simple, straightforward way. But I do appreciate the Senator putting these letters in the RECORD and being able to stand shoulder to shoulder with the Senator until we fix this problem.

I thank the Senator.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to have those letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CITY OF CHULA VISTA,
OFFICE OF THE CITY COUNCIL,
*Chula Vista, CA, March 3, 2004.*

Re notice to support S. 1845 (Boxer): Service to Country Reimbursement Act.

Hon. BARBARA BOXER,
*Senate Hart Office Building,*
*Washington, DC.*

DEAR SENATOR BOXER: The Chula Vista City Council, in keeping with the guidelines established in the City's Legislative Program, has taken unanimous action to support S. 1845 (Boxer), as introduced November 11, 2003. This proposal would require the Federal government to reimburse state and local governments for the salary costs of our employees who serve in the military reserves and have been called to active duty.

Under existing law, the City of Chula Vista pays the salaries of our reservist employees for the first 30 days of their active duty assignment. Beyond those first 30 days, the City pays the employees the difference between their military pay and their normal civilian salary. In addition, we incur the cost of hiring supplementary personnel to carry out the responsibilities of the reservists who have been called away.

Chula Vista has already incurred costs in excess of $500,000 during the current military actions in Iraq and Afghanistan. Passage of S. 1845 would be a tremendous benefit to local government agencies throughout the Nation. On behalf of our city, I am pleased to offer Chula Vista's strong support for your bill, and look forward to its successful passage.

Sincerely,

STEPHEN C. PADILLA,
*Mayor.*

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CITY OF ROSEVILLE
CITY COUNCIL,
*Roseville, CA, January 15, 2004.*

Subject support for S. 1845—service to Country Reimbursement Act.

Hon. BARBARA BOXER,
*Senate Hart Office Building,*
*Washington, DC.*

DEAR SENATOR BOXER, On behalf of the citizens of the City of Roseville, California, I offer my support for S. 1845, which would assist local governments that continue to pay employees who are deployed to active duty.

Last year, five of our 946 permanent employees were activated to service in Iraq. We are proud of these employees and support them by making up the difference between military and civilian pay. We also pay the City contribution for their families to continue their health benefits.

The cost to our City was approximately $105,000 last year. With the current budget crisis hitting California cites, S. 1845 is needed to ensure that cities like ours do not shoulder this financial burden alone.

If we can provide any further information or support as you move this legislation, please contact Ellen Powell, Legislative Analyst, at (916) 774-5219. Thank you for your support for our brave men and women and their families.

Sincerely,

F.C. ROCKHOLM,
*Mayor.*

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CITY OF SANTA BARBARA,
OFFICE OF THE MAYOR,
*Santa Barbara, CA, January 27, 2004.*

Re Service to Country Reimbursement Act—S. 1845.

Hon. BARBARA BOXER,
*Senate Hart Office Building,*
*Washington, DC.*

DEAR SENATOR BOXER. On behalf of the Council of the City of Santa Barbara, we unanimously support the Service to Country Reimbursement Act. We also want to express our sincere appreciation for your leadership in sponsoring this bill.

Since October 2001 the City has voluntarily provided approximately $250,000 in salaries, benefits and retirement fund contributions for City employees who have been called to active military duty. While we remain committed to this policy, we do not have unlimited resources. The City has not yet recovered from the revenue losses due to the economic recession and September 2001 terrorist attack. In addition we have incurred significant increased costs to provide higher levels of police security and emergency preparedness.

This situation in combination with the loss of revenue (incurred and projected) due to the California state budget crisis places us in a very untenable position. Although S. 1845, if enacted, will not resolve all of these issues, it will provide resources to fund a major portion of our potential future costs for continuing support for our employees, and their families, who are activated for military service.

We encourage you to make enactment of this bill a high priority and ask that you call on us for support and advocacy with others as the bill progresses through hearings. Thank you again for taking the initiative to sponsor this bill.

Sincerely,

MARTY BLUM,
*Mayor.*

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CITY OF FREMONT,
OFFICE OF THE MAYOR,
*Fremont, CA, November 24, 2003.*

Re Support for S. 1845, the Service to the Country Reimbursement Act

Hon. BARBARA BOXER,
*Senate Hart Office Building,*
*Washington, DC.*

DEAR SENATOR BOXER: I am writing on behalf of the Fremont City Council to let you know of our strong support for your S. 1845, the Service to the Country Reimbursement Act.

This needed legislation will reimburse state and local governments for the costs of paying the difference between the civilian salary of government employees and the military pay of a National Guard or reserve member who is activated for more than 30 days.

We have several employees who have been called to active duty since September 11, 2001. We are supplementing their military pay with City funds during their deployment because we strongly believe that serving your country should not become a financial hardship. We have already spent more than $120,000 to supplement the salaries of our active duty employees and more than $30,000 on their health benefits. With the significant budget problems we are facing this year, we greatly appreciate any assistance the federal government can provide us.

Thank you for introducing this important legislation.

Sincerely,

GUS MORRISON,
*Mayor.*

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INTERNATIONAL ASSOCIATION
OF FIRE FIGHTERS,
*Washington, DC, April 24, 2003.*

Hon. TOM LANTOS,
*House of Representatives,*
*Washington, DC.*

DEAR CONGRESSMAN LANTOS: On behalf of the 260,000 professional firefighters and emergency medical services personnel who are members of the International Association of Fire Fighters (IAFF), I am pleased to offer our enthusiastic support for H.R. 1345, a bill to support our citizen soldiers.

As you are aware, many fire fighters serve in either the National Guard or Reserves. As a result of our nation's multi-front war against terrorism, many of these brave men and women of the IAFF have been called up to active duty.

While some conscientious jurisdictions have voluntarily agreed to make up the difference between military pay and fire fighter pay, too many have not. H.R. 1345 would address this issue by helping local governments with the burden of making up the difference in the lost wage. We applaud your efforts to ensure that those serving abroad will have the comfort of knowing that their families will not face financial hardships.

Please contact me if the IAFF can be of additional service.

Sincerely,

BARRY KASINITZ,
*Governmental Affairs Director.*

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STATE OF NEW HAMPSHIRE,
OFFICE OF THE GOVERNOR,
*Concord, NH, June 19, 2003.*

Senator JOHN SUNUNU,
*Manchester, NH.*

DEAR SENATOR SUNUNU: I am writing to express my support for House Resolution 1345 which provides incentives to State and Local governments, as well as private employers, who reimburse their employees who are called to active military duty for the difference between their civilian pay and their military pay. I feel strongly that the men and women who are called to active military duty should not be penalized financially for serving our country. When I was chief executive officer of Cabletron, I was proud to support my employees who were called to active duty during the Gulf War by making up the difference in pay between what they were paid by Cabletron and what they received from the military. As Governor, I again had the opportunity to support our military by issuing an executive order that ensures that state employees who were called to serve in Operation Iraqi Freedom will not lose any benefits or receive a reduced salary as a result of their service.

House Resolution 1345 provides reimbursements to states like New Hampshire who support our military. I urge you to support this bill on behalf of our State and on behalf of the men and women who serve our country.

Sincerely,

CRAIG R. BENSON,
*Governor.*

Ms. LANDRIEU. I thank the Chair.

Mr. President, I would like to continue by thanking all of the Members of this body, particularly the members of the Finance Committee, particularly the Senator from Oklahoma, who stepped forward and helped us to negotiate a very good end to this situation. But the original cosponsors of this amendment were Senator MURRAY, Senator TIM JOHNSON, Senator MARIA

CANTWELL, Senator JON CORZINE, Senator KERRY, Senator DURBIN, Senator DODD, and Senator PRYOR. There were 21 Senators who signed the letter to the conferees and I am going to submit their names to the RECORD, but among them was Senator BOND, who has been a strong advocate for the Guard and Reserve; Senator AKAKA, who came to the floor over the weekend to lend his support and his help; Senator BILL NELSON, who came to the floor as well and gave his help and his support. I also wish to thank the leadership, Senator DASCHLE and Senator REID in particular, as well as the Republican leadership, who worked hard through these couple of days to make this good end come to be today; particularly Senator HARKIN, who was in the Chamber advocating for a different issue that was his primary focus, but without his help in being able to hold the floor and being able to keep the procedure moving in the direction that helped us to make our point, it would not have happened. I also wish to thank the Senator from Alabama, Mr. SESSIONS, for spending many hours in the Chamber. He and the Senator from South Carolina, LINDSEY GRAHAM, have spoken hour after hour after hour on this floor about the needs of the Guard and Reserve.

Perhaps we are not making our arguments clear enough; I do not know. But they seem to sometimes leave our mouths and fall on deaf ears. I do not think it is complicated; 690,000 Americans have been called up by our Commander in Chief to go to the front line. As we put bills together here, tax bills, health care bills, education bills, transportation bills, could we please not only keep them in mind, but put them in the bill and not leave them out. They are not asking for much. They are not asking for 100 percent of any tax credit. But surely $2 billion out of $137 billion is something we could have done. I know there were arguments, and I think somewhat legitimate—perhaps the amendment was not written in the correct way. Perhaps it was a little more complicated. We have successfully cleared up those complications. I have said there were other amendments in here that to me seemed quite complicated.

One in particular was a reimbursement for railroad track maintenance. I guess we trust the railroads to tell us how many miles. I don't think we send out people to walk the tracks and measure the railroad tracks. So I think we trust employers when they say they are paying their Guard and national Reserve and they put that on their tax return. I think most certainly we can trust them and trust the members of our Guard and Reserve. We are trusting them to fight for us and we stand with them. We are honoring the employers, small and large companies that are keeping those paychecks whole, and the least we can do is to provide a 50-percent tax credit.

I also wish to thank the floor staff: Lula Davis and Marty Paone, as well as the Republican staff who helped this weekend, and the Senate Finance Committee staff which helped us to work out the final details. On my own staff: Jason Matthews, Jeffrey Wiener, Kevin Avery, Kathleen Strottman, Brian Geiger, Amy Cenicola, and Linda Cox, and particularly my husband and my children, who were supportive of this effort because it could have gone on for many more days.

I want to, in the few minutes I have remaining, submit a few more things to the RECORD.

One of them is a letter that came to this Congress, not from the current Secretary of Defense, but from the former Secretary of Defense, Bill Cohen, in 1998, saying basically, that while we support the concept of providing incentives to employees of Reserve component members, the Federal Government, we at this time cannot afford such a program, but with the increased use of the Guard and Reserve, particularly for unplanned contingency operations, employers of our Guard and Reserve members are often faced with the unplanned absences of their reservist employees. They may incur additional business expenses associated with the unplanned absences. The report suggests that a financial incentive might be helpful to ameliorate some of the employer problems, particularly for small business owners.

There you have the Secretary of Defense, the former Secretary of Defense, outlining that while they couldn't afford to do it in a Defense bill, we most certainly could afford to do it in a tax bill. That is why we started working with the tax bill and with the Finance Committee. I am pleased to say we have come to a good end. So in a few minutes, by a voice vote, this amendment will be adopted. It will go over to the House and to the House leadership on both the Republican and the Democratic side. I urge them to look carefully at what we have sent over there, to pass it the way it is. If they do, it will become law right away. Perhaps when we come back after this election or perhaps before the election, that could be done. But clearly the Senate has acted with respect, with care, with cooperation, and again I thank the Republican leadership and the Democratic leadership for working so well over the weekend to send this amendment, basically intact as we put it together, over to the House. It is now in their court.

How much time do I have remaining?

The PRESIDING OFFICER (Mr. COLEMAN). There is 11 minutes remaining.

Does the Senator ask unanimous consent to have the documents printed in the RECORD?

Ms. LANDRIEU. Yes.

THE SECRETARY OF DEFENSE,
*Washington, DC, March 17, 1998.*

HON. FLOYD D. SPENCE,
*Chairman, Committee on National Security, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Department of Defense report, enclosed, has been prepared in response to the National Defense Authorization Act for Fiscal Year 1997. Section 1232 of that Act directed submission of a report and draft legislation to provide tax incentives to employers of members of Reserve components.

The Department of Defense does not support submission of legislation at this time but is submitting draft legislation as a drafting service.

Sincerely,

BILL COHEN.

Enclosure: As stated.

A REPORT TO CONGRESS CONCERNING INCENTIVES TO EMPLOYERS OF MEMBERS OF THE RESERVE COMPONENTS

This report responds to the requirements of section 1232 of the National Defense Authorization Act for Fiscal Year 1997 (P.L. 104-201, September 23, 1996), which requires a report to the Committee on the Armed Services of the Senate and the Committee on National Security of the House of Representatives regarding tax incentives to employers of members of Reserve components to compensate for absences of Reserve employees due to required training and performance of active duty.

### OVERVIEW

Increasingly, members of the National Guard and Reserve are being called upon to augment the active duty forces in the post-Cold War world. This is a sound use of resources and an integral part of our national military strategy. More recently, Reserve component members have responded to the call in Operation RESTORE HOPE in Somalia, Operation UPHOLD DEMOCRACY in Haiti, and Operation JOINT ENDEAVOR/JOINT GUARD in Bosnia.

Previous Congresses have viewed legislation that would provide incentives such as tax expenditures as having a fixed and recurring budgetary effect. A number of methods could resolve such a problem.

### BACKGROUND

Generally, members of the Reserve components (both National Guard and Reserve members) are required to attend one weekend of inactive duty training per month and 14 days of active duty training annually. Over and above this training, members are often required to participate in mobilization training, formal schools, and special training. Additionally, many Reservists are called upon to provide PERSTEMPO relief (reducing the active duty Service members time away from home station). For some individuals, this may exceed the normal Reserve participation requirements. Some Reserve members, who support specific weapons platforms, are actually spending up to 180 days a year on military duty. This is compounded by involuntary call-ups to support missions such as Operation DESERT STORM and JOINT ENDEAVOR, which required the use of the Reserve components.

In addition to this busy Reserve schedule, the vast majority of Reserve component (RC) members are employed full-time in civilian occupations. So, not only are RC members working full-time in the civilian community, they are meeting their Reserve obligation, which has substantially increased beyond the minimum 38 days a year prescribed by law.

This "part-time" Reserve obligation is substantially different from any other part-time activity in which most employees participate. They may be involuntarily called to active duty in times of national emergencies. Although efforts are made to reduce any conflict these absences may cause, some conflict is unavoidable. Title 37 U.S.C. section 1008(b) mandates that each Quadrennial Review of Military Compensation (QRMC) conduct "a complete review of the principles and concepts of the compensation system for members of the uniformed services." The Sixth QRMC stated that conflicts between RC members and their full-time civilian employers account for nearly one-third of all personnel losses incurred by the Reserve components.

### DEMONSTRATED NEED

#### *Employer concerns*

From an employer's viewpoint, unscheduled absences create a variety of problems.

While Reservists repeatedly demonstrate that their military training and experience benefit their civilian employers, budget-minded employers must also consider the impact of unexpected long-term absences on their businesses. positive approach to the pressures caused by unplanned employee absences than simply enforcing Reservists rights.

#### *Department of Defense concerns*

Trained and equipped members of the National Guard and Reserve are an integral part of the national military strategy. With a smaller active duty force, the Department is maximizing all available resources to meet mission requirements. This has increased the day to day use of the Reserve components. There are substantial economic benefits to the government to use the Reserve components as they cost the government less to maintain—anywhere from 25% to 75% of the cost of their active duty counterparts. This is part of the rationale for the dramatic shift of missions and force structure from the active to the reserve forces. It is the nation's advantage, therefore, to use its Reserve components.

Retention of RC members becomes critical. It is in the government's best interest to keep well-trained individuals in the military, rather than incurring the additional training costs (roughly $26,000 per new recruit). The train-up time associated with recruiting new individuals into the force is also considerable. In spite of our efforts to provide a benefits package that makes continued Reserve service an attractive proposition, employer conflict is often cited as the number one reason why individuals decide to leave Reserve component military service.

### DEPARTMENT OF DEFENSE EFFORTS

The DoD has undertaken several initiatives to reduce conflicts between Reservists and their employees. Since 1970, the DoD has developed an aggressive program to encourage employer support. The National Committee for Employer Support of the Guard and Reserve (NCESGR) is an agency within the Office of the Assistant Secretary of Defense for Reserve Affairs that promotes cooperation and understanding between RC members and their civilian employers. This program has grown from several hundred employers and professional and labor organizations to more than 3000 community leaders nationwide. Despite these efforts, the Sixth QRMC stated that 10 to 20 percent of RC members continue to experience significant employment-related conflicts.

In an effort to protect Reserve employees, the 103rd Congress passed the Uniformed Services Employment and Reemployment Rights Act (USERRA). This legislation protects "non-career service members" from job discrimination based on Uniformed Service. USERRA has simplified statutory employment protections and provided a system of local arbitration for individual cases. While protecting the employee, USERRA does not, however, address any adverse effects Reserve service may impose upon employers. Employers are required to provide seven basic entitlements by statute: prompt reinstatement, status, accrued seniority, health insurance coverage, training/retraining, special protections, and other non-seniority benefits.

Despite these efforts, the major employer disincentive to encouraging employee participation in the Reserve components is the additional costs and reduced profits stemming from Reserve participation.

### PREVIOUS LEGISLATIVE PROPOSALS

Recognizing the substantial role that employee attitudes and practices have on Reserve readiness, legislative proposals granting a monetary incentive (in the form of a tax credit) to employers of National Guard and Reserve members have been introduced several times, the most recently in the 103rd Congress. The Department understands that there may be other methods to soften the employer's burden. The main points of the most recent legislative proposals are outlined below.

#### *Summary of past proposals*

DoD 100-49 (100th Congress): Credit and deduction; 20 percent of amount paid and 10 percent of amount unpaid; any training; nonrefundable; and annual maximum of $2000 per member.

H.R. 71 (103rd Congress): 50 percent of amount paid and 10 percent of amount unpaid of actual compensation paid when employee was performing qualified active duty; annual maximum of $2000 per member; and no credit for employee not scheduled to work.

Additionally, the Sixth QRMC made the following recommendations:

Nonrefundable credit of 50% paid to Reservist on military leave and 10% credit for amount unpaid;

Include credit for self-employed individuals; and

Certification of Veterans' Reemployment Rights compliance.

### DRAFT LEGISLATION

The Department has developed draft legislation, as a drafting service, for a tax credit program for employers of Ready Reservists and self-employed Reservists as required by section 1232 of the National Defense Authorization Act for Fiscal Year 1997. Because of associated costs in the form of federal tax receipt losses for such a program, neither the Department of Defense nor the Administration support submission of the legislation at this time. Because section 1232 requests the draft legislation, however, the attached draft is submitted as a drafting service pursuant to paragraph 71, Office of Management and Budget Circular A-19, dated September 20, 1979.

### CONCLUSION

Assistance to employers who support National Guard and Reserve participation by their employees could reduce an employer's costs associated with employee absence due to their participation in the National Guard and Reserve or contingency operations. The Department understands the loyalty of the employers burdened with the costly and unanticipated absences of their Reserve employees. We salute such employers and seek their continued support. Tax or other incentives for employers might help to ameliorate some of their problems. Any such plan, of course, must compete for resources in the ever shrinking availability of Federal programs.

Ms. LANDRIEU. I will reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If no one yields time, the time not used will be equally divided.

The Senator from Oklahoma.

Mr. NICKLES. I yield myself 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I want to make a couple of comments on the bill and a couple of comments on the amendment which has been discussed by Senator LANDRIEU and Senator BOXER.

On the bill itself, let me just say, again, I want to compliment Senator GRASSLEY and Senator BAUCUS, and, frankly, all the conferees, for their work on this bill. There was a lot of work that went in on this bill. This bill has a lot of good provisions, and in this Senator's opinion it has a lot of bad provisions. It has a lot of tax cuts, and it has a lot of tax increases. So you have to kind of weigh the pluses and the minuses. The plus is we are going to be WTO compliant and get away from these enormous fees that are on our exports, taxes that are on our exports that make our exports less competitive. It is a 12-percent tax right now, that goes to 17 percent by next March. We don't need a trade war with Europe.

I remember talking to Chancellor Helmut Kohl when they were pushing the European Union. I said: I am a little concerned about the European Union becoming more protectionist. He assured me that is not the case. But, frankly, the European Union is becoming more protectionist. We don't need a trade war. They don't need a trade war, and we don't need a trade war. So it is necessary for us to pass a bill to be compliant. I don't want to give the World Trade Organization too much of a blank check, but it is important that export subsidies not be egregious. They have determined in the past FSC/ETI was; the foreign sales corporation was. So we repealed that in this bill.

We are replacing it with a tax cut for manufacturers. We defined "manufacturers" very broadly. We didn't give a corporate tax cut for corporations that are in the services, financial services or other services. I object to that. I think that is a mistake. I used to be a manufacturer, so if I went back into manufacturing I guess I should say this is great because you are going to reduce my income tax by 10 percent in about 7 years, 6 or 7 years. So maybe I should be happy. But I just look at the complexity of it, trying to determine what portion of income is manufacturing and what portion is financial or other services, and I can see it is going to be very confusing.

For example, in the bill we defined construction as manufacturing. So if you had a contractor who was working in construction. their tax rate would be 32 percent in a few years. If they also do service work, that work will be taxed at 35 percent, i.e., a plumbing contractor who is building new units is going to be taxed at 32 percent. If he is doing a service, replacing your plumbing, that would be taxed at 35 percent. That doesn't make sense. That is what is in this bill.

Take a big corporation—and they have a lot of accountants and lawyers—they will work it out. But General Electric, they have big manufacturing. Those units will be taxed at 32 percent, but they are probably bigger in financial services and other services. That will be taxed at 35 percent. So they are going to have to allocate resources and expenses to whichever category they belong. I find that to be far too confusing and will cause a lot of compliance problems. It is probably more trouble than it is worth.

Canada had a differential rate for manufacturing for about 20 years, and they repealed it. My guess and prediction is that Congress will come back and have to fix this as well because the differential rate is not worth it, and we should have a uniform corporate rate.

I tried that. Senator KYL tried that. I compliment my colleague, Senator KYL. We were not successful in convincing our colleagues, House or Senate, in doing it. That being said, we tried our best. But it is still important for us to pass this bill, and we and others will be trying in the future, I am sure. I hope in the administration, when they do a comprehensive tax reform proposal, they will come up with a uniform corporate rate. I bet they will. and I bet any commission or group that says we need tax overhaul, simplification, they will come up with a uniform corporate rate. It only makes sense. This proposal does not, this differential rate.

But we are not going to be able to fix that now, and we can't fix it in the next 3 months, not with the current makeup. So I urge our colleagues to vote for it.

I heard a couple of our colleagues say this provision Senator LANDRIEU was talking about was stripped in the conference. That is not correct. Not one member of the conference—we have 23 Senate conferees, and not one person raised this in an individual amendment. I will say all conferees had amendments that we wanted. Some were accepted and some were not accepted. But to be accepted, you had to raise the amendment. You had to fight for the amendment. You had to have it offered. I think this particular amendment was offered in a large group of 10 or 12 amendments. The House did not concur. That didn't mean it was stripped out in conference. There were hundreds of amendments that were proposed by the Senate, not agreed to by the House, or vice versa. That is the makeup of a conference. So I want to make sure people understand that.

On the substance of the bill, I heard it was supported by 100 percent of the Congress. It passed by a voice vote. It was not supported by this Senator. On the substance of it, I am not sure that we should give reservists and guardsmen serving in the trenches with Active-Duty—give them $20,000 more or $15,000 more in pay from the Government. That is what the essence of the proposal was.

It says we will give a credit to employers for keeping them whole. But think about it. If you have a guardsman driving a truck doing the same thing an Active-Duty person is doing, should they be paid $20,000 more for doing the exact same job? I am not sure that makes sense. I do know, if you are going to do it—Mr. President, I yield myself an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. If we are going to do it, we should not do it through the Tax Code. I believe it should be done through the Armed Services Committee. I have great respect for Chairman WARNER and Senator LEVIN. Let them have hearings on it. Let them decide if there should be greater incentives for Guard and Reserve. If they believe it is necessary, that is the way it should be done. The money should be appropriated in the Appropriations Committee. Chairman STEVENS, head of the DOD subcommittee—they should be making these decisions to keep a proper balance between Reserve and Active-Duty.

I happen to be a former guardsman. I support the Guard. But I don't think they should be paid through a tax credit that may funnel to them or may not funnel to them. I don't think that is good policy. If they are to be paid, they should be paid by the Government and they should be paid on a monthly basis by the Government and their benefits should be given by the Government, not through a refundable tax credit that they may or may not receive down the road.

We sometimes pass amendments by voice vote to expedite passage. We passed the sense-of-the-Senate amendment by voice vote, and I compliment the authors. But I would have voted no. Just because something passes by voice doesn't mean every Senator concurs. I did not and still do not agree with this amendment.

I do agree with one portion of it, and I compliment my colleague from Louisiana. We worked to make something acceptable. Legislation is the art of compromise. We compromised on one thing. One section is let's have GAO do a study about what kind of compensation we need for Guard and Reserve: How does it balance with the Regular Army? A tax credit, would this be the proper mix? So I think we need some additional study on it, and we will do that. I think we improved her amendment substantially, we changed it substantially, and I compliment her as well.

Again, on final passage, I think the underlying product leaves a lot to be desired, but I still think it is an improvement. We need to fix the WTO problem, and I urge our colleagues to vote in favor of the conference report. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Louisiana.

Ms. LANDRIEU. Under the previous order, I think I still have——

The PRESIDING OFFICER. The Senator has just under 11 minutes.

Ms. LANDRIEU. Mr. President, I want to take the time to thank the Senator from Oklahoma. I know he has some concerns about some of the details of this amendment. But because of his work and because of other Senators who worked through the weekend on this, we have put a very solid, substantial, largely intact amendment in place that is going to be passed to the House. Now it will be in the hands of the House leadership to decide if they want to pass this amendment, which is a tax bill specifically for the Guard and Reserve. The underlying bill actually will allow the Guard and Reserve a tax benefit to remove the 10-percent penalty if they would want to take money out of their IRA to help them through tough financial times.

According to the hundreds and thousands of e-mails that we have received, myself and many others, we know that our Guard and Reserve are having a tough time.

I would just like to read this for the RECORD. I know the Senator himself has received notices like this.

This is from—Janice is her name. I will find out where she is from in a moment. She writes,

> Senator Landrieu, I have 3 nephews and 2 nieces that are in our National Guard and they are being sent over to Iraq. I am so angry right now that I hope that I don't have to see others go to this war. But let me just say that my nephews and nieces have left behind 11 children without health coverage. I am their aunt and my husband is their uncle. We are taking care of these three children. It is hard for us. We are tired living on a fixed income.

This is what this amendment is all about—taking on the burden of having the Guard and Reserve on the front line, and paying those paychecks. Yes, it helps the soldier on the front line, but mostly it helps the families back home. That is what the Senator was able to help us come to terms with.

That is what the Senate is sending over to the House—supporting this effort on the House side.

I look forward to working with them when we come back in, perhaps after the election—working with the Senators who have spoken up over the weekend and others who were not able to speak up and sent letters in support and cosponsored this effort, Republicans and Democrats, to say let us craft a tax provision, or several tax provisions, that will help our Guard and Reserve, or let us dig a little deeper in the Defense bill to give them the support they need, whether it is health care, whether it is paycheck protection, whether it is other support services, so they can do the job better we are asking them to do.

Frankly, I don't think they could do it any better, but they could do it with more peace of mind knowing their families are able to pay the bills, are able to keep the roofs over their heads, are able to put gasoline in their automobiles, and pay the extra childcare expenses.

I know other Senators feel as strongly as I do—everyone in this Chamber. But let us not only feel strongly but remember them when we pass these bills. Again, we don't have to remember them only on the Defense bill. Then we end up having to make tough choices and ask the military, Do you want a rifle, or a helmet, or health coverage, or to send a whole paycheck to your family? I don't think our men and women in uniform should be asked to make those decisions, not when we are giving $137 billion in tax cuts to everybody else. That is my point.

I know people may disagree. Maybe this vehicle was the right one. But because we were told 3 years ago there was no money in the Defense bill to do this, what option were we left with? We asked it be included. It was included when it left the Senate.

I am proud of that. Now we have a chance again sometime in the near future to get this fixed. I am proud of the effort.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield 4 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Thank you, Mr. President. I thank the Senator from Iowa, the distinguished chairman of the committee. I also thank the chairman and ranking member of the Finance Committee for working with the House to produce an excellent bill which will reduce taxes on more people in our country and, therefore, help this economy to continue the recovery.

I am very pleased. I have heard the debate on the tax credit for employers for Guard and Reserve units. I know all of us will be working to try to assure that this is done. Our Guard and Reserve units have stepped up to the plate.

I have been to Iraq. I have been to Afghanistan. I have visited with Guard troops who are on their second and third call who didn't expect this kind of activity when they signed up. But they are there doing their job, and doing a great job.

On the other hand, the people at home are, too. The employers are, too. The families are, too. They are sacrificing as well. I think help for families, help for the men and women on the ground in Iraq and Afghanistan and other places, and help for the employers is certainly something we should do in the right way.

I am very pleased we are going to continue to work on this issue. We need to do everything we can to support our young men and women in the field and the people who are supporting them at home.

I will never forget when I was visiting a base in Saudi Arabia and asked one of the young guardsmen what was their biggest problem, thinking he was going to say something about his tour of duty, or something on the ground there. He said, My biggest problem is my wife can't get a pediatrician for our child at home who is having heart problems. I said we can't let this happen. We have to make sure we are giving them all the support they need.

This is a good bill. It is a bill that is going to help our manufacturers in this country compete on a level playing field.

A ruling by the World Trade Organization found our existing extra-territorial income tax regime was prohibited under an international treaty. Therefore, the European Union imposed retaliatory sanctions on a variety of United States products in March of this year. These tariffs have increased every month we have not acted. They are now at 12 percent. A tariff like that can be the difference between whether an American product can be purchased overseas, whether it gets in and can compete on a level playing field.

We will restructure our Tax Code for businesses in order to replace the ETI and end the confiscatory tariffs that are hurting manufacturers in this country.

At a time when our country is losing manufacturing jobs, we talk about outsourcing every day. We have to act to give our manufacturers every possible advantage we can to be competitive with Europe. That is what the heart of this bill is. It is very important for jobs in our country. It is very important for the manufacturers who are trying to keep jobs in our country to be able to have that level playing field. I am very pleased about that.

In addition, there is a broad range of manufacturers who are helped, including certain oil and gas producers. We know with the prices of oil and gas so high right now that we need to encourage our producers to be out there cutting costs wherever possible, and hopefully this will allow them to be able to produce more in our country and create those manufacturing jobs.

Lastly, there is a sales tax deduction that is very important to my State and six other States in our country. Some States in America do not have a State income tax. That doesn't mean our State taxpayers aren't paying taxes. We pay very high, substantial sales taxes and we pay high property taxes. Some of those are going up. For us not to have a deduction for our State sales taxes on our Federal income taxes like those who pay an income tax do is unfair.

That inequity is eliminated in this bill for the next 2 years. We will be able now to have equity in our Tax Code. We will now be able to give those in a non-income tax State the ability to deduct sales taxes just as those who pay income taxes are able to do. In fact, it allows people in an income-tax State to choose to deduct sales taxes instead of income taxes if they want to. It is for everyone.

But in reality, the States that have been shortchanged are the ones that choose to tax with sales tax and rather than income tax. That inequity is going to go away in this bill. It will mean $300 on average for every family in Texas. That is going to be welcome news for people who have had to live with this inequity since 1986.

Thank you. I urge adoption of this very important bill.

Mr. LOTT. Mr. President, I thank the distinguished chairman of the Finance Committee for yielding me this time.

When we look back on the results of this year, the legislation that had the greatest impact, this will be the bill we will refer to and remember. This is the most important achievement of this session of Congress.

I give credit to the chairman of the Finance Committee, and the ranking Member, Senator BAUCUS of Montana. They were diligent and hung in there. They were determined we would get this result. Yes, we had to go a little overtime, but here we are. We will get it done today. They deserve an awful lot of credit.

Also we should give credit to Congressman THOMAS, the chairman of the Ways and Means Committee in the House. This is very complicated legislation, but he worked with these two Senators and they produced a very important product.

I could not fathom the idea that we might leave here and not complete legislation that will stop the fees that were being put on American products as a result of the WTO ruling on our domestic tax provisions. That import fee was going up 1 percent a month. It was up to 12 percent and going to 13 percent. How in the world could we not complete legislation that would deal with this alleged subsidy and take that money that was saved by eliminating some provisions and move it into other areas in manufacturing and small business in a way to create jobs? It was important we complete this legislation. We got it done. We will comply with the WTO ruling, but we will take that money that was going into the questionable provisions and move it into areas that will create jobs for the American people. We will keep more jobs here. This is a very significant achievement.

At long last we repeal the 4.3-cent-per-gallon diesel fuel tax that railroads and barges have had to pay. This is not about one railroad or just a barge company; all the other parts of the economy that have been paying that 4.3-cent-per-gallon tax had been released from having to pay it or send it to an infrastructure trust fund. This was a question of fairness. Once again, it is in an area where we can create more jobs. The railroad industry is saying in the next few months they will create thousands of new jobs. This is a critical provision.

I thank Senator GRASSLEY particularly for working with me to make sure this provision to repeal that tax over a period of 3 years would be included in this bill. The bill also improves the tax treatment for shipbuilding. Unfortunately, shipbuilding companies have to pay the tax on the entire amount of a ship even though they do not get the money sometimes for 3 or 4 years down the road. Incremental funding is how you should pay your taxes.

There are important timber provisions in the legislation. We should encourage the planting of more trees as well as responsible harvesting of trees. There are three different provisions that will help the timber industry in this country.

It also includes income averaging for farmers and fishermen. Others have that opportunity; why shouldn't farmers and fishermen? This will be very helpful.

The tobacco buyout provision is included. This is a provision I opposed, and I do oppose it now, but the conferees, working with the Senators from the States that were affected, came up with the best possible of the solutions they could have reached; therefore, I was willing to support what they came up with because I thought it was as fair as you could get for all involved.

We have tax incentives for United States-flag shipping companies, shortline railroads, energy provisions that will produce more energy, critical improvements for small businesses, small subchapter S reform and expensing.

This is a big achievement. I commend those involved and tell the American people this will help the economy of our country.

Mr. LEVIN. Mr. President, I voted for the Senate version of this FSC/ETI legislation. While I had a number of misgivings about that bill, those were outweighed by my concerns over the crisis in our Nation's manufacturing sector and the sanctions being imposed as a result of the FSC/ETI regime. However, I will oppose this conference report. It fails to include too many of the important provisions from the Senate bill and has a number of added bad provisions.

The Senate bill we passed in May did a lot to crack down on tax dodgers, but the House Republican leadership, with pressure from the administration, has refused to include most of these provisions in this legislation. While men and women in our military are putting their lives on the line every day for America, too many corporations are stiffing our country by dodging their taxes. They are depriving our country of funds needed to strengthen homeland security, support our troops, care for the sick, educate kids, and more. To make things fair for our U.S. manufacturers that play by the rules, we need to close loopholes that allow the tax dodging corporations to avoid paying their fair share.

One of the most glaring of these omissions from this legislation is the provision passed by the Senate numerous times that would have required business transactions to have actual "Economic Substance" in order to receive tax benefits. Refusing to include this anti-abuse tool means that tax dodgers will still be able to escape paying their fair share by using phony transactions that have no business purpose other than tax avoidance. It also means we miss the opportunity to collect from these tax dodgers a much needed $15 billion over 10 years.

Another distressing decision by the House Republicans is the slashing of the penalty imposed on those who design and peddle abusive tax shelters. These abusive shelters are undermining the integrity of our tax system, robbing the Treasury of tens of billions of dollars a year, and shifting the tax burden from high-income corporations and individuals onto the backs of the middle class. The amendment Senator COLEMAN and I offered, which became part of the Senate bill, set the penalty on an abusive tax shelter promoter at 100 percent of the fees earned from the abusive shelter. This penalty would have ensured that the abusive tax shelter hucksters would not get to keep a single penny of their ill-gotten gains. But that provision was cut in half in this conference report, setting the penalty at 50 percent of the fees earned, meaning the promoters of abusive shelters get to keep half of their gain.

Why should anyone who pushes an illegal tax shelter that robs our Treasury of much needed revenues get to keep half of his ill-gotten gains? And what deterrent effect is created by a penalty that allows promoters to keep half of their fees if caught, and all of them if they are not? This half-hearted penalty is not tough enough to do the job that needs to be done.

And this conference report completely leaves out yet another Senate provision that is critical in the fight against abusive tax shelters. In addition to those who are considered "promoters" of these abusive shelters, there are the professional firms—the law firms, banks, and investment advisors—that aid and abet the use of abusive tax shelters and enable taxpayers to carry out these abusive tax schemes. For example, a law firm is often asked to write an "opinion letter" to help taxpayers head off IRS questioning and fines that they might otherwise confront for using an abusive shelter. Under current law, these aiders and abetters face a penalty of only $1,000, or $10,000 if the offender is a corporation. This penalty is a joke. It provides no deterrent at all, when law firms are getting $50,000 for each of these cookie-cutter opinion letters. A $1,000 fine is like a parking ticket for raking in millions illegally. With the Levin-Coleman amendment, our Senate bill upped this fine to 100 percent of the gross income derived from the prohibited activity. Unfortunately, it appears the House conferees thought it was ok to let these aiders and abetters continue to profit handsomely from their wrongdoing instead attempting to deter this behavior that robs tens of billions of dollars from the U.S. Treasury.

Another gaping tax loophole that this conference report weakened is the unfairness to the taxpayers that arises when companies renounce their citizenship, going through phony reincorporations by establishing a shell headquarters on paper in Bermuda or other tax-haven countries when, in reality, their primary offices and production or service facilities remain right here in the U.S. These corporate expatriates get all the benefits of being U.S. companies without contributing their fair share of the bill.

The Senate FSC/ETI bill had a provision that would have shut down a significant portion of this loophole. I have long preferred an even stronger fix, such as the one Senator REID of Nevada and I put forward in S. 384, the Corporate Patriot Enforcement Act of 2003. But at least the provision passed by the Senate went much further than the one before us. The provision included in the conference report lets all the companies that used this gimmick prior to March of 2003 continue to avoid the taxes that their American-based competitors face. The Senate version would have cracked down on these tax dodgers to the tune of more than $3.1 billion over 10 years while this weak provision raises only $830 million. It is shocking that the House

Republican conferees were willing to leave $2.3 billion in dodged taxes on the table when that money could have gone to implement Senator LANDRIEU's amendment that would offer real help to our activated guardsmen and reservists.

I understand that during the conference negotiations, the Senate conferees offered an amendment that would have reinstated many of these important curbs on tax dodges. The amendment would have raised an additional $40 billion over 10 years. But, once again the House GOP refused to accept these anti-abuse measures, and the amendment was defeated on a party line vote.

The problems with this legislation are not limited to the fact that we are letting tax dodgers off way too easy. At a time when many corporations pay no tax at all and corporate tax revenues are at historic lows, this bill is full of special interest tax breaks. It also includes new tax benefits for the offshore operations of U.S. multinational companies, such as allowing companies with earnings held overseas to bring them back at a tax rate lower than the rate paid on domestic profits. The cost of these international provisions is estimated at $43 billion over 10 years, but this estimate is misleadingly low because some of these provisions are "temporary" or do not kick in until later years. While I support incentives to create and support U.S.-based manufacturing jobs, I am concerned that some of these international provisions will provide an incentive for companies to keep resources, facilities, and employees abroad, and subsidize the movement of jobs and resources overseas.

Furthermore, while the official cost estimate of this bill says that it is essentially budget neutral over the next 10 years, this paints a deceptively optimistic picture. Throughout the measure there are many gimmicks to keep the numbers even, like phasing in some of the tax cuts and setting up others as "temporary." According to the Center on Budget and Policy Priorities, just extending the "temporary" provisions would reduce revenues by nearly $80 billion over the next 10 years.

I am also troubled by the elimination of provisions pertaining to regulation of tobacco by the Food and Drug Administration, FDA. According to a recent report by the Surgeon General, tobacco consumption by America's youth is one of our country's leading health risks. The Senate passed strong bipartisan provisions that would deal with both the FDA and tobacco regulation: provisions that would give the FDA sweeping authority to prevent overt marketing of tobacco products to children under the age of 18; provisions that would allow the FDA to regulate prior approval of statements on tobacco products; and provisions that allow the FDA to restrict the sale, distribution and promotion of tobacco if they are deemed to be a danger to public health. These provisions are essential to protecting our children from the dangers of smoking, but the House conferees have killed any chance in the near future to give the FDA the tools it needs in this critical area.

I am also troubled by the exclusion of Senator HARKIN's overtime amendment that would keep essential overtime protections for middle class working Americans. And finally, it seems unfathomable that in this $137 billion bill the conference committee would leave out the Senate provision sponsored by Senator LANDRIEU that would have helped the large number of our activated Guardsmen and Reservists who face a reduction in their salaries during activation by assisting those civilian employers who continue to pay these employees after they have been called up.

While this legislation includes some provisions which I support, overall it falls far short of the bill which the Senate sent to conference, and I cannot support it.

Mr. FEINGOLD. Mr. President, I will support this conference report, but I do so with a great deal of reluctance.

One of the more frequently used phrases voiced on the Senate floor is that we must not let the perfect be the enemy of the good. That hackneyed expression is flung about when the body is asked to support a measure that may not be everything that it should be. It would be an overstatement to suggest that this measure even rises to that level. This bill falls far short of being good, but it is necessary. At its most fundamental, it meets two essential tests. First, it repeals the Foreign Sales Corporation/Extra Territorial Income, USC/ELI, tax provisions that have resulted in the imposition of increasingly punitive tariffs on American-made products, including products made in Wisconsin.

Second, it provides a needed tax break for domestic manufacturers, a group that has been especially hard hit in recent years. If this absolutely vital sector is to have a chance to get back on its feet, providing this tax incentive is essential.

I regret that much of the rest of this bill is wholly unmerited. There are some exceptions, of course, but if Congress had focused its efforts on just those two essential tasks—repealing USC/ETI, and providing some tax incentives for domestic manufacturers—the bill would have been much better.

I was pleased to cosponsor S. 970, introduced by Senator HOLLINGS, which was just such a bill. And I was encouraged when the Senator from Iowa, Mr. GRASSLEY, and the Senator from Montana, Mr. BAUCUS, offered a proposal based on S. 970, along with some sensible improvements.

But as this measure has worked its way through the legislative process, it has only degenerated. Dozens of special interests have nosed their way into this bill, and have taken advantage of what is essentially a "must-pass" measure. I can only say that I am glad we are passing this measure now, before it gets any worse.

There are many candidates for worst tax policy in this measure, but at the very top of that list must be those provisions that actually provide a tax incentive for those corporations that move their operations overseas. Such a policy is never justified, but in the current economic climate it is particularly hurtful and counterproductive. During the debate on this measure in the Senate, I was pleased to support the Senator from North Dakota, Mr. DORGAN, in his effort to eliminate one of these perverse incentives and I was pleased to support an amendment offered by the Senator from Louisiana, Mr. BREAUX, and the Senator from California, Mrs. FEINSTEIN, which was similarly targeted. I regret the body rejected those sensible proposals.

I will vote for this bill with the hope that its net effect will be to improve the climate for domestic manufacturers. But we should remove all doubt by acting at the next opportunity to close down the tax provisions in this bill that provide incentives for corporations to move facilities overseas.

On this same subject I was disappointed that conferees stripped Senate provisions relating to the disturbing trend of the outsourcing of American jobs. These provisions would have prohibited federal funding from being used to support the outsourcing of goods and services contracts that are entered into by the Federal government, or by the States if those contracts are being supported by Federal dollars.

With this bill, Congress had an opportunity to support American workers by ensuring that taxpayer money is not used to encourage companies to relocate American jobs. With the deletion of this outsourcing provision, we missed an opportunity for the Federal Government to set a strong example of buying its goods and services from American companies that use American workers.

I also regret that the administration was again successful in blocking language included in the Senate-passed bill that would have reversed the harmful provisions of the Department of Labor's new overtime rule. Despite repeated bipartisan opposition to this rule in both Houses of Congress, members of the conference committee stripped this provision, which would have prevented millions of workers from losing their overtime benefits under the Bush administration's rule.

Finally, let me briefly mention the energy tax provisions. I remain committed to supporting legislation to encourage alternative energy research and production. With respect to overall energy policy, we must develop cleaner, more efficient energy sources and promote conservation.

During Senate debate on this bill, I voted for the amendment offered by the senior Senator from Arizona, Mr. MCCAIN, to strike the energy tax title to the Senate version because the bill did not extend the energy tax credits in a more fiscally responsible way. I support many of the tax credits in the conference report, such as the volumetric ethanol excise tax credit fix and provisions that would specifically benefit rural cooperatives and small renewable fuel producers. I also support provisions that would result in the increased supply of renewable fuels like biodiesel and ethanol.

I remain concerned, however, about the fiscal and environmental costs of this section of the bill. The oil and gas incentives in the bill, for example, would cost taxpayers billions and allow companies to deduct the costs of mineral exploration and marginal oil wells. The conference report still includes a "nonconventional fuel credit" to the synfuels industry and coalbed methane industry, which could cost the taxpayers over $2.5 billion. The bill also opens a loophole for energy companies to take advantage of a manufacturing tax credit. The revenues dedicated to these tax expenditures would have been better used to relieve the burden of debt we are heaping onto our children and grandchildren.

It is the very need for the central provisions of this bill that has invited the kind of abusive provisions we have seen included in it. Were this bill something less than absolutely necessary, we could just defeat it, and hope for something better down the road.

But we do need to pass it. We have to stop these trade sanctions, and we need to help our manufacturers. For that reason, I will vote for this flawed legislation.

Mrs. FEINSTEIN. Mr. President, I will vote against this FSC/ETI conference report and I want to explain why.

The original purpose of this legislation was simple and clear—to bring the United States into compliance with a World Trade Organization, WTO, ruling which said that portions of our Federal Tax Code run counter to international trade regulations.

It is critical that we fix this problem, or U.S. companies will face increased European tariffs, costing U.S. jobs.

This conference report, however, goes far beyond the simple legislative fix needed to bring the U.S. into compliance with the WTO ruling.

In fact, the cost of bringing the U.S. into compliance with the WTO is $49 billion, while the cost of the final bill is $145 billion. The difference is $96 billion in benefits to special interests paid for with certain revenue fixes that should be used to balance the budget.

In fact, this bill provides billions of dollars in benefits to special interests at a time of unprecedented budget deficits. Let me give you a few examples cited in Thursday's Washington Post, "Conferees Agree on Corporate Tax Bill":

> NASCAR racetrack owners get a provision to write off $101 million worth of improvements over ten years.
>
> Foreign gamblers at U.S. horse and dog racing tracks would no longer have to pay taxes on their winnings upfront. This is estimated to be worth $27 million.
>
> Home Depot would secure a temporary suspension of tariffs it owes for imported Chinese ceiling fans. This is estimated to be worth $44 million.

At a time when we are facing unprecedented Federal deficits and a mounting debt, it is simply unconscionable to approve this giveaway to special interests. Although the 10-year cost is offset, these offsets could well be used to bring down the deficit.

Policymakers should be taking steps to reduce the deficit and improve the economy, not eroding it further by doling out tax breaks to special interests. But one industry was singled out for penalty in this bill. I cannot accept that—and that industry happens to be the film industry.

In fact, this final conference report will cost the motion picture industry $5 billion over the next 10 years—because they will have to make changes in the way they account for revenues.

The film industry employs 750,000 people nationwide, and the major motion picture studios are publicly owned and pay annual dividends to shareholders.

Rather than allowing the industry to account for its activities on a product line-by-product line basis as was done in the Senate bill, this conference report means that the industry will have to adopt unified accounting.

For example, the Disney film called The Alamo was produced in the United States and did not perform as well as expected.

Under the final conference report, the losses from The Alamo are lumped with all other company revenues—TV, DVD sales, theme parks, merchandise, and music. This is known as unified accounting.

In the Senate version of the bill, Disney would have been able to account for this loss within its film division, separate from its other divisions. This is known as product line-by-product line accounting.

If you assume a $50 million loss, requiring unified accounting will cost the studio an additional $2.6 million in additional taxes.

If you assume a $75 million loss, requiring unified accounting will cost the studio an additional $3.9 million in additional taxes.

So the bottom line is that unified accounting will mean that Disney, and other entertainment companies, will have to pay significantly more in taxes as much as $5 billion over the next 10 years.

I cannot believe that we would in effect raise taxes on an industry that does so much to help our economy.

This simple accounting change would have significantly helped reduce the impact from this legislation.

But in the end, this provision was stripped from the final conference report.

What is worse are reports that this was not due to the merits of the provision, but out of base, political concerns.

A story in yesterday's edition of Roll Call, "Studios Take Hit in Tax Bill", asserts that lawmakers stripped the Senate film amendment in retribution for the film industry's decision to hire a Democrat—a former Cabinet Secretary in fact—to head its trade association.

Let me quote from the article:

One GOP Lobbyist for the industry said:

> The Glickman thing is going to cost them. No Republican will fight for the movie industry.

Another Republican Lobbyist added:

> They were not overly helpful to Republicans, so Republicans don't want to be overly helpful to them.

Ordinarily, I do not believe much of what I read on many days and so there would be reason perhaps to dismiss this.

But I also know that the word has been put out on K Street that only Republicans are welcome as lobbyists so this article takes on new credibility.

This is especially egregious given the fact that the film industry was not even involved in the unfair trade practices that led the WTO to declare that U.S. international tax rules were unfair.

I have the opinions of two former U.S. Trade Representatives—one Republican and one Democrat—Carla Hills and Mickey Kantor—which make the case.

Carla Hills wrote:

> Having previously served as [U.S. Trade Representative], I would like to share with you my views regarding the consistency of your amendment with applicable trade law The [General Agreement on Tariffs and Trade] does not apply to 'audiovisual services' and does not include any general prohibition against export contingent subsides.

Mickey Kantor wrote:

> Audiovisual services are . . . not within the purview of the WTO FSC/TTI decisions In my view the adoption of [your amendment] . . . would not violate or contravene the WTO rulings in the FSC/ETI case.

As one can see, two former U.S. Trade Representatives agree that the entertainment industry was not involved in the unfair trade practices.

However, the entertainment industry is being singled out for a tax increase in this bill in order to pay for tax cuts going to multinational firms that hold their profits overseas in order to avoid paying taxes.

The bill allows many of these companies having profits overseas to repatriate these billion at a 5.25 percent tax rate.

These are the multinational firms which now will be allowed to bring those foreign-earned profits back to the United States at one half the rate that the poorest American's are required to pay on their income under this bill. This is not fair and equal treatment.

I cannot believe that the other House would utilize political vengeance to disadvantage a sector of American business, while so advantaging other sectors.

Another major flaw with this bill is that it removes the Senate language permitting long-sought FDA regulation of tobacco. The Senate voted overwhelmingly—78 to 15—in favor of a carefully crafted amendment to allow FDA regulation of tobacco.

This amendment linked FDA regulation with a 5-year, $12 billion buyout of tobacco growers. Regulatory authority over tobacco would have allowed the FDA to begin to reduce the addictive and carcinogenic elements of these products. It would have made a difference and, over the long run, it, alone, could have saved millions of lives.

Despite the broad, bipartisan support for this provision, the House rejected a proposal by Senator KENNEDY to provide an additional $2 billion for tobacco growers as long as it was linked with FDA regulation of tobacco. Even Philip Morris supports FDA regulation of tobacco. Let me quote from two letters from senior executives from Altria, the parent company of Philip Morris.

Steven Parrish, Senior Vice President, Corporate Affairs, Altria Group wrote that the provision on FDA regulation of tobacco "is the result of many difficult choices and compromises by all those involved, and it reflects a balance of the perspectives of many stakeholders. We believe the bill embraces the core principles that are necessary to provide the Food and Drug Administration with comprehensive, meaningful and effective regulatory authority over tobacco products.

"Together with our domestic tobacco operating company, Philip Morris USA, we enthusiastically support passage of your bill in its entirety."

John Scruggs, vice president, Government Affairs, Altria Group wrote separately that the provision on FDA regulation of tobacco "address[es] nearly all" of the "issues relating to retailers" and we should "disregard the strident and unfounded arguments of those who refuse to look to the future and the need for change in the tobacco industry."

Congress had the opportunity to finally allow the FDA to regulate tobacco—but it failed to do so. This is deeply disappointing and shows the true colors of the House Republicans.

You may ask, what would FDA regulation of tobacco do to help stop smoking and prevent these premature deaths? FDA regulation of tobacco would do two important things.

First, it would control the deceptive and manipulative advertising used by cigarette companies. Young people across the country are bombarded every day with deceptive advertising and misleading claims made by cigarette manufacturers.

The tobacco industry spends $11 billion on marketing their products. Their latest campaign involves cigarettes that come in fruit flavors and bright colors to target adolescents and women. The cigarettes are given names such as California Dreams, Midnight Madness and Kauai Kolada. The cartons are a different shape and size so as to be hidden from unsuspecting parents and teachers.

And the manufacturer describes them by saying: 'Each is as enchanting and mysterious as the darkest night. And, live in color with California Dreams 'cigarettes in color' for your individual taste and attitude.' This is truly a new low. These slogans, these flavors, and these colored wrappers cannot hide the fact that cigarettes kill more than 400,000 American each year—and that's the second reason that FDA regulation is so important.

FDA regulation, over time, would ratchet down the carcinogenic and addicting ingredients of tobacco products. Just think how many fewer Americans—young people, old people would avoid the addiction.

Today, 42 million Americans today are addicted to cigarettes and other tobacco products. A number of these will end up with lung disease and many of them will die.

Lung cancer is the number one cancer killer—and the number one cause of lung cancer is smoking. Today and every day, 4,000 children under the age of 18 will try smoking for the first time, 2,000 of these children will become regular smokers, and 1,300 will die prematurely because of smoking.

The bottom line is this: Congress had the opportunity to take a major step forward in improving the health of America's children. But the Republican members of the House chose the tobacco industry over our children—and they should be held accountable for that choice.

There is one more item that did not make it into this bill, which I find deeply troubling. The Senate language to protect overtime rights was removed from the bill. This means that millions of American workers may very well lose long-guaranteed job overtime protection. This is a setback for the American worker.

There are a number of items contained within this conference report that I do support. This bill will provide an expansion of the production tax credit for renewable energy including open-loop biomass, geothermal energy, and solar energy; a provision to eliminate the preferential treatment for ethanol-blended gasoline. Without this provision, California would lose $2.7 billion in highway funds over the next 5 years; and a provision that removes a business tax deduction for the purchase of gas-guzzling SUVs.

These provisions do not make up for the rest of the bill. I think we all would have supported a straight fix to the WTO ruling, but this bill goes too far. It fixes the WTO problem, but then it contains all these other giveaways.

So what was a $49 billion problem to solve becomes a $145 billion bill. This is just plain wrong. I hope in the future that we can remedy some of the shortcomings of this bill, but on balance, this is a deeply flawed billed which I simply cannot support."

Mr. President, I ask unanimous consent to print in the RECORD a "Roll Call" article, to which I referred, and three letters dealing with different provisions of the FSC/EIT bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Roll Call, Oct. 7, 2004]

### STUDIOS TAKE HIT IN TAX BILL

(By Brody Mullins)

Three months after Hollywood slapped the Republican Party by hiring Democrat Dan Glickman to head its Washington trade association, Congressional Republicans sliced more than $1 billion in tax credits for movie studios from a far-reaching international tax bill that the House and Senate plan to take up today.

Though the tax credits for Hollywood were included in a version of the bill approved by the Senate this summer, a Republican-dominated conference committee voted Tuesday evening to leave the provisions on the cutting-room floor.

Led by Ways and Means Chairman Bill Thomas (Calif.) and Majority Leader Tom DeLay (Texas), House GOPers on the conference committee voted as a bloc to oppose the tax breaks, calling them bad policy and too expensive to be included in the $140 billion bill.

But other lawmakers, Congressional aides and movie industry lobbyists said Republicans refused to fight for the Senate tax credits in order to punish Hollywood for hiring Glickman, a former House Member from Kansas and secretary of Agriculture under then-President Bill Clinton, to head the Motion Picture Association of America.

"The Glickman thing is going to cost them. No Republican will fight for the movie industry," said one GOP lobbyist for the industry.

Another Republican lobbyist added: "They were not overly helpful to Republicans, so

Republicans don't want to be overly helpful to them."

Thomas, the chairman of the conference deliberations, declined to comment on the motivation for removing the tax credits for the movie industry.

"I don't deal with rumors and unconfirmed reports," he said.

DeLay said he voted against the provision because "it just cost too much."

When asked whether the MPAA's move influenced his vote, DeLay said that employment decisions in the private sector "don't enter into our consideration. That's the first time I ever thought of Glickman."

A spokeswoman for the MPAA declined to comment on the vote.

Despite DeLay's comments, Glickman was on the minds of other Republican lawmakers in the past few weeks as votes on the tax bill neared, according to Republicans on the Ways and Means Committee.

Before the vote, Rep. Mark Foley (R–Fla.), a key Hollywood advocate, said he worried that GOP resentment about Glickman's hire could scuttle the tax credits for the studios.

"Thomas has said some things. I've heard a lot of grumblings. They have said that they thought that a Republican should have gotten" the job, Foley said. "Mr. Thomas has to acquiesce to the Senate language and right now that doesn't look good with the lingering resentment. That's probably a tough sell right now."

Foley added that the movie studios "may get dealt a bad hand, but I'm not sure it's based entirely on Mr. Glickman."

Rep. Jim McCrery (La.), a top Republican on the Ways and Means Committee and a member of the conference deliberations on the tax bill, said he did not think Glickman's hire was "a deciding factor" in the decision by Republicans to exclude the movie studio tax credits.

Still, he acknowledged that Republicans on Capitol Hill were upset the MPAA tapped a Democrat for the position.

"It's a fact that the Republicans control the Congress and the Ways and Means Committee so it's a good idea to have someone who can communicate with those who are in power," McCrery said. "It's a consideration that any organization hiring a lobbyist should take into account."

At issue is an international tax bill being put together on Capitol Hill to replace $50 billion in U.S. export subsidies that have been struck down by the World Trade Organization.

Current law provides movie studios such as MGM, Universal Studios and 20th Century Fox with about $600 million a year in tax credits to export movies to other countries.

The tax incentive helped transform the U.S. movie industry into one of the nation's leading exporters, surpassing exports of Boeing's jets and Detroit's autos, according to figures provided to Congress by the movie industry.

When the export subsidy was found to be illegal by the WTO, Hollywood figured to be one of the biggest losers. At issue was just how much they would lose.

The Senate version of the corporate tax bill would retain $350 million annually in export subsidies for the studios. The House bill, authored by Thomas, provided less than $100 million per year for the industry.

In a partisan vote Tuesday evening, Republicans on the conference committee rejected an effort by Sen. Max Baucus (D–Mont.) to include the Senate's credits for the industry.

Senators on the conference committee voted 14–8 to add the credits, but House Members voted along party lines against the industry.

A majority vote of both chambers is needed to add amendments to legislation in conference committee.

Some were quick to point out that Republicans had legitimate policy reasons to vote against the credits.

Grover Norquist, the president of Americans for Tax Reform, said there were three reasons Republicans voted against the movie industry provisions: "One, it's bad tax policy because it's industry specific. Two, it's bad tax policy because it subsidizes an industry for signing bad labor contracts and, three, Hollywood has recently expressed contempt for the Republican leadership in the House, Senate and White House."

Well before the Glickman hire, Republicans on Capitol Hill have been unhappy with Hollywood and its Washington trade association.

Since 1990, U.S. movie studios and Hollywood executives have contributed $42 million in political donations to Democrats, while giving just $6 million to the GOP, according to figures from the nonpartisan Center for Responsive Politics.

After controversial documentary filmmaker Michael Moore began promoting "Fahrenheit 9/11" this spring, GOP bitterness against Hollywood spilled over in a closed-door Republican meeting.

During the meeting, Manzullo complained that the international tax bill being crafted by Thomas and the Ways and Means Committee included expensive tax breaks for the movie studios while small businesses and manufacturers were losing thousands of jobs.

"Why should we vote on an international tax reform bill that rewards Hollywood while disadvantaging our nation's manufacturers," Rep. Don Manzullo (R-Ill.) asked in a letter he sent to his colleagues.

Other Members agreed. Thomas quickly watered down the industry's tax credits and the situation seemed to go away.

But Hollywood infuriated Congressional Republicans again in early July when the MPAA announced its hire of Glickman.

Two weeks after Glickman was hired, Sen. Rick Santorum (R-Pa.) convened a meeting of top Republicans to discuss the move.

In the weeks leading up to the tax vote, Republicans continued to whisper about punishing the MPAA. As a result, Glickman has let it be known that he is looking to hire a big-name Republican lobbyist to join him at the MPAA after the November elections.

In the meantime, supporters of the industry on Capitol Hill, like Foley, hope the whole thing will blow away. "There may be a few people's noses out of joint, but people get over these things pretty quickly," Foley said.

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HILLS & COMPANY,
*Washington, DC, March 19, 2004.*

Hon. DIANNE FEINSTEIN,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR FEINSTEIN: I write with respect to the amendment (S. AMDT. 2690) that you have offered to the FSC-ETI legislation (S. 1637) pending in the Senate.

S. AMDT. 2690 provides, in part, that the present-law ETI rules would remain in place with respect to income from activities treated as "audiovisual services" under the General Agreement on Trade in Services ("GATS").

Having previously served as USTR, I would like to share with you my views regarding the consistency of your amendment with applicable trade law. The underlying legislation (S. 1637) is intended to bring the United States into compliance with the World Trade Organization rulings that the ETI regime violates the General Agreement on Tariffs and Trade ("GATT") prohibition on export-contingent subsidies. The GATT does not apply to "audiovisual services" governed by the General Agreement on Trade in Services ("GATS"). Further, the GATS does not include any general prohibition against export-contingent subsidies.

Thus, the adoption of S. AMDT. 2690, which would preserve ETI benefits for audiovisual services covered by the GATS, would not violate GATT or contravene the WTO rulings.

Sincerely,

CARLA A. HILLS.

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MAYER, BROWN, ROWE & MAW,
*Washington, DC, March 19, 2004.*

Hon. DIANNE FEINSTEIN,
*U.S. Senate,*
*Washington, DC.*

DEAR DIANNE: I am writing with respect to your amendment (S. AMDT. 2690) to S. 1637, the JOBS Act, that would repeal the current FSC/ETI tax regime in order to bring the U.S. into compliance with the WTO rulings in this case.

As a former U.S. Trade Representative, I would like to share my views regarding the consistency of your amendment with applicable trade law. Specifically, your amendment would allow the ETI rules to remain in place for income from activities defined as "audiovisual services" under the General Agreement on Trade in Services (GATS). The WTO decisions in the FSC/ETI cases found that the U.S. FSC/ETI regimes violated provisions in the Agreement on Subsidies and Countervailing Measures (SCM Agreement), which is a part of the General Agreement on Trade and Tariffs (GATT). The GATT governs trade in goods, while the GATS covers trade in services. Audiovisual services are covered by the GATS and are not subject to the SCM agreement, and thus are not within the purview of the WTO FSC/ETI decisions. Further the GATS does not include any general prohibition against export-contingent subsidies.

It is my view that adoption of the S. AMDT. 2690, which preserves benefits for audiovisual services covered by the GATS, would not violate or contravene the WTO rulings in the FSC/ETI case.

Sincerely;

MICKEY KANTOR.

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ALTRIA GROUP, INC.,
*Washington, DC, July 15, 2004.*

U.S. SENATE,
*Washington, DC.*

DEAR SENATOR: After many years of debate, the Senate today is considering comprehensive tobacco legislation that will address a range of issues important to all Americans, from the diseases caused by smoking to the plight of our nation's tobacco farmers. There were some legitimate issues connected to FDA regulation of concern to retailers; the good news is that the DeWine/Kennedy bill has already addressed nearly all of these. The continued opposition of one national retailer group to this important legislation, notwithstanding all that has been done to address their concerns, is unfair and unfounded. This is the same organization that expressly promised to remain neutral in 1998 when FDA legislation—with far fewer protections for retailers—was debated in the Senate.

Below are just a few of the inaccuracies contained in the attacks on this legislation that would finally empower FDA to work on reducing the harm caused by smoking:

All Retailers Treated Equally. The bill expressly provides that any access and advertising restrictions cannot discriminate against any category of retail outlet, and cannot favor "adult-only" stores over other kinds of outlets.

Enforcement Will be Fair, and Apply to All. The bill requies FDA to contract with State officials for enforcement to the extent feasible.

Responsible Retailers Benefit. In total contrast to some claims, the legislation explicitly provides a "good faith" defense against enforcement actions for any retailer that takes the necessary steps to train its employees. The great majority of outlets that take pride in working hard to keep tobacco products away from kids should have nothing to fear from enforcement of FDA rules.

New Tools for Retailers. Under the authority granted to FDA under the legislation, the agency will be authorized to implement all manner of innovative new tools to assist retailers with their compliance efforts, including electronic age verification. Moreover the legislation is adequately funded, to better ensure that new approaches can be pursued.

Advertising Restrictions Are Subject to Review. Some of the advertising restrictions FDA issued in 1996 may well be unconstitutional; that is exactly why the DeWine/Kennedy bill empowers FDA to re-examine those rules to ensure that they comport with the First Amendment. And, even if the agency decides not to change them, interested parties would still be able to test them in court, where any remaining Constitutional objections can and will be resolved.

Beyond these specific points, the arguments advanced by one national retailer association conveniently make no mention of some key benefits the legislation provides for retailers—enlisting FDA in the fight against counterfeit tobacco products, and authorizing the agency to regulate Internet sales to ensure that kids can't buy tobacco online. Both of these provisions could result in substantial long-term benefit for brick-and-mortar retailers for years to come.

I respectfully request that you disregard the strident and unfounded arguments of those who refuse to look to the future and the need for change in the tobacco industry, from growers to manufacturers to retailers. Thank you for your consideration of the DeWine/Kennedy/McConnell amendment.

Sincerely,

JOHN F. SCRUGGS,
*Vice President, Government Affairs.*

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ALTRIA GROUP, INC.,
*New York, NY, May 20, 2004.*

Hon. MIKE DEWINE,
Hon. EDWARD M. KENNEDY,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATORS DEWINE AND KENNEDY: It has been a pleasure to work with you on the Family Smoking Prevention and Tobacco Control Act. This legislation has the potential to reduce the harm caused by smoking, and to establish clear rules applicable to all manufacturers of tobacco products sold in this country.

The DeWine/Kennedy bill is the result of many difficult choices and compromises by all those involved, and it reflects a balance of the perspectives of many stakeholders. We believe the bill embraces the core principles that are necessary to provide the Food and Drug Administration with comprehensive, meaningful and effective regulatory authority over tobacco products.

Together with our domestic tobacco operating company, Philip Morris USA, we enthusiastically support passage of your bill in its entirety. We hope the Senate will give your legislation favorable consideration at the earliest opportunity. We stand ready to work with you and others in support of your bill.

Among the bill's many important features are:

FDA would be given the authority to impose performance standards for the design and manufacture of cigarettes in order to reduce the harm caused by smoking. Under the bill, FDA would, as part of its effort to reduce or eliminate harmful ingredients and smoke constituents, consider whether a new performance standard would significantly increase the demand for contraband cigarettes. We believe this is an important consideration in order to prevent the unintended consequences of black market cigarettes. It is also important that the bill provides the FDA cannot ban the sale of cigarettes to adults.

The bill would change the language of the current cigarette health warnings, substantially enlarge the size and authorize FDA to require new warnings in the future. The bill would not, however, change the Supreme Courts rulings regarding the product liability implications of compliance with warning requirements.

The bill would authorize FDA, as well as states and localities, to replace the time, place and manner of cigarette advertising and promotion, consistent with the First Amendment's protection of commercial free speech to adults.

The bill provides that FDA's product standards would be consistent on a nationwide basis.

FGA would be authority to combat the existence of counterfeit, contraband and other illicit tobacco products.

The bill contains a number of other provisions that would benefit the public health and provide important oversight for all tobacco manufacturers. For example, FDA would be authorized to: conduct educational efforts regarding the dangers of tobacco use; take new steps to curb underage tobacco use; strictly regulate new tobacco products that may reduce the risk of disease or exposure to harmful compounds in cigarette smoke; and ensure that tobacco products are not adulterated.

As noted above, you have attempted to address the views of a wide range of stakeholders in your FDA bill. We look forward working with all stakeholders in order to make progress on the many issues surrounding tobacco use in this country. In particular, we believe it is imperative that the plight of the American tobacco grower be addressed. We believe it is time for a tobacco quota buyout and we hope to be able to work with you and other stop make that a reality.

Your bill is a truly historic opportunity to establish, for the first time, a comprehensive and coherent national tobacco policy. Thank you for your leadership and for the hard work of your staffs on this extremely important legislation.

Sincerely,

STEVEN C. PARRISH.

Mrs. FEINSTEIN. A September 22, 2004 report by the Citizens of Tax Justice and the Institute of Taxation and Economic Policy reveals that 82 of the 275 (30 percent) large and profitable, Fortune 500 companies studied paid no tax on federal income or received rebates from the Treasury in at least one year from 2001 to 2003.

In the years they paid no income tax, these 82 companies reported $102 billion in pretax U.S. profits. Moreover, instead of paying $35.6 billion in income taxes as the statutory 35 percent corporate tax rate required, these companies received tax rebate checks from the U.S. Treasury totaling $12.6 billion. These rebates meant that the companies made more after taxes than before taxes in those no-tax years.

Twenty-eight corporations enjoyed negative federal income tax rates over the entire 2001–2003 period. These companies, whose pretax U.S. profits totaled $44.9 billion over the 3 years, included: Pepco Holdings (−59.6 percent tax rate), Prudential Financial (−46.2 percent), ITT Industries (−22.3 percent), Boeing (−18.8 percent), Unisys (−16.0 percent), and CSX (−7.5 percent), the company previously headed by Secretary of the Treasury Snow. General Electric topped the corporate tax breaks recipients with $9.5 billion in tax breaks over 3 years.

The average effective rate for the 275 Fortune 500 companies was only 17.2 percent in 2002–2003, though the corporate tax rate is 35 percent.

How is this happening? Accelerated depreciation. Legislation adopted in 2002 and 2003 vastly increased corporate write-offs for "accelerated depreciation" and made it easier for corporations to use their excess tax subsidies to generate tax-rebate checks from the U.S. Treasury, at a 3-year cost of $175 billion.

Offshore tax sheltering. Over the past decade, corporations and their accounting firms have become increasingly aggressive in seeking ways to shift their profits, on paper, into offshore tax havens, in order to avoid their tax obligations. Corporate offshore tax sheltering is estimated to cost the U.S. Treasury anywhere from $30 to $70 billion a year.

Senator LEVIN has been aggressive in trying to close these loopholes and some of his ideas were adopted in the Senate version of the Jumpstart Our Business Strength (JOBS) bill.

Stock options. Of the 275 corporations studied, 269 received stock-option tax benefits during the 2001–2003 periods, which lowered their taxes by a total of $32 billion over three years. Microsoft had the largest tax savings with $5 billion.

Tax credits. The federal tax code provides tax credits for companies that engage in research, exporting, hiring low-wage workers, affordable housing, and enhanced coals usage. For example, Bank of America cut its taxes by $590 million over 2001–2003 by purchasing affordable-housing tax credits.

Ms. SNOWE. Mr. President, I rise today to express support for this conference report on the American Jobs Creation Act of 2004. At the outset, I commend Finance Committee Chairman GRASSLEY and Ways and Means

Committee Chairman BILL THOMAS for their leadership during the conference negotiations and bringing this bill to completion.

We're here, after nearly 2 years of discussion and work on legislation that, once enacted, will jumpstart the manufacturing sector of our economy and create jobs. Indeed, although this legislation is to repeal the FSC/ETI rules and stop the imposition of WTO sanctioned trade tariffs, the real reason we must pass this legislation is to assist our struggling manufacturers throughout the country.

According to the National Association of Manufacturers, between January 2001 through January 2004, manufacturing employment in our Nation declined by 16 percent. In New England, there was a 20 percent decrease in manufacturing employment during that same time period. This means that between January 2001 and January 2004, New England's manufacturing sector employment declined by an alarming 28 percent faster rate than it did nationally.

My home State of Maine has shed manufacturing jobs at an alarming rate over the past decade and all the more so in the past two years. From January 1993 through June 2003, a 10½ year period, Maine lost 18,900 manufacturing jobs. More specifically, from July 2000 to June 2003, Maine has lost 17,300 manufacturing jobs, the highest loss of any state during that time period.

Our objective was clear: not only must we adopt a conference report that complies with international trade law, but more importantly, we need to offer our country's manufacturers a solution that will jumpstart their production and create jobs, and we must do so now. As a result of our loss at the WTO, certain U.S. goods exported to Europe are being hit with a 12 percent tariff. Critically, this bill will remove that tax on our exports.

Were we to neglect this duty to ensure that our nation's manufacturers are simply given the chance to compete on a level playing field with foreign competitors, we would only be compounding the current situation.

Instead, this conference report will "reallocate" the nearly $50 billion in revenues that replacing the FSC/ETI rules will generate and provides an additional $25 billion towards a tax deduction for our manufacturers. I am pleased that the conference report follows the Senate manufacturing deduction that is available to all domestic manufacturers and does not discriminate based on the manufacturers entity classification.

Indeed, the original legislation in the House would have extended the tax relief benefits solely to regular corporate entities, or C-corporations. In the Senate, I fought to secure the benefits for S-corporations and partners in partnerships as well.

This decision to provide a manufacturing deduction that is not entity specific, rather than a corporate income tax cut, is cruial because the ETI rules applied not only to corporations but also to S-corporations. As small business manufacturers constitute over 98 percent of our nation's manufacturing enterprises, employ 12 million people, and supply more than 50 percent of the value-added during U.S. manufacturing, it is imperative that we do not increase taxes on our country's job creators—small businesses.

In the face of record deficits, this bill also maintains our fiscal responsibility by including offsets that will crack down on abusive tax cheats. Both the Senate and House bills contain a variety of provisions that stop the proliferation of abusive tax shelters. Enacting these rules and other revenue offsets will ensure that we will be able to pay for this bill without adding to the deficit. This was a key priority for me during this conference and I am pleased that the conference supported a revenue neutral final bill.

I am also pleased that the conference report includes a provision that will restore equity and fairness into the tax code for our country's naval shipbuilders.

Quite simply, this provision would put navy shipbuilders on par with commercial shipbuilders in that they would be able to pay a portion of their income taxes upon delivery of the ship rather than during construction. Currently, navy shipbuilders must estimate profits during the construction phases of the shipbuilding process, and they must pay tax on those estimated profits—a process known as the "percentage of completion method" of accounting.

The major shortcoming of this method is that shipbuilders must report progress payments as "revenue" rather than as a source of financing, whch had been recognized and permitted for the 64 years between 1918 and 1982. Additionally, this accounting method creates a "legal fiction" of an "interim profit," when in reality a profit or loss is not reasonably known until after a ship is completed. This places a financial burden on shipbuilders during the critical construction phase, reduces the resources available to invest in facilities and process to reduce construction costs, places a burden on the cash flow management of the shipbuilder, and weakens the financial health of the defense shipbuilding industrial base.

The provision in the conference eport will permit navy shipbuilders to pay 40 percent of their estimated income tax during the contract and pay the remaining 60 percent in the year in which construction is completed. In addition, shipbuilders will be able to report their taxes on a ship-by-ship basis rather than on a contract-by-contract basis, which therefore reduces the potential for abuse.

Now, naval shipbuilders will be able to pay their income taxes in a manner similar to how commercial shipbuilders pay their taxes. The main difference, though, is that commercial shipbuilders are permitted to utilize this 40/60 treatment for only 5 years rather than the 8-year period under my amendment. This 5-year period for commercial shipbuilders is appropriate for them because most commercial ships take no more than three years to build. However, as many navy shipbuilders spend at least 8 years when building submarines, aircraft carriers, and destroyers, a 5-year window for them is simply inadequate. Consequently, this amendment provides for an 8-year window because that is the necessary time to assist the majority of our navy shipbuilders.

Let me stress that this provision in no way reduces the amount of taxes that these shipbuilders ultimately pay. Rather, it merely allows them to defer paying their taxes until their profit is actually known, just as commercial shipbuilders are already permitted to do.

Not only does this change embody sound tax policy, but so too does it improve our National Security. Indeed, this provision is limited exclusively to naval shipbuilders, that are charged with building our Navy's fleet of ships that protect our homeland. During this time of war, the last thing we should do is allow an inequity in the tax code to cause these companies financial hardship that might affect their production and output. I am certainly not saying these companies should get a free pass, and this provision in no way provides them with one, but what I am saying is that they deserve to be treated fairly given the instrumental role they play for our Nation, and this amendment will do just that.

This conference report contains a great many benefits for small businesses that will play a vital role in improving our economy. For example, the report includes an amendment I offered that will extend the current $100,000 small business expensing limitation and $400,000 phase-out through the end of 2007. Although the Jobs and Growth Tax Act increased these levels from their previous $25,000 limitation and $200,000 phase-out, these limits will sunset at the end of 2005 and return to those lower levels. I believe it is imperative to inject certainty into the tax code so our small business owners can plan accordingly in purchasing the capital and equipment they need to run their operations, and this amendment will go a long way toward doing so.

It was imperative that Congress take action to extend these benefits for our Nation's small businesses. By doing so, qualifying businesses will be able to deduct more of their equipment purchases in the current tax year rather than waiting 5, 7, or more years to recover such costs through depreciation.

This change represents substantial savings both in tax dollars and also in the time small businesses would otherwise have to spend complying with the complex depreciation rules.

For example, the IRS estimates that a taxpayer should expect to invest nearly 50 hours in order to learn the law, perform the necessary bookkeeping, and complete the forms in order to claim a depreciation deduction for an average amount of depreciable property. That is valuable time that the owner must take away from running the business. And in too many cases, it translates into additional fees for accountants to figure out these indecipherable depreciation rules.

By maintaining the $100,000 limitation, small businesses will save time and accounting costs, freeing them to spend their scarce time and resources on what they do best—running successful businesses and creating jobs in America.

I am also pleased that the report includes my amendment to modify the unrelated business taxable income rules to allow small business investment companies to receive investments from tax-exempt entities. By enacting this provision into law, small businesses will have better access to capital through the Small Business Investment Company Program.

Small Business Investment Companies are government licensed, government regulated, privately managed venture capital firms created to invest only in original issue debt or equity securities of U.S. small businesses that meet size standards set by law. In the current economic environment, the SBIC program represents an increasingly important source of capital for small enterprises.

While Debenture SBICs qualify for SBA-guaranteed borrowed capital, the government guarantee forces a number of potential investors, namely pension funds and university endowment funds, to avoid investing in SBICs because the woul be subject to tax liability for unrelated business taxable income UBTI. More often than not, tax-exempt investors opt to invest in venture capital funds that do not create UBTI. As such, an estimated 60 percent of the private-capital potentially available to these SBICs is effectively "off limits."

The amendment I offered corrects this problem by excluding government-guaranteed capital of Debenture SBICs from debt for purposes of the UBTI rules. This change would permit tax-exempt organizations to invest in SBICs without the burdens of UBTI record keeping or tax liability.

As a result, small businesses will have greater access to capital, enabling them to grow and hire new employees. According to the National Association of Small Business Investment Companies, a conservative estimate of the effect of this amendment would be to increase investments in Debenture SBICs by $200 million per year from tax-exempt investors. Together with SBA-guaranteed leverage, that will mean as much as $500 million per year in new capital assets for Debenture SBICs to invest in U.S. small businesses.

Moreover, as people know, Maine is a rural State. In that light, I am pleased that this bill contains important to the timber industry patterned after S. 1381, the Reforestation Tax Act, a bill I introduced last year.

Under the conference report, owners of timber lands would be able to elect to immediately deduct their reforestation expenditures on their timber property—up to $10,000 per year. This change would allow taxpayers to recoup more of their investments in qualifying timber property at a more rapid pace, thereby encouraging investments in reforestation and strengthening the future growth of our forests. The bill provides other relief important to the timber industry, such as the ability to treat outright sales of timber as a capital gain and be taxed at a lower rate. Likewise, it contains a provision to allow real estate investment trusts that own timberland to avoid a 100 percent penalty tax when they sell timber land in the ordinary course of their business. With foreign competition in the timber industry fierce, these provisions will enhance the ability of U.S. timber companies to compete.

Furthermore, I am pleased that tax credits for biomass facilities are included, which are similar to the ones I introduced. For the first time, the current production tax credit will be available to biomass facilities that use waste products to produce energy. This will put the industry, currently at a competitive disadvantage, on a more equal footing with other renewable power, such as wind. The biomass facilities in my state of Maine are not only an alternate electricity-producing source, but they supply good paying jobs in rural areas of the state and are a large source of tax revenues.

The Maine biomass industry uses forest waste, such as those unused portions of trees—tops and limbs—that are not put into making paper products, to produce electricity at their biomass plants. This helps to lessen the use of fossil fuel to make electricity. Since a barrel of crude oil has gone over $50 a barrel for the first time in history in recent days, these savings help what is becoming a critical—and expensive—situation. Using the forest waste also helps avoid an environmental and safety problem the mills would have if they had to store the wood waste on site.

Additionally, the report contains a provision that co-sponsored that will greatly benefit our domestic film industry, which is an industry that plays a vital role in the economy of our country and also in my home state of Maine.

Film makers will now be able to deduct up to $15 million of qualified costs during the first year of production. The remaining costs incurred will then be amortized over a 7-year period. Similar to the small business expensing provision, it is critical that we provide taxpayers with opportunities to recover their costs in a more expeditious manner rather than under the time-consuming and cumbersome depreciation rules. This film provision provides just that, and will in turn provide a key incentive for film makers to make their products in the United States.

Another "job-creating" provision contained in the bill is a provision that I was pleased to cosponsor that will potentially increase the number of taxpayers that are eligible to claim new markets tax credits. Without question, the new markets tax credit program has had a profound impact on my home state. This conference report will further improve that program by extending the geographic area to low-income communities regardless of whether they fell under the previously-designated census tracts. Indeed, this provision will benefit rural communities throughout America, particularly those in Maine, because now areas will qualify for this critical investment opportunity based on their income and not on an arbitrary "census tract" determination.

This report contains even more tax incentives to encourage job creation throughout America. For example, rail operators will not be able to claim a tax credit based on the amount of expenses incurred to maintain and upgrade short-line railroad tracks. Insurance companies will now not incur a penalty tax on old policy holder income when they restructure their operations, which in turn will permit them to save this money and reinvest it in their operations.

Clearly, the provisions in this bill to assist our manufacturing base are numerous, deserved, and long overdo. Fortunately, however, we were also able to provide other sectors of our economy with much needed tax relief. For example, the bill contains a provision to permit rural letter carriers to deduct more of their carrier expenses. In addition, the report contains a provision that will allow fishermen to "average" their income over a period of several years to account for the cyclical nature of their industry and to ensure they will be able to fully take advantage of the losses that unfortunately often arise in their business.

I am also pleased that the conference report includes measures I cosponsored to assist our Nation's shipping industry. For example, the Report includes a provision to permit shippers that adhere to the "two ship" rule to avoid falling under the complex, cumbersome subpart F rules. While the subpart F rules have an important role under the tax code in preventing the deferral of passive investment income, shippers should not be subject to them regarding their profits earned from their active shipping business.

An additional provision that will benefit our shippers is one that will permit them to satisfy their tax liability in a manner similar to how shippers in other countries pay their taxes. Specifically, the report contains a provision to permit shippers to elect to pay tax on the "tonnage" of weight of their freight, rather than a tax based on their income. Providing for this election will increase the competitiveness of domestic shippers because it allows them to pay their taxes in a more efficient, less complicated manner, which in turn will allow them to spend less time and money in trying to navigate the complicated Tax Code.

Notwithstanding all of the considerable benefits contained in this conference report, I want to take a moment to lament the report's coverage of tobacco legislation.

As you all know, the Senate reached an important compromise on the issue of tobacco in order to get this bill to conference by adopting both an industry-funded buyout of tobacco growers' quotas and a grant of authority to the Food and Drug Administration to regulate tobacco. The agreement crafted by my colleagues, Senators DEWINE, KENNEDY, and McCONNELL, would have given the FDA the authority to require tobacco manufacturers to list the ingredients on all of their packaging; to submit specified health information to the FDA for analysis; to regulate sale, distribution, and advertising related to tobacco; and to force the cigarette makers to substantiate, through scientific testing, any labels they might use to indicate that their product posed a lower health risk, such as "light," "mild," or "low."

I believe FDA regulation of tobacco is imperative because we simply cannot afford to ignore the toll that smoking has taken on our society. Every year 400,000 Americans die as a result of cigarette smoking, and approximately 8.6 million people suffer from smoking-related illnesses or conditions. In addition to the human cost, these staggering numbers have taken a financial toll on our country's health care system as well: annual public and private health care expenditures caused by smoking amount to over $75 billion, $23.5 billion of which is shouldered by federal and state governments.

Even more disturbing is the fact that the next generation is being targeted by "Big Tobacco" while they are still in middle and high school. Virtually all of my colleagues have been visited in the past several weeks by members of the Coalition for Tobacco Free Kids, who brought in samples of new candy-flavored cigarette packs such as "Caribbean Chill," "Midnight Berry," and "Mocha Taboo." Everyone knows that lifelong adult smokers have no interest in buying these flavored cigarettes. That kids are the targets of this marketing is consistent with a Brown & Williamson memorandum uncovered 6 years ago which stated, "It's a well known fact that teenagers like sweet products. Honey might be considered."

In the final analysis, I wanted to vote for a conference report that contained the Senate's tobacco provisions. As we know, the Senate conferees agreed and voted 15–8 to include FDA regulation in the conference report—but the House rejected its adoption. Failing that, I would have wanted the buyout provision stricken as well, and I voted for an amendment in conference to do just that, but that was also rejected. In short, at every opportunity I supported FDA regulation. At the end of the day, the conference report—designed to create jobs, bolster our exports overseas, and end the penalties against Maine's and America's manufacturers—was simply too critical to the economic future of our nation, and therefore I voted for this vital jobs bill.

Likewise, I am disappointed that this conference report failed to include an important provision in the Senate bill that would have benefitted our military reservists. Under the Senate bill, businesses would have received a tax credit for payments made to an employee who was called to active military reservist duty. Proudly, I supported this provision when it was offered to the Senate bill, and I supported it during the Senate and House conference. Nevertheless, the final report, regrettably, failed to include this sensible, deserved tax relief. While we must pass this conference report to stop the imposition of World Trade Organization tariffs, I am deeply disappointed we did not take this opportunity to compensate our military reservists and their employers for their sacrifices. Unquestionably, I hope and expect that addressing this issue will be one of the first items we consider when Congress reconvenes next year.

Finally, the bill before us today is silent on an issue of great importance to working Americans—the administration's new regulations updating overtime eligibility requirements that could deny millions of workers the overtime pay protections guaranteed by the Fair Labor Standards Act, FLSA. In May, I was one of 52 Senators who voted in support of the Harkin amendment to the Senate FSC/ETI bill which would clarify that the administration's regulations can result in no worker losing their overtime eligibility. In September, both the House of Representatives and the Senate Appropriations Committee voted decisively to overturn the new overtime regulations.

At issue is a Department of Labor regulation, which went into effect in August, updating the so-called "white collar exemptions" to the FLSA overtime protection. While DOL asserts that 107.000 middle- and upper-income workers will lose their overtime eligibility under the proposal, other sources put the number of affected workers as high as six million. Whatever the final impact of the DOL's changes on American workers, I have serious concerns as to whether this is the right time to take steps to jeopardize the right to overtime pay, which provides economic security for so many American families. As such, I was disappointed that the Harkin amendment was not included in the FSC/ETI conference report.

This bill is a historic achievement and will benefit our economy. Many of these changes to the tax code are long overdue. In the end, the provisions of this bill will bolster our manufacturing base, increase the attractiveness of doing business in the United States and give a jumpstart to business, particularly small businesses, to create jobs.

I urge my colleagues to support this conference report.

Mr. DURBIN. Mr. President, this legislation began as a modest effort to repeal an illegal export subsidy. It has grown to 633 pages with nearly $140 billion in corporate tax breaks over the next decade. The conference report replaces the $50 billion export subsidy with a $77 billion manufacturing tax cut—a net tax cut for domestic manufacturing of $27 billion after the loss of the subsidy, $43 billion in tax breaks on overseas income, and $17 billion in tax breaks for special interests.

The bill does not include FDA regulation of tobacco, a Senate-passed provision to block new overtime rules that hurt workers, and a Senate-passed provision giving a tax break to companies that make up the pay gap for activated Reservists and Guardsmen.

It does include a tobacco buyout that gives most of the benefits not to small farmers but to anyone who owns tobacco quotas and will do nothing to help farm communities, a huge amount of corporate pork, and almost twice as much in new international tax breaks as in domestic manufacturing tax breaks, which will encourage companies to move operations and assets abroad. It also uses the same accounting tricks as the previous Bush tax cuts to make the bill appear revenue neutral when it will actually cost billions.

The Senate approved a tobacco buyout with $2 billion in transition assistance to communities that depend on tobacco production. The conference report drops this assistance entirely.

The Senate approved a buyout with limitations on who would be eligible. This was an attempt to make sure small farmers got most of the benefit. Farmers had to be actively engaged in production in the last few years and quota holders had to be in the system since 2002. Those restraints were completely dropped in conference. Under this bill, 80 to 85 percent of the people who benefit are quota owners who don't qualify as growers, according to the Wall Street Journal.

In Kentucky, Virginia, North Carolina, and Wisconsin, beneficiaries include country clubs, churches, colleges, universities and high schools that own land in tobacco-growing counties.

Larry Flynt and his brother Jimmy own land that had a quota to grow 600 pounds of tobacco in 2003, according to the Environmental Working Group. They will benefit from the buyout. The Wall Street Journal quoted Jimmy Flynt, president of Hustler Entertainment, on the buyout. He said:

> We got out of the tobacco business and into the porn business. We walked away from that blood, sweat and tears.

The Senate approved a tobacco buyout combined with FDA oversight of tobacco by a vote of 78 to 15. The legislation was a hard fought and painstakingly crafted balance between public health and struggling farm economies. Now it is gone from the bill, but the tobacco buyout remains. The conferees dropped FDA regulation even as the tobacco industry inflicts terrible damage on people's health. It kills more Americans than AIDS, alcohol, car accidents, murders, suicides and fires combined 400,000 people a year. Every day, 4,000 children will try a cigarette for the first time and 2,000 will become regular smokers. Of those 2,000, one third will die prematurely of smoking related illnesses.

We have missed an opportunity to protect children from tobacco addiction and save them from premature death. If you think I am overstating the case, look at the tobacco industry's latest advertising campaigns to attract our children to candy-flavored cigarettes: R.J. Reynolds has recently marketed Kauai Kolada cigarettes, with "Hawaiian hints of pineapple and coconut," and Twista Lime cigarettes, described as "a citrus tiki taste sensation."

Without FDA authority, the tobacco companies will continue to target our children with their products. We talk about Leaving No Child Behind when it comes to education. We should not leave them behind when it comes to tobacco either.

The Senate version of the bill blocked the Bush administration's new rules that stripped the right to overtime pay from six million Americans. For workers who receive overtime pay, that overtime compensation accounts for 25 percent of their paychecks. So the Bush administration's regulations slash the paychecks of hundreds of thousands of Americans by 25 percent.

Both the Senate and House have voted to block the overtime rules. This clearly has the support of a majority of both the House and the Senate, yet it was stripped in conference. Corporations are getting huge tax breaks from this bill, but not one worker will have his or her well-earned overtime pay restored.

This bill is loaded with $17 billion in special interest tax breaks. Does anyone outside the Finance Committee really know everything that is in this bill? Does anyone inside the room even know? Some of the tax breaks it includes are:

$500 million for railroad companies;

$494 million for restaurant owners;

$234 million for beer, wine, and hard liquor producers;

$101 million for NASCAR track owners;

$44 million for ceiling fan importers, inserted at the request of Home Depot;

$42 million for Hollywood producers;

$28 million for cruise ship operators, which greatly benefits Carnival Corporation and Royal Caribbean;

$11 million for makers of tackle boxes, which will benefit Plano Molding Corporation, a company headquartered in the district of the Speaker of the House, Dennis Hastert;

$9 million for makers of bows and arrows;

A $9 million break on customs duties for the importation of steam generators and nuclear reactor vessel heads, inserted at the request of General Electric;

$4 million for makers of sonar fish finders;

$4 million for native Alaskan whalers;

$27 million for foreign gamblers who win at U.S. horse and dog tracks.

Is the intention of this bill to give tax breaks for foreign gamblers who win at U.S. horse and dog tracks? I thought the point of this bill was to solve the FSC/ETI problem so that U.S. goods would no longer face tariffs abroad, and perhaps to promote domestic manufacturing. After all, it is called a "JOBS" bill by its authors. So now we have to entice foreigners to visit the United States and plunk down their money at the track, by giving them tax breaks on their winnings, in order to create jobs in the United States?

The conference report does not just include a huge amount of pork. It also fails to effectively close corporate tax loopholes. The Senate version banned accounting techniques that have no economic purpose except to shield corporate income from taxes. This would have saved $15 billion in lost tax revenue over the next 10 years. The conferees refused to include this measure.

The bill also fails to take a strong stand against companies that have moved overseas for tax purposes. The Senate version ended tax advantages for companies that relocate to Bermuda or other tax havens and would have eliminated $3 billion in lost tax revenues. The conferees severely weakened this provision by not making it retroactive. They replaced it with a House version that will eliminate only $800 million in lost tax revenue.

The $3 billion saved by the stronger Senate measure would have been enough to pay for the tax break for companies that make up the pay gap for Reservists and Guardsmen. But this break for our men and women in the military was dropped.

Instead, other companies will benefit. As the Wall Street Journal reported on Wednesday, the bill grandfathered in four Houston-based companies—Cooper Industries, Weatherford International Limited, Noble Corporation, Nabors Industry—that recently relocated to the Cayman Islands and Bermuda.

The bill includes $43 billion international tax breaks that will encourage companies to relocate to tax havens like Bermuda and to move jobs out of the country. According to an analysis published last month by the Tax Policy Center, a joint venture of the Brookings Institution and the Urban Institute, these tax breaks increase the already strong incentives of U.S. multinational firms to operate abroad and to shift profits to low-tax locations. Even corporate executives admit they are moving assets and operations overseas. In February of this year, the Financial Times quoted one corporate tax official as saying:

> You only have to look at the way we tighten our belts in the United States through layoffs to understand what is happening.

More than a dozen companies such as Tyco, Foster Wheeler, and Ingersoll Rand have relocated their headquarters to foreign tax havens in the past decade alone. And jobs are moving abroad as well. Since President Bush took office, 2.7 million manufacturing jobs have been lost. It is no mystery where these jobs have gone: out of the country in search of cheap labor and low tax rates. We should not encourage this kind of behavior with new tax breaks on overseas operations.

Some of the $43 billion in international tax breaks include:

An $8 billion tax break that makes it easier for companies to use taxes on one kind of foreign income to reduce what they owe on foreign income of a different type—General Electric pushed hard for this provision and got it;

A $7 billion tax break that allows companies to carry their foreign tax credits forward for 10 years, compared to the current law that allows only 5 years;

A $5.6 billion tax break that allows companies to reclassify domestic income as foreign income to take advantage of unused foreign tax credits;

A $3.3 billion tax holiday to encourage companies to bring foreign profits back to the United States, supposedly for investment here.

This tax holiday provision is worth looking at more closely. The Center on

Budget and Policy Priorities calls it the "Oracle" tax break because the software company Oracle will reap huge benefits. Companies leave profits abroad to take advantage of lower tax rates and to defer payment of their American taxes. This bill gives them a temporary reduction in the tax rate to repatriate these funds. The supporters of this tax holiday say the bill requires companies to reinvest these repatriated funds to create jobs in the U.S. But according to the Tax Policy Center, the conditions on the use of these repatriated funds are difficult to enforce and are unlikely to create new investment in our country.

I am not the only one who thinks the tax holiday is a bad idea. Even the Bush administration opposes it. Treasury Secretary John Snow sent a letter to the conferees that said:

> U.S. companies that do not have foreign operations and have already paid their full and fair share of tax will not be able to benefit from this provision. Moreover, the Council of Economic Advisers' analysis indicates that the repatriation provision would not produce any substantial economic benefits. The Administration believes the $3 billion revenue cost. . . could be better used to reduce the tax burden of job creators in the United States.

Even the centerpiece domestic manufacturing tax cut has serious problems:

The oil and gas industries were never eligible for the FSC/ETI export subsidy, but they will get the manufacturing benefit, even though oil prices are at historic highs.

Corporate farms, but not family farms, will be eligible.

Engineering firms like Bechtel and Halliburton will be eligible.

Starbucks secured a provision declaring that coffee roasting is a form of manufacturing, so the company will benefit from the tax cut.

Deceptive figures to make the bill appear revenue neutral.

The bill's supporters say it is revenue neutral. But since 2001, the Republican leadership has repeatedly relied on budgetary gimmicks to hide the true cost of their tax cuts. This bill is no different. It will increase the deficit at a time when it is at record levels.

The Congressional Budget office reported last week that we had a $415 billion deficit in 2004. This is $41 billion higher than last year. It is the fourth straight year of increasing deficits. This is the first time since World War II that we have had 4 consecutive years of increasing deficits.

Because of the huge deficit, the Washington Post reported on Friday that the White House has ordered a draft budget for 2006 that cuts Homeland Security, Veterans Affairs, and Education.

The bill slowly phases in the manufacturing tax cut over 5 years. Because of the phase-in, about one-third of the total cost is concentrated in the last 2 years. According to the Center on Budget and Policy Priorities, the long-run cost of the measure would likely be significantly higher than the $77 billion estimated for the first 10 years.

The bill also has tax breaks that expire before the end of the 10-year period. There are nearly a dozen provisions in the bill that sunset between 2005 and 2008. According to Citizens for Tax Justice, the cost of the legislation could balloon to $230 billion over 10 years if those tax breaks are extended. This far exceeds the $140 billion in revenue offsets.

The expiring provisions and their supposed cost and true cost if extended are:

Small Business Expensing $1 billion True cost: $33 billion';

State and Local Tax Deduction $5 billion True cost: $30 billion;

15-year Straight Line Cost Recovery $2 billion True cost: $11 billion;

Other Expiring Cuts $1 billion True cost: $4 billion.

These cuts supposedly cost only $7 billion over 10 years, but in reality they will cost $80 billion if extended. And as we have repeatedly seen, the Republican leadership is more than willing to extend "temporary" tax cuts again and again without any concern about the effect on the budget, despite the record deficits we face. I have no doubt this will happen again with these cuts.

The conference report has many flaws, but it also includes an historic ethanol program that I have worked for many years to pass. The ethanol tax credits in the bill are important to Illinois and the Nation's energy policy, and I would like nothing better than to vote to pass these measures.

The bill enacts the Volumetric Ethanol Excise Tax Credit, which changes the administration of tax incentives for renewable fuels to avoid a reduction in highway funding. It extends the ethanol tax incentive through 2010. It also allows small ethanol producer cooperatives to pass credits through to cooperative members.

Ethanol has been an important issue for me throughout my 20 plus years in Congress. In 1987 I was the first member of Congress to propose that Congress require the gasoline supply to include 5 billion gallons of ethanol.

I am greatly disappointed to have to vote against this bill, despite the ethanol provisions, because of the outrageous and unacceptable way that it deals with the central issue of replacing the export subsidy:

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. LEAHY. Mr. President, the tax bill conference report that will overwhelmingly pass the Senate today is an opportunity lost. This bill is a fiscally irresponsible giveaway full of hundreds of special interest provisions that will ultimately cost the taxpayers billions of dollars.

I voted in favor of the Senate version of this important legislation when it passed by an overwhelming vote of 92-5 back in May. What began as a legislative fix to bring our Tax Code into compliance with international trade laws has turned into a deficit busting give away to special interests. This conference report lacks the balance and restraint that was critical to passage of the Senate bill.

The math on how this bill adds to the deficit is simple. Repeal of the so-called FSC ETI tax breaks for U.S. multinational companies will increase revenue by $50 billion. Incredibly, the conferees could not help themselves but take the opportunity to not only spend that $50 billion but also spend another $100 billion with almost no comparable spending offsets—adding straight to the ballooning Federal budget deficit.

The conference report is being sold as a godsend for American manufacturing workers, yet Senate provisions to tie corporate tax breaks to actual job creation have been stripped. I have to chuckle when I hear the White House referring to this as the "JOBS" conference report.

I am also disappointed that the conferees chose to drop the Senate provision sponsored by Senator LANDRIEU to provide tax credits to employers who make up the pay that employees lose when they are called up for National Guard or Reserve duty. Senator LANDRIEU has eloquently and forcefully highlighted to the Senate over the past couple of days why this provision should not have been dropped from the final conference report. I agree with her outrage that the conferees included many special interest tax provisions—one even for ceiling fan manufacturers—but could not include a provision that helps the men and women who are serving their country.•

Mr. BUNNING. Mr. President, I rise today to bring attention to section 852 of the conference report of H.R. 4520 before us today. First, I thank the managers of the conference report for accepting my amendment which added this provision to the conference report. The amendment codifies current Treasury proposed regulations defining off-highway vehicle. My intention in proposing this amendment was to confirm that Congress feels it is proper that vehicles which do not make use of, or make only very limited use of, the public highways should not be considered a "highway vehicle" for purposes of various excise tax sections, including, but not limited to, sections 4053, 4072, 4082, 4483, 6421, and 7701, of the Internal Revenue Code.

When used on public highways, heavy trucks put a greater stress on our roadways than average vehicles. In the past, Congress has passed laws to impose various excise taxes for large vehicles to use our national highway system. For example, there is a 12-percent retail sales tax for large on-highway vehicles, special taxes on tires weighing more than 40 pounds, additional large vehicle gasoline taxes, and there is even an annual use tax imposed on these heavier vehicles. The overwhelming majority of the revenue generated from these provisions is placed in the highway trust fund to rebuild our Nation's infrastructure.

This issue of off-highway vehicles and their tax status is of grave importance to my state of Kentucky. Many companies use heavy machinery and oversize vehicles. In Kentucky, they are used most often at coal mines. Some of these large vehicles are used only internally on the mine lands while others are used to haul materials over our Nation's public roads.

However, the Internal Revenue Code itself has not defined what constitutes a "highway vehicle." The legislative intent of past Congresses seems clear—to impose excise taxes on vehicles that disproportionately stress our highways. It is important that we clarify who should pay these taxes through the legislative process. Current Treasury regulations contain a number of exclusions from the definition of highway vehicle and therefore provide exclusions from the imposition of a number of excise taxes which are dependent upon this definition. One of these exclusions exempts certain vehicles specially designed for off-highway transportation for which the special design substantially limits or impairs the use of such vehicle to transport loads over the highway.

I proposed the amendment to codify this off-highway vehicle exception—an amendment which became section 852 of this conference report—because I believe that these excise taxes should not be imposed on vehicles which make little or no use of the public highways. Under the definition of off-highway vehicle which is provided in this conference report, a vehicle is not treated as a highway vehicle if it is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design its capability to transport a load over the public highway is substantially limited or impaired. In determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether it is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether it can transport a load at a sustained speed.

The Statement of Managers accompanying this conference report states that, when determining whether a vehicle qualifies for the off-highway exception, the fact that its considerable physical characteristics for transporting its load other than over the public highway, when compared with its physical characteristics for transporting the load over the public highway, establish that it is specially designed for the primary function of transporting its load other than over the public highway. These types of vehicles should not be defined as a highway vehicle and should not be subject to the excise taxes at issue.

We often have situation in the mining area of my state where large trucks are used to haul coal in off-highway operations. When these trucks are designed and built, many thousands of dollars are spent to modify standard truck chassises before bed installation. Generally, heavier axles, transmissions and other drive train components, as well as other modifications needed to allow the vehicles to operate at lower operating speeds carrying loads significantly heavier than those legally allowed on the highways, must be added to the trucks. The trucks generally have beds which, along with the truck itself, cause the vehicle's width to exceed that which is allowed to be operated on the public highways of any state. Often these trucks do not need to be licensed like on-highway vehicles in Kentucky and neighboring coal states because the trucks are an off-highway vehicles by state standards. These trucks are actually so large that it is not even legal to drive them on highways, except in very limited circumstance usually involving special trip permits. In fact, very substantial modifications would need to be made to the vehicles to cause them to be legal for highway use. Insurance agents, State licensing agents, State sales tax officials, and even our own transportation laws all recognize these vehicle as "off-highway." It is clear that, by reason of special design, the use of such vehicles to transport loads over the public highways is substantially limited or substantially impaired.

I am concerned about the interpretation of these rules by the administration. Make no mistake about it, as a member of the Senate Finance Committee, I will be watching this issue closely to ensure that the intent of Congress is being followed with regard to the imposition of taxes on highway vehicles and the exception of non-highway vehicles from these taxes. I will not hesitate to urge the Congress to address this issue again if necessary to ensure that congressional intent is being properly implemented.

Mr. ROCKEFELLER. Mr. President, on behalf of all hard working West Virginians who are worried about keeping their jobs, I must oppose the corporate tax bill the Senate is considering today. For more than a year, I have been working with my colleagues to craft legislation that would address the needs of our manufacturing industry, and I was proud to vote for a Senate bill earlier this year that promised real relief for our economy. However, the legislation before us bears only a faint resemblance to the bipartisan Senate bill, and I believe it would do more harm than good. I urge my colleagues to reject this legislation. We can do better than this, and we owe it to American workers.

Last September, I introduced legislation that would offer help to our struggling manufacturing sector. My bill would repeal the Foreign Sales Corporation/Extraterritorial Income tax provisions to ensure that European tariffs against American exports are lifted. It would create a new tax deduction for domestic manufacturers to essentially lower their corporate income taxes by 3 percent. In addition, my legislation calls for a tax credit to make health care for older workers more affordable. Finally, my legislation would strengthen our trade protections.

On May 11, 2004, the Senate voted 92 to 5 to support the Jumpstart Our Business Strengths, JOBS, Act, which contained the core manufacturing deduction I support. This Senate bill was the product of constructive, bipartisan negotiations. While I did not like every last provision in the bill, it represented a balanced set of tax incentives that would help our factories compete globally.

Having worked so hard to craft the good legislation produced by the Senate, I am extremely disappointed to be faced with such a bad conference report. This conference report is riddled with problematic provisions. But the most fundamental flaw is that this bill actually does more to reward companies for moving jobs overseas than it does to help companies who are struggling to keep their American factories open.

Right now workers in my state are worried about being laid off. Nationwide, we have lost almost 3 million manufacturing jobs in four years. American companies are struggling to succeed in a tough global marketplace. Yet, this Congress is considering legislation that provides tens of billions of dollars in tax breaks for American companies with factories abroad, but includes very little for American factories that are struggling to stay open at home. Many factories are simply not profitable enough to benefit from the deduction provided in this bill.

I supported two key provisions in the Senate-passed version of this bill that would provide relief to struggling companies. The net operating loss carryback provision would allow unprofitable companies to reclaim some of the taxes they had paid on previous earnings. And a provision to allow companies to use alternative minimum tax credits in lieu of favorable depreciation rules would have provided a real incentive for factories to invest in America. But both of these provisions have been excluded from the final bill. By contrast, this bill does include a new 30 percent tax break for companies that moved factories overseas and then kept the profits offshore to avoid paying their fair share of taxes.

Rewarding companies for offshoring is just one of the ways that this bill makes American workers less secure. In spite of Senate support for a provision to prevent the federal government from outsourcing its contracts to foreign workers, this legislation includes no such restriction. The conference committee also dropped a provision to protect the overtime pay of millions of workers across the country.

Instead of protecting workers, this legislation is rife with giveaways to corporate interests. For just one example, the legislation repeals a 4.3-cent excise tax on railroads diesel fuel. By providing no corresponding relief to captive shippers, the bill ensures that consumers will have to pay more for many goods shipped on the Nation's railways.

In another effort to appease corporate interests, the conference committee actually protected many abusive tax shelters. To ensure that every company and individual pays a fair share of taxes, and to mitigate this bill's effect on our spiraling national debt, the Senate supported a number of strict provisions to close tax loopholes. Unfortunately, $40 billion worth of tax shelters will remain available even if this legislation passes. I will put my colleagues on notice right now that I intend to continue the fight to shut down those abusive tax schemes.

Among the corporate interests that are best protected by this bill are tobacco companies that peddle their deadly products to our Nation's children. The House of Representatives ignored a bipartisan Senate compromise to link a buyout for tobacco farmers with regulation of tobacco products by the Food and Drug Administration. As a result, more children will take up the awful habit of smoking.

And while I am on the subject of America's young people, let me mention the bill they can expect from the legislation we are considering today. The Senate insisted that the legislation be revenue neutral, that is, it must not add to the debt. However, as we have seen time and time again from this Congress, this goal was met using gimmicks. Many of the tax breaks in this bill are either phased in slowly or sunset after a few years. If expiring provisions are extended, as there will certainly be great pressure to do, the net cost of the bill over the next 10 years would be almost $100 billion.

Regrettably, as we are accumulating more debt for our children to pay off, we are not building the technological infrastructure that will be necessary to make America's economy competitive in years to come. The United States has now slipped to 11th in the world for broadband penetration, with rural areas lagging behind considerably. The Senate JOBS Act included a provision I have championed to provide tax incentives for the deployment of broadband. I am extremely disappointed that this provision, like so many others, was dropped from the final bill.

I have just gone through a laundry list of important reasons to oppose this bill, but in the end, my judgment about this legislation came down to a very simple test: Is this in the best interest of working West Virginians? I cannot support this bill because the fact is, it is not in the best interest of working West Virginians. I urge my colleagues to reject this bill and work with me to pass legislation that will truly benefit American workers.

Mr. REED. Mr. President, this week, a conference committee filed its report on legislation that was originally designed to repeal provisions in the tax code that have been found by the World Trade Organization to be illegal export subsidies. Months ago the European Union began imposing retaliatory tariffs on select American exports, including such important Rhode Island exports as machinery and jewelry. The targeting of the jewelry industry is especially troubling because Rhode Island is among the three biggest jewelry-producing States, and this sector accounts for 36 percent of the total trade targeted by the retaliatory duties. Without congressional action to repeal these export tax provisions, these tariffs would grow progressively until reacing 17 percent by March of 2005.

Unfortunately, I have serious concerns that the conference agreement before us today would not even provide immediate relief to our jewelers and other businesses targeted by these tariffs. The Senate-passed JOBS Act included a carefully crafted transitional benefit for those firms currently receiving FSC/ETI assistance. However, the bill before us includes transitional relief that is still export-contingent and could be challenged by the EU as still not being WTO-compliant. In fact, according to an article yesterday in the Washington Post, EU spokesman Anthony Gooch suggested that this legislation would not accomplish its central goal of lifting European sanctions due to the transitional assistance. This is the reason we have this legislation in the first place, and I am disappointed that the House conferees have potentially set up a repeat of tariffs on our Nation's domestic manufacturers and exporters.

That brings me to the other compelling reasons for the original JOBS Act: the bill, as passed by the Senate, replaced the Foreign Sales Corporation and Extraterritorial Income regimes with a more robust set of incentives for domestic manufacturing. At a time when domestic manufacturing, long the backbone of the American economy, is bleeding prized jobs to foreign countries, it is incumbent on Congress to put forward a responsible economic plan and provide important assistance to manufacturers that keep their operations here in the United States.

While the conference agreement does include a tax deduction to provide assistance to a broad-based group of manufacturers, unlike the Senate-passed legislation, it does not make a distinction between manufacturing domestically or abroad. It removed the so-called "haircut" that would have provided an incentive for companies to do their manufacturing here at home instead of shipping it abroad. Yet again, we see that House Republicans are unwilling to stand up for those manufacturers, small and large, that have kept their operations here in the United States.

In fact, if we look at the bill as a whole, we see that of the broad-based tax incentives, a larger net amount of money would be dedicated to international provisions than those targeted at production here at home. It is difficult to reconcile the very real challenges facing domestic manufacturers with the inclusion of huge tax breaks for multinational corporations. Ultimately, providing tax breaks to multinationals means that manufacturing jobs are going overseas.

The corporate repatriation provisions in H.R. 4520 are responsible for a significant amount of these costs, but there is little evidence that they will ultimately help to create jobs. Even Secretary Snow, speaking for the Administration, seemed to understand this inequity. He wrote in a letter to Chairman GRASSLEY, and I quote:

> [T]he Administration also has concerns regarding the fairness of the repatriation provision included in both bills. This provision would offer international corporations a partial "tax holiday" for repatriating foreign income that is currently held overseas. U.S. companies that do not have foreign operations and have already paid their full and fair share of tax will not be able to benefit from this provision. Moreover, the Council of Economic Advisers' analysis indicates that the repatriation provision would not produce any substantial economic benefits. The Administration believes the $3 billion revenue cost of this provision could be better used to reduce the tax burden of job creators in the United States.

This is not the only place where this bill failed to live up to its full potential to help domestic manufacturers. I am deeply disappointed several months ago that last-minute lobbying by multinational corporations were effective in removing from the Senate bill a commonsense provision to help reduce offshore outsourcing termed contract manufacturing.

Similarly, House Republicans voted to leave out the Dodd offshoring amendment, which would have prevented Federal taxpayers' dollars from being used to support outsourcing in future government contracts. This is a commonsense measure to make sure that the Government does not actively contribute to outsourcing, and its rejection by the conferees is a sign of their strong disregard of the practice of "buying American."

This brings me to the subject of corporate tax shelters. We have been fighting to close these loopholes benefiting large companies for a decade. A recent study commissioned by the IRS estimated that abusive corporate tax shelters cost honest Americans as much as $18 billion annually, or $180 billion over 10 years. Put another way, every month that the majority and the administration obstruct efforts to shut down corporate shelters, it costs honest taxpayers over $1.5 billion. It has been several years now since the Enron debacle, and yet the majority has still not sent to the President a tax bill to shut down these shelters. While the Senate has taken actions over and over again to target shelters, they have been blocked by the majority party.

For example, in June 2002, the Senate passed tax shelter legislation as a stand alone bill and as part of the CARE Act. The other chamber did not. The Senate passed it again in April 2003 as part of the CARE Act; and the other body rejected it. The Senate passed shelter legislation as part of the energy bill in July 2003, and the other chamber rejected it. The Senate passed shelter legislation as part of the Jobs and Growth stimulus bill in May 2003, and it was stripped out in conference.

So I was pleasantly surprised to hear that tax shelter provisions were included in the conference agreement. Then I had a chance to look a little more closely. The conference bill is a shadow of the Senate-passed version, raising $40 billion less by closing corporate tax loopholes than the Senate-passed version. $15 billion of this lost opportunity to make the Tax Code fairer for all Americans would have eliminated phony transactions that have no economic substance and have been used by companies like Enron to avoid taxes. Another measure modified by the majority conferees would continue to allow those individuals who promote tax shelters to make profits while doing so. In contrast, the Senate would have levied a 100 percent penalty to prevent them from making any such profit at the expense of taxpaying Americans.

Sadly, while the underlying core components of the bill are flawed at best, much of the rest of the bill is deeply defective. I am perhaps most disheartened over the section on tobacco—and the notable absence of language authorizing the FDA to regulate it. This might just be the largest children's health issue facing Congress. The tobacco industry spent more last year than ever before on advertising—over $11.5 billion—and children continue to become hooked on smoking while they are young and unable to understand the health ramifications of smoking. It is now believed that smokers could lose on average 10 years off their lifespan—an entire decade. At a time when we are talking about soaring health care costs, it is vital that we regulate a substance that causes 440,000 deaths each year and results in more than $75 billion in direct medical costs annually—much of which is paid for by taxpayer-financed health care programs.

The Supreme Court has acknowledged that tobacco is "perhaps the single most significant threat to public health in the United States" and has effectively reaffirmed that the FDA is the most appropriate agency to regulate tobacco products, given the general scope of its authority and its emphasis on protecting the public health. It is now that Congress must act to clearly give the FDA the long overdue authority it requires to protect Americans, and particularly our children.

I was willing to accept the inclusion of a tobacco buyout under the clear understanding that it would remain linked to giving the FDA regulatory authority over tobacco. Americans want us to take this important step, and but this report falls short. We all know that tobacco is a substance that reduces the quality of life and results in untimely death with lifelong use. We had a unique opportunity with this bill to make a real difference in helping to protect our nation's children and the majority conferees killed this bipartisan effort that Senators KENNEDY and DEWINE spearheaded.

The conference agreement left out other very important and widely supported worker protections that would have prevented President Bush's regulations that will deny overtime protections to 6 million hard-working men and women, including registered nurses, cooks, clerical workers, nursery school teachers, and many others from taking effect.

The Senate has voted against the Bush overtime rule three times, and the other Chamber twice. The Senate FSC bill included two amendments that preserve workers' overtime—the Harkin amendment that would block only the parts of the overtime rule that strip workers of overtime rights, and the Gregg amendment that passed 99 to 0, which would preserve overtime for 55 job categories. Majority conferees, at the behest of the White House, stripped the overtime protections from the report. Even after the Senate conferees voted yet again to retain the Harkin amendment, it was stripped out.

The Fair Labor Standards Act was enacted in the 1930's to create a 40-hour workweek, and it requires workers to be paid fairly for any extra hours. American workers work more hours than any others in the world—1,900 hours per year. Yet, still, they need more to get by and make ends meet. With 8 million Americans out of work, and with so many other families struggling to make ends meet, cutbacks on overtime are an unfair burden that America's workers should not have to bear. Especially in times like these, it's an incentive for job creation, because it encourages employers to hire more workers, instead of forcing current employees to work longer hours.

I am amazed that the majority has again stripped this provision which has overwhelmingly passed both the House and the Senate on 5 separate occasions. This is a clear example of how the majority and this administration continue to turn their backs on working families.

Now, in addition to leaving out a number of the important provisions that I've just enumerated, it also contains many costly and extraneous ones; $101 million for NASCAR by changing the tax treatment of grandstand facilities; $44 million for importers of Chinese made ceiling fans; $28 million for cruise ship operators; $231 million in taxpayer funds to finance bonds for four so-called "Green Bond" mall developments; $247 million in bonus depreciation of some jets and planes; $5 billion over only two years for a new deduction for state and local sales taxes in a select few states; and $27 million for horse and dog gamblers. This one is especially interesting because it exempts foreign gamblers from paying taxes up front on their winnings at horse and dog tracks.

My question is: Where's the special tax break that will help struggling working families in my state? How does it help American workers by giving tax breaks for Chinese fans to be imported tax free to the United States? The Administration seems to agree, and Secretary SNOW also wrote in his letter to Chairman GRASSLEY that:

> Both the House and Senate-passed bills include a myriad of special interest tax provisions that benefit few taxpayers and increase the complexity of the tax code. Legislation taking up more than 1000 pages of statutory language (or even 400 pages) goes far beyond the bill's core objective of replacing the FSC/ETI tax provisions with broad-based tax relief that is WTO-compliant.

At the same time, the majority party voted to strip the legislation of an amendment offered by Senator LANDRIEU that would provide a tax break to companies for paying the salaries of activated National Guardsmen and Reservists.

Lastly, it continues to employ the same budget gimmickry as previous tax bills put forward by the majority party and the administration over the past 3 years. For example, a dozen of the tax cuts in this report will expire between 2005 and 2008. Assuming that these provisions are extended, the cost to the Treasury will increase by an estimated $80 billion!

This bill could have been an ideal vehicle for bipartisan efforts to shape a comprehensive economic policy for our nation's manufacturing sector. Unfortunately, it proved to be too alluring for the special interests who just could not restrain themselves. At a time of a record Federal budget deficits—most recently pegged at $422 billion for Fiscal Year 2004—this bill contains too many giveaways to corporations and not enough to help domestic manufacturers and working families. Most regrettably, its passage does not seem to guarantee that the EU will lift its harmful sanctions against numerous United States products. Companies in our home states are hurting from EU retaliatory tariffs, like jewelry manufacturers in Rhode Island, and the conferees should have taken the responsible path in assisting those who are struggling. But they did not.

● Mr. McCAIN. Mr. President, I voted against cloture on this measure yesterday because it is loaded with corporate pork and special interest tax provisions. This conference report, at 633 pages and $148 billion, serves as a sad example of the way business is done around here. The special interests continue to rule at the expense of the hardworking American taxpayer.

The original intent of this legislation was laudable. Earlier this year, we missed a golden opportunity to pass a good, clean bill that would have brought us back into compliance with World Trade Organization, WTO, agreements and stop the burdensome tariffs now imposed on our manufacturers. Simply repealing the extraterritorial income, ETI, exemption tax benefit for exports would have saved $50 billion. Instead, because this was known to be a "must pass" piece of legislation, it was loaded up with billions and billions of dollars in tax breaks for big corporations and special interests of all types. I recognize the need to pass legislation to bring the United States back into compliance with the WTO, and I am more than willing to support a bill that accomplishes that goal. Unfortunately this legislation's worthy purpose has taken a back seat to a host of special interest tax provision add-ons and a big buyout for tobacco farmers.

In an editorial on the issue, The Washington Times, noted that "the ideal solution would have been a quick, simple repeal of FSC-ETI, which is bad economic policy in any case. The $50 billion in savings could then have been used to streamline and simplify the corporate tax code." I couldn't agree more. The Tax Code is far too complex and is in dire need of reform. While campaigning in recent months, the President has stated, with tremendous approval from every audience, that reforming and simplifying the Tax Code would be one of the main objectives of his second term. I will support him in that effort, and I encourage him to take the first step in that reform by vetoing this bill.

We have a deficit that is quickly approaching $500 billion—that is half of a trillion dollars. The proponents of this bill say that it's "revenue neutral." Well, I doubt that, and I am not alone in my skepticism. The Center for Budget and Policy Priorities has figured that the bill would actually cost $80 billion if the temporary tax cuts are extended for the full 10 years. Sadly, I have no doubt that those extensions will happen—because we simply don't say no to anyone anymore. We are told that this bill is offset by closing tax loopholes, and I will be the first person to say that I support closing those loopholes, but can anyone explain to me the rationale behind closing loopholes in order to raise revenues to open more loopholes? It is remarkable. It makes no sense.

As I have said many times in the past, we need to start making some very tough decisions around here about our fiscal future. We need to be thinking about the future of America and the future generations who are going to be paying the tab for our continued spending. It is simply not fiscally responsible for us to continue to load up bills with good deals for special interests and their lobbyists. We have had ample opportunities to tighten our belts in this town in recent years, and we have taken a pass each and every time. We can't put off the inevitable any longer.

Here is the stark reality of our fiscal situation. According to the General Accounting Office, the unfunded Federal financial burden, such as public debt, future Social Security, Medicare, and Medicaid payments, totals more than $40 trillion or $140,000 per man, woman and child. To put this in perspective, the average mortgage, which is often a family's largest liability, is only $124,000—and that is often borne by the family breadwinners, not the children too. Instead of fixing the problem, and fixing it will not be easy, we only succeeded in making it bigger, more unstable, more complicated, and much, much more expensive.

The Committee for Economic Development, the Concord Coalition, and the Center on Budget and Policy Priorities jointly stated that, "without a change in current (fiscal) policies, the federal government can expect to run a cumulative deficit of $5 trillion over the next 10 years." They also stated that, "after the baby boom generation starts to retire in 2008, the combination of demographic pressures and rising health care costs will result in the costs of Medicare, Medicaid and Social Security growing faster than the economy. We project that by the time today's newborns reach 40 years of age, the cost of these three programs as a percentage of the economy will more than double—from 8.5 percent of the GDP to over 17 percent."

Additionally, the Congressional Budget Office has issued warnings about the dangers that lie ahead if we continue to spend in this manner. In a report issued at the beginning of the year, CBO stated that, because of rising health care costs and an aging population, "spending on entitlement programs—especially Medicare, Medicaid and Social Security—will claim a sharply increasing share of the nation's economic output over the coming decades." The report went on to say that, "unless taxation reaches levels that are unprecedented in the United States, current spending policies will probably be financially unsustainable over the next 50 years. An ever-growing burden of federal debt held by the public would have a corrosive . . . effect on the economy."

So what do we do when we are faced with these problems? We pass a tax bill that is loaded with corporate pork.

This conference report is called the JOBS Act, but I think we should call it what it truly is: "the corporate tax haven act." I doubt it will create any new jobs but it will certainly allow a few lucky folks, who have extremely well paying jobs, to make even more at the expense of the taxpayers. I'm sure the energy corporations are pleased that they won't have to wait for the energy bill to add to their over-flowing coffers.

Yesterday we passed a bill to address the issue of FDA regulation of tobacco products. Essentially, the consideration of a free standing bill to address this issue at this stage means nothing. We're supposed to be appreciative that the FDA bill was taken up and passed quickly—we all know that passing a controversial Senate bill on a Sunday at the end of the session is meaningless. The House will not move the bill, and, even if by some miracle they did, there certainly would be no conference held. This is a sham—plain and simple. The Senate had already addressed the issue of FDA regulation of tobacco. Sadly, the conferees on the FSC/ETI bill stripped that provision from this conference report.

What the conferees did was unconscionable. They turned their backs on the health of our nation's youth and opted to strike the DeWine-Kennedy amendment that would have granted authority to the Food and Drug Administration, FDA, to regulate tobacco products. It is a very sad day for public health. They have used the FDA tobacco authority language as a linchpin to effectuate the passage of the underlying tax bill. It was nothing more than a sweetener to them and now that it is no longer of use, the conferees have discarded the language, and with it, who knows how many lives.

In striking this historically important provision, the conferees ignored the public and medical health community, child health advocates, and registered voters who in a recent poll overwhelmingly, 69 percent favor FDA authority over tobacco. Even in the six leading tobacco growing states, support for FDA authority is above 65 percent.

Without FDA authority over tobacco, there will be no regulation of tobacco marketing, no information disclosure such as nicotine and carcinogenic content, no requirement that can force the tobacco industry to remove harmful components from their products, and no pre-market approval of "new products" marketed as "safer cigarettes."

Tobacco-related illnesses and deaths in this country have reached epidemic proportions, but according to the Surgeon General, tobacco use is "the single most preventable cause of death and disease in our society." The Surgeon General estimated 400,000 U.S. citizens lose their lives each year as a result of a smoking-related illness. This figure translates into approximately 1,200 smoking-related deaths per day. This loss of life has a significant economic impact accounting for an estimated $75 billion per year in health care expenses. Most tragically, however, the Surgeon General estimates that approximately 2,000 kids start smoking every single day, and that one third of them will die from a smoking-related illness.

I thank Senators DEWINE and KENNEDY for their commitment to our Nation's youth, and I am certain that they will continue to fight for FDA authority over tobacco because it is simply too important not to continue to fight. We must protect the public health and hold the tobacco industry accountable for the production and marketing of its products, particularly as their business practices affect children, but I fear we have lost yet another opportunity.

Not only have the conferees jeopardized the health of our Nation's youth by striking the FDA authority provisions of this bill, they left provisions that would eliminate the quota system and channel $10 billion—into the pockets of tobacco farmers—many of whom no longer even farm tobacco—and disguised the money as a buyout to encourage such "farmers" to shift their crops to something other than tobacco. According to the Wall Street Journal, among these "tobacco farmers" who would benefit from a tobacco buyout are Larry Flynt and his brother, who admittedly abandoned the "blood, sweat, and tears" of the tobacco business to pursue pornography.

I fear that the conferees have failed to realize that, by not setting domestic production restrictions, and not restricting new market entrants from farming tobacco, they may be creating new opportunities for more tobacco farming. In doing so, they create the possibility that a greater supply of tobacco will result in reduced prices thereby making tobacco products more accessible to kids. Studies have shown that increases in the cost of cigarettes directly correlate to reduced youth smoking rates. Greater youth accessibility to tobacco products coupled with a lack of FDA authority over the marketing and information disclosure of these cheaper products is the most invidious combination possible. By turning their backs on FDA tobacco authority while simultaneously making it easier to grow and sell tobacco, the conferees may be exposing kids—not to mention adults—to an even greater health risk than they are today.

As if the lack of FDA language wasn't bad enough, let me go through some of the other ridiculous items contained in this conference report.

Many provisions in this bill remind me of the golden oldies we saw in the energy bill. One of the more generous tax breaks in this bill is a creative provision that allows energy companies to reclassify energy production as a manufactured good in order to qualify for potentially tens of billions of dollars in new tax deductions. The manufacturing tax deduction is currently available only to traditional manufacturing industries as an incentive for job creation. While this change in the tax code may not create manufacturing jobs, it does create a tax balloon, which increases to a maximum of 9 percent of a company's production income after 2009. The total estimated cost of this golden parachute is $76.5 billion. Other industries that will now be considered to be "manufacturers" are movie studios, real estate development, and construction companies. But the greatest share of this tax break will go to the oil and gas industry and electric utility companies.

Fear not, not all of the largess goes to oil and gas companies. There are equal opportunities for other corporate and special interests to make profits at the expense of the taxpayers. An article in the Wall Street Journal on October 6, refers to the legislation as "a trove of obscure breaks and perks" and identifies four companies in Houston that were singled out for special treatment. These companies recently changed their addresses to the Cayman Islands and Bermuda when the Senate proposed a retroactive crackdown on businesses that incorporate offshore to shave their U.S. tax bills. Fortunately for them, the provision in this bill is no longer retroactive. Not only does the bill allow these companies to slip comfortably away, but others contemplating such actions will be heartened by the fact that the bill doesn't include a provision that would have supported Federal judges and the IRS in bringing companies that indulge in these improper tax shelters to justice.

This bill also contains a tax credit totaling more than $2 billion over 9 years for industries generating electricity from alternative fuel sources. Let me be clear that I support clean renewable energy technologies as a means to reduce greenhouse gas emissions and increase energy independence, but most of these subsidized technologies aren't clean. No matter how you look at it, chicken droppings simply are not a clean alternative fuel. Just how, exactly, does the public benefit from the subsidies provided for the burning of municipal trash and poultry waste, both which create significant air pollution?

The most outrageous provision in this section could be easily missed. It defines "refined" coal as a qualifying renewable resource. According to the Tax Code, refined coal is just another name for synthetic fuel. I would be greatly relieved if my colleagues could document that this is not the case, but it appears to me that the synthetic fuel credit has been snuck in here along with so-called renewable sources of electricity.

I have spoken before about the synthetic fuel tax credit scam that was revealed by Time reporters in October 2003. It is shameful for Congress to perpetuate this expensive hoax, which has cost taxpayers $4 billion since 1999. The IRS followed up the Time report with a November 2003 bulletin stating, "The Service believes that the processes approved under its long standing ruling (that a synthetic fuel must differ significantly in chemical composition from the substance used to produce it) do not produce the level of chemical change required." Incredibly, it goes on to say, "Nevertheless, the Service continues to recognize that many taxpayers and their investors have relied on its long-standing ruling to make investments." So, basically, we should just ignore the fact that chemical change isn't occurring. They should have just said that if Congress wants to continue this shameful scam, then the IRS will let it pass.

The original intent of the synthetic fuels tax credit was not sheer folly. It is just that, for a variety of reasons, a synthetic fuel industry never materialized in the United States. Canada invested heavily in synthetic fuel production over the past decades and sells millions of barrels of synthetic crude oil to the United States annually. The only evidence of a U.S. synthetic fuel industry is this gigantic tax shelter. One doesn't need to be in the oil or gas business to strike it rich with synthetic fuels either—one of the greatest beneficiaries of this tax shelter—and that is all that it is—a tax shelter, is a very profitable hotel chain, Marriott. This is an equal opportunity bill for wealthy corporate interests.

Wait, we can't forget ethanol! $77 million from this bill will go to ethanol manufacturers. No tax break bill would be complete without subsidies for this synthetic fuel, ethanol gasohol, created and perpetuated by Congress. And it all starts with corn. Ten percent of the corn grown in this country is used to produce ethanol. Of course, corn producers, like producers of other major crops, receive farm income and price supports. In the 107th Congress, this body passed the Farm bill which appropriated more than $26 billion in direct assistance to corn-growers over 6 years. That is an average of $4.3 billion in direct subsidies each year just to corn-growers!

In addition to the subsidies going primarily to agribusiness corporations, the public pays for ethanol in other ways as well. More energy is used in the production of ethanol than it provides to consumers, it increases the per gallon cost of gasoline, and it results in environmental degradation. Finally, to add to all these insults, ethanol subsidies increase the public's grocery costs. Subsidized corn results in higher prices for meat, milk, and eggs. This happens because about 70 percent of corn grain is fed to livestock and poultry in the U.S. Increasing ethanol production further inflates corn prices and subsequently food prices.

So the American public provides billions to create this artificial market for ethanol, and then pays more for their groceries and what do they get in return? I will tell you what they get in return—absolutely nothing. No reduction in petroleum fuel use. No reduction in air pollution. There is one reduction, however, consumers are rewarded with—reduced fuel economy. More gasohol must be used to go the same distance as conventional fuel. So no one can honestly claim that subsidizing ethanol is in the public interest or an element of sound national energy policy.

Another objectionable provision is the "green" bond program. The original form of this provision prompted the "hooters" part of my "hooters and polluters" reference to the energy bill. Well, the hooters is gone, but this program is still top-heavy with tax breaks—$231 million for the real estate corporations that are going to develop these projects. With or without a hooters, I don't see how it's in the public's interest to pay for enormous commercial facilities in three or four States. These projects all sound like enterprises that can stand or fall on their own—they don't need the taxpayers throughout the country giving them a big boost.

Let me give you a sense of the "public works" that benefit from this provision:

Destiny USA in Syracuse, NY is an entertainment and retail development touted as an economic stimulus for upstate New York. The primary developer has committed to 3.2 million square feet of space with a price of close to $700 per square foot. They estimated these green bonds would save them close to $100 million.

Belmar in Lakewood, CO is a $500 million redevelopment of a mall, which will include many restaurants, clothing stores, shops, and office space.

Atlantic Station in Atlanta GA is a 138-acre redevelopment of a former steel mill which will include 12 million square feet of retail, office, hotel space, and parks.

Riverwalk Development in Shreveport, LA, minus the Hooters, this $150 million project will feature stores, restaurants, movie theaters, hotels, and entertainment spots.

These all sound like grand, money-making ventures to me—they don't need taxpayer support. Pork called "green bonds" is still pork.

Some of the other notable giveaways in this grab bag of corporate tax delights are:

The "hummer in every home" provision is still intact. It is just not quite as expensive as it has been the past. This provision extends the existing $100,000 tax deduction for the purchase of vehicles weighing over 6,000 pounds. The original intent of this deduction was to benefit farmers and other business owners in need of heavy-duty vehicles. Unfortunately, some individuals unscrupulously seized on this loophole in order to purchase Hummers, Escalades and other expensive, gas guzzling SUVs. Thankfully, due to the insistence of Senator Nickles, those purchasing luxury sport utility vehicles can no longer take advantage of the $100,000 deduction. However, they can still take a deduction of up to $25,000. This could cost our Treasury $350 million for every 100,000 taxpayers who take advantage of this loophole. Again, it is not as bad as it used to be, but it is still too expensive and should be eliminated. The cost of foreign oil is about $53 a barrel. Shouldn't we, as a practical matter, be encouraging the use of smaller, more fuel efficient vehicles?

There is a tax break for "small refiners" of oil to improve clean air standards. Unfortunately, "small" is defined as those with refining capacity below 205,000 barrels per day, so some of the large oil companies can get in on this one too.

Three of the world's richest energy companies—BP, Exxon Mobil, and Conoco Phillips—stand to be the primary recipients of two tax breaks, totaling $445 million, for building an Alaskan natural gas pipeline and for processing natural gas for the project. Considering that these three companies have enjoyed after-tax profits of $95 billion since 2001, the wealthy shareholders of these companies—not taxpayers—should foot this bill. In addition, these three companies are allowed to depreciate their natural gas pipeline over seven years, costing taxpayers another $150 million.

There is $27 million for dog and horse race tracks to help lure more foreigners to gamble at U.S. horse and dog racing facilities; $995 million for the treatment of aircraft leasing and shipping income. This provision would provide a tax exemption on income derived from an aircraft or vessel leasing business.

There is $28 million for a cruise ship tax break. This provision would allow the cruise industry to delay paying taxes on airplane tickets, hotels, and other excursions it sells in the United States. The delay would save the Carnival Corp. $15 million, and Royal Carribean would save anywhere from $8 million to $10 million.

There is $9 million for a tax break on archery products; $11 million for a provision that would reduce the excise tax on fishing tackle boxes; $44 million for the importers of Chinese ceiling fans; $4 million to repeal the excise tax on sonar devices that are used for finding fish; $247 million for a provision that is designed to help the producers of small jets and planes, 60% of which are built in Kansas. Lear Jet and Cessna benefit greatly from this provision; $27 million for providing tax-free treatment if farmers replace livestock because of weather related conditions; $101 million for NASCAR track owners; $57 million for a tax break for shipping companies; $501 million for a tax credit for the maintenance of railway tracks; $336 million for a tax break for Hollywood studios; $234 million for a tax break for the producers and marketers of alcoholic beverages; and $495 million for Naval shipbuilders.

Where is it going to end? We have to face the facts, and one fact is that we can't continue to cater to wealthy corporate special interests any longer. The American people won't stand for it, and they shouldn't—they deserve better treatment from us. I strongly encourage my colleagues to vote against this conference report.●

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. I yield 1 minute to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana now has 6 minutes.

Ms. LANDRIEU. I intend to use 2 minutes and yield back the remainder of my time to the leadership.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, while the leaders are in the Senate with their final remarks, I take the opportunity again to thank them for their work—Senator BAUCUS and Senator GRASSLEY as the leaders of the Finance Committee—as we work toward a very significant victory and a conclusion on the issue of a tax credit for the Guard and Reserve. The Senate is going on record again this morning, as we did several weeks ago when this bill left the Senate, to include them in a tax provision. They will not technically be included in this bill, but there will be a bill sent back over to the House, as we said. That would not have happened without the help of Senator BAUCUS from Montana and Senator GRASSLEY from Iowa. I personally thank them along with thanking Senator DURBIN and Senator BOXER for their help on this original amendment.

We have explained it as well as we can, the arguments as to why our Guard and Reserve deserve our focus and attention to provide help to their families while they are serving for all Americans on the front line. I am so pleased we could come together as Members of the Senate to provide that help for them.

Now it is in the hands of the House of Representatives. As we return from this break, however long or short it is, we will then take up this issue as they decide over in the House how they would like to handle it. I hope they will take the bill as we have sent it, pass it, and then it will go to the President's desk for immediate signature because we all want to give them the help and support they most certainly are giving us at this special time.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield myself such time as I consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I first thank the chairman of our committee, CHUCK GRASSLEY, for the tremendous job he has done. I am blessed. We are all blessed to have him as chairman of our committee. He is very smart. He is very perceptive. He has terrific common sense and is wonderful to work with. He is as straight as they come. His word is his bond. If he tells you something, that is it. At the same time, when we work with him, it is very cooperative. In fact, he goes overboard. It reminds me of "To Kill a Mockingbird" when the protagonist, the lawyer, says: You walk around in his shoes to see that person's point of view. CHUCK GRASSLEY has the uncanny trait that he does not have to take the effort to walk around in another person's shoes because he already knows. He has walked around in so many shoes around Iowa. He has common sense that is rooted in the ground. He is a wonderful person. We are all very grateful to have him as chairman. I can say this having worked with him as the senior Democrat on the Finance Committee.

Second, I deeply thank all of our staff who helped with this legislation. They have been wonderful. I ask unanimous consent to have their names printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

This legislation would not have been possible without the help of many.

I appreciate the cooperation we received from the Republican staff, especially Kolan Davis, Mark Prater, Ed McClellan, Elizabeth Paris, Dean Zerbe, Christy Mistr, John O'Neill, Everett Eissenstat and Stephen Schaefer, and Adam Freed.

I thank the staff of the Joint Committee on Taxation and Senate Legislative Counsel for their service.

I also thank my staff for their tireless effort and dedication, including Russ Sullivan, Patrick Heck, Bill Dauster, Matt Genasci, Matt Jones, Matt Stokes, Jon Selib, Anita Horn Rizek, Judy Miller, Melissa Mueller, Liz Liebschutz, Lara Birkes, Ryan Abraham, Wendy Carey, Tim Punke and Brian Pomper. I also thank our dedicated fellows, Rhonda Sinkfield, Scott Landes, Justin Bonzey, Jodi George, and Cuong Huynh—and our dedicated law clerk Jeremy Sylestine.

Finally, I thank our hardworking interns: Mary Tuckerman, Kelsie Eggensperger, Paige Lester, Priya Mahanti, Brittney McClary, and Audrey Schultz.

Mr. BAUCUS. Finally, my greatest thanks are to the people of the State of Montana. I express my gratitude and thanks to the people of Montana for sending me here as their representative. I will never forget the people I work for. They are my bosses. They are my employers and the best anyone could ever have. I know each Member feels that way about his or her State. I am blessed to be able to represent Montana.

Frankly, it is for that reason that, preparing for this bill last year, my staff and I spent a lot of time in Montana meeting with workers and owners of businesses all across our State. We visited over 140 companies, 8 accounting firms and law firms, 11 economic development organizations in Montana. We spoke with about 60 companies over the phone, asking them what they thought about this legislation. How are Montana companies and interests affected by this bill? I simply wanted to know the biggest problems facing Montana businesses. I wanted to know what is working for them and what is not working for them, and I wanted to make sure that the manufacturing deduction in this bill will work for Montanans. Obviously, they had a lot of concerns.

People in my State, as in many States, are worried about job security, health security, and economic security. Will they have jobs tomorrow? Will their jobs be cut because business is slow? What about health insurance coverage with health care costs going up? Will their businesses be able to grow and compete with foreign competition?

We learned that any bill targeted to just corporations—that is, the standard corporation called C corporations—leave out most Montana businesses. That is because in Montana most businesses do not operate as conventional corporations. They work as partnerships or other enterprises that report their income not on a corporate basis but an individual income tax basis.

We needed a broader definition of manufacturing to ensure that Montana farmers and ranchers got some tax relief. That is what we are enacting in the bill.

I thank the hard-working men and women of Montana. Carlyle once said: All work is noble.

I thank the hard-working men and women of Montana for their help in formulating this legislation. I thank them for supporting me as we advanced this bill. And I thank them for their hard work in the businesses they run. So it is to them today we dedicate this bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield the Senator from Kentucky, our whip, 5 minutes.

The PRESIDING OFFICER. The majority whip.

Mr. McCONNELL. Mr. President, today is a truly historic day for my State, the Commonwealth of Kentucky. Burley tobacco production has been a part of our way of life going back to 1792 when Kentucky joined the Union. Tobacco itself—there are tobacco leafs painted in various places here in the U.S. Capitol—was the most important export product from the Colonies, predating the formation of our country.

Over the last 40 years, we have come to understand that the use of tobacco products is certainly not good for our health. More Americans, correctly, are choosing not to use tobacco products. Consumption has, therefore, declined, as, frankly, it should.

Back in the 1930s, when tobacco was still at its peak but we were in a national Depression, during the New Deal a Federal tobacco program was created. After that program was enacted into law by President Roosevelt, employees from the U.S. Department of Agriculture went around and surveyed the farms in Kentucky and Tennessee and Virginia and the Carolinas and Georgia to find out what their historical production had been and assigned those what we now call quotas to the land.

That quota was like an asset. It could be sold. It could be leased. It was an asset attached to the land. And that quota had in some early years grown but, of course, over the last few years it dramatically contracted. That asset was on its way to becoming worthless, many people felt, in my State.

To give you a sense of how pervasive tobacco has been in the Commonwealth of Kentucky, when I came to the Senate some 20 years ago, we grew it in 119 of our 120 counties. We had 100,000 producers. The average base then was about three-quarters of an acre. So you had a lot of people in our State who got some income off burley tobacco. It provided for many families a significant portion of their income. For a whole lot of other families, because of the auction warehouse system under which it was sold in the fall, it provided Christmas money for the family, a second income, an opportunity for some extras. For a lot of other Kentuckians, it was very much a basic part of their income.

Well, all this is in the process of changing. Six years ago, I advocated a buyout. At that time that was controversial in my State. In fact, I think a majority of the tobacco farmers thought I was in the wrong position. That certainly was the view of the Kentucky Farm Bureau and the burley council and the burley co-op, all of whom thought I was in the wrong position.

A few years later, I noticed I was then being treated as a visionary who was ahead of my time and had sensed that this thing was heading in the wrong direction and we better try to figure out some way to achieve a buyout or we would never get an opportunity.

A lot of people have contributed to this day. This buyout that is in this bill is not paid for by the taxpayers. And it is, indeed, a buyout. It terminates the program. The program is entirely terminated and off the books. People who vote for this bill will be able to say, among other things, that they ended the Federal tobacco program.

It is paid for by a manufacturer's fee, which will no doubt be passed along to the consumers. And as public health advocates will tell you, the higher the cost of tobacco products, the fewer the number of people who will use them. So it even has a public health aspect to it.

That is the version of the buyout, $10.1 billion over 10 years. That is in this underlying bill.

Mr. President, as I say, today is a historic day for Kentucky and other tobacco producing States that have suffered for far too long under a Government program that destroyed their assets, sapped their competitiveness, and destabilized their communities.

The tobacco buyout included in this legislation is culmination of many years of hard work and difficult sacrifice.

Kentucky has long been known for its three "B"s: Bourbon, basketball, and burley tobacco. Burley tobacco has been the lynchpin of Kentucky's agricultural economy since Kentucky first became a State in 1792.

Since the early years of the Commonwealth, burley tobacco provided a steady and reliable income for farmers with small patches of land unsuitable for the production of other crops. There are virtually no other crops that can provide the return per acre that tobacco production does, and it has a unique place in the economy and the culture of Kentucky.

However, in recent years, increased foreign competition combined with decreased consumption, increased taxation, and a broken Federal tobacco program created a perfect storm that had the potential to bring about an economic disaster of epic proportions for Kentucky.

The passage of this buyout will end the Federal tobacco program and end the suffering caused by this outdated program. The buyout will pay owners of quota for what remains of their disappearing asset, and it will provide assistance to growers to help them move into other forms of agricultural production.

Those that choose to continue to produce tobacco will do so without the price supports or Federal programs that support other crops. They will have to compete on the free market. However, without this buyout, they would not have been able to compete at all.

This is indeed a great day for the Commonwealth of Kentucky. But, no project of this magnitude is undertaken alone, and there are many people to whom I am grateful.

Many people deserve thanks for bringing us to the day we experience today. I thank Chairman GRASSLEY. I know he, as indicated, was not in favor of this, but this was part of the compromise worked out in the conference.

I particularly thank Chairman BILL THOMAS over in the House, who did support it and aggressively advocated it, helped work with us to craft a final version.

I particularly thank RICHARD BURR from North Carolina, who was on the conference and a particularly significant player in this whole process.

Here in the Senate, I thank Senator ELIZABETH DOLE, whose tireless effort on behalf of farmers in North Carolina is truly inspirational. I thank her staffer David Rouzer, who also worked for Senator Helms, for being a critical part of all of this. Senator Helms, of course, was so much associated with tobacco over the years.

I also thank Senator BUNNING and Congressman LEWIS of my State. I thank my own staff, former staffers Mason Wiggins and Hunter Bates, who in the early days were extremely important in this. I thank my chief of staff Billy Piper, Scott Raab, and Michael Zehr, my agriculture aid. They were all indispensable.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, before I yield to my friend from Louisiana, I would like to say how much I personally deeply appreciate and will miss the Senator from Louisiana. I don't know any Senator who works harder on a bipartisan basis to get things done than the Senator from Louisiana. He is amazing. He has so many talents.

Now, maybe he is partly Cajun, I don't know, but it is that Louisiana stuff that enables him to see more, do more, be more creative, think of more ideas than the rest of us mortals in the Senate. He is amazing. He is always thinking, always working. Many times in the Finance Committee I look over to the Senator from Louisiana and he is there working. He is reading reams of briefing materials. He has his magic marker out and he is underlining and learning this stuff. And he knows it so well.

There are many areas he does know so well. One is health care. He knows health care intricacies probably better than anybody else in this body. He has worked with it on several commissions. He cares passionately about reforming our health care system.

Tax policy, Social Security, you name it, if it is before the jurisdiction of the Finance Committee, he is very knowledgeable about it. He also, frankly, wants solutions. It is not just that he has knowledge and is very smart, but he is looking to try to find solutions, looking for compromises, looking for ways to get things done.

We are going to sorely miss him; I mean sorely. I do not know what we are going to do without him because he is a catalyst, not the only catalyst but one of the major catalysts, here to get agreements, to get solutions. We all know how partisan this place is. He is one of those who is cutting against the grain to try to do what is right, do what is right for Louisiana, do what is right for the country, getting a practical solution: Come on, let's get something done here that makes sense. You may not like it totally, you may not like it completely, but, heck, you all know this is more than half a loaf, it is three-quarters, seven-eighths of a loaf, so it is certainly better than no loaf. So come on, let's get something done here.

He is wonderful. I want him to know how much I am personally going to miss him.

Ms. LANDRIEU. Will the Senator yield for 30 seconds?

Mr. BAUCUS. I yield to the Senator.

The PRESIDING OFFICER. The junior Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I see the senior Senator from Louisiana on the floor. I know he will want to respond in a moment. I so appreciate the comments from the Senator. But I would like to add, very briefly, that as you have spoken about the senior Senator from Louisiana, the great consensus builder that he is, and helping us to move very important pieces of legislation, always with the greatest sense of dignity and principle, I want to say, as his partner in the Senate, I could not have a better partner. He is a person who works in such a complementary way with me. We work well together, and it is because of the great spirit he brings to his work. I think because of his spirit, we have been a better team together than we are individually for our State. I learned that from him. I want to give him so many compliments this morning and thank him for his great service.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, before I yield to the Senator, one final point. I know he had a hard time deciding whether to retire, a very hard time. I spoke with him several times. I did not want to prejudice him or bias him: Is there some way I can help JOHN make this decision? And I mean that in the best sense of the term because, of course, I want him to stay.

On the other hand, I didn't want to influence his decision. I wanted him to do what is best for him. Because it was such a hard decision, that to me is very strong evidence again of the deep public service spirit and desire he has. He loves public service, serving the public as well as Louisiana but specifically the country generally.

He decided there are other things in life besides the Senate. I will not get into that subject. I don't think that is a subject on which very many of us want to tread. But we deeply appreciate the friendship, the legislative talents of the Senator from Louisiana.

The PRESIDING OFFICER. The senior Senator from Louisiana.

Mr. BREAUX. I was going to talk about the tax bill, but after the kind words of both the distinguished ranking member and my colleague from Louisiana, just let me say a very sincere thank you to both for their very generous comments. I will remember and cherish them always.

Russell Long told me one time, when I asked him about a tax bill they were working on over in the Senate—at the time, I was a relatively very young Member of the House—I said: Russell, that thing doesn't look very pretty. He said: It is not supposed to look pretty; it is supposed to be effective, and that is not necessarily pretty.

This bill probably represents that. It is not everything everybody would like to have, but it is effective tax policy. The chairman, the Senator from Iowa, Mr. GRASSLEY, and Senator BAUCUS have worked very hard under very difficult circumstances to bring this measure to the Senate. It was not an easy task. A lot of compromises had to be made. The House, led by Chairman BILL THOMAS, was very strong in its positions and opinions. The fact that we have a final product goes a long way to the good work of both the chairman and the ranking member.

To my colleague from Louisiana, I was not here over the weekend, but she was handling the floor very well and was insisting on her point, as she always does, very eloquently. Hopefully, ultimately she will get what she deservedly should get as a result of her efforts with regard to protecting the National Guard. This fight is far from over. I will have more, perhaps in a lameduck, to say about what I think about this body and how much I have loved it, how much I will always remember it during our period of time in our lameduck session. But to Senator BAUCUS and my colleague, Senator LANDRIEU, I thank them very much. They have both been a guide for me in learning the Senate Finance Committee, which has been a wonderful place to serve.

I yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, today is a historic day in the world of tax policy. We are about to pass the most significant reform of American business taxation since 1986. I am not talking about large corporate reforms. This bill contains some of the most important small business reforms in years. This bill represents the most comprehensive agricultural, small business, rural community tax incentive package ever written by Congress. The bill contains far-reaching measures to revive the manufacturing base in America by cutting taxes and creating incentives to invest and create jobs in the United States. This manufacturing tax goes to large and small corporations, family-held S corporations, partnerships, sole proprietorships, farmers, and co-ops.

This is the football season. With apologies to the Senate's chart expert, my colleague from North Dakota, Mr. CONRAD, I am going to use one last chart for this bill. This chart behind me is about the football. It is a chart that I used about 7 months ago. During that time, spring drills were about the only football activity. The chart shows several sets of goalposts. As this important bill has wound its way through the legislative process, at each stage the goalposts were moved and moved and moved. Sometimes we had to call timeout. But at each stage we held on to the ball. We had an overtime regulation goalpost. We had a trade adjustment assistance goalpost. We had an unemployment insurance goalpost. Those were Senate floor goalposts. We passed each goalpost. Then we got to conference. In conference we ran into the Food and Drug Administration tobacco buyout goalpost.

We have passed the final goalpost now. In this bill we had to go straight over the tackle, and we did, just like good old-fashioned Big Ten football. I will see the Senator from Minnesota the last Saturday of November. We are finally now in the end zone.

Now I would like to thank the team that got us over the goal line. The first is Senator BAUCUS. I am certain that we would not be here without his good work and cooperation. In addition, I thank all other members of the Senate Finance Committee for their time and energy in making this bill a reality.

I would like to point out a special thanks to a couple senior members of the Senate Finance Committee, Senator NICKLES and Senator JOHN BREAUX.

Senator NICKLES has been a Finance Committee member since 1995. He has left a big impact on trade, tax, health care issues that have come before the committee. He and I have not always seen eye to eye on all issues, but he is a hard-working, tenacious Member of the Senate. He takes the work of the committee seriously.

Senator BREAUX has been on the Senate Finance Committee since 1990. He succeeded Senator Long in the Senate. Senator Long was a legendary member of the Finance Committee, the longest serving chairman it has ever had, a major architect of much tax legislation. Senator Long left a legacy on the Finance Committee. Senator BREAUX followed up on the legacy of Senator Long, taking the practical, constructive, and creative approach of Senator Long. Senator BREAUX has blazed his own trail on the Senate Finance Committee.

In many cases, the Senate is paralyzed by partisan politics. I am proud that the Finance Committee is still a workshop of bipartisan problem-solving. Senator BREAUX has been a key element at that continuing bipartisan tradition. Hopefully, the Democratic caucus, which has been steadily moving to the left over the years, will replace him with a like-kind pragmatist. The country will be better off for it.

Over the last couple of years, the States of Oklahoma and Louisiana have been well represented on the Finance Committee. Unfortunately, there will be a bit of a vacuum with the departure of Senators NICKLES and BREAUX. I am pleased that this bill contains many priorities of these two Senators. For Senator NICKLES, there was the depreciation change that he has fought for over the years. For Senator BREAUX, important priorities for his State of Louisiana included significant changes in the tax treatment of key Louisiana interests such as agriculture, aquaculture, energy production, shipbuilding, forestry, and shipping. It is a fitting tribute to these two members of the Finance Committee.

We are also saying goodbye to Senator BOB GRAHAM of Florida. Senator GRAHAM has been on the Finance Committee since 1995. In the 1990s, Senator GRAHAM was also a bipartisan bridge builder on tax and trade issues. Senator GRAHAM faithfully attended to Florida's interests during his service on the committee.

I thank also Senator FRIST for backing me all the way on this bill. He took months to get it to the Senate floor. At times many of our Republican caucus questioned whether it was worth the price of unrelated controversial amendments that were thrown our way. Our leader stayed the course. I appreciate that very much.

I would like to thank my staff on the Senate Finance Committee as well: Kolan Davis, our staff director; Mark Prater, chief tax counsel, and the other tax counsels—Ed McClellan, Elizabeth Paris, Dean Zerbe, Christy Mistr, and John O'Neill, as well as John's predecessor, Diann Howland. These individuals, along with Adam Freed, the staff assistant for the tax team, have been the workhorses for the committee—keeping the lights burning long into the night to make this bill possible.

Finally, thanks go to the hard-working interns and law clerks. I refer to Casey August, Grant Menke, and Peter Jordan. Grant took the summer off to call balls and strikes as an umpire in the New York-Penn league. Grant helped us with this bill in the spring and returned in time for the conference.

Let me extend my thanks also to George Yin and the staff of the Joint Committee on Taxation for providing guidance in this effort. I want to particularly point out the good work of Ray Beeman, David Noren, and Gray Fontenot. The Finance Committee tax staff refers to this trio of specialists as the "three amigos." The three amigos helped us find a lot of gold out there in corporate loophole land. Brian Meighan recently left the three amigos for the private sector.

I would like to thank the leadership staff for all their assistance. From Senator FRIST's staff, I thank Lee Rawls, Eric Ueland, Ronit Kumar, and Libby Jarvis. I also thank our Senate leadership team and their staffs, especially our able whip, Senator MCCONNELL.

Finally my thanks to go Jim Fransen, Mark Mathiesen, Mark McGunable and their capable staff at legislative counsel for taking on our ideas and drafting them into statutory language. These talented lawyers are the true wizards of the legislative process. They handle enormous pressure with professionalism and amazing dexterity.

I invite everybody to relax a bit today. After the vote tonight, everyone should go home and get a good night's sleep. As for me, now we are getting ready to wrap up. I am looking forward to going home to Iowa. It is harvesttime in the fields. I have some work to do on the farm. We also have a bit of an election coming up. God willing, the good folks of Iowa will send me back here to continue to do the people's business.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the conference report to accompany H.R. 4520.

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent from today's vote—the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Arizona (Mr. MCCAIN), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from New Hampshire (Mr. SUNUNU).

Mr. REID. I announce that the Senator from North Dakota (Mr. DORGAN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Vermont (Mr. LEAHY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 17, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—69

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Cantwell
Chafee
Clinton
Cochran
Coleman
Conrad
Cornyn
Craig
Crapo
Daschle
Dayton
Dole
Domenici
Ensign
Enzi
Feingold
Fitzgerald
Frist
Graham (SC)
Grassley
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kyl
Landrieu
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Stabenow
Stevens
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—17

Akaka
Biden
Boxer
Byrd
Carper
Collins
Corzine
DeWine
Dodd
Durbin
Feinstein
Gregg
Kennedy
Levin
Reed
Rockefeller
Sarbanes

ANSWERED "PRESENT"—1

Kohl

NOT VOTING—13

Campbell
Chambliss
Dorgan
Edwards
Graham (FL)
Hollings
Kerry
Lautenberg
Leahy
McCain
Miller
Specter
Sununu

The conference report was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, there are a few of us who would like to be heard on different subject matters. Maybe we could work out some arrangement so we don't have to wait around. I have about 20 minutes to speak on the bill that was just agreed to. I know other colleagues will also request time on various matters.

I will ask unanimous consent that once matters of business are finished, I be recognized for 15 minutes in morning business.

## GUARDSMEN AND RESERVISTS FINANCIAL RELIEF ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Finance Committee is discharged from further consideration of H.R. 1779, the Senate will proceed to the consideration of the amendment at the desk, which is agreed to, the motion to reconsider is laid on the table, the bill, as amended, is read a third time and passed, and the motion to reconsider is laid on the table.

The amendment (No. 4061) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (H.R. 1779), as amended, was read the third time and passed.

## REFUNDABLE TAX CREDITS FOR MUNICIPALITIES

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consideration of S. Res. 464, which the clerk will report by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 464) relating to refundable tax credits from municipalities.

The PRESIDING OFFICER. Under the previous order, the resolution is agreed to and the motion to reconsider is laid on the table.

The resolution (S. Res. 464) was agreed to.

The resolution reads as follows:

S. RES. 464

Whereas, the Senate today passed a free standing measure which is designed to address tax relief issues relating to Reservists and National Guardsmen;

Whereas, one of the provisions of the package provides tax relief to employers of Reservists and National Guardsmen;

Whereas, the employer provision is targeted to businesses and tax paying entities;

Whereas, State and local governments are facing budgetary pressures, particularly with regard to homeland security;

Whereas, many local first responders have been called to active duty in the National Guards and Reserves, and many state and local governments have continued to pay their salaries, thus increasing the budgetary pressure on state and local governments;

Whereas, the Senate recognized this pressure by including in the FSC-ETI bill a provision to compensate state and local governments for closing the pay gap of first responders who are called to active duty in the National Guards and Reserves: Now, therefore, be it

*Resolved*, That it is the Sense of the Senate that:

1. The Senate should reiterate its support for reimbursing state and local governments for closing the pay gap for first responders who are called to active duty in the National Guard and Reserves by considering expanding the employer tax relief provisions to cover state and local governments; and

2. The President should consider including such a proposal in his Fiscal Year 2006 Budget Submission.

The PRESIDING OFFICER. Under the previous order, the Senator from California, Mrs. BOXER, is to be recognized for 30 minutes.

Mr. REID. Mr. President, I yield the time.

## MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 4837, which the clerk will report.

The assistant legislative clerk read as follows:

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for fiscal year ending September 30, 2005.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senator from California, Senator FEINSTEIN, and I have 5 minutes to speak on the military construction bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, I ask unanimous consent that the Senator from Connecticut be recognized following the disposition of the business the Chair has.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, the Military Construction bill is a very important bill this year. Senator FEINSTEIN, the ranking member, and myself as chairman of the committee wanted to talk about its importance.

This is a bill that focuses on the quality of life for our military personnel and also makes sure they have the family housing and training facilities they need.

In addition to our Military Construction bill, this is the disaster supplemental. This is the bill that was chosen to provide help for hurricane victims in Florida and drought relief for our farmers. Also, the Alaska pipeline that is so important to the economy of our country as well as to the economy of Alaska is in this bill. I am very pleased we were able to produce a bill that encompassed all of these very important items at the close of this very important session.

There is in the military construction conference report $4.5 billion for active components construction and $9.45 million for Guard and Reserve construction. It is important that we increase the quality of the training facilities for our Guard and Reserve. Senator FEINSTEIN and I made a point of doing that during this conference because we felt the Guard and Reserve is way behind in keeping up with the training facilities they need and for the job we are asking them to do. They certainly deserve it.

We increased funding for military housing and worked with the defense authorization committee to make sure that the privatization cap was lifted—a very important step for the quality of housing for our military personnel.

I am very proud of this bill. I am proud that we are meeting the military construction needs. I am proud we were able to provide for the needs of Florida in their disaster recovery efforts and also the drought that has actually been funded for not only the present drought in certain parts of our country but droughts in the past in Texas and other places where the money has run out.

I am proud of this bill. I thank my ranking member, Senator FEINSTEIN, for her help and valuable assistance in making this happen.

Mrs. FEINSTEIN. Mr. President, I am pleased that the conferees on the fiscal year 2005 Military Construction Appropriations bill have reached agreement, and I would like to say a few words about the bill.

The conference report includes important funding for the reconstruction efforts in States affected by recent hurricanes and assistance for agricultural producers suffering from drought and other natural disasters.

First, let me address the military construction portion of the agreement. While the President's budget request was $9.55 billion, only 2.5 percent over last year's enacted level, the conference report provides $10 billion for military construction and family housing programs for fiscal year 2005.

These new facilities are crucial to the well being of our troops, especially at a time when our active and Reserve forces are, along with their families, being asked to make enormous sacrifices for our country.

The conference report also provides $11.6 billion in disaster assistance, including $8.8 billion for hurricane-related relief which is designated as emergency spending and $2.8 billion in assistance for agricultural producers suffering through drought and other natural disasters, which is offset by a cap on spending for the Conservation Security Program.

I think we all recognize the importance of this assistance package, but I am disappointed that the majority insisted on treating emergencies in different part of the Nation unequally.

Drought relief for farmers in the Midwest and across the Nation is no less important than hurricane relief in the Southeast and should not have required an offset from the Conservation Security Program.

Offsetting this funding hobbles the effectiveness of one of the most important environmental programs in the Department of Agriculture.

I was also concerned that the package requested by the President leapfrogged Federal Highway Administration assistance for damage done by the hurricanes ahead of the backlog of projects required to repair damage from past disasters.

However, this concern was addressed by an agreement to fully fund the backlogged emergency relief program in the pending omnibus bill.

Chairman HUTCHISON indicated at the conference that Speaker HASTERT and Majority Leader FRIST have committed to fully fund the States that need this assistance, and I appreciate their help on this issue.

There are currently $752 million in projects that have not been funded, even though they have already qualified for emergency relief.

California alone has over $240 million in projects that have not been funded. I appreciate Chairman YOUNG's willingness to rectify this situation and look forward to the emergency relief funding program being funded in the omnibus.

The conference agreement also includes Senator STEVENS' provision on the Alaska Natural Gas pipeline.

Senator STEVENS has worked for the past few years to authorize funding for this pipeline, and I am pleased that we could get this done for the senior Senator from Alaska.

The provision authorizes the construction of a pipeline from Prudhoe Bay, AK, to the lower 48, with a dedicated supply of natural gas to California.

The provision provides Federal loan guarantees to whatever entity builds/decides to build the pipeline, as Senator STEVENS requested.

The demand for natural gas in this country is growing exponentially, particularly in my State of California. Natural gas prices have risen dramatically over the past several years, from $2 per thousand cubic feet in 1998 to over $7 just this week.

We need more natural gas, and I hope that Senator STEVENS' provision to bring Alaska natural gas down to the lower 48 states and particularly California will help meet that demand.

Mr. President, while I would have preferred to pass the Military Construction bill without the contentious issues surrounding this disaster assistance package, I support this conference report and hope my colleagues will do the same.

Finally, I want to thank Senator HUTCHISON for the manner in which she handled this process. I have long admired her integrity and her leadership in reaching this agreement was outstanding.

Mr. President, this is a good bill. It has had some hiccups along the way. One of them, of course, was the House put in the disaster relief package and had the signatures and would have eventually rolled us in conference. However, Senator HUTCHISON said that we would have another conference, that she would not do this, and she kept her word. That is a very big thing in this body, that if you give your word, keep your word, and she did. I am very grateful for that.

Because of this conference we were able to receive an amendment from the Senator from South Dakota, Senator JOHNSON, on drought relief. It was defeated, but then we were able to pass the bill without rancor and without a sense that in the dark of night the Democratic side had been done in.

I am very proud to say that I think it is a good bill. I want to give Senator HUTCHISON credit for that. She kept her word. That is a very big item.

I thank Senator HUTCHISON, and I appreciate the time.

Mrs. HUTCHISON. Mr. President, if I could just say thank you. I am very humbled by the remarks of the Senator from California and appreciate very much her recognition. Her leadership also got a commitment and will be in a colloquy regarding the highway funds that will also be attached to this report. The Senator from California and myself and other States took a back seat to the Florida highway needs after the hurricane, but we got assurances from the Speaker, the majority leader of the Senate, and the chairman of the Appropriations Committee on the House side that we would address this issue and get the funds for previous emergencies from the highway fund back into the 39 States that gave them up for Florida to receive help right now.

### FEDERAL HIGHWAY ADMINISTRATION EMERGENCY RELIEF

Mrs. MURRAY. Mr. President, as the ranking member of the Appropriations Subcommittee on Transportation, Treasury, and General Government, I rise to discuss a matter of great importance to my State and 33 other States—namely, the continuing backlog of claims for the Federal Highway Administration's Emergency Relief program.

The Military Construction Appropriations conference report that we are currently debating includes a title containing emergency disaster assistance. Within that title, a total of $1.202 billion is made available for the Emergency Relief Program. This appropriation carries with it the necessary language designating the funding as emergency spending.

While I support the overall funding for the Emergency Relief Program, I strongly object to the bill language governing this appropriation. At present, there are 90 projects from a total of 34 States that have been waiting to receive emergency relief funds for road projects stemming from Presidentially declared disasters. A great many of these projects stem from disasters that took place years ago and those States have been waiting an inordinate length of time for reimbursement. Despite this fact, the language governing the appropriation contained in this conference report effectively places the needs stemming from the four recent hurricanes as well as one hurricane that took place 2 months ago to the head of the list. This language makes the $1.2 billion in the bill available only for those five hurricanes and then stipulates that, if there is any funding remaining after those needs are met, that remaining funding can be used for the projects on the backlog list.

To my knowledge, we have never allowed certain natural disasters to get preferential treatment over other disasters under this program. And this new precedent will work a hardship on my state and a great many others. My State of Washington is still waiting for reimbursement of some $19.4 million stemming from six separate disasters dating as far back as the Nisqually earthquake in February 2001. The same can be said for 33 other states that are also owed varying amounts.

Based on my objection and those of several other Senators, I understand that there have been a series of discussions among the appropriate congressional and administration leaders to set forth a plan on how this backlog of emergency relief claims will be addressed in the near future. This plan was discussed during the conference committee deliberations on the military construction bill so I would welcome the comments of the managers of that bill on this matter.

Mrs. HUTCHINSON. I thank my friend from Washington for raising this issue. I share her concern that the existing backlog of emergency relief projects has not been adequately addressed under the disaster assistance title of this bill. Indeed, my State of Texas is still waiting to receive at least $17.2 million from no fewer than seven separate disasters including floods, hurricanes and ice storms dating all the way back to the end of calendar year 2000.

During our conversations leading up the final conference meeting on this bill, the chairman of the House Appropriations Committee, Mr. YOUNG of Florida, assured me that an agreement had been reached on this matter between himself, the Speaker of the House and our majority leader. Under that agreement, sufficient emergency funding will be provided in the final omnibus appropriations bill for this year to ensure that the existing backlog of projects will be fully compensated. I made mention of this agreement during our open conference committee deliberations and I want to assure my friend from Washington that our mutual concern over this matter will be addressed fully in the final omnibus appropriations bill.

Mrs. FEINSTEIN. Mr. President, I too wish to thank the Senator from Washington for raising this critically important issue. Indeed, no State has been more disadvantaged than my own by the decision to target the available emergency relief funding in this bill largely if not exclusively to the recent hurricanes. That decision was not made by the conferees on the military construction portion of the bill. Rather, it was made by the full committee leadership. As such, I am grateful to the subcommittee chairman, Senator HUTCHISON, for working with her own leadership and Chairman YOUNG in gaining their assurance that these outstanding emergency relief claims will be fully funded in this year's omnibus appropriations bill.

Mrs. MURRAY. I thank the managers of the bill for their attention to this matter and I'm pleased that they have received assurances that this problem will be addressed fully in the omnibus appropriations act. For the interest of all Senators, I ask unanimous consent that the most up-to-date backlog list provided to me by the Federal Highway Administration be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CURRENT EMERGENCY RELIEF PROGRAM FUND REQUESTS

[Updated 10/4/04 8:00 a.m.]

| State | Event | Amount Requested | Subtotal by State |
|---|---|---|---|
| Alaska | AK02–1, Spring 2002 Flood | 603,262 | |
| Alaska | AK03–1, October & November 2002 Floods | 9,931,409 | |
| Alaska | AK03–2, November 3, 2002 Earthquake | 30,296,337 | 40,831,008 |
| American Samoa | AQ03–1, May 2003 Flooding/Landslides | 4,243,500 | |
| American Samoa | AQ04–1, January 4, 2004 Tropical Cyclone Heta | 15,725,525 | 19,969,025 |
| Arizona | AZ01–1, October 2000 Flood | 514,800 | |
| Arizona | AZ02–1, Rodeo-Chediski Wild Fire 2002 | 2,280,200 | 2,795,000 |
| Arkansas | AR01–1, December 2000 Ice Storm | 4,586,937 | |
| Arkansas | AR04–1, April 2004 Flooding | 1,585,011 | 6,171,948 |
| California | CA83–1, 1983 Devil's Slide | 150,316,533 | |
| California | CA03–1, December 2002 Storms | 45,863,000 | |
| California | CA04–1, October 2003 San Diego Wildfires | 44,300,000 | 240,479,533 |
| Colorado | CO03–1, June 2003 Sinkhole I–70 | 2,048,928 | 2,048,928 |
| Connecticut | CT04–1, March 25, 2004 I–95 Truck Fire | 9,200,000 | 9,200,000 |
| Delaware | DE03–1, 2003 Hurricane Isabel & Storm Henri | 1,058,000 | 1,058,000 |
| Guam | GQ02–1, October 13, 2001 Earthquake | 264,000 | |
| Guam | GQ02–2, July 2002 Typhoon Chata'an | 1,581,500 | |
| Guam | GQ03–1, December 2002 Typhoon Pongsonga | 8,442,526 | 10,288,026 |
| Idaho | ID02–1, April 2002 Flood | 287,000 | 287,000 |
| Illinois | IL02–1, April 2002 Storm | 3,001,600 | 3,001,600 |
| Iowa | IA04–1, May/June 2004 Storms and Flooding | 3,000,238 | 3,000,238 |

CURRENT EMERGENCY RELIEF PROGRAM FUND REQUESTS—Continued

[Updated 10/4/04 8:00 a.m.]

| State | Event | Amount Requested | Subtotal by State |
|---|---|---|---|
| Kansas | KS03–1, June 2003 Flood | 868,285 | 868,285 |
| Louisiana | LA03–1, 2003 Hurricane Lilli | 6,029,552 | 6,029,552 |
| Maryland | MD03–1, September 2003 Hurricane Isabel | 4,413,500 | 4,413,500 |
| Michigan | MI02–1, April 2002 Flood | 1,035,000 | |
| Michigan | M103–1, May 2003 Storms | 1,779,736 | 2,814,736 |
| Minnesota | MN01–1, April 2001 Flood | 404,016 | |
| Minnesota | MN02–1, June 2002 Flood | 2,148,415 | 2,552,431 |
| Mississippi | MS03–1, April 2003 Storms | 2,381,684 | 2,381,684 |
| Missouri | MQ02–1, April 2002 Flood | 1,177,000 | 1,177,000 |
| Montana | MT04–1, November 18, 2003 US 2 Bridge Damage | 3,678,076 | 3,678,076 |
| Nebraska | NE02–1, July 2002 Flood | 2,262,000 | |
| Nebraska | NE03–1, May, 2003 I–80 Overpass Collapse | 1,269,000 | 3,531,000 |
| New Hampshire | NH03–1, August 2003 Storms | 2,282,000 | 2,282,000 |
| New Jersey | NJ99–1, 1999 Hurricane Floyd | 1,692,000 | |
| New Jersey | NJ00–1, August 2000 Flood | 3,564,000 | |
| New Jersey | NJ01–1, June 22, 2001 I–80 Truck Fire | 1,028,000 | |
| New Jersey | NJ02–1, May 30, 2002 Creek Road Br over I–295 | 335,769 | 6,619,769 |
| New York | NY01–1, December 2000 Flood | 121,000 | |
| New York | NY02–1, April 20, 2002 Earthquake—Clinton Co. | 584,016 | |
| New York | NY03–1, April 2003 Ice Storm | 5,662,951 | |
| New York | NY03–2, Summer 2003 Storms | 2,241,669 | |
| New York | NY03–3, August 2003 Power Outage | 846,000 | |
| New York | NY04–1, May/June 2004 Storms and Flooding | 1,600,000 | 11,055,636 |
| N. Mariana Islands | CN02–1, July 2002 Typhoon Chata'an | 21,579 | |
| N. Mariana Islands | CN03–1, December 2002 Typhoon Pongsonga | 988,157 | 1,009,736 |
| North Carolina | NC03–1, December, 2002 Winter Storm | 15,231,000 | |
| North Carolina | NC03–2, February 2003 Ice Storm | 5,077,000 | |
| North Carolina | NC03–3, September 2003 Hurricane Isabel | 16,923,000 | 37,231,000 |
| North Dakota | ND01–1, Spring 2001 Devils Lake | 19,157,000 | |
| North Dakota | ND04–1, Spring 2004 Flooding in NE ND | 1,980,949 | |
| North Dakota | ND04–2, May 2004 Devils Lake | 13,572,000 | 34,709,949 |
| Ohio | OH04–1, January 3, 2004 Flooding | 32,423,648 | |
| Ohio | OH04–2, May/June 2004 Flooding | 2,610,000 | 35,033,648 |
| Oklahoma | OK01–1, Dec/Jan 2001 Ice Storm | 2,938,000 | |
| Oklahoma | OK02–1, May 26, 2002 I–40 Bridge Failure | 11,665,000 | 14,603,000 |
| Pennsylvania | PA01–1, June 2001 Flood | 447,000 | |
| Pennsylvania | PA03–1, July 2003 Storms | 1,616,956 | |
| Pennsylvania | PA03–2, September 2003 Flooding | 2,743,600 | |
| Pennsylvania | PA04–1, January 24, 2004 Route 33 Sinkhole | 5,839,886 | 10,647,442 |
| Puerto Rico | PR01–2, November 2001 Flood | 516,000 | |
| Puerto Rico | PR03–1, Rains, Runoff, & Flooding, April 2003 | 2,200,000 | |
| Puerto Rico | PR04–1, November 2003 Rainfall | 5,800,000 | 8,516,000 |
| South Dakota | SD01–1, Spring 2001 Flood | 282,000 | 282,000 |
| Texas | TX01–1, Dec/Jan 2001 Ice Storm | 925,000 | |
| Texas | TX01–2, June 2001 Storm Allison | 850,000 | |
| Texas | TX01–3, Sept.15, 2001 Qn. Isabella Br. Failure | 3,253,000 | |
| Texas | TX02–1, July 2002 Flood | 5,366,000 | |
| Texas | TX03–1, 2003 Hurricane Claudette | 898,212 | |
| Texas | TX04–1, April 2004 I-20 Bridge Failure | 4,766,192 | |
| Texas | TX04–2, May 2004 Flooding | 1,156,871 | 17,215,275 |
| Vermont | VT03–1, August 2003 Storm | 690,500 | 690,500 |
| Virginia | VA01–1, July 2001 Flood | 702,034 | |
| Virginia | VA02–1, March 2002 Flood | 3,738,073 | |
| Virginia | VA03–1, September 2003 Hurricane Isabel | 29,921,948 | |
| Virginia | VA04–1, August 2004 Tropical Storm Gaston | 12,787,000 | 47,149,055 |
| Virgin Islands | VI04–1, November 2003 Rainfall | 1,100,000 | 1,100,000 |
| Washington | WA01–1, Feb 28, 2001 Nisqually Earthquake | 3,989,000 | |
| Washington | WA02–1, Nov/Dec 2001 Flood | 725,000 | |
| Washington | WA02–2, January 2002 Storm | 549,000 | |
| Washington | WA03–1, February 2003 Storms Multiple Cos. | 1,460,000 | |
| Washington | WA04–1, October 2003 Storms & Flooding | 11,508,000 | |
| Washington | WA04–2, November 2003 Storms & Flooding | 1,185,000 | 19,416,000 |
| West Virginia | WV01–2, July 7, 2001 Flood | 925,000 | |
| West Virginia | WV02–1, May 2002 Flood | 3,216,000 | |
| West Virginia | WV03–1, February 2003 Storms | 3,468,152 | |
| West Virginia | WV03–2, June 2003 Storms/flooding | 3,126,695 | |
| West Virginia | WV04–1, November 2003 Rains & Flooding | 6,202,805 | |
| West Virginia | WV04–2, May 2004 Flooding | 5,063,199 | 22,001,851 |
| Wyoming | WY02–1, August 2002 Flood | 1,097,955 | 1,097,955 |
| FLH Manag. Agencies | Various events | 114,862,000 | 114,862,000 |
| Subtotal | | 752,099,386 | 752,099,386 |
| Various States | 2004 Hurricanes (Charley, Frances, Ivan, Jeanne)* | 764,000,000 | |
| Total | | 1,516,099,386 | |

*Preliminary estimates.

Mr. COCHRAN. Mr. President, I am pleased to recommend approval by the Senate of the fiscal year 2005 Military Construction appropriations conference report, which contains emergency supplemental appropriations needed by States seeking Federal funding from the disaster relief fund administered by the Federal Emergency Management Agency.

On September 8, the President signed into law $2 billion in supplemental appropriations for FEMA. Since then, the President has made 3 more requests for funding for various departments within the Government. Today we are responding to those requests and including $6.5 billion in emergency funding which will return the balance of the disaster relief fund to a healthy level. This is in addition to the $2 billion supplemental the Congress provided immediately following the devastation caused by Hurricane Charley. Additional appropriations for FEMA's disaster relief fund cannot wait because the balance of this important program has again been depleted to a dangerously low level following three additional hurricanes and other natural disasters.

This funding will not only be needed by the victims of recent hurricanes in the southeast but will also be used for the several hundred repair projects and mitigation activities across the country resulting from every other federally declared disaster of the past few years. I have been assured by the Department of Homeland Security that these funds are sufficient to cover the current needs of our Nation's disaster victims and I support this funding.

Mr. BYRD. Mr. President, on Friday night, as Senators headed home after the final vote of the day, the House-Senate conference on the military construction appropriations bill reached its conclusion. With the conferees in agreement, all that remained to be done on that bill was to file and pass the conference report.

But work on that bill did not stop there. In the dead of night, the leadership intervened in the conference to jam an additional $11.6 billion funding package onto that bill. The Senators who served on that conference committee didn't know what hit them. This disaster supplemental was never considered, debated, or voted on by the Senate. Senators never had a chance to examine or weigh in on this spending.

Appropriations for disaster relief to address the problems resulting from the four recent hurricanes are undoubtedly required. However, there are extensive backlogs of unfunded needs resulting from earlier disasters that are not addressed at all in this relief package. This bill fails to provide the funds to address the $752 million backlog for 34 States in the emergency highway program or a $128 million backlog for 43 States in the USDA debris removal programs. In 43 States, the debris from past-floods and other disasters has yet to be cleaned up. So, the next time a flood comes rolling down the valley, the water will have no place to go, making the damage even worse. What kind of a short-sighted policy is that?

Sadly, our President and administration seem to only be able to focus on the immediate crisis. By all means, we should provide the $11.6 billion of assistance to the victims of the four recent hurricanes. But why has the President shown no interest in helping the communities hit by past disasters in West Virginia, Pennsylvania, Ohio, or California? The Federal Government owes just those four States over $307 million. I simply do not under why this so-called compassionate President can treat the victims of disaster in one State differently than victims in other States.

The military construction conference report also includes $2.9 billion in emergency assistance for farmers experiencing crop losses caused by natural disasters, such as drought conditions, hurricanes and other disasters.

It is a worthwhile effort for the Congress to assist the Nation's farmers in their time of need. However, the same relief package includes an onerous provision which decreases another farm aid program by nearly $3 billion to pay for the drought disaster aid. In short, this disaster relief package robs Peter to pay Paul. While it increases aid to farmers with one hand, it takes it away with the other.

This is no way to run the United States Senate. I signed the conference report for the military construction aspect alone. That funding went through normal procedures. It was debated and voted on by both Houses, and it was subject to bipartisan negotiations in conference.

I commend the two managers of this bill for their perseverance in following regular order to the great extent that they did. The managers were under great pressure from the Republican leaders of Congress to cut a backroom deal in the dead of night, simply to allow members of the House to leave town before the Senate.

The managers stuck to their guns and insisted that the conferees meet again in open session to consider the whole package. This is as much as they could do in the face of the majority leadership. The managers of the military construction bill held as firm as they could against the arm-twisting of the Republican leaders. But the deck was stacked, and the leadership never intended to allow the Senate a moment of debate on this spending package. It was just jammed in at the last minute.

In this respect, my refusal to sign the conference report, except for the military construction aspect, reflects my solidarity with the Senator from Iowa, Mr. HARKIN, and his battle to implement the Conservation Security Program, which he authored as part of the 2002 farm bill. It is unfair for this Senator to have to keep fighting for the survival of this program year after year before. Any Senator who is familiar with the difficult decisions a farmer must make to operate a successful business knows that when a farmer decides to commit to the conservation practices required by this important environmental program, that farmer is making a long term commitment. But year after year, the Republican majority tries to shackle this program with new limits. How can a farmer make a long term commitment to conservation when the rules keep changing?

I hope that the Senate will return to its prior way of doing business, when the regular order was followed and the rights of all Senators, including those in the minority, were fully protected. Such practices serve this institution well. It promotes respect among Members and quells unnecessary disputes.

The leadership of the Senate would do well to turn away from the increasingly common gambit of trying to jam legislation down the throats of Senators at the last possible moment. It is most unfortunate that the Republican leaders chose to pursue this tactic on spending that is intended to help countless Americans recover from recent disasters.

It is some small consolation that the Senate has recognized its obligation to the Senator from Iowa, Mr. HARKIN, by agreeing to adopt a concurrent resolution relating to the enrollment on the fiscal year 2005 military construction appropriations bill. This concurrent resolution, if adopted by the House, would have the effect of deleting the onerous offset against the Conservation Security Program that the Senator from Iowa, Mr. HARKIN, and others find so offensive. The concurrent resolution would, in contrast to the FY 2005 military construction appropriations bill, substitute language similar to that employed with regard to the hurricane disaster aid, thus making the drought aid to farmers an emergency without an offset.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I am pleased today that the Senate will accept by voice vote the fiscal year 2005 Military Construction Appropriations Conference Report.

The conference report includes important funding for the reconstruction efforts in States affected by recent hurricanes and assistance for agricultural producers suffering from drought and other natural disasters.

First let me address the military construction portion of the agreement. While the President's budget request was $9.55 billion, only 2.5 percent over last year's enacted level, the conference report provides $10 billion for military construction and family housing programs for fiscal year 2005.

These new facilities are crucial to the well being of our troops, especially at a time when our active and reserve forces are, along with their families, being asked to make enormous sacrifices for our country.

The conference report also provides $11.6 billion in disaster assistance, including $8.8 billion for hurricane-related relief which is designated as emergency spending and $2.8 billion in assistance for agricultural producers suffering through drought and other natural disasters, which is offset by a cap on spending for the Conservation Security Program.

I think we all recognize the importance of this assistance package, but I am disappointed that the majority insisted on treating emergencies in different parts of the Nation unequally.

Drought relief for farmers in the Midwest and across the Nation is no less important than hurricane relief in the Southeast and should not have required an offset from the Conservation Security Program.

Offsetting this funding hobbles the effectiveness of one of the most important environmental programs in the Department of Agriculture.

I was also concerned that the package requested by the President leapfrogged Federal Highway Administration assistance for damage done by the hurricanes ahead of the backlog of projects required to repair damage from past disasters.

However, this concern was by an agreement to fully fund the backlogged emergency relief program in the pending omnibus bill.

Chairman HUTCHISON indicated at the conference that Speaker HASTERT and Majority Leader FRIST have committed to fully fund the States that need this assistance, and I appreciate their help on this issue.

There are currently $752 million in projects that have not been funded, even though they have already qualified for emergency relief.

California alone has over $240 million in projects that have not been funded. I appreciate Chairman YOUNG's willingness to rectify this situation and look forward to the emergency relief funding program being funded in the omnibus.

The conference agreement also includes Senator STEVENS' provision on the Alaska Natural Gas pipeline.

Senator STEVENS has worked for the past few years to authorize funding for this pipeline, and I am pleased that we could get this done for the senior Senator from Alaska.

The provision authorizes the construction of a pipeline from Prudhoe Bay, AK, to the lower 48, with a dedicated supply of natural gas to California.

The provision provides Federal loan guarantees to whatever entity decides to build the pipeline, as Senator STEVENS requested.

The demand for natural gas in this country is growing exponentially, particularly in my State of California. Natural gas prices have risen dramatically over the past several years, from $2 per thousand cubic feet in 1998 to over $7 just this week.

We need more natural gas, and I hope that Senator STEVENS' provision to bring Alaska natural gas down to the lower 48 States and particularly California will help meet that demand.

While I would have preferred to pass the Military Construction conference report without the contentious issues surrounding this disaster assistance package, I support this conference report and I am pleased that my colleagues have agreed to accept it.

Finally, I thank Senator HUTCHISON for the manner in which she handled this process. I have long admired her integrity and her leadership in reaching this agreement was outstanding.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. LEAHY. Mr. President, I would like to focus the attention of the Senate on the recent devastation to many nations in the Caribbean as a result of a half a dozen hurricanes and tropical storms in the autumn of this year, 2004.

More than a thousand people have perished; many are still missing. Thousands of families are homeless and jobless. Non-governmental organizations such as the International Red Cross, the United Nations, and religious organizations, rushed to the scene with relief aid and volunteers to help the survivors. The United States Government has sent U.S. AID teams to assess the damage. Early estimates reveal hundreds of millions of dollars of physical damage to homes and businesses. On the Island of Grenada industries have been completely wiped out. There are riots in the streets of cities in Haiti where stockpiles of nonperishable food and potable water are diminishing fast.

In April, 2001 President Bush instituted the "Third Border Initiative" that anticipated a quick response by our government that would, in his words, ". . . fund disaster preparedness and mitigation efforts to shield critical commercial and environmental infrastructure from natural disasters, such as hurricanes." This is important because it signals a focus not only on emergency assistance, but on trying to reduce the amount of damage caused by future hurricanes. In other words, the President was also signaling a welcome focus on rebuilding homes and businesses in a manner that is resistant to potential damage by hurricanes. These types of buildings would also reduce the dreadful death toll of future hurricanes.

We have an opportunity to aid our friends and partners in the Caribbean. The administration has attached a $50 million request for the Caribbean to a larger package of help for Florida and other States in the South hit by the rolling series of storms this summer and fall. Our colleagues in the U.S. House of Representatives have requested an additional $50 million, so the total is $100 million for the Caribbean. Secretary Colin Powell recently visited Grenada and stated that the first aid will come in phases, starting with an emergency shipment of food, medicine, construction materials and other supplies, about a quarter of which will go to Grenada.

It is at this time that we have an opportunity to thoughtfully help the region. As Secretary Powell said, ". . . that help was needed not simply to repair homes and schools, but also to restore the economic infrastructure of the country." He went on to say that, "experts had begun discussing 'creative suggestions' for how Grenada could diversify its agricultural output. . . ." I agree with Secretary Powell that the time has come to try to better spend our assistance dollars. As is the case with weather disasters, economic disasters also ruin the hopes of families. As long as we are helping in the rebuilding efforts, we should try to make more permanent improvements in infrastructure.

The region needs many "creative suggestions" for its redevelopment. At the University of Vermont, the students and faculty have made many suggestions, from agriculture and food processing to sustainable permanent modular housing solutions utilizing recycled materials. One appropriate solution has been devised by world acclaimed architect Adam Kalkin. It is the Quikbuild Modular System. An example of this unique, sustainable housing solution is on display in the permanent collection of the Shelburne Museum, in Shelburne, Vermont.

This type of dwelling utilizes recycled cargo containers, many of which are being shipped down to the region with a full load; they will remain there empty without the cargo to fill them; and with no place to ship them. Each is an ecological disaster waiting to happen. They also present a great opportunity if we take advantage of using them.

Recycled containers may be converted into durable, sustainable, watertight, hurricane-proof dwellings that can be used as permanent housing as well as field kitchens, medical triage units, schools, dormitories, as well as structures for commercial businesses and meeting places. Ten percent of the funds we provide should be for these more permanent housing solutions. It is imperative that the community planners consider mid-range and long-term solutions today as they manage the "first response" mission. We have seen in many regions around the globe that well-intentioned temporary and transitional housing ultimately becomes permanent housing. Priorities shift, money runs out and a new disaster knocks the old disaster off the front page. The inherent nature of shanty towns, full of permanent refugees, takes away the dignity and hope of their inhabitants.

I have received pleas from the family members residing in the United States to help their loved ones. I have received a strong request from the Ambassador of the Republic of Trinidad and Tobago, Ambassador Marina Valere, on behalf of the affected nations imploring us to also think about permanent housing solutions, that also respects their unique and fragile ecosystem. This request made clear that some portion of the aid package should be set aside for this purpose. Our friends in the Caribbean need permanent, safe, secure dwellings otherwise this crisis will repeat itself, year after year.

In addition to urgent emergency aid, America should help the survivors in the Caribbean to rebuild their communities with permanent housing solutions as well as rebuild their respective economies.•

• Mr. McCAIN. Mr. President, with reservations I support passage of the conference report to the fiscal year 2005 Military Construction Appropriations Act. This bill provides $10 billion in funding for important military construction activities including base housing as well as the construction and maintenance of base infrastructure.

When we passed the Senate version of this legislation, I declared that this appropriations bill was a good example of how the legislative process is expected to work, wherein the work of the authorizers is fully taken into account by the appropriators. The legislation was relatively free of earmarks and riders that were not related to Military Construction. However, during the conference, a legislative rider that has no business in an appropriations bill found its way into the conference report.

I am referring to the section of the conference report that authorizes a $18 billion loan guarantee program for the construction of an Alaska natural gas pipeline. This authorizing provision is found in neither the House nor the Senate version of this legislation, yet with characteristically little attention, it has found its way into the conference report. Once again, it pays to have powerful members of the Appropriations Committee representing your State or district.

Congress has a legislative process that has two separate tracks for authorization and appropriation. Merging these tracks and eliminating the essential discourse and deliberation necessary to establish sound public policy is not in the Federal taxpayers interest. Nevertheless, here we are again, faced with the necessity of approving appropriations for military construction with an enormous pork program attached at the last minute. All the more problematic is that this same piece of legislative text was included in the failed energy bill. The Senate rejected this provision then, but we are unable to do it again, as it was snuck into a conference report on a totally unrelated bill. It is a clear violation of the legislative process, specifically Rule 28, and it's simply wrong.

My objections to the Alaska pipeline provision are not only procedural. Many of my colleagues may not be aware that what they are approving here is an economic cushion for three extremely wealthy corporations. Undoubtedly, these three corporations have the financial resources to proceed with this project without taxpayers' dollars, but once again, we will manage to provide generous financial incentives to corporate interests with public funds. These selective subsidies are clearly inequitable and contrary to the interests of the rest of American taxpayers.

The sponsor of this provision may maintain that the American public will benefit from the natural gas supply that may flow through this pipeline years from now. Undoubtedly, if the supply is there, the consumers will be, too. And that is my point. This is an economic venture that will yield significant profits for those companies involved. It is my understanding that as a result of the financial promise of this venture that there are other companies that would very much like to be involved. What this provision does is to codify the terms set by these three corporations to provide an even sweeter opportunity with $18 billion in federally backed loan guarantees.

These loan guarantees are the thick rich icing on the tax break cake included in the FSC-ETI conference report, which also passed today. Tax breaks totaling $445 million are provided for pipeline construction and gas processing, again directed to the same corporations, which together have shown after-tax profits of $95 billion since 2001. I am certain that American taxpayers do not appreciate paying twice for their expensive energy supplies. Once at the pump and for their home heating bills, and then again for tax subsidies to profitable energy subsidies.

Also contained in this legislation is funding for drought assistance. I sympathize with the proponents of this agricultural disaster assistance and I do not question that drought and abrupt changes in climate are having a severe impact on the crops grown in the states covered in this conference report. While I do agree that prolonged drought and other natural disasters are having devastating effects on many Americans and sectors of our economy, crop assistance does not belong on Military Construction funding legislation.

When the Senate considers legislation to address drought-induced and other climate damages, shouldn't all affected states receive assistance? How are we to say that one group of people or sector of our economy deserves financial assistance over another? According to the Congressional Research Service, Congress provided about $3 billion in assistance for crop and livestock losses in 2001 and 2002. Coupled with all the other billions in agricultural subsidies, American taxpayers could conclude that Congress has determined, without clear deliberation, that this is the priority need.

There are many States, including Arizona, that are facing terrible drought-induced problems and do not receive assistance in this conference report. Destructive wildfires have spread through the Western United States because of the dry conditions there, causing billions of dollars in property and resource damage. Drought-induced insect infestations have increased wildfire risks to our communities and natural resources. Water levels in reservoirs in our parched states have dropped dramatically, reducing water supplies, causing millions of dollars in losses to the recreation and tourism industries and reducing hydropower generation. In some areas, the lack of precipitation and water supply recharge, has resulted in wells running dry. I can't think of a more disastrous situation than that. However, the people who fall into these categories are not covered by the drought assistance provisions.

I have found this report contains 62 earmarks totaling $98.7 million. I am also troubled by a provision in the explanatory statement that accompanies this conference report. According to the explanatory statement, "The language and allocations set forth in House Report 108-607 and Senate Report 108-309 should be complied with unless specifically addressed to the contrary in the conference report and statement of the managers." This has the composite effect of essentially doubling the number of earmarks in the Military Construction Appropriations Act. As legislators we are often forced to make difficult budgetary decisions. However, in the instance of this conference report, the most difficult decisions were avoided. With looming budget deficits, it is as important as ever to practice fiscal responsibility and avoid the practice of earmarks.

The above statement ensures all $44.7 million in earmarks added by the Senate as well as the $38.5 million in earmarks contained in the House version of this legislation. As I stated when we considered that legislation, nearly all of these earmarks are funded under the minor construction account. Normally, this account is intended to be used for urgent and unforeseen requirements and therefore neither the President's budget nor the authorizing committees identify specific projects to be funded. Once the Services decide to spend the money, the authorizing and appropriations committees must approve or disapprove of the minor construction project to which the Services plan to fund. By earmarking the funds in the minor construction account, the appropriators have usurped the authority of the authorizing committee to approve or reject these projects. I can only hope that next year, when the appropriators stray from this practice.

With the passage of the conference report to the fiscal year 2005 Defense Authorization Act, the legislative branch has once again affirmed its support for the important round of base closure and realignment that will occur next year. With this being an election year and Member's parochial concerns being as strong as ever, I am encouraged to see that my colleagues have resisted the temptation to add pork to bases in their states in what would be a misguided effort to save their bases from base closure. Such efforts would be a waste of taxpayer money, and would not prevent their base from being closed.

I commend the chairman of the Military Construction Subcommittee, Senator HUTCHISON, and the ranking member, Senator FEINSTEIN, for their hard work on this bill and their continued support for our military. Their attention and commitment to only supporting high priority projects for the Navy, Marine Corps, Army, and Air Force is once again exemplary and provide for a sound measure to fund military construction in the coming fiscal year. I only wish they were able to hold to the Senate version of this legislation and were able to keep extraneous non-military construction provisions out of this conference report.●

The PRESIDING OFFICER. Under the previous order, the vote on the motion to invoke cloture is vitiated.

The question is on agreeing to the report to accompany H.R. 4837.

The conference report was agreed to.

## CORRECTING THE ENROLLMENT OF H.R. 4837

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consideration of S. Con. Res. 144, which the clerk will report by title.

The assistant legislative clerk read as follows:

A resolution (S. Con. Res. 144) to correct the enrollment of H.R. 4837.

The PRESIDING OFFICER. Under the previous order, the concurrent resolution is agreed to and the motion to reconsider will be laid upon the table.

The concurrent resolution (S. Con. Res. 144) was agreed to, as follows:

S. CON. RES. 144

*Resolved by the Senate (the House of Representatives concurring)*, That in the enrollment of H.R. 4837, an Act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, the Clerk of the House is hereby authorized and directed to strike subsections (e) and (f) of section 101 of division B and insert the following new subsection:

(e) The amounts provided or made available by this section are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

## INSTRUCTING CONFEREES ON AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION

The PRESIDING OFFICER. Under the previous order the Senate will proceed to consideration of S. Res. 465, which the clerk will report by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 465) to instruct conferees to the Agriculture, Rural Development, Food and Drug Administration, and related agencies appropriations bill, 2005, or on a consolidated appropriations measure that includes the substance of that act.

The PRESIDING OFFICER. Under the previous order, the resolution is agreed to, and the motion to reconsider is laid upon the table.

The resolution (S. Res. 465) was agreed to, as follows:

S. RES. 465

*Resolved*, That for the purpose of restoring the provisions governing the Conservation Security Program to those enacted in the Farm Security and Rural Investment Act and restoring the practice of treating agricultural disaster assistance as emergency spending, the Senate instructs conferees to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 2005, or a Consolidated Appropriations Measure that includes the substance of that act, to insist that the conference report contain legislative language striking subsections (e) and (f) of section 101 of division B of H.R. 4837, An Act Making Appropriations for Military Construction, Family Housing, and Base Realignment and Closure for the Department of Defense for the Fiscal Year ending September 30, 2005 and for Other Purposes.

## DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2005—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 4567, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report accompanying (H.R. 4567), making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005.

The PRESIDING OFFICER. Under the previous order, the vote on the motion to invoke cloture is vitiated.

Mr. COCHRAN. Mr. President, I am pleased to present for the Senate's approval today the conference report on H.R. 4567, the fiscal year 2005 Homeland Security Appropriations Act.

The conference agreement provides total new budget authority for the Department of $33.1 billion. Of the amount provided for fiscal year 2004, $32 billion is for discretionary programs.

To further strengthen the capacity of the Nation's first responders to prepare for and respond to possible terrorist threats and other emergencies, this conference report provides a total of $3.9 billion for the Office for State and Local Government Coordination and Preparedness, including: $1.1 billion for the State and local formula-based grant program; $400 million for law enforcement terrorism prevention grants; $885 million for high-threat, high-density, urban area grants; $150 million for port security grants; $150 million for rail and transit security grants; and $715 million for the firefighter assistance grant program, of which $65 million is set-aside to begin implementing the SAFER Act. The conference report also includes a separate appropriation of $180 million for emergency management performance grants.

The conference report includes a total of $5.1 billion for the Transportation Security Administration, furthering our commitment to secure all modes of transportation. The conference committee made air cargo security a priority and provides $115 million for air cargo security, an increase of $30 million from the President's request. This funding will allow the Department to enhance its efforts to target and prohibit the transportation of high-risk cargo on passenger aircraft; as well as to advance efforts to research, develop, and procure the most effective and efficient air cargo inspection and screening systems. In addition, there is a statutory requirement for the tripling of cargo inspections on passenger aircraft.

Additionally, $8.8 billion is provided to secure our Nation's borders; $5.5 billion is provided for emergency preparedness and response; $7.37 billion for the Coast Guard; and $2 billion for research, analysis, and infrastructure protection. To increase rail security the conference report provides $172 million for rail compliance inspectors; canine explosive detection teams; rail, freight, and transit security grants; vulnerability assessments; and research and development of technologies to prevent suicide bombers. A total of $662 million is provided for the Federal Air Marshals, $50 million more than the requested amount.

A matter of concern to some of my colleagues are the items funded through the offset provided by the extension of the customs user fees. The largest single item that was funded through this mechanism was speeding up the development and deployment of permanent airwings across our northern border. Unfortunately, once the customs user fee extension was dropped from this bill, we lost the offset available to enhance funding for these important items and not exceed the fiscal constraints placed on our subcommittee.

The conference committee met on Thursday, October 7, 2004, and the conference report was filed on Saturday, October 9, 2004. It was adopted by the House of Representatives later that day by a vote of 368 yeas to zero nays. Senate passage of this conference report today will send this fiscal year 2005 appropriations bill to the President for signature into law.

In closing, I thank the ranking member of the subcommittee, my colleague from West Virginia, Senator BYRD; the chairman of the House subcommittee, Mr. ROGERS; and the ranking member of the House subcommittee, Mr. SABO, for their substantial contributions to this bill throughout the year. It has taken many hours of hard work by these Members and their staff members to bring this bill to a successful conclusion. I would also like to thank the chairmen ranking members of the House and Senate full Appropriations Committees and their staff members for the assistance and guidance they have provided to us throughout the process.

I recommend the adoption of the conference report.

Mr. BYRD. Mr. President, I thank Chairman THAD COCHRAN, the House chairman, HAROLD ROGERS, Representative MARTIN SABO, Representative

DAVID OBEY, and all of the House and Senate conferees for their hard work on this important legislation. We all share the goal of ensuring that the new Department of Homeland Security has the resources it needs to secure the homeland.

I also commend the thousands of men and women who are on the front lines of homeland security. While I remain very concerned that we are not giving these men and women the tools they need to do their jobs, that in no way detracts from their commitment to serve the Nation every hour of every day.

It is particularly appropriate for us to be considering this legislation as Congress reviews the recommendations of the 9/11 Commission. The President, the Vice President, the Attorney General, the Secretary of Homeland Security, the FBI Director, and the CIA Director invoke the threat of another terrorist attack on an almost weekly basis. The 9/11 Commission concluded that on September 11, 2001, our government agencies were not prepared to deter or respond to such attacks. We are still not prepared to deter or respond to such attacks.

In light of all of these threats, one might anticipate that the President would have amended his anemic 2-percent proposed increase for the Department of Homeland Security. One might have anticipated that the President, our war President, would have requested increased appropriations for securing our mass transit systems, for screening airline passengers for explosives, for inspecting more containers coming into our ports, for increasing inspections of air cargo, or for increasing the number of Federal Air Marshals. Sadly, this President talks the talk when it comes to homeland security, but when it comes to doing the hard work of making the Nation more secure, the President takes a walk.

The conference report that is before the Senate provides $33.1 billion, a level that is $896 million above the President's request. This is an increase of only 5-percent over the levels approved by Congress last year, only 5-percent. At a time when our war time President and his entire administration is telling the Nation to expect another attack, we are approving what is essentially a status-quo homeland security bill.

The conference report that is before us does make several modest improvements to the President's budget. In response to the Madrid bombings and threats of similar attacks here at home, we include funding for mass transit and rail security. We increase funding for port security. We do more to secure air cargo on passenger aircraft. The bill begins to invest in technologies to screen airline passengers for explosives.

While these are important improvements, regrettably, the conferees were simply not given sufficient resources to address serious gaps in our security that we all know exist.

I am particularly disappointed that the Senate majority leader changed his mind and acquiesced to a demand from the Speaker that the conferees drop the customs user fee extension and the $784 million of homeland security spending that the Senate approved last month. The funding that was stripped from the bill is vital to the security of this Nation. Not one Senator objected to adding the additional funding because it provides needed investments to protect our borders, equip first responders, enhance air and rail security, hire more Federal Air Marshals, and secure nonprofit institutions that are threatened by terrorists.

The 9/11 Commission report includes recommendations to deploy explosives detection equipment at our airports, to address the communications interoperability problem, to focus homeland security dollars based on the greatest risk, and to secure non-aviation targets. This bill simply does not do enough to respond to these recommendations.

Mr. President, time and again, Senators on this side of the aisle have tried to plug the holes in our Nation's security. We have worked to address some of the most basic, and most dangerous, holes in our protections from another terrorist attack. But at virtually every turn, the President and the Senate majority tell us no. The American people are told no. Why? It costs too much. It costs too much to protect the people's lives. It costs too much to close our borders. It costs too much to screen cargo on our airplanes and to check passengers for explosives. It costs too much to save lives.

This Administration has repeatedly warned that it isn't a question of if another terrorist attack will happen, but when. Unfortunately, I think that the Administration has failed to heed its own warning. By failing to support a significant investment in homeland security, by ignoring the gaps that we all know exist, the White House foolishly is gambling with the lives and the safety of the American people.

However, we have done the best we can with the limited resources that have been given to us and I urge Senators to support its passage. Finally, I want to thank the staffs of the Homeland Security Subcommittee. Both Chairman COCHRAN's staff and my staff have worked diligently this year to produce this important legislation. We had an excellent series of hearings this year that I believe helped the subcommittee to produce a bill that contains significant improvements to the President's request.

Again, I urge Members to support the conference report.

Mrs. CLINTON. Mr. President, I rise to state my intention to vote for the conference report to the fiscal year 2005 Homeland Security Appropriations Act because communities and first responders across our Nation desperately need the funds provided in this legislation.

I want to express my extreme disappointment, however, with many provisions in this conference report, and with the decision by the Republican leadership in the Senate and House to fail to improve the conference report language, and in some cases making it even worse, despite having many opportunities to do.

It is hard to know where to begin, but three aspects of this bill are especially egregious; they defy common sense and are simply not in the best interest of our Nation's homeland defense.

First, in outright defiance of recommendations of the National Commission on Terrorist Attacks Upon the United States, the 9/11 Commission, and of commissions before it, the leadership inserted language into this conference report that requires the Department of Homeland Security to allocate homeland security formula grant funds, such as funds under the State Homeland Security Grant Program and the Law Enforcement Terrorism Prevention Grant Program, on a per capita basis. This is directly contrary to the recommendations of the National Commission on Terrorist Attacks Upon the United States, the 9/11 Commission.

Specifically, in its report, the 9/11 Commission stated:

> We understand the contention that every state and city needs to have some minimum infrastructure for emergency response. But federal homeland security assistance should not remain a program for general revenue sharing. It should supplement state and local resources based on the risks or vulnerability that merit additional support. Congress should not use this money as a pork barrel.

The 9/11 Commission also recommended that an advisory committee be established to advise the Secretary on any additional factors the Secretary should consider, such as benchmarks for evaluating community homeland security needs. As to these benchmarks, the Commission stated that "the benchmarks will be imperfect and subjective, they will continually evolve. But hard choices must be made. Those who would allocate money on a different basis should then defend their view of the national interest."

In short, the Commission made unequivocally clear that the current method of allocating federal homeland security resources, i.e., on a per capita basis alone, must be changed.

Indeed, just a couple of weeks ago, 9/11 Commission Chairman Kean stated:

> We have recommended very strongly that homeland security funds should be distributed according to assessment of risk, and not simply by population or pork barrel or any other way. Our understanding is that that

recommendation, which is a very important one to us, is not moving, and that other people are saying that we should now remove the discretion that Governor Ridge has now over those funds and mandate that it be only by population. That would fly totally in the face of our recommendations. We feel very strongly that the best ways to distribute those funds are by the proper assessments of risk.

Not only did the 9/11 Commission recommend that such changes be made in how Federal homeland security funds are allocated, but commissions before it, such as the Homeland Security Independent Task Force of the Council on Foreign Relations, chaired by former Senator Warren, have strongly recommended it as well. Indeed, the Rudman Commission stated more than a year ago that "Congress should establish a system for allocating scarce resources based less on dividing the spoils and more on addressing identified threats and vulnerabilities. . . . To do this, the federal government should consider such factors as population, population density, vulnerability assessment, and presence of critical infrastructure within each state."

Moreover, the Senate just last week passed landmark legislation, the National Intelligence Reform Act, which contains the Homeland Security Grant Enhancement Act of 2004, which the Senate passed by voice vote as an amendment to the intelligence bill.

The Homeland Security Grant Enhancement Act of 2004, originally introduced by Senate Governmental Affairs Committee Chairwoman COLLINS, contains a number of good provisions, but among the most important is one that requires the majority of Federal homeland security grant funds intended for State and local governments to be allocated based on threat and risk and other factors rather than on the basis of population alone.

This legislation was the result of almost 2 years of work in the Senate. Legislation that calls for threat-based funding has also been introduced by House Select Committee on Homeland Security Chairman COX, which has been included in the intelligence reform legislation that the House of Representatives just passed.

In short, the language in the conference report to the Fiscal Year 2005 Homeland Security Appropriations Act reflects an utter disregard for the hard work performed over years by members of the Senate and House as well as the expert evaluations and recommendations of the 9/11 and Rudman Commissions.

For the sake of our Nation's homeland defense, I hope that the Congress will soon act on the conference report to the intelligence reform legislation that has now initially passed both the Senate and House. Both the Senate and House bills direct that homeland security funds for States and local communities be allocated based on threat and other factors. Then, the tremendous wrong in this conference report that was done to our Nation's homeland defense will be made right.

Second, this conference report actually includes less funding for our Nation's first responders for fiscal year 2005 than was appropriated for our fire fighters, police officers, EMTs and other first responders in fiscal year 2004, less funding for this year than last year, and at a time when the threat of terrorist attack against many of our communities, especially the City of New York, and our Nation as a whole remains.

This conference report has less funding for the State Homeland Security Grant program, less funding for the Law Enforcement Terrorism Prevention Grant program, less funding for the FIRE Act, and less funding specifically for high-threat urban areas.

Lastly, much of the improvements that the Senate made to the homeland security appropriations bill during the Senate's initial consideration of the bill were stripped from the conference report by the House Republican leadership. And when the conferees had the opportunity to remedy this egregious mistake by supporting an amendment by Senator BYRD to restore $784 million in cuts, that amendment was defeated.

As the conference report itself states, the conference agreement deletes section 518 of the Senate-passed bill, which included $200 million in additional funding for the Northern Border Air Wing, so that the air wings across our border can be appropriately operated; $50 million for nonprofit organizations that are at greater risk of terrorist threats; $50 million in additional critical funding for FIRE Act grants, and $50 million for Emergency Management Performance Grants.

Though I am disappointed with other provisions either contained in this bill, or missing, I am pleased that the conference committee included language from an amendment I sponsored to include funding for the firefighters and police officers of New York City.

Specifically, I commend the conferees of both the House and Senate for requiring the Federal Emergency Management Agency to provide $4,450,000 for Project Liberty pursuant to the request of the Governor of New York. We know that $25,000,000 remains unexpended, and unobligated, at the Federal Emergency Management Agency and I know they will respond to the direction of the Appropriations Committee to speed these funds to New York.

We owe these heroes every penny available for mental health counseling. Our firefighters and police officers have been receiving this counseling since losing so many of their brothers, sisters, friends, and family members in the attacks. Our firefighters and police officers have had to cope with the unimaginable and yet they stand strong on the front lines to protect the homeland.

The men and women of the New York City Fire Department and New York City Police Department, their families, and retirees, have helped this country cope with the tragic losses of that day, and this Congress has sent a clear message that we stand with them in helping them cope with their own losses.

I will continue to do whatever I can in my capacity as a Senator from New York to make sure our firefighters and police officers receive the funding they need not only in the area of mental health counseling but in all areas of homeland security.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. LEAHY. Mr. President, the conference report before the Senate today includes an important provision that will put a stop to the ill-advised attempt by the Department of Homeland Security to privatize jobs that are vital to keeping Americans safe. The conference report prohibits DHS from spending money to process or approve the privatization of Immigration Information Officer, Contact Representative, or Investigative Assistant positions. The House voted for this exact amendment earlier this year by a vote of 242–163, with 49 Republicans supporting it. The Senate voted 49–47 for this language. During the meeting of the conferees, both the Senate and House delegations voted in favor of this language.

Immigration Information Officers, IIOs, are responsible for screening applications for immigration benefits for fraud, and for performing criminal background checks on applicants. There are more than 1,200 IIOs and Contact Representatives around the nation, working for the Citizenship and Immigration Services, CIS, branch of DHS. The work they do in attempting to discover and prevent immigration fraud—and prevent dangerous people from abusing the immigration system—is clearly "inherently governmental," making them an inappropriate target of a privatization effort.

As our Nation continues to face the threat of terrorism, CIS carries a heavy burden in its attempt to process immigration and naturalization applications while ensuring that terrorists—along with other fraudulent actors—do not abuse our immigration system. Information Officers have played a vital role in meeting this burden. Indeed, the agency's own job description requires that IIOs have the "[s]kill to identify fraudulent documents in order to prevent persons from appealing for benefits for which they are not eligible," a skill that is obviously all the more important in this era. They are also required by DHS to have "[k]nowledge and skill in interviewing techniques and observation of applicants in order to determine if an applicant is misrepresenting the facts in order to appear eligible for a benefit." Weeding out potential fraud in our immigration system must remain a responsibility of government employees, especially when the perpetrator of the fraud may be a dangerous criminal or terrorist. This conference report will ensure that is the case.

I have a personal interest in this issue because about 100 fine Vermonters currently work as IIOs. I know the fine work they do, and I know that my staff and indeed all of our staffs rely on them and their counterparts throughout the country when we are seeking to help our constituents. I know that our Nation will be better off because these fine men and women will remain in their current positions.●

Mr. KOHL. Mr. President, I am pleased today to support the passage of Department of Homeland Security appropriations bill. This bill accomplishes in large part what must continue to be this Nation's first priority—protecting our country from terrorist attack.

This bill funds essential national programs which protect our borders, our aviation security, our ports, our emergency management assistance, and our critical infrastructure, such as nuclear power plants. In addition, the bill funds essential programs that do not only protect us, but also prepare our States and communities should we be faced with an emergency. These grant programs support our firefighters and other first responders whom we rely on in times of need.

The State Homeland Security Grants enable the States to organize their first responders and communications systems to respond to a terrorist attack. Further, the Urban Area Security Initiative recognizes that our largest cities, such as Milwaukee, have special needs given their large populations that require more directed assistance.

For all of these reasons, I am pleased to support the Homeland Security appropriations bill today and I am encouraged that we are doing what we can to protect our Nation.

### FEMA AND FAITH BASED ORGANIZATIONS

Mr. SANTORUM. Mr. President, I commend the leadership of the chairman on this important disaster relief bill.

In the context of this Federal Emergency Management Agency FEMA disaster assistance bill, I want to express my appreciation for recent FEMA policy updates for disaster relief to faith-based organizations. These ongoing challenges and tragedies provide FEMA an opportunity to make certain that they are implementing these policies in a manner consistent with the President's policy which includes faith-based organizations among those community-based organizations helping on an equal basis in these hurting communities.

On December 12, 2002, President Bush announced, "I have directed specific action in several Federal agencies with a history of discrimination against faith-based groups. FEMA will revise its policy on emergency relief so that religious nonprofit groups can qualify for assistance after disasters like hurricanes and earthquakes." FEMA acted quickly to serve eligible religious groups, issuing policy statement 9521.3 concerning Private Non-Profit Facility Eligibility to provide guidance in delivering future grant awards.

In the words of the former FEMA Director Joe Albaugh, "Disasters don't discriminate, and neither should our response to them." The administration recognized this important principle in the case of the Seattle Hebrew Academy. The academy's main building was rendered unfit after it was damaged in the Nisqually earthquake of 2001, but the academy's first application for FEMA relief was denied. After the Academy entered a legal challenge, the Office of Legal Counsel at the Department of Justice entered an opinion on September 22, 2002, which stated, in referring to FEMA's original denial, "We believe that the Acting Regional Director's reading of 44 C.F.R. section 206.221 (e) is not the better interpretation of that regulation." This is a commonsense policy of fair treatment.

Mr. COCHRAN. Mr. President, I commend the Senator from Pennsylvania for highlighting the importance of community-based organizations, including faith-based organizations, in disaster assistance efforts. I also concur that religious organizations should not be excluded when they are victims of disasters. I concur with the Senator that FEMA should continue to see that faith-based organizations are treated fairly in accordance with the President's policy and for the benefit of those in need in times of crisis.

Mr. FRIST. Mr. President, on behalf of myself and Senator SPECTER, I wish to express my appreciation to Senator COCHRAN, chairman of the Homeland Security Appropriations Subcommittee, for bringing out of conference $25 million in assistance for 501(c)(3) nonprofits "determined by the Secretary of Homeland Security to be at high-risk of international terrorist attack." I know this was difficult to achieve because the House bill did not have a similar item and due to the loss of the customs users fees as a funding mechanism for our Senate provision.

There are a number of compelling reasons for dedicating homeland security funds to nonprofits. First, nonprofits provide vital health, social, community, educational, cultural, and other services to millions of Americans every day. Second, if nonprofits are forced to divert funds to cover the entire cost of security measures, those funds will deplete resources for vital human services, including capacity to respond to disasters. Third, intelligence reports and the 9-11 Commission Report indicate some nonprofits are among the most vulnerable, highest risk institutions. Fourth, nonprofit institutions of all types serve as gathering places for millions of American citizens every day of the year, and finally the security needs of the nonprofit sector have been largely unmet.

This assistance is intended for basic security enhancements to protect American citizens from car bombs and other lethal terrorist attacks. This assistance is not intended for facility construction; rather, it is intended to be used for installation of equipment such as concrete barriers, blast-proof doors, Mylar window coatings, security fences and hardened parking lot gates, as well as associated training.

The Director of Central Intelligence has stated that al-Qaeda has turned its attention to "soft targets." Terrorists' willingness to attack soft targets of all types has been made readily apparent with attacks in the United States, England, Canada, Israel, Spain, Germany, Iraq, Tunisia, Kenya, Morocco, Egypt, and Turkey, including an international Red Cross building, synagogues, schools, and cultural and community centers.

It is my intention, as sponsor with Senator SPECTER of the Senate provision, that the Secretary should issue regulations to ensure that such funds are disbursed in a manner that ensures basic assistance for the maximum number of institutions and are dedicated to protecting Americans operating or utilizing nonprofits from international terrorist attacks and are not used for other purposes.

Once again, I commend the distinguished subcommittee chairman, my good friend Senator COCHRAN, and my distinguished colleague Senator SPECTER, on their assistance with this vital initiative to protect our Nation's nonprofits.

The question is on agreeing to the conference report to accompany H.R. 4567.

The conference report was agreed to.

## TO REAUTHORIZE THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate having received from the House a message, the Senate agrees to a request for a conference on H.R. 1350, the Senate agrees to the request for a conference on the disagreeing votes of the two Houses, and the Chair appoints the following as conferees on the part of the Senate.

The Presiding Officer (Mr. COLEMAN) appointed Mr. GREGG, Mr. FRIST, Mr. ENZI, Mr. ALEXANDER, Mr. BOND, Mr.

DEWINE, Mr. ROBERTS, Mr. SESSIONS, Mr. ENSIGN, Mr. GRAHAM of South Carolina, Mr. WARNER, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. JEFFORDS, Mr. BINGAMAN, Mrs. MURRAY, Mr. REED of Rhode Island, Mr. EDWARDS, and Mrs. CLINTON conferees on the part of the Senate.

## ORDER OF PROCEDURE

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut is recognized.

Mr. REID. Mr. President, prior to his beginning a speech, it is my understanding the two leaders have some business they want to conduct.

Following their conducting of business, I ask on the Democratic side Senator DODD be recognized for 20 minutes; following that, on our side, Senator KENNEDY for 30 minutes, Senator DURBIN for 20 minutes, Senator JEFFORDS for 8 minutes, Senator SARBANES for 20 minutes, Senator HARKIN for 45 minutes. He has 2 hours under the order that has been entered, but he said he would use part of that time at a later time today. Senator CANTWELL for 8 minutes and Senator HARKIN for 1 hour and 15 minutes. We correct that. After Senator KENNEDY, Senator FEINSTEIN be recognized for 10 minutes.

Senator KYL has already worked out something with Senator DODD that he would be recognized for up to 3 minutes prior to Senator DODD. The Republicans, of course, would be interspersed if they are here and they want to take time and we would go back and forth.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. FRIST. I ask unanimous consent to engage in a colloquy with the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

## APPOINTMENT OF CONFEREES TO S. 2845

Mr. FRIST. Mr. President, I want to discuss with the Democratic leader the appointment of conferees to S. 2845, the 9/11 legislation.

I am so proud of the Senate's work on this legislation as anything we have done these past 2 years. Chairman COLLINS, ranking member LIEBERMAN, and all Senators did a superb job in moving this bill forward.

There was no partisanship in their Committee and they developed a bill that has been endorsed by both the 9/11 Commissioners and many of the family's personally affected by the 9/11 attack.

The Democratic leader and I have worked closely together throughout this process, and I appreciate his leadership and cooperation. Now I hope we can complete the process by appointing conferees today and reaching a final agreement with the House as quickly as possible.

Mr. DASCHLE. I thank the majority leader for his kind words and for his exemplary work on this bill. Both the process and substance of the Senate bill reflect upon the best traditions of the Senate, and the Leader deserves enormous credit for that.

Our side wants to appoint conferees and send a bill to President Bush as quickly as possible. But many on our side have concerns about what will happen when we meet with the House.

The Senate bill passed by a 96–2 margin. It was, as you said, a model of bipartisan cooperation from start to finish. And every Republican Senator voted for S. 2845.

The House followed a different approach. Virtually every House Republican just voted against the bill that every Republican Senator voted for. So this could be a difficult conference.

In addition, many on our side are concerned over the pattern that's emerged in conferences with the House.

Almost a year ago Republican and Democratic Senators reached a consensus on an omnibus appropriations bill. But when we went to conference, that consensus gave way to the House demand that their position prevail. So Senate position on overtime, country-of-origin labeling, and other issues were dismissed.

Earlier this year the Senate overwhelmingly passed legislation dealing with our Nation's pension system; the House passed a bill that had no bipartisan consensus.

In that conference there was one outstanding issue regarding multi-employer pensions. And despite the bipartisan consensus in the Senate, the House again demanded that the Senate position be dropped. And it was.

Just last week, we had a conference on the FSC bill. This bill passed the Senate almost unanimously. But on critical issues dealing with FDA regulation and overtime provisions, the House conferees succeeded in demanding that the House position again prevail.

So there is considerable apprehension on our side what will happen in this conference if the House again demands that its position be accepted. All of those previous bills were important, but I think we all would agree that nothing is more important than making our country safe from attack. We have to get this bill right and the Senate bill does that.

Mr. FRIST. I have a markedly different view than Senator DASCHLE about some of his legislative history, but I understand his concern.

We do have to get this bill right and our side is committed to that. We have to work together in conference just as we worked together in the committee and on the floor. I have talked with Senator COLLINS, who will lead the Senate conferees, and she has agreed that she will not pursue a conclusion to the conference, nor sign any conference report, that undermines the bipartisan working relationship that has existed in the Senate.

If changes are made to the Senate bill, they will be the result of the mutual, good-faith effort to reach agreement among Senate conferees. Moreover, the Democratic leader has my commitment that should the process break down due to disagreements over either substantive matters or extraneous provisions, then I will not bring a conference report to the floor.

We are prepared to make these commitments on our side, but want to be sure that we have your commitment to continue to work with us in good faith on this legislation and to complete action as quickly as possible.

Mr. DASCHLE. I thank the majority leader for his comments and assurances. For the Senate to work effectively we need to be able to rely on each other's word. We accept your word that the Senate conferees will stay together, and you have my word that we will continue to work in good faith and do everything possible to complete action on this bill as soon as possible.

As we act quickly we ought to make sure that we minimize logistical problems for the conferees.

I think we can avoid scheduling difficulties if there is at least 48 hours notice prior to meetings, and that there be an understanding that there will be ample time to meet and deliberate before decisions are made on significant matters. I hope that's acceptable to the majority leader.

Mr. FRIST. I agree that's sensible and acceptable to our side.

Mr. DASCHLE. I thank the majority leader and I am happy to yield.

Mr. KENNEDY. I appreciate the statements of both of our leaders, and I think all Members understand the importance of this conference. I particularly appreciate the desire to work in good faith on these provisions. I have noted that in the House bill there are some extraneous provisions, particularly with regard to both immigration and refugees.

There are important changes in asylum standards that turn back our tradition in terms of refugees, which has been more of an ideological position, but really it is unrelated to the challenges, to the threats. And there have also been very important provisions in terms of deportation that is to a far extent. We have not had any of those hearings on the Judiciary Committee, and those are very important issues and questions.

I thank our leaders for their willingness to say that we want to work on what is the underlying legislation. There are extraneous issues that have been added in the House. If they were to come back and be as negative as they are in the House bill, then it seems to me that it would fail to meet the kind of standards that have been outlined in good faith.

So I thank both of our leaders for their excellent statements. I appreciate our leader raising these questions on some very substantive, important issues that are completely unrelated to the whole question of terrorism or intelligence. It would need a good deal of discussion here on the Senate floor before they were done.

I thank the Senator.

Mr. DASCHLE. Mr. President, I thank the distinguished Senator from Massachusetts. I share his view about the importance of these matters and about the urgency with which we must work to ensure the completion of our work on the same bipartisan basis that we demonstrated to pass the bill here on the floor.

## DISASTER ASSISTANCE

Mr. DASCHLE. Mr. President, today is a day that has taken too long to come. But it is a day of victory for hard-pressed farmers and ranchers who have been devastated by various natural disasters around the Nation. Today, we have approved $2.9 billion in emergency relief for family farmers and ranchers across America.

From Florida to Washington State, all along the eastern seaboard and into the Midwest and upper Midwest, farmers and ranchers have faced circumstances beyond their control.

In my State of South Dakota, we have seen 5 years of drought. Farmers have gone out of business and ranchers have sold entire herds. This is not just an issue for farmers and ranch families alone, it is an issue for the rural communities in which they live as well.

In a State like mine, whose primary industry is agriculture, weather-related disasters are truly economic disasters for the entire State's population. That is why many of us have been fighting for adequate disaster assistance for so long.

When we passed the farm bill in 2002, a bill that I am very proud to have been a part of, we added a new program, the Counter-Cyclical Program. It only provides assistance to producers when prices are low. In fact, this program has now saved $15 billion just in the last 2 years.

We said at the time we would not need any economic disaster assistance, and we have not. But we will need weather-related disaster assistance. That is something that the administration has failed to acknowledge. In fact, in 2002, in the middle of the worst drought since the Dust Bowl year of 1936, the President came to our State and told farmers and ranchers to tighten their belts, that they were not going to get any disaster assistance. That statement stunned many of us who had witnessed firsthand the devastation that the drought had caused for farm and ranch families and the communities in which they live. As the drought persisted in 2003, we still had no opportunity for help.

Finally, in difficult negotiations over the last several weeks and with bipartisan support in both the House and the Senate, we have managed to craft disaster assistance that will go to the President for his signature. So today the Congress is now approving the $2.9 billion in agriculture disaster assistance. That is the good news. It is a win for farmers and ranchers, and it will allow many of them to stay on the land and continue their businesses and continue a rural way of life. This bill will provide payment for farmers who have lost over 35 percent of their historic yields and livestock producers who have lost over 40 percent of their available grazing land.

I thank Congressman CHARLIE STENHOLM. We would not have any disaster aid without his leadership in the House. I thank my colleagues in the Senate, especially Senator BAUCUS, who led a bipartisan group of Senators, all of whom supported disaster aid and worked to pass this important legislation.

I also thank Senator HARKIN for his passionate support for the recognition that this aid ought to be declared an emergency like all other forms of assistance that we have passed for other parts of the country.

America's family farmers and ranchers do not just produce commodities, they produce communities. They are an important part of our national identity. They reflect our national values. For too long, they have been suffering, not because they made bad decisions but because of bad weather. We cannot do anything about the weather, but we can take steps to help family farmers and ranchers weather this crisis.

So I am proud of what we have been able to do today, and I hope the USDA will immediately begin the process of distributing this much needed assistance to farmers and ranchers across the Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

## NATIVE HAWAIIANS

Mr. KYL. Mr. President, I want to take just a couple minutes to engage three of my colleagues in a brief colloquy: Senators INOUYE, Senator AKAKA, and Senator DOMENICI, to inform our colleagues of an agreement that was reached in an effort to clear a group of bills that the Energy and Natural Resources Committee had worked on very hard and very long, for a long period of time, and have, in fact, cleared the Senate and been sent to the House, and to ensure that at some point next year, before August 7, a bill relating to native Hawaiians, similar to or the same as S. 344, would be considered by this body.

We reached that agreement, which was embodied also in a letter from the two leaders to Senators DOMENICI and INOUYE, who had inquired of that possibility, in which the leaders promised their best efforts to ensure that a native Hawaiian bill equivalent to S. 344 would be brought to the Senate floor for debate and resolution no later than August 7 of next year.

I had told both Senators from Hawaii I would express publicly my personal commitment to assist in that effort to ensure that no procedural roadblocks would be thrown in the way of the consideration of that legislation, nor a final vote on it. I will indeed do that and encourage all of my colleagues to work with us toward that end.

I thank Senator DOMENICI for his leadership on that large group of bills that were so important to so many Members of this body and for his work on this particular issue, as well as our good friends from Hawaii, Senators AKAKA and INOUYE, for their cooperation in helping us reach this resolution.

Mr. DOMENICI. Will the Senator yield?

Mr. KYL. I am happy to yield.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I note that Senator AKAKA and the distinguished senior Senator from Hawaii are on the floor. First, I want to say they have been gracious. Many Senators had a part in this very major bill, with 24, 28, maybe even 30 pieces of legislation for their States.

I say to the Senators from Hawaii, you had a perfect right to insist that your bill, which has just been described by the distinguished Senator from Arizona, be in that bill. That could have caused the bill to probably be here a long time, the big bill, and you graciously said, if we can work something else out, let's try. We did.

As a result, we passed this bill for many Senators, and we said to you, both Senators from Hawaii, we will do our best to get your very important bill, described by the Senator from Arizona, up. We cannot assure that. I cannot guarantee that. This is the Senate. But we do have a letter with all of the people who are in the leadership, I, myself, by the distinguished two Senators from Arizona, that we will do our best. We described it and everyone knows of it.

Today we thought we would tell the Senate and give this assurance in the RECORD to our two Senators from Hawaii that we are serious, that we will do our part in trying to make sure their bill comes to a vote in the Senate by the date they have agreed to and we have agreed to.

I say to Senator KYL, I thank you for your diligent efforts in helping with this. Every Senator who got something in that legislation that is now going to the House will know what we have done.

Thank you very much.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am extremely grateful for those reassuring words of my distinguished friend from Arizona and my distinguished friend from New Mexico. We look forward to working with them next year on this most important bill, a bill for the native Hawaiians.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I want to express my sincere gratitude to Senator KYL particularly and also to Senator DOMENICI for working with us on our Hawaiian bill. Especially I want to express my gratitude for your grace and your commitment for next year. Again, I want to do this, as we say in Hawaii, with much aloha.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, if I may, everyone is anxious to speak today. We have an order entered. Senator HARKIN is willing to give up his time of 45 minutes. He will do the bulk of his time after basically everyone has completed their statements today. In exchange for that, I ask unanimous consent that he be allowed to speak after Senator KENNEDY for 10 minutes and then his hour and 50 minutes would be at the end of the day. I think that is fair. I appreciate everyone's patience. Also following Senator CANTWELL, Senator BYRD on our side, will be recognized for 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut.

## CHRISTOPHER REEVE

Mr. DODD. Mr. President, I would like to express my deep sorrow that many of my colleagues and many millions of Americans share over the loss of Christopher Reeve a remarkable individual who, as a result of a tragic paralyzing injury that he suffered while horseback riding, dedicated his last 10 years to making a positive difference. Rather than wallowing in his own misery and sorrow, he used those 10 years to inspire and change America in terms of our attitudes and perceptions about people with such serious injuries and disabilities. I know that we will miss him very much. We have admired him immensely for his courage and dedication.

I express my condolences to his family. I wish to express the deep sorrow I feel over the loss of someone I knew not terribly well, yet someone I had the pleasure of meeting on a number of occasions.

Some of my colleagues, particularly Senators HARKIN and KENNEDY, knew him better than I and may express their own views on the subject. It was a sad day for America to lose this courageous individual. I hope his message on a number of subject matters, not the least of which was stem cell research, will be heard and that his memory and the work he was engaged in will be our work in the coming years.

## FSC/ETI

Mr. DODD. Mr. President, I rise this afternoon to speak about the most recently passed piece of legislation; that is, the FSC/ETI tax bill that consumed a great deal of time over the last several days. I begin by congratulating Senators GRASSLEY and BAUCUS who wrote a very good bill in the Senate.

When that bill left the Senate, I thought that it was a very sound piece of legislation, one that not only addressed the immediate problem dealing with trade issues, but also incorporated some other good ideas that all of us believed were important to be a part of that legislation. All of them were in one way or another bipartisan amendments offered on the floor of the Senate.

The legislation provided tax deductions for American manufacturers to stimulate job growth in our economy. It protected American workers' overtime provisions that had been adopted by this body and the other body on several occasions over the last year.

The legislation limited the outsourcing of American jobs with the use of American taxpayer money. Senator SPECTER and I and 68 of our colleagues endorsed that amendment which was before the Senate.

In addition, the Senate-passed bill contained an extremely important and delicate compromise worked out between the Senator from Massachusetts and the Senator from Kentucky that would have provided financial relief to hard-pressed tobacco farmers, while at the same time establishing critical new protections for the health and safety of our children, 2,000 of whom start smoking each and every day in the United States.

The Senate bill was a very good piece of legislation. It was a sensible bill and a well-crafted bill. Senators BAUCUS and GRASSLEY did an outstanding job.

Unfortunately, that bill is at best dimly reflected in the conference report that we voted on today. The Senate bill essentially has been mugged, if I might say, by the other body and by the administration. In its place, the Senate was asked to consider a conference report that lacks many of the provisions most important to America's small businesses and to workers. In their place, the conference report has added a number of provisions that amount to little more than sops to a variety of special interests from NASCAR to makers of ceiling fans.

In the process the bill neuters the ability of Congress to make meaningful contributions to economic growth. At the same time it creates new threats to fiscal discipline, which is at an all-time low.

Allow me to discuss several of these shortcomings in more detail, and to discuss other provisions that were either left out of this conference report or changed dramatically from the legislation that left this body only a few weeks ago.

First, I am concerned that this bill may not achieve its central goal: lifting the European Union duties, which currently are at 12 percent and could reach as high as 17 percent. Instead of simply repealing the Foreign Sales Corporation and Extraterritorial Income Exclusion (FSC/ETI), the conference report uses House language which phases the subsidy out over two years and allows companies to receive a percentage of the subsidy based on what they export each year. We were told early on that the European Union would find the Senate language acceptable for the removal of sanctions. We were also told that the language from the other body raises serious reservations within the European Union.

In last week's Washington Post, the European Union spokesman Anthony Gooch was quoted as saying:

"The export subsidy phases out of existence slowly when it should be lifted immediately."

So here we are, about to pass a massive tax bill that is supposed to fix our FSC/ETI problem, and yet we are not even sure if it will do that job. In other words, we might have to do this all over again. The E.U. had said that the Senate-passed language would be acceptable, but had expressed concern over the House language. And here we are with a conference report with the House language. I find this baffling and deeply troubling. And while some would welcome another opportunity to pass even more special interest tax cuts in another FSC/ETI bill, this Senator would certainly not.

Second, instead of meaningful, broad-based, and fiscally responsible tax relief for manufacturing here in the United States, the conference report includes a smorgasbord of special provisions. Even the administration's Treasury Secretary just last week highly criticized this legislation as including a "myriad of special interest tax provisions that benefit few taxpayers and increase the complexity of the tax code." I am quoting the Secretary of the Treasury about this bill we just overwhelmingly adopted.

Let me mention some of these provisions, and then ask your own constituents whether they think this is a wise use of their tax dollars. We are going to provide a $101 million tax break that would allow NASCAR racetracks to recover costs over 7 years; a $445 billion Alaska energy tax break; $42 million for film and television production; $27 million to the horse and dog racing industries. Ask your constituents whether they think these provisions are critically important at a time when we have massive deficits, whether these interests are the kinds of interests we should be including in a bill primarily designed to increase manufacturing, to limit the kinds of export problems we have as a result of trade agreements.

It seems to me we have gone far afield of what we should have been doing, far afield of what the Senate did only a few weeks ago.

I might point out as well that in this legislation we are not doing what we ought to be doing, and that is, of course, trying to provide some real relief for the manufacturing sector in our economy. It is a well-known fact that our manufacturing sector is hurting. The erosion of our manufacturing base is of great concern. Under the present Administration we have lost nearly 2.7 million manufacturing jobs. Just last Friday, the September unemployment numbers showed that we only added 96,000 new jobs. This is one-third the job growth of 300,000 per month that would have been achieved if job growth had occurred at the rate this average for a recovery. The September unemployment numbers also showed that we actually saw manufacturing jobs fall by 18,000—the largest drop since December, 2003. Despite this fact, this conference report weakens language that would have rewarded domestic manufacturing by giving an even bigger tax cut to companies that manufacture more of their goods in the U.S. It expands the definition of what constitutes manufacturing to include industries that hardly fall within the category of manufacturing. By diluting the definition of manufacturing and expanding this out by some 9 or 10 percent, we are going to make it harder for the very industries which are critically important to our long-term economic growth to create jobs. By expanding that definition, we have set ourselves back.

According to the Joint Committee on Taxation's complex analysis of the manufacturing deduction in this bill, which they are required to do by law and which was tucked away at the end of the conference report, only slightly more than 10 percent of small businesses will be affected by these provisions. Only 10 percent of small businesses will be able to enjoy the benefits of this legislation. Since the title of this bill is a jobs bill, I would have expected more help for our smaller companies which are the biggest source of job growth in our Nation.

The Joint Tax report also notes that "the provision will result in an increase in disputes between small businesses and the IRS." Reasons for such a dispute "include the complexity of the provision and the inherent incentive for small businesses and other taxpayers to characterize the activities as qualified production activities to claim the deduction under the provision." Just what a small business needs, a more complex Tax Code and problems with the IRS.

Third, this legislation changes a major provision which was adopted in the bill as it left the Senate—a provision that stopped the use of federal tax dollars to subsidize the outsourcing of American jobs. As the author of this provision dealing with outsourcing, I am terribly disappointed that, despite the fact that an overwhelming majority of our colleagues on a bipartisan basis approved language that prohibited the use of American taxpayer money to outsource jobs outside of the United States, this provision was stripped out in the conference report.

We ought to be exporting our products and our services, not jobs in this country. At a time when as many as 14 million white-collar jobs could be lost over the next 10 years from outsourcing and with 2.7 manufacturing jobs already lost in the last four years, the American people deserve a majority in Congress to stand up against the surge of outsourcing afflicting this country.

The unanimous vote of the 12 conferees on the Republican side to take the outsourcing provisions out of this bill, I think, is a slap in the face of American workers. The fact we would be using Federal taxpayer money to hire someone offshore to do a job that ought to be done in the United States I think is wrong. I am for fair trade and free trade. We ought to stand up for the American worker. They are worried and concerned about their future. They are bothered about whether they are going to have enough to take care of their families' needs.

Yet we found nothing wrong with continuing to have provisions in our policies that allow tax money to be used to hire people outside of this country, when jobs are needed in the U.S. We have the worst job production in almost 70 years in the U.S. We ought not to be stepping back. This bill stripped out a provision that was adopted here by a vote of 70 to 26. I think that was a great mistake. I regret that my colleagues on the conference committee sought to do that.

It is no secret how much this Administration supports outsourcing. They believe, it is, in their words "a good thing." They said so in the President's Economic Report to Congress this year, and they so again in this conference agreement.

Fourth, the conference report does nothing to protect overtime pay. Six million citizens rely on overtime pay to provide for their families' needs. So many families are struggling to make ends meet. The cutback in overtime is an unfair burden that American workers should not have to bear.

Overtime pay amounts to about 25 percent of the income of workers who work overtime. These include police officers, firefighters, nurses, and many others. Workers stripped of overtime protections will end up working longer hours for less pay.

The Bush administration's overtime regulation would deny overtime protections to as many as 6 million hardworking men and women, including registered nurses, cooks, clerical workers, nursery schoolteachers, and others. Even veterans, who have served in Iraq and Afghanistan, would be hurt. If they received some training as soldiers that would give the administration an excuse to classify them as "managers" in the civilian workforce, they could be denied overtime—even if they resume the same job. That is an outrage.

The Senate has voted against the Bush rule three times and said you should not impose that rule. The House voted twice to say don't impose that rule. Yet the conference committee sought to drop it entirely.

So the Bush administration's rule on overtime will affect 6 million Americans adversely. Fifty-five categories of jobs that qualify for overtime pay are gone. That is now out, despite the fact we insisted it be part of this legislation.

Fifth, the conference report breaks an agreement we made not only to protect tobacco farmers but also children. It was a bipartisan agreement that simply said that if we were to help out tobacco farmers, we were going to have FDA regulations to protect children from the life-threatening dangers of tobacco. These dangers—and the costs they pose to our nation—are enormous.

By regulating tobacco products and taxing them higher, tobacco farmers are going to be adversely affected. Some tobacco—specifically tobacco made into cigar wrappers—is grown in my State. I see my colleague from North Carolina here and I know how important that issue is to her and her constituents, just as it is in Kentucky. I think they deserve help as a result of this legislation, but I also believe part of the deal here was that we were going to allow this industry to be regulated by the FDA. To strip the FDA provision out, I think, was a great mistake. I think that we will regret it.

It costs us $75 billion a year in health care costs to deal with tobacco-related illnesses in America. According to the Centers for Disease Control and Prevention, tobacco use by pregnant women alone causes between $400 million and $500 million per year due to complications of low birth weight, premature births, and sudden infant death syndrome.

Every day, another 2,000 kids start smoking in America, one third of whom will die prematurely. That is not speculation. That is a fact. Yet this bill stripped it out and said we would provide relief to tobacco farmers but forget about doing a better job of regulating an industry that is causing so much harm and sadness in our country because of the related illnesses and death caused by people who smoke.

Sixth, the conference report is missing a provision included in the Senate bill I cosponsored, which is the Landrieu amendment. We are going to have a separate vote on that later. It is not a likely amendment that will be offered and voted on in the House. We will vote on it, but it is still not going to be included in legislation that goes to the President for signature. That was the provision that would have honored patriotic employers who continue to pay the salaries of their employees, who are members of the National Guard and Reserve and are deployed in the war on terrorism—whether it be in Afghanistan or Iraq. Employers would have been eligible for a 50-percent tax benefit for wages they paid to members of the National Guard and Reserve while on Active-Duty status. The credit would have been good up to 12 months, about the length of a standard deployment in Afghanistan or Iraq.

Forty-one percent of activated Guard and Reserve take a reduction in pay when called to duty. This places a tremendous burden on their loved ones back home. Yet conferees stripped the provision out of the conference report.

As my friend and colleague from Louisiana pointed out earlier, the $44 million tax credit for ceiling fans included in the conference report would have paid for 1 year of Guard and Reserve tax credits. Yet the conferees chose ceiling fans over businesses, or saving jobs for our National Guard and Reserve people.

Finally, this conference report is fiscally reckless. While the offsets are likely to expire, the tax breaks are likely to be extended—if past history under this leadership is any guide. That will only add tens of billions of dollars to the deficit. We have the highest deficit in the history of our country. This is a birth tax on young children being born because we already know they bear an obligation to pay back in interest to the Federal Government a staggering amount of money. The idea we are going to have higher mortgage rates, higher car payments, and tuition costs because of mounting deficits, because $1.8 trillion of America's debt is held by nations outside of the United States—principally Japan and China. That is dangerous, in my view. This bill adds tremendously to the national debt. We are not paying for it.

For all of those reasons, I think we would have been wise to wait when cooler heads prevail, and deal with what we should have been dealing with, or at least draft legislation that was the rationale for bringing it up in the first place, and deal with the trade issue. We didn't do that well in this bill.

I was in a small minority to vote against this, but I believe strongly that if you think something is as wrong as this is, you have to speak out against it. For the reasons outlined here, and because we so emasculated what we did in the Senate a few weeks ago and brought back a piece of legislation that hardly resembled what we did in the Senate, I could not vote for this legislation.

I hope we come back in January and reconsider some of the provisions included in this bill and do a better job on behalf of the American taxpayer and future generations of Americans.

I yield the floor.

## TOBACCO QUOTA BUYOUT

Mrs. DOLE. Mr. President, this is a truly historic day! The tobacco quota buyout is a monumental achievement—and I am absolutely delighted for our North Carolina farm families and rural communities and those in other tobacco producing states.

On their behalf, I am deeply grateful. Senator MITCH MCCONNELL has been a stalwart ally, and his leadership was absolutely critical in the Senate. Sometimes it felt like David and Goliath! But persistence pays off!

And thank you to Senate Finance Committee Chairman CHUCK GRASSLEY. CHUCK was kind enough to let me track him down at Reagan National Airport as he was getting on a plane to Iowa—to stress the need for this long overdue legislation.

I want to thank my colleague from North Carolina, Congressman RICHARD BURR. He cleverly laid the ground work that got the buyout into the FSC/ETI bill. It was RICHARD BURR's hard work that brought us to the point of success today.

Also, I appreciate so much the efforts of Congressman MIKE MCINTYRE on getting this bill through the House. He has been a real statesman in taking care of the needs of our constituents. And RICHARD and MIKE could not have done it without the blessing of Chairman BILL THOMAS and the House Leadership. Let me express my warmest appreciation to all of them.

I also want to thank Senator Jesse Helms. Jesse worked so tirelessly for tobacco farmers and their families for 30 years during his tenure here in the Senate. He said then that achieving a tobacco buyout would be the hardest thing that he had ever tackled in his long career in the U.S. Senate. We are here today because he began laying the groundwork so many years ago.

For his last 5 years, Jesse's right hand on tobacco issues was David Rouzer, and David has been my senior adviser as we have worked through this buyout.

At a young age, David began working on his family's tobacco farm in Johnston County, NC. He understands the stress that tobacco farmers have been under, and he has labored tirelessly to get us to this day.

I made the buyout a top priority when I arrived in the Senate because our tobacco-producing communities have suffered terribly—terribly—in recent years. The rigid Government program created in the 1930s was not designed for the intense world competition of today. It was not designed to withstand the consequences of the master settlement agreement.

In past years, our farmers led the world in tobacco production. Now they account for only 7 percent of flue-cured tobacco sold worldwide. The time has come to end the last of the Depression-era farm programs. Our farmers want to operate in a free market.

As the U.S. market share of tobacco has slipped, the quota system, with its price supports, kept U.S. producer costs artificially high. These high prices led to tobacco imports from lower cost countries, such as Brazil and China. Under the current tobacco program formula, the decline in demand for American tobacco produced a cut in quota, the amount of tobacco a farmer can grow and sell.

In just the last 5 years, the tobacco quota has been cut almost 60 percent. That is the equivalent of cutting your paycheck by 60 percent. There is not a business in America that would not take a serious hit with a 60-percent cut in revenue. And according to agricultural economists, these farm families were about to get an additional 33-percent cut in quota for the 2005 crop-year. These cuts have had profound impacts on North Carolina's tobacco communities. For almost 70 years, the U.S. Government-issued tobacco quota was something you could take to the bank, literally.

Under permanent law, they could expect a yearly return on investment. Farmers used it as collateral for loans in order to put the next year's crop in the field. Families handed quota down from generation to generation. That paid the death tax as part of keeping family farms alive. Widows have counted on quota as an investment to supplement their Social Security.

By buying out these quota holders, we give families the option of retiring with dignity. We give them the ability to pay off the banks for loans made against an ever-shrinking collateral. By getting the buyout done before the next quota cut, literally thousands of families in rural North Carolina will be saved from bankruptcy.

Rather than having to quit the farm, this buyout gives our farmers the ability to compete in the free market, and if farmers want to continue to grow leaf, they can compete worldwide without the artificial cost increase.

Many will also use this opportunity to invest in new equipment and transition to other crops. This tobacco buyout will help not only the farmers and their families, but their hard-pressed communities. It is the retailers, equipment dealers, chemical and fertilizer dealers, and a whole array of small local businesses that will also benefit from the tobacco buyout. These are the very small businesses that create the majority of new jobs in tobacco-producing States—jobs that are much needed.

With our action today, we come to the end of an era in tobacco policy. We stop conceding tobacco production to countries such as China and Brazil. We stop foreclosures to thousands of farmers, and we stop the negative economic ripple effect throughout rural communities in the Southeastern States. For that, we can all be extremely proud.

To those who have worked so hard on the tobacco quota buyout, on behalf of the thousands of farm families in North Carolina and throughout the Southeast, a heartfelt thank you. What has been accomplished is a legislative miracle and a monumental achievement. It has been a great privilege to work with you.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Massachusetts.

Mr. KENNEDY. I ask the Chair—I believe I have 30 minutes—when I have 2 minutes left to notify me.

## TRIBUTE TO CHRISTOPHER REEVE

Mr. KENNEDY. Mr. President, I join with others in the Senate to say it is with deep sorrow I note the death of Christopher Reeve. Christopher set a wonderful example of courage and perseverance for men and women all over this country who are afflicted by disabilities, and particularly those who have spinal cord injuries.

Christopher never gave up hope that eventually he could be cured. He worked hard to keep his body in the best shape possible to prepare for the day when an effective treatment for his injury would be available, and he fought unceasingly to foster the scientific research that offers hope and help to millions of others afflicted with severe injuries or dreaded disease.

He was particularly involved in the battle for stem cell research because he saw it as the best opportunity for curing not only his injury but also a host of other diseases from Parkinson's and diabetes to heart disease. This election is critical in achieving Christopher Reeve's vision because only one candidate for President, JOHN KERRY, is committed not only to stem cell research but to good science generally, science not constrained by ideology or partisanship.

I am going to come back to this subject matter in just a moment.

## LEGISLATIVE AGENDA

### OVERTIME PROTECTIONS

Mr. KENNEDY. Mr. President, I take note that the Senate, a little while ago, for the fourth time, passed the overtime protections bill yesterday. This is the same bill the House has already passed twice. So I hope they act as soon as possible on the bill we sent them yesterday. There is no reason we cannot get the discharge petition in the House of Representatives on that and also the provisions that we passed on FDA protections for children.

I hope President Bush is listening to the bipartisan majorities in the House and Senate who repeatedly tell him to repeal those parts of his regulation on overtime that take away pay for hard-working, middle-class Americans.

## FSC/ETI

Mr. KENNEDY. Mr. President, on the FSC legislation that was just passed, I want to say a few words. The American middle class is the heart and soul of our country, but you would never know it from the FSC bill. We should be helping middle-class families, not hurting them, but this bill uses your taxes to ship your jobs overseas. It allows President Bush to cut your overtime pay, and it allows big tobacco companies to market cigarettes to your children.

On issue after issue in this legislation, elite corporate interests are the winners at the expense of average Americans. If the middle class is the backbone of America, then this bill is contrary to American values. And if President Bush really cared about the middle class instead of just big corporations, he would veto this bill when it comes to his desk.

### EDUCATION

Mr. KENNEDY. Mr. President, on another matter, President Bush may be leaving 5 million children behind in our schools, but he is sparing no expense in a national campaign to cover up the failures of his administration on public school reform. Somehow the Bush administration can never find the money in the budget to hire and train teachers to help failing schools to expand after-school programs. But when it comes to politics and PR campaigns, he can find thousands and thousands of your tax dollars for White House propaganda. In a line that President Reagan made famous: There you go again.

They use taxpayers dollars to produce political ads for their bad Medicare bill, and they are doing it again with their failed education program.

I refer to the October 11 AP story by the education writer, Ben Feller. He writes:

> The Bush administration has promoted its education law with a video that comes across as a news story but fails to make clear the reporter involved was paid with taxpayer money. The Government used a similar approach this year in promoting the new Medicare law and drew a rebuke from the investigative arm of Congress which found that the videos amounted to propaganda in violation of Federal law.

That is why we ask Secretary Paige to take this propaganda off the airways now. You just used a similar process on Medicare, and the GAO found it violated Government law. They are following the same procedure. This violates Government law, and it ought to be taken off the air and taken off now.

The videos and documents emerged through a Freedom of Information Act request by People for the American Way that contends the Department is spending public money on a political agenda. The group sought details of a $700.000 contract Ketchum received in 2003 from the Education Department.

One service the company provided was a video news release geared for television stations. The video includes a news story that features Education Secretary Rod Paige and promotes tutoring now offered under law. It does not identify the Government as the source of the report. It also fails to make clear that the person purporting to be a reporter was someone hired for the promotional video. Those are the same features, including the voice of Karen Ryan, that were prominent on videos the Health and Human Services Department used to promote the Medicare law and were judged covert propaganda by the General Accounting Office in May.

It is the same business, a different subject matter, and it is completely unacceptable. Enough is enough. It is time to get serious about improving our schools. It is time for the Bush administration to realize improving education in America is not about slogans. It is not about propaganda. It is time to get about the hard work of training more teachers, smaller class sizes, extra help for the children who need it.

### STEM CELL RESEARCH

Now, to get back to my earlier comment about stem cell research—and I see a number of my colleagues on the floor who will address this issue as well—last evening I noted and saw my good friend the majority leader take the Senate floor to defend the indefensible, President Bush's stem cell policy. Here is what the majority leader said: Stem cell research shows great promise. It shows great promise, and the President's policy harnesses that promise and it also strikes a balance with the values of our people.

The fact is that the President's position does not strike a balance. It does not harness the promise of stem cell research. In fact, it is an attempt to have it both ways. It is an attempt to satisfy the group of the President's supporters who oppose stem cell research on religious grounds while pretending to the vast majority of Americans who support such research that he is really behind it. No amount of rhetoric can hide the fact that the biggest obstacle to finding cures for paralysis or Parkinson's disease or juvenile diabetes or heart disease through use of embryonic stem cell is President Bush.

President Bush is fond of claiming that he is the first President to approve funds for stem cell research. That sounds good, but it is not true. Here is the actual record: For a number of years, the Congressional Appropriations Act had carried a prohibition against using Federal funds for research that destroyed an embryo. Now that we better understand the importance of embryonic stem cell research, a prohibition would never pass today. President Clinton had asked a special committee at NIH to reexamine this policy, and they concluded that the use of embryos for research was ethical and scientifically important.

In January of 1999, the HHS General Counsel concluded that despite the appropriations bill language, NIH money could be used to support research on cell lines derived from embryos as long as NIH did not pay for the destruction of embryos. Following this decision, NIH set up a special committee to review grant applications for such research. In April of 2001, the new Bush administration suspended the committee and barred NIH from awarding any funds for embryo research.

In August 2001, President Bush announced the policy that has effectively slowed stem cell research to a crawl. Under his policy, only stem cell lines that had been created prior to 8 p.m., August 9, 2001, would be available for funding with Federal money. Virtually every scientist involved in the field said this policy was hopelessly restrictive, but President Bush did not listen.

The experience of Professor Douglas Melton at Harvard, a distinguished medical researcher, illustrates the folly of the Bush restrictions. Professor Melton has created 17 stem cell lines that meet all of the ethical guidelines laid down at NIH, but his stem cell lines were created after the date in the President's Executive order. He receives no Federal funding for his work. He has had to create a whole separate lab to conduct his research because his regular lab had received Federal funds. For this dedicated researcher, the barriers created by President Bush's policy in lost time and denied resources and, most of all, in potential missed opportunities for patients have been tragic.

The fact is that some of our most distinguished scientists are moving abroad to do their research. The last thing we need is a reverse brain-drain.

When President Bush announced his policy, he claimed that more than 60 stem cell lines would be available. At the time, experts said that the President was simply wrong, and he was wrong, but he has not changed his policy. The reality is that only 22 cell lines can actually be used by scientists. The rest have failed to develop into usable lines. Even the few lines that NIH will fund are all contaminated with mouse cells. Because of the danger of using these contaminated lines, FDA rules make it almost impossible to use any of these lines to develop or test cures in human beings.

Worse yet, every single one of those lines comes with a restrictive contract known as a materials transfer agreement that actually prohibits doctors from using them in patients. Let me make sure my colleagues understand this. NIH researchers are legally barred from using any of the stem cell lines available to them to help treat patients. Do not just take my word for it; go look it up. All the restrictions are laid out in black and white on the NIH stem cell Web site.

Most people would look at the facts that have come out since George Bush laid down his policy and admit they made a mistake and then make a change. No shame in that. But will George Bush admit he made a mistake, admit that it is time for a change? Oh, no, he is never wrong. He has never made a mistake. Sound familiar?

The reality is that the American people know the Bush policy is denying help and hope to millions of American patients and their families. The majority of the Senate knows it, too. Fifty-eight Senators sent a letter to President Bush to reverse this disastrous policy before more precious time is lost in the battle against diseases such as diabetes, Parkinson's, spinal injury, and more. That letter was signed by 14 Republicans, including prominent pro-life conservatives such as ORRIN HATCH, TRENT LOTT, TED STEVENS, KAY BAILEY HUTCHISON, and GORDON SMITH. These pro-life conservatives understand that the embryos that would be used in research are byproducts of in vitro fertilization procedures to be used to help couples who would otherwise not be able to have children. If these embryos are not used in research they will be discarded or frozen in perpetuity. We are not talking about destroying embryos for research; we are talking about using embryos in research that would otherwise be destroyed in any event.

In an eloquent editorial published in the Salt Lake Tribune in April 2002, Senator HATCH wrote:

> Regenerative medicine is pro-life and pro-family. It fully enhances, not diminishes, human life. If encouraged to flourish, it can improve the lives of millions of Americans and could lead to new scientific knowledge that is likely to yield new treatments and cures.

Why would anyone oppose that? As everyone knows, Nancy Reagan strongly supports that position. The Nation's scientific community knows that embryonic stem cells have a unique potential to repair injury and treat disease. According to a letter signed in 1999 by 36 Nobel laureates, those who seek to prevent medical advances using stem cells must be held accountable to those, and their families, who suffer from horrible disease, as to why such hope should be withheld.

A later letter was sent by 80 Nobel laureates, and it said: Current evidence suggests that adult stem cells have markedly restricted differentiation potential. Therefore, for disorders that prove not to be treatable with adult stem cells, impending human pluripotent stem cell research risk unnecessary delay for millions of patients who may die or endure needless suffering while the effectiveness of adult stem cells is evaluated.

Those most affected by the Bush administration's cruel restrictions on this lifesaving research know it is wrong. Over 140 organizations representing patients and health professionals, including Vanderbilt University Medical Center, wrote to President Bush, urging him to end these unwarranted restrictions. The organizations signing that letter represent patients afflicted with cancer, diabetes, arthritis, and many other serious illnesses.

Their letter was written on the third sad anniversary of the announcement of the President's failed policy. It notes the grim statistics, that in the 3 years since that announcement, "more than 4 million Americans have died from diseases that embryonic stem cells have the potential to treat."

Even the Bush administration has admitted that adult stem cells cannot match the potential of embryonic stem cells. The conclusion of an NIH report in June of 2001 couldn't be clearer:

> Stem cells in adult tissues do not appear to have the same capacity to differentiate as do embryonic stem cells.

The fundamental fact is that the Bush administration's first action on stem-cell research was to block the sensible policy that President Clinton had instituted to allow NIH to fund stem-cell research with strict ethical guidelines. As I noted earlier, President Clinton was the first President to allow NIH to fund embryonic stem-cell research, not President George Bush. His sensible policy was never implemented because the Bush administration blocked it.

If George Bush had not reversed President Clinton's sensible and well-reasoned policy, National Institutes of Health funded scientists would today be able to conduct research on stem cells uncontaminated with mouse cells. Because of George Bush's restrictions, they cannot.

If George Bush had not reversed the Clinton policy, National Institutes of Health funded scientists today would be able to search for breakthrough new cures by researching stem cells from patients with genetic disorders. Because of George Bush's restrictions, they cannot.

If George Bush had not reversed the Clinton policy, National Institutes of Health researchers would be free today to research cell lines that could actually be used in patients. Because of George Bush's restrictions, they cannot.

It is time to lift these restrictions. Millions of patients and their families hope that George Bush will lift those restrictions. But everyone in this Chamber knows he will not. To restore hope and renew the promise of medical progress, we need a change in November. We need a President who will not let a blind and stubborn ideology stand in the way of cures for diabetes, hope for cancer, relief for those suffering from many other disorders. America's patients need a change. They need JOHN KERRY.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 12 minutes.

### THE STATE OF THE ECONOMY

Mr. KENNEDY. Mr. President, I see a number of my colleagues here. I will be brief. But I want to address the subject matter which was so eloquently addressed by our friend and ranking member on the Joint Economic Committee this past week in the hearings that were held about the state of our economy. I see him on the floor. I want to make some opening comments and hope he will help me to understand this issue better.

I have in my hand President Bush's statement that he made in Minnesota 2 days ago. President Bush, in Minnesota 2 days ago, said:

> Our economy has been growing at rates as fast as any in nearly 20 years.

I also have in my hand:

> I have proposed and delivered four rounds of tax relief. . . .

This is from the President's radio talk on Saturday. Two days ago he talked about the economy "expanding," "growing," "the best in 20 years." Then on Saturday in his radio talk:

> I have proposed and delivered four rounds of tax relief and our economy is creating jobs again. We have added 1.9 million jobs in the past 13 months.

What he doesn't point out is the economy is working well for Wall Street but not for Main Street; that we are still short 1.6 million jobs. This will be the first President since Herbert Hoover who has presided over an economy where we have not produced the jobs.

In that report we had last week, we found out a great many of those jobs were temporary jobs. Of that number of 96,000 jobs, a third of those were temporary. As was pointed out in the Joint Economic Committee where the Senator from Maryland serves, it reminded us the real unemployment rate is 9.4 percent because so many people have given up looking for work. And the long-term unemployment rate is the highest for the longest in the history of keeping the information by the Department of Labor.

But I want to know if the senior Senator saw Monday's Washington Post. This is not a month ago. This isn't 6 months ago. Here it is, a front-page story:

PERMANENT JOB PROVES AN ELUSIVE DREAM

The story goes on about the rise of temporary workers.

The story goes on and talks about Phillip Hicks. He lost his job and could only find temporary work.

It continues. I will ask unanimous consent the entire article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 11, 2004]

### PERMANENT JOB PROVES AN ELUSIVE DREAM

(By Jonathan Weisman)

CYNTHIANA, KY.—Phillip Hicks had loaded his rusting pickup and was heading to work one afternoon last year when his tearful daughter called from a pay phone. She had been pulled over for speeding, she told her father, and worse, she was driving with a suspended license. The police had impounded her car and left her by the side of a dusty highway.

To most workers at the sprawling Toyota plant where Hicks works, the detour to pick up his daughter would be a headache, no doubt. To Hicks, 40, it was considerably more. He called his employer to say he would be late for the swing shift. But since Hicks is a temporary worker, his daughter's brush with the law became a permanent blemish on an already shaky employment record. Temps are allowed only three days off a year, and Hicks was coming up against that.

"They told me I had an attendance problem," he sighed wearily, his soft mountain accent revealing his roots in coal country to the east.

Hicks is among the ranks of what economists call the "contingent" workforce, the vast and growing pool of workers tenuously employed in jobs that once were stable enough to support a family. In a single generation, "contingent employment arrangements" have begun to transform the world of work, not only for temp workers, but also for those in traditional jobs who are competing with a tier of employees receiving lower pay and few, if any, benefits.

The rise of that workforce has become another factor undermining the type of middle-wage jobs, paying about the national average of $17 per hour and carrying health and retirement benefits, that have kept the nation's middle-class standard of living so widely available.

Hicks has spent four years as a temp worker building cars for Toyota Motor Corp., making manifolds and dashboards for Camrys, Avalons and Solaras sold all over the United States. He works alongside full-fledged Toyota employees who earn twice his salary, plus health and retirement benefits.

When Toyota announced it would be coming to Georgetown, Ky., in 1985, it promised to invest $800 million in the community and employ thousands, with thousands more jobs coming through its suppliers. By 1997, the plant exceeded all expectations, with 7,689 full-time workers, a payroll over $470 million, and a ripple effect creating more than 34,000 other jobs in the Bluegrass state.

But by 2000, Toyota was carefully controlling any additions to the workforce. When Hicks left his family in Knott County, Ky., to seek work at the plant 140 miles away, the only door left open was through a temporary agency, Manpower Inc. At $12.60 an hour, the job would not even let him afford the $199-a-week health insurance premium for his family of five. But Hicks said Manpower assured him that after a year—two at the outside—he would be on Toyota's payroll, earning $24.20 an hour, with health insurance, a dental plan, retirement benefits, incentive pay, the works.

"I could stand on my head for a year or two for a $20-an-hour job with benefits," he shrugged.

The increasing use of temps "is part of the diminished and inferior wages and fringe benefits you see in all the new jobs that are becoming available," said William B. Gould IV, a labor law professor at Stanford University and former chairman of the National Labor Relations Board.

The government does not have up-to-date figures for the size of the entire contingent workforce, which includes temps, independent contractors, on-call workers and contract company workers. In 2001, the Labor Department classified 16.2 million people—as much as 12.1 percent of the labor force—as contingent workers.

It does track one slice of that workforce: temporary workers. Since January 2002, the Nation added 369,000 temp positions, about half of the private-sector jobs created during that stretch. Temporary jobs accounted for one-third of the 96,000 jobs added to the economy in September. In 1982, there were 417,000 workers classified as temporary help. Today, there are more than 2.5 million, according to Labor Department data.

That is about equal to the number of manufacturing jobs lost in the past decade. Barrie Peterson, associate director of Seton Hall University's Institute on Work in South Orange, NJ, said that as many as half of those lost manufacturing positions may have been converted to temporary employment.

The change can be abrupt. At A&E Service Co., a small auto-parts assembler in Chicago, employees were told on July 15 that the firm "will no longer hold general labor employees on its payroll. All general labor employees that choose to work at A&E Service Company, LLC must be employed by Elite Staffing effective immediately." On the announcement, workers were asked to check a box accepting or declining the new temporary employment, then sign and date the form.

Temps no longer fit the stereotype of the secretary filling in for a day or two. Jobs categorized as precision production, repair, craftsmanship, operations, fabrications and labor now account for 30.7 percent of all temp jobs, nudging out clerical and administrative support, which represent 29.5 percent of the temporary army.

Peterson calls it "the perma-temping shell game," part of a broader effort by employers to convert sectors of their workforce to temps.

Satisfaction with the arrangement varies. About 83 percent of independent contractors in the Labor Department survey said they were satisfied. By contrast, about 44 percent of temps and 52 percent of contingent workers said they were not satisfied.

The impact of the temp trend on the American middle class can hardly be overstated. As the Federal Reserve Bank of Chicago noted in a paper last year, temporary workers "receive much lower wages than permanent workers, although they frequently perform the same tasks as permanent staff members." An analysis by Harvard University economist Lawrence F. Katz and Princeton University economist Alan B. Krueger found that states with the highest concentration of temps experienced the lowest wage growth of the 1990s.

Toyota executives say they use temporary workers as a buffer, to insulate their full-time staff from the ups and downs of consumer demand. Since it opened in 1988, through two recessions, the Georgetown plant has never laid off an employee; said Daniel Sieger, manager of media relations for Toyota Motor Manufacturing in North America.

Even without layoffs, however, the plant's full-time staff has declined by 706 positions from the 7,787 employees it had in 2000, according to Toyota. Over that time, the temp workforce dipped from 409 in 2000 to 301 in 2002, then rose to 425 late this summer.

Toyota managers say they will try to hire all of their long-term temporaries by the end of the year or in early 2005, after they see how many Toyota workers accept an early retirement package. Forty-seven temps were hired in late September. The management move came after The Washington Post spent a week in Kentucky examining the temporary employment issue at the Georgetown plant. Before September's hires, it had been two years since the plant hired a full-time "team member," Toyota managers said, a period during which the plant shed 240 full-time positions. Temporary employment during that time rose by 124.

"Certainly the long-term temporary issue is one that we regret," said Pete Gritton, the plant's vice president of administration and human relations. "We never intended to have those people in here for four years or whatever as temporary."

Temporary employment is an increasingly important issue for unions. The expansive labor contract reached between the United Auto Workers and Ford Motor Co. in September 2003 includes six pages of rules governing the use of temps. Under the agreement, Ford can bring on a temporary worker for a maximum of 89 days, after which the worker must be hired or dismissed. Most temps can only work two days a week, as well as "premium" days such as holidays.

Just 62 miles west of the Toyota plant, the UAW made a stand at Ford's Kentucky Truck Plant, refusing even to countenance 89-day temps.

"It's a big, big deal," said Mike Stewart, the UAW's building chairman at the plant in Louisville. "Any time you get this kind of [compensation] divide, it just means less people making less money who can't afford your product. We will always keep temps to a minimum."

The use of temporary workers appears to be most pervasive in plants owned by foreign companies, which tend to locate in states where laws make union organizing difficult, said Susan N. Houseman, a researcher at the independent W.E. Upjohn Institute for Employment Research in Kalamazoo, MI. One Japanese auto parts plant estimated that a 5 percentage point reduction in the share of temps in the workforce would increase total labor costs by $1 million over a year, an Upjohn study found.

At BMW's auto plant near Greenville, SC, about 175 temporary workers supplement a production workforce of 3,500, keeping the assembly line churning out Z–4 roadsters and X–5 sport utility vehicles for the U.S. and global market through lunch hour and break times, said Robert M. Hitt, a spokesman for BMW Manufacturing.

At Faurecia S.A., a BMW supplier in nearby Fountain Inn, SC, about a third of the workers making door panels, consoles and dashboards for the Z–4 are temps, said Campbell Manning of Palmetto Staffing Group Inc., the temporary employment agency that staffs the French auto parts supplier.

"They don't hire permanent," she said. "After 90 working days, they used to roll onto the payroll. Now they just keep them as long-term temps."

Palmetto Staffing charges Faurecia a flat $12–an-hour for each of its temps. If Faurecia hired its own permanent workers, expenses for workers compensation insurance, unemployment insurance and other demands would add $4 to $5 onto a $9–an-hour wage. Benefits would add more.

Even the temps cannot argue with the logic of hiring a lower-cost workforce. "I don't really blame Toyota," said Roy Biddle, who went to work at the Georgetown plant at the same time Phil Hicks did, nearly four years ago, with similar assurances that he would land a full-time job after a year. "The law's the law, and they're just doing what they can do under the law."

To temper expectations, Toyota last year implemented a new policy capping temporary employment at two years. After that period, workers must leave, but can reapply in six months. If hired again, a worker starts at the entry wage of $12.60 an hour, compared with more than $14 per hour if they have been there for a few years.

About 160 long-term temporaries, like Biddle and Hicks, were grandfathered in and allowed to stay indefinitely.

Nancy Johnson, director of the Center for Labor Education and Research at the University of Kentucky, said that because of the new policy, temps now cycle from one plant to another, working at Toyota, then at nearby E.D. Bullard Co., making fire helmets, then perhaps at an auto parts supplier before heading back to Toyota.

At the Kentucky State Cabinet for Health and Family Services' community office in Georgetown, social workers say more Toyota temps are applying for state aid to cover food costs and medical bills.

"It's the traditional Japanese model that people talked about in the '80s," Johnson said. "Toyota never lays people off, sure, but the temps are absorbing the financial swings of all these companies, and they're doing it at a price."

Rick Hesterberg, a plant spokesman, noted that $12 to $14 an hour in central Kentucky compares favorably to wages even for some permanent jobs. "These people still make good money," he said of the temps. "It's nothing to snuff your nose at, at least in this part of the country."

But many Toyota temps say their problems go beyond money. Indeed, life seems always on the edge of disaster, where even rewards—the small gift bag of cookie cutters or the "Star Performer" T-shirts that are given out to temps—seem more like petty humiliations. In February, a Toyota temp posted an anonymous "discussion" paper in the assembly-line men's rooms, pleading "the 'E' word, 'E' for exploitation."

"There are temps at [Toyota] who have been here for 3 years, some approaching 4 years, many waiting for the permanent job offer," the essay reads. Toyota "is exploiting their patience, their economic status, their work ethic, their work contribution, their reliability, their health, their safety."

Chris, a graduate of Western Kentucky University, once interned at Toyota during college, doing computer-aided design and drafting. He spoke on condition that his last name would not be used. Even with a degree and an internship on his resume, he, too, was steered to Manpower as the only door into Toyota. But unlike the other temps, he figured his temporary stint would quickly lead not just to the factory floor, but to the white-collar suites.

Now, after four years, he frets that his wife wants a second child but he's not sure how they'll pay for the insurance.

"These people are making extreme sacrifices, working second shift, no benefits, low pay," fumed Matt Roberts, 31, a full-time Toyota worker since 1997. "It's a disgrace to the American dream. That's what it is."

For years, the United Auto Workers has tried to unionize the Toyota plant, to no avail. Recently, the use of temps has become a major issue. For full-time workers, the temps present a quandary. On the one hand, the full-time workers may see the temps as Toyota does, a buffer protecting their jobs. The more low-paid workers there are at the plant, the more profitable the company will be, and the less likely to resort to layoffs, suggested David Cole, director of the Center for Automotive Research in Ann Arbor, Mich. A union might threaten that buffer by demanding that temps be brought on full-time or dismissed.

"The temps may help keep the union out," Cole said. "It's in the selfish, vested interest of the full-time workers to keep more temps."

But some Toyota workers do not see it that way. Several full-time employees said the growing presence of temps at the plant is holding back their wage gains, while limiting their movement in the plant. Some employees say they have been stuck working nights because any open day-shift positions are quickly filled by temps.

"If you break down, they've got a new guy waiting at the door," said Roberts, who with his wife, another Toyota worker, clears a six-figure income. "You're creating a tug of war. There's no protection for either side."

In Georgetown, the divisions can show up in strange, some say demoralizing, ways.

Toyota is famous for the "kaizen"—continuous improvement—checks that it pays to workers who come up with suggestions that save money. Earlier this year, Hicks and Chris helped devise a change that cut two jobs from their small quadrant of the assembly line. The change meant more work for everyone, but it was more efficient. Toyota rewarded the idea by sending out $500 checks to every member of the team, every full-time member, that is.

The two temps who came up with the suggestion got nothing. Their group leader did feel bad. He gave each of them a $25 gift certificate to the Toyota company store.

Then a full-time worker slipped them both $50.

"You guys got us this money," Chris recalled him saying. "Sorry I can't give you more."

Mr. KENNEDY. The article does track one slice of the workforce: temporary workers. Since January 2002, the nation has added 369,000 temporary positions, about half of the private-sector jobs created during that stretch.

This report says half of all the private sector jobs created under this Administration since January 2002 are temporary positions. These are jobs without benefits. You talk about health insurance or retirement? Those are virtually nonexistent.

This is what is happening in this country. It is amazing to me to hear the President talk about how the economy is growing and crow about the increased numbers of jobs that we had—96,000 this last month, which is not even enough to keep up with the growth of the population. And then we find a third of those jobs are Government jobs, a third are temporary jobs, and the other third are not paying very much.

I want to also mention that, as difficult as this is, those are figures that point out what happens to real people in their lives. But whatever happens to these individuals I have just mentioned pales in comparison to the kind of pain minorities and women are feeling: women, whose real income has declined, and minorities—Hispanics, African Americans—whose unemployment has increased dramatically.

I see the Senator from Maryland on his feet now. I am interested in his reaction to that hearing and to those figures.

Before I run out of time, I would also like him to address the subject of the foreign purchase of over half of the U.S. debt. Nearly $2 trillion of the national debt is now owned by foreign holders. Recent figures show China and Japan owning $1.3 trillion in U.S. Treasuries. I am concerned these foreign nations are basically buying up America. We know who has the whip in hand when you control the resources. One morning we will wake up and foreign countries will own America. If they control our economy, then they control our destiny. The American economy and American destiny ought to be in Americans hands.

Mr. SARBANES. Will the Senator yield on that last point?

Mr. KENNEDY. I am glad to.

Mr. SARBANES. The fact of the matter is, the tax cuts for the very wealthy, which is the centerpiece of the Bush economic plan, are being financed by borrowing overseas, primarily from China and Japan. That is what it comes down to. We do these excessive tax cuts, we run a deficit, and we have to finance the deficit. Where do they find the money to finance the deficit? They sell U.S. Government paper overseas, primarily to Japan and China. So we are borrowing money from overseas in order to finance these tax cuts.

It is bad enough to borrow internally, from our own people, in order to do this. But to go overseas and do it, as the Senator points out, and then give them this claim on American production on out into the future as far as one can see is absolutely irresponsible.

The Senator from Massachusetts made a very important point.

The President and his associates are busy out in the countryside trying to put the spin on the jobs figures. The fact is, the economy picked up 96,000 jobs last month. That is not enough to keep pace with the growth in population. This is the first administration since Herbert Hoover not to produce a net gain of jobs in the course of the administration. The Bush administration is down 800,000 jobs, a total of 1.6 million private sector jobs, and 2.7 million manufacturing jobs.

The last time you have an administration which failed to have a net gain in jobs in the course of its 4 years was 75 years ago in the administration of Herbert Hoover. This is a dismal job performance record. Yet the President is going around the country telling people we have turned the corner. The trouble is every time you go around the corner we are going in the wrong direction. That is the problem with the President's policies. He may have turned the corner, but the corner is taking us in the wrong direction.

Second, as the Senator from Massachusetts pointed out, if you factor into the unemployment rate the people who have dropped out of seeking a job because they are so discouraged by the economic conditions they encounter, and people are working part time for economic reasons—namely, they want to work full time but they can't find a full time job, so they are working part time—if you include that in the unemployment figure as well, which is the most comprehensive measure of unemployment, the unemployment figure is 9.4 percent, coming up to 10 percent unemployed.

The final point I want to make is that unemployment benefits usually—and it is a very important point because I see many colleagues on the floor who have joined with the Senator from Massachusetts and myself to try to extend unemployment insurance benefits, and the Senator from Washington was very much involved in that effort and we welcome so strongly her leadership in it—usually are for 26 weeks. When we hit an economic downturn, we extend it because the job market doesn't pick up quickly enough to get people back to work. We usually extend it out to 39 weeks. The administration has resisted efforts to extend the payment period for unemployment insurance. We now have a record number of long-term unemployed.

This is the record even before the Bush administration of the long-term unemployed. It ran along here, and now it has shot up to almost 22 percent of those unemployed who have been long-term unemployed.

Mr. KENNEDY. Mr. President, in this article, besides the administration being against the increase in the minimum wage, they are against unemployment compensation and against overtime. In this report in 1982, there were 417,000 workers classified temporary. Today, there are 2.5 million. This is about equal to the number of manufacturing jobs lost in the past decade.

These are the statements that we have about how good the economy is.

Mr. SARBANES. The Senator is absolutely right. We are confronting a very serious economic situation for our workers. There is real anxiety—indeed even fear—in working America about what is going to happen to people in terms of their employment and how they support their families. But we are not producing jobs fast enough to put people back to work. Yet the administration won't support extending payments for unemployment insurance.

How are these people supposed to support their families? These are working people. By definition, you cannot draw unemployment insurance benefits unless you have a work record. You must have been working and have built up a working record in order to qualify. We are talking about working Americans. How do they support their families?

The President talks about 95,000 jobs as though it is some success. It is not a success. This is the only President in 75 years in that entire period of time who has not had a net gain of jobs during his administration.

Mr. KENNEDY. I thank the Senator. I see my time has expired. I thank my friend from Maryland for his excellent observations.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 10 minutes.

## CHRISTOPHER REEVE

Mr. HARKIN. Mr. President, like millions of other Americans, I was shocked and saddened to learn last evening and to learn more this morning of the death of Christopher Reeve. In Hollywood life, he played Superman. But in real life, Christopher Reeve was a super person, a truly wonderful individual who embodied the indomitable human spirit in a way that won the respect and admiration of people across the globe.

Christopher Reeve was a classic example of a person with a disability who is remembered most of all for his ability, not his disability—the abilities that he mobilized to become an extraordinarily effective advocate for stem cell research.

I thank the Senator from Massachusetts for his eloquent and straightforward presentation of the arguments on behalf of embryonic stem cell research.

But I want to commend the memory of Christopher Reeve. He marshaled forces, he traveled all over this country at great expense, and at great cost to himself personally in terms of his own health, to marshal the forces necessary to promote embryonic stem cell research.

He spoke with passion and intelligence and conviction. Christopher Reeve offered hope—not a false or idle hope. He offered hope grounded in science and discovery, hope grounded in the promise in possibilities of embryonic stem cell research. Forty-two Nobel laureates—I think maybe many of them because Christopher Reeve called them on the phone and visited—came out in strong support of embryonic stem cell research.

Just yesterday there was a march here in Washington by families and survivors of those who had ALS, Lou Gehrig's Disease. One of those marchers was a staff person of mine whose father just passed away from ALS. She and her mother were both in that march yesterday.

Christopher Reeve's argument for stem cell research was compelling. It was beyond personal. Yes, he did speak once about his own personal spinal cord injury and stem cell research at Ohio State University in 2003 at a commencement address.

He said:

> I come to know people of all ages and from all walks of life that I would otherwise never have even met. For all our differences, what we had in common was our disability and the desire to find a reason to hope. I was inspired by so many and gradually discovered that I had been given a job that would create urgency and a new direction in my life. I could do something to help.

Christopher Reeve really did do a lot to help.

Senator SPECTER as chairman and I as cochair of the Appropriations Subcommittee on Labor, Health and Human Services held the first hearing on December 2, 1998, after Dr. Thompson of Wisconsin and Dr. Gerhart of Johns Hopkins isolated the first stem cells. I am proud that our subcommittee had 15 hearings on this issue. At more than one of those hearings it was determined that we did have the authority to do stem cell research from embryos. That was determined. That was determined before August of 2001.

I also point out that Christopher Reeve very eloquently testified at one of those early hearings on the necessity of embryonic stem cell research. We decided that the Government did have the authority. It is the President's Executive order of August 9, 2001, that limited what we could do.

When the President says that he is the first President to authorize stem cell research, that is not so, as Senator KENNEDY pointed out. He is the first President to limit, severely restrict, what we could do in stem cell research. The President said all the stem cells that were derived prior to 8 p.m. on August 9, 2001, could be used. Anything after that could not be used.

I remember watching that address. I was in my home State of Iowa. I thought to myself, why 8 p.m.? Why not 8:05? How about 8:10? In other words, if someone derives a stem cell at 7:59, it is okay, but at 8:01, it is not. What kind of arbitrary restriction is this? Totally arbitrary.

Because of that, he said there would be 60 stem cell lines—and we know there are only 22, and as the Senator from Massachusetts said every single one of those is contaminated because they used mouse cells on which to grow. So their use in human treatments is highly unlikely, at best.

The fact is, embryonic stem cell research offers enormous potential to ease human suffering. That is why this person, Christopher Reeve, fought so hard. The promise of stem cell research gave Chris Reeve hope, just as it gives hope for those suffering from ALS, Parkinson's disease, and diabetes, and all of their families. It is giving my nephew, Kelly McQuaid, hope. He was injured in the military. He is now quadriplegic and has been for over 20 years. He has hope that this stem cell research will allow him to again walk one day, just as Chris Reeve hoped it would for him.

We know stem cells have worked in rats. It has been proven that rats with spinal cords that have been severed and reconnected with stem cells walk again. That has been done in rats. As I pointed out, we humans are 99.5 percent rats—I don't mean just us politicians, I am saying genomically, structurally, we are about 99 percent the same cells. If stem cells can get rats walking again, think of the hope it has for humans. Yet this President says no.

There are those who say we cannot destroy these embryos because it is life. This is something I have done before in my committee, and I did it once with Chris Reeve there. He liked it, so I will do it again in his memory. I have a pen and a blank piece of paper. I hold this up and I ask if anyone can see what I put on that piece of paper. What I put on that piece of paper is a dot, a little dot. That is the size of the embryos we are taking the stem cells from—a dot you can barely see on a piece of paper.

People say that is life. Of course it is life. Every cell has life. All my skin cells have life. My hair cells have life. Sperm has life. Eggs have life. But they say we cannot destroy these for stem cell research. They equate that somehow with this human being right here. They equate this little dot that you can barely see with someone like Chris Reeve. This is what we are taking the stem cells from, that little dot.

A lot of people think when we talk about embryonic stem cell research that somehow we are destroying fetuses. They get this confused. So I point out it is as big as a dot on a piece of paper. We will equate that with this human or that dot with my nephew, Kelly McQuaid? This is the promise of stem cell research.

We already have over 400,000 of these little dots that you can barely see frozen in liquid nitrogen. They are left over from in vitro fertilization. Guess what happens, folks. They are being destroyed. The dots are in test tubes, frozen in liquid nitrogen. Every so often when the donors do not want them any longer—they had their children or they reached the age they do not want to have children—they can call up the in vitro clinic and say, We do not want those saved any longer, and the test tube is cleaned out and is washed down the sink. It is either that or use them for stem cell research.

That is why I wanted to pay homage to Chris Reeve's memory today. He was a great friend, a personal friend. I remember him coming to Iowa. My sympathies to Dana, his wonderful wife, and their family. But rest assured, we will prevail.

Mr. JEFFORDS. Mr. President, I come before the Senate today with a heavy heart to pay tribute to Christopher Reeve.

I was lucky to be able to call Christopher Reeve a friend.

His passion for life and for improving the lives of all Americans serves an inspiration to all of us.

He may have played the character of Superman in the movies, but he lived the role of a superman through his life.

I consider myself quite fortunate that our paths crossed on many occasions, in Vermont, at his home in New York, and in the halls of Congress.

Chris was an outspoken advocate for the arts.

As the co-founder of the Congressional Arts Caucus and, for several years, the Chairman of the Senate Committee with jurisdiction over the National Endowment for the Arts (NEA), Chris and I shared the belief that Federal support for the arts was critical.

At a time when the NEA was under attack in 1995, I asked Chris to testify before the Senate Labor and Human Resources Committee on the importance of the agency.

His testimony brought attention to the issue, and highlighted the role that arts and education play in the lives of children.

To this day, I believe that his testimony and advocacy helped preserve the agency through very difficult times.

Later, I turned to Chris again for help, this time on the important issue of lifetime caps on health insurance policies.

In 1996, as the Congress was writing new laws governing the portability and availability of health care coverage, Chris helped me gather support for a proposal to raise the lifetime caps of health insurance policies.

Chris was an outspoken advocate in support of that proposal, and shared his own personal story concerning health insurance to raise awareness for the lifetime cap issue.

His courage and leadership brought that issue to the forefront of the Congressional debate.

His dedication to stem cell research was renowned.

His testimony before the Congress and advocacy for the issue—once again—put a human face on the possibilities that could emerge from stem cell research for those with spinal cord injuries and other diseases and afflictions.

Chris' commitment to bettering the lives of individuals with disabilities never ended.

In 2000. Chris traveled to Burlington, VT, at my request to speak before a disability conference.

It was his first visit back to Vermont since his accident.

He called the disability movement the last great civil rights movement, saying the primary obstacle for the disabled is other people's fear.

Chris said:

> Changing the public's perception of people with disabilities takes time. It's about them getting over their fear. Imagining that it could be them.
>
> And once they know that, once they can really sympathize, then you get change.
>
> And then America lives up to its full potential.
>
> And I think we're on that path.

Thanks to Christopher Reeve countless Americans will live to their full potential.

We will continue to work on his behalf on the issues he was so dedicated to.

I send my deepest condolences to Chris' wife, Dana, and their entire family.

They cared for Christopher with a love and kindness that was inspirational.

Dana herself was an inspiration to all of us. She understood the devotion and greatness of Chris. She helped Chris live out his desire to help the disabled.

I hope they are comforted with his memory, and the knowledge that their loss is shared by so many across this Nation.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from California is now recognized for 10 minutes.

Mrs. FEINSTEIN. Mr. President. I thank the Senator from Iowa for his very eloquent presentation. I agree with him 100 percent. I also thank the Senator from Massachusetts for his presentation.

As the senior Senator from California, a lifelong Californian, I will make a few remarks about Chris Reeve.

I remember when I saw Chris Reeve in "Superman." He was 25 years old. He was amazing. We now learn he did some of his own stunts. And then what followed was the "5th of July," and I remember "Somewhere in Time." We saw this tall, handsome actor, seemingly invulnerable.

I remember the film footage when he went over that jump on a horse. We learned that he had severed a vertebra high in his neck which canceled out all speech and rendered him quadriplegic for the rest of his life.

As many know, it is rare that an individual survives more than 2 years with this form of injury. Yet he survived for 9 years. I remember listening to a CNN interview with Paula Zahn over stem cells. He said: When somebody lies still and doesn't move anything for a matter of days, cannot even scratch their nose, let them talk to me about stem cell research.

In fact, this is a catastrophic injury presenting him with a catastrophic problem. So many people suffer from many of these injuries and from catastrophic disease, all of which may well be helped if we go eagerly, enthusiastically, and scientifically into stem cell research. That is the challenge. Parkinson, diabetes, Alzheimer's, spinal cord injuries all can be helped.

Yet Christopher Reeve, who could not move, made amazing progress—not a recovery but progress—and would appear here before hearings and hold press conferences and urge us to move forward with a stem cell bill.

I had the pleasure of introducing the first stem cell bill in this Senate. There are five Members—the Senator from Utah, Mr. HATCH; the Senator from Massachusetts, Mr. KENNEDY; the Senator from Pennsylvania, Mr. SPECTER; the Senator from Iowa, Mr. HARKIN—who are cosponsors of the major stem cell bill. We will be back. We will reintroduce it as one of our first bills in January in this new session. I will be asking my colleagues to rename this bill the Christopher Reeve National Stem Cell Act.

I want all of America, through this bill, to know Chris Reeve's last 9 years on Earth were not, in fact, in vain, that we will produce a bill that will, in fact, put America on the scientific horizons of research for catastrophic and disabling diseases and injuries. If we do not, I believe other States will follow with what California is doing.

California has on the ballot a proposition. It is known as proposition 71. It would produce $3 billion in bond funds to allow California to plunge ahead to produce stem cell research. Now, other States will follow if we do not move with a national bill. So I hope we will.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized for up to 20 minutes.

Mr. DURBIN. Mr. President, I would like to change that by unanimous consent to 15 minutes and ask if the Chair would notify me when I have 2 minutes remaining.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I thank the Senator from California for what she said. This tax bill came about because we got into a fight with our trading partners over export subsidies. At the end of the fight, they won and we lost. An export subsidy that we had in the United States had to be taken off the books. So what was a minor facelift when it came to an export subsidy turned out, after our friends in the House and Senate got their hands on it, to be an extreme makeover of the Tax Code. Unfortunately, the American people, who could not afford the powerful lobbyists involved in writing this, ended up as the people with the sad faces.

So when we take a close look at what this bill did, what was supposed to be a quick and minor fix of the Tax Code blossomed into a huge giveaway of tax benefits and made some policy changes we are going to regret.

I have been fighting the tobacco companies as long as I have been in Congress but 15 years ago passed the law which banned smoking on airplanes. The passage of that law led to some very important things happening in the U.S. Government and across the board. But I mistakenly believed that the trend was on our side, that those of us who wanted to protect children from becoming addicted to tobacco really had the wind at our backs.

Well, we lost it in this conference committee because we put in the conference report a provision which the major tobacco company, Philip Morris/Altria, agreed on which said if we are going to buy out tobacco growers, then we are going to put FDA regulation in place so we can protect children from being sold tobacco products that lead to an addiction that can lead to disease or death.

It was a good, balanced bill, a bipartisan bill. Senator DEWINE, a Republican of Ohio, and Senator KENNEDY, Democrat of Massachusetts, put together this FDA regulation. We sent it to conference and those conferees who put together this monstrous bill ripped it out.

Instead, they said, we are going to give billions of dollars to buy out tobacco growers but not one penny to protect children from the harm of tobacco products.

I will return next year, God willing, to renew this battle with my colleagues. We cannot give up on our children as this bill did. It is not the only thing wrong with the bill. It is the one that touches me personally and one about which I feel strongly.

Mr. SARBANES. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. SARBANES. The bill that was passed by the Senate contained within it the provision that provided authority to the FDA to protect children; is that correct?

Mr. DURBIN. That is correct.

Mr. SARBANES. And that provision was then taken out in the conference with the House Members, stripped out of the bill; is that right?

Mr. DURBIN. The Senator from Maryland is correct. What they took out of the bill was the authority of the Food and Drug Administration to list the ingredients on a tobacco package, to put on a warning label that really means something, as opposed to the meaningless warning labels that have been on for 30 or 40 years, and to establish standards and rules for selling tobacco products so children won't become addicted.

I have never met a parent who has said to me: I am so happy. I just learned my teenage daughter has started smoking.

I have never heard that said. There isn't a single one of us who has reared a child who ever wanted to hear they were going to take up smoking or cigarette tobacco. This bill established protections. Those protections were removed. Those tobacco lobbyists who have a big grin on their faces today, because we passed this bill by a big rollcall, should understand their children are at risk, too. The children of families across America are at risk as well.

Mr. DURBIN. Let me say a word, too, about Christopher Reeve. I woke up this morning in Chicago before flying here and heard the news, as did most Americans, about the death of Christopher Reeve at the age of 52. I saw him in the movies—we all did—"Superman" and others. He was quite a handsome young actor who attracted a lot of attention at the height of his career. Then about 9 years ago he was involved in an accident which left him a quadriplegic.

I remember the photos of Chris Reeve after this happened. There were photos of a man in a wheelchair on a ventilator who looked as if he was just hanging on to life by a thread. He hung on for 9 years, and he didn't just survive, he used his life and used it heroically.

Let me also say I thought so many times about his wife Dana and their family. Those of us who are married said we would stand by our mate for better or for worse, richer or poorer, in sickness and in health. You never quite know what that vow means until you see someone like Dana, the wife of Christopher Reeve, who stood with him, helped him every minute of every day so he could survive.

And he didn't just survive. He fought. What did he fight for? He fought for medical research so people just like him and others who would be victimized like him might have a fighting chance in life. He came here to Capitol Hill and testified, held news conferences, traveled around the United States with the message.

Why is it important that we not just eulogize this brave man and the 9 years of his life where he showed such courage? Because the issue he was fighting for is an issue we will all get to vote for on November 2.

Christopher Reeve and many like him, such as Michael J. Fox, understand that embryonic stem cell research gives them hope, a chance to overcome quadriplegia, a chance to overcome Parkinson's disease, a chance for the millions of families who see their beautiful young son or daughter with juvenile diabetes, just a chance that the research will open the door to find a cure, really breakthrough scientific research involving tiny stem cells that you can only see under a microscope.

Why is this important? Because this administration, the Bush administration, has taken the position that the Federal Government must close the door to embryonic stem cell research and only limit it to a handful of these stem cell lines that were existing on August 2001 when President Bush announced he had in his own mind reached a compromise on this issue. It may have been a political compromise to President Bush, but it compromises the future for millions of Americans.

Some people argue it is a partisan issue: DURBIN, you're a Democrat criticizing a Republican President.

Listen closely: No one has ever suggested that Nancy Reagan is not a good Republican, and she stood up to fight for embryonic stem cell research. And ORRIN HATCH, a Republican Senator from Utah, has stood up to do the same, and ARLEN SPECTER, another Republican, has stood up to do the same. This is not a partisan issue.

The position we take on this issue is to take the politics out of science. We have an opportunity for Christopher Reeve and people such as him to give them hope and a chance that medical research is going to open doors and make lives better.

Some want this to be a debate on religion. There are some, by religious belief, who do not endorse embryonic stem cell research. We better take care if that is going to be the standard. We could be walking into a very dangerous area.

There are some, by religious belief, who don't believe in blood transfusions. So should we say at this point blood transfusions are immoral for all Americans because one religion or another does not agree they are necessary to prolong life?

There are some, by religious belief, who believe medical doctors should not be turned to but the power of prayer should cure your illness. Should we take that as a moral position for America and say that we cannot encourage medicine in America? I think not. So why in this area, when it comes to medical research, are we going to close the doors that the Bush administration has to the hopes for Christopher Reeve and many like him, and for millions across America?

In just a few days, there will be a debate between President Bush and Senator JOHN KERRY—the last one—in Arizona, about the economy. I hope there is an opportunity for JOHN KERRY to point out these facts:

Forty-seven States under the Bush administration have had a loss of manufacturing jobs. I am sure this chart is hard to see on television. In Illinois we lost 135,800 manufacturing jobs in the last 4 years; almost 40,000 in Missouri; 23,000 plus in Iowa; 52,500 in Wisconsin; 152,000 in Pennsylvania; 164,000 manufacturing jobs lost under the Bush administration in Ohio; 10,000 in West Virginia. The list goes on and on for 47 States. These are the jobs we have lost.

Trust me, when these jobs are lost, they are not replaced with jobs that pay as much or that offer the same kind of benefits. These families are going to have a tough time getting back to where they were. Why has this happened? The Bush administration's economic policies have failed. Tax breaks for the wealthiest people in America have not given us the kind of economic boost that the President promised.

Look at what has happened in the Bush economy when it comes to American families' household income. It is down over $1,500 since the President took office. We have lost ground. We have lost ground for families who get up and work hard every day to try to make ends meet.

Take a look at what happened with unemployment figures. The Senator from Maryland got up and told us we have just set a record of 24 straight months of long-term unemployment at record levels. We have never had that bad a period of time or that bad a stretch in modern economic history in America. It means you have been unemployed for more than 6 months. Look at the numbers that they have grown under the Bush administration, where out-of-work Americans are running out of unemployment benefits.

This President insists that he is not going to rest until every American has a job. This President is not going to get much rest because there are a lot of Americans who have lost jobs. Over 800,000 net jobs were lost under President Bush's administration, which is the lowest job creation number by any President of any political party in over 70 years. And this President is offering us 4 more years? I have to ask, as Senator KERRY did, can America take 4 more years of this?

This administration's approach to the economic problems in America is not taking care of business. Look what is happening to the workers who are working harder. Productivity is up 15 times between 2001 and 2004. Yet wages are stagnant and falling. The harder our people work in America, the less they are paid. That is the American dream? Perhaps it is to President Bush but not to the families across America.

Meanwhile, how are corporate profits doing in the recession, the struggling economy? Very well, thank you. They are up 65 percent under the Bush administration, while workers' wages are going down. The rich are getting richer, the poor are getting poorer, and the middle-income folks are feeling the squeeze. That, unfortunately, is the reality of their tax policy.

Mr. SARBANES. Will the Senator yield on that point?

Mr. DURBIN. Yes.

Mr. SARBANES. It is unparalleled in coming out of a recession that so much of the growth is going to profits and so little of the growth is going to wages. It is a stark contrast with what occurred as we tried to move out of previous recessions in the entire post-World War II period.

The point the Senator makes is extremely important. Productivity is up. The workers are producing, but they are not getting a return in their wages. The benefits are going heavily into corporate profits. The Senator is absolutely correct. And it is a marked departure with previous performance, where there was a much more equitable sharing of the economic benefits of the growth that was taking place, and the wage earner was doing better than under the circumstances we face today.

Mr. DURBIN. I thank the Senator from Maryland.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There is 1½ minutes remaining.

Mr. DURBIN. In closing, the Senator from Maryland will speak when I finish and talk about the economic statistics, facts, and figures. That is the one thing we believe on this side of the aisle.

If this election is to be decided by facts and evidence, the American people will vote for a new vision of America, a stronger economy at home, and more respect for America around the world. But if we are going to let this campaign disintegrate in the last 3 weeks into sloganeering and name-calling, who knows what the outcome will be. We trust the facts and the evidence. This administration has failed to move this economy forward for working families. It has pushed a tax policy that not only doesn't help them, in many instances it penalizes them.

Look at what families are up against under the Bush administration. The cost of medical care and health insurance, up 59 percent; gasoline is up 38 percent; college tuition is up 38 percent; housing costs are up 27 percent. Even the cost of a bottle of milk is up 13 percent. When this President says in Arizona in the next debate that America is better off under his administration, he isn't feeling the pain families feel every single day when they try to make ends meet.

Mr. President, this election is going to be a historic turning point for America. We are either going to move toward 4 more years of the Bush administration, with economic policies that have taken a toll on the hardest working people in the world, or we are going to move forward with a new vision to help families have a better life for themselves and their children.

We are going to decide, when it comes to foreign policy, if we are going to continue to squander the reputation and good name that America has built up over many decades or whether we are going to move to a new level of respect for America around the world. The choice is in the hands of the voters on November 2.

I yield the floor.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Maryland is now recognized for up to 20 minutes under the previous consent order.

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## UNEMPLOYMENT FIGURES

Mr. SARBANES. Madam President, on Friday the Bureau of Labor Statistics came out with the latest unemployment figures. I commend the Bureau of Labor Statistics. They are professionals. They bring us the figures. They do not try to put a spin on them. They just lay out the facts. That is a kind of unusual thing in our public discourse nowadays, I have to say. We do not seem to pay much attention to the facts anymore. It is all spin—spin, spin, spin, spin, deception, misstatement, so forth and so on. But there are still professionals in various parts of our Government, and I simply at the outset commend them for sticking to the facts. Members of the Joint Economic Committee tried to draw the Commissioner and her associates into the spin efforts, and she resisted, as she should.

I wish to talk this afternoon briefly about some of the figures and the facts, and I will try to lay them out as best I can.

We produced last month 96,000 jobs—I say a mere 96,000 jobs because we need to produce about 140,000 jobs per month simply to stay abreast of the growth in population. So if we are producing fewer jobs than that, we are obviously slipping backward.

This performance of this administration should be a matter of very deep concern for people in the country. Back at the beginning of the year, the administration did have a couple of months of good, solid production, and I want to put that right up front because, as I said, I want to stay with the facts. But what has happened is over the course of the year, their job production has fallen very sharply, as this chart shows. We are now down to just below 100,000 jobs produced in the last month of this Bush administration.

The cumulative record of this administration over the course of the time it has been here has been a loss of 1.6 million private sector jobs. Private sector jobs are down 1.6 million. In total jobs, because we have had some uptick in Government jobs, the administration is down 825,000 jobs over the course of its tenure. It is down 825,000 total jobs, 1.6 million private sector jobs, and 2.7 million jobs lost in manufacturing employment. Manufacturing employment is down 2,700,000 jobs.

This job performance—or more accurately put, lack of performance—is the worst in 75 years. We have to go all the way back to the administration of President Hoover to find another administration which lost jobs in the course of its tenure; in other words, failed to produce a net gain of jobs. Some administrations in the interim have done very well, others fairly well, others not so well. All have had a net gain in jobs except for this administration.

The unemployment rate which was reported on Friday as 5.4 percent does not tell the full story of the depth and breadth of unemployment which exists in the country. If we count in amongst the unemployed—and the Bureau of Labor Statistics keeps this index—if you count in people who have dropped out of looking for a job because they are so discouraged by how poor the labor market is and a very substantial number of people who are working part time for economic reasons—in other words, they want to work full time, but they cannot find a full-time job, so obviously in order to try to support their family, they take a part-time job, but they are seeking a full-time job—if you factor in that underemployment, and if you factor in the people who dropped out of the workforce in terms of seeking employment, we end up with an unemployment rate of 9.4 percent—9.4 percent. That is what we are confronting. And that rate, of course, is a consequence of failing to have a net gain in jobs over the course of this administration.

I was fascinated to watch the spin artists go out and try to spin this 96,000 figure into some big success. Quite to the contrary. It shows a serious shortfall in economic performance. And the thing that makes it an even deeper concern is the fact that the administration's performance over the course of this year in producing jobs has seriously weakened. In other words, if we go back to the beginning of this year, job creation has dropped markedly.

Some of the spin is to sort of say 9/11 did it all. They attribute it all to 9/11, but obviously this chart indicates to the contrary because we had some fair job production here, and then it has fallen. The cumulative impact of having that happen is, in fact, now to have an administration which does not have a positive job creation performance over the course of its tenure.

Now, we all know that everyone gets up on the Senate floor and they make long speeches about the best social program is a job. I agree with that. I doubt that there is anyone in this body who would disagree that the best social program is a job, but the jobs are not being produced.

As I said, we can go back through our history to every previous administration, Democratic and Republican alike, until we get back to Herbert Hoover, who had a net positive creation of jobs in the course of his tenure. This administration has failed to do that.

There are now 825,000 jobs less than when this administration came into office. There are 1.6 million jobs less in the private sector. There are 2.7 million jobs less in manufacturing, which, of course, has been the hardest hit of all, and which I think this administration has badly neglected in terms of a whole range of policies. But 2.7 million jobs less in manufacturing, 1.6 million jobs less in the private sector, 825,000 jobs less total, because there has been some increase in jobs in the public sector.

This is the performance of this administration. As I said, if one factors in all of the components of unemployment, including those that have part-time work but want full-time work, those who dropped out of the labor force because they are so discouraged by the job market, we have an unemployment rate of 9.4 percent.

There is one other point I want to make, which I think is highly relevant, and it also, of course, affects efforts in this Congress to deal with the unemployment insurance benefits question. We define long-term unemployed as people out of work for more than 26 weeks—in other words, more than 6 months. The unemployment insurance benefit program is geared to pay 26 weeks of benefits. The assumption is to help people through a difficult period to support their families.

I hasten to point out that one cannot draw unemployment benefits unless they have a work record. In other words, one must have worked and had a work record in order to qualify to draw these benefits.

In previous recessions, when the economy has not strengthened and jobs have not picked up, we have extended the period of time to pay unemployment benefits because how can someone be told, after 6 months, well, they should have found a job and gone back to work, when the job market has not picked up and there is no job to be found and they find themselves in the difficult situation, how are they going to provide for their family if the benefits are cut off and the benefits, of course, pay only a fraction of what they earn, and there is no job to be found?

So now, we have extended the benefits as a consequence. We have done that in this recession, but much less than previously. The administration has not been supportive of further extension, even though the number of long-term unemployed, amongst all the unemployed—in other words, people out of work for more than 6 months, has almost tripled. It has gone from 680,000 long-term unemployed when George Bush took office as President in January of 2001—in other words, we have really brought that figure way down because of the high job production that had occurred in the Clinton administration. It is now up to 1,750,000 long-term unemployed.

As a consequence, the percentage of the unemployed who are long-term employed, in other words, a consequence of this incredible growth in the long-term unemployed from 680,000 to 1,750,000, is almost triple. The percentage of workers unemployed who are long-term unemployed has jumped from about 10 percent to over 20 percent. It is now almost at 22 percent.

In this period, these high figures above 20 percent of the long-term unemployed, this percentage of unemployed workers, this rapid runup and then this continuing high figure, is a record. It has been above 20 percent for 24 continuous months, which is dramatic evidence of the failure of the economic policies of this administration.

These figures reflect real human hurt. These are men and women who had jobs, who worked, who lost their jobs, and cannot find another job. As a consequence, when their benefits run out and the administration and the Congress fail to extend their benefits, they find themselves in an incredibly difficult situation. How are they then to support their family?

We have made repeated efforts on the floor to extend the unemployment insurance. They have been blocked by the other side. The administration has not been supportive of this effort. So we have one and three-quarter million people long-term unemployed no longer eligible for benefits, not able to find work in a job market last month, where they produced 96,000 jobs. That is not even close to keeping abreast of the growth in population, let alone putting people back to work. In my judgment, there is no way that these economic figures can be spun to represent some economic success which is, of course, what the President has gone across the country to try to do.

In fact, he keeps going into States and saying we have turned the corner. I think when one looks around the corner that we have supposedly turned, one finds we are moving in the wrong direction. This is not the right direction to be moving with respect to the long-term unemployed. Who would want to turn a corner and find that the long-term unemployed is rising from about 10 percent of those unemployed to over 20 percent of those unemployed? This steady diet of over 20 percent for 24 months is unparalleled. Who would want to turn the corner and find that the monthly job creation was on this downward trajectory?

The President says we have turned the corner, and I say to myself, well, let us look at what we see when we turn the corner. What we see when we turn the corner is this decline in job creation.

We see, when we take a look in context—in other words, when we look over the period—that this administration has not created a net gain in jobs. It is no wonder that working people all across America are concerned and anxious, not only those who have lost their jobs, but those who fear they are going to lose their jobs, or those who maybe found another job but found themselves in this situation, that the jobs gained on average pay $20,000 less than the jobs lost. In other words, you have long-term unemployed who cannot find a job, you have people very apprehensive about their job situation because the number of jobs produced month by month is on a declining line, and then you have those who manage to find a job only to find it is at pay levels far less than they were previously receiving. The consequence of this is to put an enormous squeezing pressure on working and middle-income people in this country.

The costs of everything are up, wages are almost level, and all across the country working families are sitting down at their kitchen tables, trying to figure out how they are going to pay their bills.

I said earlier, when we were having this discussion, that in this economic cycle a far greater percentage of the benefits are going to corporate profits than are going to wages. When you look at the figures, it is absolutely startling the contrast with what we experienced at this point in previous economic cycles. So there is a tremendous skewing of whatever benefits there are from growth to profits and away from working people. This, I submit, ought to be a matter of deep concern all across the country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

### THE AMERICAN ECONOMY

Mr. CORNYN. Mr. President, I have sat here for the last 2 hours 15 minutes and listened to a number of speeches by my colleagues on the other side of the aisle. I can only conclude that they are invoking the memory of Mark Twain, who said: "I am not one of those who when expressing opinions confines myself to the facts."

What I mean is I find it curious that speaker after speaker has criticized the Bush administration, and indeed, the majority in this Congress, for our progrowth economic policies when, in fact, the results of those policies worked to the betterment of the American people and create hope and opportunity and not despair and hand wringing. The only thing I believe contributes to despair and hand wringing and increased anxiety among the American people, and indeed the voters who are going to vote on November 2, are speeches made by supporters of the Democratic nominee on this floor and elsewhere, talking gloom and doom and despair as if America was no longer the last best hope on the planet.

First, I wish to talk about the bill that was passed a couple of hours ago, the FSC/ETI bill, more appropriately named the JOBS bill. I was proud to be 1 of the 69 Senators who voted in support of that bill, for a number of reasons. First, we were able to eliminate a 12-percent penalty against exported goods made by American companies exported to the European Union. That is something that was long overdue. We really would not have had to wait this long to do that but for some obstruction on the other side of the aisle.

The second reason I am proud to have voted for this bill is because it ends the discrimination against those States such as mine, Texas, which have no income tax. In Texas, we tend to adhere to the idea that government should not be a burden any bigger than absolutely necessary upon the people who earn the money, so they can save it, they can invest it, and small businesses can create jobs. So we do not have an income tax. We have a sales tax.

But for many years now, Federal laws discriminated against States such as Texas and I believe Washington—I see the Senator from Washington on the floor. I believe her State was also affected by this change. Now taxpayers in Texas can deduct the sales tax they pay from their Federal income tax. I am very pleased that 69 Members of the Senate today saw fit to end that unjustified discrimination.

The reduction in the corporate tax rate for manufacturers that was accomplished by the passage of this bill earlier today has effectively reduced the corporate tax rate for these manufacturers by 3 percent. In other words, the corporate tax rate in the United States, which is 35 percent across the board, has now been reduced 3 percent for this class of taxpayers—manufacturers. This will, no doubt, provide an opportunity for manufacturing concerns to increase their competitiveness in a global economy where they have to compete with much lower wage-paying countries, such as China and elsewhere.

It is curious, though, to me, that America still has one of the highest corporate tax rates in the world. Indeed, the University of Michigan, in a study from the Office of Tax Policy Research, says that in 2002, the last year for which figures were ready available, the average corporate tax rate for countries all across the world was 29 percent across the board—29 percent. America's is 35 percent, except for now when this bill becomes law, it will be reduced for a certain class of taxpayers in the manufacturing business.

This chart shows that, for example, the Slovak Republic has a 25-percent corporate tax rate. Indeed, this past year I was privileged to travel from Bratislava, with other Members of the Senate, to represent the United States at a meeting of the Presidents of the new members of NATO, including the Slovak Republic. We learned from the Ambassador that, indeed because of the low corporate tax rates, that small country had been able to attract three major car manufacturers to the country, creating thousands of jobs, primarily because of the low corporate tax rate and because of the population that is eager and willing to work.

The fact is, our policies do impact our competitiveness in the global economy, and have a direct impact on the quality of life and the prosperity of the American people, something I am afraid is too often ignored.

I am so glad to see some of my colleagues from the other side of the aisle who rail against reduction in taxes for individual taxpayers agreed—all of us combined—by a vote of 69 to 17 that lower taxes promote economic growth and promote greater job creation. That is exactly why I believe we were wise to pass this bill in the Senate today. Unfortunately, what we hear too often when talking about issues such as economics and job creation is a lot of cynicism. I heard someone on the floor today talking about elite corporate interests will benefit when tax rates are lowered, or I think there was a reference made by the Democratic nominee for President about Benedict Arnold corporations are traitors, in effect, of America by taking jobs out of America into other countries. I want to talk about that more in a minute. But what these amount to is a philosophy of claim to love the worker but hate the employer. In other words, speaker after speaker today claimed that the policies of this administration were hurtful to the worker at the same time they claimed that the only ones who benefitted were the big corporations.

The fact is you cannot claim to love the worker and hate the employer who provides the worker their job. That is why I believe we need more progrowth policies. I think we need to look at our tax policies across the board.

We need to look at our civil justice system which imposes a tort tax on every consumer in this country and which stymies innovation and business growth and thus job growth.

We need to look at our regulatory policies which make it difficult for America to compete. And, yes, we need to look at policies which will provide greater opportunities for innovation not by the Federal Government but by the men and women, the risk takers, the investors and people who create jobs all across this great land—indeed, all across the world.

What I have heard earlier today with regard to condemnation of elite corporate interests and the like also reminds me of some of the debate we heard earlier about outsourcing. It is my view that a lot of the debate on outsourcing is largely based on the same sort of fearmongering and anxiety and hammering we have heard generally today in attacks against this administration and its economic policies, not on the facts. The facts are that markets are rational.

In other words, if a company can open a business here in the United States or increase the size of its business, but because of a higher tax burden and more litigation risk environment, more regulation and the like, they are going to take a look at places such as India, China, and Mexico, and other places that do not have a lot of those same regulatory and legal burdens and tax burdens.

One reason why America continues to prosper is because, of course, we have what many places in the world do not have; that is, stability in the rule of law that promotes security of investment. So we can continue to attract foreign dollars in this country.

For example, the Congressional Research Service has produced a document entitled "Outsourcing and Insourcing Jobs in the United States Economy, An Overview of Evidence Based on Foreign Investment Data."

This research document reveals that by 2003 U.S. firms accumulated $1.5 trillion worth of direct investment abroad compared to the $1.4 trillion foreign investors spent to require or establish businesses in the United States. For 2003 alone, foreign direct investment in the United States was about $82 billion, whereas U.S. direct investment abroad rose to about $155 billion in 2003.

As I said, markets tend to be rational. People, unlike the Federal Government, have to look at the bottom line and make sure that they don't operate in the red and thus go bankrupt and risk going out of existence. They have to be rational. They cannot make the kinds of emotional decisions that are made too often in the political realm.

But it is no wonder because of the regulatory environment, the tax, the high taxes in this country, because of the legal system which unfortunately rewards a few at the expense of the many, that we are finding more jobs going overseas. And there is something we can do about it. The fact is we in this Congress are well situated to enact progrowth policies which will decrease the likelihood that companies will go overseas or outsource jobs to other countries and other locations around the globe. But we are not doing the things we need to do to promote growth right here at home and ensure greater employment opportunities for the American people.

For example, we know that one of the biggest drags on the economy and on job creation is expensive oil imports. We know a barrel of oil is currently selling on the spot market in excess of $50 a barrel. We had an opportunity—and unfortunately we didn't avail ourselves of that opportunity—to pass an energy bill which I think would have created more domestic production here in America, and we would have had a greater supply, and thus bring the price down. But we didn't do it.

We have high natural gas costs because we simply have put too much of the domestic supply out of our reach by moratoria and other policies which said we may have the gas but we are simply not going to explore and drill for it. It should be no surprise that the cost of natural gas is at historic highs.

It is no surprise that gasoline is so expensive when regulations have resulted in no new refineries being created in the United States since about the early 1970s. The fact is most of the refiners are operating at maximum capacity.

One reason for oil and gas being expensive is because emerging economies such as China and India and others are consuming more and more energy and thus driving up the price.

We had a chance to do something about that by passing an energy bill this year, and we simply have been unable to do that because of objections on the other side of the aisle.

We also know one reason companies don't come to America or don't expand jobs here in America relative to other countries is because of our legal system. Unfortunately, we have a mentality in this country that says frivolous lawsuits are simply the order of the day. We know that the costs of those lawsuits are passed on ultimately to the consumers who pay in effect a tort tax. We also know that it affects access to health care which is another cost that businesses incur when they do business in the United States as opposed to other countries.

We had a chance to pass medical liability reform to improve access to OB-GYN doctors, emergency room doctors, and the like. We had a chance to reduce the paperwork that adds about a quarter of the cost to the health care expenses incurred by Americans and by American businesses when they provide health care coverage to their employees. Unfortunately, these policies resulted in a large number of people simply going without health insurance because of the cost.

If no one believes what I have said to this point about low taxes being progrowth and being in the best interests of the American people, and people who want to work, I think all we would have to do is look at what happened after we passed the historic tax relief and growth package in 2003. We know in June 2003 unemployment rates in this country were at 6.3 percent. Today, they are 5.4 percent, a .9-percentage point difference lower.

We remember hearing day after day discussions about the jobless recovery. The fact is, since August 2003, as a direct result of the progrowth economic policies of this administration and the leadership of this Congress, according to the payroll survey, 1.9 million new jobs have been created in the United States.

I heard one of the distinguished Senators refer earlier to "we" produced new jobs. I am sure they did not mean to suggest that the Federal Government produced the jobs because we know the Federal Government does not produce jobs. More often than not, it is the burdens imposed by the Government on employers that kill new jobs. The fact is, if you look at the household survey—of course, we will get into the difference between the payroll survey and the household survey—more and more Americans are no longer working in a traditional employer-employee relationship. Indeed, they are pursuing their own dream by starting their own business. According to the household survey, 2.2 million new jobs have been produced since August of 2003.

We are seeing a restructuring of the economy not only in the United States but globally. Obviously, we know there is going to be some human pain associated with that. None of us likes, regardless of whether we are Republicans or Democrats or Independent, when anyone wants to work and they cannot find a job. Our goal should be to keep our eye on opportunities for everyone to live up to their potential, to get a job, to provide for their family.

Unfortunately, the antigrowth policies pursued by many of our friends on the other side of the aisle in terms of bigger government, greater taxation, more regulation, runaway litigation, have exactly the opposite effect. They limit opportunity; they limit jobs; they limit investment.

I have heard the President criticized time and time again today and elsewhere for his economic policies. But I remind my colleagues when this President came into office, we were in a recession. Not only that, a short time after he came into office, we had the terrible events of September 11. Osama bin Laden himself said his goal was to establish about $1 trillion of cost to the American economy. Indeed, we know that much of the economy suffered a body blow as a result of that tragedy over and above the human loss of life that we suffered on that terrible day.

Then we also know that the birds came home to roost, so to speak, on corporate scandals, some of which are still being prosecuted, that caused a tremendous loss of public confidence in our markets and in businesses, resulting again in further economic distress.

The truth is, during this administration the American economy and the American people have had many challenges. One of those challenges has been the attacks not only on us as human beings but on our economy and on the economy's ability to generate new jobs.

Despite all the hand wringing, despite the naysaying, despite those who would claim there is no hope unless we get a new President on November 2, the fact is there is tremendous reason for hope and, indeed, tremendous reason to believe that it is the policies of this administration and the leadership in this body as well as the House of Representatives that have caused, have created the conditions whereby the risk takers, the investors, those who create jobs, do so, and they have done so at remarkable levels.

I used to be very skeptical of the speeches I have heard of the Senator from North Carolina, the Democratic Party's nominee for Vice President, who talks about two Americas. Indeed, sometimes in listening to the debate in the Senate today and elsewhere, maybe he is right—but not quite in the way he says. There is one America that is hopeful, that seeks opportunity and believes that everyone, no matter who they are, where they come from, or how they pronounce their last name, is entitled to pursue their dream, the American dream. On the other side, there must be another point of view, another America, so to speak, for those who believe they should pursue their political objectives by fearmongering, by hand wringing, and increasing the anxiety of the American people when it comes to their job security by making fallacious claims about how good the economy really is and the policies that have produced tremendous growth in the economy and tremendous opportunity for people who have previously been out of work.

Ultimately, we have to do two things: Continue to do what we have done with regard to people who are out of work and provide temporary benefits until they can get back on their feet and get back in the workforce—not a permanent subsidy for not working but provide help for those who are truly looking for work, and then we need to continue to provide educational opportunity to every American.

We need to change our frame of mine when we think about education. When I was growing up, I somehow got this idea that I would go to school and graduate from high school and then I would go to college and I would "finish" my education. The truth is, that is not what happened. The truth is, it cannot happen in today's economy and in today's competitive work environment. The truth is, we need to change our frame of mind and commit ourselves to life-long learning. That is one reason I appreciate the President's emphasis on community colleges, which in many areas of the country are working in conjunction with the private sector to learn what sort of skills need to be taught to a workforce in order to get the good high-paying jobs that exist. Indeed, community colleges are working closely with the private sector to do just that in places such as the State of Texas and elsewhere.

We need to recommit ourselves to education because the one area that America has always surpassed its competition anywhere in the world has been in the area of innovation. It is our brain power, our spirit, our freedom and opportunity that have made us the envy of the rest of the world.

I cringe when I hear my colleagues on the other side of the aisle, or when I hear on the political stump about hope being lost, about those people not having opportunities anymore, about the American dream leading to a nightmare, because the facts, No. 1, contradict that; and, No. 2, the only way that America can be defeated in a global competition is if we defeat ourselves and give up.

It was Professor Harold Laswell who called politics a fight over who gets what, when, and how. If all we are going to talk about in the Senate and in Washington, DC, it is about who gets what, when, and how, we will be defeating ourselves. Indeed, we need to continue to enact progrowth policies that will provide opportunity for everyone in this country. If we ever lose sight of our vision as America being the last best hope of freedom-loving people around the world, we will have hurt ourselves and hurt the American people at the same time.

Finally, those in this Senate who complain so mightily about lower taxes for individual taxpayers and use class warfare to talk about the rich not paying their fair share, these are the same people in many instances who voted for this tax cut for corporations that manufacture goods.

I think their vote today was right. I think their rhetoric, when they talk about the President's policies and tax relief being wrong, is wrong, because it is higher taxes, more regulation, out-of-control litigation, and a burdensome regulatory environment that are hurting America's ability to compete in the global economy and are hurting the opportunity for American employers, including small businesses, to create those new jobs.

Indeed, I think any fair observer would conclude that it is the policies of this administration and this Congress that have created greater opportunity. I do not believe we should give in to the hand wringing, to the anxiety-provoking rhetoric, or, indeed, the fearmongering that happens way too often in our political discourse because the facts point to the fact America is still and—as long as we retain our commitment to progrowth policies—will continue to be the last best hope of the world.

Madam President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington has 8 minutes.

Ms. CANTWELL. Madam President, I rise today to address the legislation we passed earlier, but I say to the Senator from Texas, it has been a pleasure working with him and the senior Senator from Texas on issues that we are going to talk about, the sales tax deduction for individual States.

But I also say that I know this side of the aisle very much believes in pro job-creation activities. As somebody who has been in the private sector and seen the job creation that can happen in the private sector, no, I do not believe Government creates jobs, but I do believe Government has an investment strategy, that we are a partner with the private sector; and a good investment strategy then allows for capital to flow to people who need it most.

I guess I would say that this bill is not the perfect solution, and not what 51 Members on this side of the aisle would have drafted, as there are certainly things that have been overlooked. I think we have heard about them, including Senator LANDRIEU's language about a $15,000 tax credit to employers that would help them maintain their employees who have been called up by the National Guard and Reserve on their payrolls.

As the Senator from Maryland has articulated, another item is the unemployment benefits that would have worked to benefit many Americans while they can't find jobs, because jobs the job growth we have been promised has not happened. Unemployment benefits are, therefore, something to help keep economic stimulus in our communities.

Another is the fact that when we talk about community colleges and job creation, we really are not keeping pace with the training and retraining dollars from the previous years' budgets to actually help make this transition.

I would just point out that while we are having this discussion today about where we go further with the policy, it is a fact that this side of the aisle definitely believes in investing in the human infrastructure, not just in the corporate side of the equation but in individuals, for unemployment, for job training, for our National Guard, for people who need the help and support to continue to do their jobs.

But let me address, if I may, the key issue I wanted to talk about; which is, the issue of tax fairness. It is ironic. My colleague talked about this side of the aisle and tax fairness, the two issues about which I am going to talk.

The first one was actually implemented under a Republican administration and a Republican Senate. That was in 1986, not allowing the State of Washington and six other States in the Union to be able to deduct their state and local sales taxes in lieu of state and local income taxes from their Federal income tax.

Now, since I have been in the Senate, since 2001, I have worked to make the deduction of state and local sales taxes from their federal tax liability permanent for my constituents. When I entered the Senate, I first worked with the Senator from Tennessee, Mr. Thompson, who had introduced legislation, and then later with Senator KAY BAILEY HUTCHISON from Texas with whom together we have introduced legislation in the 108th Congress to reinstitute the state sales tax deduction. Washington and Texas have known a long time that we needed to restore tax fairness to the people of these States. And while we have passed, this afternoon, legislation that restores that fairness temporarily for the next 2 years, we need to continue to work to make it a permanent resolution for people in those States.

Restoring that sales tax deduction will help strengthen our economy. What people do not realize is that when the 16th amendment to our U.S. Constitution was ratified, in 1913, it said you could make the way for a Federal income tax, and Congress allowed taxpayers to deduct State and local taxes so that income would not be taxed twice. That was what the exemption was about.

So why, in 1986, after 74 years of a precedent, was this tax equity abruptly ended? As I said, I am just pointing out to my colleague, it was actually done by a Republican Senate, a Republican administration. I am saying that only because we need to move forward in correcting these policies, as the previous speaker said, and work together on commonality.

The taxpayers from the States that were given this raw deal—I believe because it was a budgetary squeeze, not based on, I think, really valid principles—it was a great impact to States such as mine, which has just over 60 percent of our State revenue coming from sales tax—about 61-point-three percent. So for us, that is a huge impact. When you are asking constituents not to be taxed twice by what they paid to the State and what they pay to the Federal Government, not being able to deduct that was an inequity in our tax laws. We know that for Washington State this could mean as much as $421 million that would be saved by taxpayers. I am sure the number is higher in many other States around the country.

But it also means job creation. The Economic and Revenue Forecast Council in our State says that it would create as much as 2,000 to 3,000 jobs, and it would be about a 50-cent stimulus for every $1 spent in Washington State. So for an economy that has been hard hit by this recession and continues to have one of the highest unemployment rates in the nation, this is the kind of tax policy we think helps us grow our economy and create jobs.

But the bottom line is that after this period of time, after 18 years, Washington State is finally—instead of getting a raw deal—going to get a fair deal, in the fact that residents are going to be able to deduct their sales tax from their Federal income tax obligation. So I think that is the kind of job-creation stimulus and fairness we need to be focusing on as we look at these tough choices.

Another issue that is bringing tax fairness to our State and to many other rural parts of our country is an issue that Senator CRAIG THOMAS and I worked on, the National Health Service Corps Loan Repayment Program. That also was passed this afternoon as part of this legislation.

What this bill did was to focus on the fact we are trying to get and continue to push rural health care needs.

We have a deficit in some parts of our country in getting doctors into rural communities. We have had a great program on the books for a number of years. I am proud that a previous Senator from our State, Warren Magnuson, actually created the National Health Service Corps Program. What it did was, it said to physicians, if you will go practice in rural communities, we will either give you a scholarship for doing that or we will give you loan repayment assistance.

Well, I can tell you, in talking to physicians throughout my State, the cost of repaying those loans can start off a career in hundreds of thousands of dollars of debt. Somewhere along the process we ended up taxing the National Health Service Corps scholarship and loan money to these physicians, as the IRS saw the payments as taxable income. In fact, later Congress realized: Well, that was not such a great idea of taxing, so we will give more money to the National Health Service Corps to pay for those taxes and then tax that money on top of it. We ended up paying 40 percent of the program in taxes instead of creating the opportunity for those physicians. So this program will help get about 67 percent more physicians into rural health care in America.

The last thing I would like to say is that as we continue to move through the rest of how we finish up this year, we want to continue to give an opportunity to make sure the National Guard and Reserve men and women in our country are well taken care of. I am proud the Senate passed back to the House a bill that also included Senator LANDRIEU's language about helping the National Guard.

Washington State is a State that is greatly impacted, and we certainly need to help and support taking care of our National Guard.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

## THE ECONOMY

Mr. SESSIONS. Madam President, I want to share a few thoughts about the status of the economy. As we finish up this session, everybody has a lot of different views, and we are in a political season. I think it is good to talk about it and discuss the issue and see what the facts are, and let the American people make up their own mind about what the circumstances are that face our country.

One thing that I think is important for all of us to remember is that without economic growth we will not create jobs.

When we are in an economic situation in which we do not have growth, then we are not going to have jobs created. We may not lose those jobs immediately, but as growth lags, the number of jobs will fall as well. As growth goes up, jobs will be created. Jobs, as the economists say, tend to lag behind growth, but they follow growth. When economic growth is declining, the number of available jobs will decline. When economic growth is going up, the number of available jobs also will be going up.

Growth in the American economy is affected by many different things. The economy can be affected by world events, or by the strength of the economy in other nations. Generally, we are not threatened by strong economies in other parts of the world. Our economy does better when other economies are doing well, and when other economies are doing poorly, our economy tends to be dragged down.

The American economy is also impacted by business factors, by psychological factors, and by governmental factors that impact jobs and growth. If the President could snap his fingers and make everything happen right, we would never have any problems. But we know the President cannot do such a thing. We know we need to be careful about placing blame and credit.

I would like to show this chart. These are the years beginning in 1995 going into 2003. We had good years through the 1990s.

The chart shows these undisputed facts. Former President Bush suffered an economic slowdown in the second year or so of his administration and it resulted in the phrase: It's the economy, stupid. But the truth is, the nation's economy began to rebound significantly before former President Bush's term was finished. In fact, during his last year in office, he got little or no credit for the rebounding economy because he had been tagged by his political opponents for causing an economic slowdown earlier. The fact is that this characterization was inaccurate, and that there was pretty solid economic growth during this time.

President Clinton, I submit, inherited a growing economy from former President Bush. That is just a matter of fact. And it grew well through the 1990s. We had low quarters and good quarters, but overall the economy showed strength during this period.

In President Clinton's last year in office, however, things began to sour. By the time he had left office, the Nasdaq, the high tech stock market, had lost one half of its value. During the third quarter, of President Clinton's last year in office, the economy experienced negative growth, though there was growth in the fourth quarter of his last year in office.

But the first quarter that President Bush inherited, in which the dynamics in the economy were already set, and upon which he cannot be fairly said to have influenced, the economy suffered further negative growth. The second quarter that President Bush inherited also experienced negative growth. The third quarter was 9/11, with its negative impact on the economy. That is what President Bush faced when he took office. Yes, we had some great years in the 1990s, but he inherited an economy that was in trouble, and I submit that fact is not disputable.

He had to make some choices. Are we going to take the liberal idea, the big Government, the tax-and-spend idea that we were going to get out of an economic slowdown, a recession, by increasing taxes and by increasing the size of Government, or are we going to place our faith and hope in the ingenuity, the creativity, the work capability, of the American people?

President Bush placed his faith in the American people. He fought for, and we battled on the floor of this Congress and passed, a substantial tax cut that was designed to revive the economy, which was in trouble and was costing people jobs, making people worried. The stock market had gone down. It was a nervous time for all of us. We remember that.

President Bush led. And look what happened. As the chart shows, in the wake of his actions the economy starts coming back. When we had the second tax cut that took place in 2003, in June, the middle of the year 2003—and this chart only goes through 2003—we ended up with 8 percent growth during the third quarter of that year. Eight percent growth in that quarter is the highest growth rate we have seen in 20 years. The fourth quarter was also about 4 percent. The first quarter of this year was 4.5 percent growth. The next quarter was 3 percent growth. So we have been blessed to see that this recession is one of the shortest recessions in history. It is something for which we ought to be thankful.

Mr. SARBANES. Will the Senator yield for a question?

Mr. SESSIONS. I am pleased to try to answer a question. I know how knowledgeable the Senator is in these areas.

Mr. SARBANES. If the Senator's chart continued out into this year—I take it the chart stops in 2003?

Mr. SESSIONS. I found that in my office a few moments ago. The first quarter was 4.5 percent.

Mr. SARBANES. If it continued out into this year, it would show a descending line, would it not?

Mr. SESSIONS. It would show the first three quarters of this year would average higher than the last 20 years of growth in America.

Mr. SARBANES. I want to focus on—

Mr. SESSIONS. It would show a decline from probably 4.5 percent to 3 percent growth.

Mr. SARBANES. That is all I wanted to hear.

Mr. SESSIONS. You are not going to stay up there at 4.5 forever. But I think the numbers look pretty good. And we did it by investing and putting our faith in the private sector to create jobs and growth. It is pretty exciting.

We don't know how the economy will go. President Bush, as I said, is not a magician. He can't make things happen by waving a magic wand. Any of us who have been around here long enough know that. You get blame and you get credit. Sometimes it is not the President's fault, sometimes it may be the Congress's fault. Sometimes it may be factors beyond any of our control, historic factors.

Because we have had substantial productivity increases, which means we can produce more widgets for less investment and often fewer workers, that has made us competitive and helped our economy, but it has also placed stresses on job production. We have had particularly noticeable productivity increases in manufacturing. As a matter of fact, the whole world is seeing a decline in manufacturing jobs because plants can produce more products with fewer people at less cost.

Since August of 2003, we have had 1.9 million new jobs created. But significantly, in the year 2004, we have had 97,000 new manufacturing jobs created.

That is good. That is something we ought to be pleased about. Let me note that the unemployment rate has fallen to 5.4 percent. It was 6.3 percent last June. It is now 5.4 percent, which is lower than the average unemployment rate for the 1970s, 1980s, or the 1990s.

The gross domestic product—the net production of goods and services in America—has grown for 11 straight quarters. So we have gotten out of this negative growth pattern left to President Bush by former President Clinton, and we have had 11 straight quarters of growth.

I think a factor in that was the President's leadership, for which I am very grateful. Some have said that job growth has failed to keep up with population growth. But that is not true. As the Joint Economic Committee, of which I am a member, reported: Since the unemployment rate peaked at 6.3 percent last June, total employment has increased by 2.2 million. The labor force has increased by 949,000.

That means there are 949,000 more workers. Unemployment has fallen by 1.2 million. Due to the large increase in employment and the large decrease in unemployment, unemployment has fallen significantly despite population growth.

I think Senator CORNYN is correct in saying that there exists in our country today a larger than normal number of people who are working out of their homes, working as independent contractors, as consultants, as truck drivers, and other things, who don't show up on a classic payroll. The statistics from the household survey that pick up that form of employment have been looking much better than the payroll survey for some time. The payroll survey is a valuable survey, but the household survey is valuable, too. The emphasis in complaining about President Bush's leadership does ignore, consistently, and without variation, the more positive numbers that show up in the household survey.

I think President Bush and this Congress have dealt with a very difficult problem—this economic slowdown. We did it in a way that is consistent with America's heritage and American values. As Americans, we are not a people who embrace a socialist, state-run economy. We are a vital, vibrant, innovative, creative people, and this allows our economy, because we have no governmental domination of it, to flourish and reach its highest possible ideals.

That is why the Europeans, in my view, are not doing as well. Germany and France have double-digit unemployment of 10, 11, 12 percent, because they have a state-run, state-dominated, regulated, bureaucratic government with high taxes. It has made it difficult for them to be competitive in the world marketplace. Why would we ever want to emulate that? Why would we ever want to go to the socialist European ideal? Why would we not want to affirm the direction that President Bush is leading us?

I think Congress is working in order to follow the American ideal of freedom and independence, low taxes, and limited regulations.

## HOME OWNERSHIP OPPORTUNITIES FOR NATIVE AMERICANS ACT OF 2004

Mr. SESSIONS. Madam President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of S. 2571, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2571) to clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2571) was read the third time and passed, as follows:

S. 2571

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Homeownership Opportunities for Native Americans Act of 2004".

**SEC. 2. FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES.**

Section 601 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4191) is amended by adding at the end the following:

"(d) LIMITATION ON PERCENTAGE.—A guarantee made under this title shall guarantee repayment of 95 percent of the unpaid principal and interest due on the notes or other obligations guaranteed.".

## HOME OWNERSHIP OPPORTUNITIES FOR NATIVE AMERICANS ACT OF 2004

Mr. SESSIONS. Madam President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of H.R. 4471, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4471) to clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4471) was read the third time, and passed.

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## UNACCOMPANIED ALIEN CHILD PROTECTION ACT OF 2004

Mr. SESSIONS. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 541, S. 1129.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1129) to provide for the protection of unaccompanied alien children, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

### S. 1129

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

[(a) SHORT TITLE.—This Act may be cited as the "Unaccompanied Alien Child Protection Act of 2003".

[(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

[Sec. 1. Short title; table of contents.
[Sec. 2. Definitions.

[TITLE I—CUSTODY, RELEASE, FAMILY REUNIFICATION, AND DETENTION

[Sec. 101. Procedures when encountering unaccompanied alien children.
[Sec. 102. Family reunification for unaccompanied alien children with relatives in the United States.
[Sec. 103. Appropriate conditions for detention of unaccompanied alien children.
[Sec. 104. Repatriated unaccompanied alien children.
[Sec. 105. Establishing the age of an unaccompanied alien child.
[Sec. 106. Effective date.

[TITLE II—ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM AND COUNSEL

[Sec. 201. Guardians ad litem.
[Sec. 202. Counsel.
[Sec. 203. Effective date; applicability.

[TITLE III—STRENGTHENING POLICIES FOR PERMANENT PROTECTION OF ALIEN CHILDREN

[Sec. 301. Special immigrant juvenile visa.
[Sec. 302. Training for officials and certain private parties who come into contact with unaccompanied alien children.
[Sec. 303. Report.
[Sec. 304. Effective date.

[TITLE IV—CHILDREN REFUGEE AND ASYLUM SEEKERS

[Sec. 401. Guidelines for children's asylum claims.
[Sec. 402. Unaccompanied refugee children.
[Sec. 403. Exceptions for unaccompanied alien children in asylum and refugee-like circumstances.

[TITLE V—AUTHORIZATION OF APPROPRIATIONS

[Sec. 501. Authorization of appropriations.

[TITLE VI—AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002

[Sec. 601. Additional responsibilities and powers of the Office of Refugee Resettlement with respect to unaccompanied alien children.
[Sec. 602. Technical corrections.
[Sec. 603. Effective date.

**[SEC. 2. DEFINITIONS.**

[(a) IN GENERAL.—In this Act:

[(1) COMPETENT.—The term "competent", in reference to counsel, means an attorney who complies with the duties set forth in this Act and—

[(A) is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia;

[(B) is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting the attorney in the practice of law; and

[(C) is properly qualified to handle matters involving unaccompanied immigrant children or is working under the auspices of a qualified nonprofit organization that is experienced in handling such matters.

[(2) DIRECTOR.—The term "Director" means the Director of the Office.

[(3) DIRECTORATE.—The term "Directorate" means the Directorate of Border and Transportation Security established by section 401 of the Homeland Security Act of 2002 (6 U.S.C. 201).

[(4) OFFICE.—The term "Office" means the Office of Refugee Resettlement as established by section 411 of the Immigration and Nationality Act (8 U.S.C. 1521).

[(5) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

[(6) UNACCOMPANIED ALIEN CHILD.—The term "unaccompanied alien child" has the same meaning as is given the term in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)).

[(7) VOLUNTARY AGENCY.—The term "voluntary agency" means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children, as certified by the Director of the Office of Refugee Resettlement.

[(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

["(51) The term 'unaccompanied alien child' means a child who—

["(A) has no lawful immigration status in the United States;

["(B) has not attained the age of 18; and

["(C) with respect to whom—

["(i) there is no parent or legal guardian in the United States; or

["(ii) no parent or legal guardian in the United States is able to provide care and physical custody.

["(52) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—

["(A) have not attained the age of 18; and

["(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.".

### [TITLE I—CUSTODY, RELEASE, FAMILY REUNIFICATION, AND DETENTION

**[SEC. 101. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.**

[(a) UNACCOMPANIED CHILDREN FOUND ALONG THE UNITED STATES BORDER OR AT UNITED STATES PORTS OF ENTRY.—

[(1) IN GENERAL.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the officer shall—

[(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and

[(B) return such child to the child's country of nationality or country of last habitual residence.

[(2) SPECIAL RULE FOR CONTIGUOUS COUNTRIES.—

[(A) IN GENERAL.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), unless a determination is made on a case-by-case basis that—

[(i) such child is a national or habitual resident of a country described in subparagraph (A);

[(ii) such child has a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

[(iii) the return of such child to the child's country of nationality or country of last habitual residence would endanger the life or safety of such child; or

[(iv) the child cannot make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

[(B) RIGHT OF CONSULTATION.—Any child described in subparagraph (A) shall have the right to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation, as well as consult with the Office, telephonically, and such child shall be informed of that right in the child's native language.

[(3) RULE FOR APPREHENSIONS AT THE BORDER.—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with the provisions of subsection (b).

[(b) CARE AND CUSTODY OF UNACCOMPANIED ALIEN CHILDREN FOUND IN THE INTERIOR OF THE UNITED STATES.—

[(1) ESTABLISHMENT OF JURISDICTION.—

[(A) IN GENERAL.—Except as otherwise provided under subparagraphs (B) and (C) and subsection (a), the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

[(B) EXCEPTION FOR CHILDREN WHO HAVE COMMITTED CRIMES.—Notwithstanding subparagraph (A), the Directorate shall retain or assume the custody and care of any unaccompanied alien child who—

[(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), while such charges are pending; or

[(ii) has been convicted of any such felony.

[(C) Exception for children who threaten national security.—Notwithstanding subparagraph (A), the Directorate shall retain or assume the custody and care of an unaccompanied alien child if the Secretary has substantial evidence, based on an individualized determination, that such child could personally endanger the national security of the United States.

[(D) Trafficking victims.—For purposes of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) and this Act, an unaccompanied alien child who is eligible for services authorized under the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386), shall be considered to be in the custody of the Office.

[(2) Notification.—

[(A) In general.—The Secretary shall promptly notify the Office upon—

[(i) the apprehension of an unaccompanied alien child;

[(ii) the discovery that an alien in the custody of the Directorate is an unaccompanied alien child;

[(iii) any claim by an alien in the custody of the Directorate that such alien is under the age of 18; or

[(iv) any suspicion that an alien in the custody of the Directorate who has claimed to be over the age of 18 is actually under the age of 18.

[(B) Special rule.—In the case of an alien described in clause (iii) or (iv) of subparagraph (A), the Director shall make an age determination in accordance with section 105 and take whatever other steps are necessary to determine whether or not such alien is eligible for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

[(3) Transfer of unaccompanied alien children.—

[(A) Transfer to the office.—The care and custody of an unaccompanied alien child shall be transferred to the Office—

[(i) in the case of a child not described in subparagraph (B) or (C) of paragraph (1), not later than 72 hours after the apprehension of such child; or

[(ii) in the case of a child whose custody and care has been retained or assumed by the Directorate pursuant to subparagraph (B) or (C) of paragraph (1), immediately following a determination that the child no longer meets the description set forth in such subparagraphs.

[(B) Transfer to the directorate.—Upon determining that a child in the custody of the Office is described in subparagraph (B) or (C) of paragraph (1), the Director shall promptly make arrangements to transfer the care and custody of such child to the Directorate.

[(c) Age Determinations.—In any case in which the age of an alien is in question and the resolution of questions about the age of such alien would affect the alien's eligibility for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act, a determination of whether or not such alien meets the age requirements for treatment under this Act shall be made by the Director in accordance with section 105.

**[SEC. 102. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.**

[(a) Placement Authority.—

[(1) Order of preference.—Subject to the discretion of the Director under paragraph (4) and section 103(a)(2), an unaccompanied alien child in the custody of the Office shall be promptly placed with 1 of the following individuals or entities in the following order of preference:

[(A) A parent who seeks to establish custody, as described in paragraph (3)(A).

[(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).

[(C) An adult relative.

[(D) An entity designated by the parent or legal guardian that is capable and willing to care for the well-being of the child.

[(E) A State-licensed juvenile shelter, group home, or foster care program willing to accept physical custody of the child.

[(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the qualification of the adult or entity shall be decided by the Office.

[(2) Suitability assessment.—Notwithstanding paragraph (1), no unaccompanied alien child shall be placed with a person or entity unless a valid suitability assessment conducted by an agency of the State of the child's proposed residence, by an agency authorized by that State to conduct such an assessment, or by an appropriate voluntary agency contracted with the Office to conduct such assessments has found that the person or entity is capable of providing for the child's physical and mental well-being.

[(3) Right of parent or legal guardian to custody of unaccompanied alien child.—

[(A) Placement with parent or legal guardian.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, but subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall assess the suitability of placing the child with the parent or legal guardian and shall make a written determination on the child's placement within 30 days.

[(B) Rule of construction.—Nothing in this Act shall be construed to—

[(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Program of Action, and the Declaration of the Rights of the Child; or

[(ii) limit any right or remedy under such international agreement.

[(4) Protection from smugglers and traffickers.—

[(A) Policies and programs.—

[(i) In general.—The Director shall establish policies and programs to ensure that unaccompanied alien children are protected from smugglers, traffickers, or other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.

[(ii) Witness protection programs included.—The programs established pursuant to clause (i) may include witness protection programs.

[(B) Criminal investigations and prosecutions.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects any individual of being involved in any activity described in subparagraph (A) shall report such individual to Federal or State prosecutors for criminal investigation and prosecution.

[(C) Disciplinary action.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects an attorney of being involved in any activity described in subparagraph (A) shall report the individual to the State bar association of which the attorney is a member, or to other appropriate disciplinary authorities, for appropriate disciplinary action that may include private or public admonition or censure, suspension, or disbarment of the attorney from the practice of law.

[(5) Grants and contracts.—Subject to the availability of appropriations, the Director may make grants to, and enter into contracts with, voluntary agencies to carry out section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or to carry out this section.

[(6) Reimbursement of state expenses.—Subject to the availability of appropriations, the Director may reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

[(b) Confidentiality.—All information obtained by the Office relating to the immigration status of a person described in subsection (a) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

**[SEC. 103. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.**

[(a) Standards for Placement.—

[(1) Prohibition of detention in certain facilities.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.

[(2) Detention in appropriate facilities.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to the behavior in a facility appropriate for delinquent children.

[(3) State licensure.—In the case of a placement of a child with an entity described in section 102(a)(1)(E), the entity must be licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

[(4) Conditions of detention.—

[(A) In general.—The Director shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—

[(i) educational services appropriate to the child;

[(ii) medical care;

[(iii) mental health care, including treatment of trauma, physical and sexual violence, or abuse;

[(iv) access to telephones;

[(v) access to legal services;

[(vi) access to interpreters;

[(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

[(viii) recreational programs and activities;

[(ix) spiritual and religious needs; and

[(x) dietary needs.

[(B) Notification of children.—Regulations promulgated in accordance with subparagraph (A) shall provide that all children are notified orally and in writing of such standards in the child's native language.

[(b) Prohibition of Certain Practices.—The Director and the Secretary shall develop procedures prohibiting the unreasonable use of—

[(1) shackling, handcuffing, or other restraints on children;

[(2) solitary confinement; or

[(3) pat or strip searches.

[(c) Rule of Construction.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.

### [SEC. 104. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

[(a) Country Conditions.—

[(1) Sense of congress.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party, and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

[(2) Assessment of conditions.—

[(A) In general.—The Secretary of State shall include each year in the State Department Country Report on Human Rights, an assessment of the degree to which each country protects children from smugglers and traffickers.

[(B) Factors for assessment.—The Office shall consult the State Department Country Report on Human Rights and the Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report in assessing whether to repatriate an unaccompanied alien child to a particular country.

[(b) Report on Repatriation of Unaccompanied Alien Children.—

[(1) In general.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate on efforts to repatriate unaccompanied alien children.

[(2) Contents.—The report submitted under paragraph (1) shall include, at a minimum, the following information:

[(A) The number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States.

[(B) A description of the type of immigration relief sought and denied to such children.

[(C) A statement of the nationalities, ages, and gender of such children.

[(D) A description of the procedures used to effect the removal of such children from the United States.

[(E) A description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin.

[(F) Any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

### [SEC. 105. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

[(a) In General.—The Director shall develop procedures to determine the age of an alien in the custody of the Department of Homeland Security or the Office, when the age of the alien is at issue. Such procedures shall permit the presentation of multiple forms of evidence, including testimony of the child, to determine the age of the unaccompanied alien for purposes of placement, custody, parole, and detention. Such procedures shall allow the appeal of a determination to an immigration judge.

[(b) Prohibition on Sole Means of Determining Age.—Neither radiographs nor the attestation of an alien shall be used as the sole means of determining age for the purposes of determining an alien's eligibility for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

[(c) Rule of Construction.—Nothing in this section shall be construed to place the burden of proof in determining the age of an alien on the government.

### [SEC. 106. EFFECTIVE DATE.

[This title shall take effect 90 days after the date of enactment of this Act.

## [TITLE II—ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM AND COUNSEL

### [SEC. 201. GUARDIANS AD LITEM.

[(a) Establishment of Guardian Ad Litem Program.—

[(1) Appointment.—The Director may, in the Director's discretion, appoint a guardian ad litem who meets the qualifications described in paragraph (2) for such child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a guardian ad litem under this paragraph.

[(2) Qualifications of guardian ad litem.—

[(A) In general.—No person shall serve as a guardian ad litem unless such person—

[(i) is a child welfare professional or other individual who has received training in child welfare matters; and

[(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

[(B) Prohibition.—A guardian ad litem shall not be an employee of the Directorate, the Office, or the Executive Office for Immigration Review.

[(3) Duties.—The guardian ad litem shall—

[(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;

[(B) investigate the facts and circumstances relevant to such child's presence in the United States, including facts and circumstances arising in the country of the child's nationality or last habitual residence and facts and circumstances arising subsequent to the child's departure from such country;

[(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);

[(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;

[(E) take reasonable steps to ensure that the best interests of the child are promoted while the child participates in, or is subject to, proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.);

[(F) take reasonable steps to ensure that the child understands the nature of the legal proceedings or matters and determinations made by the court, and ensure that all information is conveyed in an age-appropriate manner; and

[(G) report factual findings relating to—

[(i) information gathered pursuant to subparagraph (B);

[(ii) the care and placement of the child during the pendency of the proceedings or matters; and

[(iii) any other information gathered pursuant to subparagraph (D).

[(4) Termination of appointment.—The guardian ad litem shall carry out the duties described in paragraph (3) until—

[(A) those duties are completed;

[(B) the child departs the United States;

[(C) the child is granted permanent resident status in the United States;

[(D) the child attains the age of 18; or

[(E) the child is placed in the custody of a parent or legal guardian;

whichever occurs first.

[(5) Powers.—The guardian ad litem—

[(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;

[(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;

[(C) may seek independent evaluations of the child;

[(D) shall be notified in advance of all hearings or interviews involving the child that are held in connection with proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), and shall be given a reasonable opportunity to be present at such hearings or interviews;

[(E) shall be permitted to consult with the child during any hearing or interview involving such child; and

[(F) shall be provided at least 24 hours advance notice of a transfer of that child to a different placement, absent compelling and unusual circumstances warranting the transfer of such child prior to notification.

[(b) Training.—The Director shall provide professional training for all persons serving as guardians ad litem under this section in the—

[(1) circumstances and conditions that unaccompanied alien children face; and

[(2) various immigration benefits for which such alien child might be eligible.

[(c) Pilot Program.—

[(1) In general.—Not later than 180 days after the date of enactment of this Act, the Director shall establish and begin to carry out a pilot program to test the implementation of subsection (a).

[(2) Purpose.—The purpose of the pilot program established pursuant to paragraph (1) is to—

[(A) study and assess the benefits of providing guardians ad litem to assist unaccompanied alien children involved in immigration proceedings or matters;

[(B) assess the most efficient and cost-effective means of implementing the guardian ad litem provisions in this section; and

[(C) assess the feasibility of implementing such provisions on a nationwide basis for all unaccompanied alien children in the care of the Office.

[(3) Scope of program.—

[(A) Selection of site.—The Director shall select 3 sites in which to operate the pilot program established pursuant to paragraph (1).

[(B) Number of children.—To the greatest extent possible, each site selected under subparagraph (A) should have at least 25 children held in immigration custody at any given time.

[(4) Report to congress.—Not later than 1 year after the date on which the first pilot program is established pursuant to paragraph (1), the Director shall report to the Committees on the Judiciary of the Senate and the House of Representatives on subparagraphs (A) through (C) of paragraph (2).

### [SEC. 202. COUNSEL.

[(a) Access to Counsel.—

[(1) In general.—The Director shall ensure that all unaccompanied alien children in the custody of the Office, or in the custody of the Directorate, who are not described in section 101(a)(2) shall have competent counsel to represent them in immigration proceedings or matters.

[(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director shall utilize the services of competent pro bono counsel who agree to provide representation to such children without charge.

[(3) GOVERNMENT-FUNDED LEGAL REPRESENTATION AS A LAST RESORT.—

[(A) APPOINTMENT OF COMPETENT COUNSEL.—Notwithstanding section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) or any other provision of law, if no competent counsel is available to represent an unaccompanied alien child without charge, the Director shall appoint competent counsel for such child at the expense of the Government.

[(B) LIMITATION ON ATTORNEY FEES.—Counsel appointed under subparagraph (A) shall not be compensated at a rate in excess of the rate provided under section 3006A of title 18, United States Code.

[(C) AVAILABILITY OF FUNDING.—In carrying out this paragraph, the Director may make use of funds derived from any source designated by the Secretary of Health and Human Services from discretionary funds available to the Department of Health and Human Services.

[(D) ASSUMPTION OF THE COST OF GOVERNMENT-PAID COUNSEL.—In the case of a child for whom counsel is appointed under subparagraph (A) who is subsequently placed in the physical custody of a parent or legal guardian, such parent or legal guardian may elect to retain the same counsel to continue representation of the child, at no expense to the Government, beginning on the date that the parent or legal guardian assumes physical custody of the child.

[(4) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—In ensuring that legal representation is provided to such children, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

[(5) CONTRACTING AND GRANT MAKING AUTHORITY.—

[(A) IN GENERAL.—Subject to the availability of appropriations, the Director shall enter into contracts with or make grants to national nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection. National nonprofit agencies may enter into subcontracts with or make grants to private voluntary agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

[(B) INELIGIBILITY FOR GRANTS AND CONTRACTS.—In making grants and entering into contracts with agencies in accordance with subparagraph (A), the Director shall ensure that no such agency receiving funds under this subsection is a grantee or contractee for more than 1 of the following services:

[(i) Services provided under section 102.

[(ii) Services provided under section 201.

[(iii) Services provided under paragraph (2).

[(iv) Services provided under paragraph (3).

[(6) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—

[(A) DEVELOPMENT OF GUIDELINES.—The Executive Office for Immigration Review, in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration proceedings based on the children's asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

[(B) PURPOSE OF GUIDELINES.—The guidelines developed in accordance with subparagraph (A) shall be designed to help protect a child from any individual suspected of involvement in any criminal, harmful, or exploitative activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

[(C) IMPLEMENTATION.—The Executive Office for Immigration Review shall adopt the guidelines developed in accordance with subparagraph (A) and submit them for adoption by national, State, and local bar associations.

[(b) DUTIES.—Counsel shall—

[(1) represent the unaccompanied alien child in all proceedings and matters relating to the immigration status of the child or other actions involving the Directorate;

[(2) appear in person for all individual merits hearings before the Executive Office for Immigration Review and interviews involving the Directorate; and

[(3) owe the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due an adult client.

[(c) ACCESS TO CHILD.—

[(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

[(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

[(d) TERMINATION OF APPOINTMENT.—Counsel appointed under subsection (a)(3) shall carry out the duties described in subsection (b) until—

[(1) those duties are completed;

[(2) the child departs the United States;

[(3) the child is granted withholding of removal under section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3));

[(4) the child is granted protection under the Convention Against Torture;

[(5) the child is granted asylum in the United States under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158);

[(6) the child is granted permanent resident status in the United States; or

[(7) the child attains 18 years of age;

whichever occurs first.

[(e) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

[(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

[(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

[(f) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be afforded an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

### [SEC. 203. EFFECTIVE DATE; APPLICABILITY.

[(a) EFFECTIVE DATE.—This title shall take effect 180 days after the date of enactment of this Act.

[(b) APPLICABILITY.—The provisions of this title shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this title.

## [TITLE III—STRENGTHENING POLICIES FOR PERMANENT PROTECTION OF ALIEN CHILDREN

### [SEC. 301. SPECIAL IMMIGRANT JUVENILE VISA

[(a) J VISA.—Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

[“(J) an immigrant under the age of 21 on the date of application who is present in the United States—

[“(i) who by a court order, which shall be binding on the Secretary of Homeland Security for purposes of adjudications under this subparagraph, was declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State or juvenile court located in the United States, due to abuse, neglect, or abandonment, or a similar basis found under State law;

[“(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

[“(iii) with respect to a child in Federal custody, for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Director of the Bureau of Citizenship and Immigration Services that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien;

except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;”.

[(b) ADJUSTMENT OF STATUS.—Section 245(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)) is amended—

[(1) by amending subparagraph (A) to read as follows:

[“(A) paragraphs (1), (4), (5), (6), and (7)(A) of section 212(a) shall not apply;”;

[(2) in subparagraph (B), by striking the period and inserting “; and”; and

[(3) by adding at the end the following:

[“(C) the Secretary of Homeland Security may waive subparagraphs (A) and (B) of paragraph (2) of section 212(a) in the case of an offense which arose as a consequence of the child being unaccompanied.”.

[(c) ELIGIBILITY FOR ASSISTANCE.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by subsection (a), shall be eligible for all funds made available under section 412(d) of that Act (8 U.S.C. 1522(d)) until such time as the child attains the age designated in section 412(d)(2)(B) of that Act (8 U.S.C. 1522(d)(2)(B)), or until the child is placed in a permanent adoptive home, whichever occurs first.

### [SEC. 302. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

[(a) Training of State and Local Officials and Certain Private Parties.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to be available to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children. The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into education, training, or orientation modules or formats that are currently used by these professionals.

[(b) Training of Directorate Personnel.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Directorate who come into contact with unaccompanied alien children. In the case of Border Patrol agents and immigration inspectors, such training shall include specific training on identifying children at the United States borders or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 101(a)(2).

### [SEC. 303. REPORT.

[Not later than January 31, 2004, and annually thereafter, the Secretary of Health and Human Services shall submit a report for the previous fiscal year to the Committees on the Judiciary of the House of Representatives and the Senate that contains—

[(1) data related to the implementation of section 462 of the Homeland Security Act (6 U.S.C. 279);

[(2) data regarding the care and placement of children in accordance with this Act;

[(3) data regarding the provision of guardian ad litem and counsel services in accordance with this Act; and

[(4) any other information that the Director or the Secretary of Health and Human Services determines to be appropriate.

### [SEC. 304. EFFECTIVE DATE.

[The amendment made by section 301 shall apply to all aliens who were in the United States before, on, or after the date of enactment of this Act.

## [TITLE IV—CHILDREN REFUGEE AND ASYLUM SEEKERS

### [SEC. 401. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

[(a) Sense of Congress.—Congress commends the Immigration and Naturalization Service for its issuance of its "Guidelines for Children's Asylum Claims", dated December 1998, and encourages and supports the implementation of such guidelines by the Immigration and Naturalization Service (and its successor entities) in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice to adopt the "Guidelines for Children's Asylum Claims" in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

[(b) Training.—The Secretary shall provide periodic comprehensive training under the "Guidelines for Children's Asylum Claims" to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

### [SEC. 402. UNACCOMPANIED REFUGEE CHILDREN.

[(a) Identifying Unaccompanied Refugee Children.—Section 207(e) of the Immigration and Nationality Act (8 U.S.C. 1157(e)) is amended—

[(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

[(2) by inserting after paragraph (2) the following:

["(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region, which shall include an assessment of—

["(A) the number of unaccompanied refugee children, by region;

["(B) the capacity of the Department of State to identify such refugees;

["(C) the capacity of the international community to care for and protect such refugees;

["(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

["(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

["(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.".

[(b) Training on the Needs of Unaccompanied Refugee Children.—Section 207(f)(2) of the Immigration and Nationality Act (8 U.S.C. 1157(f)(2)) is amended by—

[(1) striking "and" after "countries,"; and

[(2) inserting before the period at the end the following: ", and instruction on the needs of unaccompanied refugee children".

### [SEC. 403. EXCEPTIONS FOR UNACCOMPANIED ALIEN CHILDREN IN ASYLUM AND REFUGEE-LIKE CIRCUMSTANCES.

[(a) Placement in Removal Proceedings.—Any unaccompanied alien child apprehended by the Directorate, except for an unaccompanied alien child subject to exceptions under paragraph (1)(A) or (2) of section (101)(a) of this Act, shall be placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

[(b) Exception From Time Limit for Filing Asylum Application.—Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:

["(E) Applicability.—Subparagraphs (A) and (B) shall not apply to an unaccompanied child as defined in section 101(a)(51).".

## [TITLE V—AUTHORIZATION OF APPROPRIATIONS

### [SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

[(a) In General.—There are authorized to be appropriated such sums as may be necessary to carry out—

[(1) section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279); and

[(2) this Act.

[(b) Availability of Funds.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

## [TITLE VI—AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002

### [SEC. 601. ADDITIONAL RESPONSIBILITIES AND POWERS OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.

[(a) Additional Responsibilities of the Director.—Section 462(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)) is amended—

[(1) in subparagraph (K), by striking "and" at the end;

[(2) in subparagraph (L), by striking the period at the end and inserting ", including regular follow-up visits to such facilities, placements, and other entities, to assess the continued suitability of such placements; and"; and

[(3) by adding at the end the following:

["(M) ensuring minimum standards of care for all unaccompanied alien children—

["(i) for whom detention is necessary; and

["(ii) who reside in settings that are alternative to detention.".

[(b) Additional Powers of the Director.—Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)) is amended by adding at the end the following:

["(4) Powers.—In carrying out the duties under paragraph (3), the Director shall have the power to—

["(A) contract with service providers to perform the services described in sections 102, 103, 201, and 202 of the Unaccompanied Alien Child Protection Act of 2003; and

["(B) compel compliance with the terms and conditions set forth in section 103 of the Unaccompanied Alien Child Protection Act of 2003, including the power to—

["(i) declare providers to be in breach and seek damages for noncompliance;

["(ii) terminate the contracts of providers that are not in compliance with such conditions; and

["(iii) reassign any unaccompanied alien child to a similar facility that is in compliance with such section.".

[(c) Clarification of Director's Authority To Hire Personnel.—Section 462(f)(3) of the Homeland Security Act of 2002 (6 U.S.C. 279(f)(3)) is amended—

[(1) by striking "(3) Transfer and allocation of appropriations and personnel.—The personnel" and inserting the following:

["(3) Transfer and allocation of appropriations and personnel.—

["(A) In general.—Except as provided in subparagraph (B), the personnel"; and

[(2) by inserting at the end the following:

["(B) Exception.—The Director may hire and fix the level of compensation of an adequate number of personnel to carry out the duties of the Office. Notwithstanding the provisions of subparagraph (A), the Director may elect not to receive the transfer of any personnel of the Department of Justice employed in connection with the functions transferred by this section or, at the Director's discretion, to assign different duties to such personnel.".

### [SEC. 602. TECHNICAL CORRECTIONS.

[Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)), as amended by section 601, is amended—

[(1) in paragraph (3), by striking "paragraph (1)(G)" and inserting "paragraph (1)"; and

[(2) by adding at the end the following:

["(5) Statutory construction.—Nothing in paragraph (2)(B) may be construed to require that a bond be posted for unaccompanied alien children who are released to a qualified sponsor.".

### [SEC. 603. EFFECTIVE DATE.

[The amendments made by this title shall take effect as if enacted as part of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).]

### *SECTION 1. SHORT TITLE; TABLE OF CONTENTS.*

*(a) SHORT TITLE.—This Act may be cited as the "Unaccompanied Alien Child Protection Act of 2004".*

*(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:*

*Sec. 1. Short title; table of contents.*
*Sec. 2. Definitions.*

*TITLE I—CUSTODY, RELEASE, FAMILY REUNIFICATION, AND DETENTION*

*Sec. 101. Procedures when encountering unaccompanied alien children.*
*Sec. 102. Family reunification for unaccompanied alien children with relatives in the United States.*
*Sec. 103. Appropriate conditions for detention of unaccompanied alien children.*
*Sec. 104. Repatriated unaccompanied alien children.*
*Sec. 105. Establishing the age of an unaccompanied alien child.*
*Sec. 106. Effective date.*

*TITLE II—ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM AND COUNSEL*

*Sec. 201. Guardians ad litem.*
*Sec. 202. Counsel.*
*Sec. 203. Effective date; applicability.*

*TITLE III—STRENGTHENING POLICIES FOR PERMANENT PROTECTION OF ALIEN CHILDREN*

*Sec. 301. Special immigrant juvenile visa.*
*Sec. 302. Training for officials and certain private parties who come into contact with unaccompanied alien children.*
*Sec. 303. Report.*
*Sec. 304. Effective date.*

*TITLE IV—CHILDREN REFUGEE AND ASYLUM SEEKERS*

*Sec. 401. Guidelines for children's asylum claims.*
*Sec. 402. Unaccompanied refugee children.*
*Sec. 403. Exceptions for unaccompanied alien children in asylum and refugee-like circumstances.*

*TITLE V—AUTHORIZATION OF APPROPRIATIONS*

*Sec. 501. Authorization of appropriations.*

*TITLE VI—AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002*

*Sec. 601. Additional responsibilities and powers of the Office of Refugee Resettlement with respect to unaccompanied alien children.*
*Sec. 602. Technical corrections.*
*Sec. 603. Effective date.*

### *SEC. 2. DEFINITIONS.*

*(a) IN GENERAL.—In this Act:*

*(1) COMPETENT.—The term "competent", in reference to counsel, means an attorney who complies with the duties set forth in this Act and—*

*(A) is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia;*

*(B) is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting the attorney in the practice of law; and*

*(C) is properly qualified to handle matters involving unaccompanied immigrant children or is working under the auspices of a qualified nonprofit organization that is experienced in handling such matters.*

*(2) DIRECTOR.—The term "Director" means the Director of the Office.*

*(3) DIRECTORATE.—The term "Directorate" means the Directorate of Border and Transportation Security established by section 401 of the Homeland Security Act of 2002 (6 U.S.C. 201).*

*(4) OFFICE.—The term "Office" means the Office of Refugee Resettlement as established by section 411 of the Immigration and Nationality Act (8 U.S.C. 1521).*

*(5) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.*

*(6) UNACCOMPANIED ALIEN CHILD.—The term "unaccompanied alien child" has the same meaning as is given the term in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)).*

*(7) VOLUNTARY AGENCY.—The term "voluntary agency" means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children, as certified by the Director of the Office of Refugee Resettlement.*

*(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:*

*"(51) The term 'unaccompanied alien child' means a child who—*

*"(A) has no lawful immigration status in the United States;*

*"(B) has not attained the age of 18; and*

*"(C) with respect to whom—*

*"(i) there is no parent or legal guardian in the United States; or*

*"(ii) no parent or legal guardian in the United States is able to provide care and physical custody.*

*"(52) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—*

*"(A) have not attained the age of 18; and*

*"(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.".*

*(c) RULE OF CONSTRUCTION.—A department or agency of a State, or an individual or entity appointed by a State court or juvenile court located in the United States, acting in loco parentis, shall not be considered a legal guardian for purposes of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.*

## *TITLE I—CUSTODY, RELEASE, FAMILY REUNIFICATION, AND DETENTION*

### *SEC. 101. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.*

*(a) UNACCOMPANIED CHILDREN FOUND ALONG THE UNITED STATES BORDER OR AT UNITED STATES PORTS OF ENTRY.—*

*(1) IN GENERAL.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the officer shall—*

*(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and*

*(B) return such child to the child's country of nationality or country of last habitual residence.*

*(2) SPECIAL RULE FOR CONTIGUOUS COUNTRIES.—*

*(A) IN GENERAL.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), if a determination is made on a case-by-case basis that—*

*(i) such child is a national or habitual resident of a country described in subparagraph (A);*

*(ii) such child does not have a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;*

*(iii) the return of such child to the child's country of nationality or country of last habitual residence would not endanger the life or safety of such child; and*

*(iv) the child is able to make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.*

*(B) RIGHT OF CONSULTATION.—Any child described in subparagraph (A) shall have the right to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation, as well as consult with the Office, telephonically, and such child shall be informed of that right in the child's native language.*

*(3) RULE FOR APPREHENSIONS AT THE BORDER.—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with the provisions of subsection (b).*

*(b) CARE AND CUSTODY OF UNACCOMPANIED ALIEN CHILDREN FOUND IN THE INTERIOR OF THE UNITED STATES.—*

*(1) ESTABLISHMENT OF JURISDICTION.—*

*(A) IN GENERAL.—Except as otherwise provided under subparagraphs (B) and (C) and subsection (a), the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.*

*(B) EXCEPTION FOR CHILDREN WHO HAVE COMMITTED CRIMES.—Notwithstanding subparagraph (A), the Directorate shall retain or assume the custody and care of any unaccompanied alien child who—*

*(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), while such charges are pending; or*

*(ii) has been convicted of any such felony.*

*(C) EXCEPTION FOR CHILDREN WHO THREATEN NATIONAL SECURITY.—Notwithstanding subparagraph (A), the Directorate shall retain or assume the custody and care of an unaccompanied alien child if the Secretary has substantial evidence, based on an individualized determination, that such child could personally endanger the national security of the United States.*

*(D) TRAFFICKING VICTIMS.—For purposes of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) and this Act, an unaccompanied alien child who is eligible for services authorized under the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386), shall be considered to be in the custody of the Office.*

*(2) NOTIFICATION.—*

*(A) IN GENERAL.—The Secretary shall promptly notify the Office upon—*

*(i) the apprehension of an unaccompanied alien child;*

*(ii) the discovery that an alien in the custody of the Directorate is an unaccompanied alien child;*

*(iii) any claim by an alien in the custody of the Directorate that such alien is under the age of 18; or*

*(iv) any suspicion that an alien in the custody of the Directorate who has claimed to be over the age of 18 is actually under the age of 18.*

*(B) SPECIAL RULE.—In the case of an alien described in clause (iii) or (iv) of subparagraph (A), the Director shall make an age determination in accordance with section 105 and take whatever other steps are necessary to determine*

*whether or not such alien is eligible for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.*

*(3) TRANSFER OF UNACCOMPANIED ALIEN CHILDREN.—*

*(A) TRANSFER TO THE OFFICE.—The care and custody of an unaccompanied alien child shall be transferred to the Office—*

*(i) in the case of a child not described in subparagraph (B) or (C) of paragraph (1), not later than 72 hours after a determination is made that such child is an unaccompanied alien child;*

*(ii) in the case of a child whose custody and care has been retained or assumed by the Directorate pursuant to subparagraph (B) or (C) of paragraph (1), immediately following a determination that the child no longer meets the description set forth in such subparagraphs; or*

*(iii) in the case of a child who was previously released to an individual described in subparagraph (A) or (B) of section 102(a)(1), upon a determination that such individual is no longer able to care for the child.*

*(B) TRANSFER TO THE DIRECTORATE.—Upon determining that a child in the custody of the Office is described in subparagraph (B) or (C) of paragraph (1), the Director shall transfer the care and custody of such child to the Directorate.*

*(C) PROMPTNESS OF TRANSFER.—In the event of a need to transfer a child under this paragraph, the sending office shall make prompt arrangements to transfer such child and the receiving office shall make prompt arrangements to receive such child.*

*(c) AGE DETERMINATIONS.—In any case in which the age of an alien is in question and the resolution of questions about the age of such alien would affect the alien's eligibility for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act, a determination of whether or not such alien meets such age requirements shall be made by the Director in accordance with section 105.*

### SEC. 102. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.

*(a) PLACEMENT AUTHORITY.—*

*(1) ORDER OF PREFERENCE.—Subject to the discretion of the Director under section 462(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(2)) and under paragraph (4) of this subsection and section 103(a)(2) of this Act, an unaccompanied alien child in the custody of the Office shall be promptly placed with 1 of the following individuals or entities in the following order of preference:*

*(A) A parent who seeks to establish custody, as described in paragraph (3)(A).*

*(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).*

*(C) An adult relative.*

*(D) An entity designated by the parent or legal guardian that is capable and willing to care for the well-being of the child.*

*(E) A State-licensed juvenile shelter, group home, or foster care program willing to accept physical custody of the child.*

*(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the Office shall decide who is a qualified adult or entity and promulgate regulations in accordance with such decision.*

*(2) SUITABILITY ASSESSMENT.—Notwithstanding paragraph (1), no unaccompanied alien child shall be placed with a person or entity unless a valid suitability assessment conducted by an agency of the State of the child's proposed residence, by an agency authorized by that State to conduct such an assessment, or by an appropriate voluntary agency contracted with the Office to conduct such assessments has found that the person or entity is capable of providing for the child's physical and mental well-being.*

*(3) RIGHT OF PARENT OR LEGAL GUARDIAN TO CUSTODY OF UNACCOMPANIED ALIEN CHILD.—*

*(A) PLACEMENT WITH PARENT OR LEGAL GUARDIAN.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, but subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall assess the suitability of placing the child with the parent or legal guardian and shall make a written determination on the child's placement within 30 days.*

*(B) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to—*

*(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Program of Action, and the Declaration of the Rights of the Child; or*

*(ii) limit any right or remedy under such international agreement.*

*(4) PROTECTION FROM SMUGGLERS AND TRAFFICKERS.—*

*(A) POLICIES AND PROGRAMS.—*

*(i) IN GENERAL.—The Director shall establish policies and programs to ensure that unaccompanied alien children are protected from smugglers, traffickers, or other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.*

*(ii) WITNESS PROTECTION PROGRAMS INCLUDED.—The programs established pursuant to clause (i) may include witness protection programs.*

*(B) CRIMINAL INVESTIGATIONS AND PROSECUTIONS.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects any individual of being involved in any activity described in subparagraph (A) shall report such individual to Federal or State prosecutors for criminal investigation and prosecution.*

*(C) DISCIPLINARY ACTION.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects an attorney of being involved in any activity described in subparagraph (A) shall report the individual to the State bar association of which the attorney is a member, or to other appropriate disciplinary authorities, for appropriate disciplinary action that may include private or public admonition or censure, suspension, or disbarment of the attorney from the practice of law.*

*(5) GRANTS AND CONTRACTS.—Subject to the availability of appropriations, the Director may make grants to, and enter into contracts with, voluntary agencies to carry out section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or to carry out this section.*

*(6) REIMBURSEMENT OF STATE EXPENSES.—Subject to the availability of appropriations, the Director may reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.*

*(b) CONFIDENTIALITY.—All information obtained by the Office relating to the immigration status of a person described in subparagraphs (A), (B), and (C) of subsection (a)(1) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).*

*(c) REQUIRED DISCLOSURE.—The Secretary of Health and Human Services or the Secretary of Homeland Security shall provide the information furnished under this section, and any other information derived from such furnished information, to—*

*(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), when such information is requested in writing by such entity; or*

*(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).*

*(d) PENALTY.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.*

### SEC. 103. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

*(a) STANDARDS FOR PLACEMENT.—*

*(1) PROHIBITION OF DETENTION IN CERTAIN FACILITIES.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.*

*(2) DETENTION IN APPROPRIATE FACILITIES.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to the behavior in a facility appropriate for delinquent children.*

*(3) STATE LICENSURE.—In the case of a placement of a child with an entity described in section 102(a)(1)(E), the entity must be licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.*

*(4) CONDITIONS OF DETENTION.—*

*(A) IN GENERAL.—The Director and the Secretary of Homeland Security shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—*

*(i) educational services appropriate to the child;*

*(ii) medical care;*

*(iii) mental health care, including treatment of trauma, physical and sexual violence, or abuse;*

*(iv) access to telephones;*

*(v) access to legal services;*

*(vi) access to interpreters;*

*(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;*

*(viii) recreational programs and activities;*

*(ix) spiritual and religious needs; and*

*(x) dietary needs.*

*(B) NOTIFICATION OF CHILDREN.—Regulations promulgated in accordance with subparagraph (A) shall provide that all children are notified orally and in writing of such standards in the child's native language.*

*(b) PROHIBITION OF CERTAIN PRACTICES.—The Director and the Secretary shall develop procedures prohibiting the unreasonable use of—*

*(1) shackling, handcuffing, or other restraints on children;*

*(2) solitary confinement; or*

*(3) pat or strip searches.*

*(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.*

### SEC. 104. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

*(a) COUNTRY CONDITIONS.—*

*(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent consistent with the*

*treaties and other international agreements to which the United States is a party, and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.*

*(2) ASSESSMENT OF CONDITIONS.—*

*(A) IN GENERAL.—The Secretary of State shall include each year in the State Department Country Report on Human Rights, an assessment of the degree to which each country protects children from smugglers and traffickers.*

*(B) FACTORS FOR ASSESSMENT.—The Office shall consult the State Department Country Report on Human Rights and the Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report in assessing whether to repatriate an unaccompanied alien child to a particular country.*

*(b) REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.—*

*(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate on efforts to repatriate unaccompanied alien children.*

*(2) CONTENTS.—The report submitted under paragraph (1) shall include, at a minimum, the following information:*

*(A) The number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States.*

*(B) A description of the type of immigration relief sought and denied to such children.*

*(C) A statement of the nationalities, ages, and gender of such children.*

*(D) A description of the procedures used to effect the removal of such children from the United States.*

*(E) A description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin.*

*(F) Any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).*

### *SEC. 105. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.*

*(a) IN GENERAL.—The Director shall develop procedures to make a prompt determination of the age of an alien in the custody of the Department of Homeland Security or the Office, when the age of the alien is at issue. Such procedures shall permit the presentation of multiple forms of evidence, including testimony of the child, to determine the age of the unaccompanied alien for purposes of placement, custody, parole, and detention. Such procedures shall allow the appeal of a determination to an immigration judge. The Secretary of Homeland Security shall permit the Office to have reasonable access to aliens in the custody of the Secretary so as to ensure a prompt determination of the age of such alien.*

*(b) PROHIBITION ON SOLE MEANS OF DETERMINING AGE.—Neither radiographs nor the attestation of an alien shall be used as the sole means of determining age for the purposes of determining an alien's eligibility for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.*

*(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to place the burden of proof in determining the age of an alien on the government.*

### *SEC. 106. EFFECTIVE DATE.*

*This title shall take effect 90 days after the date of enactment of this Act.*

## *TITLE II—ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM AND COUNSEL*

### *SEC. 201. GUARDIANS AD LITEM.*

*(a) ESTABLISHMENT OF GUARDIAN AD LITEM PROGRAM.—*

*(1) APPOINTMENT.—The Director may, in the Director's discretion, appoint a guardian ad litem who meets the qualifications described in paragraph (2) for such child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a guardian ad litem under this paragraph.*

*(2) QUALIFICATIONS OF GUARDIAN AD LITEM.—*

*(A) IN GENERAL.—No person shall serve as a guardian ad litem unless such person—*

*(i) is a child welfare professional or other individual who has received training in child welfare matters; and*

*(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.*

*(B) PROHIBITION.—A guardian ad litem shall not be an employee of the Directorate, the Office, or the Executive Office for Immigration Review.*

*(3) DUTIES.—The guardian ad litem shall—*

*(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;*

*(B) investigate the facts and circumstances relevant to such child's presence in the United States, including facts and circumstances arising in the country of the child's nationality or last habitual residence and facts and circumstances arising subsequent to the child's departure from such country;*

*(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);*

*(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;*

*(E) take reasonable steps to ensure that the best interests of the child are promoted while the child participates in, or is subject to, proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.);*

*(F) take reasonable steps to ensure that the child understands the nature of the legal proceedings or matters and determinations made by the court, and ensure that all information is conveyed in an age-appropriate manner; and*

*(G) report factual findings relating to—*

*(i) information gathered pursuant to subparagraph (B);*

*(ii) the care and placement of the child during the pendency of the proceedings or matters; and*

*(iii) any other information gathered pursuant to subparagraph (D).*

*(4) TERMINATION OF APPOINTMENT.—The guardian ad litem shall carry out the duties described in paragraph (3) until—*

*(A) those duties are completed;*

*(B) the child departs the United States;*

*(C) the child is granted permanent resident status in the United States;*

*(D) the child attains the age of 18; or*

*(E) the child is placed in the custody of a parent or legal guardian;*

*whichever occurs first.*

*(5) POWERS.—The guardian ad litem—*

*(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;*

*(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;*

*(C) may seek independent evaluations of the child;*

*(D) shall be notified in advance of all hearings or interviews involving the child that are held in connection with proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), and shall be given a reasonable opportunity to be present at such hearings or interviews;*

*(E) shall be permitted to consult with the child during any hearing or interview involving such child; and*

*(F) shall be provided at least 24 hours advance notice of a transfer of that child to a different placement, absent compelling and unusual circumstances warranting the transfer of such child prior to notification.*

*(b) TRAINING.—The Director shall provide professional training for all persons serving as guardians ad litem under this section in the—*

*(1) circumstances and conditions that unaccompanied alien children face; and*

*(2) various immigration benefits for which such alien child might be eligible.*

*(c) PILOT PROGRAM.—*

*(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director shall establish and begin to carry out a pilot program to test the implementation of subsection (a).*

*(2) PURPOSE.—The purpose of the pilot program established pursuant to paragraph (1) is to—*

*(A) study and assess the benefits of providing guardians ad litem to assist unaccompanied alien children involved in immigration proceedings or matters;*

*(B) assess the most efficient and cost-effective means of implementing the guardian ad litem provisions in this section; and*

*(C) assess the feasibility of implementing such provisions on a nationwide basis for all unaccompanied alien children in the care of the Office.*

*(3) SCOPE OF PROGRAM.—*

*(A) SELECTION OF SITE.—The Director shall select 3 sites in which to operate the pilot program established pursuant to paragraph (1).*

*(B) NUMBER OF CHILDREN.—To the greatest extent possible, each site selected under subparagraph (A) should have at least 25 children held in immigration custody at any given time.*

*(4) REPORT TO CONGRESS.—Not later than 1 year after the date on which the first pilot program is established pursuant to paragraph (1), the Director shall report to the Committees on the Judiciary of the Senate and the House of Representatives on subparagraphs (A) through (C) of paragraph (2).*

### *SEC. 202. COUNSEL.*

*(a) ACCESS TO COUNSEL.—*

*(1) IN GENERAL.—The Director shall ensure that all unaccompanied alien children in the custody of the Office, or in the custody of the Directorate, who are not described in section 101(a)(2) shall have competent counsel to represent them in immigration proceedings or matters.*

*(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director shall utilize the services of competent pro bono counsel who agree to provide representation to such children without charge. To the maximum extent practicable, the Director shall ensure that placements made under subparagraphs (D), (E), and (F) of section 102(a)(1) are in cities where there is a demonstrated capacity for competent pro bono representation.*

*(3) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—In ensuring that legal representation is provided to such children, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.*

*(4) CONTRACTING AND GRANT MAKING AUTHORITY.—*

*(A) IN GENERAL.—The Director shall enter into contracts with or make grants to nonprofit*

agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out the responsibilities of this Act, including but not limited to such activities as providing legal orientation, screening cases for referral, recruiting, training, and overseeing pro bono attorneys. Nonprofit agencies may enter into subcontracts with or make grants to private voluntary agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(B) CONSIDERATIONS REGARDING GRANTS AND CONTRACTS.—In making grants and entering into contracts with agencies in accordance with subparagraph (A), the Director shall take into consideration whether the agencies in question are capable of properly administering the services covered by such grants or contracts without an undue conflict of interest.

(5) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—

(A) DEVELOPMENT OF GUIDELINES.—The Executive Office for Immigration Review, in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration proceedings based on the children's asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

(B) PURPOSE OF GUIDELINES.—The guidelines developed in accordance with subparagraph (A) shall be designed to help protect a child from any individual suspected of involvement in any criminal, harmful, or exploitative activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

(C) IMPLEMENTATION.—The Executive Office for Immigration Review shall adopt the guidelines developed in accordance with subparagraph (A) and submit them for adoption by national, State, and local bar associations.

(b) DUTIES.—Counsel shall—

(1) represent the unaccompanied alien child in all proceedings and matters relating to the immigration status of the child or other actions involving the Directorate;

(2) appear in person for all individual merits hearings before the Executive Office for Immigration Review and interviews involving the Directorate; and

(3) owe the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due an adult client.

(c) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(d) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(e) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be afforded an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

**SEC. 203. EFFECTIVE DATE; APPLICABILITY.**

(a) EFFECTIVE DATE.—This title shall take effect 180 days after the date of enactment of this Act.

(b) APPLICABILITY.—The provisions of this title shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this title.

## TITLE III—STRENGTHENING POLICIES FOR PERMANENT PROTECTION OF ALIEN CHILDREN

**SEC. 301. SPECIAL IMMIGRANT JUVENILE VISA.**

(a) J VISA.—Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

"(J) an immigrant under the age of 21 on the date of application who is present in the United States—

"(i) who by a court order, which shall be binding on the Secretary of Homeland Security for purposes of adjudications under this subparagraph, was declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State or juvenile court located in the United States, due to abuse, neglect, or abandonment, or a similar basis found under State law;

"(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

"(iii) with respect to a child in Federal custody, for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Director of the Bureau of Citizenship and Immigration Services that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien;

except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;".

(b) ADJUSTMENT OF STATUS.—Section 245(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) paragraphs (4), (5)(A), (6)(A), and (7) of section 212(a) shall not apply;";

(2) in subparagraph (B), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) the Secretary of Homeland Security may waive section 212(a)(2)(D) in the case of an offense which arose as a consequence of the child being unaccompanied.".

(c) ELIGIBILITY FOR ASSISTANCE.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by subsection (a), shall be eligible for all funds made available under section 412(d) of that Act (8 U.S.C. 1522(d)) until such time as the child attains the age designated in section 412(d)(2)(B) of that Act (8 U.S.C. 1522(d)(2)(B)), or until the child is placed in a permanent adoptive home, whichever occurs first.

**SEC. 302. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.**

(a) TRAINING OF STATE AND LOCAL OFFICIALS AND CERTAIN PRIVATE PARTIES.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to be available to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children. The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into education, training, or orientation modules or formats that are currently used by these professionals.

(b) TRAINING OF DIRECTORATE PERSONNEL.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Directorate who come into contact with unaccompanied alien children. In the case of Border Patrol agents and immigration inspectors, such training shall include specific training on identifying children at the United States borders or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 101(a)(2).

**SEC. 303. REPORT.**

Not later than 1 year after the date of enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall submit a report for the previous fiscal year to the Committees on the Judiciary of the House of Representatives and the Senate that contains—

(1) data related to the implementation of section 462 of the Homeland Security Act (6 U.S.C. 279);

(2) data regarding the care and placement of children in accordance with this Act;

(3) data regarding the provision of guardian ad litem and counsel services in accordance with this Act; and

(4) any other information that the Director or the Secretary of Health and Human Services determines to be appropriate.

**SEC. 304. EFFECTIVE DATE.**

The amendment made by section 301 shall apply to all aliens who were in the United States before, on, or after the date of enactment of this Act.

## TITLE IV—CHILDREN REFUGEE AND ASYLUM SEEKERS

**SEC. 401. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.**

(a) SENSE OF CONGRESS.—Congress commends the Immigration and Naturalization Service for its issuance of its "Guidelines for Children's Asylum Claims", dated December 1998, and encourages and supports the implementation of such guidelines by the Immigration and Naturalization Service (and its successor entities) in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice to adopt the "Guidelines for Children's Asylum Claims" in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

(b) TRAINING.—The Secretary shall provide periodic comprehensive training under the "Guidelines for Children's Asylum Claims" to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

**SEC. 402. UNACCOMPANIED REFUGEE CHILDREN.**

(a) IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.—Section 207(e) of the Immigration *and Nationality Act (8 U.S.C. 1157(e)) is amended—*

*(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and*

*(2) by inserting after paragraph (2) the following:*

*"(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region, which shall include an assessment of—*

*"(A) the number of unaccompanied refugee children, by region;*

*"(B) the capacity of the Department of State to identify such refugees;*

*"(C) the capacity of the international community to care for and protect such refugees;*

*"(D) the capacity of the voluntary agency community to resettle such refugees in the United States;*

*"(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and*

*"(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.".*

*(b) Training on the Needs of Unaccompanied Refugee Children.—Section 207(f)(2) of the Immigration and Nationality Act (8 U.S.C. 1157(f)(2)) is amended by—*

*(1) striking "and" after "countries,"; and*

*(2) inserting before the period at the end the following: ", and instruction on the needs of unaccompanied refugee children".*

### *SEC. 403. EXCEPTIONS FOR UNACCOMPANIED ALIEN CHILDREN IN ASYLUM AND REFUGEE-LIKE CIRCUMSTANCES.*

*(a) Placement in Removal Proceedings.—Any unaccompanied alien child apprehended by the Directorate, except for an unaccompanied alien child subject to exceptions under paragraph (1)(A) or (2) of section (101)(a) of this Act, shall be placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).*

*(b) Exception From Time Limit for Filing Asylum Application.—Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:*

*"(E) Applicability.—Subparagraphs (A) and (B) shall not apply to an unaccompanied alien child as defined in section 101(a)(51).".*

## *TITLE V—AUTHORIZATION OF APPROPRIATIONS*

### *SEC. 501. AUTHORIZATION OF APPROPRIATIONS.*

*(a) In General.—There are authorized to be appropriated to the Department of Homeland Security, the Department of Justice, and the Department of Health and Human Services, such sums as may be necessary to carry out—*

*(1) section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279); and*

*(2) this Act.*

*(b) Availability of Funds.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.*

## *TITLE VI—AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002*

### *SEC. 601. ADDITIONAL RESPONSIBILITIES AND POWERS OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.*

*(a) Additional Responsibilities of the Director.—Section 462(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)) is amended—*

*(1) in subparagraph (K), by striking "and" at the end;*

*(2) in subparagraph (L), by striking the period at the end and inserting ", including regular follow-up visits to such facilities, placements, and other entities, to assess the continued suitability of such placements; and"; and*

*(3) by adding at the end the following:*

*"(M) ensuring minimum standards of care for all unaccompanied alien children—*

*"(i) for whom detention is necessary; and*

*"(ii) who reside in settings that are alternative to detention.".*

*(b) Additional Powers of the Director.—Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)) is amended by adding at the end the following:*

*"(4) Powers.—In carrying out the duties under paragraph (3), the Director shall have the power to—*

*"(A) contract with service providers to perform the services described in sections 102, 103, 201, and 202 of the Unaccompanied Alien Child Protection Act of 2004; and*

*"(B) compel compliance with the terms and conditions set forth in section 103 of the Unaccompanied Alien Child Protection Act of 2004, including the power to—*

*"(i) declare providers to be in breach and seek damages for noncompliance;*

*"(ii) terminate the contracts of providers that are not in compliance with such conditions; and*

*"(iii) reassign any unaccompanied alien child to a similar facility that is in compliance with such section.".*

### *SEC. 602. TECHNICAL CORRECTIONS.*

*Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)), as amended by section 601, is amended—*

*(1) in paragraph (3), by striking "paragraph (1)(G)" and inserting "paragraph (1)"; and*

*(2) by adding at the end the following:*

*"(5) Statutory Construction.—Nothing in paragraph (2)(B) may be construed to require that a bond be posted for unaccompanied alien children who are released to a qualified sponsor.".*

### *SEC. 603. EFFECTIVE DATE.*

*The amendments made by this title shall take effect as if enacted as part of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).*

Mr. SESSIONS. Madam President, I ask unanimous consent that the Feinstein substitute amendment at the desk be agreed to. the committee-reported substitute amendment, as amended. be agreed to, the bill. as amended, be read the third time and passed, the motions to reconsider be laid upon the table, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4058) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1129), as amended, was read the third time, and passed.

## CONTROLLED SUBSTANCE ACT AMENDMENT

Mr. SESSIONS. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2976, which was introduced earlier today by Senators HATCH and LEVIN.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2976) to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Madam President, I ask unanimous consent that the bill be read the third time and passed, that the motion to reconsider be laid upon the table. and that any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection. it is so ordered.

The bill (S. 2976) was read the third time and passed, as follows:

S. 2976

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. MAINTENANCE OR DETOXIFICATION TREATMENT WITH CERTAIN NARCOTIC DRUGS; ELIMINATION OF 30-PATIENT LIMIT FOR GROUP PRACTICES.

(a) In General.—Section 303(g)(2)(B) of the Controlled Substance Act (21 U.S.C. 823(g)(2)(B)) is amended by striking clause (iv).

(b) Conforming Amendment.—Section 303(g)(2)(B) of the Controlled Substance Act (21 U.S.C. 823(g)(2)(B)) is amended in clause (iii) by striking "In any case" and all that follows through "the total" and inserting "The total".

(c) Effective Date.—This section shall take effect on the date of enactment of this Act.

## MENTALLY ILL OFFENDER TREATMENT AND CRIME REDUCTION ACT OF 2004

Mr. SESSIONS. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 1194) to foster local collaborations which will ensure that resources are effectively used within the criminal and juvenile justice systems.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

S. 1194

*Resolved*, That the bill from the Senate (S. 1194) entitled "An Act to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems", do pass with the following amendment:

Strike out all after the enacting clause and insert:

### *SECTION 1. SHORT TITLE.*

*This Act may be cited as the "Mentally Ill Offender Treatment and Crime Reduction Act of 2004".*

### *SEC. 2. FINDINGS.*

*Congress finds the following:*

*(1) According to the Bureau of Justice Statistics, over 16 percent of adults incarcerated in United States jails and prisons have a mental illness.*

*(2) According to the Office of Juvenile Justice and Delinquency Prevention, approximately 20 percent of youth in the juvenile justice system have serious mental health problems, and a significant number have co-occurring mental health and substance abuse disorders.*

*(3) According to the National Alliance for the Mentally Ill, up to 40 percent of adults who suffer from a serious mental illness will come into*

*contact with the American criminal justice system at some point in their lives.*

*(4) According to the Office of Juvenile Justice and Delinquency Prevention, over 150,000 juveniles who come into contact with the juvenile justice system each year meet the diagnostic criteria for at least 1 mental or emotional disorder.*

*(5) A significant proportion of adults with a serious mental illness who are involved with the criminal justice system are homeless or at imminent risk of homelessness, and many of these individuals are arrested and jailed for minor, nonviolent offenses.*

*(6) The majority of individuals with a mental illness or emotional disorder who are involved in the criminal or juvenile justice systems are responsive to medical and psychological interventions that integrate treatment, rehabilitation, and support services.*

*(7) Collaborative programs between mental health, substance abuse, and criminal or juvenile justice systems that ensure the provision of services for those with mental illness or co-occurring mental illness and substance abuse disorders can reduce the number of such individuals in adult and juvenile corrections facilities, while providing improved public safety.*

### *SEC. 3. PURPOSE.*

*The purpose of this Act is to increase public safety by facilitating collaboration among the criminal justice, juvenile justice, mental health treatment, and substance abuse systems. Such collaboration is needed to—*

*(1) protect public safety by intervening with adult and juvenile offenders with mental illness or co-occurring mental illness and substance abuse disorders;*

*(2) provide courts, including existing and new mental health courts, with appropriate mental health and substance abuse treatment options;*

*(3) maximize the use of alternatives to prosecution through graduated sanctions in appropriate cases involving nonviolent offenders with mental illness;*

*(4) promote adequate training for criminal justice system personnel about mental illness and substance abuse disorders and the appropriate responses to people with such illnesses;*

*(5) promote adequate training for mental health and substance abuse treatment personnel about criminal offenders with mental illness or co-occurring substance abuse disorders and the appropriate response to such offenders in the criminal justice system;*

*(6) promote communication among adult or juvenile justice personnel, mental health and co-occurring mental illness and substance abuse disorders treatment personnel, nonviolent offenders with mental illness or co-occurring mental illness and substance abuse disorders, and support services such as housing, job placement, community, faith-based, and crime victims organizations; and*

*(7) promote communication, collaboration, and intergovernmental partnerships among municipal, county, and State elected officials with respect to mentally ill offenders.*

### *SEC. 4. DEPARTMENT OF JUSTICE MENTAL HEALTH AND CRIMINAL JUSTICE COLLABORATION PROGRAM.*

*(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:*

## *"PART HH—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS*

### *"SEC. 2991. ADULT AND JUVENILE COLLABORATION PROGRAMS.*

*"(a) DEFINITIONS.—In this section, the following definitions shall apply:*

*"(1) APPLICANT.—The term 'applicant' means States, units of local government, Indian tribes, and tribal organizations that apply for a grant under this section.*

*"(2) COLLABORATION PROGRAM.—The term 'collaboration program' means a program to promote public safety by ensuring access to adequate mental health and other treatment services for mentally ill adults or juveniles that is overseen cooperatively by—*

*"(A) a criminal or juvenile justice agency or a mental health court; and*

*"(B) a mental health agency.*

*"(3) CRIMINAL OR JUVENILE JUSTICE AGENCY.—The term 'criminal or juvenile justice agency' means an agency of a State or local government or its contracted agency that is responsible for detection, arrest, enforcement, prosecution, defense, adjudication, incarceration, probation, or parole relating to the violation of the criminal laws of that State or local government.*

*"(4) DIVERSION AND ALTERNATIVE PROSECUTION AND SENTENCING.—*

*"(A) IN GENERAL.—The terms 'diversion' and 'alternative prosecution and sentencing' mean the appropriate use of effective mental health treatment alternatives to juvenile justice or criminal justice system institutional placements for preliminarily qualified offenders.*

*"(B) APPROPRIATE USE.—In this paragraph, the term 'appropriate use' includes the discretion of the judge or supervising authority, the leveraging of graduated sanctions to encourage compliance with treatment, and law enforcement diversion, including crisis intervention teams.*

*"(C) GRADUATED SANCTIONS.—In this paragraph, the term 'graduated sanctions' means an accountability-based graduated series of sanctions (including incentives, treatments, and services) applicable to mentally ill offenders within both the juvenile and adult justice system to hold individuals accountable for their actions and to protect communities by providing appropriate sanctions for inducing law-abiding behavior and preventing subsequent involvement in the criminal justice system.*

*"(5) MENTAL HEALTH AGENCY.—The term 'mental health agency' means an agency of a State or local government or its contracted agency that is responsible for mental health services or co-occurring mental health and substance abuse services.*

*"(6) MENTAL HEALTH COURT.—The term 'mental health court' means a judicial program that meets the requirements of part V of this title.*

*"(7) MENTAL ILLNESS.—The term 'mental illness' means a diagnosable mental, behavioral, or emotional disorder—*

*"(A) of sufficient duration to meet diagnostic criteria within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; and*

*"(B)(i) that, in the case of an adult, has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities; or*

*"(ii) that, in the case of a juvenile, has resulted in functional impairment that substantially interferes with or limits the juvenile's role or functioning in family, school, or community activities.*

*"(8) NONVIOLENT OFFENSE.—The term 'nonviolent offense' means an offense that does not have as an element the use, attempted use, or threatened use of physical force against the person or property of another or is not a felony that by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.*

*"(9) PRELIMINARILY QUALIFIED OFFENDER.—The term 'preliminarily qualified offender' means an adult or juvenile accused of a nonviolent offense who—*

*"(A)(i) previously or currently has been diagnosed by a qualified mental health professional as having a mental illness or co-occurring mental illness and substance abuse disorders; or*

*"(ii) manifests obvious signs of mental illness or co-occurring mental illness and substance abuse disorders during arrest or confinement or before any court; and*

*"(B) has faced, is facing, or could face criminal charges for a misdemeanor or nonviolent offense and is deemed eligible by a diversion process, designated pretrial screening process, or by a magistrate or judge, on the ground that the commission of the offense is the product of the person's mental illness.*

*"(10) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.*

*"(11) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, including a State court, local court, or a governmental agency located within a city, county, township, town, borough, parish, or village.*

*"(b) PLANNING AND IMPLEMENTATION GRANTS.—*

*"(1) IN GENERAL.—The Attorney General, in consultation with the Secretary, may award nonrenewable grants to eligible applicants to prepare a comprehensive plan for and implement an adult or juvenile collaboration program, which targets preliminarily qualified offenders in order to promote public safety and public health.*

*"(2) PURPOSES.—Grants awarded under this section shall be used to create or expand—*

*"(A) mental health courts or other court-based programs for preliminarily qualified offenders;*

*"(B) programs that offer specialized training to the officers and employees of a criminal or juvenile justice agency and mental health personnel serving those with co-occurring mental illness and substance abuse problems in procedures for identifying the symptoms of preliminarily qualified offenders in order to respond appropriately to individuals with such illnesses;*

*"(C) programs that support cooperative efforts by criminal and juvenile justice agencies and mental health agencies to promote public safety by offering mental health treatment services and, where appropriate, substance abuse treatment services for—*

*"(i) preliminarily qualified offenders with mental illness or co-occurring mental illness and substance abuse disorders; or*

*"(ii) adult offenders with mental illness during periods of incarceration, while under the supervision of a criminal justice agency, or following release from correctional facilities; and*

*"(D) programs that support intergovernmental cooperation between State and local governments with respect to the mentally ill offender.*

*"(3) APPLICATIONS.—*

*"(A) IN GENERAL.—To receive a planning grant or an implementation grant, the joint applicants shall prepare and submit a single application to the Attorney General at such time, in such manner, and containing such information as the Attorney General and the Secretary shall reasonably require. An application under part V of this title may be made in conjunction with an application under this section.*

*"(B) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION.—The Attorney General and the Secretary shall develop a procedure under which applicants may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.*

*"(4) PLANNING GRANTS.—*

*"(A) APPLICATION.—The joint applicants may apply to the Attorney General for a nonrenewable planning grant to develop a collaboration program.*

*"(B) CONTENTS.—The Attorney General and the Secretary may not approve a planning grant unless the application for the grant includes or provides, at a minimum, for a budget and a budget justification, a description of the outcome measures that will be used to measure the effectiveness of the program in promoting public safety and public health, the activities proposed (including the provision of substance abuse treatment services, where appropriate) and a schedule for completion of such activities, and the personnel necessary to complete such activities.*

*"(C) PERIOD OF GRANT.—A planning grant shall be effective for a period of 1 year, beginning on the first day of the month in which the planning grant is made. Applicants may not receive more than 1 such planning grant.*

*"(D) AMOUNT.—The amount of a planning grant may not exceed $75,000, except that the Attorney General may, for good cause, approve a grant in a higher amount.*

*"(E) COLLABORATION SET ASIDE.—Up to 5 percent of all planning funds shall be used to foster collaboration between State and local governments in furtherance of the purposes set forth in the Mentally Ill Offender Treatment and Crime Reduction Act of 2004.*

*"(5) IMPLEMENTATION GRANTS.—*

*"(A) APPLICATION.—Joint applicants that have prepared a planning grant application may apply to the Attorney General for approval of a nonrenewable implementation grant to develop a collaboration program.*

*"(B) COLLABORATION.—To receive an implementation grant, the joint applicants shall—*

*"(i) document that at least 1 criminal or juvenile justice agency (which can include a mental health court) and 1 mental health agency will participate in the administration of the collaboration program;*

*"(ii) describe the responsibilities of each participating agency, including how each agency will use grant resources to provide supervision of offenders and jointly ensure that the provision of mental health treatment services and substance abuse services for individuals with co-occurring mental health and substance abuse disorders are coordinated, which may range from consultation or collaboration to integration in a single setting or treatment model;*

*"(iii) in the case of an application from a unit of local government, document that a State mental health authority has provided comment and review; and*

*"(iv) involve, to the extent practicable, in developing the grant application—*

*"(I) preliminarily qualified offenders;*

*"(II) the families and advocates of such individuals under subclause (I); and*

*"(III) advocates for victims of crime.*

*"(C) CONTENT.—To be eligible for an implementation grant, joint applicants shall comply with the following:*

*"(i) DEFINITION OF TARGET POPULATION.—Applicants for an implementation grant shall—*

*"(I) describe the population with mental illness or co-occurring mental illness and substance abuse disorders that is targeted for the collaboration program; and*

*"(II) develop guidelines that can be used by personnel of an adult or juvenile justice agency to identify preliminarily qualified offenders.*

*"(ii) SERVICES.—Applicants for an implementation grant shall—*

*"(I) ensure that preliminarily qualified offenders who are to receive treatment services under the collaboration program will first receive individualized, validated, needs-based assessments to determine, plan, and coordinate the most appropriate services for such individuals;*

*"(II) specify plans for making mental health, or mental health and substance abuse, treatment services available and accessible to preliminarily qualified offenders at the time of their release from the criminal justice system, including outside of normal business hours;*

*"(III) ensure that there are substance abuse personnel available to respond appropriately to the treatment needs of preliminarily qualified offenders;*

*"(IV) determine eligibility for Federal benefits;*

*"(V) ensure that preliminarily qualified offenders served by the collaboration program will have adequate supervision and access to effective and appropriate community-based mental health services, including, in the case of individuals with co-occurring mental health and substance abuse disorders, coordinated services, which may range from consultation or collaboration to integration in a single setting treatment model;*

*"(VI) make available, to the extent practicable, other support services that will ensure the preliminarily qualified offender's successful reintegration into the community (such as housing, education, job placement, mentoring, and health care and benefits, as well as the services of faith-based and community organizations for mentally ill individuals served by the collaboration program); and*

*"(VII) include strategies, to the extent practicable, to address developmental and learning disabilities and problems arising from a documented history of physical or sexual abuse.*

*"(D) HOUSING AND JOB PLACEMENT.—Recipients of an implementation grant may use grant funds to assist mentally ill offenders compliant with the program in seeking housing or employment assistance.*

*"(E) POLICIES AND PROCEDURES.—Applicants for an implementation grant shall strive to ensure prompt access to defense counsel by criminal defendants with mental illness who are facing charges that would trigger a constitutional right to counsel.*

*"(F) FINANCIAL.—Applicants for an implementation grant shall—*

*"(i) explain the applicant's inability to fund the collaboration program adequately without Federal assistance;*

*"(ii) specify how the Federal support provided will be used to supplement, and not supplant, State, local, Indian tribe, or tribal organization sources of funding that would otherwise be available, including billing third-party resources for services already covered under programs (such as Medicaid, Medicare, and the State Children's Insurance Program); and*

*"(iii) outline plans for obtaining necessary support and continuing the proposed collaboration program following the conclusion of Federal support.*

*"(G) OUTCOMES.—Applicants for an implementation grant shall—*

*"(i) identify methodology and outcome measures, as required by the Attorney General and the Secretary, to be used in evaluating the effectiveness of the collaboration program;*

*"(ii) ensure mechanisms are in place to capture data, consistent with the methodology and outcome measures under clause (i); and*

*"(iii) submit specific agreements from affected agencies to provide the data needed by the Attorney General and the Secretary to accomplish the evaluation under clause (i).*

*"(H) STATE PLANS.—Applicants for an implementation grant shall describe how the adult or juvenile collaboration program relates to existing State criminal or juvenile justice and mental health plans and programs.*

*"(I) USE OF FUNDS.—Applicants that receive an implementation grant may use funds for 1 or more of the following purposes:*

*"(i) MENTAL HEALTH COURTS AND DIVERSION/ALTERNATIVE PROSECUTION AND SENTENCING PROGRAMS.—Funds may be used to create or expand existing mental health courts that meet program requirements established by the Attorney General under part V of this title, other court-based programs, or diversion and alternative prosecution and sentencing programs (including crisis intervention teams and treatment accountability services for communities) that meet requirements established by the Attorney General and the Secretary.*

*"(ii) TRAINING.—Funds may be used to create or expand programs, such as crisis intervention training, which offer specialized training to—*

*"(I) criminal justice system personnel to identify and respond appropriately to the unique needs of preliminarily qualified offenders; or*

*"(II) mental health system personnel to respond appropriately to the treatment needs of preliminarily qualified offenders.*

*"(iii) SERVICE DELIVERY.—Funds may be used to create or expand programs that promote public safety by providing the services described in subparagraph (C)(ii) to preliminarily qualified offenders.*

*"(iv) IN-JAIL AND TRANSITIONAL SERVICES.—Funds may be used to promote and provide mental health treatment and transitional services for those incarcerated or for transitional re-entry programs for those released from any penal or correctional institution.*

*"(J) GEOGRAPHIC DISTRIBUTION OF GRANTS.—The Attorney General, in consultation with the Secretary, shall ensure that planning and implementation grants are equitably distributed among the geographical regions of the United States and between urban and rural populations.*

*"(c) PRIORITY.—The Attorney General, in awarding funds under this section, shall give priority to applications that—*

*"(1) demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;*

*"(2) demonstrate the active participation of each co-applicant in the administration of the collaboration program;*

*"(3) document, in the case of an application for a grant to be used in whole or in part to fund treatment services for adults or juveniles during periods of incarceration or detention, that treatment programs will be available to provide transition and re-entry services for such individuals; and*

*"(4) have the support of both the Attorney General and the Secretary.*

*"(d) MATCHING REQUIREMENTS.—*

*"(1) FEDERAL SHARE.—The Federal share of the cost of a collaboration program carried out by a State, unit of local government, Indian tribe, or tribal organization under this section shall not exceed—*

*"(A) 80 percent of the total cost of the program during the first 2 years of the grant;*

*"(B) 60 percent of the total cost of the program in year 3; and*

*"(C) 25 percent of the total cost of the program in years 4 and 5.*

*"(2) NON-FEDERAL SHARE.—The non-Federal share of payments made under this section may be made in cash or in-kind fairly evaluated, including planned equipment or services.*

*"(e) FEDERAL USE OF FUNDS.—The Attorney General, in consultation with the Secretary, in administering grants under this section, may use up to 3 percent of funds appropriated to—*

*"(1) research the use of alternatives to prosecution through pretrial diversion in appropriate cases involving individuals with mental illness;*

*"(2) offer specialized training to personnel of criminal and juvenile justice agencies in appropriate diversion techniques;*

*"(3) provide technical assistance to local governments, mental health courts, and diversion programs, including technical assistance relating to program evaluation;*

*"(4) help localities build public understanding and support for community reintegration of individuals with mental illness;*

*"(5) develop a uniform program evaluation process; and*

*"(6) conduct a national evaluation of the collaboration program that will include an assessment of its cost-effectiveness.*

*"(f) INTERAGENCY TASK FORCE.—*

*"(1) IN GENERAL.—The Attorney General and the Secretary shall establish an interagency task force with the Secretaries of Housing and Urban Development, Labor, Education, and Veterans Affairs and the Commissioner of Social Security, or their designees.*

*"(2) RESPONSIBILITIES.—The task force established under paragraph (1) shall—*

*"(A) identify policies within their departments that hinder or facilitate local collaborative initiatives for preliminarily qualified offenders; and*

*"(B) submit, not later than 2 years after the date of enactment of this section, a report to Congress containing recommendations for improved interdepartmental collaboration regarding the provision of services to preliminarily qualified offenders.*

*"(g) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a planning or implementation grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for planning or implementation grants pursuant to this section.*

*"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice to carry out this section—*

*"(1) $50,000,000 for fiscal year 2005; and*

*"(2) such sums as may be necessary for fiscal years 2006 through 2009.".*

*(b) LIST OF "BEST PRACTICES".—The Attorney General, in consultation with the Secretary of Health and Human Services, shall develop a list of "best practices" for appropriate diversion from incurceration of adult and juvenile offenders.*

Mr. DEWINE. Mr. President, I come to the floor in support of the Mentally Ill Offender Treatment and Crime Reduction Act.

Each year, more than 700,000 individuals with serious mental illness are booked into our Nation's jails. A recent Justice Department study revealed that 16 percent of all inmates in America's state prisons and local jails today are mentally ill. This has created one of the biggest challenges facing our front-line police officers, judges, prosecutors, and corrections officers and has left mentally ill inmates caught in a destructive cycle.

As a former prosecuting attorney, I know about the helplessness that law enforcement officers feel when they have no other option than to arrest and incarcerate a person with mental illness who has committed a non-violent crime. I have seen the cycle of a nonviolent, mentally ill offender who is arrested repeatedly and put into the system repeatedly—never being treated for his illness and, as a result, becoming more and more ill. I also have shared the frustration of judges who repeatedly sentence these low-level offenders, knowing that, without connection to needed services, they will just end up right back in the courtroom.

Despite the complexity of these issues, recent initiatives demonstrate that we can increase public safety and reduce the numbers of mentally ill people trapped in the criminal justice system. We know that if given appropriate care early, the special needs of the mentally ill can be addressed to avoid a growing problem that increases the likelihood of repeat offenses. Four years ago, Senator PETE DOMENICI, Representative TED STRICKLAND, and I authored America's Law Enforcement and Mental Health Act. As a consequence of this law, the U.S. Department of Justice made available to 37 jurisdictions $7 million in funding and technical assistance for mental health courts. These courts are staffed by a core group of specialized professionals, including a dedicated judge, prosecutor, and public defender, who deal with mental illness cases and a court liaison to the mental health services community. While still early in their implementation, mental health courts have shown promising results. Mentally ill persons who choose to have their cases heard in a mental health court often do so because that is the first real opportunity that many have had to seek treatment.

Last year, Senator LEAHY, Senator DOMENICI, Representative STRICKLAND and I introduced the Mentally Ill Offender Treatment and Crime Reduction Act. Our bill authorizes a grant program to help states and counties design and implement collaborative efforts between their criminal justice and mental health systems. This would allow, for example, a State corrections department to partner with the mental health system to ensure that people with mental illness released from prison are provided medications and connected to community-based service providers. It also could provide for programs to train local law enforcement on responding to individuals with mental illness. These programs would be proposed and controlled by the local and State officials most knowledgeable about the needs of their communities.

Since its inception, our Nation has stood on the foundations of compassion and justice. These programs envisioned by this bill are a wonderful embodiment of both ideals and have earned a broad coalition of support from law enforcement, mental health advocates, state officials and private groups, including the Council of State Governments, the National Sheriffs' Association, the Police Executive Research Forum, and the American Correctional Association. With this bill, we move closer to both addressing the needs of the mentally ill and easing the burden upon our police and correctional workers. It will make a real difference, and I thank my colleagues—especially Ranking Member LEAHY, Senator GRASSLEY, Senator DURBIN, Senator DOMENICI, Senator CANTWELL, Chairman HATCH, and Senator MURRAY for their support. I would also like to thank Congressman STRICKLAND and Chairman SENSENBRENNER for championing this issue on the House side.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. LEAHY. Madam President, the Mentally Ill Offender Treatment and Crime Reduction Act is a good bipartisan bill that will help State and local governments deal effectively with a serious law enforcement and mental health problem—the extent to which mentally ill individuals commit crimes and recidivate without ever receiving appropriate attention from the mental health, law enforcement, or corrections systems. The bill passed the Senate unanimously last year, and passed the House of Representatives in slightly revised form earlier today, by voice vote.

I have enjoyed working on this bill with Senator DEWINE, who has shown commitment and leadership on this issue. I am also pleased that Senators CANTWELL, DOMENICI, DURBIN, GRASSLEY and HATCH have joined Senator DEWINE and I as cosponsors of this bill. And I very much appreciate the support of House Judiciary Committee Chairman SENSENBRENNER and Ranking Member CONYERS, as well as Crime Subcommittee Chairman HOWARD COBLE and Ranking Member BOBBY SCOTT, and Congressman WILLIAM DELAHUNT.

Human Rights Watch released a report last year discussing the fact "that jails and prisons have become the Nation's default mental health system." The first recommendation in the report was for Congress to enact this bill. Tonight we will follow that recommendation and send this bill to the President.

All too often, people with mental illness rotate repeatedly between the criminal justice system and the streets of our communities, committing a serious of minor offenses. The ever scarcer time of our law enforcement officers is being occupied by these offenders, who divert them from more urgent responsibilities. Meanwhile, offenders find themselves in prisons or jails, where little or no appropriate medical care is available for them. This bill will give State and local governments the tools to break this cycle, for the good of law enforcement, corrections officers, the public safety, and mentally ill offenders themselves.

When I was chairman of the Judiciary Committee, I held a hearing on the criminal justice system and mentally ill offenders. At that hearing, we heard from State mental health officials, law enforcement officers, corrections officials, and the representative of counties around our Nation. All of our witnesses agreed that people with untreated mental illness are more likely to commit crimes, and that our state mental health systems, prisons and jails do not have the resources they need to treat the mentally ill, and prevent crime and recidivism. We know that more than 16 percent of adults incarcerated in U.S. jails and prisons have a mental illness, that about 20 percent of youth in the juvenile justice system have serious mental health problems, and that up to 40 percent of adults who suffer from a serious mental illness will come into contact with the American criminal justice system at some point in their lives. We know these things, but we have not done enough about them at the Federal level, and our State and local officials need our help.

The bill does not mandate a "one size fits all" approach to addressing this issue. Rather, it allows grantees to use the funding authorized under the bill for mental health courts or other court-based programs, for training for criminal justice and mental health system personnel, and for better mental health treatment in our communities and within the corrective system. Although the House did reduce the funding authorized by the bill from $100 million to $50 million, that amount will still be enough to make a real start at addressing this problem. This is an area where government spending can not only do good but can also save money in the long run—a dollar spent today to get mentally ill offenders effective medical care can save many dollars in law enforcement costs in the long run.

This bill has brought law enforcement officers and mental health professionals together, as we have seen at both of the hearings the Judiciary Committee held on this issue. I hope that it will provide much-needed support to our communities and make a difference for both law enforcement officers and the mentally ill.●

Mr. SESSIONS. Madam President, I ask unanimous consent that the Senate concur in the House amendment, that the motion to reconsider be laid upon the table, and that any statement relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## FEDERAL WORKFORCE FLEXIBILITY ACT OF 2004

Mr. SESSIONS. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 129) to provide for reform relating to Federal employment, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

S. 129

*Resolved*, That the bill from the Senate (S. 129) entitled "An Act to provide for reform relating to Federal employment, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the "Federal Workforce Flexibility Act of 2004".*

*(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:*

*Sec. 1. Short title; table of contents.*

*TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT*

*Sec. 101. Recruitment, relocation, and retention bonuses.*
*Sec. 102. Streamlined critical pay authority.*

*TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS*

*Sec. 201. Agency training.*
*Sec. 202. Annual leave enhancements.*
*Sec. 203. Compensatory time off for travel.*

*TITLE III—PROVISIONS RELATING TO PAY ADMINISTRATION*

*Sec. 301. Corrections relating to pay administration.*
*Sec. 302. Technical corrections.*

### *TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT*

***SEC. 101. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.***

*(a) BONUSES.—*

*(1) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by striking sections 5753 and 5754 and inserting the following:*

***"§ 5753. Recruitment and relocation bonuses***

*"(a)(1) This section may be applied to—*

*"(A) employees covered by the General Schedule pay system established under subchapter III of chapter 53; and*

*"(B) employees in a category approved by the Office of Personnel Management at the request of the head of an Executive agency.*

*"(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—*

*"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;*

*"(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or*

*"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.*

*"(3) In this section, the term 'employee' has the meaning given that term in section 2105, except that such term also includes an employee described in subsection (c) of that section.*

*"(b) The Office of Personnel Management may authorize the head of an agency to pay a bonus under this section to an individual only if—*

*"(1) the position to which such individual is appointed (as described in paragraph (2)(A)) or to which such individual moves or must relocate (as described in paragraph (2)(B)) is likely to be difficult to fill in the absence of such a bonus; and*

*"(2) the individual—*

*"(A) is newly appointed as an employee of the Federal Government; or*

*"(B)(i) is currently employed by the Federal Government; and*

*"(ii)(I) moves to a new position in the same geographic area under circumstances described in regulations of the Office; or*

*"(II) must relocate to accept a position in a different geographic area.*

*"(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not longer than 4 years. The Office may, by regulation, prescribe a minimum service period for purposes of this section.*

*"(2)(A) The agreement shall include—*

*"(i) the commencement and termination dates of the required service period (or provisions for the determination thereof);*

*"(ii) the amount of the bonus;*

*"(iii) the method of payment; and*

*"(iv) other terms and conditions under which the bonus is payable, subject to the requirements of this section and regulations of the Office.*

*"(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—*

*"(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and*

*"(ii) the effect of the termination.*

*"(C) The required service period shall commence upon the commencement of service with the agency or movement to a new position or geographic area, as applicable, unless the service agreement provides for a later commencement date in circumstances and to the extent allowable under regulations of the Office, such as when there is an initial period of formal basic training.*

*"(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (including a fractional part of a year, as determined under regulations of the Office) in the required service period of the employee involved.*

*"(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full period of service required by the agreement, or in a combination of these forms of payment.*

*"(3) A bonus under this section is not part of the basic pay of an employee for any purpose.*

*"(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.*

*"(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the maximum bonus allowable shall—*

*"(1) be equal to the maximum that would be determined if subsection (d)(1) were applied by substituting '50' for '25'; but*

*"(2) in no event exceed 100 percent of the annual rate of basic pay of the employee at the beginning of the service period.*

*Nothing in this subsection shall be considered to permit the waiver of any requirement under subsection (c).*

*"(f) The Office shall require that an agency establish a plan for the payment of recruitment bonuses before paying any such bonuses, and a plan for the payment of relocation bonuses before paying any such bonuses, subject to regulations prescribed by the Office.*

*"(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a bonus under this section in appropriate circumstances when the agreed-upon service period has not been completed.*

***"§ 5754. Retention bonuses***

*"(a)(1) This section may be applied to—*

*"(A) employees covered by the General Schedule pay system established under subchapter III of chapter 53; and*

*"(B) employees in a category approved by the Office of Personnel Management at the request of the head of an Executive agency.*

*"(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—*

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

"(3) In this section, the term 'employee' has the meaning given that term in section 2105, except that such term also includes an employee described in subsection (c) of that section.

"(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee if—

"(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

"(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

"(A) the Federal service; or

"(B) for a different position in the Federal service under conditions described in regulations of the Office.

"(c) The Office may authorize the head of an agency to pay retention bonuses to a group of employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

"(d)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency to complete a period of employment with the agency.

"(2)(A) The agreement shall include—

"(i) the length of the required service period;

"(ii) the amount of the bonus;

"(iii) the method of payment; and

"(iv) other terms and conditions under which the bonus is payable, subject to the requirements of this section and regulations of the Office.

"(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

"(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

"(ii) the effect of the termination.

"(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

"(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

"(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753.

"(e)(1) Except as provided in subsection (f), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

"(A) 25 percent of the employee's basic pay if paid under subsection (b); or

"(B) 10 percent of an employee's basic pay if paid under subsection (c).

"(2)(A) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement.

"(B) An installment payment is derived by multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee.

"(C) If the installment payment percentage established for the employee is less than the bonus percentage rate established for the employee, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

"(D) For purposes of this paragraph, the bonus percentage rate established for an employee means the bonus percentage rate established for such employee in accordance with paragraph (1) or subsection (f), as the case may be.

"(3) A retention bonus is not part of the basic pay of an employee for any purpose.

"(f) Upon the request of the head of an agency, the Office may waive the limit established under subsection (e)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

"(g) The Office shall require that, before paying any bonuses under this section, an agency shall establish a plan for the payment of any such bonuses, subject to regulations prescribed by the Office.

"(h) The Office may prescribe regulations to carry out this section.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by striking the item relating to section 5754 and inserting the following:

"5754. Retention bonuses.".

(3) SENSE OF CONGRESS.—It is the sense of the Congress that the Director of the Office of Personnel Management—

(A) should, each time a bonus is paid under the amendment made by paragraph (1) to recruit or relocate a Federal employee from one Government agency to another within the same geographic area or to retain a Federal employee who might otherwise leave one Government agency for another within the same geographic area, be notified of that payment within 60 days after the date on which such bonus is paid; and

(B) should monitor the payment of such bonuses (in the circumstances described in subparagraph (A)) to ensure that they are an effective use of the Federal Government's funds and have not adversely affected the ability of those Government agencies that lost employees to other Government agencies (in such circumstances) to carry out their mission.

(b) RELOCATION PAYMENTS.—Section 407 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note; 104 Stat. 1467) is repealed.

(c) REPORTS.—

(1) RECRUITMENT AND RELOCATION BONUSES.—

(A) IN GENERAL.—The Office of Personnel Management shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives annually, for each of the first 5 years during which section 5753 of title 5 United States Code (as amended by subsection (a)(1)) is in effect, a report on the operation of such section.

(B) CONTENTS.—Each report submitted under this paragraph shall include, with respect to the period covered by such report, a description of how the authority to pay bonuses under the section of title 5, United States Code, referred to in subparagraph (A) was used by the respective agencies, including, with respect to each such agency and each type of bonus under such section—

(i) the number and dollar-amount of bonuses paid—

(I) to individuals holding positions within each pay grade, pay level, or other pay classification; and

(II) if applicable, to individuals who moved between positions that were in different agencies but the same geographic area (including the names of the agencies involved); and

(ii) a determination of the extent to which such bonuses furthered the purposes of such section.

(2) RETENTION BONUSES.—

(A) IN GENERAL.—The Office of Personnel Management shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives annually, for each of the first 5 years during which section 5754 of title 5, United States Code (as amended by subsection (a)(1)) is in effect, a report on the operation of such section.

(B) CONTENTS.—Each report submitted under this paragraph shall include, with respect to the period covered by such report, a description of how the authority to pay bonuses under the section of title 5, United States Code, referred to in subparagraph (A) was used by the respective agencies, including, with respect to each such agency—

(i) the number and dollar-amount of bonuses paid—

(I) to individuals holding positions within each pay grade, pay level, or other pay classification; and

(II) if applicable, to prevent individuals from moving between positions that were in different agencies but the same geographic area (including the names of the agencies involved); and

(ii) a determination of the extent to which such bonuses furthered the purposes of such section.

(d) EFFECTIVE DATE AND APPLICATION.—

(1) EFFECTIVE DATE.—Except as provided under paragraphs (2) and (3), this section shall take effect on the first day of the first applicable pay period beginning on or after the 180th day after the date of the enactment of this Act.

(2) APPLICATION TO AGREEMENTS.—A recruitment or relocation bonus service agreement that was authorized under section 5753 of title 5, United States Code, before the effective date under paragraph (1) shall continue, until its expiration, to be subject to such section as in effect on the day before such effective date.

(3) APPLICATION TO ALLOWANCES.—Payment of a retention allowance that was authorized under section 5754 of title 5, United States Code, before the effective date under paragraph (1) shall continue, subject to such section as in effect on the day before such effective date, until the retention allowance is reauthorized or terminated (but no longer than 1 year after such effective date).

### SEC. 102. STREAMLINED CRITICAL PAY AUTHORITY.

Section 5377 of title 5, United States Code, is amended—

(1) by striking "Office of Personnel Management" each place it appears and inserting "Office of Management and Budget";

(2) by striking "Office of Management and Budget" each place it appears and inserting "Office of Personnel Management";

(3) in subsection (g), by striking "prescribing regulations under this section or"; and

(4) in subsection (h), by striking "Committee on Post Office and Civil Service" and inserting "Committee on Government Reform".

## TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

### SEC. 201. AGENCY TRAINING.

(a) Training To Accomplish Performance Plans and Strategic Goals.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

"(c) The head of each agency shall, on a regular basis—

"(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

"(2) modify such program or plan as needed to accomplish such plans and goals.".

(b) Specific Training Programs.—

(1) In general.—Chapter 41 of title 5, United States Code, is amended by adding after section 4120 the following:

**"§4121. Specific training programs**

"In consultation with the Office of Personnel Management, the head of each agency shall establish—

"(1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and

"(2) a program to provide training to managers on actions, options, and strategies a manager may use in—

"(A) relating to employees with unacceptable performance;

"(B) mentoring employees and improving employee performance and productivity; and

"(C) conducting employee performance appraisals.".

(2) Clerical amendment.—The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end the following:

"4121. Specific training programs.".

### SEC. 202. ANNUAL LEAVE ENHANCEMENTS.

(a) Creditability of Prior Nongovernmental Service for Purposes of Determining Rate of Leave Accrual.—

(1) In general.—Section 6303 of title 5, United States Code, is amended by adding at the end the following:

"(e)(1) Not later than 180 days after the date of the enactment of this subsection, the Office of Personnel Management shall prescribe regulations under which, for purposes of determining years of service under subsection (a), credit shall, in the case of a newly appointed employee, be given for any prior service of such employee that would not otherwise be creditable for such purposes, if—

"(A) such service—

"(i) was performed in a position the duties of which directly relate to the duties of the position to which such employee is so appointed; and

"(ii) meets such other requirements as the Office may prescribe; and

"(B) in the judgment of the head of the appointing agency, the application of this subsection is necessary in order to achieve an important agency mission or performance goal.

"(2) Service described in paragraph (1)—

"(A) shall be creditable, for the purposes described in paragraph (1), as of the effective date of the employee's appointment; and

"(B) shall not thereafter cease to be so creditable, unless the employee fails to complete a full year of continuous service with the agency.

"(3) An employee shall not be eligible for the application of paragraph (1) on the basis of any appointment if, within 90 days before the effective date of such appointment, such employee has held any position in the civil service.".

(2) Conforming amendment.—The second sentence of section 6303(a) of title 5, United States Code, is amended by striking the period and inserting ", and for all service which is creditable by virtue of subsection (e).".

(b) Other Annual Leave Enhancements.—Section 6303 of title 5, United States Code, is amended by adding after subsection (e) (as added by subsection (a)) the following:

"(f) Notwithstanding any other provision of this section, the rate of accrual of annual leave under subsection (a) shall be 1 day for each full biweekly pay period in the case of any employee who holds a position which is subject to—

"(1) section 5376 or 5383; or

"(2) a pay system equivalent to either of the foregoing, as determined by the Office of Personnel Management.".

(c) Applicability.—None of the amendments made by subsection (a) shall apply in the case of any employee holding a position pursuant to an appointment made before the effective date of the regulations implementing such amendments.

### SEC. 203. COMPENSATORY TIME OFF FOR TRAVEL.

(a) In General.—Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

**"§5550b. Compensatory time off for travel**

"(a) Notwithstanding section 5542(b)(2), each hour spent by an employee in travel status away from the official duty station of the employee, that is not otherwise compensable, shall be treated as an hour of work or employment for purposes of calculating compensatory time off.

"(b) An employee who has any hours treated as hours of work or employment for purposes of calculating compensatory time under subsection (a), shall not be entitled to payment for any such hours that are unused as compensatory time.".

(b) Clerical Amendment.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5550a the following:

"5550b. Compensatory time off for travel.".

(c) Effective Date.—The amendments made by this section shall take effect on the earlier of—

(1) the effective date of any regulations prescribed to carry out such amendments; or

(2) the 90th day after the date of the enactment of this Act.

## TITLE III—PROVISIONS RELATING TO PAY ADMINISTRATION

### SEC. 301. CORRECTIONS RELATING TO PAY ADMINISTRATION.

(a) In General.—Chapter 53 of title 5, United States Code, is amended—

(1) in section 5302, by striking paragraph (8) and inserting the following:

"(8) the term 'rates of pay under the General Schedule', 'rates of pay for the General Schedule', or 'scheduled rates of basic pay' means the rates of basic pay under the General Schedule as established by section 5332, excluding pay under section 5304 and any other additional pay of any kind; and";

(2) in section 5305—

(A) by striking subsection (a) and inserting the following:

"(a)(1) Whenever the Office of Personnel Management finds that the Government's recruitment or retention efforts with respect to 1 or more occupations in 1 or more areas or locations are, or are likely to become, significantly handicapped due to any of the circumstances described in subsection (b), the Office may establish for the areas or locations involved, with respect to individuals in positions paid under any of the pay systems referred to in subsection (c), higher minimum rates of pay for 1 or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all rates of the pay range for each such grade or level. However, a minimum rate so established may not exceed the maximum rate of basic pay (excluding any locality-based comparability payment under section 5304 or similar provision of law) for the grade or level by more than 30 percent, and no rate may be established under this section in excess of the rate of basic pay payable for level IV of the Executive Schedule. In the case of individuals not subject to the provisions of this title governing appointment in the competitive service, the President may designate another agency to authorize special rates under this section.

"(2) The head of an agency may determine that a category of employees of the agency will not be covered by a special rate authorization established under this section. The head of an agency shall provide written notice to the Office of Personnel Management (or other agency designated by the President to authorize special rates under the last sentence of paragraph (1)) which identifies the specific category or categories of employees that will not be covered by special rates authorized under this section. If the head of an agency removes a category of employees from coverage under a special rate authorization after that authorization takes effect, the loss of coverage will take effect on the first day of the first pay period after the date of the notice.";

(B) in subsection (b), by striking paragraph (4) and inserting the following:

"(4) any other circumstances which the Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate) considers appropriate.";

(C) in subsection (d)—

(i) by striking "President" and inserting "Office of Personnel Management"; and

(ii) by striking "or by such agency as he may designate" and inserting "(or by such other agency as the President may designate under the last sentence of subsection (a)(1))";

(D) in subsection (e), by striking "basic pay" and inserting "pay";

(E) by striking subsection (f) and inserting the following:

"(f) When a schedule of special rates established under this section is adjusted under subsection (d), a covered employee's special rate will be adjusted in accordance with conversion rules prescribed by the Office of Personnel Management (or by such other agency as the President may under the last sentence of subsection (a)(1) designate).";

(F) in subsection (g)(1)—

(i) by striking "basic pay" and inserting "pay"; and

(ii) by striking "President (or his designated agency)" and inserting "Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate)";

(G) by striking subsection (h) and inserting the following:

"(h) An employee shall not for any purpose be considered to be entitled to a rate of pay established under this section with respect to any period for which such employee is entitled to a higher rate of basic pay under any other provision of law. For purposes of this subsection, the term 'basic pay' includes any applicable locality-based comparability payment under section 5304 or similar provision of law."; and

(H) by adding at the end the following:

"(i) If an employee who is receiving a rate of pay under this section becomes subject, by virtue of moving to a new official duty station, to a different pay schedule, such employee's new rate of pay shall be initially established under conversion rules prescribed by the Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate) in conformance with the following:

"(1) First, determine the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the rate range) before the move.

"(2) Then, if (in addition to the change in pay schedule) the move also involves any personnel action or other change requiring a rate adjustment under any other provision of law, rule, or regulation, apply the applicable rate adjustment provisions, treating the rate determined under paragraph (1) as if it were the rate last received by the employee before the rate adjustment.

"(j) A rate determined under a schedule of special rates established under this section shall be considered to be part of basic pay for purposes of subchapter III of chapter 83, chapter 84, chapter 87, subchapter V of chapter 55, and section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe.";

(3) in section 5334—

(A) in subsection (b), by adding at the end the following:

"If an employee's rate after promotion or transfer is greater than the maximum rate of basic pay for the employee's grade, that rate shall be treated as a retained rate under section 5363. The Office of Personnel Management shall prescribe by regulation the circumstances under which and the extent to which special rates under section 5305 (or similar provision of law) or locality-adjusted rates under section 5304 (or similar provision of law) are considered to be basic pay in applying this subsection."; and

(B) by adding at the end the following:

"(g) In the case of an employee who—

"(1) moves to a new official duty station, and

"(2) by virtue of such move, becomes subject to a different pay schedule,

any rate adjustment under the preceding provisions of this section, with respect to such employee in connection with such move, shall be made—

"(A) first, by determining the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the rate range) before the move, and

"(B) then, by applying the provisions of this section that would otherwise apply (if any), treating the rate determined under subparagraph (A) as if it were the rate last received by the employee before the rate adjustment.";

(4) in section 5361—

(A) by amending paragraph (4) to read as follows:

"(4) 'rate of basic pay' means—

"(A) the rate of basic pay payable to an employee under law or regulations before any deductions or additions of any kind, but including—

"(i) any applicable locality-based comparability payment under section 5304 or similar provision of law;

"(ii) any applicable special pay under section 5305 or similar provision of law; and

"(iii) subject to such regulations as the Office of Personnel Management may prescribe, any applicable existing retained rate of pay established under section 5363 or similar provision of law; and

"(B) in the case of a prevailing rate employee, the scheduled rate of pay determined under section 5343;";

(B) in paragraph (6), by striking "and" at the end;

(C) in paragraph (7), by striking the period and inserting"; and"; and

(D) by adding at the end the following:

"(8) 'retained rate' means the rate of basic pay to which an employee is entitled under section 5363(b)(2).";

(5) in section 5363—

(A) in subsection (a), by striking the matter following paragraph (4) and inserting the following:

"is entitled to a rate of basic pay in accordance with regulations prescribed by the Office of Personnel Management in conformity with the provisions of this section."; and

(B) by striking subsections (b) and (c) and inserting the following:

"(b)(1)(A) If, as a result of any event described in subsection (a), the employee's former rate of basic pay is less than or equal to the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved, the employee is entitled to basic pay at the lowest rate of basic pay payable for such grade that equals or exceeds such former rate of basic pay.

"(B) This section shall cease to apply to an employee to whom subparagraph (A) applies once the appropriate rate of basic pay has been determined for such employee under this paragraph.

"(2)(A) If, as a result of any event described in subsection (a), the employee's former rate of basic pay is greater than the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved, the employee is entitled to basic pay at a rate equal to the lesser of—

"(i) the employee's former rate of basic pay; or

"(ii) 150 percent of the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved,

as adjusted by subparagraph (B).

"(B) A rate to which an employee is entitled under this paragraph shall be increased at the time of any increase in the maximum rate of basic pay payable for the grade of the employee's position by 50 percent of the dollar amount of each such increase.

"(3) For purposes of this subsection, the term 'former rate of basic pay', as used with respect to an employee in connection with an event described in subsection (a), means the rate of basic pay last received by such employee before the occurrence of such event.

"(c)(1) Notwithstanding any other provision of this section, in the case of an employee who—

"(A) moves to a new official duty station, and

"(B) in conjunction with such move, becomes subject to both a different pay schedule and (disregarding this subsection) the preceding provisions of this section,

this section shall be applied—

"(i) first, by determining the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the pay range) before the move, and

"(ii) then, by applying the provisions of this section that would apply (if any), treating the rate determined under clause (i) as if it were the rate last received by the employee before the application of this section.

"(2) A reduction in an employee's rate of basic pay resulting from a determination under paragraph (1)(ii) is not a basis for an entitlement under this section.

"(3) The rate of basic pay for an employee who is receiving a retained rate at the time of moving to a new official duty station at which different pay schedules apply shall be subject to regulations prescribed by the Office of Personnel Management consistent with the purposes of this section.

"(d) A retained rate shall be considered part of basic pay for purposes of this subchapter and for purposes of subchapter III of chapter 83, chapters 84 and 87, subchapter V of chapter 55, section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe. The Office shall, for any purpose other than any of the purposes referred to in the preceding sentence, prescribe by regulation what constitutes basic pay for employees receiving a retained rate.

"(e) This section shall not apply, or shall cease to apply, to an employee who—

"(1) has a break in service of 1 workday or more;

"(2) is entitled, by operation of this subchapter, chapter 51 or 53, or any other provision of law, to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the retained rate to which the employee would otherwise be entitled; or

"(3) is demoted for personal cause or at the employee's request."; and

(6) in section 5365(b), by inserting after "provisions of this subchapter" the following: "(subject to any conditions or limitations the Office may establish)".

(b) SPECIAL RATES FOR LAW ENFORCEMENT OFFICERS.—Section 403(c) of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note) is amended by striking all after "provision of law)" and inserting "and shall be basic pay for all purposes. The rates shall be adjusted at the time of adjustments in the General Schedule to maintain the step linkage set forth in subsection (b)(2).".

(c) REPEAL.—Section 4505a(a)(2) of title 5, United States Code, is amended—

(1) by striking "(2)(A)" and inserting "(2)"; and

(2) by striking subparagraph (B).

(d) EFFECTIVE DATE; CONVERSION RULES.—

(1) EFFECTIVE DATE.—This section shall take effect on the first day of the first applicable pay period beginning on or after the 180th day after the date of the enactment of this Act.

(2) CONVERSION RULES.—

(A) INDIVIDUALS RECEIVING A RETAINED RATE OR A RATE GREATER THAN THE MAXIMUM RATE FOR THE GRADE.—Subject to any regulations the Office of Personnel Management may prescribe, an employee under a covered pay schedule who, on the day before the effective date of this section, is receiving a retained rate under section 5363 of title 5, United States Code, or is receiving under similar authority a rate of basic pay that is greater than the maximum rate of basic pay payable for the grade of the employee's position shall have that rate converted as of the effective date of this section, and the employee shall be considered to be receiving a retained rate under section 5363 of such title (as amended by this section). The newly applicable retained rate shall equal the formerly applicable retained rate as adjusted to include any applicable locality-based payment under section 5304 of title 5, United States Code, or similar provision of law.

(B) DEFINITION.—For purposes of this paragraph, the term "covered pay schedule" has the meaning given such term by section 5361 of title 5, United States Code.

### SEC. 302. TECHNICAL CORRECTIONS.

(a)(1) Section 5304 of title 5, United States Code, as amended by section 1125 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136), is amended—

(A) in subsection (g)(2)(A), by striking "(A)–(D)" and inserting "(A)–(C)"; and

(B) in subsection (h)(2)(B)(i), by striking "or (vii)" and inserting "or (vi)".

(2) The amendments made by this subsection shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136).

(b) Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Administrator of the Office of Electronic Government.".

Mr. SESSIONS. Madam President, I ask unanimous consent that the Senate concur in the House amendment, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

## 2004 DISTRICT OF COLUMBIA OMNIBUS AUTHORIZATION ACT

Mr. SESSIONS. Madam President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 3797 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3797) to authorize improvements in the operations of the government of the District of Columbia, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Madam President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3797) was read the third time and passed.

## INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. SESSIONS. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 619, S. 2386, the intelligence authorization bill.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2386) to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Intelligence and the Committee on Armed Services, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic]

S. 2386

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Intelligence Community Management Account.
Sec. 105. Incorporation of reporting requirements.
Sec. 106. Specific authorization of funds for intelligence or intelligence-related activities for which fiscal year 2004 appropriations exceed amounts authorized.
*Sec. 107. Preparation and submittal of reports, reviews, studies, and plans relating to intelligence activities of Department of Defense and Department of Energy.*

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Modification of authority to obligate and expend certain funds for intelligence activities.
Sec. 304. Treatment as agent of a foreign power under the Foreign Intelligence Surveillance Act of 1978 of non-United States persons who engage in international terrorism without affiliation with international terrorist groups.
Sec. 305. Additional annual reporting requirements under the Foreign Intelligence Surveillance Act of 1978.
Sec. 306. Repeal of limitation on length of service as member of the Select Committee on Intelligence of the Senate.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Permanent extension of Central Intelligence Agency voluntary separation incentive program.
Sec. 402. Intelligence operations and cover enhancement authority.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

**[**Sec. 501. Repeal of sunset on authority to engage in commercial activities as security for intelligence collection activities.**]**
Sec. **[**502**]** *501.* Defense intelligence exemption from certain Privacy Act requirements.
Sec. **[**503**]** *502.* Use of funds for counterdrug and counterterrorism activities for Colombia.

### TITLE I—INTELLIGENCE ACTIVITIES

### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Department of Justice.

(10) The Federal Bureau of Investigation.

(11) The National Reconnaissance Office.

(12) The National Geospatial-Intelligence Agency.

(13) The Coast Guard.

(14) The Department of Homeland Security.

### SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2005, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill ____ of the One Hundred Eighth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

### SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2005 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives whenever the Director exercises the authority granted by this section.

### SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of Central Intelligence for fiscal year 2005 the sum of $342,995,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for advanced research and development shall remain available until September 30, 2006.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of Central Intelligence are authorized 310 full-time personnel as of September 30, 2005. Personnel serving in such elements may be permanent employees of the Intelligence Community Management Account or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are

also authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2005 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts for research and development shall remain available until September 30, 2006.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2005, there are also authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2005 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Intelligence Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), $34,911,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2006, and funds provided for procurement purposes shall remain available until September 30, 2007.

(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) LIMITATION.—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403-3(d)(1)).

(4) AUTHORITY.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

### SEC. 105. INCORPORATION OF REPORTING REQUIREMENTS.

(a) IN GENERAL.—Each requirement to submit a report to the congressional intelligence committees that is included in the joint explanatory statement to accompany the conference report on the bill ___ of the One Hundred Eighth Congress, or in the classified annex to this Act, is hereby incorporated into this Act, and is hereby made a requirement in law.

(b) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

### SEC. 106. SPECIFIC AUTHORIZATION OF FUNDS FOR INTELLIGENCE OR INTELLIGENCE-RELATED ACTIVITIES FOR WHICH FISCAL YEAR 2004 APPROPRIATIONS EXCEED AMOUNTS AUTHORIZED.

Funds appropriated for an intelligence or intelligence-related activity of the United States Government for fiscal year 2004 in excess of the amount specified for such activity in the classified Schedule of Authorizations prepared to accompany the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 117 Stat. 2599) shall be deemed to be specifically authorized by Congress for purposes of section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)).

### *SEC. 107. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO INTELLIGENCE ACTIVITIES OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY.*

*(a) CONSULTATION IN PREPARATION.—(1) The Director of Central Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act, including a provision of the classified Schedule of Authorizations referred to in section 102(a) or the classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense or the Department of Energy is prepared or conducted in consultation with the Secretary of Defense or the Secretary of Energy, as appropriate.*

*(2) The Secretary of Defense or the Secretary of Energy may carry out any consultation required by this subsection through an official of the Department of Defense or the Department of Energy, as the case may be, designated by such Secretary for that purpose.*

*(b) SUBMITTAL.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:*

*(1) The Committee on Armed Services, the Subcommittee on Defense of the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.*

*(2) The Committee on Armed Services, and the Subcommittee on Defense of the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.*

## TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

### SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2005 the sum of $239,400,000.

## TITLE III—GENERAL PROVISIONS

### SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

### SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

### SEC. 303. MODIFICATION OF AUTHORITY TO OBLIGATE AND EXPEND CERTAIN FUNDS FOR INTELLIGENCE ACTIVITIES.

Section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended—

(1) in subparagraph (A), by inserting "and" at the end;

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

### SEC. 304. TREATMENT AS AGENT OF A FOREIGN POWER UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 OF NON-UNITED STATES PERSONS WHO ENGAGE IN INTERNATIONAL TERRORISM WITHOUT AFFILIATION WITH INTERNATIONAL TERRORIST GROUPS.

(a) IN GENERAL.—Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following new subparagraph:

"(C) engages in international terrorism or activities in preparation therefor; or".

(b) SUNSET.—The amendment made by subsection (a) shall be subject to the sunset provision in section 224 of the USA PATRIOT Act of 2001 (Public Law 107-56; 115 Stat. 295), including the exception provided in subsection (b) of such section 224.

### SEC. 305. ADDITIONAL ANNUAL REPORTING REQUIREMENTS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ADDITIONAL REPORTING REQUIREMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by redesignating title VI as title VII;

(2) by redesignating section 601 as section 701; and

(3) by inserting after title V the following new title VI:

"TITLE VI—REPORTING REQUIREMENT

"ANNUAL REPORT OF THE ATTORNEY GENERAL

"SEC. 601. (a) In addition to the reports required by sections 107, 108, 306, 406, and 502 in April each year, the Attorney General shall submit to the appropriate committees of Congress each year a report setting forth with respect to the one-year period ending on the date of such report—

"(1) the aggregate number of non-United States persons targeted for orders issued under this Act, including a break-down of those targeted for—

"(A) electronic surveillance under section 105;

"(B) physical searches under section 304;

"(C) pen registers under section 402; and

"(D) access to records under section 501;

"(2) the number of individuals covered by an order issued under this Act who were determined pursuant to activities authorized by this Act to have acted wholly alone in the activities covered by such order;

"(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding; and

"(4) in a manner consistent with the protection of the national security of the United States—

"(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted; and

"(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted.

"(b) The first report under this section shall be submitted not later than six months after the date of the enactment of this Intelligence Authorization Act for Fiscal Year 2005. Subsequent reports under this section shall be submitted annually thereafter.

"(c) In this section, the term 'appropriate committees of Congress' means—

"(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

"(2) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.".

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking the items relating to title VI and inserting the following new items:

"TITLE VI—REPORTING REQUIREMENT

"Sec. 601. Annual report of the Attorney General.

"TITLE VII—EFFECTIVE DATE

"Sec. 701. Effective date.".

### SEC. 306. REPEAL OF LIMITATION ON LENGTH OF SERVICE AS MEMBER OF THE SELECT COMMITTEE ON INTELLIGENCE OF THE SENATE.

(a) REPEAL.—Section 2 of Senate Resolution 400 (94th Congress) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(b) RULES OF THE SENATE.—Subsection (a) is enacted—

(1) as an exercise of the rulemaking power of the Senate; and

(2) with full recognition of the constitutional right of the Senate to change the rules of the Senate at any time and to the same extent as in the case of any other rule of the Senate.

## TITLE IV—CENTRAL INTELLIGENCE AGENCY

### SEC. 401. PERMANENT EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION INCENTIVE PROGRAM.

(a) IN GENERAL.—Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(b) TERMINATION OF FUNDS REMITTANCE REQUIREMENT.—(1) Section 2 of such Act is further amended by striking subsection (i).

(2) Section 4(a)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note) is amended by striking ", or section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (Public Law 103–36; 107 Stat. 104)".

### SEC. 402. INTELLIGENCE OPERATIONS AND COVER ENHANCEMENT AUTHORITY.

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following:

"INTELLIGENCE OPERATIONS AND COVER ENHANCEMENT AUTHORITY

"SEC. 23. (a) DEFINITIONS.—In this section—

"(1) the term 'designated employee' means an employee designated by the Director under subsection (b); and

"(2) the term 'Federal retirement system' includes the Central Intelligence Agency Retirement and Disability System, and the Federal Employees Retirement System (including the Thrift Savings Plan).

"(b) IN GENERAL.—

"(1) AUTHORITY.—Notwithstanding any other provision of law, the Director may exercise the authorities under this section in order to—

"(A) protect from unauthorized disclosure—

"(i) intelligence operations;

"(ii) the identities of undercover intelligence officers;

"(iii) intelligence source and methods; or

"(iv) intelligence cover mechanisms; or

"(B) meet the special requirements of work related to collection of foreign intelligence or other authorized activities of the Agency.

"(2) DESIGNATION OF EMPLOYEES.—The Director may designate any employee of the Agency who is under nonofficial cover to be an employee to whom this section applies. Such designation may be made with respect to any or all authorities exercised under this section.

"(c) COMPENSATION.—The Director may pay a designated employee salary, allowances, and other benefits in an amount and in a manner consistent with the nonofficial cover of that employee, without regard to any limitation that is otherwise applicable to a Federal employee. A designated employee may accept, utilize, and, to the extent authorized by regulations prescribed under subsection (i), retain any salary, allowances, and other benefits provided under this section.

"(d) RETIREMENT BENEFITS.—

"(1) IN GENERAL.—The Director may establish and administer a nonofficial cover employee retirement system under which a designated employee (and the spouse, former spouses, and survivors of such designated employee) shall receive treatment in the same manner and to the same extent as the Federal retirement system that would otherwise apply to such employee (and the spouse, former spouses, and survivors of that employee). A designated employee may not participate in the retirement system established under this paragraph and another Federal retirement system at the same time.

"(2) CONVERSION TO OTHER FEDERAL RETIREMENT SYSTEM.—

"(A) IN GENERAL.—A designated employee participating in the retirement system established under paragraph (1) may convert to coverage under the Federal retirement system which would otherwise apply to that employee at any appropriate time determined by the Director (including at the time of separation of service by reason of retirement), if the Director determines that the employee's participation in the retirement system established under this subsection is no longer necessary to protect from unauthorized disclosure—

"(i) intelligence operations;

"(ii) the identities of undercover intelligence officers;

"(iii) intelligence sources and methods; or

"(iv) intelligence cover mechanisms.

"(B) CONVERSION TREATMENT.—Upon a conversion under this paragraph—

"(i) all periods of service under the retirement system established under this subsection shall be deemed periods of creditable service under the applicable Federal retirement system;

"(ii) the Director shall transmit an amount for deposit in any applicable fund of that Federal retirement system that—

"(I) is necessary to cover all employee and agency contributions including—

"(aa) interest as determined by the head of the agency administering the Federal retirement system into which the employee is converting; or

"(bb) in the case of an employee converting into the Federal Employee's Retirement System, interest as determined under section 8334(e) of title 5, United States Code; and

"(II) ensures that such conversion does not result in any unfunded liability to that fund; and

"(iii) in the case of a designated employee who participated in a retirement system established under paragraph (1) similar to subchapter III of chapter 84 of title 5, United States Code, and is converting to coverage under subchapter III of that chapter, the Director shall transmit all amounts of that designated employee in that similar retirement system (or similar part of that retirement system) to the Thrift Savings Fund.

"(C) TRANSMITTED AMOUNTS.—

"(i) IN GENERAL.—Amounts described under subparagraph (B)(ii) shall be paid from the fund or appropriation used to pay the designated employee.

"(ii) OFFSET.—The Director may use amounts contributed by the designated employee to a retirement system established under paragraph (1) to offset amounts paid under clause (i).

"(D) RECORDS.—The Director shall transmit all necessary records relating to a designated employee who converts to a Federal retirement system under this paragraph (including records relating to periods of service which are deemed to be periods of creditable service under subparagraph (B)) to the head of the agency administering that Federal retirement system.

"(e) HEALTH INSURANCE BENEFITS.—

"(1) IN GENERAL.—The Director may establish and administer a nonofficial cover employee health insurance program under which a designated employee (and the family of such designated employee) shall receive treatment in the same manner and to the same extent as provided under chapter 89 of title 5, United States Code. A designated employee may not participate in the health insurance program established under this paragraph and the program under chapter 89 of title 5, United States Code, at the same time.

"(2) CONVERSION TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—

"(A) IN GENERAL.—A designated employee participating in the health insurance program established under paragraph (1) may convert to coverage under the program under chapter 89 of title 5, United States Code, at any appropriate time determined by the Director (including at the time of separation of service by reason of retirement), if the Director determines that the employee's participation in the health insurance program established under this subsection is no longer necessary to protect from unauthorized disclosure—

"(i) intelligence operations;

"(ii) the identities of undercover intelligence officers;

"(iii) intelligence sources and methods; or

"(iv) intelligence cover mechanisms.

"(B) CONVERSION TREATMENT.—Upon a conversion under this paragraph—

"(i) the employee (and family, if applicable) shall be entitled to immediate enrollment and coverage under chapter 89 of title 5, United States Code;

"(ii) any requirement of prior enrollment in a health benefits plan under chapter 89 of that title for continuation of coverage purposes shall not apply;

"(iii) the employee shall be deemed to have had coverage under chapter 89 of that title from the first opportunity to enroll for purposes of continuing coverage as an annuitant; and

"(iv) the Director shall transmit an amount for deposit in the Employees Health Benefits Fund that is necessary to cover any costs of such conversion.

"(C) TRANSMITTED AMOUNTS.—Any amount described under subparagraph (B)(iv) shall be paid from the fund or appropriation used to pay the designated employee.

"(f) LIFE INSURANCE BENEFITS.—

"(1) IN GENERAL.—The Director may establish and administer a nonofficial cover employee life insurance program under which a designated employee (and the family of such designated employee) shall receive treatment in the same manner and to the same extent as provided under chapter 87 of title 5, United States Code. A designated employee may not participate in the life insurance program established under this paragraph and the program under chapter 87 of title 5, United States Code, at the same time.

"(2) CONVERSION TO FEDERAL EMPLOYEES GROUP LIFE INSURANCE PROGRAM.—

"(A) IN GENERAL.—A designated employee participating in the life insurance program established under paragraph (1) may convert to coverage under the program under chapter 87 of title 5, United States Code, at any appropriate time determined by the Director (including at the time of separation of service by reason of retirement), if the Director determines that the employee's participation in the life insurance program established under this subsection is no longer necessary to protect from unauthorized disclosure—

"(i) intelligence operations;

"(ii) the identities of undercover intelligence officers;

"(iii) intelligence sources and methods; or

"(iv) intelligence cover mechanisms.

"(B) CONVERSION TREATMENT.—Upon a conversion under this paragraph—

"(i) the employee (and family, if applicable) shall be entitled to immediate coverage under chapter 87 of title 5, United States Code;

"(ii) any requirement of prior enrollment in a life insurance program under chapter 87 of that title for continuation of coverage purposes shall not apply;

"(iii) the employee shall be deemed to have had coverage under chapter 87 of that title for the full period of service during which the employee would have been entitled to be insured for purposes of continuing coverage as an annuitant; and

"(iv) the Director shall transmit an amount for deposit in the Employees Life Insurance Fund that is necessary to cover any costs of such conversion.

"(C) TRANSMITTED AMOUNTS.—Any amount described under subparagraph (B)(iii) shall be paid from the fund or appropriation used to pay the designated employee.

"(g) EXEMPTION FROM CERTAIN REQUIREMENTS.—The Director may exempt a designated employee from mandatory compliance with any Federal regulation, rule, standardized administrative policy, process, or procedure that the Director determines—

"(1) would be inconsistent with the nonofficial cover of that employee; and

"(2) could expose that employee to detection as a Federal employee.

"(h) TAXATION AND SOCIAL SECURITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a designated employee—

"(A) shall file a Federal or State tax return as if that employee is not a Federal employee and may claim and receive the benefit of any exclusion, deduction, tax credit, or other tax treatment that would otherwise apply if that employee was not a Federal employee, if the Director determines that taking any action under this paragraph is necessary to—

"(i) protect from unauthorized disclosure—

"(I) intelligence operations;

"(II) the identities of undercover intelligence officers;

"(III) intelligence source and methods; or

"(IV) intelligence cover mechanisms; and

"(ii) meet the special requirements of work related to collection of foreign intelligence or other authorized activities of the Agency; and

"(B) shall receive social security benefits based on the social security contributions made.

"(2) IRS REVIEW.—The Director shall establish procedures to carry out this subsection. The procedures shall be subject to periodic review by the Internal Revenue Service.

"(i) REGULATIONS.—The Director shall prescribe regulations to carry out this section. The regulations shall ensure that the combination of salary, allowances, and benefits that an employee designated under this section may retain does not significantly exceed, except to the extent determined by the Director to be necessary to exercise the authority in subsection (b), the combination of salary, allowances, and benefits otherwise received by Federal employees not designated under this section.

"(j) FINALITY OF DECISIONS.—Any determinations authorized by this section made by the Director or the Director's designee shall be final and conclusive and shall not be subject to review by any court.

"(k) SUBSEQUENTLY ENACTED LAWS.—No law enacted after the effective date of this section shall affect the authorities and provisions of this section unless such law specifically refers to this section.".

## TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

### [SEC. 501. REPEAL OF SUNSET ON AUTHORITY TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES.

[Section 431(a) of title 10, United States Code, is amended by striking the second sentence.]

### SEC. [502] *501.* DEFENSE INTELLIGENCE EXEMPTION FROM CERTAIN PRIVACY ACT REQUIREMENTS.

Section 552a(e)(3) of title 5, United States Code, shall not apply with respect to the collection of information by intelligence personnel of the Department of Defense who are authorized by the Secretary of Defense to collect intelligence from human sources.

### SEC. [503] *502.* USE OF FUNDS FOR COUNTERDRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.

(a) AUTHORITY.—Funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counterdrug activities for fiscal year 2005, and any unobligated funds available to any element of the intelligence community for such activities for a prior fiscal year, shall be available—

(1) to support a unified campaign by the Government of Colombia against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)); and

(2) to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) APPLICABILITY OF CERTAIN LAWS AND LIMITATIONS.—The use of funds pursuant to the authority in subsection (a) shall be subject to the following:

(1) Sections 556, 567, and 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2160, 2165, and 2166).

(2) Section 8077 of the Department of Defense Appropriations Act, 2004 (Public Law 108–87; 117 Stat. 1090).

(3) The numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of the Emergency Supplemental Act, 2000 (division B of Public Law 106–246; 114 Stat. 575), as amended by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (115 Stat. 2131).

(c) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel or United States civilian contractor employed by the United States Armed Forces will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting in self defense or during the course of search and rescue operations for United States citizens.

Mr. SESSIONS. Madam President, I ask unanimous consent that the committee amendments be agreed to, that the amendments that are at the desk be agreed to, that the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The amendments (Nos. 4059 and 4060) were agreed to, as follows:

AMENDMENT NO. 4059

(Purpose: To strike section 306, relating to a repeal of the limitation on the length of service as a member of the Select Committee on Intelligence of the Senate)

On page 16, strike lines 1 through 16.

AMENDMENT NO. 4060

On page 9, line 16, add at the end the following: "Such funds shall remain available until September 30, 2005.".

On page 16, between lines 16 and 17, insert the following:

### SEC. 307. INTELLIGENCE ASSESSMENT ON SANCTUARIES FOR TERRORISTS.

(a) ASSESSMENT REQUIRED.—Not later than the date specified in subsection (b), the Director of Central Intelligence shall submit to Congress an intelligence assessment that identifies and describes each country or region that is a sanctuary for terrorists or terrorist organizations. The assessment shall be based on current all-source intelligence.

(b) SUBMITTAL DATE.—The date of the submittal of the intelligence assessment required by subsection (a) shall be the earlier of—

(1) the date that is six months after the date of the enactment of this Act; or

(2) June 1, 2005.

### SEC. 308. ADDITIONAL EXTENSION OF DEADLINE FOR FINAL REPORT OF THE NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

Section 1007(a) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 401 note) is amended by striking "September 1, 2004" and inserting "September 1, 2005".

### SEC. 309. FOUR-YEAR EXTENSION OF PUBLIC INTEREST DECLASSIFICATION BOARD.

Section 710(b) of the Public Interest Declassification Act of 2000 (title VII of Public Law 106–567; 114 Stat. 2856; 50 U.S.C. 435 note) is amended by striking "4 years" and inserting "8 years".

On page 19, strike lines 7 through 15 and insert the following:

"(1) IN GENERAL.—The Director may establish and administer a nonofficial cover employee retirement system for designated employees (and the spouse, former spouses, and survivors of such designated employees). A des-

On page 21, strike line 18 and all that follows through page 22, line 1, and insert the following:

"(iii) in the case of a designated employee who participated in an employee investment retirement system established under paragraph (1) and is converted to coverage under subchapter III of chapter 84 of title 5, United States Code, the Director may transmit any or all amounts of that designated employee in that employee investment retirement system (or similar

On page 22, strike line 24 and all that follows through page 23, line 5, and insert the following:

"(1) IN GENERAL.—The Director may establish and administer a nonofficial cover employee health insurance program for designated employees (and the family of such designated employees). A designated employee

On page 25, strike lines 6 through 12 and insert the following:

"(1) IN GENERAL.—The Director may establish and administer a nonofficial cover employee life insurance program for designated employees (and the family of such designated employees). A designated employee may not

On page 27, line 8, strike "(B)(iii)" and insert "(B)(iv)".

On page 30, strike lines 10 through 16.

The bill (S. 2386), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

## AMENDING SECTION OF IMMIGRATION AND NATIONALITY ACT

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4306, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4306) to amend Section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4306) was read the third time and passed.

## AMENDING AND AUTHORIZING JOHN F. KENNEDY CENTER ACT AND JOHN F. KENNEDY CENTER FOR PERFORMING ARTS

Mr. SESSIONS. I ask unanimous consent that the Senate now proceed to consideration of H.R. 5294, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5294) to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5294) was read the third time and passed.

## IMPROVING ACCESS TO PHYSICIANS IN MEDICALLY UNDERSERVED AREAS

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 775, S. 2302.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2302) to improve access to physicians in medically underserved areas.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part in black brackets and insert in lieu thereof the part printed in italic.]

S. 2302

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.**

[(a) EXTENSION OF DEADLINE.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) (as amended by section 11018 of Public Law 107–273) is amended by striking "2004." and inserting "2009.".

[(b) DESIGNATION OF HEALTH PROFESSIONAL SHORTAGE AREAS BY STATE AGENCIES.—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)) is amended—

[(1) by striking "professionals," and inserting "professionals or in other shortage locations specified by a State department of public health (or its equivalent),"; and

[(2) by striking "in a geographic area designated by the Secretary." and inserting "in such a geographic area or other shortage location.".

[(c) EXEMPTION FROM H–1B NUMERICAL LIMITATIONS.—Section 214(l)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(2)(A)) is amended by adding at the end the following: "The numerical limitations contained in subsection (g)(1)(A) shall not apply to any alien whose status is changed under the preceding sentence, if the alien obtained a waiver of the 2-year foreign residence requirement upon a request by an interested State agency.".]

***SECTION 1. MODIFICATION OF VISA REQUIREMENTS WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.***

*(a) EXTENSION OF DEADLINE.—*

*(1) IN GENERAL.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) (as amended by section 11018 of Public Law 107–273) is amended by striking "2004." and inserting "2006.".*

*(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted on May 31, 2004.*

*(b) EXEMPTION FROM H–1B NUMERICAL LIMITATIONS.—Section 214(l)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(2)(A)) is amended by adding at the end the following: "The numerical limitations contained in subsection (g)(1)(A) shall not apply to any alien whose status is changed under the preceding sentence, if the alien obtained a waiver of the 2-year foreign residence requirement upon a request by an interested Federal agency or an interested State agency.".*

*(c) LIMITATION ON MEDICAL PRACTICE AREAS.—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)) is amended by striking "agrees to practice medicine" and inserting "agrees to practice primary care or specialty medicine".*

*(d) EXEMPTIONS.—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)) is further amended—*

*(1) by striking "except that," and all that follows and inserting "except that—"; and*

*(2) by adding at the end the following:*

*"(i) in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary;*

*"(ii) in the case of a request by an interested State agency, the head of such State agency determines that the alien is to practice medicine under such agreement in a facility that serves patients who reside in one or more geographic areas so designated by the Secretary of Health and Human Services (without regard to whether such facility is located within such a designated geographic area), and the grant of such waiver would not cause the number of the waivers granted on behalf of aliens for such State for a fiscal year (within the limitation in subparagraph (B)) in accordance with the conditions of this clause to exceed 5; and*

*"(iii) in the case of a request by an interested Federal agency or by an interested State agency for a waiver for an alien who agrees to practice specialty medicine in a facility located in a geographic area so designated by the Secretary of Health and Human Services, the request shall demonstrate, based on criteria established by such agency, that there is a shortage of health care professionals able to provide services in the appropriate medical specialty to the patients who will be served by the alien.".*

Mr. SESSIONS. I ask unanimous consent that the committee substitute amendment be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2302), as amended, was read the third time and passed.

Mr. SESSIONS. Madam President, I believe that is all I have. I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I was struck by the fact that when my colleague from Alabama presented his chart on economic growth, it stopped at the end of last year and did not carry forward into this year. Of course, had it carried forward into this year, it would have shown a declining trend in economic growth and that is a matter, obviously, of very deep concern. In fact, there was a story last week, a Reuters news story last week, that said:

> Top U.S. executives are pessimistic about next year's U.S. economy. About 70 percent of the chief executives surveyed by the Business Council projected flat to 2 percent U.S. economic growth. More bearish than forecasts by major economists, the Business Council survey, often seen as a gauge of corporate sentiment, was released ahead of a meeting of the group's members, about 125 CEOs from companies . . .

Then they cite a number of the large companies in the country, saying generally CEOs are a bit more pessimistic, referring to the difference of opinion between executives and economists.

The U.S. economy actually grew at a 3.3 percent annual rate in the second quarter of this year. Now these chief executives are projecting a flat to 2-percent growth. My colleagues on the other side, if you bring these uncomfortable facts to their attention, they say, well, you are talking doom and gloom. But how are we going to realistically deal with our problems if we do not face what our problems are?

I want to address one question, because the previous presentation talked as though the only relevant factor is economic growth. It never addressed job growth. It only addressed job growth in the sense of saying if you had economic growth, you would have job growth. If you didn't have economic growth, you would have job loss. But the problem is more complicated than that, the problem we are confronting right now. I want to point out a couple of factors in that regard.

This chart shows how unemployment has moved in previous postwar recoveries, and how it is moving in this one. What it shows: Of course, you obviously get a downward trend in employment as you go into a recession. Then you try to come out of a recession. Of course, recessions are measured by economic growth figures. In the average of postwar recoveries, this is what has happened with respect to employment. We have had this kind of growth. So we have had a good, rising trend in employment.

In this recession, this is what has happened to employment. There is a huge gap here in terms of the recovery with respect to jobs. That is why we are so concerned about jobs. That is why we continuously stress that point.

This figure was underscored earlier in the conversation we had about the number of long-term unemployed, which has jumped so substantially. One question becomes, Why are we not getting the jobs? I think one answer to that is to be found in these two charts. What we see in recent years is a sharp increase in productivity. In other words, that is what a worker can produce for each hour of work. But we do not see an increase in worker wages. Productivity is growing much faster than worker wages. The workers who are producing more for each hour worked are, in effect, not sharing in the benefits and their wages are running virtually constant.

One might ask, What happened in other recessions? What usually happens is that worker wages, as you come out of the recession, rise commensurate with their share of the economy, which is about two-thirds. But here is what is happening this time. The worker wages are not rising, but the corporate profits are rising 65 percent. So most of the benefit from the economic growth in this partial recovery is not going to the workers, but it is going to corporate profits. This is in marked contrast with previous recoveries. I want to underscore that point. This is a very different pattern than we have seen in the past. Of course, part of the reason for that is the policies of this administration.

Then the counterargument is made on the other side: If you give the corporation these profits, they will invest them and therefore strengthen the economy, build the economy and create jobs. But here is what has happened in this Bush administration. These are the growth rates of plant and equipment investment by U.S. corporations. As you can see, it actually is down, negative during this Bush administration, compared with previous administrations in which it was a positive figure. So what is happening is the benefits are being skewed away from the workers, but those receiving the benefits are not investing them in the economy in order to build businesses and create jobs. That, of course, explains in part, in my view, why there is such a tremendous lag in this recovery in terms of producing jobs. There is no way you can get around the fact.

I listened earlier. No one actually challenged any of the figures or facts about the employment situation. There is no way you can get around the fact that this is the first administration in 75 years not to have a net gain of jobs in the course of the administration. They are still down 825,000 jobs from where they were when they came into office. They are down 1.6 million jobs in the private sector and they are down 2.7 million manufacturing jobs.

My colleague from Alabama says we have produced this year a gain of 93,000 jobs. He says that is a good thing. It is a good thing in the sense that we want to be positive in producing manufacturing jobs. It is not such a good thing if you put it in the context of the fact that we have lost 2.7 million jobs since January of 2001. If you put the figure in context, I am relieved that we gained a few manufacturing jobs this year. That is certainly better than losing them. But if you are looking at the record of this administration, the fact is in the course of this administration they have lost 2.7 million manufacturing jobs.

You can come to the floor and say we gained 93,000 manufacturing jobs this year, and that is a good thing. As far as that statement goes, it is a good thing. But it is in the context of the fact that we lost 2.7 million jobs over this time period, over the entire time period. That also relates, of course, to the points that are being made now about the gain in jobs that has taken place—well, the month that is usually used by my colleagues on the other side is, I think, August of 2003. I am pleased and relieved that we have gained some jobs. But the fact remains these job gains have tailed off in recent months.

The other side would have a story to tell if they had sustained job gains. They might have gotten out of the hole and actually produced more jobs, a net gain of jobs in the course of their administration. The Treasury Secretary was projecting it would create a huge number of jobs. It has not happened.

As this chart indicates, we are on a descending line month to month in terms of job creation going back to the beginning of this year. That is the concern about jobs.

It is fine and good to come to the floor and show economic growth charts, although one would have hoped that the chart would have carried out into this year and not stopped at the end of last year.

Second, one has to take into account what people are now saying about what to expect on economic growth, and particularly the story from last week about the Business Council meeting. The leading U.S. corporation chief executives met in Irving, TX, where the top U.S. chief executives said they are pessimistic about next year's economy. About 70 percent of the chief executives surveyed by the Business Council projected flat to 2 percent U.S. economic growth.

That is why we are concerned. That is why the public is concerned. That is why working people are concerned. They feel it.

You may come to the floor and say everything is a rosy scenario. But if you are long-term unemployed, you know it is not a rosy scenario. Long-term unemployed now as a share of the unemployed is at the highest figure it has been—over 20 percent now for 24 straight months.

Trying to portray a rosy scenario is not going to take care of the problem of the long-term unemployed. We tried to do something about that in the Senate. We tried to extend the unemployment benefits, but that was beaten back, regrettably. People who exhaust their benefits and aren't able to find a job find themselves in dire circumstances in terms of meeting the needs of their families.

I think we have a serious job unemployment situation. I think we need to face it. I don't think it helps to simply try to brush it away, paper it over. These trend lines, regrettably, are not working in the right direction.

Now, with this forecast from these top U.S. executives of the Business Council, we can see that we face an even greater challenge as we move towards 2005.

I simply close with the observation that this administration has not produced a net gain of jobs in the course of its tenure. You have to go all the way back to Herbert Hoover to find an administration, whether Democrat or Republican, through that period that failed to produce a net gain of jobs in the course of that administration. That, of course, is one of the very key reasons this election that comes before us on November 2 is so important for the future of our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, I thank the distinguished Senator from Maryland. I know he is very skilled in his knowledge of these issues. I don't know how the President can be blamed for this or that, or how any President can be.

I will just say this: When President Bush took office this economy was in trouble. In the first quarter he inherited there was negative growth; the second quarter was negative growth; the third quarter was 9/11. In the third quarter of former President Clinton's last year in office there was substantial negative growth, and one-half of the value of the NASDAQ stock exchange had been lost by the time President Bush took office. I will just say that he inherited a problem. And in the last 12 to 15 months, 1.9 million jobs have been created in this country. We had growth as high as 8 percent late last year for the third quarter, which is the highest growth in 20 years.

Yes. We have challenges. Five and four-tenths percent unemployment is too high for me. It is a lot better than Europe. It is a lot better than most countries in the world. But it is not good enough.

But I note this: The 5.4 percent unemployment rate that we have today, which we are working to improve, is better than the average unemployment rate of the 1970s, 1980s, or 1990s.

I hope we will continue to work on it here together in Congress, the President and everyone, to see what we can do to continue to help grow the economy. Certainly, if we don't have a growing economy we will not create jobs.

Mr. SARBANES. Madam President, will the Senator yield for a question?

Mr. SESSIONS. Yes.

Mr. SARBANES. Was the Senator disappointed by the jobs figures for the month of September of 96,000?

Mr. SESSIONS. I have not been disappointed for the last 6 months of job figures. There have been some tremendous numbers. What was the highest month we had this year? There were 300,000 or 400,000 jobs created in 1 month, and there was 1 where it was 100,000. I would like to see it stay at 200,000 or 300,000. Sure. The unemployment rate today is stable. But we did add jobs.

Mr. SARBANES. The Senator has to go back to March of this year to get the kind of job figures he is talking about.

Mr. SESSIONS. March of this year was just a few months ago. It is not as if it were 5 years ago.

Mr. SARBANES. The concern is that these job figures are coming down like this. It seems to me that the Senator has to face the fact that this is where the job figures have been trending over the last 6 months.

Mr. SESSIONS. We had—how many was it? I believe 240,000 jobs were created last month.

Mr. SARBANES. No.

Mr. SESSIONS. The month before last?

I reclaim the floor, Madam President. I was going to speak on another subject.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. SARBANES. I would like to answer the question he just put to me.

Mr. SESSIONS. Maybe the Senator could read the last 3 or 4 months in job creation. Does he have them? There have been some pretty good months in there.

Mr. SARBANES. Not in the last 3 or 4 months, earlier in the year. Employment, again for the last 4 months, totaled 400,000 in the last 4 months. So it has averaged about 100,000 a month.

Mr. SESSIONS. It is better than what President Bush inherited from President Clinton.

Mr. SARBANES. He inherited a very strong economy in terms of the number of people who were working. And participation in the labor force was up very high. We broke records in terms of job production in the 1990s in the number of people we put to work.

Mr. SESSIONS. All right. Madam President, I will just say this: The economy was sinking when President Bush took office from President Clinton. And a sinking economy inevitably means you are going to have job losses, and that is what occurred. The President has turned this economy around. We have seen some robust growth in the last year. And we have created 2 million new jobs, as the Senator well knows, and we can debate that round and round forever. I think the glass is at least half full. I guess the Senator is seeing it half empty.

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## STEM CELL RESEARCH

Mr. SESSIONS. Madam President, I am going to speak about the stem cell research issue, which I think is important. I don't have an answer to it fully.

I so much admire Christopher Reeve, whose death we have noted today. His commitment to dealing with the terrible problem of spinal cord injury was a passion of his. We believe that stem cell research may well result in improvement, and hopefully even a cure for spinal injury. It is certainly something that I support. I know the President supports it. I think every Member of this body supports it.

I want to share a few thoughts.

Last night, Dr. BILL FRIST, our majority leader, who, as the Senate knows, is one of America's great doctors—he was a heart and lung transplant surgeon at the Vanderbilt University Medical School, and he is a highly trained and skilled physician. He discussed these issues last night and I entered into a little dialog with him on the floor of the Senate.

But in light of some of the comments that have been made today, I think it is appropriate that we at least get some perspective on this issue and try to get back to a rational discussion about it.

There are different types of stem cells. The one that causes some concern is the embryonic stem cell. If it is not destroyed and allowed to develop, it will become a human being. That embryo has within it its genetic makeup, the markers that will determine whether that person is tall or short, red hair or brunette, whatever the color of eyes and every other characteristic of that unique human being in that cell. It is a stunning, remarkable, marvelous miracle of life.

When we destroy that which is on the way to being a fully developed human person, I don't think anyone can say such destruction does not raise at least some moral and ethical dilemmas. Doesn't it raise some question about how we should be able to proceed in dealing with it? I make that point first.

It is not a matter of insignificance, the concerns raised here, when we deal with an embryo that, if allowed to develop, would be a human person.

Senator FRIST laid it out well last night. He quoted Senator KERRY in the debate as criticizing President Bush for imposing a "sweeping ban" on stem cell research. We had Senators this afternoon say President Bush's policy would "close the door" on stem cell research. Senator FRIST said as a physician, putting on his physician robes, he said that this is a cruel thing to say to patients who are ill and dying, and it is just not true.

Senator KERRY knows it is not true. His comments are an attempt to make something out of nothing and to misrepresent the position of the President and this Congress on this issue. It is not true that the President wants to stop stem cell research.

Let me say where we are, as I understand it. People can agree or disagree with the policies. I agree with the policies.

First, there are what we call adult stem cells. These come from bone marrow and other parts of the human anatomy. President Bush has increased substantially the funding for adult stem cell research. We have made some medical progress in various diseases, including diabetes, using adult stem cell research. We are spending more money than we have ever spent on it, and we all support that. Private research is also ongoing on adult stem cell research.

Then there are the embryonic stem cell research issues that raise these moral and ethical questions. I don't claim to have the answer to all the concerns.

I remember the 100th Psalm that says, Without our aid he did us make. Or the Declaration of Independence says, We are created equal. If you believe we are created beings and that there is a sacredness to life, anybody ought to have at least some concern about this question of creating a human being in the making and then destroying that to carry out research matters.

It is a matter that deserves serious moral and ethical discussion. I don't think we respect life very much if we lightly move into this area without any limitations.

There are stem cell lines that have already been created from embryos that have been killed and destroyed, in effect, in their capability of becoming human, and those cell lines continue to produce today. There are 26 or more lines producing on a regular basis—embryonic stem cells—and Federal funding is allowed for that. Those that we have already done—and the President considered it carefully and thoughtfully, saying, well, we cannot go back and reverse that—let's go ahead and allow the research to go forward in that area.

In addition, I note there are no bans whatever on stem cell research. The question has simply been whether we will take Federal tax money and spend it on embryonic stem cell research. That has been the discussion on how we are going to do it. President Bush said we will do it for the existing lines but we will not take taxpayers' money and destroy life to do an experiment.

Universities, private labs, and hospitals, can all freely conduct scientific research on embryonic stem cells. It is not against the law. It is not prohibited. It is simply that we are not going to have the taxpayers—many people have strong feelings about this life issue—to take that money and fund it. It is appropriate to recognize this ethical issue and to show this small bit of respect for this marvelous, unique, sacred bit of life that is the beginning of a human person. I don't think we ought to be spending taxpayer money on it.

Dr. Frist explained last night only adult stem cell research today has shown progress in medical research. The embryonic stem cells have not. Senator Sam Brownback has talked about this. He said scientists are finding that the embryonic stem cell tends to be volatile and not as capable of being utilized in a therapeutic way as adult stem cells. Regardless of how it may turn out in the future, that appears to be the state of the science today.

So we are putting the tax money into the areas that not only do not raise ethical questions but have the most proven success in making therapeutic breakthroughs.

We are not slamming the door or closing the door on stem cell research. We do not have, as Senator KERRY falsely stated in the debate, a sweeping ban on stem cell research. That is not true. He ought not to have said that. He knows better. He is trying to scare people. It is a cruel thing for people out there with illnesses today who think there is a ban and that they cannot be helped with research from stem cells. There is unprecedented research in the stem cell area. We are going to continue that.

I don't know the answers. I am not a physician or scientist. Is there nothing we won't prohibit in the name of science or research?

I am familiar, from my home State of Alabama, with the research done on syphilis that left people infected so they could study them, and compare them to people who were treated for syphilis. We now know that was wrong.

We, in this country, have believed by a substantial majority that cloning human beings is not right and should not be done. We certainly have all seen the rejections of Nazi Germany's abuses of science. As a society and a nation, there ought to be some limit on what we can allow or should allow. People should be able to talk about it and wrestle with it and Congress ought to act on it. If there is serious doubt about one phase of scientific research, maybe it is perfectly appropriate that taxpayers not be required to fund that because when the Government funds it, there is a governmental and societal affirmation that this is a good and healthy way to operate. We should work on these issues very carefully.

I close with these thoughts. In the history of the world, no nation has invested so much in its effort to cure disease as this Nation. I have been pleased and proud of this Congress since I have been here 7, 8 years now, that we promised several years ago to double the funding for the National Institutes of Health. We have met that goal.

We have had tremendous increases in spending for the National Institutes of Health which is where our research money goes. For the most part, we allow physicians and scientific experts to say how that money is spent, what diseases have the best chance of being cured, what experiments going on out there have the greatest opportunity for breakthrough. We don't try to micromanage that. In general, that is good and I support that.

There are things we as a society can speak about. We are not denying people hope. It would be terribly wrong to suggest what is going on as a policy in our Congress and in our Government is denying people hope that medical breakthroughs can occur from stem cells.

We are going to continue unprecedented Federal spending. We will continue unprecedented private spending on stem cells. We will spend Federal money on embryonic stem cells and Federal money on adult stem cells. Who knows, some of those may result in great breakthroughs that will help prolong the life and health of millions of American people and not just in America but the whole world.

This Nation, through our investment in scientific research, has lifted and improved the lives of people all over the world. It is something that we can take pride in as a people. It is something for which I am proud. I want to continue to see it developed.

As we go forward, as we continue to debate these ethical and moral matters, as we continue to see the improvements in science and learn more from science, we may adjust and be able to come up with different ideas as we go forward on stem cell research. Who knows what we will learn as time goes forward.

Based on what I understand today, I see no reason in science, I see no reason in ethics—that requires that we blindly go in and destroy life for scientific experimentation when there is no clear indication that experimentation will result in health benefits to American people.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

## A MILITARY DRAFT

Mr. HARKIN. Mr. President, whenever I travel in Iowa, I hear moms and dads worrying out loud that if President Bush gets a second term, he intends to reinstitute the military draft. I hear the same thing from college-aged Iowans. In fact, a national poll of young people found that 55 percent expect the draft to be started up again. Of course, the joke that is going around is: President Bush insists that there will be no draft. And if anybody knows how to avoid a draft, it is George W. Bush.

But the facts tell a different story. The facts tell us that if President Bush continues on his current course, he will have to reinstitute the draft. In fact, to meet personnel needs in Iraq, President Bush has already imposed stage one of a new draft. Many soldiers whose enlistment time is up are not being allowed to leave the service, and people who left the service years ago are being forced to put on the uniform again against their will. So we already have a backdoor draft. Let's be honest about it. President Bush has already done away with the All-Volunteer military. Stage two of the reinstated draft would be easy to implement. Draft boards are already in place in every county in America. Young men who turn age 18 are already required to register with their local draft board. It is becoming increasingly obvious that because of President Bush's new doctrine of preemptive war, our military is stretched dangerously thin. We do not have enough people in uniform to meet current needs in Iraq and Afghanistan, much less to deal with a confrontation with Iran or North Korea or some other hot spot.

Here are the hard realities that cannot be ignored. Right now, total Active Army and Marine personnel number about 655,000. That includes support units, training units, headquarters personnel, and others who do not see combat.

In a long, drawn out war such as a Vietnam or an Iraq, units sent to the front lines have to be rotated out periodically and replaced by an equal number of forces. Now, currently, we have 135,000 troops in Iraq, 20,000 in Afghanistan, 36,000 in Korea, more than 100,000 in Europe, and some various troops scattered in Japan and Okinawa and a few other places.

Our Armed Forces have been stretched and strained to the breaking point. To fill the gaps and shortages, tens of thousands of guardsmen and women reservists have been called up, some for several years at a time. But there is a cost to all of this. Morale is suffering. Enlistments and reenlistments are down. The Army National Guard fell 10-percent short of its 2004 recruiting goal. The Regular Army has had to ease up on standards in order to meet its recruitment goals.

Now, what happens if all-out civil war breaks out in Iraq and we have to increase our troop strength to 200,000 or 300,000 to quell it? What happens if a newly reelected President Bush decides it is time for a preemptive war against Iran or Syria or North Korea?

President Bush has already effectively ended the All-Volunteer military. People are hesitant to join the Guard or Reserve because the odds of being sent into combat have skyrocketed.

So how in the world would a second-term President Bush meet the personnel needs of his doctrine of preemptive war? Bear in mind, President Bush has changed the standard for justifying preemptive war.

As the New York Times reported on Sunday, originally the criterion was that a rogue nation was an imminent threat to us, that it either possessed weapons of mass destruction or was actively attempting to build these weapons of mass destruction. But in response to the Duelfer report last week, which found no weapons of mass destruction stockpiles and no active program to produce these weapons in Iraq, President Bush says that does not matter. He said that a preemptive invasion is justified if an enemy is trying to avoid United Nations sanctions by "gaming the system," as the President put it.

As the New York Times concluded:

> Mr. Bush appears to be saying that under his new standard a country merely has to be thinking about developing illicit weapons at some time.

Or as Joseph Nye of Harvard concludes:

> The President is saying that intent is enough.

Well, given either the old or the new standard for justifying preemption, the U.S. military is going to be very busy indeed if President Bush is reelected. Our military personnel needs will grow dramatically as morale, enlistments, and reenlistments fall. That is exactly why I have taken the floor today, to state this: That I believe President Bush intends to reinstate the draft. Why can I say that? Because he has no choice. To pursue his agenda of aggressive preemption, he must reinstate the draft.

Now, if you look at history, incumbent Presidents never reveal their true intentions on matters of war and the draft. Those of us who were around in the 1960s remember President Lyndon Johnson, a President of my own party. When he was running for election in 1964, people were afraid he had a secret plan to escalate the war in Vietnam. He denied it. President Johnson repeatedly promised: I will not send American boys halfway around the world to do a job that Asian boys ought to be doing for themselves.

Well, Mr. Johnson was reelected and, sure enough, millions of American boys were drafted and sent halfway around the world to Vietnam.

So young people today have good reasons for fearing the draft. They have good reasons for not believing President Bush's reassurances that he has no intention of reinstituting the draft. After all, President Bush has quite a lengthy track record of saying one thing and doing exactly the opposite. Well, I guess there is some kind of a technical term for this. I guess it is called: Flip-flopping.

Remember, as a candidate in 2000, President Bush was for a "humble foreign policy" before he was against it. He was against nation building in foreign countries before he was for it. He was for a peaceful resolution of the confrontation with Iraq before he was against it. He was for an All-Volunteer military before the pressures of war in Iraq obliged him to do away with the All-Volunteer military.

Now he says he is against the draft. I think our young people can be forgiven for doubting President Bush is going to stick with that position. George W. Bush may have avoided the draft when he was a young man, but he is not going to be able to avoid the draft as President if he is reelected and pursues his policy of preemptive war.

## OVERTIME PAY

Mr. HARKIN. Mr. President, I also want to talk about a few of the things that have happened here this year in the course of our deliberations and debate on legislation in the Senate and in the Congress.

One of the issues I would like to talk about—and it came to a head here at the end—has to do with agriculture. But before I get into that, I want to talk about overtime pay. Then I want to talk about agriculture and conservation.

Last week, in a replay of what happened almost a year ago, the Bush administration used a conference committee to kill my provision to stop the Department of Labor's new rule on overtime pay, a new rule which, if it is allowed to stand, will strip 6 million workers of their right to time-and-a-half overtime pay.

Once again, the overtime provision I offered and which was adopted by the Senate was killed in conference, despite votes in both Houses of Congress demonstrating strong bipartisan support for my amendment to stop these onerous rules of the President from going into effect and denying the right of overtime pay to some 6 million Americans.

Now, yesterday, we in the Senate, yet again, voted to protect hard-working Americans' right to earn overtime pay. That bill we passed—as the amendments I have offered before that we passed four times—serves the simplest of purposes. It lets stand the new threshold of $23,660, below which anyone who is working is automatically guaranteed the right to overtime pay, and it guarantees that no worker who currently receives overtime pay would lose the right to overtime under the new rule. That is what this Senate voted to keep four times, and the House, twice.

This is a subject I feel deeply about, and I know I am not alone. Wherever I travel in the United States, people come up to me and talk about what overtime pay means to them and their families. They can become quite emotional about it. They know what this administration is trying to do. They are angry that this administration wants to roll back this new overtime rule.

It is a simple matter of honoring work. People believe that when they put in more than 40 hours of work in a week, that they are giving up their premium time, their time with their families, and that their employers should provide them with premium pay if they are giving up their premium time.

Also, many Americans rely on that premium pay as a substantial part of their income—to put a little bit aside for a college education, a rainy day fund, or perhaps maybe to buy a better house, move up the ladder a little bit, buy a new car.

Other people, to tell the truth, would just rather not work a lot of overtime hours. They believe a 40-hour workweek is a full workweek. That is what the Fair Labor Standards Act established when Congress passed it in 1938. It established in law the principle of a 40-hour workweek, that anyone basically who works over that gets time-and-a-half overtime pay. That was 1938.

But get this, in 1933, this Senate, right here in this very Chamber—in 1933, after lengthy debate—passed a bill to establish not a 40-hour workweek, or 50-hours, as it was then, but a 30-hour workweek—a 30-hour workweek, in 1933. Think about that. They voted here to establish a 30-hour workweek in 1933.

Congress fought about it for about 5 years, and finally, in 1938, they compromised at 40 hours. It has been that way ever since. I will bet we couldn't pass a bill in this Senate today to establish a 50-hour workweek. By letting these rules go into effect, we are telling people, hey, you can work over 40 hours a week, but don't expect time-and-a-half overtime pay. That is exactly what we are talking about.

Again, we know that if overtime is free to the employer, if they don't have to pay anymore, they will work people overtime. This chart illustrates that. The red block is those who have no overtime protection. The green represents people who do have overtime pay protection. Of those who have overtime protection, only 19 percent work more than 40 hours a week, about one out of every five. These are people who get paid for overtime. But if you are not eligible for overtime pay, 44 percent work more than 40 hours a week, almost one out of every two. So if you don't have overtime pay protection, you are twice as likely to work overtime.

How about working more than 50 hours a week? If you have overtime pay protection, only about 5 percent work more than 50 hours a week, but if you don't have overtime pay protection, three times as many—15 percent—work more than 50 hours a week.

That tells the whole story right there. That is what is happening. If this new rule is allowed to stand, we will be back here 5, 6, 7 years from now, and you are going to see this red mark way up there, 50, 60 percent or more of people without overtime pay protection working more than 40 hours a week.

Last year, the Bush administration launched an assault on the time-honored principle of time and a half pay for over 40 hours. Actually the proposal of the President came out in a set of proposed rules from the Department of Labor. The Fair Labor Standards Act of 1938 has been amended and changed a number of times since 1938, but it has always been done through the legislative process, not administrative rulemaking.

Ordinarily, the administration comes to Congress. They say they would like to modify the Fair Labor Standards Act for one reason or another. The appropriate committees have hearings. They bring in witnesses. We work it out. We bring it to the floor. We pass it. It goes to a conference with the House, and it is sent to the President for signature. That is the way it ought to be done.

This time, for the first time, this President issued a proposed set of regulations drastically changing the overtime pay rules without one public hearing. They issued these proposed rules without having one public hearing. It actually took us several weeks, kind of plodding through the proposed rules, to see what they were proposing. The magnitude was breathtaking.

Some of the most harmful provisions were not discovered until months later. Frankly, we were shocked when we first saw in these proposed rules of the administration that they were proposing to strip overtime pay from police officers, firefighters, veterans, nurses, and many others—radical stuff. Of course, once the true intent and extent became known, many of those affected were in open rebellion. We talked about it, and I talked about it here on the Senate floor.

When the Department of Labor issued the final rule just this spring, the White House seemed to have an election year conversion. Under extreme pressure from labor unions as well as us here in Congress, the administration backed off its attempt to strip overtime from certain high-profile groups such as rank-and-file police officers, firefighters, emergency medical technicians. I salute the efforts of many individuals and groups who fought hard and who forced the administration to abandon several of these most offensive and egregious proposals.

But what did the change do? They took us from an estimated 8 million people hurt by these overtime rules to 6 million. So basically we went from a proposed set of rules that were profoundly terrible to a set of rules that were just plain terrible.

The administration said they fixed it up. Sure, I admit there are about 2 million fewer people who were affected in the final rules, policemen and others. But make no mistake about it, up to 6 million hard-working Americans earning as little as $23,661 a year will lose their right to time-and-a-half overtime pay.

Mr. FRIST. Will the Senator yield for a question? It is really an inquiry about tonight's schedule. About how long do you think you will be? You are the last speaker. I know you outlined all the things you will be talking about. Just so I can plan personally.

Mr. HARKIN. I have been guaranteed 2 hours today. I spoke 10 minutes earlier. I assumed I had about an hour and 50 minutes.

Mr. FRIST. I can come back later tonight. My son's birthday is tonight. I have been here for the last 3 days. I wanted to plan for my dinner. Again, I can come back later tonight.

Mr. HARKIN. I have probably about 10 more minutes on overtime. I want to talk about the conservation program and just a little on the economy, so maybe 45 minutes.

Mr. FRIST. OK.

Mr. HARKIN. Frankly, at this point the administration has zero credibility. As I said, when the proposed rule was issued more than a year ago, it took months of reading the fine print before we realized just how destructive it was. Only belatedly did we discover that the administration was giving tips and advice to employers as to how they could avoid paying overtime to employees. Right in the rules there is advice to employers how they can get around it. I had never seen that before, either.

Here we go again. The administration is all smiles and happy talk. Again the administration is assuring workers they won't lose their overtime rights. When the Bush administration smiles and says it only wants to fix overtime, I have five words of advice to American workers: Hang on to your wallets.

What I am telling you about this new overtime rule is not just according to me. Just a couple of months ago, the top three people who administered these regulations over the course of the last two decades released a report detailing their indepth review of these rule changes. Of all the people in the universe of labor experts who have weighed in on the Bush overtime rule, I would have to think that the credibility of these three persons is unparalleled on this issue. Why do I say that? They have no ax to grind. They worked for Republican and Democratic administrations, going clear back to President Reagan, the first President Bush, and President Clinton. One of them worked for this Bush administration. These are the three experts who administered this program. If you have any reservations about my interpretation or criticism, I invite you to read their analysis.

These three career officials have said:

> In every instance where DOL [Department of Labor] has made substantive changes to the existing rules, it has weakened the criteria for overtime pay exemptions and thereby expanded the reach and scope of the exemption.

Let me repeat the administration's central claim. They are saying that no workers earning less than $100,000 a year will lose their right to overtime pay. Well, one of these career DOL officials was quoted in the New York Times as saying by his analysis, 3 to 5 million Americans would lose their eligibility.

This other chart I have shows the impact of this new rule. It is clear that employees earning $100,000 a year or more can be exempted because they are exempted under the highly compensated employee provisions, if they make more than $100,000. Then if you earn less than $23,660, you are automatically nonexempt. You have to be paid time and a half. Who is in between? Well, a lot of people but especially team leaders. I will talk a little bit about team leaders.

Under the new rule, a worker who leads a team of other workers loses his or her right to overtime. Under the old rule, there was no provision concerning so-called team leaders. There wasn't even such a term. But the new rule, section 541.203(c), states:

> An employee who leads a team of other employees assigned to complete other projects for the employer meets the requirements for exemption even if the employee does not have direct supervisory responsibility of the employees on that team.

This team leader loophole is big enough to run an Amtrak train through. Team leaders are commonplace throughout the manufacturing and service sectors. They are especially common in factories, refineries, chemical plants.

MIT professor of management Tom Kochan estimates that this team leader loophole alone could deny overtime rights to as many as 2.3 million workers. Again, the administration claims that no worker making between $23,660 a year and $100,000 a year will be denied overtime. That statement is just plain false.

When Congress enacted the Fair Labor Standards Act in 1938, it anticipated there would be a number of less than honorable employers who would try to cheat workers out of their overtime pay. So Congress included a penalty provision that would act as a strong deterrent. Here is what it was. Under the old rule, if an employer was cheating employees out of overtime pay, the penalty could be massive. All employees in the enterprise—all employees, including even salaried employees who were exempt from overtime—had to be paid time and a half overtime for the period that the improper practices took place. It was known as the nuclear deterrent. It was very tough.

Now, by contrast, under the new rule, the penalty is limited to the work unit where the violation was detected. This ignores the fact that, in nearly all instances, overtime violations are not limited to a renegade supervisor. They are almost always as a result of companywide practices. In other words, we have gone from the nuclear deterrent of old to the new sort of pussycat deterrent under the new rule. Under the new rule, many workers will legally lose their right to overtime pay. That is one part of it. And employers who cheat workers out of overtime pay illegally will receive a penalty that is nothing more than a slap on the wrist. No wonder the Wall Street Journal called the new rule a victory for business groups. No wonder this new rule is so strongly supported by corporate America.

It is time for the Bush administration to listen to Main Street, not just Wall Street; listen to ordinary working Americans. One of their highest concerns is economic security. Not only do they fear losing jobs, health care, and retirement; they are now afraid they will lose their right to time and a half compensation. They have good reason to fear that. They fear they will work a 50- to 60-hour week, with zero compensation. That is what is going to happen under these new rules. Last week, in 17 cities across the country, thousands of workers, who are angry about these new overtime rules, rallied in parks and outside Federal buildings. They delivered scores of boxes full of postcards to the Bush-Cheney campaign headquarters, asking the President to take back this overtime pay cut.

Dixie Harms, a long-time trainer of nurses in Des Moines, said:

> If overtime is changed for hospital nurses, we will see a mass exodus of registered nurses from the hospital setting, because they will get fed up and refuse to volunteer so many hours to do what they really love doing.

It is bad enough to deny American workers overtime pay rights, but what is striking is the mean-spiritedness of the Department of Labor. As I said, the Department offered employers what amounts to a cheat sheet, giving helpful tips on how to avoid paying overtime to the lowest paid workers. For example, the Department suggests cutting a worker's hourly wage so any new overtime payments will not result in a net gain to the employees. It also says you can take a worker's salary, raise it up a little bit so that it meets the threshold. Say an employee is making $23,600 a year. All you have to do is give them a $61 increase, and guess what. You don't have to pay them overtime; you can exempt them. That is in the Department's rule, those tips. I liken that to the IRS giving helpful hints to tax cheats, saying if you want to cheat on your taxes, here are some tips on how to do it. We would be up in arms if the IRS were to do that. But we let the Department of Labor do it. Here are helpful hints on how to cheat your workers out of their legitimate right to overtime pay.

It happened recently. According to an article in the Detroit News last month, 2 managers out of 150 at Rozwell's Metro Detroit Burger King franchises became eligible for overtime. Listen to this. Rather than make them hourly workers, the company gave them a $20 a week raise to maintain their salary status. Two managers out of 150 are eligible for overtime under these new rules. What a deal.

I want to close my statement on this by saying there is one group disproportionately harmed by these new overtime rules: working women. Why? Because women tend to dominate the workforce in retail, services, and sales positions, which would be particularly affected by the new rule. Three in 10 working women earn all or almost all of their family incomes. Three in 5 earn about half or more of their family's income. Four in 10 women work evenings, nights, or weekends on a regular basis. One-third work shifts different than their spouses or partners. From 1979 to 2000, married women increased their working hours by nearly 40 percent. Their contributions are especially important to lower and middle-income families.

Yet, now the administration's new rule will take overtime pay protection away from millions of American women. They will have to work longer hours for less pay. This means more time away from their families, more childcare expenses, with no additional compensation. Listen to what Sheila Perez of Bremerton, WA, says. She is a single parent, working hard to support her family. When she leaves work after a difficult 8-hour shift, she says:

> My second shift begins. There is dinner to cook, dishes to wash, laundry, and all the other housework that must be done, which adds another 3 or 4 hours to my workday. My time at home with my kids and family is truly my premium time. It is personal time. It is the most valuable time of the day. So if I am required to work longer than 8 hours, if

> I have to sacrifice that premium time with my family, then I ought to receive premium pay. That is overtime pay.

I have never heard it said better. Sheila Perez is right. If she is going to sacrifice her personal time, premium time, with her kids, it is only fair that she be compensated on the premium basis, with time and a half overtime pay.

Later this week, we will have another debate between President Bush and Senator KERRY. It is going to be on domestic issues—that is what I understand—the economy and domestic issues. I hope we will hear about this issue of overtime pay.

I am sure the President will say: Look, we expanded overtime pay. Why, we raised the base from $8,000 to $23,660.

Yes, with one hand, they raised up the base for low-income workers; and with the other hand, they took it right back. What a nice shell game. I gave you examples of how employers are getting around it, and the fact that the Department of Labor put out a cheat sheet on how to cheat workers out of overtime pay legally. How about the workers making $24,000, $25,000, or $26,000 a year? That is barely poverty wages. They are above the threshold. They will be exempt from overtime pay. Senator KERRY has stated that if he is inaugurated President in January, the next day he will rescind those onerous Bush administration rules. We will keep the base raise; we will raise the base from $8,000 to $23,660. That is what my amendment did. But we will guarantee that every worker in America who is eligible for overtime pay this last year will be eligible next year and the year after and the year after.

If President Bush is reelected, up to 6 million Americans will lose their right to overtime pay. To me, this is a gut issue. This affects our working families. We want to protect our overtime rights in America, getting time and a half over 40 hours. Senator KERRY, the day after he is sworn in as President, will rescind those onerous rules and put us on the right track.

I want to close my comments on this legislative year today regarding a couple of other matters, including the insistence by this administration that we take money for disaster assistance out of USDA conservation programs. Now, I have here a statement of the President of the United States, George W. Bush, that he made when he signed the farm bill.

I was there. I was chairman of the Agriculture Committee at that time. He touted the new farm bill for what it did on conservation. He said:

> This bill offers incentives for good conservation practices on working lands.

That is the Conservation Security Program. The President went on to say:

> For farmers and ranchers, for people who make a living on the land, every day is Earth Day. There are no better stewards of the land than the people who rely on the productivity of the land. And we can work with our farmers and ranchers to help improve the environment.

That is what he said when he signed the bill. However, twice now—once a little over a year and a half ago—the President has tried to take some $3 billion out of conservation funds. He succeeded in 2003, but then we put it back early this year.

Here we are again with the legislation that passed today. The President has once again taken just short of $3 billion out of conservation after saying he is for conservation. He said this in the debate last Friday. In his debate with Senator KERRY, he talked about how he was for strong conservation. I about came out of my chair when I heard that because at the very time the President in St. Louis was making this statement in the debate about how much he supported conservation, his people were up here on the Hill trying to gut it, take money away from it. Amazing.

Let me talk a little bit about this program. We have always had different conservation programs in America. We helped farmers who built terraces or grass waterways, for example. We supported practices to try to conserve soil and water, but much of Federal efforts entailed taking land out of production.

For years, farmers and ranchers all over the country have said: It seems that the people who get the USDA money are mostly those who are the worst in protecting soil and water. They plow up the turn rows, they go up and down the hills. They plant one crop right after the other. They do not rotate the crops, and they do not worry about soil erosion. Those were the ones who got the USDA funds. The good stewards stop runoff. They do not allow the streams to be polluted. But there is not much help for them, and these are most of our producers. These are the people who produce our food and fiber, the most abundant food anywhere in the world at the lowest cost, and the safest food.

Out of that came this idea that we ought to have an incentive program, as the President said in his statement, an incentive for good conservation practices on working lands.

We put that into the farm bill of 2002. It was called the Conservation Security Program. The idea was to begin to reward farmers for adopting and maintaining good practices. Unlike the commodity programs that give more money the bigger you are—the bigger the farmer, the more money he gets—unlike that, this program said: We do not care how big or small you are, it depends on what conservation you do. The more conservation work you do on your working lands—we are not taking land out of production; it is how you farm—then that is how you will get incentive payments.

The most any farmer, no matter how big you are, could ever get out of this is $45,000 a year. So it does help family-size farms. It helps all kinds of farms—vegetable farms, orchard and fruit farms. It helps corn, soybean, cotton, rice farms, and anybody else who wants to practice good conservation on their working lands. That was the cornerstone of the conservation title in the 2002 farm bill. And that is what the President talked about. That is what he touted. That is what he said he supported as recently as last Friday night in the debate.

The farm bill had a major conservation initiative. The President and his administration keep talking about it, but the President's people are up here gutting the program. Soon, right after it became law, they moved to take $3 billion out. They succeeded for a little while, but we put the money back. For 2005, the President in his budget is cutting nearly $600 million in conservation programs. That cuts the Environmental Quality Incentives Program, called EQIP, the Wetlands Reserve Program, the Farmland Protection Program, the Grassland Reserve Program, the Wildlife Habitat Incentives Program, and the Watershed Rehabilitation Program, and, of course, the Conservation Security Program. All of those are cut in his budget, yet the President last Friday night said he was for strong conservation.

For EQIP alone, President Bush requested a cut of more than $215 million. That does not include the additional $75 million to $100 million in cuts that will come from EQIP to pay for technical assistance, again a problem caused by this administration.

President Bush claims he supports efforts to restore wetlands, but each year he advocates cutting acreage for the Wetlands Reserve Program by 50,000 acres below the farm bill level. The Wetlands Reserve Program is the best tool we have to restore and protect wetlands, and the Bush administration is leading the way in keeping the enrollment down. Again, words are not matching what the President is doing.

In August of this year, President Bush announced in Minnesota—I was up there right about the time—he is going to direct the Secretary of Agriculture to offer early reenrollments and extension of existing contracts in the Conservation Reserve Program, those contracts that were set to expire in 2007 and 2008. Again, words do not match the deeds.

There is no automatic or guaranteed enrollment in CRP for producers whose contracts are expiring. On the contrary, all these producers got was the right to comment on how USDA should enroll the expiring acreage. There was no guarantee that any of the currently participating producers would get back into the CRP program; no guarantee that all these acres will be reenrolled;

and certainly no reenrollment any time soon. So what was the President talking about in August in Minnesota?

In 2001 and 2002, we had a drought in many Western States. The Bush White House did not want to provide farmers and ranchers relief, as we have done in past emergency situations. They insisted if we are going to have disaster assistance, we have to get money out of the farm bill. What did they do? They went after the conservation funds to get the money to pay for it.

The Conservation Security Program is about our future. Here is what the Des Moines Register said in an editorial:

> The CSP holds enormous promise to sustain the soil for agriculture, to clean up rivers and lakes, to boost rural development. People will want to live and visit a fresh, pure countryside where wildlife and recreation flourish. Moreover, the program could be the template for the farm programs of the future, superseding the crop subsidies which are almost certain to be outlawed some day under the rules of international trade. CSP could give farmers an income safety net based on how well they take care of the land instead of how much they produce. It is shortsighted to fail to invest enough in the conservation security program.

That is what the Des Moines Register said about it, and yet the administration keeps wanting to gut the program.

There is uniform opposition to this action taken by the administration from farm, conservation, and environmental groups. When can anyone ever remember the commodity groups, the environmental groups, and the wildlife conservation groups being in such agreement?

I have served on Agriculture Committees in the House and Senate for nearly 30 years, and I can never remember in my life all of these groups being so united in one cause. That tells us something. It tells us that the administration's actions are just plain wrong.

The White House, through the OMB, insisted on taking money from the Conservation Security Program. Now we have heard a lot of talk that this program is spending more money than what was anticipated. Well, that is not really true. Here is what happened: In 2002, when we passed the farm bill, the CBO made an estimate as to how much CSP would cost over 10 years. They said it would cost $2 billion. OK, fine. We passed the bill. The President signed it. About 6 months later, not one rule has been written, not one regulation promulgated, nothing has been done, and now OMB comes out and says, well, they reestimated CSP's cost at $7 billion over 10 years.

Where did they get that figure? They just plucked it out of thin air. But then they said, well, now that we have $7 billion there we can take $3 billion out. Right away that tells us they are up to something funny, but that is what they did.

In so doing, they capped the program, changed the nature of the program, so it could not operate as intended by the farm bill. As I said, we reversed that, but just a few months later, just this month, they have come back and proposed it again. They reached in again, took nearly $3 billion out of it, put a cap on the program.

Some are saying we need to put a cap on it; it might cost too much. Well, we do not know for certain what it is going to cost. But I think CBO is way out of line exaggerating the cost. That is from my own personal standpoint. We do not hear this call to limit other programs. What about food stamps? Food stamps is an uncapped entitlement program. If one qualifies incomewise, they are eligible for food stamps.

We know as unemployment goes up, wages go down, more people apply for food stamps. When employment is up, wages are up, the cost of food stamps comes down. Medicaid is another program. It has no cap on it. If one qualifies, they get it. In agriculture, the commodity program has no cap. My goodness, the corn, the soybean, the cotton, the rice, and wheat, there is no cap on those programs. It depends on what kind of year one has.

If prices are high, we spend less. If prices are low, we spend more. I thought it was pretty interesting also when the farm bill passed we had a milk income loss contracts program. It was estimated by CBO to cost $1.7 billion for the life of the program. After the bill passed, CBO raised its cost estimate to $4.2 billion.

Now it looks like it may cost less than that, but it has already cost some $2 billion already, which is higher than the $1.7 billion estimate. We have another year to go under this program, and it may well spend more money, my point being that these are uncapped programs so that they can operate as intended. The CSP program was uncapped to operate as intended, that if one does certain things, if one meets certain requirements of conservation practices, they will qualify for tier 1, tier 2 or tier 3, anywhere from $20,000 to $45,000 a year for the life of the contract, which is 5 to 10 years.

By what the administration has done, by taking the money out and capping it, they have turned a national program into a selective conservation program for only a few people, and it has led to all kinds of distortions and problems. What the administration did this year is they said, OK, certain watersheds will be eligible to get in the Conservation Security Program and only a few farmers in those watersheds. So there could be a farmer in a watershed who is eligible for CSP, and 2 miles away there could be a farmer who is a better conservationist, who is doing better work on his farm in saving soil and water, but is not eligible.

The second abnormality is that even within a watershed, there could be farmers who are good conservationists, but they did not get accepted, they did not get in that little select group. And guess what.

They have to wait 8 years before they can apply again. What signal are we sending to farmers? Forget about it, that is the signal. Forget about help for conservation unless you are part of this little select group. Maybe you will be in it; most likely you will not. That is what they have done to this Conservation Security Program.

The President had the gall, last Friday, to say that he was strong for conservation. Well, I have just pointed out that they have been gutting conservation, and they continue to do so. To those who ask why they are opposed to the program because it is uncapped, I am sorry, that is what the Agriculture Committee voted. We hammered this out in long sessions and long negotiations between the House and the Senate, between Republicans and Democrats, between those from the South, the North, the West and the East. There is no surprise.

This is what we voted. It is not right for OMB and the administration, through the Appropriations Committee, of which I am a member, to come in and unilaterally change this program. That is not the purview of the Appropriations Committee. It is the purview of the Agriculture Committee. That is why I kept the Senate in this week and that is why I stood here on Friday and Saturday because I am fighting for farmers and for conservation. I am fighting for the right of our farmers to rely upon what we passed in the farm bill, not having the Appropriations Committee take it away. So we passed a resolution on Saturday. We passed a resolution—I am not going to read all the "whereases," but here is the resolution.

One of the things I negotiated to let some bills go through was I said, let us have another vote on whether the Senate wants to take disaster money out of conservation or whether they want to treat disaster money as an emergency like we ought to and have before.

This is the resolved clause of that resolution: Resolved that it is the sense of the Senate that the 108th Congress should provide the necessary funds to make disaster assistance available for all customarily eligible agricultural producers as emergency spending and not funded by cuts to the farm bill.

Guess what. It passed the Senate 71 to 14. Seventy-one Senators said, you are right, it ought to be treated as an emergency. But the President of the United States says, no; no, we will treat some disaster losses as an emergency but not the drought that hit Iowa or the floods that hit North Dakota or the drought that hit Colorado. No, they are going to be treated different. What the administration said we are going to do is we will take money out of conservation, out of agriculture to pay for that.

The junior Senator from Pennsylvania was here on the floor the other day arguing heatedly that disaster assistance should be taken out of the farm bill. I pointed out that Pennsylvania is one of the States covered by hurricane assistance. The hurricane money is not taken out of the farmers' pockets. Why should their disaster be different than the ones out west?

I heard one Senator say: They have had a drought for 4 or 5 years, and we cannot be putting emergency money into those States where they have a drought year after year.

Wait a minute. It seems to me that Florida gets hit by a hurricane every couple of years. That is hurricane alley. We don't get hit by hurricanes in Iowa, but Florida does. Maybe we should not have hurricane assistance because Florida gets hit year after year by hurricanes? What kind of nonsense is that?

Again, we passed that resolution on emergency funding 71 to 14.

Also, an agreement was struck between the leadership, the Republican leadership and the Democratic leadership, on another resolution that passed today. Since it passed by unanimous consent—that means no one objected—I want to read it because it was not read today. Here is a resolution:

> To instruct conferees to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 2005, or on a Consolidated Appropriations Measure that includes the substance of that act.
>
> Resolved that, for the purpose of restoring the provisions governing the Conservation Security Program to those enacted in the Farm Security and Rural Investment Act—

That is the farm bill of 2002—

> and restoring the practice of treating agricultural disaster assistance as emergency spending, the Senate instructs conferees to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 2005, or a Consolidated Appropriations Measure that includes the substance of that act, to insist that the conference report contain legislative language striking subsections (e) and (f) of section 101 of division B of H.R. 4837. . . .

Mr. President, I ask unanimous consent a copy of these resolutions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD,

S. RES. 454

Whereas, agriculture has been the cornerstone of every civilization throughout history and remains the driving force behind the nation's economy;

Whereas, American farmers and ranchers help keep food affordable in this country and also help to feed the world;

Whereas, America's farmers and ranchers produce the food and fiber that is so vital to our economy while protecting our soil, helping to keep our waters clean, and reducing air pollution across the country;

Whereas, all sectors of our country rely in some way on a successful, strong and vibrant agriculture industry;

Whereas, it is the nature of agriculture that farmers and ranchers will suffer production losses because of the vagaries of weather;

Whereas, Congress has responded to natural disasters by providing assistance to those affected including the nation's farmers and ranchers to help restore financial stability in times of such losses; and

Whereas, Congress has traditionally provided such assistance on an emergency basis without cutting programs to the class of those suffering.

*Resolved*, That it is the Sense of the Senate that the 108th Congress should provide the necessary funds to make disaster assistance available or all customarily eligible agricultural producers as emergency spending and not funded by cuts to the farm bill.

S. RES. 465

*Resolved*, That for the purpose of restoring the provisions governing the Conservation Security Program to those enacted in the Farm Security and Rural Investment Act and restoring the practice of treating agricultural disaster assistance as emergency spending, the Senate instructs conferees to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 2005, or a Consolidated Appropriations Measure that includes the substance of that act, to insist that the conference report contain legislative language striking subsections (e) and (f) of section 101 of division B of H.R. 4837, An Act Making Appropriations for Military Construction, Family Housing, and Base Realignment and Closure for the Department of Defense for the Fiscal Year ending September 30, 2005 and for Other Purposes.

Mr. HARKIN. What does all that language mean? It means that the Senate went on record today to instruct conferees, those of us on the Appropriations Committee, to undo what the administration did, to restore what was in the farm bill for conservation, and to not take the money out of conservation for disasters but to treat agricultural disaster assistance as emergency spending, as it should be.

So 71 Senators voted that way on the earlier resolution to treat it as emergency spending. Now we have an instruction to conferees. Can we get any plainer than that?

We will see. We come back in November. We have to come back in a lameduck session because we have a continuing resolution to keep the Government running until November 20. So sometime before November 20 we in the Appropriations Committee and the Congress, we have to come back, are going to meet to either pass what is called an Omnibus appropriations bill or something of that nature, and we have instructions from the Senate to undo what the administration called for to cut conservation. We will see. We will see if Senators on that side of the aisle have the courage to stand up to this administration and to follow the will of the Senate and tell the President, no, you are not taking the money out of conservation. We will see. We have the instructions. We have 71 Senators who voted that way.

I will say about the future consequences to agriculture if this cut to the farm bill stands, this will set a precedent that will be used time and time again. Today it is conservation. Next time what will it be? How about the commodity programs? Those are uncapped entitlement programs. They go to rice and cotton and corn and soybean and wheat farmers. Someone will point out payments that go out to farmers and they will say: Wait a minute, we ought to cap that. If we cap it, we will have a lot of money to do other things. That is next. Or payment limitations. That has been fair game out here on the floor before.

My message to the farm groups in America is this is just the first step in reopening the farm bill. Reopen it here, and look out, it is fair game.

Shame on those in this administration who just 2 years ago loudly touted the farm bill. We signed off on it. We hammered out our agreements. Now they want to reopen it and take money out for disaster assistance. Look out. They will be coming after it again because there is money there. Commodity programs are uncapped entitlement programs. They are going to want to take that money for other things because people will look at this. There is a lot of staff around here. There are a lot of people looking at, where can I get money for this program and where can I get money for that? Those of us who represent farmers, are in the minority around here, aren't we?

There are a lot of good programs out there that maybe need money. Some of them I would even support myself. People are going to want to get money for them. Guess what. They are going to come after the farm bill because Congress and the White House now opened it. It is opened up wide. That barn door is open, and they are going to come after it. Mark my words. What are we going to say? We didn't protest enough? We didn't take strong stands against this administration when it refused to protect conservation, to protect our farmers? We will see when we come back. We will see when we come back in November whether we have the courage to override the administration.

### THE ECONOMY

Mr. President, I will take a few minutes to talk about the economy and what is happening to American families. There is one question I never hear the President of the United States ask of anyone. I never hear it when I see him in all of the rallies. I never hear him asking one question: Are you better off today than you were 4 years ago? You never hear that question. Are you, your families, or is the country, better off than they were 4 years ago?

I want to talk briefly about why the answer to that is obvious. We are not better off, either personally, our families, or the country as a whole. If there is one word that describes the Bush economic policy, it is "reckless." If there is one word to describe the President's foreign policy in Iraq, it is "reckless."

This President has recklessly pursued tax cuts for the most affluent in our society above other priorities. He has recklessly squandered the surpluses he inherited from President Clinton. He has recklessly supported outsourcing of our jobs. The President has recklessly ignored 45 million Americans without health insurance, and he has recklessly set us on a course to run up nearly $5 trillion in new debt over the next 10 years.

Last month, the Congressional Budget Office announced that this year's budget deficit will hit around $422 billion, a new record. What was the President's response? Let's cut some more taxes and run the deficit up even more. When it comes to fiscal policy, President Bush is simply out of control. He is driving this country the way he would be driving recklessly down a road.

For him, these tax cuts are practically theology, not ideology. Unfortunately, we don't have a prayer getting our economic house in order under his leadership.

Last year, the President's Council of Economic Advisers said that with the 2003 tax bill, the economy would create 306,000 jobs every month. In the past 4 months we have created jobs at a third of that rate.

We have suffered a net job loss of nearly a million since Mr. Bush took office, the only President since Herbert Hoover during his 4 years who has not created one net new job.

The unemployment rate, they will say, went down in September. Why? Not because people were getting jobs. According to the Bureau of Labor Statistics, the labor force shrunk by 152,000. Why? People gave up on looking for work. Therefore, conveniently they are no longer counted as unemployed.

Recent data released last month by the Census Bureau shows that since this President took office, real household income has fallen by $1,535. That compares to a gain of $5,498 during the Clinton years. Families were better off after Bill Clinton was President; with this President, a $1,535 loss in household income.

How about what consumers are paying for gasoline now. I filled up my car yesterday. It was $1.99 a gallon for regular. Today oil hit a new high—53-something dollars a barrel. I understand it may go as high as $60 a barrel. Gasoline prices are going up. Families have to drive their cars to work. Rural Americans have to drive a long way. Farmers have to fill up their combines and tractors with diesel.

The farm prices have come down, corn prices are down, bean prices are down, wheat prices are down. Guess what. Their fuel prices are up. Our farmers are hurting.

The number of Americans living in poverty has risen by nearly 4.3 million people. That is the number of people newly living in poverty under this President. During the Clinton years, we reduced those who lived in poverty by 6 million. You were better off after 4 and 8 years of Bill Clinton.

Over the last 4 years, the cost that employers paid for health insurance has climbed an extraordinary 59 percent. We wonder why so many of our small businesses are no longer covering their employees' health insurance. They simply can't afford to.

But this administration demanded a provision in the new Medicare law that expressly forbids the Government from negotiating lower drug prices, even though virtually every other developed nation negotiates lower drug costs with the pharmaceutical companies. But we have one agency of our Government that is allowed to do so, and that is the Veterans Administration. Guess what. The veterans get the cheapest drugs in America. God bless them. I am all for them. But why don't we let Medicare do the same thing as VA is doing? This administration says no. They wouldn't let them do that. This administration won't do it because they are joined at the hip, like Siamese twins, with the big pharmaceutical companies.

As I mentioned earlier, they have turned the clock back more than 60 years in taking away overtime pay rights of 6 million American workers. The President keeps saying we turned the corner. Maybe we have turned the corner and we are headed back to the 1930s. We are going back to the 1930s.

Remember the Depression? There had been all of these tax breaks for upper income people. We got into the Depression. People were working 50, 60 hours a week to try to make ends meet, if they could even get a job. So we put in a 40-hour workweek. We raised salaries and wages of people.

This administration has turned the corner. Mr. Bush says we have turned the corner but in fact it is back to yesterday, back to the 1930s.

When Mr. Bush took office we had the largest budget surplus in American history. Think of that. The largest budget surplus in American history.

According to all estimates, we were working toward a cumulative surplus of $5 trillion in this decade. Think about what a strong position that would have put our country in as the baby boomers began to retire. In less than 4 years, all of that has been turned upside down. This year we are running the largest budget deficit in American history; as I said, $422 billion.

What about this decade? We were going to have a $5 trillion surplus. But we are now looking at a cumulative deficit of $5 trillion. We went from a $5 trillion surplus to a $5 trillion deficit.

I am sorry. This President simply can't handle money. I don't think he could handle money when he was in the private sector either. But it is obvious this President can't handle our money either.

The Congressional Budget Office projects that by 2009 we will be paying roughly $1,000 for every man, woman, and child just in interest on the public debt. That is $4,000 for a family of four.

President Bush says he has cut your taxes. That is wrong. We are paying more in property taxes, sales taxes, and everything else.

But think about this: By 2009, every family of four will be paying about $4,000 a year in taxes to pay the interest on the national debt. Guess what. You can't cut that tax. We have to pay the interest on the debt.

As soon as a baby is born in the year 2009, that baby owes that year's interest on the national debt. I don't know how that 1-year-old baby or her family is going to earn enough.

Some keep talking about a death tax around here, an estate tax as a death tax. How about the birth tax? That is going to hit in 2009. For every child born in America, $1,000 that first year they will have to pay to cover interest on debt. Why? Because we took their money and we gave the tax breaks to the wealthiest in our society today. That is wrong. That is just simply wrong.

One last thing: As I said, those bonds must be paid, and that interest must be paid. Who is buying the bonds? Who will be paying interest? More and more foreign governments and their central banks.

Since Mr. Bush took office, Japan and China have more than doubled the U.S. debt that they own. Our Government now owes just those two countries $854 billion. Pretty soon it will hit $1 trillion.

We have all learned who pays the piper. It is called the consumer.

Just ask yourself. Would you rather be a creditor or a debtor? Which position would you like to be in, creditor or debtor? Think about our country being in debt to China and Japan to the tune of $1 trillion. What happens if we want to negotiate a little trade deal that is better and more fair? Who is holding all the cards then? They are the creditors and we are the debtors.

These are the realities that we have today: Massive tax cuts, rapid increases in Federal spending, record budget deficits, record trade deficits, skyrocketing public debt. But the credit card bill will come due. You can't repeal the laws of economics. Eventually, massive Government borrowing will squeeze out private investment and force interest rates up.

Eventually, massive indebtedness to foreign nations will cause the dollar to fall even more dramatically than it has so far on Mr. Bush's watch. Instead of making the needed adjustments to meet our responsibilities to retiring baby boomers and our children, this administration undercuts those responsibilities.

The President just does not get it. He continues on his reckless way, reckless and stubborn, cutting funding for veterans and public education and other domestic needs but he wants to send some people to Mars.

Priorities, priorities, reckless priorities. Reckless in economics and stubborn in continuing to do the same thing over and over again and expecting a different result.

The President seems to say as long as we keep cutting more and more taxes for the wealthy, as long as we continue on this reckless course in Iraq, as long as we continue this reckless deficit spending, well, then it will all work out. It will be different sometime down the road.

I am sorry, it is going to dig us deeper and deeper in the hole. Someone once described insanity as doing the same thing over and over and over again and expecting a different result. But we cannot keep doing the same thing over and over again and expect a different result. We know what the result will be.

Public opinion polls show the majority of Americans believe the country is headed in the wrong direction. They are right. We are headed in the wrong direction economically. We are headed in the wrong direction for our kids and our grandkids. It is time to end this reckless course that we are on, to get back to a sound fiscal and economic policy in this country. This President will not do it. He is just stubborn. He is going to continue his war policy. He is going to continue his policy in Iraq, and he is going to continue his domestic economic policy because he believes it is right. He may believe it is right, but the majority of Americans do not think so.

That is why we need to chart a new course for America. That is why, under a President JOHN KERRY we will turn this country around. We will turn around the mess in Iraq. We will save young American lives. We will set right our economic policies. We will invest in education and the health care of our people. We will do it in a sound manner and 4 years from now we will stand here and say truthfully: You are better off today than you were 4 years ago because JOHN KERRY has been President of the United States.

## UNFINISHED BUSINESS OF THE 108TH CONGRESS

Mr. DASCHLE. Mr. President, as we set to adjourn, I think back to what I said earlier this year about the need to set aside bitter partisanship and move towards a new politics of common ground.

During campaigns, candidates and parties should be clear about where we stand on the issues and how we differ with our opponents so that voters can make a choice. That is an essential part of democracy. But we also have a responsibility to work together constructively, where we can, to find common ground.

It is not simple, but it is the essential ingredient to making Congress work for the American people.

By this measure, the record of the 108th Congress is mixed.

At times, we have been able to work across party lines and, as a result, we have been able to make meaningful progress on some of the issues and challenges that matter most to Americans.

There is no better example than the National Intelligence Reform Act. Senators from both parties worked together with the members of the 9/11 Commission and the families of the victims of 9/11 to pass real intelligence reform that will make our Government better able to deal with the new threats we face, and make Americans safer in the process.

This legislation passed 96–2. It demonstrated how much common cause we can find—and how much we can do—when we put the needs of Americans first.

There have been other examples through the course of the 108th Congress.

We passed commonsense tax relief for middle-class families, ending the marriage penalty and extending the child tax credits. Under this new law, the 70,000 families in South Dakota will benefit from a $1,000 per child tax credit.

We passed legislation protecting the pensions of 35 million Americans.

Notwithstanding the majority's claims, the Senate confirmed 201 of the President's 211 judicial nominations—95 percent—and the judicial vacancy rate now stands at an historic low.

I am particularly pleased that Senator JOHNSON and I have been able to work with our colleagues to advance measures deeply important to the citizens of South Dakota.

We honored the service of our National Guard members and Reservists by extending their access to the military's TRICARE health care system.

We approved key incentives for the ethanol industry that will mean thousands of jobs for South Dakota and millions of dollars in revenue for South Dakota farmers.

And we have offered significant help to farmers and ranchers struggling to deal with the effects of the 5-year drought.

Each of these accomplishments was the product of bipartisan leadership. They testify to the fact that the Senate can make progress for the American people when we put aside partisanship and focus on the real challenges facing Americans.

We all agree, however, that those moments were far too rare.

On a number of occasions, the Republican leadership pursued an all-or-nothing strategy that can be poisonous to the legislative process.

One of the most regrettable instances was the Transportation bill. In February, we passed legislation to modernize our transportation infrastructure and create 2 million jobs by an overwhelming, bipartisan margin. But despite that, the White House and House blocked the Senate bill from becoming law.

The same process was at work with the Energy bill. The Senate passed a bipartisan bill that had few controversial provisions. But once the Republican leadership insisted on attaching poison pill provisions, this bill became impossible to pass.

The same all-or-nothing approach kept us from passing a bipartisan gun liability bill.

It doomed a bipartisan effort to bring down the cost of prescription drugs for America's seniors by enabling them to shop for better prices across the border.

It prevented us from raising the minimum wage at a time when millions of Americans work full time yet still live and raise their families in poverty.

And it kept the Senate from passing a mental health parity bill that has 77 cosponsors in the Senate and 249 in the House.

There is a long list of bipartisan legislation that has been left undone. That list exists solely because the leadership put the needs of American families behind those of insurance companies, drug companies, HMOs, and other special interests. Rather than listening to the voices of the American people, they have worked to advance rigid ideological theories.

Nowhere has that dogmatic stance been more damaging than to the budget and appropriations process.

The minimum requirement of any Congress, our most basic responsibility, is to pass the appropriations bills that enable our Government to continue working for the American people.

At the beginning of the 108th Congress in 2003, we were told that the White House and Republican leadership would ensure the budget and appropriations process ran more smoothly than ever before.

But each of the last 2 years, the process has broken down. Last year, the Republican leadership was forced to resort to an omnibus spending bill that combined seven different appropriations bills.

This year, we might return after the November elections to vote on a massive omnibus spending bill that sews together nine different appropriations bills.

This is not merely a difference of procedure. We all know that omnibus spending bills are fundamentally undemocratic, because they deny the American people the right to have their representatives the chance to vote on the details of how the Government is spending their money.

Omnibus bills are invitations to abuse. Last year, for instance, the Republican leadership used conference negotiations to attach to the omnibus a series of provisions that could never have passed the House or Senate on their own. We don't know what provisions will be attached to the omnibus this time, and we won't until the spending bill comes out of conference in November.

One thing is clear. This is not the way the Framers intended us to legislate or fund our Government. And it is not what the American people sent us here to do. They deserve better. They deserve leadership that put their needs first.

Throughout this Congress, we should have applied a simple test to our work. With each piece of legislation that came before us, we should have asked: Does it do right by America? Does it do right by our troops fighting for our security overseas? Does it do right by the seniors who need help buying prescription drugs? Does it do right by middle-class families struggling to make ends meet? Does it do right by our children whose future is in our hands?

Doing right by America demands a politics of common ground. We were able to achieve this common ground for the people of South Dakota.

And as the Intelligence Reform Act proved, Congress is able to put aside partisan politics for the sake of all America, as well.

We are capable of doing right by America. We have made progress, but clearly there is much work left to be done.

I look forward to taking up this work again next year, tackling the challenges of the American people, creating a true politics of common ground, and doing right by America.

## FURTHER REVISED APPROPRIATIONS ALLOCATIONS COMMITTEE

Mr. STEVENS. Mr. President, today, I submit a revised allocation to subcommittee for fiscal year 2005. The allocation has been modified to conform outlays for the outcome on the conference on the Department of Homeland Security Appropriations Act.

These allocations are a revision to those printed in Senate Report 108-356, submitted on September 23, 2004.

I ask unanimous consent that a table setting forth the revised allocation to the subcommittees be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FURTHER REVISED ALLOCATION FY 2005

[$ millions]

| Subcommittee | Discretionary | | Mandatory | | Total | |
|---|---|---|---|---|---|---|
| | BA | Outlays | BA | Outlays | BA | Outlays |
| Agriculture | 16,772 | 18,282 | 58,312 | 44,305 | 75,084 | 62,587 |
| Commerce | 39,792 | 40,440 | 704 | 705 | 40,496 | 41,145 |
| Defense | 390,931 | 415,689 | 239 | 239 | 391,170 | 415,928 |
| D.C. | 560 | 554 | — | — | 560 | 554 |
| Energy & Water Development | 27,988 | 27,897 | — | — | 27,988 | 27,897 |
| Foreign Operations | 19,386 | 26,785 | 43 | 43 | 19,429 | 26,828 |
| Homeland Security | 32,000 | 29,819 | 867 | 863 | 32,867 | 30,682 |
| Interior | 20,226 | 20,137 | 54 | 59 | 20,280 | 20,196 |
| Labor-HHS-Education | 142,317 | 140,936 | 342,503 | 342,402 | 484,820 | 483,338 |
| Legislative Branch | 3,575 | 3,696 | 113 | 112 | 3,688 | 3,808 |
| Military Construction | 10,003 | 10,010 | — | — | 10,003 | 10,010 |
| Transportation Treasury | 25,439 | 69,601 | 18,261 | 18,262 | 43,700 | 87,863 |
| VA, HUD | 92,930 | 101,732 | 38,912 | 38,535 | 131,842 | 140,267 |
| Total | 821,919 | 905,578 | 460,008 | 445,525 | 1,281,927 | 1,351,103 |

Source: Committee on Appropriations, U.S. Senate.

## VOTE EXPLANATION

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. DORGAN. Mr. President, I would like the RECORD to reflect that I was necessarily absent for the vote on the conference report to H.R. 4520. While I believe that there were some missed opportunities on this legislation, overall I support the bill. I voted for the original bill when it passed the Senate and to invoke cloture on the conference report. Had I been present, I would have voted in support of the conference report.•

## RETIRING SENATORS IN THE 108TH CONGRESS

### PETER, WE HARDLY KNEW YE

Mr. BYRD. Mr. President, at the close of the 108th Congress, we say farewell to Senator PETER G. FITZGERALD who is leaving us after one term.

The former congressional intern, commercial banking attorney, and Illinois State Senator was elected to the U.S. Senate in 1998. In fact, he was the first Republican in Illinois to win a Senate seat in 20 years.

It has been a busy 6 years for Senator FITZGERALD. During his brief tenure in this chamber he served on the Senate Agriculture, Commerce, Government Affairs, Small Business, and Aging Committees. He was active in a number of legislative areas, including mutual fund reform, consumer safety protection, aviation, environmental, and agricultural issues. And he actively pursued the expansion of overseas markets.

During his 6 years in this chamber, Senator FITZGERALD threw himself into some of the most challenging and complex issues considered by the Senate. In 2000, he attacked waste in Government contracting and crafted legislation to improve the process by which contractors are awarded taxpayer monies. He later worked with me to address the Pentagon's "revolving door"—an egregious practice utilized by government contractors in exerting influence over the contracting process. In 2002, the former commercial banking attorney lashed out at Enron executives who robbed thousands of workers of millions of dollars of their life savings, and he later crafted legislation to reform the mutual fund industry.

Time and again he showed himself to be a Senator who is not intimidated by complexity. He did not simply talk about the issues of the day, he took time to study them, and understand them, and then try to do something about them. Time and again he demonstrated that he was a workhorse, not a show horse. The Senate needs more members like him, Senators whom we can look to when confronting difficult and complex issues.

And the Senate needs more Senators like Senator FITZGERALD who, on a number of high-profile issues, including gun control, health care, patient's bill of rights, and the environment, ANWR drilling, put the good of the people of his State, in particular, and the American people, in general, above partisan party interests and ideology.

In attacking political corruption and cronyism, he was bipartisan, not simply in rhetoric, which is easy, but rather in action, which is a good deal more difficult.

I wish Senator FITZGERALD and his wife Nina the best as they begin a new phase of their lives.

### SENATOR JOHN BREAUX

Mr. BYRD. Mr. President, when the 109th Congress convenes in January, 2005, this Chamber and our Nation will, unfortunately, be without the services of Senator JOHN B. BREAUX.

This will truly be a loss to the Senate and to our Nation. With the retirement of Senator BREAUX, we lose a man of exceptional political experience. This son of an oil-field worker and a dressmaker began his political career as a staff aide to Congressman, and later, Governor, Edwin Edwards.

Mr. BREAUX was elected to the U.S. House of Representatives seven times, the first when he was just 28 years of age, making him the youngest member of the United States Congress at the time. He served in the House for 14 years where he, among other things, was a principal architect of the 1983 reauthorization of the Endangered Species Act.

In 1986, he was elected to the U.S. Senate, and has served three terms in this chamber. Now, after 32 years of congressional experience, Senator BREAUX is leaving us.

With the retirement of Senator BREAUX, we lose one of those Senators who is always ready and willing to reach across the aisle to find common ground, to achieve the workable compromise. He has constantly demonstrated the ability to reach beyond partisan and ideological differences, without abandoning his basic principles. Politics is said to be the art of compromise, and this was an art that Senator BREAUX constantly practiced. On issue after issue, including health care, energy production, tax cuts, and welfare, he demonstrated his ability to broker bipartisan deals, his penchant for deal making, and his talent for fashioning legislative coalitions. With his efforts to break Senate stalemates on Medicare, Social Security, education, health care for the uninsured, and other issues, he earned a well-deserved reputation as a behind-the-scenes mediator. Senator BREAUX exemplified the wisdom of not allowing the perfect to be the enemy of the good.

Even when I disagreed with him, which I have, I still admired his efforts to find that workable solution. Even when he was unsuccessful, which was rare, I still respected his skill and the cause he was advocating. With wit, determination, and patience he is always in pursuit of a constructive course of action, and that won him many admirers, including me.

Because of his efforts and his considerable skills, he chaired the National Bipartisan Commission on the Future of Medicare and he co-chaired the National Commission on Retirement Policy. He also served as chairman of the Special Committee on Aging and as chairman of the Surface Transportation and Merchant Marine Subcommittee. He is currently the senior member of the Finance Committee.

Recognizing and appreciating his leadership abilities, in 1993, his Democratic colleagues elected him chief deputy whip, and in this postion Senator BREAUX has served this chamber, my party, and our country effectively and successfully for more than a decade.

With the retirement of Senator BREAUX, the Senate will also be losing a fine musician. Every year at Mardi Gras, Senator BREAUX entertains the multitudes by playing a washboard. As a musical instrument, a washboard is not a fiddle, but I am sure it sounds good, as good as a washboard can, I guess.

With the retirement of Senator BREAUX, we will be losing a Senator known for his disarming humor. During the anthrax problem of October 2001, he boasted that the fish in his office would survive because "they are not weak Northeast fish . . . They are strong Louisiana fish." I think that was supposed to be funny. If it was supposed to be a fact, I will put up a good West Virginia mountain rainbow trout any day against his Cajun aquatic bottom feeders.

Most importantly, with the retirement of Senator BREAUX, we will be losing a good man. A man who was always there to help. A man whose word is his bond. A man who has constantly demonstrated his loyalty to this chamber and to his country. A man who came up the "hard way," without anything being handed to him, but through hard work, dedication to duty and to his State and our country, fashioned a remarkable and successful career.

I wish Senator BREAUX and his wife Lois the best as they enter the next phase of their lives and careers.

### SENATOR GRAHAM

Mr. BYRD. Mr. President, the Bible tells us that "unto whomsoever much is given, of him shall be much required."

When BOB GRAHAM came to the United States Senate, "much" was expected from him because much had been given.

He came to the Senate from a wealthy and successful family. His father, Ernest "Cap" Graham, was a wealthy and successful Florida dairy man and politician. His half-brother, Phil Graham, was a well-known publisher of a major newspaper here in the Nation's capital.

He came to the Senate with a wealth of experience. After graduating from the University of Florida and Harvard Law School, he served two terms in the Florida House of Representatives, 1967–1971; two terms in the Florida State Senate, 1971–1979. In 1978, he was elected Governor of Florida, where he served two terms, 1978–1986.

In 1986, having never lost an election, and with a record of accomplishments as both legislator and a chief executive, he was elected to the U.S. Senate. Therefore, no one could have been faulted for expecting much from him, and I am pleased and proud to say he has delivered.

He was a most effective member on a number of important Senate committees, including the Senate Committee on Banking, Housing and Urban Affairs, the Senate Finance Committee, the Senate Committee on Environment and Public Works, and the Senate Committee on Veterans' Affairs. He has also served as chairman of the Senate Intelligence Committee.

In his committee work, and in his daily work on the Senate floor, Senator GRAHAM earned the respect of everyone in this chamber for his honesty, his decency, and his integrity. In the rough and tumble world of American politics, Senator GRAHAM always remained a gentleman.

He also earned the respect of his colleagues for his ability to reach across the aisle for the greater good of his State and our Nation. As a result, Senator GRAHAM established a long record of bipartisan accomplishments on issues of national security, health care, education, environment, veterans benefits, and intelligence matters.

The people of Florida have been well served by their Senator. In this Chamber, he has helped protect the workers in his State from unfair cheap imports, worked to secure the protection of the Everglades, and has fought tenaciously to reduce the traffic in illegal drugs in Florida. He was one of the principal architects of the 1988 omnibus anti-drug bill and organized efforts to attack money laundering by drug smugglers.

During his political career, Senator GRAHAM also became famous for three things. The first is his wardrobe, that is, the ties that he wears. Everyone who knows Senator GRAHAM knows that he only wears ties with an outline of Florida on them.

The second is that for almost three decades he has recorded in detail every waking moment of his life.

The third thing for which Senator GRAHAM is well known is his so-called "workdays." One day each month for the past three decades, he has performed a job, usually manual labor, in order to stay in touch with and to better understand the problems and the needs of the people of his State.

He has now performed nearly 400 different jobs. He has been a flight attendant, a truck driver, and a chicken plucker. He has cleaned up after hurricanes, and he has cleaned up after dogs as he once spent a day handling a "pooper scooper." He once spent a day bagging groceries, and has even performed on stage. He has worked with policemen, doctors, fishermen, firefighters, and teachers.

These "workdays" were not gimmicks or media events. They were important means by which he could better serve people of his State. While Governor of Florida, it was during his workday as a public schoolteacher that he experienced firsthand the serious overcrowding in his State's school system. As a result, when he got back to Tallahassee, he sought more funding for school construction to accommodate the State's booming student population.

On his 355th workday he worked in a hospital, trying to secure insurance provider authorization for treatment in the emergency department. This frustrating experience led him to introduce the Emergency Medical Services Act.

While serving customers in a Florida pharmacy, he heard from seniors who could not afford to pay for their prescription drugs. Afterwards, he played a lead role in the effort to expand Medicare benefits to cover prescription drugs for seniors.

Despite my admiration for Senator GRAHAM, I must confess that I have had my disagreements with the senior Senator from Florida. More than once, I have heard him issue his boast that, "the future of America is Florida." We all know, of course, that the future of America is West Virginia. But neither this, nor other disagreements, has deterred or subtracted from my respect for him. He has made an enormous contribution to the Senate, where he has effectively and successfully served his State and our country.

Unfortunately, Senator GRAHAM has decided that, after three terms in the Senate, it is time to leave us. We will miss his wisdom, his decency, and his remarkable dedication in service to our Nation. Much was expected of Senator GRAHAM, and he, indeed, exceeded all expectations.

I wish him and his wife, Adele Khoury, the best of health and happiness in their retirement.

### SENATOR DON NICKLES

Mr. BYRD. Mr. President, the motto of the great State of Oklahoma is "Labor Conquers All."

How perfect this is for the senior Senator from Oklahoma, Senator DON NICKLES, who has accomplished so much, and gone so far because of his willingness to work.

As a young man, after the death of his father, DON NICKLES worked his way through college as a janitor making minimum wage. After graduation, he returned to his home town of Ponca City to help run the family business, the Nickles Machine Corporation, of which he became vice persident, and then general manager.

In 1978, he was elected to the Oklahoma State Senate.

Two years later, in 1980, he was elected to the U.S. Senate as part of the "Reagan Revolution." When he took office in 1981, he was just 31 years of age, the youngest Senator in the 97th Congress. Seventeen years later, in 1998, he became the only Oklahoma Republican ever elected to a fourth term in the U.S. Senate.

During his 24 years in the Senate, for better and for worse, Senator NICKLES has remained consistently true to his basic conservative principles. Congress Daily has justly referred to him as, "the keeper of the conservative flame."

Being true to his conservative principles has sometimes led him into taking some lonely stands. And his unflinching commitment to his conservative principles have led him to take positions that have angered constituents of his own State. His principles have even led him into positions on issues that have annoyed me. In addition to his views on tax cuts, I could mention his efforts to block the Patient's Bill of Rights, his efforts to defeat increases in the minimum wage, and his effort to scuttle a Democratic initiative to help unemployed workers to be able to afford medical insurance coverage. Still, I have always admired and respected him for the firmness of his convictions and his beliefs, and his willingness to stay with them despite the consequences.

Even with the firmness of his convictions, he has never allowed himself to be trapped or bound by dogmatic partisan stands. Time and again I have watched and admired his willingness to reach across the aisle and work with Democratic Senators in bipartisan efforts to extend unemployment benefits, to win passage of a regulatory reform bill, and to secure passage of other measure that, otherwise, may well have gone down in defeat.

During his 24 years in this chamber, Senator NICKLES has served on the Senate Finance Committee, Senate Energy and Natural Resources Committee, Labor and Human Resources Committee, Small Business, and Joint Committee on Taxation.

For 14 of his 24 years in the Senate, he has served in Republican Senate Leadership, first as chairman of the Senate Republican Senatorial Committee, and then as chairman of the Republican Policy Committee, which he transformed from a lunch club into a "conservative think tank." In 1996 and again in 1998, he was elected Assistant Republican Leader, Republican Whip.

In January, 2003, Senator NICKLES left the Senate Republican leadership to become chairman of the Senate Budget Committee, and this is where I really came to know and appreciate what an outstanding legislator he is.

As I attended Budget Committee hearings and markups held by Chairman NICKLES, I came to realize his appreciation for the Senate as an institution, and his determination to make this institution work. I saw, first hand, his efforts to accommodate differences and to restore bipartisanship to the Senate Budget Committee. While he staunchly advocated his beliefs, Budget Chairman NICKLES emphasized politeness, courtesy, cordiality, and amiability. These qualities endeared him to Democratic and Republican members of the Budget Committee.

It was here in the work of the Budget Committee that I really saw his personal side. I remember Senator NICKLES's first Budget Committee markup as chairman. Senator NICKLES arrived at the markup and announced that his daughter had given birth to his first grandchild, Nicholas Fenton Rossiter. I had seen many times the look of pride on a new grandfather's face, and it inspired me to recite a poem for his grandson. "Dear Nicholas, first, in thy grandfather's arms, a newborn child, thou didst weep, while those around thee smiled, so live, that in thy lasting sleep, thou mayst smile while those around thee weep."

But at the same announcement of the birth of his grandson, I could not help myself in reminding Budget Chairman NICKLES that, given his support for a budget that embraces record deficits, his sweet grandchild was born owing $24,000 on the national debt.

Although I failed to disabuse him of his egregious interpretation of the budget reconciliation process, Senator NICKLES, I am convinced, has come to understand the importance of debate in the Senate. Earlier this year, he devoted many hours to studying the budget rules for ways to eliminate the so-called "vote-a-ramas" that usually accompany the Senate's budget debates. To his great credit, Senator NICKLES demonstrated that rule changes are not necessary. Together with Senator CONRAD, he orchestrated this year's budget debate in a manner that allowed adequate time for all Senators to offer and debate their amendments. For the first time in many years, there was no "vote-a-rama," thanks to Senator NICKLES.

It has been reported in the media that Senator NICKLES was discouraged and disappointed that, in his final year as chairman of the Budget Committee, the Senate was not able to reach a consensus with the House of Representatives on a budget resolution. I hope Senator NICKLES realizes that the model of civility he created as chairman of the Budget Committee will be remembered and emulated, and that this accomplishment will survive in the annals of the Senate longer than any budget document.

While I must admit that I will not miss some of the values that he so eloquently advocated, and for which he so effectively fought, I do regret anytime the Senate loses a good person, and Senator NICKLES is a very good person. During his 24 years, this outstanding Senator, through his hard work, his friendliness and his dedication and determination, has helped make the Senate a better place, and for that, I am grateful and thankful. Time and again he has demonstrated that "labor" certainly does "conquer all."

I wish him and his wife, Linda, happiness, health, and prosperity as they enter the next phase in their lives.

## BUSH TRANSPORTATION POLICIES ARE WRONG FOR RURAL AMERICA

Mr. BYRD. Mr. President, 4 years ago, candidates George Bush and DICK CHENEY promised those of us from rural America that they understood the challenges we face and that they would work to make our lives better. Now, the President and Vice President are going back out to the rural parts of the country, to Appalachia, to my home State of West Virginia, to tell us that we have turned the corner. They are saying that, thanks to their work during these past 4 years, our prospects are improving. They tell us that, due to their policies, job growth is increasing. And they argue that if we want more of the same in the future, we need to re-elect them to another term.

The reality is a far cry from the picture the President paints. Those of us in rural America, and for me that means the rugged Appalachian mountains of West Virginia, have known that, in order to improve our ability to attract and maintain good-paying jobs, we have to build an infrastructure to match those in the urban parts of America. That includes more four-lane divided highways and an improved national passenger rail network. But, the President has proposed policies to slow highway construction and shut down Amtrak. If enacted, these proposals would add to the staggering job losses already experienced in rural America under the Bush administration.

This Congress is now a year late in passing reauthorization legislation for the Federal Government's surface transportation programs. The main reason for this delay is that the President opposes efforts to adequately fund the construction of better and safer roads, particularly in rural America. In the meantime, transportation projects are stalled and tens of thousands of construction jobs have been lost.

In 1965, the Congress adopted the Appalachian Regional Development Act that promised a network of modern highways to connect the Appalachian Region to the rest of the Nation's highway network and, even more importantly, the rest of the Nation's economy. Absent the Appalachian Development Highway System, ADHS, my region of the country would have been left solely with a transportation infrastructure of dangerous, narrow, winding roads which follow the paths of river valleys and stream beds between mountains. These roads are still, more often than not, two-lane roads that are squeezed into very limited rights-of-way. They are characterized by low travel speeds and long travel distances and are often built to inadequate design standards.

The rationale behind the completion of the Appalachian Development Highway System is no less sound today than it was in 1965. Unfortunately, there are still children in Appalachia who lack decent transportation routes to school; and there are still pregnant mothers, elderly citizens and others who lack timely road access to area hospitals. There are thousands upon thousands of people who cannot obtain sustainable, well-paying jobs because of poor road access to major employment centers.

We have virtually completed the construction of the Interstate Highway System and have moved on to many other important transportation goals. However, the people of my region are still waiting for the Federal Government to live up to its promise, made some 39 years ago, to complete the Appalachian Development Highway System. And under the President's plan, they may have to wait several more decades.

Regrettably, the President has threatened to veto the highway bill that was passed by an overwhelming margin in the Senate. That bill would provide the funds necessary for a robust investment in rural America's infrastructure, including the Appalachian Development Highway System. It appears that under this administration, investments in road conditions are beginning to mirror the distribution of wealth in our country. The rich are getting richer while the poor get poorer.

The President and Vice President also have proposed to further limit our transportation options in rural America, including West Virginia, by underfunding and thereby shutting down Amtrak. Each of the Bush administration's four budget requests has targeted Amtrak and suggested funding levels that would have rendered the system inoperable. President Bush has proposed to limit Amtrak to the Northeast where it would serve only as a commuter rail network. Long distance trains, such as the Cardinal that provides a lifeline for communities across southern West Virginia, or the Capitol Limited that serves the eastern panhandle, would be eliminated under the President's plan.

Amtrak is a critical transportation link for people in all corners of this country. Each day, millions of people ride the rails to get to and from work, to visit family and friends living many miles away, or to travel on vacation. Make no mistake, if Amtrak closes operations, it will not be without great cost to communities both large and small. If Amtrak were to shut down, the Nation's transportation system would be thrown into chaos.

For many rural Americans, Amtrak represents the only major transportation link to the rest of the country. If the President has his way, West Virginians who live in or near Harpers Ferry and Martinsburg would lose access to the Capitol Limited train that runs from Washington, DC, to Chicago. Others who live in or near White Sulphur Springs, Hinton, Beckley, Thurmond, Montgomery, Charleston, and Huntington would lose access to the Cardinal train that runs from New York City to Chicago.

At a time when countries across the globe are moving forward by making investments in various passenger rail projects, whether it be high-speed bullet trains in Taiwan or Mag-Lev trains in Japan, President Bush has proposed to shut down America's passenger rail service. Next time the President or Vice President campaigns in Huntington, Charleston, or Beckley, I hope they will explain why they believe the economic prospects of these communities will be improved with the elimination of the national passenger rail network.

I have worked my entire Congressional career to ensure that West Virginia gets a fair shake from the Federal Government. My State was long ignored by those deciding where Federal monies would be spent. Infrastructure development in rural America still lags far behind the investments being made in our urban areas. And this problem will only be compounded by the re-election of a President who is tone-deaf to the needs of rural America.

The President continues to make empty promises, continues to assure us that we have, indeed, turned the corner. But, for many rural Americans, that corner is on a dangerous, winding road with no help in sight.

## ATTEMPTS TO KILL THE ESLGP

Mr. BYRD. Mr. President, the Bush administration would like us to think it has spent the last 4 years standing up for steel in West Virginia and across the Nation. But this administration has never stood up for steel. If the West Virginia steel industry has benefited at all in the past 4 years, it is in spite of the Bush administration.

The Bush administration said it would impose Section 201 tariffs on imports of unfairly traded steel, but then it lifted the steel tariffs 15 months early. The Bush White House refused to stand up for steel, and I would like to take this opportunity to remind America's steelworkers, including those in West Virginia, of this important fact.

Let's look at some other important facts: over the past 4 years there has been a program to provide tangible relief to steelworkers in West Virginia, Ohio, and Pennsylvania. That program is the Emergency Steel Loan Guarantee Program, which I enacted in 1999 with bipartisan support to help steel companies in economic distress. Over the past 2 years, that program has served as an absolute life-line to thousands of steelworkers from Ohio, Pennsylvania, and West Virginia. The Steel Loan Guarantee Program has saved thousands of jobs in spite of the Bush administration, which has worked night and day to kill the Emergency Steel Loan Guarantee Program.

The story of steel in West Virginia over the past 4 years is a dramatic story of hard work, hope, and triumph. But that is no thanks to this administration. Over the past 4 years, both Weirton Steel and Wheeling-Pittsburgh Steel filed for bankruptcy due to unfair imports. But the Bush administration still thought it was a good idea to lift the steel tariffs 15 months ahead of schedule.

In dire straits, both companies sought the only real relief that was available to them, which were loan guarantees provided by the Emergency Steel Loan Guarantee Program. The steel companies filed applications for emergency steel loan guarantees with the program's loan board to enable them to stay in business and not put 8,000 to 10,000 people out of work.

And what was the Bush administration's response? In both its fiscal year 2003 and 2004 budget requests, at exactly the time when Weirton and Wheeling-Pittsburgh Steel and their thousands of workers desperately needed a loan guarantee to stay alive, what did this administration do? It sought to rescind all of the funds available to the Emergency Steel Loan Guarantee Program. These rescission requests were pending at exactly the same time that both Weirton and Wheeling Pittsburgh Steel had loan guarantee applications pending before the loan board. When Wheeling-Pittsburgh's first application was denied, it had to refile. The administration continued to request rescission of all funds in the loan program.

But those of us who know West Virginia, who love West Virginia, and love its people, stood up for steel and stood against the Bush administration. We put our shoulders to the grindstone and pushed with all our might to find a way to keep West Virginia's steel industry in business. Unlike the Bush administration, we kept faith with the people of West Virginia. As ranking member of the Appropriations Committee, I was able to persuade the committee to retain funding for, and reject the administration's attempts to kill, the Emergency Steel Loan Guarantee Program in both 2003 and 2004. But that didn't stop the Bush administration. When it became clear that they couldn't kill the program in their budget, they tried to kill it administratively, by shifting funds out of the steel loan guarantee program and into another Commerce Department account. Instead of helping steelworkers keep their jobs, the Bush administration wanted to shift money in the loan guarantee program to some other account at the Commerce Department, an agency that, in this administration, has spent millions of dollars helping multinational corporations transfer American jobs overseas.

But, some of us, unlike the Bush administration, believe in keeping American jobs here at home. So we kept pushing to save our steel jobs. To stop them from being sent overseas. And, we did it. We did it in spite of the Bush administration. If you don't believe me, listen to what Jim Bradley, the CEO of Wheeling-Pittsburgh Steel Company said on March 26, 2003, the day on which Wheeling Pittsburgh's application for a steel loan guarantee was approved. He stated:

> Without the leadership of Sen. Robert Byrd, Wheeling-Pittsburgh Steel's 3,800 employees would be facing a bleak future. By creating and fighting for the Emergency Steel Loan Guarantee Program, Sen. Byrd has given this company and its workers the opportunity to build a future for themselves and for the communities in which they live and work.

Now, I am not reading this to toot my own horn. I am reading it to remind West Virginia steelworkers and their families that this administration is not here to help you. I am reading it to remind everyone listening that this administration worked to kill the very steel program that saved the steel jobs of thousands of steelworkers from Ohio, Pennsylvania, and West Virginia. And that is not ROBERT BYRD saying it; that is the president of the steel company where 4,000 jobs were saved saying it.

So, let me say this, loud and clear: steelworkers in West Virginia and across the Nation, believe me when I tell you that this administration is not in your camp. Don't be hoodwinked by their phony concern for your welfare. It is not sincere. They don't care about you. Words are cheap. Actions matter.

As the Book of James states, "What good is it, my brothers, if a man claims to have faith but no deeds?" This administration loves to talk about what it has done for West Virginia steel, but it did nothing. Where are the deeds? The Bush administration hasn't been there for Weirton and Wheeling-Pittsburgh Steel's thousands of steelworkers and retirees when they needed its help.

And we know that, based on its deplorable track record, the Bush administration won't be there for them in the future.

## LEAVING WEST VIRGINIA CHILDREN BEHIND

Mr. BYRD. Mr. President, I attended a two-room school house as a young boy. When I moved on to high school, I was one of 28 students in my graduating class at Mark Twain High School. At Mark Twain, there was no question of accountability. The teachers were in charge. The students were there to study. My parents drilled one idea in my head, and it remains a guide for me today: learn. Learn, and always strive to make yourself smarter tomorrow than you are today.

Sadly, too often today, that same emphasis is not placed on teaching and learning. I know it. Parents know it. Members of Congress know it. That is why we voted to create the No Child Left Behind Act. Congress and President Bush worked together to ensure greater accountability in America's schools. We established standards. We set the bar. But to help schools reach those standards and surpass them, Congress and the President promised increased resources to help schools succeed. To date, it has been an empty promise.

Since President Bush signed the No Child Left Behind Act into law with such great fanfare in 2002, not one Bush administration budget has provided the funds that America's schools expected. In fact, nationwide, the Bush White House has shortchanged schools by $33 billion. How often do we hear that fact from the White House? Not once. The administration trumpets its No Child Left Behind Act, but fails miserably when funding it. Accountability cannot just be a standard for teachers; it must also be a standard for this administration.

Compounding the problem and the frustration for parents and teachers, each time I and other Senators offer amendments to make good on the promise of No Child Left Behind, the Bush White House and the Republican congressional leadership line up and defeat those amendments. Making false promises to teachers and students and parents is no way to improve teaching and learning. It is another in this administration's broken record of broken promises.

Look at one program as an example. The Federal title I initiative provides dollars geared specifically for children from poor school districts. The No Child law established specific funding levels for title I for every year through 2012, including $20.5 billion this year. But the Bush administration tells schools to make do with a whole lot less, undercutting that pledge in its budget by more than $7 billion.

In my state of West Virginia, about half of the public schools receive title I funding. While the President's No Child Left Behind Act promised Mountain State schools $154 million for title I for 2005, the Bush administration's budget undercut that funding by 36 percent. Translated into students, the President's budget would deny full services to 18,398 West Virginia children. Evidently, "Leave Only 18,398 Children Behind" was not a catchy enough title for the new law.

When President Bush signed the No Child Left Behind Act on January 8, 2002, he made a statement that I wholeheartedly endorse. The President said:

> There's no greater challenge than to make sure that every single child, regardless of where they live, how they're raised, the income level of their family, every child receive a first-class education in America.

That is what the President said.

But what the President said and what the President coughs up in funding have proved to be vastly different stories. The No Child Left Behind Act promised to give schools the money they need to help every young person in this country succeed in the classroom. That promise has been broken. When it comes to America's schools and keeping the promise of No Child Left Behind, the Bush White House gets an F.

The title I program is not the only education program facing funding shortfalls. The Bush administration freezes Pell Grant awards for the third straight year, cutting back on college financial assistance. The White House also has proposed to eliminate funding for 38 school programs including dropout prevention, school counseling, alcohol abuse reduction, and arts in education.

If there is one Federal investment that can offer real dividends down the road, it is education. But the White House continues to play political games with classroom funding. It is time to end the posturing and give students and teachers the resources that they need to succeed.

In the coming weeks, the Senate will once more vote on the legislation that funds No Child Left Behind and Pell Grants and education initiatives throughout the country. I urge Senators to finally make good on the promise made to parents and students and teachers. And I urge the administration to stop playing games with America's kids. Our schools and our children cannot afford 4 more years of broken promises.

## DOD AUTHORIZATION CONFERENCE REPORT

Mr. BUNNING. Mr. President, I rise today in support of the Department of Defense Authorization conference report.

This bill funds important priorities for our troops. It gives them a 3.5-percent pay raise. It makes last year's increases in special pay for combat duty and family separation permanent.

The bill expands health care coverage for our National Guard and Reserve members and improves retirement and survivor benefits for those who have served.

The bill also funds the safety needs of our troops for the coming year. It includes over $750 million for force protection gear, including over $430 million for body armor. More than $570 million is provided for additional armored humvees, and another $100 million will be used on more armor for existing vehicles.

This bill gives our troops the tools they need to do their jobs, and the benefits they and their families deserve.

This bill also contains important reforms to the Energy Employees Compensation Program.

The Bunning-Bingaman worker compensation Amendment was added in the bill when it was on the Senate floor. The amendment included reform for the compensation program and was cosponsored by a bipartisan group including myself and 18 other Senators.

I thank the Senate managers, Senators WARNER and LEVIN, for their consideration and support of this important provision in the conference report.

This provision will fix the problems with Subtitle D of the Department of Energy's Energy Employees compensation program for sick injured cold war workers at Energy sites throughout the country.

Since the end of World War II, workers at Department of Energy sites across the country helped our Nation face threats from our enemies by creating and maintaining our Nation's nuclear weapons.

Many of these workers sacrificed their health and safety and were exposed to harms unknown at the time in their work to preserve our freedoms.

Congress passed a compensation program for the energy workers in 2000 in an effort to help these workers.

The Department of Energy's Subtitle D program failed miserably. During the past 4 years the Department received $95 million but processed and paid only a small number of the more than 25,000 claims for workers who were made ill by their work.

DOE's miserable job with this program was especially troubling because of the Kentucky workers at the Paducah Gaseous Diffusion plant, where the uranium shipped to sites throughout the country was refined.

Under DOE's operation, more than 3,000 former Paducah workers have filed for compensation for their illnesses. But zero Paducah workers have received compensation for their illnesses.

The provision in this bill transfers Subtitle D claims processing operations from the Department of Energy to the Department of Labor, which is currently handling thousands of similar claims under Subtitle B of the program.

The Department of Labor runs one of the largest and most efficient claims operations in the country.

Payments will be made directly by the Department of Labor to the worker or survivor. This solves the current issue of no willing payer for all eligible claims. Workers will get prompt medical care for their covered illnesses with no need to go through another system at the State.

This reform effort finally fulfills the promise that Congress made to DOE workers in 2000.

Many of these workers are ill and dying. Because of this reform, they will not have to wait for the Department of Energy to get its act together to process and pay the valid claims in a timely manner. DOL will take over these operations and process the claims much more efficiently and get deserving claimants the compensation Congress promised.

I urge you to support this conference report to help protect those workers who risked their health and safety to help us win the cold war.

Mr. JEFFORDS. Mr. President, I rise to express my concern about section 3116 of the fiscal year 2005 Department of Defense Authorization Conference Report, S. 4200, which the Senate passed by unanimous consent this week. Section 3116 establishes new procedures for the disposal of high-level radioactive waste in South Carolina and Idaho that resulted from the reprocessing of spent nuclear fuel at Department of Energy. DOE, facilities.

As my colleagues will recall, 48 members of this body voted to remove these provisions during Senate floor consideration of the fiscal year 2005 Department of Defense Authorization bill. Senators were concerned that the provisions in the Senate-passed bill would allow the Department of Energy to leave millions of gallons of high-level nuclear waste next to drinking water supplies in South Carolina. While these provisions have been modified in conference and some changes have been made in an effort to strengthen the language, I regret to say that loopholes still remain that cast serious doubt about whether the environment near these facilities will be protected.

I want to be certain that this language does not preempt the ability of States in which these facilities are located to issue permits to protect the surface and drinking water near these DOE facilities. The new conference report language in section 3116 appears to protect the right of states to approve closure plans or issue permits for the closure of nuclear waste containing tanks. The opening lines of section 3116 specifically eliminates the ability of the Federal Government to regulate these tanks under the Nuclear Waste Policy Act of 1982, the Energy Reorganization Act of 1974 or "other laws that define classes of radioactive waste." This language is silent on state's authority, delegated to them by the federal government under the Clean Water and Safe Drinking Water Acts, to issue permits protecting surface water and drinking water. The conferees did not exempt the requirements of the Clean Water and Safe Drinking Water Acts. These laws and the regulations that implement them, which do contain lists of radioactive pollutants, are not overridden. It is my hope that these laws will be implemented the way the conferees intended, and States will continue to be allow to protect their citizens from exposure to radioactivity through the water they drink and our lakes, rivers, streams and wetlands.

I am also concerned that nuclear waste greater than class C, and generally not suitable for near surface disposal, will remain onsite with limited oversight. Section 3116 allows these wastes to stay onsite pursuant to a plan developed by the DOE in consultation with the NRC. I would have preferred that NRC be explicitly required to follow current regulation regarding disposal of greater than class C waste. Section 3116 instead requires a new "plan" that has no particular requirements. Mr. President, radioactive waste remains environmentally harmful for an extremely long period of time. It had been my hope that we could have been more clear about the guidelines for its disposal.

As a member of the Committee on Environment and Public Works, one of the Senate Committees with jurisdiction over the management of nuclear materials, I am deeply concerned with this provisions. It is unfortunate that it will soon be law. I am concerned that, in the future, with one small change in this legislation, several other States may find their water resources at risk.

Indeed, if this waste sludge remains, the Savannah River site would continue to be among the most radioactively contaminated sites on the planet. It is my hope that the agencies responsible for implementing this section will do so responsibly, and I will be monitoring their actions.

## 20TH ANNIVERSARY OF NATIONAL BREAST CANCER AWARENESS MONTH

Mr. JOHNSON. Mr. President, I rise today to share my support and thoughts on the 20th anniversary of October's designation as National Breast Cancer Awareness Month. I am pleased to see the dedication and awareness that has grown over the past 2 decades regarding this specific type of cancer.

Twenty years ago, very few people openly discussed breast cancer. General public awareness regarding the high occurrence or symptoms was next to none. As a result many lives were lost do to the lack of knowledge and education regarding detection, treatment, and prevention. However, over the past 2 decades awareness has reached astronomical levels. Today, breast cancer awareness is displayed by various organizations and facets of all kinds both in and out of the health care community. Most of all breast care awareness is highlighted by the growing number of survivors who are alive to share their stories of difficulty and hope. That alone is a feat in itself which shows that public awareness has grown and continues to do so.

My wife Barbara is one of these survivors, who battled this condition, not once, but twice. If it was not for the continuous efforts over the past 2 decades, my wife may not have had the knowledge or encouragement to detect early symptoms and seek diagnosis and treatment. My family and I are thankful everyday that Barbra made it through these difficult ordeals. Together we learned how important it is for women of all ages to be proactive in learning about prevention, detecting symptoms, and seeking early treatment.

I applaud the various efforts that are being carried out nationwide by varying entities such as business, corporations, media, publications, schools, spokespersons, and women and men of all ages. This widespread dedication is a tremendous force that has proven to be influential in our Nation's efforts to combat this disease.

I believe it is important for all of us to take an active part in helping to educate the public and find a cure. Currently, there are legislative initiatives geared towards increasing research and funding for all types of cancer, including breast cancer. It is my hope that as this Congress draws to a close that we work together in a broad bipartisan manner to see that we secure necessary funding for the National Institutes of Health, NIH, and the Centers for Disease Control and Prevention, CDC. The President has requested inadequate funding levels in the fiscal year 2005 budget for these programs, which oversee a great deal of cancer research done in this country. As a member of the Senate Committee on Appropriations I was pleased to support and help pass increased funding for the NIH and CDC in the fiscal year 2005 Labor, Health and Human Services, and Education appropriation bill. But it is still critical that my colleagues work in a bipartisan manner and support these increases as we complete the final stages of the appropriations process.

Once again, I commend the work and dedication of all the individuals who continue to bring awareness to this important cause in the month of October, as well as year round. These efforts have saved numerous lives and will someday hopefully eradicate this type of cancer.

## MILC PROGRAM

Mr. FEINGOLD. Mr. President, while the Senate has passed some important legislation over the last few days, I deeply regret that the Senate will leave town today without extending the Milk Income Loss Contract, MILC, Program. Wisconsin's dairy farmers have relied on the safety net provided by the MILC Program to get them through the lowest milk prices in recent years, and this program needs to be extended.

I applaud my colleagues, the senior Senator from Wisconsin, Mr. KOHL, for his efforts to extend the MILC Program. Wisconsin farmers count on the safety net the MICL Program provides, and I hope that the Senate will take up and pass an extension of MILC before that program expires on September 30, 2005.

## NATIONAL SPINA BIFIDA AWARENESS MONTH

Mr. DODD. Mr. President, I rise today to remind my colleagues that October is National Spina Bifida Awareness Month and to pay tribute to the more than 70,000 Americans and their family members who are currently affected by Spina bifida—the Nation's most common, permanently disabling birth defect.

Spina bifida is a neural tube defect that occurs when the central nervous system does not properly close during the early stages of pregnancy. Spina bifida affects more than 4,000 pregnancies each year, with 1,500 babies born with Spina bifida each year. There are three different forms of Spina bifida—the most severe being myelomeningocele Spina bifida, which causes nerve damage and severe disabilities. Myelomeningocele Spina bifida is diagnosed in 96 percent of children born with this condition. Additionally, 70 to 90 percent of the children born with Spina bifida are at risk of mental retardation, a condition caused when spinal fluid collects around the brain.

The exact cause of Spina bifida is not known, but researchers have concluded that women of childbearing age who take daily folic acid supplements can reduce their chances of having a Spina Bifida pregnancy by up to 75 percent. Progress has been made with regard to the importance of consuming folic acid supplements and maintaining diets rich in folic acid. The September 17, 2004, edition of the Centers for Disease Control and Prevention publication, Morbidity and Mortality Weekly Report, finds that 40 percent of women of childbearing age reported taking a vitamin containing folic acid every day, an increase of eight percentage points from 2003. This increase suggests a substantial positive change in behavior. Since the Food and Drug Administration decision to fortify enriched grains with folic acid, the CDC has documented a 26 percent decline in these birth defects. Despite this success, thousands of pregnancies each year continue to be affected by these preventable birth defects. Thus, increasing use of vitamins containing folic acid remains an important strategy for preventing these birth defects.

Although folic acid consumption reduces the risk and incidence of Spina bifida pregnancies, we will still have babies born with Spina Bifida who need intensive care and families that need guidance and support in caring for and raising these children. As a result of this neural tube defect, most babies suffer from a host of physical, psychological, and educational challenges, including paralysis, developmental delay, numerous surgeries, and living with a shunt in their skulls in an attempt to ameliorate their condition. Today, approximately 90 percent of all babies diagnosed with this birth defect live into adulthood, approximately 80 percent have normal IQs, and approximately 75 percent participate in sports and other recreational activities. With proper medical care, people who suffer from Spina Bifida can lead full and productive lives. However, they must learn how to move around using braces, crutches or wheelchairs, and how to function independently. They are also at risk of a host of secondary health problems ranging from depression and learning disabilities to skin problems and severe latex allergies.

Lifesaving breakthroughs in research, combined with improvements in health care and treatment of children with Spina Bifida, now fortunately lead many with Spina bifida to live into adulthood. However, adults with Spina bifida face many new challenges in the fields of education, job training, independent living, health care for secondary conditions, and concerns related to aging.

I am grateful for my colleague from Missouri, Senator BOND who, along with myself, has been working to improve the quality of life for individuals with Spina bifida with the passage of the Birth Defects and Developmental Disabilities Prevention Act of 2003 and supporting increased funding for the National Spina Bifida Program at the Centers for Disease Control and Prevention. In fiscal year 2004, Congress provided a much needed $3 million in funding for the National Spina Bifida Program. I strongly urge my colleagues to support increased funding in fiscal year 2005 to ensure that the CDC has the resources necessary to prevent Spina bifida, improve quality-of-life for those living with the condition, and to deliver important public health messages to those communities most at-risk for a Spina bifida pregnancy.

I want also to recognize the special work of the Spina Bifida Association of America, an organization that has helped people with Spina bifida and their families for nearly 30 years, working every day to prevent and reduce suffering from this devastating birth defect. The SBAA was founded in 1973 to address the needs of the individuals and families affected by Spina bifida and is currently the only national organization solely dedicated to advocating on behalf of the Spina bifida community. As part of its service through approximately 60 chapters in more than 125 communities across the country, the SBAA puts expecting parents in touch with families who have a child with Spina bifida. These families answer questions and concerns and help guide expecting parents. The SBAA then works to provide lifelong support and assistance for affected children and their families.

Together, the SBAA and the Spina Bifida Association of Connecticut work tirelessly to help families meet the challenges and enjoy the rewards of raising their child. I would like to acknowledge and thank SBAA and the SBAC for all that they have done for the families affected by this birth defect, especially those living in my State. The Spina bifida community and our nation owe a tremendous debt to the SBAA for its work over the past three decades. I am honored to be an honorary co-chair along with Majority Leader FRIST of the 16th Annual Roast for Spina Bifida to benefit the Association and its work in local communities around the country.

As a nation, we have accomplished a great deal in our battle against birth defects. However, much more work remains to be done. I urge all of my colleagues and all Americans to endorse the important efforts to prevent Spina Bifida but also to support those already living with this often debilitating birth defect. Those living with Spina bifida and their loved ones deserve our utmost support. It is my hope that by recognizing National Spina bifida Awareness Month we can move closer to the laudable goal of eventually eliminating the suffering caused by this terrible birth defect.

## INTELLECTUAL PROPERTY LEGISLATION

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. LEAHY. Mr. President, we live in a nation of the most creative and inventive people in the world, but apparently some of my Republican colleagues do not appreciate them or their efforts. Thanks to the ingenuity, the inspiration, and the hard work of thousands of our fellow citizens, the United States enjoys the best in artistic expression and technological advancement, but that seems to mean little to those Senators. We enjoy the fruits of the labors of all the inventors and authors and artists—and of all the people who work in connection with them—not only as individuals but as a nation, but not everyone here recognizes the debt we owe them. In the twenty-first century, it is intellectual property that keeps this country at the forefront of the world economy, and what preserves our force as a global power, and I would think that those across the aisle would value the importance of that power.

Affording that intellectual property the most straightforward and reasonable protections, and giving law enforcement officials the resources to give those protections genuine power, would seem to be a sensible goal. Indeed, failing to do so would be unconscionable. In the United States, copyright industries alone account for 12 percent of the gross domestic product, and employ more than 11 million people. Those copyright industries have been adding workers at an annual rate that exceeds that of the economy as a whole by 27 percent, and those industries have achieved annual foreign sales and exports of almost $90 billion. But some Republicans are preventing the Senate from passing the most important intellectual property legislation before the Congress this year, and they are hiding behind anonymous holds. This is wrong.

Senator HATCH and I, and many of our colleagues on the Judiciary Committee, have been working on this legislation for some time now—most recently doing so late at night and through the weekends. We have done so because of the crushing need to ensure that the intellectual property laws are adequate to the legitimate and pressing concerns raised by many about the effectiveness of those laws. We have a package of strong and significant measures that would bolster protection of the intellectual property that drives our nation's economy and that would ensure law enforcement has the tools it needs to offer that protection. There was no reason not to send this package to the House immediately, and work with our colleagues there to ensure it became enacted into law, as soon as humanly possible.

In blocking this legislation, these Republicans are failing to practice what they have so often preached during this Congress. For all of their talk about jobs, about allowing the American worker to succeed, they are now placing our economy at greater risk through their inaction. It is a failure that will inevitably continue a disturbing trend: our economy loses literally hundreds of billions of dollars every year to various forms of piracy.

Instead of making inroads in this fight, we have the Republican intellectual property roadblock. It is a barrier that stands in the way of the CREATE Act, a noncontroversial bill the text of which has already passed both the Senate and House. The CREATE Act clarifies an important component of the Bayh-Dole Act that, when read literally by the courts, runs counter to

Congress's intent. By failing to make this clarification Congress is creating a deterrent to forming the very same public-private research partnerships meant to be encouraged by that Act. These partnerships have proved incredibly beneficial to universities, the private sector, the American worker, and the U.S. economy. All are placed in jeopardy by Congressional inaction.

The roadblock has also scuttled the ART Act, a bill that passed the Judiciary Committee and then the full Senate by unanimous consent. This legislation would have provided new tools in the fight against bootleg copies of movies snatched from the big screen by camcorders smuggled into theaters. And it would have adopted a creative solution developed by the Copyright Office to address the growing problem of piracy of pre-release works. Our anonymous Republican friends have ensured that these problems are left unaddressed by the 108th Congress.

The PIRATE Act, too, passed the Senate by unanimous consent. That bill would have given to the Attorney General new tools in the fight against piracy of books, music, movies and other creative works. Senator BIDEN's Anticounterfeiting Act, which would have marked a step forward in the fight against software piracy, was also included in the intellectual property package. We can tell our software companies that they will have to wait at least another year for the remedies promised by this legislation. And it is important to note that the Business Software Alliance tell us that $29 billion in software was stolen in 2003 alone.

There are other noncontroversial provisions in this legislation as well, such as language that would help ensure that the Library of Congress is able to continue its important work in archiving our nation's fading film heritage. Some of America's oldest films—works that document who we were as a people in the beginning of the 20th century—are literally disintegrating faster than they can be saved.

None of these were partisan provisions. And when Senator HATCH and I put our names on the same piece of legislation, you can bet that the result is never a bill that veers very far to the right or the left. He and I have worked together to produce a great deal of good intellectual property policy over the years, and I am sorry to see that some on his side of the aisle have blocked our efforts at similar progress this year.

We can foresee the disappointing result of this roadblock: our copyright holders will suffer, our patent holders will suffer, and so too will the American worker. In yet another important area, the Republicans that control the House of Representatives, the Senate, and the White House, have failed to respond to the needs of the American people. That is a shame.●

## HUNGARIAN GOLD TRAIN CASE

Mrs. CLINTON. Mr. President, I rise to join my colleagues in supporting the quest for justice in the Hungarian Gold Train case. I have heard from these Holocaust survivors. Their story is painful, and the evidence is overwhelming. Our moral duty is clear.

One of the most troubling aspects of this is that we should not be having this debate at all. The facts of the Gold Train incident are not really in dispute. And for all the effort expended by the Federal Government in court trying to evade these facts, the facts were disclosed to the world by the Federal Government itself.

The reason we know about the Gold Train is because of the Presidential Advisory Commission on Holocaust Assets, PCHA. In the 1990s, our own Government told other nations they should look into their pasts—face the facts—and make redress as appropriate. Seventeen nations established commissions to do that. So did we. This Congress created the PCHA to study the past and reveal the truth. The Commission was fortunate to have Edgar Bronfman, then chairman of the World Jewish Congress, as its head. Stuart Eizenstat, the government's top official dealing with these matters, was a key member. It had a full staff of historians and researchers and a budget of several million dollars.

The Commission found that the record of the United States was a source of pride. Our Nation not only liberated Europe, but after the war, served as a model for how to handle the assets that had been stolen from Europe's Jews—with one glaring exception. In 1999, the Commission issued a report on the Gold Train. After half a century of silence and coverup, the Federal Government stated that the Gold Train was an "egregious failure of the United States to follow its own policy regarding restitution of Holocaust victims' property after World War II." We cannot be proud of this conduct, but we can all be proud that the Government made this admission.

We should all have expected that the next step was to make good on these disclosures and this conclusion. The Government should have compensated these survivors. Instead, the survivors were forced to go to court. The Justice Department is fighting them inch by inch.

One would expect the Justice Department to defend the Government's PCHA report. Instead, the Justice Department has disputed the accuracy of the report and claimed that the Commission withdrew its report. However, as Chairman Edgar Bronfman has made plain, the Progress Report is an "accurate account of the United States' handling and disposition of the 'Gold Train' property." Bronfman also has noted that, "In no way . . . did the PCHA intend to retract or retreat from the findings of the Progress Report." In fact, Mr. Bronfman points out, the report is prominently displayed on the commission's website.

Our Nation has a duty to the past. It has a duty to these people. They are dying every day. The Justice Department should sit down and resolve this matter with these survivors. That is the right thing to do.

## INTELLECTUAL PROPERTY PROTECTION ACT

● Mr. McCAIN. Mr. President, I wish to briefly remark on H.R. 2391 and H.R. 4077, a package of bills referred to as the Intellectual Property Protection Act of 2004. I have objected to the further consideration or passage of these bills by unanimous consent.

From the text of the bills that have been available to date for Senators to review, I believe that one part of this broad legislation, the Family Movie Act, may actually harm consumers while appearing to help them. To be clear, I support the stated goal of the act's authors: immunizing from legal challenges a technology that enables parents to skip offensive material from prerecorded copies of films and television. While I applaud the merits of their stated intent, I fear that the very exemption designed to achieve this laudable goal simultaneously creates an implication that certain basic practices that consumers have enjoyed for years—like fast-forwarding through advertisements—would constitute criminal copyright infringement. I note that Consumers Union and Public Knowledge, as well as a host of others parties interested in protecting consumers, share my concerns.

Americans have been recording TV shows and fast-forwarding through commercials for more than 30 years. Do we really expect to throw people in jail in 2004 for behavior they've been engaged in for more than a quarter century?

I look forward to working with my colleagues in this Chamber to address not only these concerns, but also the uncertain liability created for manufacturers that bring other innovative and pro-family products to market in the face of continual threats of extinction from powerful interests who seek to thwart their entry.

For these reasons, I do not intend to remove my hold on these bills until I am satisfied that consumer interests have been protected in this legislation.●

## CONGRATULATIONS TO ASCAP ON 90 YEARS OF SUCCESS

Mr. HATCH. Mr. President, I am delighted to take this opportunity to recognize the 90th Anniversary of ASCAP, the American Society of Composers, Authors and Publishers.

In 1913, nine men braved foul New York weather to attend a small meeting at a restaurant called Luchow's. The meeting had been organized by three of the men; Raymond Hubbell, a composer, George Maxwell; a publisher; and Nathan Burkan, an attorney. They were brought together by the novel idea of creating a society to ensure writers and publishers received the recognition and revenue their works generated. Enlisting the help of songwriter Victor Herbert, the group found five other writers and publishers to get the word out. A second meeting was scheduled, and in February 1914, over 100 members of the music community officially began the American Society of Composers, Authors and Publishers.

In the time that has passed, ASCAP has represented many of the greatest musical talents in recent history. The society's members have included Louis Armstrong, Cab Calloway, Peggy Lee, Garth Brooks, Jimmy Hendrix, Carly Simon, Bob Marley, Henry Mancini, Billy Joel, Bruce Springsteen and Madonna. Members have won countless awards for their work, including current president Marilyn Bergman, who, in collaboration with her husband, has won three Oscars, two Grammys and four Emmys. Under her outstanding leadership it has grown to 185,000 members, including many of the newest and greatest names in music.

This year, ASCAP celebrates its 90th anniversary in a time of great importance to the music copyright community. With the current debate over file sharing and constantly developing technology, individual artists are virtually powerless to protect their own work from illegal copying. As a songwriter and member of ASCAP myself, I truly understand the joy and pride that comes with the creation of a song, as I also understand the need for artists' rights to their songs to be protected. I have also had a professional connection with the property rights issues the society addresses. As the chairman and a long-time member of the Senate Judiciary Committee, which oversees matters of intellectual property law, I appreciate the dedication the society has shown toward maintaining the integrity and efficiency of copyright laws.

In the past 90 years, ASCAP has witnessed the transitions from records to 8 tracks to cassettes to compact discs and now to mp3s. It has been through the many trends of music, from big band and swing in 1920s and 1930s, to the wide range of musical styles available today. ASCAP has stood the test of time. I hope my colleagues will join me in recognizing its great contributions to the world of intellectual property law and wishing ASCAP and its members well in the years to come.

## THE SCIENCE OF CLIMATE CHANGE

Mr. INHOFE. Mr. President, as chairman of the Committee on Environment and Public Works, I have previously addressed the Senate to discuss the issue of so-called global warming. I have taken a special interest in this issue because the gravity of what is at stake demands it. I have taken a simple, yet profound approach to dealing with environmental issues, working to ensure that the laws we pass represent sound public policy. Of my three guiding principles for all committee work, the first principle is that Government should rely on the most objective science.

Unfortunately, a commitment to drawing conclusions based on science is not a popular approach. What has most galled my critics is that I do not "spin the science" to make it something it is not. Good science is and should remain the product of well designed and reproducible studies and research.

All too often, however, the studies that are touted by my critics are tainted by political and ideological agendas and cannot be reproduced because the authors will not release the data that supposedly supports their conclusions—all of which raises the eyebrows of credible scientists. Such science has no place in our system of government and should not be used to drive major U.S. policy.

When I led the congressional delegation to Milan last December, I was greeted by posters that quoted me as saying global warming is "the greatest hoax ever perpetrated on the American people." I thanked the green activists for uncharacteristically quoting me correctly. Global warming is the greatest hoax ever perpetrated on the American people. It was true when I said it before, and it remains true today.

Perhaps what has made this hoax so effective is that we hear over and over that the science is settled and that there is consensus that, unless we fundamentally change our way of life by limiting greenhouse gas emissions, we will cause catastrophic global warming. This is simply a false statement.

Mr. President, 4,000 scientists, 70 of whom are Nobel Prize winners, signed the Heidelberg Appeal, which says that no compelling evidence exists to justify controls of anthropogenic greenhouse gas emissions. Over 17,000 scientists signed another document that directly contradicts the false claims of consensus. The Oregon Petition, compiled by Dr. Frederick Seitz, a past president of the National Academy of Sciences and a professor emeritus at Rockefeller University, reads as follows:

> There is no convincing scientific evidence that human release of carbon dioxide, methane, or other greenhouse gasses is causing or will, in the foreseeable future, cause catastrophic heating of the Earth's atmosphere and disruption of the Earth's climate.

What a powerful, unequivocal statement that is. So powerful, in fact, that ideologues fraudulently sent in made-up names and belittled legitimate scientists on the Petition, such as Dr. Perry Mason, simply because he and a few others shared their names with famous fictional characters. Such immature acts belong on a grade school playground, but are simply shameful in a serious policy debate. Yet we have heard these baseless charges repeatedly. But these distortions only serve to underscore the fragileness of the myth that there is consensus. If there truly is consensus, why would so many renowned scientists sign such statements? If there truly is consensus, why would these environmental activists be so threatened by these documents that they would make fraudulent submissions? In short, if there is such controversy over whether there is consensus, how can there possibly be consensus? The controversy over its existence is itself proof that no consensus exists.

This point was made succinctly by former Carter administration Energy Secretary James Schlesinger, who wrote in the Washington Post: "There is an idea among the public that the science is settled. That remains far from the truth." He also wrote that the global warming theory has hardened into orthodoxy that searches out heretics and seeks to punish them.

And that was James Schlesinger, Energy Secretary in a Democrat administration.

Thankfully, despite the efforts to "punish them," credible scientists continue to conduct well-designed, reproducible studies, and I will list some of them here today. Last year, I spoke at length to describe the great number of uncertainties surrounding claims of global warming. I described real science that contradicts the alarmists, who, wracked by fear, see a future plagued by catastrophic flooding, war, terrorism, economic dislocations, droughts, crop failures, mosquito-borne diseases, and harsh weather—all caused by man-made greenhouse gas emissions.

We cannot afford to forget that climate change alarmists' visions have been with us for decades. In 1972, the National Science Board, the governing body of the National Science Foundation, observed:

> Judging from the record of the past interglacial ages, the present time of high temperatures should be drawing to an end . . . leading into the next glacial age.

In 1974, Time magazine in an article entitled "Another Ice Age?" warned:

> However widely the weather varies from place to place and time to time, when metrologists take an average of temperatures around the globe they find that the atmosphere has been growing gradually cooler for the past three decades. The trend shows no indication of reversing. Climatological Cassandras are becoming increasingly apprehensive, for the weather aberrations they are

studying may be the harbinger of another ice age.

These fears became the motivation of a drumbeat from environmentalists that we must fundamentally alter our way of living to avoid a cataclysmic ice age. Of course, these fears proved baseless.

And when this 30-year cooling cycle ceased, these same alarmists again proclaimed we must fundamentally alter our way of living to avoid cataclysmic global warming. From the scientific literature, I believe these fears are equally baseless.

I believe it would be unconscionable to heed the alarmists' cries for economic disarmament without subjecting these claims of doom to the scrutiny they deserve. Predictably, those who peddle fear do not want discussions of science. Hiding behind claims of "the science is settled," they conjure ever more creative ways to market the myth.

The most recent example is the movie, "The Day After Tomorrow," in which the laws of physics are repeatedly violated to create fear of an ice age caused by global warming. First it was an ice age. Then it was global warming. Now it is an ice age caused within days because of global warming. Seems they can't make up their minds what they are afraid of—but their solution is always the same, restrict the economy and outsource American jobs overseas.

Of course, the movie was widely panned, not simply as a "bad" movie, but a "stupid" movie. Even some environmentalists had to admit there was no science to support the movie. For instance, Dan Schrag, a paleoclimatologist, said:

> My first reaction was, "Oh my God, this is a disaster because it is such a distortion of science.

What disturbed me was not the movie, which after all is simply the vision of a German film producer with a dislike for Americans who says, "My secret dream is that this film moves politicians to act." No, what disturbed me was he may get his wish. Former Vice President Gore teamed up with the activist group, MoveOn.org, to use the movie as an opportunity to market their alarmist views and economy-capping solutions. This is exactly what is wrong with how alarmists discuss this issue. Rather than joining me and those like me in a commitment to using the best, nonpoliticized science—whatever it finds—politically motivated groups, such as MoveOn.org, pander to our worst fears to drive their political agenda.

I would rather discuss what real science is showing. I said last July that:

> After studying the issue over the last several years, I believe that the balance of the evidence offers strong proof that natural variability is the overwhelming factor influencing climate.

After continuing to study the science over the last year, that belief has been strengthened. I submit, furthermore, that the scientific debate is shifting away from those who subscribe to global warming alarmism.

IPPC incorrectly attributes ground station temperature rise to climate change instead of local activity. One of the areas that has caused global warming advocates the most heartburn has been the inconvenient, yet inescapable, fact that records from satellites using highly reliable microwave sounding units show little warming, on a globally averaged basis, in comparison to ground station records. This important discrepancy on its face would suggest the ground-based data is contaminated. It is now widely recognized that ground-based measurements are affected by such things as the "heat island" effect, large-scale land-use changes and problems with maintaining ground-stations.

The Intergovernmental Panel on Climate Change, or IPCC, report published in 2001 is claimed to be the most authoritative source for claims that temperatures are rising due to climate change. The IPCC has become increasingly alarmist in its three successive reports. In its summary referring to globally averaged temperature data, it says only that "These numbers take into account various adjustments, including heat island effects." The discussion within the body of the report to this important issue, which must be thoroughly explained if ground-based data is to be considered of more importance than highly reliable satellite data, is disappointingly brief and uninformative as well. Moreover, it leaves the impression that everything except for temperature changes due to climate has been factored out.

Thus, the entire validity of the conclusions from ground-station temperature data rests on the claim that these temperature bias effects in the data from such things as growing cities, construction, agricultural practices and other economic activities which potentially could impact temperature measurements have been completely subtracted out from the conclusions. But this may not be true.

A new study by Drs. Ross McKitrick and Patrick Michaels that was presented in an article published in the May 25 issue of "Climate Research," throws these assurances of the IPCC into serious doubt.

The study examined temperature records for 218 individual stations located in 93 countries since 1979, when satellite data first began being collected. The study then compared these to the IPCC grid cells containing these 218 stations.

The study concluded that the differences between the satellite data and the ground station data were almost completely explained by local economic and social factors, and data quality control. Moreover, it found that:

> outside the dry/cold regions the measured temperature change is primarily explained by economic and social variables.

In short, the IPCC's claims of increasing temperatures based on ground-based data appear to be greatly overstated. As the article puts it, non-climate-related variables "add up to a significant net warming bias at the global level."

This finding is of tremendous importance, seriously eroding the foundation for the house of cards upon which the global warming hysteria is built. Moreover, the study is well-designed and reproducible.

Mann's hockey stick is flawed and irreproducible. That study's design and reproducibility stands in stark contrast to another study heavily relied upon by global warming advocates—the famous, or perhaps I should say, infamous hockey stick chart published by Dr. Michael Mann. The conclusions of this study have become a rallying cry for alarmists who would have us believe this is final proof that 20th century temperatures have spiked up dramatically. These results are routinely used in presentations to corporate officers to demonstrate that they had better restructure their companies' operations and annual reports.

But Mann's conclusions have come under intense criticism recently, as other researchers have challenged both the methodology he used and the reliability of the results.

A team of scientists led by Dr. Willie Soon and Dr. Sally Baliunas, who are astrophysicists from the Harvard-Smithsonian Center, surveyed 240 articles concerning local and regional-scale climate reconstructions over the last 1,000 years. The proxy record they examined was far more extensive than that used by Mann. While Mann's analysis relied mostly on tree-ring data from the Northern Hemisphere, the researchers offer a detailed look at climate changes that occurred in different regions around the world over the last 1000 years using over 20 different proxies.

As a result of this extensive survey, Drs. Soon and Baliunas concluded that:

> the 20th century does not contain the warmest anomaly of the past millennium in most proxy records, which have been sampled world-wide. Past researchers implied that unusual 20th century warming means a global human impact. However, the proxies show that the 20th century is not unusually warm or extreme.

Other studies that are devastating to Mann's conclusion focus not on its inconsistency with the results of work of a multitude of other researchers, but on his extremely questionable and improper methods. In an attempt last year to perform an audit of Mann's unique conclusions, Drs. McIntyre and

McKitrick found that Mann's work was irreproducible without resorting to the use of flawed data sets, inappropriate data manipulation, or ill-advised statistical procedures. To quote the researchers, "the dataset used to make [the Mann reconstruction] contained collation errors, unjustified truncation or extrapolation of source data, obsolete data, incorrect [methodological] calculations, geographical mislocations and other serious defects."

When the researchers corrected for these data and methodological flaws, they conclude that temperatures in the early 1400s rivaled those of today, indicating that human influences have not taken the climate to unprecedented territory.

Dr. Esper, a paleoclimate researcher, and his colleagues published a paper that suggests that the tree-ring histories heavily relied upon by Mann in his temperature reconstructions were manipulated in such a way as to have most of the long term variability removed, making the 20th century temperatures appear much more unusual than they in fact were. Esper and his colleagues produced temperature reconstructions for the past 1,000 years using a more scientifically defensible approach to handling tree-ring records that preserves long-term variability.

The study concludes that the past 1,000 years have been characterized by periods of warm and cold, and that as far back as about 1,000 years ago, temperatures were as warm or warmer than in the late 20th century.

Of course, these studies show that the "shaft" of the hockey stick created by Mann is wrong. And it is intuitively true that the shaft is wrong. We have known for years about the Medieval Warm Period from 800 to 1400 A.D. We have known for years about what has been called the Little Ice Age from 1600 to 1850 A.D. And the new studies I've just described confirm these well-established naturally occurring climatic events.

In other words, in creating his so-called hockey stick, Mann deliberately eliminated the first blade of the hockey stick. By eliminating the blade he left the false conclusion that the 20th century temperatures are unprecedented. They are not. The fact is that the real temperatures spike far higher during the period he portrays as a straight shaft than current temperatures—despite that his extraordinarily flawed results indicate we are living in the hottest period in the last 1,000 years.

Ironically, the often-criticized IPCC report itself contradicts Mann's findings. As I described earlier, a new reproducible study indicates the IPCC's estimates of temperature rise themselves appear to mistakenly attribute socioeconomic and data quality factors that affect temperature readings to climate change. Yet even so, the IPCC shows a far smaller temperature increase than Mann. The IPCC shows an increase of 0.6 degrees Celsius over the last 100 years, but the "blade" of the Mann hockey stick shows an increase of 0.95 Celsius—more than a 50 percent larger increase.

Moreover, the so-called hockey stick "blade" does not appear to be explained by the statistical techniques Mann claims he used. In a recent letter published in Geophysical Research Letters, Drs. Soon, Baliunas, and Legates closely examined the "blade" and found that it could not be reproduced using either the technique Mann says he used, or other common statistical techniques. Once again, this key requirement of reproducibility seems missing from the flagship study of those crying that the sky is falling.

Most recently, Dr. Chapman and his colleagues commented on a comparison of borehole temperature measurements with Dr. Mann's proxy records and questioned Dr. Mann's analysis techniques, concluding they are "just bad science" and that Dr. Mann had undertaken a "selective and inappropriate presentation" of results.

Thus, as Dr. Legates concluded in testimony before the Environment and Public Works Committee, this so-called flagship study:

> certainly does not conform to the requirements of open access and reproducibility, required by the Data Quality Act, nor does it meet even minimal quality standards.

Dr. Legates went on to say in respect to the many problems inherent in Mann's study:

> This leads me to reject Dr. Mann's . . . conclusions . . . that anthropogenic factors provide the overwhelming influence on global and hemispheric temperatures in the last 1800 years and that the 1990s are the warmest decade, and 1998 the warmest year, of the last 1800 years.

Some may try to defend the Mann conclusions, and believe his work is unimpeachable. But a recent article published in the July 1st, 2004 issue of Nature magazine repudiates that belief. In a brief "corrigendum," Mann makes a clear admission that the disclosure of data and other methods supporting the hockey stick was materially inaccurate. This corrigendum was ordered by the Editorial Board after two other scientists, Dr. McIntyre and Dr. McKitrick filed a "Materials Complaint." According to these scientists, the on-line supplemental information accompanying Mann's correction notice essentially concedes for the first time that key steps in the computations behind his conclusions were left out of and conflict with the description of methods in the original paper.

Despite this, Mann continues to assert that these errors do not affect his results, saying: None of these errors affect our previously published results.

But as McIntyre and McKitrick point out:

> if this were true, then a simple constructive proof could have been provided, showing before and after calculations. This is conspicuously missing . . . We have done the calculations and can assert categorically that the claim is false. We have made a journal submission to this effect and will explain the matter fully when that paper is published.

While this sad spectacle clearly is not yet over, three things are clear. Mann's hockey stick has never been reproduced, efforts to do so showed that the study was replete with errors and miscalculations, and despite his continuing faith in his hockey stick conclusions, Mann has yet to offer any proof whatsoever that they are correct. And yet the alarmists continue to claim we should unilaterally disarm America's economy based on Mann's unbelievable—literally unbelievable—results.

Another controversial claim is that sea level is rising, and that this is due to climate change. It has been claimed for years that sea level was rising rapidly, yet again fueling the call for action. Based on modeling, the IPCC estimates that sea level will rise 1.8 millimeters annually, or about one-fourteenth of an inch.

In a study published this year in Global and Planetary Change, Dr. Nils-Axel Morner of Sweden found that sea level rise hysteria was overblown. In his study, which relied not only on old observational records, but satellite altimetry as well, he concluded that:

> there is a total absence of any recent "acceleration in sea level rise" as often claimed by IPCC and related groups.

Morner's findings go to the heart of the debate—the reliance by global warming advocates on faulty models that conflict with observational records instead of observational records themselves. According to Morner, the:

> IPCC made an estimate of all variables and their possible contribution to sea level rise. They arrived at a mean value of 0.9 millimeters per year. This value is in harmony with the records of the present and near-past . . . Still—and this is remarkable, [says Morner,]—IPCC compared their own value with a model value of 1.8 millimeters per year and discarded their own estimate as unrealistic.

Morner has blunt words for the IPCC approach, saying that he "discard[s] the model output of IPCC as untenable, not to say impossible."

Using satellite altimetry and other observational data, Morner finds that the late 20th century lacks any sign of acceleration of sea rise, including the last decade. He concludes that, based on long-term observational data as well as the newest technology, sea level in a century can be expected to be within the range of a 10 centimeter sea level decline to a 20 centimeter sea level rise, which translates to about a four inch sea level decline to an eight inch sea level increase.

Yet, remarkably, we still hear fears that the world will become flooded due to global warming. Such claims are, to be blunt, completely out of touch with most comprehensive science. As Sweden's Morner puts it, "there is no fear of massive future flooding as claimed in most global warming scenarios."

Something else I am told is that there has been an increase in the number and intensity of severe weather events. Typically these doomsayers point to the droughts in the Southwest or point to more violent hurricanes to prove that global warming is occurring.

In response to the current 5-year drought in the southwest, the New York Times proclaimed on May 10 that "Drought may be normal, but there may be nothing normal about this drought." Of course, the paper inserted a weasel word to avoid actually describing how it was abnormal.

This is one of those claims that makes me want to utter the old insult, "You are so wrong, I don't know where to begin." If an increased number of severe droughts is to prove global warming, it would have to be true that the number and severity of these droughts are, in fact, increasing. But nothing could be farther from the truth.

Drought is a serious and damaging climate-related hazard. But this fact should not obscure the fact that carbon dioxide is not the cause of this recurring disaster that plagued even the Ancient Egyptians. The two worst droughts to hit this country in the last century occurred in the 1930s—known as the Great Dustbowl—and the 1950s. But they were neither the longest droughts to afflict this country, nor the most severe.

According to an article published in the December 1998 Bulletin of the American Meteorological Society, Dr. Connie Woodhouse and Dr. Jonathan Overpeck conducted tree-ring reconstructions in the Southwest that suggest the lengths and severity of droughts of the 1930s and 50s have been equaled or, in some regions, surpassed by droughts in the past several centuries.

They further concluded that it is clear that major multi-year Great Plains droughts have occurred naturally once or twice a century over the last 400 years. And there is evidence that during the 13th and 16th centuries, there were two megadroughts that exceeded the severity, length and spatial extent of 20th century droughts.

Of course, this study was published before the onset of the most recent 5-year drought in the Southwest. More recent studies published just last year, however, confirm its findings. In a 2003 article in Geophysical Research Letters, Dr. Stephen Gray and his colleagues stated that:

> like the 1950s drought, the late 16th century megadrought was followed by a wet period, and both events were associated with intense La Nina episodes typical of southwestern U.S. and Great Plains droughts.

In an article in the July 2003 issue of the American Meteorological Society, Dr. Falko Fye and his colleagues found that:

> There appear to have been at least 12 droughts since 1500AD that were analogous to the 1950s drought in terms of location, intensity, and duration. . . . [and] the 16th century megadrought lasted some 18 years and the tree-ring data indicate it was the most severe sustained drought to impact North America in the past 500 to perhaps 1000 years.

What is also worth noting is that the global temperature record doesn't provide any useful information concerning drought conditions.

In the wake of this year's successive hurricanes hitting Southeast and Gulf States, some have even had the gall to claim it is due to global warming. Credible meteorologists have been quick to dismiss such claims. As Hugh Willoughby, senior scientist at the International Hurricane Research Center of Florida International University stated in the plain language we nonscientists can understand:

> This isn't a global-warming sort of thing. . . . It's a natural cycle.

Benjamin Preston, senior research fellow at the Pew Center on Global Climate Change—a green activist organization that promotes the global warming theory echoed his sentiments, saying about the link between hurricanes and global warming:

> The general consensus is that it's unlikely. . . . We can actually explain an active hurricane season using natural variability.

If even the Pew Center has said that, it seems pretty obvious that the activists and writers who have been quick to implicate global warming should be dismissed as the opportunists they are. Weather simply changes. In the words of Professor Perry Samson, associate chair of the Department of the Atmospheric, Oceanic, and Space Sciences at the University of Michigan:

> Abnormal weather is normal.

When it comes to the argument that hurricanes are getting worse, it is typical to hear statistics about increasing costs due to hurricane damage. Of course, we can expect monetary damage from hurricanes to increase in the future, "not as a result of anthropogenic climate change, but from natural climate cycles, and . . . increasingly expensive properties along the coast."

These are not my words, but of a top U.S. Government scientist named Dr. Christopher Landsea.

Science simply doesn't support the claims that there is a link between hurricanes and global warming. A team led by the National Oceanic and Atmospheric Administration's Dr. Landsea concluded that the relationship of global temperatures to the number of intense landfalling hurricanes is either not present, or is very weak. In fact, if we examine hurricane records for which we have good data going back to the 1800s, there is much evidence supporting the conclusion that we have had more hurricane activity historically than in the last few decades, so an increase the last several years should perhaps be expected as part of natural variability. The overall number of hurricanes and the number of the strongest hurricanes fluctuated greatly during the last century, with a great number in the 1940s. In fact, through the last decade, the intensity of these storms has declined somewhat.

Hopefully, we can finally put to rest the unsubstantiated claim that global warming is leading to more severe and unpredictable weather. What is certain is that the drought record in the Southwest over the last 1,000 years and the hurricane record flatly refutes that claim.

Global warming advocates will often recite statistics that glaciers are in retreat. For instance, it is said that the number of glaciers in Glacier National Park has dwindled from 150 more than a century ago to about 35 today and that the part of the Arctic Ocean that remains frozen year-round has been shrinking.

But what do these examples really say about global warming? Scientists know very little about glacial activity, but what they do know suggests there are as many expanding glaciers as there are shrinking ones—this even happens with two glaciers within a few miles of each other—and that there is no universal trend either way. There are more than 160,000 glaciers on the planet. Scientists have good, long-term mass balance measurements on a comparative handful of them. So how can someone assert that glaciers are shrinking?

Dr. Roger Braithwaite last year looked at mass balance trends in 246 glaciers worldwide from 1946 to 1995. He found that "there are several regions with highly negative mass balances in agreement with a public perception of "the glaciers are melting,' but there are also regions with positive balances." This holds true even within continents. In Europe, "Alpine glaciers are generally shrinking, Scandinavian glaciers are growing, and glaciers in the Caucasus are close to equilibrium for 1980–95." Globally, adding all the results together, "there is no obvious common or global trend of increasing glacier melt in recent years."

Indeed, the observed variability of Arctic sea ice thickness, which shows that the sea ice mass can change by up to 16 percent within one year, contrasts with the concept of a slowly dwindling ice pack, produced by global warming.

But if global warming is not the cause, what is? In 2002, work done by Dr. Greg Holloway and Dr. Tessa Sou, showed that the decadal-scale wind pattern changes were responsible for rearranging the ice, giving some regions thinner and others thicker amount of ice. Research by Dr. Ignatius Rigor in 2002 confirmed this, finding much of the so-called Arctic ice thinning is caused by decadal variations in wind patterns over the Arctic.

Alarmists also speak eloquently about Kilimanjaro, and like to show two pictures—one from the early 1990s with a modest snow cap on it, and another from 2000 showing the snow caps had shrunk.

Of course, those are just two pictures. Let me tell you about three. Yes, Kilimanjaro's snows were smaller in the late 90s than the 80s, but they were bigger in the 80s than in the 70s. In fact, the snows of Kilimanjaro in 1997 appear to resemble the snows of Kilimanjaro in 1976.

This makes a simple point. If you are given only partial facts, you can easily be misled into thinking you see something when in fact you are seeing a very different thing indeed. The pictures you have been shown are simply transient snows and are meaningless. To quote an April white paper from the Center for Science and Public Policy entitled The Consensus on Kilimanjaro is Wrong, "though a photograph may be worth a thousand sound bytes, those words and photos do not go together."

Of course, the real question is what does the issue of melting glaciers on Kilimanjaro have to do with man-induced global warming? Not much. On November 26, the New York Times had some interesting insights into Kilimanjaro and global warming. Here's what the Times had to say:

> The glaciers on Kilimanjaro have been in retreat for at least a century, shrinking by 80 percent between 1912 and 2000. Although it is tempting to blame global warming, the most likely culprit is deforestation.

As explained in Nature's Science update, with forest present, the natural updraft from the slopes carried moist air to the summit and helped reinforce and sustain the ice cap. Without those forests, the updrafts are dry and fail to replenish the ravages of the sun on the summit ice cap. And since the equatorial sun is extremely hot, deforestation also means the updrafts are warmer than they were when Kilimanjaro's forests were abundant.

Conjuring up fears of global warming because of Kilimanjaro's glaciers—to my mind—represents exactly the kind of misuse of science that leads to increased misunderstanding instead of understanding. If the problem is deforestation and there is public will to fix the problem, fix it. Don't try to mislead people into thinking the problem is something else simply because that fits your agenda.

This is a point I have made repeatedly. I believe it is extremely important for the future of this country that the facts and the science get a fair hearing. Without proper knowledge and understanding, alarmists will scare the country into enacting its ultimate goal: making energy suppression, in the form of harmful mandatory restrictions on carbon dioxide and other greenhouse emissions, the official policy of the United States.

While the science underlying hysterical claims of catastrophic global warming is thin, the analyses showing the costs of capping our economy are not. Perhaps the most well known study examining the Kyoto Protocol came from Wharton Econometric Forecasting Associates, or WEFA. According to WEFA economists, Kyoto would cost 2.4 million American jobs and reduce GDP by 3.2 percent, or about $300 billion annually, an amount greater than the total annual expenditure on primary and secondary education.

It is hard to imagine such huge amounts, so I will put the findings in context. Because of Kyoto, American consumers would pay 11 percent more for food, 14 percent more for medicine, and 7 percent more for housing. Electricity prices would nearly double and gasoline prices would go up an additional 65 cents per gallon.

New studies that have come out since my last speech on global warming examining the consequences of unilaterally putting a cap on the economy through carbon restrictions are also revealing. Using perhaps the most sophisticated model to assess the issue—what is known as a dynamic model that incorporates future changes in behavior—the renowned economic forecasting firm of Charles River Associates has concluded that under the McCain-Lieberman bill, S. 139, economic growth would slow.

The Nation would lose up to a quarter million jobs by 2010, increasing to up to 610,000 jobs by 2020. Energy-intensive industries would be the hardest sector hit. Natural gas prices would increase by up to 82 percent, driving thousands of companies overseas, as we have already seen happen to fertilizer manufacturers, who cannot afford to make their product at even today's natural gas prices. Production from these energy-intensive industries alone would decline annually by up to $160 billion.

The bill would hit specific state economies harder. For instance, Ohio and West Virginia, both with economies that rely on coal production, would see their industries decimated, with production decreasing by as much as 73 percent.

Average households in the United States would incur a financial cost up to $1,300 in the year 2010, with the annual cost rising up to $2,300 by 2020. Families' direct costs in the form of higher electricity and gasoline prices would increase dramatically. Within 6 years, residential electricity prices would rise by up to 30 percent, dramatically increasing families' monthly electricity bills. By 2020, those prices would rise by up to 43 percent due to carbon restrictions.

Regardless of which study one looks at, gasoline price increases will be substantial. According to the Energy Information Administration, gas prices will increase by 27 percent, or 40 cents. The more sophisticated Charles River Associates assessment puts the cost even higher, with gasoline prices increasing by up to 50 cents.

Of course, for many wealthier people, these may seem like trivial costs. Rich people don't think about their electric bills or the cost of gasoline at the pump. But average Americans do. And the elderly living on fixed income, and the poor, pay attention to these costs even more. What is worse, these costs are regressive, which means that poor people will bear a bigger burden because they spend a larger share of their income on energy, such as gasoline and electricity. When the costs go up, they must give up something else important to them.

And what do we buy for costs?

As even James Hansen, the NASA scientist who popularized the global warming theory, admits, it would take massive reductions in carbon emissions to have any appreciable impact on climate change. And, of course, his views are based on the assumption it even exists. Calculating what affect implementing the Kyoto Protocol would have, Martin Parry and other researchers concluded in Nature that Kyoto would only reduce global surface temperatures by 0.06 Celsius by 2050. Coming to a nearly identical conclusion, U.S. Global Change Research Program researcher Tom Wigley estimated in Geophysical Research Letters that implementing the Kyoto Protocol would reduce global surface temperatures by 0.07 Celsius by 2050. The temperature differences within this room exceed such a minuscule amount.

Despite these studies which increasingly suggest that precipitous action to combat global warming is unjustified, alarmists often trot out a concept known as the precautionary principle—which is that it is better to be safe than sorry. But they misunderstand or at least, misapply this concept. From all I have learned about the subject of global warming, I believe that the safest course is to reject the hypothetical claims of those who fear planetary doom is around the corner and are willing to doom the economy to avert it. The science of global warming is uncertain, the costs of capping our economy with carbon restriction are high, and even if the doomsayers were correct, it would do little to nothing to reduce the temperature increases.

But there is more to the story. Taking precipitous action will actually do more harm than good.

A 2003 study by Indur Goklany of the Department of Interior examined this question in some depth. In the study, which did not challenge the validity of global warming's existence and its consequences in its assumptions, Goklany examined the benefits and opportunity costs of taking action to mitigate global warming. In essence, the study examined whether humanity would be better off if we tried to avert or otherwise mitigate global warming or whether humanity would better off adapting to it.

What the study concluded was remarkable. Even if global warming were real, money spent to combat global warming would do comparatively little—as a percentage of the problem to reduce the afflictions of hunger, malaria, and water shortages versus if no action were taken at all. Yet it went farther—it then examined the benefits of diverting the money spent on global warming and using the monies to directly fight these afflictions through such activities as agricultural research and development and investments in treatment and prevention in combating malaria. The final results? Fewer people would go hungry, fewer would suffer from malaria, and fewer would lack access to adequate supplies of water if we simply adapted rather than attempted to combat global warming. And at far less cost, meaning those resources can be invested productively.

So rationing our energy supply would make the world not safe, but sorry. And that is assuming global warming is happening. How much sorrier will we be if it isn't?

British Prime Minister Tony Blair's goal of serious investment in public health and infrastructure for energy and water, and delivering real progress on African development is in conflict with his aims on global warming. His Science Advisor, Sir David King, has stated that choices won't have to be made as to how to spend resources. But that flies in the face of basic economics. If resources are spent in one way, they are not available to be spent another. In short, even a wealthy future world will have constraints on the resources it can devote to disease and other problems. How much more will those constraints be in a poorer world.

The point is clear. Back in the earlier part of the last century, when Asia was far poorer than it is today, deaths from climate events were far higher than now, when the region is wealthier. And let's look at the hurricanes from this hurricane season. Unfortunately, 100 Americans died during four naturally occurring hurricanes to hit land. But compare the fate of this wealthy country to that of Haiti, where in that small, terribly poor country 2,000 people died and 300,000 become homeless from a single hurricane—Hurricane Jeanne.

It is not simply common sense, its backed up by data. Capping carbon will cap the economy. There is an incredibly strong relationship between a country's GDP growth rate and its carbon dioxide growth rate. Because carbon is synonymous with economic activity. While we can and should increase our energy efficiency because its good business, we must realize that we are tied to carbon.

Fossil fuel is the energy base of this country. And while some may claim we can simply and easily move to a non-carbon based society, they are not being honest. We have an enormous infrastructure reliant on fossil energy that will be with us for many, many decades to come. And for those few alternatives that could replace older units such as building wind-farms off Nantucket or building new dams or new nuclear plants, green activists bring efforts to a grinding halt. As the chart shows, technology will not quickly restructure our energy infrastructure.

Unfortunately, despite the many studies, facts and figures I have shared with you today demonstrating that the science does not support catastrophic global warming claims, well-designed, reproducible studies are not the driving force behind today's climate science debate. Rather, ideology is.

This point was made by Dr. Richard Lindzen in regards to his contributions to the preparation of the United Nations IPCC report. Lindzen stated:

> I personally witnessed coauthors forced to assert their 'green' credentials in defense of their statements.

But Lindzen's words are tame compared to those spoken earlier this year in Russia. At a press conference on global warming and the Kyoto Protocol, Russian Presidential Economic Advisor Andrei Illarionov made some comments about ideology that are nothing short of remarkable. Let me share with you what he says is driving the global warming debate. Illarionov stated:

> There have been examples in our fairly recent history of how a considerable portion of Europe was flooded with the brown Nazi ideology, the red Commie ideology that caused severe casualties and consequences for Europe and the entire world. Now there is a big likelihood that a considerable part of Europe has been flooded with another type, another color of ideology—[and he is speaking of global warming here—again, another type, another color of ideology]—but with very similar implications for European societies and human societies the world over.

He also said that imposition of the Kyoto Protocol "would deal a powerful blow on the whole humanity similar to the one humanity experienced when Nazism and communism flourished."

And that was the chief economic advisor to Russian President Putin. The world has certainly turned on its head that we Americans must look to Russians for speaking out strongly against irrational authoritarian ideologies. Putin's economic advisor's words are underscored by the conclusion of the Russian Academy of Science which this last May concluded that there is a high degree of uncertainty that global warming is caused by anthropogenic factors, that the Kyoto Protocol does not have a scientific basis and it would not be effective in achieving the IPCC's aims.

And while the Russia legislature may well indeed ratify the Kyoto Protocol, Illarionov has stated that it would occur for political considerations, not scientific or economic. Last May, it was reported that the European Union had promised to help Russia enter the World Trade Organization and would smooth over WTO requirements in exchange for signing the Kyoto Protocol. Additionally, there is speculation within Russia that the Kyoto Protocol will fail of its own weight since only two European countries will meet their carbon emission targets. So, clearly, Russia is playing politics with the issue for its purposes just as others have for their own.

That much of this debate is about world governance and not science is not news. At the Hague in November 2002, French President Jacques Chirac stated that Kyoto represents "the first component of an authentic global governance."

Those are his words, not my characterization of his words.

To summarize my remarks today, it makes no sense to take action on climate change when the costs are so profound and the benefits are non-existent.

Last year, I spent two hours addressing the Senate about the state of science regarding the global warming debate. And today, I have spent another two hours providing the latest, most up-to-date information on the science about global warming—or more to the point—the lack of credible science supporting it.

I have been told many times that the science is irrelevant—that we have moved beyond the science, and that we must now concentrate on what to do to stop global warming from happening. I, for one, would hope that we never abandon the science. Those who are afraid of the newest and best science are usually the same people who are afraid that the more the public actually knows, the more it will interfere with their grand geopolitical plans to ration America's energy.

I believe we should be held accountable for the actions we take, and not bet the American economy on something unless it is firmly rooted in science, and our actions can have some beneficial effect. Global warming ideology has no place in policy debates regarding scientific issues. Credible, reproducible studies should be our gold standard—our minimum standard. By that standard, carbon restrictions fail the test.

Unfortunately, we are in a political season and some legislators believe that they can score political points with this issue. Last year, when Senator JOHN KERRY was focusing on the liberal base in his primary, he criticized President George Bush on his campaign website for rejecting the global warming treaty, stating:

> Dropping out of international implementation of the Kyoto Protocol was foolhardy then, and it is even more obviously foolhardy today.

But now that JOHN KERRY is trying to be more mainstream he has removed that statement from his website and replaced it with the following:

> John Kerry and John Edwards believe that the Kyoto Protocol is not the answer. The near-term emission reductions it would require of the United States are infeasible, while the long-term obligations imposed on all nations are too little to solve the problem.

Yet in the September 30 presidential debate, he criticized President Bush when he said:

> You don't help yourself with other nations when you turn away from the global warming treaty, for instance, or when you refuse to deal at length with the United Nations.

I am trying to figure out what he means by those statements.

And unless he is simply doing another of his all-too-familiar flip-flops, I can only conclude that while he does not believe the Kyoto Protocol is the answer, he would support it anyway. If I lived in the Midwest, I would find his shifting stances worrisome.

I have laid out my case today for why capping our economy with carbon restrictions is wrong-headed and rash. And I believe that the future health of our great Nation and the world is too important to have an issue as vital as this one relegated to the status of a political football. My hope is that the legislators who have moved beyond the science will, once again, develop a healthy respect for what it has to say in guiding our actions.

## ARIZONA WATER SETTLEMENTS ACT

Mr. KYL. Mr. President, the water users and providers of Arizona have waited a long time for this day. The Arizona Water Settlements Act, S. 437, is the product of 15 years of negotiation, litigation, and more negotiation. Virtually every major water user and provider in central Arizona has devoted itself to the passage of this bill. In fact, S. 437 would codify the largest water claims settlement in the history of Arizona. The three titles in this bill represent the tremendous efforts of literally hundreds of people in Arizona and here in Washington over a period of 15 years. Looking ahead, this bill could ultimately be nearly as important to Arizona's future as was the authorization of the Central Arizona Project, CAP, itself.

Since Arizona began receiving CAP water from the Colorado River, litigation has divided water users over how the CAP water should be allocated and exactly how much Arizona was required to repay the Federal Government. This bill will, among other things, codify the settlement reached between the United States and the Central Arizona Water Conservation District over the State's repayment obligation for costs incurred by the United States in constructing the Central Arizona Project. It will also resolve, once and for all, the allocation of all remaining CAP water. This final allocation will provide the stability necessary for State water authorities to plan for Arizona's future water needs. In addition, approximately 200,000 acre-feet of CAP water will be made available to settle various Indian water claims in the State. The bill would also authorize the use of the Lower Colorado River Basin Development Fund, which is funded solely from revenues paid by Arizona entities, to construct irrigation works necessary for tribes with congressionally approved water settlements to use CAP water.

Title II of this bill settles the water rights claims of the Gila River Indian Community. It allocates nearly 100,000 acre-feet of CAP water to the community, and provides funds to subsidize the costs of delivering CAP water and to construct the facilities necessary to allow the community to fully utilize the water allocated to it in this settlement. Title III provides for long-needed amendments to the 1982 Southern Arizona Water Settlement Act for the Tohono O'odham Nation, which has never been fully implemented. Title IV creates a placeholder for a future settlement on the Gila River for the San Carlos Apache Tribe and reiterates the fact that titles I, II, and III do not affect the water rights claims of the San Carlos Apache Tribe or the claims of the United States on their behalf.

For the San Carlos Apache Tribe and other Indian communities in Arizona that have not yet settled their water rights claims, this bill offers hope for the future. This bill creates a fund for future Indian water settlements in Arizona. In addition, through this legislation, 67,300 acre-feet of CAP water will be set aside for future Indian water rights settlements. The water needs of each Indian tribe in Arizona are particular to that individual tribe. Likewise, the contours of each Indian water rights settlement must be tailored to the needs of the tribe and the local communities that surround it. Through this bill we give those tribes, the Secretary of the Interior, and future Congresses a framework of water and funding that can be customized to meet the needs of each settlement.

For now, this bill will allow Arizona cities to plan for the future, knowing how much water they can count on. The Indian tribes will finally get "wet" water—as opposed to the paper claims to water they have now—and projects to use the water. In addition, mining companies, farmers, and irrigation delivery districts can continue to receive water without the fear that they will be stopped by Indian litigation.

All final issues between the parties or the United States have been resolved. In particular, the states of Arizona and New Mexico have negotiated the best way to address New Mexico's right under the 1968 Boulder Canyon Project Act, authorizing the CAP, to exchange CAP water on the Gila River.

In summary, this bill is vital to the citizens of Arizona and will provide the certainty needed to move forward with water use decisions. Furthermore, the United States can avoid litigating water rights and damage claims and satisfy its trust responsibilities to the Tribes. The parties have worked many years to reach consensus rather than litigate, and I believe this bill represents the best opportunity to achieve a fair result for all the people of Arizona.

## U.S. POLICY IN IRAQ

Mr. LEVIN. Mr. President, this evening on the campus of Michigan State University in Lansing I will be speaking on U.S. policy in Iraq.

My conclusion is that just as it took a new administration to extract the United States from Vietnam, it will take a new administration to extract us from Iraq in a way which leaves that country stable and democratic. We cannot leave Iraq as we did Vietnam.

Nor can we just continue a western occupation of a Muslim nation that is the target and magnet for violence and terror, and that has become more destabilizing than stabilizing. We must change course in Iraq—or else Iraq's future is not likely to be stability and democracy, and the legacy to the world of the Iraq war is likely to be greater turmoil and terror.

I ask unanimous consent that the remarks I will be making this evening be included in full at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### "IRAQ: WHAT NEXT?"

Good evening. I am delighted to be here with you to discuss where we are and where I think we need to go in Iraq.

This is going to be a pretty sober discussion, because I agree with what Republican Senator CHUCK HAGEL said recently: "We're in deep trouble in Iraq." Although President Bush continues to say that things are going well in Iraq, even Secretary of State Colin Powell acknowledged recently that the situation is "getting worse."

And it is. American soldiers and Marines face an ever strengthening insurgency that puts our troops, the Iraqi people and a stable Iraq at increasing risk. Our troops continue to die and suffer wounds at increasing rates. American and other contractors are being taken hostage and brutally murdered.

The lack of security is having a profound effect on reconstruction and on the effort to establish a stable Iraqi government. We are paying the price for a failed strategy that included rosy pre-war assumptions and a rush to war without first allowing United Nations weapons inspectors to complete their work and without first building a credible and effective international coalition, including Muslim countries, as President Bush's father did in the first Gulf War. This was compounded by the failure to plan for the post-war period and the major mistake of abolishing the Iraqi army rather than using it to help provide security after the cessation of major combat operations.

President Bush said recently that "It's hard to help a country go from tyranny to elections to peace when there are a handful of people who are willing to kill in order to stop the process..." Only a handful of people willing to kill? That's not facing reality—that's ignoring reality.

Late last month, the Washington Post, quoting figures released by Iraq's Health Ministry and the Pentagon, reported that attacks over the previous two weeks had killed more than 250 Iraqis and 29 U.S. military personnel. Further, a sampling of daily reports produced for the U.S. Agency for International Development shows that such attacks now typically number about 70 each day, in contrast to the 40 to 50 a day during the weeks prior to the transfer of sovereignty from the Coalition Provisional Authority to the Iraqi Interim Government. Those reports also indicate that the attacks are wide-spread, with a majority occurring outside the three provinces that have been the principal locations for insurgent violence.

The security situation has deteriorated to the point that there are cities and towns in Iraq where the U.S. and Coalition forces do not go. In the absence of a presence on the ground in places like Fallujah, which has been taken over by insurgents, the U.S. military has resorted to air power to strike safe houses and other places where intelligence indicates the insurgents are located. These attacks have caused death and injuries to innocent Iraqi civilians, and an even greater lack of support for the U.S. presence in Iraq and for the Interim Iraqi Government which supports and relies upon our presence. Assassinations, kidnapings, and beheadings are becoming more frequent. The result is that Iraqis who would like to cooperate with us are deterred from doing so, and we are denied the intelligence that we need to fight the insurgency.

The President may say things are going well in Iraq, but the U.S. Intelligence Community has a different view. The July 2004 National Intelligence Estimate on Iraq reportedly sets out three possible scenarios for Iraq. The worst case was developments that could lead to civil war, and the best case was that the security environment would remain tenuous. This pessimistic National Intelligence Estimate bears out the analysis of former president George Bush in his 1998 book A World Transformed concerning the question of whether to march to Baghdad during the 1991 Gulf War. He wrote that "To occupy Iraq would instantly shatter our coalition, turning the whole Arab world against us. . . It would have taken us way beyond the imprimatur of international law bestowed by the resolution of the Security Council. . ." He wrote further that doing so would also commit our soldiers to an "urban guerilla war" and "plunge that part of the world into even greater instability and destroy the credibility we were working so hard to reestablish."

Sound familiar?

The President recently dismissed that pessimistic July 2004 analysis of the Intelligence Community, saying "they were just guessing as to what the conditions might be like." Conservative columnist Robert Novak wrote that "for President Bush to publicly write off a CIA paper as just guessing is without precedent." Publicly stating so might be unprecedented, but it appears that this is not the first time the President has actually dismissed CIA warnings. According to the New York Times recently, "two classified reports prepared for President Bush in January 2003 by the National Intelligence Council, an independent group that advises the director of central intelligence . . . predicted that an American-led invasion of Iraq . . . would result in a deeply divided Iraqi society prone to violent internal conflict."

The Administration disregarded that warning, insisting that an American invasion would be welcomed by the Iraqis with open arms. The violent bottom line is that when we attacked Iraq, we blew the lid off the boiling Iraqi pot without a plan to keep the contents from boiling over.

General Franks, the former Commander in Chief of U.S. Central Command, told Senator John Warner and me that he had been told to focus on the combat phase of the war plan and to leave the planning for the stability phase, the aftermath, to the Pentagon's civilian leadership. Then that leadership failed to ensure an adequate number of troops were committed to provide for security, prevent looting, and nip the resulting insurgency in the bud. Back in April of 2003 at the height of the looting in Iraq, Defense Secretary Rumsfeld dismissed newspaper reports of chaos, violence and unrest in Iraq by saying "it was just Henny Penny—the sky is falling." Eighteen months later, it is still falling.

These failures to adequately plan for the post-combat stability phase and to ensure that adequate numbers of troops were on-hand were compounded by the Administration's disastrous decision to disband the Iraqi Army, thereby forcing the U.S. military to begin from scratch to build a new Iraqi security force, and throwing thousands of trained Iraqi military men into the ranks of the unemployed and many into the arms of the insurgency's recruiters.

It is difficult to discern a strategy that is being followed for Iraq today. Marine Lieutenant General Jim Conway, then Marine Corps commander in Iraq, publically criticized the conflicting orders he received with respect to Fallujah—first the initial order to go in and remove the insurgents, which went against the Marine Corps' strategy of engagement with the civilian population; and then the subsequent order to withdraw, after the Marines had only partly secured the city and after the loss of Marines. Once the orders were reversed, the Marines were withdrawn and control of the city was turned over to a local security force which quickly lost control to the insurgents.

The chaos in Iraq puts the Iraqi elections scheduled for next January at great risk. The UN Special Representative for Iraq, Ashraf Qazi, reported to the Security Council on September 14 that the "vicious cycle of violence" and the lack of security was undermining the world body's efforts to assist in elections set for January. UN Secretary General Kofi Annan told me last week that the United Nations had supervised many elections in the past, but never one in a war zone like Iraq. He is concerned that the lack of security and the tight time-table will be major impediments to a successful election.

This is compounded by the fact that the Administration has so far been unable to convince any country to provide troops needed to protect the UN presence in Iraq. According to Secretary General Annan, they will be unlikely to do so and the UN will have to depend on the United States and British forces now in Iraq to provide that security. That will mean about 5,000 troops being diverted from fighting the insurgency to protecting the UN presence. Secretary General Annan told me that an American general committed to do that.

This failure to convince any other nations to contribute to a UN security force is a direct consequence of the Administration's alienation of large portions of the world community by its go-it-alone approach to the war in the first place.

The unfortunate result is that a scant four months before nation-wide elections in Iraq, there are only 35 UN staff members in Iraq—far short of the 200 required to support the U.N. staff so essential to a credible election. Just as troubling, virtually none of the 120,000 Iraqis needed to run the 20,000 to 30,000 polling places have been identified and trained for the task.

In the upcoming election, seats in the 275-member National Assembly will be allocated based upon a percentage of overall votes received throughout Iraq. The Secretary General told us that it is not possible to have a credible election in Iraq if parts of the country are not able to participate because of an on-going insurgency. Apparently Secretary of Defense Rumsfeld does not share that concern. In recent testimony before the Senate Armed Services Committee he said, "Let's say you tried to have an election and you could have it in three-quarters or four-fifths of the country. But in some places you couldn't because the violence was too great . . . Well, so be it. Nothing's perfect in life, so you have an election that's not quite perfect. Is it better than not having an election? You bet."

Well, maybe it is not better than not having an election—in fact, it very well might be worse. How would people in Lansing, Detroit and Traverse City feel about the legitimacy of a state-wide election for Governor that they couldn't vote in? A single district election in which large numbers of Iraqis are unable to participate is not likely to move Iraq forward toward a stable political system but toward civil war because it would further alienate a significant portion of the population from the Iraqi government.

The first step in dealing with the problems in Iraq is to face reality. If we insist things are going fine, or if we pretend, as the President incredibly enough put it, that we are dealing with just a "handful of people who are willing to kill," we will be less willing to search for ways to change the negative dynamic and downward spiral which have been unleashed in Iraq. And we will be less willing to search for ways to motivate Iraqi factions' leaders and Islamic countries to become more involved in and be willing to take the risks necessary to build a democratic nation in Iraq. Surely, unless Iraqis want a democratic nation for themselves as much as we want it for them—unless they suppress the violent ones inside their own communities and the terrorists who want to prevent the election in January from happening—our presence will continue to be more destabilizing than stabilizing.

In a recent interview, President Musharraf of Pakistan was asked whether the world is a safer place because of the war in Iraq. He replied, "No. It's more dangerous. It's not safer, certainly not." President Musharraf continued, "I would say that [the war] has ended up bringing more trouble to the world." President Musharraf concluded that the war in Iraq has "complicated" the war on terror and "has made the job more difficult." The leader of a pivotal Muslim nation and one of America's key allies in the fight against al Qaeda has concluded that the Iraq war has made the world more dangerous and complicated the overall war on terror.

On September 12, 2001, the day after the 9/11 attack upon us, headlines in European newspapers proclaimed "We are all Americans." The world community united behind America in the effort to destroy al Qaeda and remove the Taliban regime in Afghanistan that supported it. But the President's unilateralist policies and cocky "bring 'em on" rhetoric squandered that good will and undermined that spirit of cooperation by terminating UN inspections and invading Iraq without any Islamic nations' support—thereby diverting the focus from the real terrorist threat of Osama bin Laden and al Qaeda in Afghanistan. The western invasion and occupation of an Islamic country has swelled the ranks of terrorists.

We would be compounding that strategic blunder by leaving Iraq as an unstable, failed state dominated by Islamist extremists and a haven and breeding ground for even more terrorists. To succeed we must be willing to change direction to seek an alternative third path to the two stark choices the President offers—of staying the course or cutting and running.

The alternative is to change our course with an Administration that sees the reality on the ground; that is open to new approaches and isn't locked in to a course of action that isn't working; and that hasn't dismantled bridges to the international community, particularly Islamic countries, whose support we need.

President Bush is incapable of rebuilding the bridges to the international community which he dismantled. A poll by a Canadian company found that only 20% of the people in the countries surveyed overseas support President Bush's policies.

Loss of public support in other countries isn't simply a matter of losing a popularity contest—it is a direct threat to our security. The leaders of those countries are far less likely to take the political risks that are entailed in joining us in Iraq with troops or police if their publics strongly oppose their doing so and strongly disagree with the policies of the American administration. Listen to what the Director of the Defense Intelligence Agency, Admiral Lowell Jacoby, told the Senate Armed Services Committee about how America is viewed in the world:

> "Much of the world is increasingly apprehensive about U.S. power and influence. Many are concerned about the expansion, consolidation, and dominance of American values, ideals, culture, and institutions . . . . We should consider that these perceptions mixed with angst over perceived 'U.S. unilateralism' will give rise to significant anti-American behavior."

So what should we do in Iraq?

We need an Administration which can rebuild those bridges to the international community, so we can "de-Americanize" this conflict and move towards a stable and democratic Iraq. To do that, we need additional international troops, particularly from Muslim nations, which this Administration has proven incapable of obtaining.

We also need to train and equip Iraqi troops more quickly and more throughly than we are currently doing. It is particularly critical to provide these Iraqi troops far more quickly with the equipment that will instill in them a confidence in their abilities to defeat insurgents.

Creating a secure environment is not only a military task, but a political one as well. We must make it clear to all segments of Iraqi society that the U.S. has no design on Iraqi oil or other resources and has no intention of creating a long-term base structure or military presence in Iraq.

The reconstruction effort must be brought back on track. According to a recent report by the Center for Strategic and International Studies, "The lack of sufficient electricity in major cities continues to undermine public confidence, fueling worrisome discontent in cities like Fallujah and Mosul, which were favored under Saddam and now receive considerably less power than in prewar days. Sewage systems are worse that they were under Saddam, causing spillover health and environmental problems."

Eleven months after Congress approved the money, only 6% of the $18.4 billion for Iraq reconstruction has been spent. And recently the Administration asked Congress for permission to transfer nearly $3.5 billion from Iraqi water, sewer and electricity projects to security and electoral efforts. Unfortunately this needs to be done, but it is another example of how the failure to properly plan for the post-combat stability phase and the failure to ensure the necessary troop levels to ensure security has hampered reconstruction and the creation of a stable Iraq.

The Republican Chairman of the Foreign Relations Committee, Senator DICK LUGAR, recently blamed the mismanagement of the whole Iraq reconstruction effort on "incompetence in the administration". The focus of the reconstruction effort must be shifted from large projects awarded to U.S. and other foreign companies to those that will employ the greatest number of Iraqis, giving Iraqi society at large an economic stake in the post-Saddam Iraq that will contribute to a politically stable state.

None of this will be easy. But we are where we are in Iraq. Just as it took a new administration to extract the United States from Vietnam, it will take a new administration to extract us from Iraq in a way which leaves that country stable and democratic. We cannot leave Iraq as we did Vietnam.

Nor can we just continue a western occupation of a Muslim nation that is the target and magnet for violence and terror, and that has become more destabilizing than stabilizing. We must change course in Iraq—or else Iraq's future is not likely to be stability and democracy, and the legacy to the world of the Iraq war is likely to be greater turmoil and terror.

## JOHN F. KENNEDY CENTER REAUTHORIZATION ACT OF 2004

Mr. INHOFE. Mr. President. I rise in support of the passage of HR 5294—the "John F. Kennedy Center Reauthorization Act of 2004." As Chairman of the Senate Committee with jurisdiction over the John F. Kennedy Center for the Performing Arts, I am pleased that, working closely with the Kennedy Center, we were able to reach an agreement with the House of Representatives. This legislation authorizes funding for the maintenance, repair and security, as well as capital projects through Fiscal Year 2007. Additionally, the legislation revises the John F. Kennedy Center Plaza Authorization Act of 2002 to direct the Secretary of Transportation to establish a Center Plaza Project Team consisting of the Secretary, the Administrator of General Services, the Chairman of the Board of Trustees, or their designees, and other individuals the Project Team considers appropriate. The Board is required to consult with the Project Team on specified matters, including construction of buildings.

I wish to recognize Marty Hall and Andrew Wheeler of my Committee staff for their work on this legislation. I also wish thank Michael Kaiser, President of the Kennedy Center for his support for this bill. Mr. Kaiser has done an outstanding job of making the Kennedy Center a world class operation and center for the performing arts. Mr. Kaiser is responsible not only for the artistic programming, he is also the person charged with ensuring its financial health. By any measure, he has been very successful in both ventures. I would also like to express my appreciation to Kennedy Center staff, specifically Jared Barlage and Ann Stock, who have worked very closely with my staff in developing this legislation.

From its very beginnings, the Kennedy Center has represented a unique public/private partnership. Because the Center is the Nation's living memorial to President Kennedy, it receives federal funding each year to pay for maintenance and operation of the building, a federal facility. However, the Center's artistic programs and education and outreach initiatives are paid for almost entirely through ticket sales and gifts from individuals, corporations, and private foundations. I am pleased that we can send this legislation to President Bush and continue the good work of this valued institution.

## THE IMMIGRATION PROVISIONS OF H.R. 10

Mr. KENNEDY. Mr. President, I have serious concerns about the direction our Republican colleagues in the House of Representatives have taken on the legislation to implement the recommendations of the 9/11 Commission. The House bill, H.R. 10, departs in significant and problematic ways from the Commission's specifically-tailored recommendations to protect our country against future terrorist attacks. The recommendations call for preventing terrorist travel, establishing an effective screening system to protect our borders, transportation systems, and other vital facilities, expediting full implementation of a biometric entry-exit screening system, establishing global border security standards by working with trusted allies, and standardizing identity documents and birth certificates.

Instead of adhering to these carefully considered measures, as the Senate has done, the House Republican leadership has included long-rejected, antiimmigrant proposals that have nothing to do with the Commission's recommendations. The House bill severely limits the rights of immigrants, asylum seekers, and victims of torture and fails to strengthen the security of our nation.

Among the worst provisions in the House bill are those which create insurmountable obstacles and burdens for asylum seekers, including many women and children, eliminate judicial review, including the constitutional writ of habeas corpus, for certain immigration orders, and which allow the deportation of individuals to countries where they are likely to be tortured, in violation of our international treaty obligations.

Many share my concerns with the House bill. The list of critics, lead by families of the 9/11 victims, is rapidly growing. A recent letter to House members, signed by more than two dozen family members of persons who died in the terrorist attacks, states that the immigration provisions are outside the scope of the Commission's recommendations and urges House members not to enact them. To underscore their concerns, the families state their "strong collective position that legislation to implement the 9/11 Commission recommendations not be used in a politically divisive manner."

Similarly, the chair of the 9/11 Commission, Thomas Kean, has said that the House immigration provisions "which are controversial and are not part of our recommendations to make the American people safer perhaps ought to be part of another bill at another time." Likewise, the vice-chair, Lee Hamilton, warned that the inclusion of these "controversial provisions at this late hour can harm our shared purpose of getting a good bill to the President before the 108th Congress adjourns."

I am submitting for the record the letters of a broad spectrum of religious, immigrant, human rights, and civil liberties groups voicing their strong opposition to the immigration provisions in the House bill. These groups include the American-Arab Anti-Discrimination Committee, the American Civil Liberties Union, the American Immigration Lawyers Association, the American Jewish Committee, Amnesty International, the Arab-American Institute Center for Community Change, the Fair Immigration Reform Movement, Freedom House, the Hebrew Immigrant Aid Society, Human Rights First, Human Rights Watch, the Lutheran Immigration and Refugee Service, the National Asian Pacific American Legal Consortium, the National Council of La Raza, the National Immigration Forum, the RFK Memorial Center for Human Rights, the Service Employees International Union, the Tahirih Justice Center, the U.S. Catholic Bishop's Committee on Migration, World Relief, and the Women's Commission for Refugee Women and Children.

In these difficult times for our country, we know that the threat of terrorism has not ended. We have to keep doing all we can to see that our borders are protected and our immigration laws are enforced, and that law enforcement officials have the full support they need. But we must do so in ways that respect fundamental rights. Congress should not enact laws that ride rough-shod over basic rights in the name of national security. Immigrants are part of our heritage and history. We jeopardize our own fundamental values when we adopt harsh security tactics that trample the rights and liberties of immigrants. We must learn from the past, so that we do not continue to repeat these mistakes in the future.

This legislation is too important for it to be derailed by political pandering to anti-immigrant extremists. We need to pass this reform legislation, but we need to get it right. The American people expect, and deserve, better.

I ask unanimous consent to print the above-referenced letters in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### AN OPEN LETTER

To: House of Representatives.
From: Family Members of 9–11 Victims.
Re: H.R. 10.

DEAR REPRESENTATIVES: We are family members of those who died in the tragedy of 9–11. While we have diverse political views on many issues, we write to you today in one voice to express our strong collective position that legislation to implement the 9–11 Commission recommendations not be used in a politically divisive manner. The discussion around these recommendations is extremely serious and important to 9–11 families across the political spectrum. We have heard the House Bill to implement the 9–11 Commission Recommendations (H.R. 10) also includes provisions to expand the USA Patriot Act and reform immigration law in ways not recommended by the commission.

We strongly urge you to take these provisions out of the bill, and not vote for any bill that contains them. These provisions are outside the scope of the Commission's recommendations, and this is neither the time nor place to consider controversial, unrelated issues. Those issues can be discussed at a later date and proposed in different legislation. Last week, members of the 9–11 Commission themselves (3 Republican and 3 Democrats) also called on House leaders to drop these provisions. The Chairman of the 9–11 Commission, Thomas Kean, said on September 30th: "We're very respectfully suggesting that provisions which are controversial and are not part of our recommendations to make the American people safer perhaps ought to be part of another bill at another time."

Please respect the seriousness of the discussions around the Commission Recommendations and immediately remove all unrelated provisions.

Yours Sincerely,

Colleen Kelly (Sister of William Kelly Jr.).

Adele Welty (Mother of Timothy Welty, FDNY, killed 9–11 in line of duty).

Laurette Poulos Simmons (Sister of Stephen Emanuel Poulos who died in the WTC).

Karen Shea (Niece of Steven Tighe).

Barry Amundson (Brother of Craig Amundson, killed at the Pentagon).

Kelly Campbell (Sister-in-law of Craig Amundson).

Wright and Meredith Salisbury (Father and mother-in-law of Ted Hennessy, Jr., who was killed on 9/11).

John Leinung (Step-father of Paul Battaglia, WTC Tower 1, 100th floor).

Andrew Rice (Brother of David Rice).

Rita Lasar (Sister of Ephraim Lasar).

David Reynolds (Cousin of Scott M. Johnson, died on 9/11/2001—South Tower, 89th floor, WTC).

Alissa Rosenberg-Torres (Widow of Luis Eduardo Torres, North Tower).

David Potorti (Brother of Jim Potorti).

George Choriatis (Nephew of Theodoros Pigis, killed in the World Trade Center attacks).

Roberta Shea (Sister of Stephen Tighe, died in the WTC).

Terry Rockefeller (Sister of Laura Rockefeller).

Nissa Youngren (Daughter of Robert G. LeBlanc, United Flight 175).

J. William [Bill] Harris (Brother-in-law, Laura Rockefeller).

Logan Harris (Niece of Laura Rockefeller).

Maureen Donegan (Sister of William Kelly Jr.).

Jim and Barb Fyfe (Father and mother of Alicia Fyfe, flight attendant).

Andrea LeBlanc (Widow of Bob LeBlanc).

Loretta Filipov (Widow of Al Filipov).

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SEPTEMBER 28, 2004.

DEAR REPRESENTATIVE: The undersigned organizations urge the House of Representatives during the debate and vote on H.R. 10 (the "9/11 Recommendations Implementation Act") and amendments to H.R. 10, to be faithful to the Commission's recommendations and its admonition that the 'border and immigration system of the United States must remain a visible manifestation of our belief in freedom, democracy, global economic growth, and the rule of law, yet serve equally well as a vital element of counterterrorism."

As we seek to enhance our security, we must do so in ways that are effective and bring our nation together. If we do not rise to this challenge, legislation that is passed and signed into law could have the unintended consequences of hurting our security and making our immigration processes even more dysfunctional than they are today. Unfortunately, H.R. 10 was not crafted in a bipartisan manner and the House did not hold a sufficient number of hearings on the important issues this legislation raises. The bill also includes many provisions that we strongly oppose that go well beyond the scope of the Commission's recommendations. These provisions will distract our government from effectively enhancing our security and threaten to stall the passage of needed reforms. We urge you to oppose them:

Section 3005—Prohibition on Acceptance of the Consular Identification Card: This provision would prohibit federal employees from accepting consular identification cards.

However, in a security-conscious environment, people who are here, whatever their status, must be able to prove their identity. Many cities, counties and law enforcement agencies accept consular identification cards as valid forms of identification.

Section 3006—Expedited Removal: This provision significantly expands the expedited removal regime and would subject all individuals who entered the U.S. without inspection to expedited removal unless they have been physically present in the U.S. for more than 5 years. Expedited removal currently has created significant due process concerns; this provision would magnify those concerns immeasurably.

Sections 3007, 3009 and 3033: These provisions encompass key aspects of the so-called "Fairness in Immigration Litigation Act (H.R. 4406) that would further undermine the availability of basic due process protections for non-citizens by: prohibiting habeas corpus review of a variety of immigration decisions; raising the bar substantially for a grant of asylum; prohibiting federal courts from granting stays of deportation while a case is pending except in extraordinary cases; and authorizing the government to remove foreign nationals to countries that lack a functioning government so long as that country does not physically prevent the removal.

Section 3008—Revocation of Visas and Other Travel Documents: This provision makes individuals who enter the U.S. on a valid visa that is subsequently revoked by the State Department subject to removal. This provision would prohibit all administrative and judicial review of the revocation decision. Thus, an individual whose visa is revoked based on false information (or other errors) would be removable from the U.S. without the opportunity to challenge the basis for the removal.

Section 3053—Minimum Document Requirements and Issuance Standards for Federal Recognition: This provision bars Federal agencies from accepting driver's licenses or other ID cards issued by a state unless it satisfies certain requirements established by the Secretary of Homeland Security. These requirements include: verification by the issuing agency of the authenticity of documents prior to issuance of a driver's license or other ID; proof that the applicant possesses a social security account or that the person is not eligible for one; and confirmation by the SSA of the accuracy of the social security number presented. Not only would these requirements grind to a halt the issuance of driver's licenses throughout the country, they also would lead to a de facto immigration status requirement. Such a result would severely undermine the law enforcement utility of the Department of Motor Vehicle databases by discouraging individuals from applying for licenses.

Legislation that would enhance our security and our immigration system, and reinforce due process, civil liberties and privacy concerns needs to address the following:

1. Create a system that can deliver on its "basic commitments." The Commission notes that an immigration system unable to deliver on "basic commitments" was one of the "two systematic weaknesses" that "came together in our border system's inability to contribute to an effective defense against the 9/11 attacks.".

2. Strengthen the U.S.'s intelligence capacity and create a multi-layered border with several tiers of protection to most effectively enhance security. The Commission report repeatedly underscores the need to enhance our intelligence capacity and develop layers of protection that keep targeted people from entering the U.S. to implement such a layered border, Congress and the Administration must, among other actions, direct more money to our consulates, ensure the accuracy of watchlists and create a process that allows the deletion of names that do not belong on such lists, mandate adequate and consistent training for those who implement immigration law, and ensure that ports-of-entry receive sufficient funding and are adequately staffed with well-trained officers with access to accurate, functioning, and interoperable databases. Another critical component to well-functioning borders and ports-of-entry is access to counsel to facilitate the flow of people and ensure that the government's broad powers to admit or bar noncitizens from entry are not used improperly.

3. Effective security measures must include rigorous civil liberties, due process, and privacy protections. In this context, Congress must not erode judicial review. These measure must reflect our nation's binding commitment to protect civil liberties, due process, and individual privacy. The Commission recognizes the need to reconcile "security with liberty, since the success of one helps protect the other." While acknowledging the difficult challenge involved in preserving this balance, the Commission emphasizes the critical importance to get it right. The Commission also points out the importance of placing the burden of proof on the Executive for retaining governmental power.

4. Our nation needs an immigration system that shrinks the haystack by facilitating the entry of "trusted travelers" so we can better focus our resources on those who mean to do us harm. The 9/11 Commission recognizes the importance of facilitating travel so that resources can be focused on those who mean to do us harm. The Commission urges that the "programs to speed known travelers" be made a "higher priority, permitting inspectors to focus on greater risks." In addition, because. the U.S. cannot shrink the haystack, enhance our security, and secure our borders without reforming our immigration laws,. it is vitally important to reform our laws by legalizing the status of those currently living and working in the U.S., reducing the long backlogs in family-based immigration, and creating break-the-mold worker programs that allow people to enter and leave the U.S. lawfully.

5. Measures designed to enhance our security must include provisions that mandate sufficient funding, an adequate number of well-trained officers, reasonable deadlines, accurate databases, technology that is up the task; and Congressional oversight of implementation, along with prioritizing initiatives. Our history is riddled with laws that do not take these factors into account. Congress also must engage in rigorous risk-based and cost-benefit analysis to ensure that agencies are guided by clear priorities and are not overwhelmed by a flood of unachievable mandates.

6. The United States must remain a nation that welcomes people to its shores. Immigration is in our national interest, and a system that works is essential to our national and economic security. Our immigration system needs to reflect the importance of reuniting families, fulfilling the needs of American business, maintaining America's economic security (which contributes to our nation's well-being and national security), protecting refugees and asylees to meet our moral and international obligations and, as the Commission underscores, helping to enhance our security. The U.S. is a nation of immigrants and immigration remains central to who we are and helps to explain our success as a people and a country.

Sincerely,

ACORN, American-Arab Anti-Discrimination Committee, American Immigration Lawyers Association, American Jewish Committee, Arab-American Institute, Center for Community Change, Fair Immigration Reform Movement, Hebrew Immigrant Aid Society (HIAS), Lutheran Immigration and Refugee Service, National Asian Pacific American Legal Consortium, National Council of La Raza, National Immigration Forum, Service Employees International Union (SEIU), AFL-CIO, CLC, Tahirih Justice Center.

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SEPTEMBER 30, 2004.

DEAR REPRESENTATIVE: We strongly oppose a provision in H.R. 10 that would authorize the outsourcing of torture to brutal dictatorships like Syria, Saudi Arabia, and China.

Section 3032 of H.R. 10, the 9/11 Recommendations Implementation Act of 2004, would make it official U.S. policy to send or return individuals to countries where they would be at grave risk of torture. This provision would violate U.S. law and policy, and it is completely inconsistent with decades of efforts by Republicans and Democrats alike to make America a world leader in the fight against torture and for human rights. Far from implementing the 9/11 Commission's recommendations, it directly contradicts the Commission's counsel that the United States should "offer an example of moral leadership in the world, committed to treat people humanely, [and] abide by the rule of law."

The legal prohibition on torture is absolute. Along with 135 other countries that have ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United States has committed itself to upholding this fundamental principle of human dignity. Just as governments cannot engage in torture directly, they cannot send people to places where they risk being tortured. The Convention against Torture states that "no State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture."

Congress reiterated its commitment to upholding this obligation in 1998 when it passed section 2242 of the Foreign Affairs Reform and Restructuring Act, stating that "[i]t shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States." Section 3032 of H.R. 10 would violate that legal and moral obligation by permitting the U.S. government to turn over people to other countries even if it is 100 percent certain they will be tortured. This will have immediate and damaging consequences.

For example, the government of China has been demanding that the United States turn over to it a number of ethnic Uighur detainees held at Guantanamo Bay, Cuba. Because it believes the detainees would likely be tortured, the Bush Administration has rightly refused and is instead seeking other countries to accept them. If Congress were to approve this provision, there would be no legal bar to sending these detainees back to torture.

By contrast, in 2002 the U.S. government sent a transiting Canadian-Syrian national, Maher Arar, to Syria despite its systematic use of torture. Now safely back in Canada, Arar alleges he was severely tortured, including beatings with electrical cords, during his ten months in a Syrian prison. Such incidents undermine the credibility of U.S. efforts to promote human rights and democracy in the Arab world, which President Bush has identified as a key element in the Administration's long-term strategy to combat terrorism. If this provision is passed, such incidents will become more common, dealing a profound blow to America's moral authority in pursuing a vital goal.

In the wake of the Abu Ghraib scandal, President Bush and the Congress have gone to great pains to persuade the world that U.S. policy does not condone torture. If Congress enacts this legislation, it would make tolerance of torture official U.S. policy. We urge you to strike this provision from the bill and to reaffirm America's commitment to a world without torture.

Sincerely,

William Schulz, Amnesty International USA; Douglas A. Johnson, The Center for Victims of Torture; Jennifer Windsor, Freedom House; Elisa Massimino, Human Rights First; Kenneth Roth, Human Rights Watch; Scott Horton, International League for Human Rights; Ralston H. Deffenbaugh, Jr., Lutheran Immigration and Refuge Services; Robin Phillips, Minnesota Advocates for Human Rights; Loenard Rubenstein, Physicians for Human Rights; Todd Howland, RFK Memorial Center for Human Rights; R. Timothy Ziemer, Rear Admiral USN (Ret.), World Relief.

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NATIONAL IMMIGRATION FORUM,
*Washington, DC, October 5, 2004.*

DEAR REPRESENTATIVE: We write to express concern about several provisions of H.R. 10 that, contrary to the recommendations of the bipartisan 9-11 Commission, broadly restrict the rights of immigrants while failing to enhance national security.

Like all Americans, the National Immigration Forum supports proposals to enhance domestic security and prevent acts of terrorism. We applaud the bipartisan 9-11 Commission's recommendations that effectively target terrorism and not immigrants. Similarly, the bipartisan Senate bill appears to capture these recommendations and is largely free of attacks on the newcomer community. Unfortunately, House leaders crafting H.R. 10 have decided to take a different tactic and play politics with this critical legislation.

Several immigration-related provisions of H.R. 10 are of grave concern. They focus on limiting immigrants' rights to due process and legal identification documents, measures which are not only un-American, but actually counterproductive to our goal of improving national security. Specifically, we are opposed to the following provisions of this legislation:

Subjecting an immigrant with less than five years' physical presence in the U.S. to an expedited deportation, without a hearing on her right to remain in the United States (3006).

Restricting states' right to permit all immigrant drivers to be legally licensed and insured (3052).

Barring federal acceptance of identity documents issued by foreign governments (other than passports), no matter how secure the documents are determined to be (3005).

Putting up new hurdles and pitfalls for asylum-seekers that purport to address terrorism concerns, but which are unnecessary, excessive, and in violation of international conventions (3006, 3007, 3031, 3032, 3033).

Further limiting immigrants' access to meaningful judicial review (picking up where the 1996 immigration laws left off), including the right to a simple challenge of their detention pursuant to the writ of habeas corpus (3006, 3008, 3009).

Expanding the instances in which individuals can be deported to countries with no functioning governments or where they are likely to be tortured (3032, 3033).

As the 9-11 Commission pointed out in its report, intelligence is the key to finding terrorists and shutting down their operations; broad-based immigration restriction measures that cast a wide net are ineffectual at best, and a waste of precious resources. The H.R. 10 immigration provisions outlined above fail on all counts: they don't enhance the government's ability to collect or analyze intelligence, to use intelligence in making law enforcement decisions, or to respond to or prevent terrorism. These provisions simply expand the federal government's authority to deport foreign nationals quickly and without proper judicial review, and push immigrants who want to play by the rules further underground. They have no place in this "9-11 Commission recommendations bill," which is why distinguished members of the Commission, and even the White House, have called for the removal of several of these sections.

We urge members of the House of Representatives to strike these provisions from H.R. 10 and to pursue instead the well-reasoned recommendations of the 9-11 Commission.

Sincerely,

ANGELA KELLEY,
*Deputy Director.*

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WOMEN'S COMMISSION FOR
REFUGEE WOMEN AND CHILDREN,
*October 5, 2004.*

Hon. DAVID DREIER,
*Chair, Committee on Rules,*
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: We are writing to you on behalf of the Women's Commission for Refugee Women and Children concerning several immigration-related provisions contained in H.R. 10, the "9/11 Recommendations Implementation Act." While the Women's Commission understands the need to pass legislation addressing the findings and recommendations of the National Commission on Terrorist Attacks Upon the United States, we believe that several of the provisions in the proposed bill go beyond the scope of what the report called for and unnecessarily harm women and children asylum-seekers. Specifically, we are concerned with the following provisions:

Section 3006. Expedited Removal: We believe that this provision impacts women and children escaping persecution in a particularly harmful manner. The new provision provides no review process for those individuals expressing a fear of persecution if they have been in the United States for longer than one year. Refugee women and children who are escaping rape, female genital mutilation, honor killings, forced marriages, sexual slavery, trafficking, recruitment as child soldiers, and other forms of age and gender related persecution often face the most difficulty in presenting their cases. Due to the extremely sensitive and often painful nature of such claims and cultural barriers that inhibit women and children from expressing themselves and their needs, women and children often require significant time and counseling before they can articulate their claims, particularly in front of government officials.

Moreover, highly specialized skills are needed to interview women and children asylum seekers in a gender and age sensitive manner, and it is unlikely that front line immigration officials will have these skills. The result could be returning at-risk women and children to life-threatening situations.

Finally, children have traditionally been exempt from expedited removal in recognition of the vulnerabilities that their tender age creates. H.R. 10, however, would apply expedited removal regardless of age, thus subjecting children to a process that they cannot reasonably be expected to understand or appreciate. Even if protections are put in place for children, children may be improperly classified and treated as adults due to the lack of a scientifically sound method to determine age.

Section 3007. Preventing terrorists from obtaining asylum. This section in actuality is irrelevant to terrorism. Instead, it fundamentally alters the evidentiary standards for asylum claims and the burden of proof for asylum applicants.

This section would require an asylum seeker to establish that the central motivation for his or her persecutor's actions was one of the five protected grounds under the refugee definition. This change would be catastrophic for both women and children asylum-seekers. Even under current law, which requires a finding of "mixed motivation," many women and children asylum-seekers have a difficult time proving motive. Most gender and age related claims are based on persecution by a private rather than government actor. Often, the violence occurs in private settings. It is thus extremely difficult to prove that the perpetrator is motivated by the victim's age or gender.

Furthermore, the provision would require the applicant to provide corroborating evidence unless unreasonable to do so. The private nature of most gender and age related persecution makes it highly unlikely that such evidence will be available. Moreover, even if it exists, children in particular are unlikely to be able to produce it unless intensive legal assistance is provided; the reality is that more than one-half of children are unrepresented when presenting asylum claims.

This section would also allow an adjudicator to consider any statements made by asylum-seekers in determining credibility. Thus, if a woman or child discusses their persecution for the first time in front of an asylum officer or an immigration judge, their failure to discuss it in prior conversations with immigration officials could be considered proof of inconsistent statements. This requirement again fails to consider the extremely difficult nature of age and gender related claims. It is unrealistic to expect a woman or child claimant to articulate the embarrassing details of their abuse to immigration officials when they first arrive in the United States and are still fearful and confused. To later use this natural reticence against them is grossly unfair.

Furthermore, this section condones the evaluation of an applicant's demeanor in assessing credibility without clarifying that an applicant's behavior should be considered in the context of their culture. This framework completely discounts the complex psychological, social and cultural context of many women and children asylum-seekers.

Section 3033. Additional Removal Authorities. This section authorizes the removal of individuals to countries other than their country of origin. Deporting women and children to a third country may be extremely hazardous to their safety. Women often and children always are heavily dependent on family and community support to ensure their well-being.

Section 3082. Expanded pre-inspection at foreign airports. This provision would require the expansion of pre-inspection at foreign airports. Immigration officials charged with enforcing pre-inspection would not have sufficient training or expertise to determine whether a woman or child is fleeing persecution. Even if such training were provided, the lack of oversight of such officers and the absence of assistance for women and children are likely to result in many at-risk women and children being prevented from departing the country in which they are being persecuted.

Section 3083. Immigration Security Initiative. This provision mandates the posting of immigration officials at overseas airports to check documentation of individuals traveling to the United States. This provision may inadvertently lead to more trafficking in women and children. Asylum seekers who are desperate to leave countries in which they are experiencing persecution often resort to the assistance of outsiders, who may wish to exploit them through trafficking. The more difficult it is to travel without appropriate documents, the more such vulnerable refugees will resort to avenues that could result in their further persecution.

While we have limited our comments to those sections of H.R. 10 that we believe are particularly harmful to women and children, we stand with our colleagues in also opposing those other sections (for example, section 3032) that harm all people fleeing past and future harm. Women and children constitute both the majority of and the most vulnerable of the world's refugees. Regardless of the critical merits of fighting the war against terrorism, we cannot afford to relinquish our strong international leadership role in their protection, especially when these women and children present no harm to us.

Thank you for considering our concerns. Please do not hesitate to contact us if you would like to discuss any of these issues further.

Sincerely,

WENDY YOUNG,
*Director of External Relations.*
JOANNE KELSEY,
*Senior Coordinator for Detention and Asylum.*

## ADDITIONAL STATEMENTS

## TRIBUTE TO RETIRED COLONEL FRANK ROHRBOUGH, UNITED STATES AIR FORCE

• Mr. McCAIN. Mr. President, today I honor a true leader and exceptional American. After a long and distinguished career of service to our Nation, COL Frank Rohrbough is retiring from his position as Deputy Director for Government Relations of the Military Officers Association of America, MOAA. On this occasion, it is fitting to recognize his 30 years of commissioned service as an Air Force officer and 13 years as one of the foremost health benefit advocates for the uniformed services community. Colonel Rohrbough's career illustrates a lifelong commitment of service to the nation and to preserving the welfare of uniformed members and their families.

In 1961, Frank Rohrbough graduated from the Reserve Officer Training Corps at Texas A&M University, earning his commission as a second lieutenant in the U.S. Air Force. Appointed to the Medical Service Corps, he served with distinction at all levels in the Air Force, from small community military medical treatment facilities to large regional hospitals. His distinguished career culminated with his appointment to the Air Force's top Medical Service Corps position—Chief of the Air Force Medical Service Corps and Assistant Surgeon General for Healthcare Support.

After retiring from the Air Force in 1991, Colonel Rohrbough joined the MOAA staff and served as principal advisor on health issues. In this position, he worked with the Armed Services Committees of both the House and the Senate, the Department of Defense, and numerous organizations and agencies to protect health care benefits for uniformed services beneficiaries. His personal efforts contributed significantly towards important legislation including lifetime health care and pharmacy coverage for Medicare-eligible beneficiaries and extending eligibility for the Federal Long Term Care Insurance Program to the entire military community.

Our Nation is grateful to Colonel Rohrbough for supporting members of the Armed Forces and their families, the Military Coalition, and all veterans, while serving in uniform and in private life. We offer him a sharp salute and wish him continued success and happiness in retirement.•

## AMERICAN JOBS CREATION ACT OF 2004

• Ms. MIKULSKI. Mr. President, I rise today in support of the American Jobs Creation Act. This bill is known as the "JOBS" Act because it will bring American jobs home, it will protect American jobs here, and it will create more American jobs.

I have been fighting for a patriotic tax code that closes tax loopholes. This bill is not perfect. I have some yellow flashing lights about provisions that were stripped out in this conference report, particularly those affecting our workers right to overtime and our National Guard and Reservists.

Our middle class is hurting. They are worried about keeping their jobs, paying for health care, and sending their children to college. America is hemorrhaging jobs—2.7 million manufacturing jobs have disappeared since 2001. My State of Maryland has lost 21,000 manufacturing jobs since 2001.

Where are these jobs going? They are going overseas. They are going on a slow boat to China or on the fast track to Mexico. These jobs are headed to dial 1-800 anywhere.

Why are they going? These jobs are leaving because American companies are at a competitive disadvantage. Our American companies pay their workers a livable wage, pay their fair share of taxes, and provide health care and retirement benefits to their employees.

I think it is wrong to give companies incentives to send millions of jobs to other countries when millions of Americans are losing their jobs. It is wrong to put companies who stay in America at a competitive disadvantage. They are at a competitive disadvantage because they have their business here at home, because their workers are here at home, because they pay their fair share of taxes, and because they provide health care to their employees.

We should be rewarding these companies with good guy bonuses for hiring and building their businesses here in America. That is what I am fighting for in the U.S. Senate.

But, this bill is not perfect which is why I fought to improve this bill during the Senate debate. Senator DORGAN and I offered an amendment to end tax subsidies to U.S. companies that send plants and U.S. jobs overseas. Our amendment would have required U.S. companies that open foreign plants or move plants overseas then export those goods made abroad back to the U.S. to pay taxes on the profits from these operations. Our amendment said the U.S. Tax Code can no longer be used to boost corporate rewards at the expense of American workers.

We should be rewarding our American companies who hire and build their businesses right here in the United States with good guy tax breaks. We should be giving good guy bonuses to American businesses that are providing health care to their workers and to their retirees.

I have fought to help make health insurance more affordable for self-employed individuals by allowing self-employed individuals to be able to fully deduct their health care premiums.

I fought to provide workers and retirees who have lost health insurance due to trade with a tax credit of 65 percent for health care premiums, and I am still fighting to provide small businesses with a 50 percent tax credit for the cost of health insurance premiums for their workers.

I am standing up for America by standing up for a strong economy right here at home. This bill would help American jobs in three ways. This bill will help reinvigorate the U.S. manufacturing sector by creating incentives to retain more U.S. manufacturing jobs here in the U.S. by lowering the cost of production. Next, this bill helps U.S. companies compete abroad by putting U.S. companies on a more equal footing with foreign competitors. Lastly, this bill will help put an end to the tariffs imposed by EU on U.S. exports by repealing the income tax preferences that have been ruled illegal by the World Trade Organization. If we don't pass this legislation, these tariffs would cost American businesses up to $4 billion per year. And that's not okay.

When I consider any tax proposal, I apply three criteria. Does it create jobs? Are the tax cuts targeted or temporary? Does the proposal increase structural deficit? The JOBS bill meets all my criteria. This bill would provide nearly $137 billion in new business tax cuts. There are four major sections of this bill: a new domestic manufacturing tax break; international tax simplification; small business provisions; and, shutting down tax shelters and closing tax shelters.

The JOBS bill would reduce taxes for many of our U.S based manufacturers, by reducing their overall tax rate by 3 percent. This would lower the cost of doing business in the U.S. for U.S. manufacturers, and would help U.S. manufacturers compete against low-cost manufacturing in other countries. The domestic manufacturing tax break is based on the amount of U.S.-based manufacturing profits. So companies can only get the tax break if they manufacture here at home. This bill also includes a very broad definition of manufacturing so it would help a broad range of companies.

This bill also helps American companies working abroad to be more competitive with about $42.6 billion in tax breaks to U.S.-based multinationals. This legislation simplifies international tax rules, eliminates many redundant and complicated tax provisions, and reduces the double taxation of foreign-earned profits for U.S.-based companies. If our American companies are strong at home and abroad, our American economy will be strong. And that's what I'm fighting for.

I know how important small businesses are to the health of the economy and to the communities that they serve. This legislation includes about $7.1 billion in tax breaks for small businesses in two important ways. First, this bill will provide tax breaks for restaurant owners and certain real estate developers so that they can write off the cost of improving their facilities faster, saving thousands of dollars. This legislation also extends the small business tax breaks from 2003 bill which allows small businesses to write off up to $100,000 for the purchase of new equipment. If we do not pass this legislation, our small businesses will only be able to write off $25,000 for investments in new equipment.

This legislation funds tax breaks for our good guys by shutting down the types of tax loopholes used by Enron, cracking down abusive shelters, closing tax loopholes for companies and individuals who hide assets in tax havens to avoid paying U.S. taxes, and ending certain leasing arrangements for public infrastructure projects. I don't believe that the American taxpayer should be subsidizing the Paris metro. I say let's keep those dollars here at home.

Though I am supporting today's bill, I also believe there are problems with it. I introduced an amendment with my colleague from Louisiana—Senator MARY LANDRIEU. Though this amendment passed unanimously in the Senate, it is nowhere to be found in this conference report. Senator LANDRIEU and I introduced an amendment that provides benefits to our good guy employers who pay their employees the difference between their National Guard salary and their civilian job. This important provision would have provided a 50 percent tax credit to employers who continue to pay their activated Guard and Reserve employees their civilian wages. This provision would also have provided a $6,000 tax credit to help small business owners hire temporary workers and provided a $10,000 tax credit for small manufacturers to hire temporary workers when their National Guard employees have been deployed. I wish that these provisions were included in the bill that we passed today.

Our National Guardsmen are often our first responders. They are our policemen and firemen in times of crisis. They are "Our Active Duty Americans"—on duty in times of peace and war. When our National Guardsmen and women are sent to Iraq, Afghanistan, or called to protect our critical military installations here in the U.S., they shouldn't have to worry about paying their bills here at home. It's just wrong that this provision was not included in the final JOBS bill.

I am happy that we were able to reach a compromise and pass a bill, H.R. 1779, which would provide a 50 percent tax credit to small businesses who continue to pay their activated Guard and Reserve employees their civilian wages, and provide a $6,000 tax credit to help small business owners hire temporary workers. But, the bill we passed today leaves out our First Responders. It also leaves out the extra help for our manufacturers. Now that we have done our job here in the Senate, we have to hope that the House takes action on this bill when we return. Well, we all know what that means. I am going to continue to fight for this provision when we come back. I am also going to fight to do the same thing for our federal government employees with the Durbin-Mikulski Pay Security Act.

I have another problem with the legislation we are discussing today. I am so disappointed that the amendment to protect overtime pay was again stripped out in conference. Once again, the White House got its way even though Congress and the American public are opposed to the new overtime rules. Millions of Americans depend on overtime pay to pay their bills and to make ends meet. I thought that in this country the best social program was a job. Yet, up to 6 million workers have lost overtime protection under the new overtime rules. Workers should receive overtime pay for working overtime. It's just that simple. This isn't complicated—it's fair and right.

The JOBS bill makes good things happen by helping U.S. companies. The JOBS bill also stops bad things from happening by going after tax cheats. But, the conference report is not near the bill that was passed by the Senate.

I will vote for this legislation because I think it helps create a patriotic Tax Code, provides good guy bonuses to American manufacturing companies that keep jobs here, creates a level playing field for U.S. companies competing abroad, and cracks down on tax cheats and closing tax loopholes.

I call on my colleagues to think about where America is going in the 21st century. Where are we going to be? Are we going to create more opportunity? Are we going to create more jobs that pay a living wage and have a decent benefit structure?

I really want to have a patriotic Tax Code that brings our jobs back home, helps us compete overseas, and stands up for America.

I urge my colleagues to pass this important bill.●

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation To Subcommittees of Budget Totals for Fiscal Year 2005" (Rept. No. 108-398).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 480. A bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes (Rept. No. 108–399).

S. 2280. A bill to establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration (Rept. No. 108–400).

S. 2488. A bill to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes (Rept. No. 108–401).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2489. A bill to establish a program within the National Oceanic and Atmospheric Administration to integrate Federal coastal and ocean mapping activities (Rept. No. 108–402).

## DISCHARGED NOMINATIONS

The Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the following nominations and the nominations were confirmed:

Public Health Service nominations beginning with Timothy D. Mastro and ending with Anthony A. Walker, which nominations were received by the Senate and appeared in the Congressional Record on July 19, 2004.

The Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the following nominations and the nominations were placed on the Executive Calendar:

Milton Aponte, of Florida, to be a Member of the National Council on Disability for a term expiring September 17, 2006.

Dan Arvizu, of Colordo, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

Steven C. Beering, of Indiana, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

Gerald Wayne Clough, of Georgia, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

Kelvin Kay Droegemeier, of Oklahoma, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

Louis J. Lanzerotti, of New Jersey, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

Alan I. Leshner, of Maryland, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

Jon C. Strauss, of California, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

Kathryn D. Sullivan, of Ohio, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

The Senate Committee on Governmental Affairs was discharged from further consideration of the following nomination and the nomination was placed on the Executive Calendar:

Gregory E. Jackson, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

The Senate Committee on Finance was discharged from further consideration of the following nomination and the nomination was placed on the Executive Calendar:

Anna Escobedo Cabral, of Virginia, to be Treasurer of the United States.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. LEVIN, Mr. BIDEN, and Mr. KENNEDY):

S. 2976. A bill to amend the Controlled Substances Act to life the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes; considered and passed.

By Ms. LANDRIEU:

S. 2977. A bill to establish the Office of Community Justice Services within the Department of Justice, and for other purposes; to the Committee on the Judiciary.

By Mr. REID (for himself, Mr. NELSON of Nebraska, Mr. BAUCUS, Mr. BURNS, Mr. STEVENS, and Mr. ENSIGN):

S. 2978. A bill relating to State regulation of access to hunting and fishing; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 2979. A bill to amend title 5, United States Code, to authorize appropriations for the Administrative conference of the United States for fiscal years 2005, 2006, and 2007, and for other purposes; considered and passed.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. BOXER:

S. Res. 464. A resolution relating to refundable tax credits for municipalities; considered and agreed to.

By Mr. HARKIN:

S. Res. 465. A resolution to instruct conferees to the Agriculture, Rural Development, Food and Drug Administration, and related agencies appropriations bill, 2005 or on a consolidated appropriations measure that includes the substance of that act; considered and agreed to.

By Mr. MCCAIN:

S. Res. 466. A resolution celebrating the anniversaries of the International Polar Years (1882–1883 and 1932–1933) and International Geophysical Year (1957–1958) and supporting a continuation of this international science year tradition in 2007–2008; considered and agreed to.

By Mr. HATCH (for himself and Mrs. FEINSTEIN):

S. Res. 467. A resolution extending birthday greetings to Joseph Barbera on the occasion of his 100th birthday and designating March 2005 as "Animated Family Entertainment Month"; considered and agreed to.

By Ms. MURKOWSKI (for herself, Mr. CAMPBELL, and Mr. INOUYE):

S. Res. 468. A resolution designating November 7, 2004, as "National Native American Veterans Day" to honor the service of Native Americans in the United States Armed Forces and the contribution of Native Americans to the defense of the United States; to the Committee on the Judiciary.

By Mr. HARKIN:

S. Con. Res. 144. A concurrent resolution to correct the enrollment of H.R. 4837; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 168

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 168, a bill to require the Secretary of the Treasury to mint coins in commemoration of the San Francisco Old Mint.

S. 989

At the request of Mr. REID, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 989, a bill to provide death and disability benefits for aerial firefighters who work on a contract basis for a public agency and suffer death or disability in the line of duty, and for other purposes.

S. 2437

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 2437, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 2571

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. 2571, a bill to clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996.

S. 2858

At the request of Mr. GREGG, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2858, a bill to amend the Internal Revenue Code of 1986 to clarify the proper treatment of differential wage payments made to employees called to active duty in the uniformed services, and for other purposes.

S. CON. RES. 136

At the request of Mr. CONRAD, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 458

At the request of Mr. INHOFE, his name was added as a cosponsor of S. Res. 458, a resolution congratulating the SpaceShipOne team for achieving a historic milestone in human space flight.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. LANDRIEU:

S. 2977. A bill to establish the Office of Community Justice Services within the Department of Justice, and for other purposes; to the Committee on the Judiciary.

Ms. LANDRIEU. Mr. President, everyday more than 1,600 prisoners are released from jail and head back to the streets of America's neighborhoods and communities. That is more than 600,000 each year. When they get out, they are often get sent back to same neighborhoods where they got into trouble in the first place and more than two-thirds of them return to a life of crime.

This problem could get worse, if we don't take action. We have the largest prison population than at any other time in our history. Two million people are behind bars, the result of tougher penalties, particularly for drug offenses, and "three-strikes and you're out laws" in many States. While the worst offenders will stay behind bars indefinitely, 95 percent of people in jail will get out at some point in time, either on parole, or after completing their sentences.

The challenge for us and our communities is clear: we must find a way to successfully integrate offenders back into society after they get out of prison. The task is daunting. Many offenders face a unique set of personal challenges, legal restrictions, and social barriers that make the transition to productive citizenship extremely difficult for them.

Substance abuse is the most common problem. Eighty percent of all offenders abuse drugs and alcohol, or were under the influence of drugs and alcohol when they committed their crimes. Only about 13 percent of them receive treatment while they are in prison, according to the Office of National Drug Control Policy. Spending for in-prison substance abuse programs has been cut so that States and localities can devote more funding for housing the increased number of prisoners in their corrections systems.

Drug addicted offenders face even bigger challenges when they get out. Corrections agencies are often required to return prisoners to the place where they were convicted. That means released offenders get sent back to economically distressed neighborhoods where drugs are plentiful, but hope is not. These men and women go back to face the same temptations and demons that led to their addictions and their criminal conduct. Resources for treatment in these communities are stretched thin and a lot of former inmates cannot get help.

Another important barrier to success as a citizen is poor education. Offenders are more than twice as likely to have not graduated from high school than the general population. One study found that one-third of inmates could not find an intersection on a map; the same percentage could not explain a billing error or place information on an automobile maintenance form; and only one in 20 could figure out what bus to take from using a schedule.

If you cannot use a map or read a bus schedule, you will not be able to find your way to an office in an unfamiliar part of town to interview for a entry level job as a file clerk. If you cannot explain a billing error to someone, you will not be able to get a job in customer service. There are basic-skilled jobs that do not require a college education available for ex-offenders. But too many of our offenders lack the basic skills to get these jobs and if people are not working, they are more likely to get into trouble.

Studies have shown that unemployment contributes to criminal conduct. The New York State Department of Labor found that 80 percent of offenders who violated probation or parole were unemployed.

To make matters worse, many States exclude felons from holding certain kinds of jobs and obtaining professional licenses. A felon might not be able to get a cosmetology license or certain kinds of drivers' licenses. They may also be denied housing assistance and certain kinds of welfare benefits; 15 to 27 percent of released inmates expect to go to homeless shelters when they get out.

These statistics make it clear why so many of our ex-offenders end up back in trouble with the law. Untreated substance abuse problems, poor education and job skills, and homelessness work to sap offenders of their drive, ambition, and hope. Crime seems like the only option for ex-offenders and they return to a life of crime 67 percent of the time.

Recidivism has its costs. Crime has devastating affects on the neighborhoods that see the most criminal activity. Housing an inmate for one year costs State prison systems $21,000 and costs the Federal system $25,000 per year. But the victims pay the biggest costs in pain, suffering, and fear.

I believe that we can do better than a 67 percent recidivism rate and we can reduce the amount of pain inflicted on victims if we invest in programs that help offenders get over the barriers and the personal difficulties that keep them from becoming productive citizens. Research shows that these kinds of programs can help prepare offenders for life outside of prison. According to one U.S. Department of Education study, participation in correctional vocational and education programs reduces recidivism by 29 percent in State prisoners and 33 percent for Federal prisoners. Substance abuse treatment programs can cut drug use in half and reduce recidivism by 20 percent. In fact every dollar invested in substance abuse programs saves taxpayers $7.46 in other government and social costs according to the Bureau of Justice Statistics.

Today, I am introducing the Protecting Our Communities by Making Returning Offenders Better Citizens Act of 2004. This legislation will establish a $1.5 billion grant program at the Department of Justice to help States and communities develop comprehensive reentry strategies to turn felons into productive citizens. Funding would be available to State and local corrections and offender supervision agencies to a range of services including substance abuse treatment, basic education programs, job skills training, civic education, mentoring services, and family counseling services. The bill encourages these governmental agencies to partner with local non-profits, community organizations, and faith-based organizations to deliver these services to offenders both in and out of jail.

This legislation will also help the families of offenders when an offender returns home. Some 1.5 million children had a parent in a State or Federal prison in 1999 and 7 million children have a parent under some form of correctional supervision. These children are seven times more likely to end up in the criminal justice system. The return of an offender to the home can also produce a great deal of family strife. The adjustment can be very difficult. An unstable home environment only helps to foster criminal behavior.

My legislation will help corrections agencies institute family programs to help keep families close while a parent is incarcerated. Prisons and jails would be able to improve family visitation facilities, provide reduced cost phone service so that inmates can keep in touch with their families, or develop other innovative programs to keep family in the lives of offenders. Parole and probation agencies can work with family support agencies and other government agencies to provide a range of services so that families can successfully adjust to having an offender back home.

The experts are just beginning to examine the important role family services can play in reducing recidivism. One study found that prisoners with no visitors were six times more likely to re-enter prison within the first year of parole than those with three or more visitors.

A variety of family integration programs for offenders have also shown great promise. The La Bodega de la Familia program in New York City and the Michigan Department of Corrections's Project SEEK have produced terrific outcomes, reducing drug use and violent behavior by children. These programs offer an array of services to offenders in addition to family counseling. They serve as focal point for offenders to get substance abuse counseling, job training, and education. We need more programs like this and my legislation will make that possible.

We also need to do more to make offenders understand not only the responsibilities of citizenship, but also its benefits. Certain offenders can be denied the right to vote, public housing benefits, some welfare benefits, and they are legally barred from certain kinds of employment. What they often do not know, however, is that they can get these rights back under certain circumstances. While we make offenders well aware of what civic rights and benefits they are denied when they get released, they do not receive information on how they can get those rights back.

In order to qualify for a grant, grantees must provide offenders with information on how they can restore their voting rights and any other rights or benefits denied them because of their criminal records. States will not have to change any laws to meet this requirement, they are only required to provide information to offenders. I believe that this will send a powerful message to released offenders that we want them to become full participants in our democracy despite their past mistakes. I believe providing information on how to restore their rights can help motivate offenders to follow a different path and underscores our willingness to give them another chance.

Our communities have done a terrific job protecting the public. The crime rate has fallen 55 percent over the last decade, the lowest level in 30 years. They have succeeded through hard work and the investment of the Federal Government in local law enforcement. We passed tougher criminal penalties, provided funding for equipment and technology. and put 100,000 community policing officers on the streets.

Keeping our streets safe is a constant battle that is far from over. These criminals are coming back. Some will be ready for the challenges of citizenship, many will not. The Federal Government can help again by providing the right resources to corrections and our parole and probation agencies. President Bush announced his support for a $300 million initiative to help offenders with job training, transitional housing, and mentoring with faith-based organizations. The President's program was an excellent start. The Protecting Our Communities by Making Returning Offenders Better Citizens Act will build on this so that every offender gets a second chance to turn themselves from felons into fellow citizens. I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Protecting Our Communities by Making Returning Offenders Better Citizens Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—OFFICE OF COMMUNITY JUSTICE SERVICES

Sec. 101. Establishment of Office of Community Justice Services.
Sec. 102. National Offender Reentry Initiative Clearinghouse.

TITLE II—GRANT PROGRAMS

Sec. 201. Reentry preparation grants.
Sec. 202. Transition to community grants.
Sec. 203. Community-based supervision and support grants.
Sec. 204. Administrative provisions.

TITLE III—CIVIC EDUCATION FOR REENTERING FEDERAL PRISONERS

Sec. 301. Civic education for reentering Federal prisoners.

TITLE IV—GRANTS FOR RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE

Sec. 401. Grants for research, training, and technical assistance.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

Sec. 501. Authorization of appropriations.

### SEC. 2. FINDINGS.

Congress finds the following:

(1) More than 2,000,000 people are incarcerated in Federal or State prisons and local jails in the United States.

(2) Of the individuals now in prison, 97 percent will eventually be released back into American communities. More than 630,000 of these inmates are released into the Nation's communities every year.

(3) The Bureau of Justice Statistics has found that 67.5 percent of prisoners released from incarceration in 1994 were rearrested within 3 years.

(4) Many of the men and women who will leave prison and jail each year have a variety of substance abuse disorders, low levels of education and job training, face significant barriers to employment, and lack housing upon their release.

(5) Felony convictions can also disqualify released offenders from voting and other rights. Under some State laws, these disqualifications can be permanent. While many States allow for the restoration of voting and civic rights to ex-offenders, this information is not routinely given to ex-offenders upon their release.

(6) Returning offenders have significant educational needs. Fewer than one-half of released prisoners have a high school education. Studies have found that approximately one-third of prisoners cannot locate an intersection on a street map; one-third cannot explain in writing a billing error; and only 1 in 20 can determine which bus to take from a schedule.

(7) State and local governments have not been able to maintain prison education programs in the face of a prison population that has doubled in the past decade. As a result, according to the National Institute for Literacy, the percentage of prisoners participating in correctional education programs is declining.

(8) The United States Department of Education found that participation in correctional education programs lowers the likelihood of reincarceration by 29 percent, and the Federal Bureau of Prisons found a 33 percent drop in recidivism among Federal prisoners who participate in vocational and apprenticeship training.

(9) According to the National Institute of Justice, 60 percent of formerly incarcerated individuals are unemployed after 1 year of release. Unemployment can contribute to the likelihood of repeating criminal conduct.

(10) Formerly incarcerated individuals face unique barriers in the job market. They may be legally disqualified from certain types of employment and barred by law from obtaining professional licenses in fields such as cosmetology, transportation, and home health care.

(11) Research has found that job training and placement programs for ex-offenders increase the employment of offenders and reduce recidivism.

(12) Drug and alcohol abuse is a persistent concern at every stage of the criminal justice process. Eighty-one percent of State prisoners, 81 percent of Federal prisoners, and 77 percent of local jail inmates have alcohol and drug abuse problems, or were under the influence of alcohol or drugs when they committed their offenses. However, only 13 percent of these inmates receive drug and alcohol treatment while they are incarcerated according to the Office of National Drug Control Policy.

(13) Substance abuse treatment has been proven to reduce drug use, recidivism, unemployment, and homelessness, according to several studies, and every dollar invested in substance abuse treatment saves taxpayers $7.46 in other social costs.

(14) Many offenders are released back into the community without having a place to call home. Several studies have found that many prisoners expect to go to homeless shelters upon release.

(15) A number of barriers exist to offenders getting adequate shelter upon release. Most offenders do not have enough money at the time of release to rent an apartment and landlords typically are reluctant to rent to former offenders. Some ex-offenders are prohibited from living in public housing because of their criminal records.

(16) The Bureau of Justice Statistics estimates that 1,500,000 children in the United States had a parent in a Federal or State prison in 1999. In addition, over 7,000,000 children have a parent under some sort of correctional supervision.

(17) Children of incarcerated parents face social stigma because of their parents' criminal status. This can cause problems in school, low self-esteem, aggressive behavior, and other emotional dysfunction.

(18) The reunification of ex-offenders and their families can cause family stress. In some cases, the ex-offender is not welcome in the home and many ex-offenders have difficulty readjusting to family life.

(19) Studies show that ex-offenders adjust better to family life when their families receive comprehensive support services. These services can also reduce juvenile delinquency, antisocial behavior, and recidivism rates.

### SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) DIRECTOR.—The term "Director" means the Director of the Office of Community Justice Services of the Department of Justice, as established under section 101.

(2) NONGOVERNMENTAL ENTITIES.—The term "nongovernmental entities" means any nonprofit organizations, community corrections organizations, faith-based organizations, social service organizations, behavioral healthcare agencies, neighborhood or community-based organizations, and other entities that are not part of a State or local government.

(3) PROVEN EFFECTIVENESS.—The term "proven effectiveness" means that a program, project, approach, or practice has been shown by a credible analysis of performance and results to make a significant contribution to the accomplishment of the objectives for which it is undertaken, or to have a significant effect in improving the conditions

identified with the problem to which it is addressed.

(4) STATE OR LOCAL CORRECTIONS AGENCIES.—The term "State or local corrections agencies" means the responsible agencies for the imprisonment or incarceration of offenders, or community corrections supervision, in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, Indian tribal governments, and the Northern Mariana Islands, or any political subdivision thereof that performs corrections functions, including any agency of the Federal Government that performs corrections functions for the District of Columbia, or any trust territory of the United States.

(5) STATE OR LOCAL PAROLE OR PROBATION AGENCIES.—The term "State or local parole or probation agencies" means the responsible agencies for determining or supervising early release of reentering offenders or the supervision of reentering offenders in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, Indian tribal governments, and the Northern Mariana Islands, or any political subdivision thereof that performs parole or probation functions, including any agency of the Federal Government that performs these functions for the District of Columbia, or any trust territory of the United States.

### TITLE I—OFFICE OF COMMUNITY JUSTICE SERVICES

#### SEC. 101. ESTABLISHMENT OF OFFICE OF COMMUNITY JUSTICE SERVICES.

(a) IN GENERAL.—There is established within the Department of Justice the Office of Community Justice Services, which shall be headed by a Director appointed by the Attorney General from among persons who have experience in corrections, parole, probation, or related matters, or in providing transitional services to offenders who are returning to their home communities.

(b) DUTIES.—The Director shall—

(1) develop and administer programs for grants to State or local corrections agencies, State or local parole and probation agencies, community corrections agencies, and nongovernmental entities in accordance with this Act, for the purposes of preparing incarcerated persons for reentry into the community, or to assist reentering offenders in their transition back into the community; and

(2) make grants to nongovernmental entities that have experience and expertise in providing such services.

#### SEC. 102. NATIONAL OFFENDER REENTRY INITIATIVE CLEARINGHOUSE.

(a) GRANT AUTHORIZED.—

(1) IN GENERAL.—The Director of the Office of Community Justice Services may award a grant to an eligible organization to establish a National Offender Reentry Initiative Clearinghouse.

(2) DURATION.—The grant awarded under paragraph (1) shall be for a period not to exceed 5 years.

(b) USE OF FUNDS.—The grant awarded under subsection (a) may be used—

(1) for education, training, and technical assistance on offender reentry for States, units of local government, corrections agencies, parole and probation agencies, and nongovernmental entities;

(2) to collect data on best practices from entities receiving a grant under this Act, and from other agencies and organizations;

(3) to disseminate best practices to States, units of local government, corrections agencies, parole and probation agencies, and nongovernmental entities; and

(4) to assist State and units of local government to identify barriers to successful offender reentry.

(c) APPLICATION.—Each eligible organization desiring the grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may reasonably require.

(d) ELIGIBLE ORGANIZATIONS.—A national nonprofit organization may apply for the grant under this section if the organization has experience in providing technical assistance, training, and research on offender reentry programs for States, units of local government, corrections agencies, and parole and probation agencies.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 2005 through 2009 to carry out the provisions of this section.

### TITLE II—GRANT PROGRAMS

#### SEC. 201. REENTRY PREPARATION GRANTS.

(a) IN GENERAL.—The Director shall award grants, for a term of not more than 5 years, to State or local corrections agencies to provide services to incarcerated persons, in accordance with the requirements of this section.

(b) USE OF FUNDS.—Grant funds awarded under subsection (a) may be used for—

(1) education programs, such as high school equivalency degrees, basic literacy training, civic education, and educational diagnostic services for incarcerated persons;

(2) mental health and substance abuse assessment and treatment programs, including anger management programs, for incarcerated persons;

(3) job and vocational skills training for incarcerated persons;

(4) mentoring programs for incarcerated persons;

(5) programs, services, and the construction of facilities to promote healthy family bonds, such as family counseling centers and services, telecommunications services for incarcerated parents to communicate with their children, and family friendly visiting areas;

(6) information programs that meet the requirements of subsection (e); and

(7) any other program or service that is part of a comprehensive offender reentry plan designed to prepare incarcerated persons for their future return to the community-at-large.

(c) PARTNERSHIP APPLICATIONS.—Each State or local corrections agency may apply for a grant in cooperation with, or contract with upon receiving a grant under this section, nonprofit organizations, faith-based organizations, and nongovernmental entities to develop and provide innovative approaches that will allow incarcerated persons access to the services described under paragraphs (1) through (6) of subsection (b).

(d) PRIORITY.—Priority in the award of grants shall be given to those State or local correctional agencies that propose partnership applications as described under subsection (c) to develop innovative strategies, as determined by the Director, to deliver the services described under paragraphs (1) through (6) of subsection (b).

(e) INFORMATION.—Each State corrections agency, or State parole or probation agency, receiving a grant under this section shall provide each incarcerated person with written information, in plain and simple wording, on how that person can restore—

(1) voting rights within the State in which the person will be released; and

(2) any other civil or civic rights or public benefits denied to the incarcerated person under the law of the State due to their status as an offender.

#### SEC. 202. TRANSITION TO COMMUNITY GRANTS.

(a) IN GENERAL.—The Director shall award grants, for a term of not more than 5 years, to consortiums of State or local correctional agencies, and State or local parole or probation agencies, for the purposes of providing services to incarcerated persons, who have not more than 1 year remaining of their sentence, or released offenders, not later than 18 months after being released, that will facilitate the reentry of such persons into the community, in accordance with the requirements of this section.

(b) USE OF FUNDS.—Grants awarded under subsection (a) shall be used for—

(1) education programs, such as high school equivalency degrees, basic literacy training, civic education, and educational diagnostic services;

(2) mentoring programs;

(3) life skills training, including family support services;

(4) mental health and substance abuse assessment and treatment programs, including aftercare programs, intensive case management, and anger management programs;

(5) job and vocational skills training, including paid work experience programs;

(6) information programs that meet the requirements of subsection (e); and

(7) such other services and programs that are part of a comprehensive offender reentry plan designed to assist incarcerated persons or reentering offenders in reentering the community.

(c) PARTNERSHIP APPLICATIONS.—Each applicant for a grant under this section may apply for such grant in cooperation with, or contract with upon receiving a grant, any nongovernmental entities to develop or provide innovative approaches to the services described under paragraphs (1) through (5) of subsection (b).

(d) PRIORITY.—Priority in the award of grants shall be given to those State or local correctional agencies, or State or local parole or probation agencies that propose partnership applications as described under subsection (c) to develop innovative strategies, as determined by the Director, to deliver the services described under paragraphs (1) through (5) of subsection (b).

(e) INFORMATION.—Each recipient of a grant under this section shall provide each incarcerated person or reentering offender with written information, in plain and simple wording, on how that person can restore—

(1) voting rights within the State in which the person will be released; and

(2) any other civil or civic rights or public benefits denied to the incarcerated person under the law of the State due to their status as an offender.

#### SEC. 203. COMMUNITY-BASED SUPERVISION AND SUPPORT GRANTS.

(a) IN GENERAL.—The Director shall award grants, for a term of not more than 5 years, to State or local parole and probation agencies to provide reentering offenders with services to help such reentering offenders with their transition into the community.

(b) USE OF FUNDS.—Grant funds awarded under this section may be used for—

(1) the development or support of parole and probation programs designed to increase coordination between parole officers and social service providers;

(2) the establishment of parole and probation offices located within areas in which a substantial number of incarcerated persons shall live;

(3) the development of joint parole, probation, and local law enforcement monitoring programs;

(4) the provision of comprehensive family case management services to assist families of reentering offenders;

(5) the funding of research and analysis designed to allow State parole and probation agencies to identify and determine which locations and neighborhoods see the largest number of reentering offenders establishing residency;

(6) the development of programs that encourage collaboration between parole and probation agencies, and job training programs that serve people with criminal records, including transitional jobs programs;

(7) the development of geographic-based caseload management systems by State parole and probation agencies for monitoring reentering offenders;

(8) information programs that meet the requirements of subsection (f); and

(9) services and programs that have proven effectiveness in helping reentering offenders transition back into life in the community, including transitional housing and mental health and substance abuse treatment services offered as part of a comprehensive offender reentry plan.

(c) Partnership Applications.—A State or local parole or probation agency applying for a grant under this section may, in order to carry out the purposes of this section, contract or partner with—

(1) nongovernmental entities with expertise in services that can assist reentering offenders in relocating into a community and their families; and

(2) State and local government agencies that administer programs or provide services to released offenders, such as child welfare, workforce development agencies, and community corrections agencies.

(d) Priority.—Priority in the award of grants shall be given to those State or local parole or probation agencies that propose partnership applications as described under subsection (c) to develop innovative strategies, as determined by the Director, to deliver the services described under paragraphs (1) through (7) of subsection (b).

(e) Limitation.—To receive a grant under this section, each State parole and probation agency shall demonstrate coordination with Federal or State corrections officials in determining where reentering offenders shall be released.

(f) Information.—Each recipient of a grant under this section shall provide each reentering offender with written information, in plain and simple wording, on how that person can restore—

(1) voting rights within the State in which the person is being released; and

(2) any other civil or civic rights or public benefits denied to the reentering offender under the law of the State due to their status as an offender.

### SEC. 204. ADMINISTRATIVE PROVISIONS.

(a) Apportionment of Grant Funding.—Of the amounts appropriated to carry out the purposes of this Act—

(1) not less than 70 percent shall be made available to carry out the purposes of sections 201, 202, and 203; and

(2) up to 30 percent shall be made available to carry out the purposes of subsection (c).

(b) Matching Funds.—

(1) In general.—The Federal share of any program, project, or activity funded by a grant made under section 201, 202, or 203 shall not exceed 75 percent of the total cost of such program, project, or activity.

(2) Waiver.—The Attorney General may, in the sole discretion of the Attorney General, waive the requirements of paragraph (1) in whole or in part.

(c) Discretionary Grants.—

(1) In general.—The Director shall award grants, for a term of not more than 5 years, on a competitive basis, to State or local correctional agencies, State or local parole or probation agencies, and nongovernmental entities for community protection programs.

(2) Use of funds.—Grant funds awarded under paragraph (1) shall be used to—

(A) fund multiyear demonstration programs designed to reduce recidivism and parole violations, and the recipients of a grant may contract with organizations to conduct any necessary research with respect to the program; and

(B) allow State task forces to conduct an analysis of existing State statutory, regulatory, and practice-based hurdles to the reintegration of a prisoner into the community that—

(i) takes particular note of laws, regulations, rules, and practices that disqualify people with criminal records from obtaining drivers licenses, professional licenses, or other requirements necessary for certain types of employment, and that hinder full civic participation; and

(ii) identifies and recommends for repeal or modification those laws, regulations, rules, or practices that do not demonstrate a rational connection between the existing statutory or regulatory prohibition, the type of conviction, and the risk that the individual may pose to the community.

(3) Application.—Any State or local correctional agency or State or local parole or probation agency wishing to receive a grant under paragraph (1) shall submit to the Director an application setting forth a description of the planned demonstration program. The Director shall establish guidelines for assessing such applications.

(d) Submission of Information.—Prior to the distribution of grant funds under section 201, 202, or 203, each State shall submit to the Director a description of the activities to be carried out using such grant funds.

(e) Nonsupplanting Requirement.—Funds made available under this title shall not be used to supplant State or local funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this title, be made available from State or local sources.

(f) Performance Evaluations.—Selected grant recipients shall be evaluated pursuant to guidelines established by the Director.

(g) Revocation or Suspension of Funding.—If the Director determines that a grant recipient under this title is not in substantial compliance with the terms and requirements of an approved grant application submitted under this title, the Director may revoke or suspend funding of that grant, in whole or in part.

## TITLE III—CIVIC EDUCATION FOR REENTERING FEDERAL PRISONERS

### SEC. 301. CIVIC EDUCATION FOR REENTERING FEDERAL PRISONERS.

(a) In General.—Not later than 3 months after the date of enactment of this Act, the Bureau of Prisons of the Department of Justice shall provide each reentering offender released from Federal prisons information on how the reentering offender can restore voting rights, and other civil or civic rights, denied to the reentering offender based upon their offender status in the State to which that reentering offender shall be returning.

(b) Publication.—The information required under subsection (a) shall be provided to each reentering offender in writing, and in a language that the reentering offender can understand.

## TITLE IV—GRANTS FOR RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE

### SEC. 401. GRANTS FOR RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.

Up to 5 percent of the funds made available under this Act may be used for research, technical assistance, and training carried out or commissioned by the Attorney General in furtherance of the purposes of this Act.

## TITLE V—AUTHORIZATION OF APPROPRIATIONS

### SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the purposes of titles II and III of this Act—

(1) $75,000,000 for fiscal year 2005;

(2) $150,000,000 for fiscal year 2006;

(3) $325,000,000 for fiscal year 2007;

(4) $450,000,000 for fiscal year 2008; and

(5) $500,000,000 for fiscal year 2009.

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By Mr. REID (for himself, Mr. Nelson of Nebraska, Mr. Baucus, Mr. Burns, Mr. Stevens, and Mr. Ensign):

S. 2978. A bill relating to State regulation of access to hunting and fishing; to the Committee on the Judiciary.

Mr. REID. Mr. President, the legislation I am introducing today explicitly reaffirms each State's right to regulate hunting and fishing.

I am pleased that Senators Ben Nelson, Conrad Burns, and Ted Stevens are joining me in sponsoring this important bill.

This is a Nevada issue, but it is also a national issue, as a recent Federal circuit court ruling undermines traditional hunting and fishing laws.

In Conservation Force v. Dennis Manning, the Ninth Circuit Court of Appeals ruled that State laws that distinguish between State residents and non-residents for the purpose of affording hunting and related privileges are constitutionally suspect.

This threatens the conservation of wildlife resources and recreational opportunities.

Although the Ninth Circuit found the purposes of such regulation to be sound, the Court questioned the validity of tag limits for non-resident hunters.

I respect the authority of States to enact laws to protect their legitimate interests in conserving fish and game, as well as providing opportunities for State residents to hunt and fish.

That's what this legislation says—we respect that State right.

Sportsmen are ardent conservationists. They support wildlife conservation not only through the payment of State and local taxes and other fees, but also through local non-profit conservation efforts and by volunteering their time.

For example, in Nevada there are great groups such as Nevada Bighorns Unlimited and the Fraternity of Desert Bighorn. These are dedicated sportsmen who spend countless hours, as well as money, building "guzzlers" in the desert, which help provide a reliable source of water for Desert Bighorn Sheep.

Without these efforts it would be extremely hard for the Bighorn Sheep to survive, because many areas of their natural habitat where they used to drink water have been developed.

Today, Southern Nevada is in the 5th year of a 500 year drought, and the work of the groups I mentioned is saving the lives of hundreds of bighorns.

The involvement of local sportsmen in protecting and conserving wildlife is one of the facts that justifies traditional resident/non-resident distinctions, and provides the motivation for our legislation.

The regulation of wildlife is traditionally within a State's purview, and this legislation simply affirms the traditional role of States in the regulation of fish and game.

This bill is time sensitive.

This bill needs to pass before next year's hunting season begins.

I look forward to working with my colleagues to expedite passage of this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2978

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. STATE REGULATION OF ACCESS TO HUNTING AND FISHING.**

(a) DECLARATION OF POLICY.—Congress hereby declares that—

(1) the continued regulation of access to hunting and fishing by the several States is in the public interest; and

(2) silence on the part of Congress shall not be construed to impose any commerce clause barrier to the regulation of such activities by the several States.

(b) STATE REGULATION OF ACCESS TO HUNTING AND FISHING.—The licensing of hunting and fishing, or of other access thereto, and every person engaged in hunting or fishing, shall be subject to the laws of the several States which relate to the regulation of such activities.

(c) CONSTRUCTION.—No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the access to hunting and fishing unless such Act specifically so states.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 464—RELATING TO REFUNDABLE TAX CREDITS FOR MUNICIPALITIES

Mrs. BOXER submitted the following resolution; which was considered and agreed to:

S. RES. 464

Whereas, the Senate today passed a free standing measure which is designed to address tax relief issues relating to Reservists and National Guardsmen;

Whereas, one of the provisions of the package provides tax relief to employers of Reservists and National Guardsmen;

Whereas, the employer provision is targeted to businesses and tax paying entities;

Whereas, State and local governments are facing budgetary pressures, particularly with regard to homeland security;

Whereas, many local first responders have been called to active duty in the National Guards and Reserves, and many state and local governments have continued to pay their salaries, thus increasing the budgetary pressure on state and local governments;

Whereas, the Senate recognized this pressure by including in the FSC–ETI bill a provision to compensate state and local governments for closing the pay gap of first responders who are called to active duty in the National Guards and Reserves: Now, therefore be it

*Resolved,* That it is the sense of the Senate that:

1. The Senate should reiterate its support for reimbursing state and local governments for closing the pay gap for first responders who are called to active duty in the National Guard and Reserves by considering expanding the employer tax relief provisions to cover state and local governments; and

2. The President should consider including such a proposal in his Fiscal Year 2006 Budget Submission.

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### SENATE RESOLUTION 465—TO INSTRUCT CONFEREES TO THE AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2005 OR ON A CONSOLIDATED APPROPRIATIONS MEASURE THAT INCLUDES THE SUBSTANCES OF THAT ACT

Mr. HARKIN submitted the following resolution; which was considered and agreed to:

S. RES. 465

*Resolved,* That—For the purpose of restoring the provisions governing the Conservation Security Program to those enacted in the Farm Security and Rural Investment Act and restoring the practice of treating agricultural disaster assistance as emergency spending, the Senate instructs conferees to Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 2005, or a Consolidated Appropriations Measure that includes the substance of that act, to insist that the conference report contain legislative language striking subsections (e) and (f) of section 101 of division B of H.R. 4837, An Act Making Appropriations for Military Construction, Family Housing, and Base Realignment and Closure for the Department of Defense for the Fiscal Year ending September 30, 2005 and for Other Purposes.

### SENATE RESOLUTION 466—CELEBRATING THE ANNIVERSARIES OF THE INTERNATIONAL POLAR YEARS (1882–1883 AND 1932–1933) AND INTERNATIONAL GEOPHYSICAL YEAR (1957–1958) AND SUPPORTING A CONTINUATION OF THIS INTERNATIONAL SCIENCE YEAR TRADITION IN 2007–2008

Mr. MCCAIN submitted the following resolution; which was considered and agreed to:

S. RES. 466

Whereas the year 2007 is the 125th anniversary of the first International Polar Year of 1882–1883, the 75th anniversary of the second International Polar Year of 1932–1933, and the 50th anniversary of the International Geophysical Year of 1957–1958;

Whereas the first International Polar Year of 1882–1883, which involved 12 nations, and the second International Polar Year of 1932–1933, which involved 40 nations, set the first precedents for internationally coordinated scientific campaigns;

Whereas the International Geophysical Year, conceived in and promoted by the United States, was the largest cooperative international scientific endeavor undertaken to that date, involving more than 60,000 scientists from 66 nations;

Whereas each of these activities left a legacy of scientific advances, new discoveries, and international goodwill that still benefit us today;

Whereas the International Geophysical Year legacy includes the dedication of an entire continent to cooperative scientific study through the Antarctica Treaty and the inauguration of the global space age through the launching of Sputnik and Vanguard;

Whereas International Geophysical Year cooperation continues as the model and inspiration for contemporary world science and provides a bridge between peoples of the world that has demonstrated the ability to transcend political differences;

Whereas it also would be appropriate to use the international science year format to expand the scope of past years to encompass a broad range of disciplines and to recognize interdisciplinary research that incorporates the physical and social sciences and the humanities in enriching understanding of diverse life on Earth;

Whereas the 35th anniversary of the International Geophysical Year was commemorated by the International Space Year, a globally implemented congressional initiative conceived by the late Senator Spark Matsunaga of Hawaii, that was highlighted by globally coordinated environmental monitoring and research whose ongoing legacy continues to benefit humanity;

Whereas planning for an International Polar Year in 2007–2008 is underway, under the guidance of strong United States leadership and the National Academy of Sciences and in conjunction with the International Council for Science and the World Meteorological Organization, with this envisioned to be an intense, coordinated campaign of observations, research, and analysis that will be multidisciplinary in scope and international in participation;

Whereas an International Polar Year in 2007–2008 will include research on the conditions in both polar regions and recognize the strong links among polar region conditions and the rest of the globe, including the impact on global climate change, as the polar regions have profound significance for the Earth's climate and environments;

Whereas other scientific bodies are planning additional internationally coordinated scientific programs to advance scientific knowledge and observations from the core of the Earth to the farthest reaches of the Cosmos's effects on the Earth;

Whereas it is entirely fitting that Congress takes the lead again, in the same spirit, in promoting global cooperation through worldwide commemoration of the past International Polar Years and the International Geophysical Year with activities reflecting the unity and diversity of life on Earth: Now, therefore, be it

*Resolved*, That it is the Sense of the Senate that the President should—

(1) endorse the concept of a worldwide campaign of scientific activity for the 2007-2008 timeframe;

(2) direct the Director of the National Science Foundation and the Administrator of the National Aeronautics and Space Administration, in association with the National Academy of Sciences and other relevant governmental and nongovernmental organizations, to continue interagency and international inquiries and discussions that ensure a successful worldwide international science year in the 2007-2008 timeframe, emphasizing activities dedicated to global environmental research, education, and protection; and

(3) submit to Congress at the earliest practical date, but no later than March 15, 2005, a report detailing the steps taken in carrying out paragraphs (1) and (2), including descriptions of possible activities and organizational structures for an international science year in 2007-2008.

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## SENATE RESOLUTION 467—EXTENDING BIRTHDAY GREETINGS TO JOSEPH BARBERA ON THE OCCASION OF HIS 100TH BIRTHDAY AND DESIGNATING MARCH 2005 AS "ANIMATED FAMILY ENTERTAINMENT MONTH"

Mr. HATCH (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

S. RES. 467

Whereas Joseph Barbera is one of the pioneers of animated entertainment, having created, with his partner, William Hanna, some of the world's most recognizable and beloved characters, including Tom and Jerry, Huckleberry Hound, The Flintstones, The Jetsons, Scooby-Doo, and Yogi Bear, among many others;

Whereas Joseph Barbera is also one of the most honored figures in animated entertainment, his creations Tom and Jerry having received 7 Academy Awards for their antics, including their groundbreaking dancing appearances with Gene Kelly and Esther Williams in live action films, and having won multiple Emmy Awards, and Joseph Barbera himself having been elected to the Television Academy Hall of Fame;

Whereas in 1960, the team of Joseph Barbera and William Hanna created television's first animated family sitcom, "The Flintstones", a series marked by a number of other firsts—the first animated series to air in primetime, the first animated series to go beyond the 6- or 7-minute cartoon format, and the first animated series to feature human characters;

Whereas "The Flintstones" ran for 6 years and became the top-ranking animated program in syndication history, with all original 166 episodes currently seen in more than 80 countries worldwide;

Whereas Joseph Barbera cocreated a cowardly Great Dane named Scooby-Doo, who eventually made his own place in television history, for the popular series "Scooby-Doo, Where Are You?" remained in production for 17 years, still maintains the title of television's longest-running animated series, and serves as the inspiration for a series of current live-action films;

Whereas in 1981, Hanna-Barbera developed the phenomenally successful "The Smurfs", which won 2 Daytime Emmy Awards in 1982 and in 1983 for Outstanding Children's Entertainment Series and a Humanitas Award (an award given to shows that best affirm the dignity of the human person) in 1987;

Whereas at the age of 99, Joseph Barbera continues to work actively in the field, reporting to his office daily and continuing to develop new animated entertainment for the people of the United States and the world to enjoy;

Whereas March 24, 2005, will be Joseph Barbera's 100th birthday; and

Whereas the lives of families across the United States and throughout the world have been enriched by the shared enjoyment of the work of creators like Joseph Barbera: Now, therefore, be it

*Resolved*, That the Senate—

(1) on behalf of the American people, extends its birthday greetings and best wishes to Joseph Barbera on the occasion of his 100th birthday; and

(2) designates March 2005 as "Animated Family Entertainment Month" and encourages the families of the United States to take time to enjoy together the family entertainment created by the Nation's animated storytellers.

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## SENATE RESOLUTION 468—DESIGNATING NOVEMBER 7, 2004, AS "NATIONAL NATIVE AMERICAN VETERANS DAY" TO HONOR THE SERVICE OF NATIVE AMERICANS IN THE UNITED STATES ARMED FORCES AND THE CONTRIBUTION OF NATIVE AMERICANS TO THE DEFENSE OF THE UNITED STATES

Ms. MURKOWSKI (for herself, Mr. CAMPBELL, and Mr. INOUYE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 468

Whereas Native Americans have served with honor and distinction in the United States Armed Forces and defended the United States of America for more than 200 years;

Whereas Native Americans have served in wars involving the United States from Valley Forge to the hostilities in Afghanistan and Iraq;

Whereas Native Americans have served in the United States Armed Forces with the highest record of military service of any group in the United States;

Whereas the courage, determination, and fighting spirit of Native Americans have strengthened and continue to strengthen the United States, including the United States Armed Forces;

Whereas Native Americans have made the ultimate sacrifice in defense of the United States, even in times when Native Americans were not citizens of the United States;

Whereas the establishment of a National Native American Veterans Day will honor the continuing service and sacrifice of Native Americans in the United States Armed Forces; and

Whereas November 7th, a date that falls within the traditional observance of Native American Indian Heritage Month, would be an appropriate day to establish a National Native American Veterans Day: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors the service of Native Americans in the United States Armed Forces and the contribution of Native Americans to the defense of the United States;

(2) designates November 7, 2004, as "National Native American Veterans Day";

(3) encourages all people in the United States to learn about the history of the service of Native Americans in the United States Armed Forces; and

(4) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities to demonstrate support for Native American veterans.

Ms. MURKOWSKI. Mr. President, I am pleased to be joined by Senators CAMPBELL and INOUYE in submitting a resolution to honor American Indian, Alaska Native, and Native Hawaiian veterans for their service in the Armed Forces of the United States and to designate November 7, 2004 as "National Native American Veterans Day".

This is the second consecutive year that such a resolution has been introduced. November 7, 2003 was designated as National Native American Veterans Day in accordance with Senate Resolution 239. I was proud to join with Senator CAMPBELL, our distinguished chairman of the Senate Committee on Indian Affairs and Senator INOUYE, the distinguished vice chairman of the committee, and others of my colleagues in cosponsoring that resolution. As the events of conflict in Iraq continue we all hope and pray for the safe return of the men and women who are overseas, far from home protecting our Nation and others.

We continue to honor the memory of Army Private First Class Lori Piestewa, a Hopi woman, who fought valiantly and bravely to protect her fellow soldiers during the invasion of Iraq. This year we also remember other Native people who lost their lives in Iraq over the past year. Army Sergeant Lee Duane Todacheene, Marine Lance Corporal Quinn A. Keith, Army Private First Class Harry Shondee, Jr. members of the Navajo Nation, and Army Private First Class Sheldon Hawk Eagle, Cheyenne River Sioux, whose Indian name was Wanbli Ohitika, or Brave Eagle. I apologize if I have failed to acknowledge a brave Native person who lost his or her life in Iraq.

Native people, and especially the Native people of my State of Alaska, revere, admire, and respect our veterans and those who continue to serve. They pray for ones still in battle, alongside their fellow Americans, so that they can have a safe journey back to their loving homes and families. They pray for the ones who have fought, and now, continue their journey through life's struggles.

I urge my colleagues to join me in supporting this resolution.

## SENATE CONCURRENT RESOLUTION 144—TO CORRECT THE ENROLLMENT OF H.R. 4837

Mr. HARKIN submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 144

*Resolved by the Senate (the House of Representatives concurring)*, That in the enrollment of H.R. 4837, an Act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes, the Clerk of the House is hereby authorized and directed to strike subsections (e) and (f) of section 101 of division B and insert the following new subsection:

(e) The amounts provided or made available by this section are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108–287.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 4058. Mr. SESSIONS (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 1129, to provide for the protection of unaccompanied alien children, and for other purposes.

SA 4059. Mr. SESSIONS (for Mr. ROBERTS (for himself and Mr. ROCKEFELLER)) proposed an amendment to the bill S. 2386, to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

SA 4060. Mr. SESSIONS (for Mr. ROBERTS (for himself and Mr. ROCKEFELLER)) proposed an amendment to the bill S. 2386, supra.

SA 4061. Ms. LANDRIEU (for herself, Mr. BOND, Mr. JEFFORDS, Mrs. MURRAY, Mr. GRAHAM of South Carolina, Mr. ROCKEFELLER, Mr. SESSIONS, Mr. NELSON of Florida, Mr. WARNER, Mr. DURBIN, Mr. KERRY, Mrs. BOXER, and Ms. MIKULSKI) proposed an amendment to the bill H.R. 1779, to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans during the period that a military reservist or national guardsman is called to active duty for an extended period, and for other purposes.

SA 4062. Mr. FRIST (for Mr. CONRAD) proposed an amendment to the concurrent resolution S. Con. Res. 136, honoring and memorializing the passengers and crew of United Airlines Flight 93.

SA 4063. Mr. FRIST (for Mr. FITZGERALD) proposed an amendment to the bill S. 2688, to provide for a report of Federal entities without annually audited financial statements.

SA 4064. Mr. FRIST (for Mr. LIEBERMAN) proposed an amendment to the bill S. 2691, to establish the Long Island Sound Stewardship Initiative.

SA 4065. Mr. FRIST (for Mr. SMITH) proposed an amendment to the concurrent resolution S. Con. Res. 113, recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month.

SA 4066. Mr. FRIST (for Mr. SMITH) proposed an amendment to the concurrent resolution S. Con. Res. 113, supra.

SA 4067. Mr. FRIST (for Mr. SMITH) proposed an amendment to the concurrent resolution S. Con. Res. 113, supra.

## TEXT OF AMENDMENTS

**SA 4058.** Mr. SESSIONS (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 1129, to provide for the protection of unaccompanied alien children, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Unaccompanied Alien Child Protection Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—CUSTODY, RELEASE, FAMILY REUNIFICATION, AND DETENTION

Sec. 101. Procedures when encountering unaccompanied alien children.
Sec. 102. Family reunification for unaccompanied alien children with relatives in the United States.
Sec. 103. Appropriate conditions for detention of unaccompanied alien children.
Sec. 104. Repatriated unaccompanied alien children.
Sec. 105. Establishing the age of an unaccompanied alien child.
Sec. 106. Effective date.

TITLE II—ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM AND COUNSEL

Sec. 201. Guardians ad litem.
Sec. 202. Counsel.
Sec. 203. Effective date; applicability.

TITLE III—STRENGTHENING POLICIES FOR PERMANENT PROTECTION OF ALIEN CHILDREN

Sec. 301. Special immigrant juvenile visa.
Sec. 302. Training for officials and certain private parties who come into contact with unaccompanied alien children.
Sec. 303. Report.
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TITLE IV—CHILDREN REFUGEE AND ASYLUM SEEKERS

Sec. 401. Guidelines for children's asylum claims.
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TITLE V—AUTHORIZATION OF APPROPRIATIONS

Sec. 501. Authorization of appropriations.

TITLE VI—AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002

Sec. 601. Additional responsibilities and powers of the Office of Refugee Resettlement with respect to unaccompanied alien children.
Sec. 602. Technical corrections.
Sec. 603. Effective date.

**SEC. 2. DEFINITIONS.**

(a) IN GENERAL.—In this Act:

(1) COMPETENT.—The term "competent", in reference to counsel, means an attorney who complies with the duties set forth in this Act and—

(A) is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia;

(B) is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting the attorney in the practice of law; and

(C) is properly qualified to handle matters involving unaccompanied immigrant children or is working under the auspices of a qualified nonprofit organization that is experienced in handling such matters.

(2) DIRECTOR.—The term "Director" means the Director of the Office.

(3) DIRECTORATE.—The term "Directorate" means the Directorate of Border and Transportation Security established by section 401 of the Homeland Security Act of 2002 (6 U.S.C. 201).

(4) OFFICE.—The term "Office" means the Office of Refugee Resettlement as established by section 411 of the Immigration and Nationality Act (8 U.S.C. 1521).

(5) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(6) UNACCOMPANIED ALIEN CHILD.—The term "unaccompanied alien child" has the same meaning as is given the term in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)).

(7) VOLUNTARY AGENCY.—The term "voluntary agency" means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children, as certified by the Director of the Office of Refugee Resettlement.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

"(51) The term 'unaccompanied alien child' means a child who—

"(A) has no lawful immigration status in the United States;

"(B) has not attained the age of 18; and

"(C) with respect to whom—

"(i) there is no parent or legal guardian in the United States; or

"(ii) no parent or legal guardian in the United States is able to provide care and physical custody.

"(52) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—

"(A) have not attained the age of 18; and

"(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.".

(c) RULE OF CONSTRUCTION.—A department or agency of a State, or an individual or entity appointed by a State court or juvenile court located in the United States, acting in loco parentis, shall not be considered a legal guardian for purposes of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

## TITLE I—CUSTODY, RELEASE, FAMILY REUNIFICATION, AND DETENTION

### SEC. 101. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.

(a) Unaccompanied Children Found Along the United States Border or at United States Ports of Entry.—

(1) In general.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the officer shall—

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and

(B) return such child to the child's country of nationality or country of last habitual residence.

(2) Special rule for contiguous countries.—

(A) In general.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), if a determination is made on a case-by-case basis that—

(i) such child is a national or habitual resident of a country described in subparagraph (A);

(ii) such child does not have a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(iii) the return of such child to the child's country of nationality or country of last habitual residence would not endanger the life or safety of such child; and

(iv) the child is able to make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) Right of consultation.—Any child described in subparagraph (A) shall have the right to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation, as well as consult with the Office, telephonically, and such child shall be informed of that right in the child's native language.

(3) Rule for apprehensions at the border.—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with the provisions of subsection (b).

(b) Care and Custody of Unaccompanied Alien Children Found in the Interior of the United States.—

(1) Establishment of jurisdiction.—

(A) In general.—Except as otherwise provided under subparagraphs (B) and (C) and subsection (a), the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) Exception for children who have committed crimes.—Notwithstanding subparagraph (A), the Directorate shall retain or assume the custody and care of any unaccompanied alien child who—

(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), while such charges are pending; or

(ii) has been convicted of any such felony.

(C) Exception for children who threaten national security.—Notwithstanding subparagraph (A), the Directorate shall retain or assume the custody and care of an unaccompanied alien child if the Secretary has substantial evidence, based on an individualized determination, that such child could personally endanger the national security of the United States.

(D) Trafficking victims.—For purposes of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) and this Act, an unaccompanied alien child who is eligible for services authorized under the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386), shall be considered to be in the custody of the Office.

(2) Notification.—

(A) In general.—The Secretary shall promptly notify the Office upon—

(i) the apprehension of an unaccompanied alien child;

(ii) the discovery that an alien in the custody of the Directorate is an unaccompanied alien child;

(iii) any claim by an alien in the custody of the Directorate that such alien is under the age of 18; or

(iv) any suspicion that an alien in the custody of the Directorate who has claimed to be over the age of 18 is actually under the age of 18.

(B) Special rule.—In the case of an alien described in clause (iii) or (iv) of subparagraph (A), the Director shall make an age determination in accordance with section 105 and take whatever other steps are necessary to determine whether or not such alien is eligible for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

(3) Transfer of unaccompanied alien children.—

(A) Transfer to the office.—The care and custody of an unaccompanied alien child shall be transferred to the Office—

(i) in the case of a child not described in subparagraph (B) or (C) of paragraph (1), not later than 72 hours after a determination is made that such child is an unaccompanied alien child;

(ii) in the case of a child whose custody and care has been retained or assumed by the Directorate pursuant to subparagraph (B) or (C) of paragraph (1), immediately following a determination that the child no longer meets the description set forth in such subparagraphs; or

(iii) in the case of a child who was previously released to an individual or entity described in section 102(a)(1), upon a determination by the Director that such individual or entity is no longer able to care for the child.

(B) Transfer to the directorate.—Upon determining that a child in the custody of the Office is described in subparagraph (B) or (C) of paragraph (1), the Director shall transfer the care and custody of such child to the Directorate.

(C) Promptness of transfer.—In the event of a need to transfer a child under this paragraph, the sending office shall make prompt arrangements to transfer such child and the receiving office shall make prompt arrangements to receive such child.

(c) Age Determinations.—In any case in which the age of an alien is in question and the resolution of questions about the age of such alien would affect the alien's eligibility for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act, a determination of whether or not such alien meets such age requirements shall be made by the Director in accordance with section 105.

### SEC. 102. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.

(a) Placement Authority.—

(1) Order of preference.—Subject to the discretion of the Director under section 462(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(2)) and under paragraph (4) of this subsection and section 103(a)(2) of this Act, an unaccompanied alien child in the custody of the Office shall be promptly placed with 1 of the following individuals or entities in the following order of preference:

(A) A parent who seeks to establish custody, as described in paragraph (3)(A).

(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).

(C) An adult relative.

(D) An individual or entity designated by the parent or legal guardian that is capable and willing to care for the well-being of the child.

(E) A State-licensed juvenile shelter, group home, or foster care program willing to accept physical custody of the child.

(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the Office shall decide who is a qualified adult or entity and promulgate regulations in accordance with such decision.

(2) Suitability assessment.—Notwithstanding paragraph (1), no unaccompanied alien child shall be placed with a person or entity unless a valid suitability assessment conducted by an agency of the State of the child's proposed residence, by an agency authorized by that State to conduct such an assessment, or by an appropriate voluntary agency contracted with the Office to conduct such assessments has found that the person or entity is capable of providing for the child's physical and mental well-being.

(3) Right of parent or legal guardian to custody of unaccompanied alien child.—

(A) Placement with parent or legal guardian.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, but subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall assess the suitability of placing the child with the parent or legal guardian and shall make a written determination on the child's placement within 30 days.

(B) Rule of construction.—Nothing in this Act shall be construed to—

(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Program of Action, and the Declaration of the Rights of the Child; or

(ii) limit any right or remedy under such international agreement.

(4) Protection from smugglers and traffickers.—

(A) Policies and programs.—

(i) In general.—The Director shall establish policies and programs to ensure that unaccompanied alien children are protected from smugglers, traffickers, or other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.

(ii) Witness protection programs included.—The programs established pursuant to clause (i) may include witness protection programs.

(B) Criminal investigations and prosecutions.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects any individual of being involved in any activity described in subparagraph (A) shall report such individual to Federal or State prosecutors for criminal investigation and prosecution.

(C) Disciplinary action.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects an attorney of being involved in any activity described in subparagraph (A) shall report the individual to the State bar association of which the attorney is a member, or to other appropriate disciplinary authorities, for appropriate disciplinary action that may include private or public admonition or censure, suspension, or disbarment of the attorney from the practice of law.

(5) Grants and contracts.—Subject to the availability of appropriations, the Director may make grants to, and enter into contracts with, voluntary agencies to carry out section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or to carry out this section.

(6) Reimbursement of state expenses.—Subject to the availability of appropriations, the Director may reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

(b) Confidentiality.—All information obtained by the Office relating to the immigration status of a person described in subparagraphs (A), (B), and (C) of subsection (a)(1) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

(c) Required Disclosure.—The Secretary of Health and Human Services or the Secretary of Homeland Security shall provide the information furnished under this section, and any other information derived from such furnished information, to—

(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), when such information is requested in writing by such entity; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(d) Penalty.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

### SEC. 103. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

(a) Standards for Placement.—

(1) Prohibition of detention in certain facilities.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.

(2) Detention in appropriate facilities.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to the behavior in a facility appropriate for delinquent children.

(3) State licensure.—In the case of a placement of a child with an entity described in section 102(a)(1)(E), the entity must be licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(4) Conditions of detention.—

(A) In general.—The Director and the Secretary of Homeland Security shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—

(i) educational services appropriate to the child;

(ii) medical care;

(iii) mental health care, including treatment of trauma, physical and sexual violence, or abuse;

(iv) access to telephones;

(v) access to legal services;

(vi) access to interpreters;

(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

(viii) recreational programs and activities;

(ix) spiritual and religious needs; and

(x) dietary needs.

(B) Notification of children.—Regulations promulgated in accordance with subparagraph (A) shall provide that all children are notified orally and in writing of such standards in the child's native language.

(b) Prohibition of Certain Practices.—The Director and the Secretary shall develop procedures prohibiting the unreasonable use of—

(1) shackling, handcuffing, or other restraints on children;

(2) solitary confinement; or

(3) pat or strip searches.

(c) Rule of Construction.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.

### SEC. 104. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

(a) Country Conditions.—

(1) Sense of congress.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party, and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) Assessment of conditions.—

(A) In general.—The Secretary of State shall include each year in the State Department Country Report on Human Rights, an assessment of the degree to which each country protects children from smugglers and traffickers.

(B) Factors for assessment.—The Directorate shall consult the State Department Country Report on Human Rights and the Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report in assessing whether to repatriate an unaccompanied alien child to a particular country.

(b) Report on Repatriation of Unaccompanied Alien Children.—

(1) In general.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Secretary of Homeland Security shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate on efforts to repatriate unaccompanied alien children.

(2) Contents.—The report submitted under paragraph (1) shall include, at a minimum, the following information:

(A) The number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States.

(B) A description of the type of immigration relief sought and denied to such children.

(C) A statement of the nationalities, ages, and gender of such children.

(D) A description of the procedures used to effect the removal of such children from the United States.

(E) A description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin.

(F) Any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

### SEC. 105. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

(a) In General.—The Director shall develop procedures to make a prompt determination of the age of an alien in the custody of the Department of Homeland Security or the Office, when the age of the alien is at issue. Such procedures shall permit the presentation of multiple forms of evidence, including testimony of the child, to determine the age of the unaccompanied alien for purposes of placement, custody, parole, and detention. Such procedures shall allow the appeal of a determination to an immigration judge. The Secretary of Homeland Security shall permit the Office to have reasonable access to aliens in the custody of the Secretary so as to ensure a prompt determination of the age of such alien.

(b) Prohibition on Sole Means of Determining Age.—Neither radiographs nor the attestation of an alien shall be used as the sole means of determining age for the purposes of determining an alien's eligibility for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

(c) Rule of Construction.—Nothing in this section shall be construed to place the burden of proof in determining the age of an alien on the government.

### SEC. 106. EFFECTIVE DATE.

This title shall take effect 90 days after the date of enactment of this Act.

## TITLE II—ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM AND COUNSEL

### SEC. 201. GUARDIANS AD LITEM.

(a) Establishment of Guardian Ad Litem Program.—

(1) Appointment.—The Director may, in the Director's discretion, appoint a guardian ad litem who meets the qualifications described in paragraph (2) for an unaccompanied alien child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a guardian ad litem under this paragraph.

(2) Qualifications of guardian ad litem.—

(A) In general.—No person shall serve as a guardian ad litem unless such person—

(i) is a child welfare professional or other individual who has received training in child welfare matters; and

(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

(B) Prohibition.—A guardian ad litem shall not be an employee of the Directorate, the Office, or the Executive Office for Immigration Review.

(3) DUTIES.—The guardian ad litem shall—

(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;

(B) investigate the facts and circumstances relevant to such child's presence in the United States, including facts and circumstances arising in the country of the child's nationality or last habitual residence and facts and circumstances arising subsequent to the child's departure from such country;

(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);

(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;

(E) take reasonable steps to ensure that the best interests of the child are promoted while the child participates in, or is subject to, proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.);

(F) take reasonable steps to ensure that the child understands the nature of the legal proceedings or matters and determinations made by the court, and ensure that all information is conveyed in an age-appropriate manner; and

(G) report factual findings relating to—

(i) information gathered pursuant to subparagraph (B);

(ii) the care and placement of the child during the pendency of the proceedings or matters; and

(iii) any other information gathered pursuant to subparagraph (D).

(4) TERMINATION OF APPOINTMENT.—The guardian ad litem shall carry out the duties described in paragraph (3) until—

(A) those duties are completed;

(B) the child departs the United States;

(C) the child is granted permanent resident status in the United States;

(D) the child attains the age of 18; or

(E) the child is placed in the custody of a parent or legal guardian;

whichever occurs first.

(5) POWERS.—The guardian ad litem—

(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;

(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;

(C) may seek independent evaluations of the child;

(D) shall be notified in advance of all hearings or interviews involving the child that are held in connection with proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), and shall be given a reasonable opportunity to be present at such hearings or interviews;

(E) shall be permitted to consult with the child during any hearing or interview involving such child; and

(F) shall be provided at least 24 hours advance notice of a transfer of that child to a different placement, absent compelling and unusual circumstances warranting the transfer of such child prior to notification.

(b) TRAINING.—The Director shall provide professional training for all persons serving as guardians ad litem under this section in the—

(1) circumstances and conditions that unaccompanied alien children face; and

(2) various immigration benefits for which such alien child might be eligible.

(c) PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director shall establish and begin to carry out a pilot program to test the implementation of subsection (a).

(2) PURPOSE.—The purpose of the pilot program established pursuant to paragraph (1) is to—

(A) study and assess the benefits of providing guardians ad litem to assist unaccompanied alien children involved in immigration proceedings or matters;

(B) assess the most efficient and cost-effective means of implementing the guardian ad litem provisions in this section; and

(C) assess the feasibility of implementing such provisions on a nationwide basis for all unaccompanied alien children in the care of the Office.

(3) SCOPE OF PROGRAM.—

(A) SELECTION OF SITE.—The Director shall select 3 sites in which to operate the pilot program established pursuant to paragraph (1).

(B) NUMBER OF CHILDREN.—To the greatest extent possible, each site selected under subparagraph (A) should have at least 25 children held in immigration custody at any given time.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date on which the first pilot program is established pursuant to paragraph (1), the Director shall report to the Committees on the Judiciary of the Senate and the House of Representatives on subparagraphs (A) through (C) of paragraph (2).

**SEC. 202. COUNSEL.**

(a) ACCESS TO COUNSEL.—

(1) IN GENERAL.—The Director shall ensure that all unaccompanied alien children in the custody of the Office, or in the custody of the Directorate, who are not described in section 101(a)(2) shall have competent counsel to represent them in immigration proceedings or matters.

(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director shall utilize the services of competent pro bono counsel who agree to provide representation to such children without charge. To the maximum extent practicable, the Director shall ensure that placements made under subparagraphs (D), (E), and (F) of section 102(a)(1) are in cities where there is a demonstrated capacity for competent pro bono representation.

(3) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—In ensuring that legal representation is provided to such children, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(4) CONTRACTING AND GRANT MAKING AUTHORITY.—

(A) IN GENERAL.—The Director shall enter into contracts with or make grants to nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out the responsibilities of this Act, including but not limited to such activities as providing legal orientation, screening cases for referral, recruiting, training, and overseeing pro bono attorneys. Nonprofit agencies may enter into subcontracts with or make grants to private voluntary agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(B) CONSIDERATIONS REGARDING GRANTS AND CONTRACTS.—In making grants and entering into contracts with agencies in accordance with subparagraph (A), the Director shall take into consideration whether the agencies in question are capable of properly administering the services covered by such grants or contracts without an undue conflict of interest.

(5) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—

(A) DEVELOPMENT OF GUIDELINES.—The Executive Office for Immigration Review, in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration proceedings based on the children's asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

(B) PURPOSE OF GUIDELINES.—The guidelines developed in accordance with subparagraph (A) shall be designed to help protect a child from any individual suspected of involvement in any criminal, harmful, or exploitative activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

(C) IMPLEMENTATION.—The Executive Office for Immigration Review shall adopt the guidelines developed in accordance with subparagraph (A) and submit them for adoption by national, State, and local bar associations.

(b) DUTIES.—Counsel shall—

(1) represent the unaccompanied alien child in all proceedings and matters relating to the immigration status of the child or other actions involving the Directorate;

(2) appear in person for all individual merits hearings before the Executive Office for Immigration Review and interviews involving the Directorate; and

(3) owe the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due an adult client.

(c) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(d) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(e) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be afforded an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

### SEC. 203. EFFECTIVE DATE; APPLICABILITY.

(a) EFFECTIVE DATE.—This title shall take effect 180 days after the date of enactment of this Act.

(b) APPLICABILITY.—The provisions of this title shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this title.

## TITLE III—STRENGTHENING POLICIES FOR PERMANENT PROTECTION OF ALIEN CHILDREN

### SEC. 301. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J VISA.—Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

"(J) an immigrant who is 18 years of age and under on the date of application who is present in the United States—

"(i) who by a court order, which shall be binding on the Secretary of Homeland Security for purposes of adjudications under this subparagraph, was declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State or juvenile court located in the United States, due to abuse, neglect, or abandonment, or a similar basis found under State law;

"(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

"(iii) with respect to a child in Federal custody, for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Director of the Bureau of Citizenship and Immigration Services that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien;

except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;".

(b) ADJUSTMENT OF STATUS.—Section 245(h)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)(A)) is amended to read as follows:

"(A) paragraphs (4), (5)(A), (6)(A), and (7) of section 212(a) shall not apply; and".

(c) ELIGIBILITY FOR ASSISTANCE.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), shall be eligible for all funds made available under section 412(d) of that Act (8 U.S.C. 1522(d)) until such time as the child attains the age designated in section 412(d)(2)(B) of that Act (8 U.S.C. 1522(d)(2)(B)), or until the child is placed in a permanent adoptive home, whichever occurs first.

(d) TRANSITION RULE.—Notwithstanding any other provision of law, any child described in section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) who filed an application for a visa before the date of enactment of this Act and who was 19, 20, or 21 years of age on the date such application was filed shall not be denied a visa after the date of enactment of this Act because of such alien's age.

### SEC. 302. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) TRAINING OF STATE AND LOCAL OFFICIALS AND CERTAIN PRIVATE PARTIES.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to be available to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children. The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into education, training, or orientation modules or formats that are currently used by these professionals.

(b) TRAINING OF DIRECTORATE PERSONNEL.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Directorate who come into contact with unaccompanied alien children. In the case of Border Patrol agents and immigration inspectors, such training shall include specific training on identifying children at the United States borders or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 101(a)(2).

### SEC. 303. REPORT.

Not later than 1 year after the date of enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall submit a report for the previous fiscal year to the Committees on the Judiciary of the House of Representatives and the Senate that contains—

(1) data related to the implementation of section 462 of the Homeland Security Act (6 U.S.C. 279);

(2) data regarding the care and placement of children in accordance with this Act;

(3) data regarding the provision of guardian ad litem and counsel services in accordance with this Act; and

(4) any other information that the Director or the Secretary of Health and Human Services determines to be appropriate.

### SEC. 304. EFFECTIVE DATE.

The amendment made by section 301 shall apply to all aliens who were in the United States before, on, or after the date of enactment of this Act.

## TITLE IV—CHILDREN REFUGEE AND ASYLUM SEEKERS

### SEC. 401. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

(a) SENSE OF CONGRESS.—Congress commends the Immigration and Naturalization Service for its issuance of its "Guidelines for Children's Asylum Claims", dated December 1998, and encourages and supports the implementation of such guidelines by the Immigration and Naturalization Service (and its successor entities) in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice to adopt the "Guidelines for Children's Asylum Claims" in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

(b) TRAINING.—The Secretary shall provide periodic comprehensive training under the "Guidelines for Children's Asylum Claims" to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

### SEC. 402. UNACCOMPANIED REFUGEE CHILDREN.

(a) IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.—Section 207(e) of the Immigration and Nationality Act (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region, which shall include an assessment of—

"(A) the number of unaccompanied refugee children, by region;

"(B) the capacity of the Department of State to identify such refugees;

"(C) the capacity of the international community to care for and protect such refugees;

"(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

"(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

"(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.".

(b) TRAINING ON THE NEEDS OF UNACCOMPANIED REFUGEE CHILDREN.—Section 207(f)(2) of the Immigration and Nationality Act (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking "and" after "countries,"; and

(2) inserting before the period at the end the following: ", and instruction on the needs of unaccompanied refugee children".

### SEC. 403. EXCEPTIONS FOR UNACCOMPANIED ALIEN CHILDREN IN ASYLUM AND REFUGEE-LIKE CIRCUMSTANCES.

(a) PLACEMENT IN REMOVAL PROCEEDINGS.—Any unaccompanied alien child apprehended by the Directorate, except for an unaccompanied alien child subject to exceptions under paragraph (1)(A) or (2) of section (101)(a) of this Act, shall be placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(b) EXCEPTION FROM TIME LIMIT FOR FILING ASYLUM APPLICATION.—Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:

"(E) APPLICABILITY.—Subparagraphs (A) and (B) shall not apply to an unaccompanied alien child as defined in section 101(a)(51).".

## TITLE V—AUTHORIZATION OF APPROPRIATIONS

### SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security, the Department of Justice, and the Department of Health and Human Services, such sums as may be necessary to carry out—

(1) section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279); and

(2) this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

## TITLE VI—AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002

### SEC. 601. ADDITIONAL RESPONSIBILITIES AND POWERS OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.

(a) ADDITIONAL RESPONSIBILITIES OF THE DIRECTOR.—Section 462(b)(1) of the Homeland

Security Act of 2002 (6 U.S.C. 279(b)(1)) is amended—

(1) in subparagraph (K), by striking "and" at the end;

(2) in subparagraph (L), by striking the period at the end and inserting ", including regular follow-up visits to such facilities, placements, and other entities, to assess the continued suitability of such placements; and"; and

(3) by adding at the end the following:

"(M) ensuring minimum standards of care for all unaccompanied alien children—

"(i) for whom detention is necessary; and

"(ii) who reside in settings that are alternative to detention.".

(b) Additional Powers of the Director.—Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)) is amended by adding at the end the following:

"(4) Powers.—In carrying out the duties under paragraph (3), the Director shall have the power to—

"(A) contract with service providers to perform the services described in sections 102, 103, 201, and 202 of the Unaccompanied Alien Child Protection Act of 2004; and

"(B) compel compliance with the terms and conditions set forth in section 103 of the Unaccompanied Alien Child Protection Act of 2004, including the power to—

"(i) declare providers to be in breach and seek damages for noncompliance;

"(ii) terminate the contracts of providers that are not in compliance with such conditions; and

"(iii) reassign any unaccompanied alien child to a similar facility that is in compliance with such section.".

### SEC. 602. TECHNICAL CORRECTIONS.

Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)), as amended by section 601, is amended—

(1) in paragraph (3), by striking "paragraph (1)(G)" and inserting "paragraph (1)"; and

(2) by adding at the end the following:

"(5) Statutory construction.—Nothing in paragraph (2)(B) may be construed to require that a bond be posted for unaccompanied alien children who are released to a qualified sponsor.".

### SEC. 603. EFFECTIVE DATE.

The amendments made by this title shall take effect as if enacted as part of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).

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**SA 4059.** Mr. SESSIONS (for Mr. ROBERTS (for himself and Mr. ROCKEFELLER)) proposed an amendment to the bill S. 2386, to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

On page 16, strike lines 1 through 16.

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**SA 4060.** Mr. SESSIONS (for Mr. ROBERTS (for himself and Mr. ROCKEFELLER)) proposed an amendment to the bill S. 2386, to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

On page 9, line 16, add at the end the following: "Such funds shall remain available until September 30, 2005.".

On page 16, between lines 16 and 17, insert the following:

### SEC. 307. INTELLIGENCE ASSESSMENT ON SANCTUARIES FOR TERRORISTS.

(a) Assessment Required.—Not later than the date specified in subsection (b), the Director of Central Intelligence shall submit to Congress an intelligence assessment that identifies and describes each country or region that is a sanctuary for terrorists or terrorist organizations. The assessment shall be based on current all-source intelligence.

(b) Submittal Date.—The date of the submittal of the intelligence assessment required by subsection (a) shall be the earlier of—

(1) the date that is six months after the date of the enactment of this Act; or

(2) June 1, 2005.

### SEC. 308. ADDITIONAL EXTENSION OF DEADLINE FOR FINAL REPORT OF THE NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

Section 1007(a) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 401 note) is amended by striking "September 1, 2004" and inserting "September 1, 2005".

### SEC. 309. FOUR-YEAR EXTENSION OF PUBLIC INTEREST DECLASSIFICATION BOARD.

Section 710(b) of the Public Interest Declassification Act of 2000 (title VII of Public Law 106–567; 114 Stat. 2856; 50 U.S.C. 435 note) is amended by striking "4 years" and inserting "8 years".

On page 19, strike lines 7 through 15 and insert the following:

"(1) In general.—The Director may establish and administer a nonofficial cover employee retirement system for designated employees (and the spouse, former spouses, and survivors of such designated employees). A des-

On page 21, strike line 18 and all that follows through page 22, line 1, and insert the following:

"(iii) in the case of a designated employee who participated in an employee investment retirement system established under paragraph (1) and is converted to coverage under subchapter III of chapter 84 of title 5, United States Code, the Director may transmit any or all amounts of that designated employee in that employee investment retirement system (or similar

On page 22, strike line 24 and all that follows through page 23, line 5, and insert the following:

"(1) In general.—The Director may establish and administer a nonofficial cover employee health insurance program for designated employees (and the family of such designated employees). A designated employee

On page 25, strike lines 6 through 12 and insert the following:

"(1) In general.—The Director may establish and administer a nonofficial cover employee life insurance program for designated employees (and the family of such designated employees). A designated employee may not

On page 27, line 8, strike "(B)(iii)" and insert "(B)(iv)".

On page 30, strike lines 10 through 16.

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**SA 4061.** Ms. LANDRIEU (for herself, Mr. BOND, Mr. JEFFORDS, Mrs. MURRAY, Mr. GRAHAM of South Carolina, Mr. ROCKEFELLER, Mr. SESSIONS, Mr. NELSON of Florida, Mr. WARNER, Mr. DURBIN, Mr. KERRY, Mrs. BOXER, and Ms. MIKULSKI) proposed an amendment to the bill H.R. 1779, to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans during the period that a military reservist or national guardsman is called to active duty for an extended period, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Guardsmen and Reservists Financial Relief Act of 2004".

### SEC. 2. PENALTY-FREE WITHDRAWALS FROM RETIREMENT PLANS FOR INDIVIDUALS CALLED TO ACTIVE DUTY FOR AT LEAST 179 DAYS.

(a) In General.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(G) Distributions from retirement plans to individuals called to active duty.—

"(i) In general.—Any qualified reservist distribution.

"(ii) Qualified reservist distribution.—For purposes of this subparagraph, the term 'qualified reservist distribution' means any distribution to an individual if—

"(I) such distribution is from any qualified retirement plan (as defined in section 4974(c)),

"(II) such individual was (by reason of being a member of a reserve component (as defined in section 101 of title 37, United States Code)), ordered or called to active duty for a period in excess of 179 days or for an indefinite period, and

"(III) such distribution is made during the period beginning on the date of such order or call and ending at the close of the active duty period.

"(iii) Application of subparagraph.—This subparagraph applies to individuals ordered or called to active duty after September 11, 2001, and before September 12, 2005.".

(b) Effective Date.—The amendment made by this section shall apply to distributions after September 11, 2001.

### SEC. 3. INCOME TAX WITHHOLDING ON DIFFERENTIAL WAGE PAYMENTS.

(a) In General.—Section 3401 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

"(i) Differential Wage Payments to Active Duty Members of the Uniformed Services.—

"(1) In general.—For purposes of subsection (a), any differential wage payment shall be treated as a payment of wages by the employer to the employee.

"(2) Differential wage payment.—For purposes of paragraph (1), the term 'differential wage payment' means any payment which—

"(A) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services while on active duty for a period of more than 30 days, and

"(B) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to remuneration paid after December 31, 2004.

**SEC. 4. TREATMENT OF DIFFERENTIAL WAGE PAYMENTS FOR RETIREMENT PLAN PURPOSES.**

(a) PENSION PLANS.—

(1) IN GENERAL.—Section 414(u) of the Internal Revenue Code of 1986 (relating to special rules relating to veterans' reemployment rights under USERRA) is amended by adding at the end the following new paragraph:

“(11) TREATMENT OF DIFFERENTIAL WAGE PAYMENTS.—

“(A) IN GENERAL.—Except as provided in this paragraph, for purposes of applying this title to a retirement plan to which this subsection applies—

“(i) an individual receiving a differential wage payment shall be treated as an employee of the employer making the payment,

“(ii) the differential wage payment shall be treated as compensation, and

“(iii) the plan shall not be treated as failing to meet the requirements of any provision described in paragraph (1)(C) by reason of any contribution which is based on the differential wage payment.

“(B) SPECIAL RULE FOR DISTRIBUTIONS.—

“(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), for purposes of section 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii), 403(b)(11)(A), or 457(d)(1)(A)(ii), an individual shall be treated as having been severed from employment during any period the individual is performing service in the uniformed services described in section 3401(i)(2)(A).

“(ii) LIMITATION.—If an individual elects to receive a distribution by reason of clause (i), the plan shall provide that the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution.

“(C) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A)(iii) shall apply only if all employees of an employer performing service in the uniformed services described in section 3401(i)(2)(A) are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments. For purposes of applying this subparagraph, the provisions of paragraphs (3), (4), and (5), of section 410(b) shall apply.

“(D) DIFFERENTIAL WAGE PAYMENT.—For purposes of this paragraph, the term ‘differential wage payment’ has the meaning given such term by section 3401(i)(2).”.

(2) CONFORMING AMENDMENT.—The heading for section 414(u) of such Code is amended by inserting “AND TO DIFFERENTIAL WAGE PAYMENTS TO MEMBERS ON ACTIVE DUTY” after “USERRA”.

(b) DIFFERENTIAL WAGE PAYMENTS TREATED AS COMPENSATION FOR INDIVIDUAL RETIREMENT PLANS.—Section 219(f)(1) of the Internal Revenue Code of 1986 (defining compensation) is amended by adding at the end the following new sentence: “The term ‘compensation’ includes any differential wage payment (as defined in section 3401(i)(2)).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2004.

(d) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan or annuity contract amendment—

(A) such plan or contract shall be treated as being operated in accordance with the terms of the plan or contract during the period described in paragraph (2)(B)(i), and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2007.

(B) CONDITIONS.—This subsection shall not apply to any plan or annuity contract amendment unless—

(i) during the period beginning on the date the amendment described in subparagraph (A)(i) takes effect and ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.

**SEC. 5. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT AND READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.**

(a) READY RESERVE-NATIONAL GUARD CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by inserting after section 45I the following new section:

**“SEC. 45J. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.**

“(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the Ready Reserve-National Guard employee credit determined under this section for any taxable year with respect to each Ready Reserve-National Guard employee of such taxpayer is an amount equal to 50 percent of the lesser of—

“(1) the actual compensation amount with respect to such employee for such taxable year, or

“(2) $30,000.

“(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term ‘actual compensation amount’ means the amount of compensation paid or incurred by an eligible taxpayer with respect to a Ready Reserve-National Guard employee on any day when the employee was absent from employment for the purpose of performing qualified active duty.

“(c) LIMITATIONS.—No credit shall be allowed with respect to any day that a Ready Reserve-National Guard employee who performs qualified active duty was not scheduled to work (for reason other than to participate in qualified active duty).

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) ELIGIBLE TAXPAYER.—

“(A) IN GENERAL.—The term ‘eligible taxpayer’ means a small business employer.

“(B) SMALL BUSINESS EMPLOYER.—

“(i) IN GENERAL.—The term ‘small business employer’ means, with respect to any taxable year, any employer who employed an average of 50 or fewer employees on business days during such taxable year.

“(ii) CONTROLLED GROUPS.—For purposes of clause (i), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

“(2) QUALIFIED ACTIVE DUTY.—The term ‘qualified active duty’ means—

“(A) active duty under an order or call for a period in excess of 179 days or for an indefinite period, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

“(B) hospitalization incident to such duty.

“(3) COMPENSATION.—The term ‘compensation’ means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

“(4) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term ‘Ready Reserve-National Guard employee’ means an employee who is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in sections 10142 and 10101 of title 10, United States Code.

“(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 52 shall apply.

“(e) TERMINATION.—This section shall not apply to any amount paid or incurred after December 31, 2005.”.

(2) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking “plus” at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting “, plus”, and by adding at the end the following:

“(20) the Ready Reserve-National Guard employee credit determined under section 45J(a).”.

(3) DENIAL OF DOUBLE BENEFIT.—Section 280C(a) of the Internal Revenue Code of 1986 (relating to rule for employment credits) is amended by inserting “45J(a),” after “45A(a),”.

(4) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45I the following:

“Sec. 45J. Ready Reserve-National Guard employee credit.”.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after September 30, 2004, in taxable years ending after such date.

(b) READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) of the Internal Revenue Code of 1986 (relating to members of targeted groups) is amended by striking “or” at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting “, or” and by adding at the end the following new subparagraph:

“(I) a qualified replacement employee.”.

(2) QUALIFIED REPLACEMENT EMPLOYEE.—Section 51(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (10), (11), and (12) as paragraphs (11), (12), and (13), respectively, and by inserting after paragraph (9) the following new paragraph:

“(10) QUALIFIED REPLACEMENT EMPLOYEE.—

"(A) IN GENERAL.—The term 'qualified replacement employee' means an individual who is certified by the designated local agency as being hired by an eligible taxpayer to replace a Ready Reserve-National Guard employee of such taxpayer, but only with respect to the period during which such Ready Reserve-National Guard employee participates in qualified active duty, including time spent in travel status.

"(B) GENERAL DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means a small business employer.

"(ii) SMALL BUSINESS EMPLOYER.—

"(I) IN GENERAL.—The term 'small business employer' means, with respect to any taxable year, any employer who employed an average of 50 or fewer employees on business days during such taxable year.

"(II) CONTROLLED GROUPS.—For purposes of subclause (I), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

"(iii) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' has the meaning given such term by section 45J(d)(3).

"(iv) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' has the meaning given such term by section 45J(d)(1).

"(C) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—No credit shall be allowed under subsection (a) by reason of paragraph (1)(I) to a taxpayer for—

"(i) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

"(ii) the 2 succeeding taxable years.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred to an individual who begins work for the employer after September 30, 2004.

(c) STUDY BY GAO.—

(1) IN GENERAL.—The Comptroller General of the United States shall study the following:

(A) What, if any, problems exist in recruiting individuals for a reserve component of an Armed Force of the United States.

(B) What, if any, problems exist as the result of providing differential wage payments (as defined in section 3401(i)(2) of the Internal Revenue Code of 1986 (as added by this Act)) to individuals described in subparagraph (A) in the recruitment and retention of individuals as regular members of the Armed Forces of the United States.

(C) Whether the credit allowed under section 45J of the Internal Revenue Code of 1986 (as added by this section) is an effective incentive for the hiring and retention of employees who are individuals described in subparagraph (A) and whether there exists any compliance problems in the administration of such credit.

(2) REPORT.—The Comptroller General of the United States shall report on the results of the study required under paragraph (1) to the Committee of Finance of the Senate and the Committee on Ways and Means of the House of Representatives before July 1, 2005.

### SEC. 6. PENALTY FREE WITHDRAWALS FROM RETIREMENT PLANS FOR VICTIMS OF FEDERALLY DECLARED NATURAL DISASTERS.

(a) IN GENERAL.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to 10-percent additional tax on early distributions from qualified retirement plans), as amended by this Act, is amended by adding at the end the following new subparagraph:

"(H) DISTRIBUTIONS FROM RETIREMENT PLANS TO VICTIMS OF FEDERALLY DECLARED NATURAL DISASTERS.—

"(i) IN GENERAL.—Any qualified disaster-relief distribution.

"(ii) QUALIFIED DISASTER-RELIEF DISTRIBUTION.—For purposes of this subparagraph, the term 'qualified disaster-relief distribution' means any distribution to an individual who has sustained a loss in excess of $100 as a result of a major disaster declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act—

"(I) if such distribution is made from any qualified retirement plan (as defined in section 4974(c)) during the 1-year period beginning on the date such declaration is made, and

"(II) to the extent such distribution does not exceed the amount of such loss and is not compensated for by insurance or otherwise.

For purposes of subclause (II), the amount of any loss shall be determined using the greater of the fair market value of the property on the day before the date of such disaster or the adjusted basis of the property as provided in section 1011, less any compensation for such loss that the individual has received as of the date of such distribution and any compensation for such loss that the individual expects to receive, based on a reasonable estimate. Any difference between the amount of compensation that an individual expects to receive on the basis of such an estimate and actually receives shall not be included in the individual's gross income.".

(b) EXEMPTION OF DISTRIBUTIONS FROM WITHHOLDING.—Paragraph (4) of section 402(c) of the Internal Revenue Code of 1986 (relating to eligible rollover distribution) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by inserting at the end the following new subparagraph:

"(D) any qualified disaster-relief distribution (within the meaning of section 72(t)(2)(H).".

(c) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) of the Internal Revenue Code of 1986 is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date on which a period referred to in section 72(t)(2)(H)(ii)(I) begins (but only to the extent provided in section 72(t)(2)(H)), and".

(2) Section 403(b)(7)(A)(ii) of such Code is amended by inserting "sustains a loss as a result of a major disaster declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (but only to the extent provided in section 72(t)(2)(H))," before "or".

(3) Section 403(b)(11) of such Code is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for distributions to which section 72(t)(2)(H) applies.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions received in taxable years beginning after December 31, 2003.

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**SA 4062.** Mr. FRIST (for Mr. CONRAD) proposed an amendment to the concurrent resolution S. Con. Res. 136, honoring and memorializing the passengers and crew of United Airlines Flight 93; as follows:

Beginning on page 2, strike line 10 and all that follows through page 3, line 8, and insert the following:

(3) not later than January 1, 2006, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate shall select an appropriate memorial that shall be located in the United States Capitol Building and that shall honor the passengers and crew of Flight 93, who saved the United States Capitol Building from destruction; and

(4) the memorial shall state the purpose of the honor and the names of the passengers and crew of Flight 93 on whom the honor is bestowed.

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**SA 4063.** Mr. FRIST (for Mr. FITZGERALD) proposed an amendment to the bill S. 2688, to provide for a report of Federal entities without annually audited financial statements; as follows:

On page 2, line 10, strike "60 days" and insert "120 days".

On page 3, line 2, insert after "temporary commissions" the following: "in existence at least 12 months".

On page 3, strike beginning with line 9 through page 4, line 4, and insert the following:

(3) an assessment of the capability of and the costs that would be incurred for Federal entities of the categories listed under paragraphs (1) and (2) to prepare annual financial statements and to have such statements independently audited;

(4) an assessment of how to reduce the costs of preparing the financial statements and performing independent audits for Federal entities of the categories listed under paragraphs (1) and (2); and

(5) an assessment of the benefits of improved financial oversight encompassing the executive branch, including the Federal entities of the categories listed under paragraphs (1) and (2), and an assessment of the feasibility of preparing annual financial statements and independently audited statements for the Federal entities in the categories listed under paragraphs (1) and (2).

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**SA 4064.** Mr. FRIST (for Mr. LIEBERMAN) proposed an amendment to the bill S. 2691, to establish the Long Island Sound Stewardship Initiative; as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Long Island Sound Stewardship Act of 2004".

### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) Long Island Sound is a national treasure of great cultural, environmental, and ecological importance;

(2) 8,000,000 people live within the Long Island Sound watershed and 28,000,000 people

(approximately 10 percent of the population of the United States) live within 50 miles of Long Island Sound;

(3) activities that depend on the environmental health of Long Island Sound contribute more than $5,000,000,000 each year to the regional economy;

(4) the portion of the shoreline of Long Island Sound that is accessible to the general public (estimated at less than 20 percent of the total shoreline) is not adequate to serve the needs of the people living in the area;

(5) existing shoreline facilities are in many cases overburdened and underfunded;

(6) large parcels of open space already in public ownership are strained by the effort to balance the demand for recreation with the needs of sensitive natural resources;

(7) approximately ⅓ of the tidal marshes of Long Island Sound have been filled, and much of the remaining marshes have been ditched, dyked, or impounded, reducing the ecological value of the marshes; and

(8) much of the remaining exemplary natural landscape is vulnerable to further development.

(b) PURPOSE.—The purpose of this Act is to establish the Long Island Sound Stewardship Initiative to identify, protect, and enhance sites within the Long Island Sound ecosystem with significant ecological, educational, open space, public access, or recreational value through a bi-State network of sites best exemplifying these values.

### SEC. 3. DEFINITIONS.

In this Act:

(1) ADAPTIVE MANAGEMENT.—The term "adaptive management" means a scientific process—

(A) for—

(i) developing predictive models;

(ii) making management policy decisions based upon the model outputs;

(iii) revising the management policies as data become available with which to evaluate the policies; and

(iv) acknowledging uncertainty, complexity, and variance in the spatial and temporal aspects of natural systems; and

(B) that requires that management be viewed as experimental.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(3) COMMITTEE.—The term "Committee" means the Long Island Sound Stewardship Advisory Committee established by section 5(a).

(4) REGION.—The term "Region" means the Long Island Sound Stewardship Initiative Region established by section 4(a).

(5) STATES.—The term "States" means the States of Connecticut and New York.

(6) STEWARDSHIP SITE.—The term "stewardship site" means a site that—

(A) qualifies for identification by the Committee under section 8; and

(B) is an area of land or water or a combination of land and water—

(i) that is in the Region; and

(ii) that is—

(I) Federal, State, local, or tribal land or water;

(II) land or water owned by a nonprofit organization; or

(III) privately owned land or water.

(7) SYSTEMATIC SITE SELECTION.—The term "systematic site selection" means a process of selecting stewardship sites that—

(A) has explicit goals, methods, and criteria;

(B) produces feasible, repeatable, and defensible results;

(C) provides for consideration of natural, physical, and biological patterns,

(D) addresses reserve size, replication, connectivity, species viability, location, and public recreation values;

(E) uses geographic information systems technology and algorithms to integrate selection criteria; and

(F) will result in achieving the goals of stewardship site selection at the lowest cost.

(8) THREAT.—The term "threat" means a threat that is likely to destroy or seriously degrade a conservation target or a recreation area.

### SEC. 4. LONG ISLAND SOUND STEWARDSHIP INITIATIVE REGION.

(a) ESTABLISHMENT.—There is established in the States the Long Island Sound Stewardship Initiative Region.

(b) BOUNDARIES.—The Region shall encompass the immediate coastal upland and underwater areas along Long Island Sound, including those portions of the Sound with coastally influenced vegetation, as described on the map entitled the "Long Island Sound Stewardship Region" and dated April 21, 2004.

### SEC. 5. LONG ISLAND SOUND STEWARDSHIP ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established a committee to be known as the "Long Island Sound Stewardship Advisory Committee".

(b) CHAIRPERSON.—The Chairperson of the Committee shall be the Director of the Long Island Sound Office of the Environmental Protection Agency, or a designee of the Director.

(c) MEMBERSHIP.—

(1) COMPOSITION.—

(A) APPOINTMENT OF MEMBERS.—

(i) IN GENERAL.—The Chairperson shall appoint the members of the Committee in accordance with this subsection and section 320(c) of the Federal Water Pollution Control Act (33 U.S.C. 1330(c)).

(ii) ADDITIONAL MEMBERS.—In addition to the requirements described in clause (i), the Committee shall include—

(I) a representative from the Regional Plan Association;

(II) a representative of the marine trade organizations; and

(III) a representative of private landowner interests.

(B) REPRESENTATION.—In appointing members to the Committee, the Chairperson shall consider—

(i) Federal, State, and local government interests;

(ii) the interests of nongovernmental organizations;

(iii) academic interests; and

(iv) private interests.

(2) DATE OF APPOINTMENTS.—Not later than 180 days after the date of enactment of this Act, the appointment of all members of the Committee shall be made.

(d) TERM; VACANCIES.—

(1) TERM.—

(A) IN GENERAL.—A member shall be appointed for a term of 4 years.

(B) MULTIPLE TERMS.—A person may be appointed as a member of the Committee for more than 1 term.

(2) VACANCIES.—A vacancy on the Committee shall—

(A) be filled not later than 90 days after the vacancy occurs;

(B) not affect the powers of the Committee; and

(C) be filled in the same manner as the original appointment was made.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the Committee may appoint and terminate personnel as necessary to enable the Committee to perform the duties of the Committee.

(B) PERSONNEL AS FEDERAL EMPLOYEES.—

(i) IN GENERAL.—Any personnel of the Committee who are employees of the Committee shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(ii) MEMBERS OF COMMITTEE.—Clause (i) does not apply to members of the Committee.

(e) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold the initial meeting of the Committee.

(f) MEETINGS.—The Committee shall meet at the call of the Chairperson, but no fewer than 4 times each year.

(g) QUORUM.—A majority of the members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

### SEC. 6. DUTIES OF THE COMMITTEE.

The Committee shall—

(1) consistent with the guidelines described in section 8—

(A) evaluate applications from government or nonprofit organizations qualified to hold conservation easements for funds to purchase land or development rights for stewardship sites;

(B) evaluate applications to develop and implement management plans to address threats;

(C) evaluate applications to act on opportunities to protect and enhance stewardship sites; and

(D) recommend that the Administrator award grants to qualified applicants;

(2) recommend guidelines, criteria, schedules, and due dates for evaluating information to identify stewardship sites;

(3) publish a list of sites that further the purposes of this Act, provided that owners of sites shall be—

(A) notified prior to the publication of the list; and

(B) allowed to decline inclusion on the list;

(4) raise awareness of the values of and threats to these sites; and

(5) leverage additional resources for improved stewardship of the Region.

### SEC. 7. POWERS OF THE COMMITTEE.

(a) HEARINGS.—The Committee may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Committee considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Committee may secure directly from a Federal agency such information as the Committee considers necessary to carry out this Act.

(2) PROVISION OF INFORMATION.—

(A) IN GENERAL.—Subject to subparagraph (C), on request of the Chairperson of the Committee, the head of a Federal agency shall provide the information requested by the Chairperson to the Committee.

(B) ADMINISTRATION.—The furnishing of information by a Federal agency to the Committee shall not be considered a waiver of any exemption available to the agency under section 552 of title 5, United States Code.

(C) INFORMATION TO BE KEPT CONFIDENTIAL.—

(i) IN GENERAL.—For purposes of section 1905 of title 18, United States Code—

(I) the Committee shall be considered an agency of the Federal Government; and

(II) any individual employed by an individual, entity, or organization that is a party to a contract with the Committee under this Act shall be considered an employee of the Committee.

(ii) PROHIBITION ON DISCLOSURE.—Information obtained by the Committee, other than information that is available to the public, shall not be disclosed to any person in any manner except to an employee of the Committee as described in clause (i), for the purpose of receiving, reviewing, or processing the information.

(c) POSTAL SERVICES.—The Committee may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(d) DONATIONS.—The Committee may accept, use, and dispose of donations of services or property that advance the goals of the Long Island Sound Stewardship Initiative.

### SEC. 8. STEWARDSHIP SITES.

(a) INITIAL SITES.—

(1) IDENTIFICATION.—

(A) IN GENERAL.—The Committee shall identify 20 initial Long Island Sound stewardship sites that the Committee has determined—

(i)(I) are natural resource-based recreation areas; or

(II) are exemplary natural areas with ecological value; and

(ii) best promote the purposes of this Act.

(B) EXEMPTION.—Sites described in subparagraph (A) are not subject to the site identification process described in subsection (d).

(2) EQUITABLE DISTRIBUTION OF FUNDS FOR INITIAL SITES.—In identifying initial sites under paragraph (1), the Committee shall exert due diligence to recommend an equitable distribution of funds between the States for the initial sites.

(b) APPLICATION FOR IDENTIFICATION AS A STEWARDSHIP SITE.—Subsequent to the identification of the initial stewardship sites under subsection (a), owners of sites may submit applications to the Committee in accordance with subsection (c) to have the sites identified as stewardship sites.

(c) IDENTIFICATION.—The Committee shall review applications submitted by owners of potential stewardship sites to determine whether the sites shall be identified as exhibiting values consistent with the purposes of this Act.

(d) SITE IDENTIFICATION PROCESS.—

(1) NATURAL RESOURCE-BASED RECREATION AREAS.—The Committee shall identify additional recreation areas with potential as stewardship sites using a selection technique that includes—

(A) public access;

(B) community support;

(C) areas with high population density;

(D) environmental justice (as defined in section 385.3 of title 33, Code of Federal Regulations (or successor regulations));

(E) connectivity to existing protected areas and open spaces;

(F) cultural, historic, and scenic areas; and

(G) other criteria developed by the Committee.

(2) NATURAL AREAS WITH ECOLOGICAL VALUE.—The Committee shall identify additional natural areas with ecological value and potential as stewardship sites—

(A) based on measurable conservation targets for the Region; and

(B) following a process for prioritizing new sites using systematic site selection, which shall include—

(i) ecological uniqueness;

(ii) species viability;

(iii) habitat heterogeneity;

(iv) size;

(v) quality;

(vi) connectivity to existing protected areas and open spaces;

(vii) land cover;

(viii) scientific, research, or educational value;

(ix) threats; and

(x) other criteria developed by the Committee.

(3) PUBLICATION OF LIST.—After completion of the site identification process, the Committee shall—

(A) publish in the Federal Register a list of sites that further the purposes of this Act; and

(B) prior to publication of the list, provide to owners of the sites to be published—

(i) a notification of publication; and

(ii) an opportunity to decline inclusion of the site of the owner on the list.

(4) DEVIATION FROM PROCESS.—

(A) IN GENERAL.—The Committee may identify as a potential stewardship site, a site that does not meet the criteria in paragraph (1) or (2), or reject a site selected under paragraph (1) or (2), if the Committee—

(i) selects a site that makes significant ecological or recreational contributions to the Region;

(ii) publishes the reasons that the Committee decided to deviate from the systematic site selection process; and

(iii) before identifying or rejecting the potential stewardship site, provides to the owners of the site the notification of publication, and the opportunity to decline inclusion of the site on the list published under paragraph (3)(A), described in paragraph (3)(B).

(5) PUBLIC COMMENT.—In identifying potential stewardship sites, the Committee shall consider public comments.

(e) GENERAL GUIDELINES FOR MANAGEMENT.—

(1) IN GENERAL.—The Committee shall use an adaptive management framework to identify the best policy initiatives and actions through—

(A) definition of strategic goals;

(B) definition of policy options for methods to achieve strategic goals;

(C) establishment of measures of success;

(D) identification of uncertainties;

(E) development of informative models of policy implementation;

(F) separation of the landscape into geographic units;

(G) monitoring key responses at different spatial and temporal scales; and

(H) evaluation of outcomes and incorporation into management strategies.

(2) APPLICATION OF ADAPTIVE MANAGEMENT FRAMEWORK.—The Committee shall apply the adaptive management framework to the process for updating the list of recommended stewardship sites.

### SEC. 9. REPORTS.

(a) IN GENERAL.—For each of fiscal years 2006 through 2013, the Committee shall submit to the Administrator an annual report that contains—

(1) a detailed statement of the findings and conclusions of the Committee since the last report;

(2) a description of all sites recommended by the Committee to be approved as stewardship sites;

(3) the recommendations of the Committee for such legislation and administrative actions as the Committee considers appropriate; and

(4) in accordance with subsection (b), the recommendations of the Committee for the awarding of grants.

(b) GENERAL GUIDELINES FOR RECOMMENDATIONS.—

(1) IN GENERAL.—The Committee shall recommend that the Administrator award grants to qualified applicants to help to secure and improve the open space, public access, or ecological values of stewardship sites, through—

(A) purchase of the property of the site;

(B) purchase of relevant property rights of the site; or

(C) entering into any other binding legal arrangement that ensures that the values of the site are sustained, including entering into an arrangement with a land manager or owner to develop or implement an approved management plan that is necessary for the conservation of natural resources.

(2) EQUITABLE DISTRIBUTION OF FUNDS.—The Committee shall exert due diligence to recommend an equitable distribution of funds between the States.

(c) ACTION BY THE ADMINISTRATOR.—

(1) IN GENERAL.—Not later than 90 days after receiving a report under subsection (a), the Administrator shall—

(A) review the recommendations of the Committee; and

(B) take actions consistent with the recommendations of the Committee, including the approval of identified stewardship sites and the award of grants, unless the Administrator makes a finding that any recommendation is unwarranted by the facts.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall develop and publish a report that—

(A) assesses the current resources of and threats to Long Island Sound;

(B) assesses the role of the Long Island Sound Stewardship Initiative in protecting Long Island Sound;

(C) establishes guidelines, criteria, schedules, and due dates for evaluating information to identify stewardship sites;

(D) includes information about any grants that are available for the purchase of land or property rights to protect stewardship sites;

(E) accounts for funds received and expended during the previous fiscal year;

(F) shall be made available to the public on the Internet and in hardcopy form; and

(G) shall be updated at least every other year, except that information on funding and any new stewardship sites identified shall be published more frequently.

### SEC. 10. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this Act—

(1) requires any private property owner to allow public access (including Federal, State, or local government access) to the private property; or

(2) modifies any provision of Federal, State, or local law with regard to public access to or use of private property, except as entered into by voluntary agreement of the owner or custodian of the property.

(b) LIABILITY.—Approval of the Long Island Sound Stewardship Initiative Region does not create any liability, or have any effect on any liability under any other law, of any private property owner with respect to any person injured on the private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this Act modifies the authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN THE LONG ISLAND SOUND STEWARDSHIP INITIATIVE REGION.—Nothing in this Act requires the owner of any private property located within the boundaries of the Region to participate in or be associated with the Initiative.

(e) EFFECT OF ESTABLISHMENT.—

(1) IN GENERAL.—The boundaries approved for the Region represent the area within which Federal funds appropriated for the purpose of this Act may be expended.

(2) REGULATORY AUTHORITY.—The establishment of the Region and the boundaries of the Region does not provide any regulatory authority not in existence on the date of enactment of this Act on land use in the Region by any management entity, except for such property rights as may be purchased from or donated by the owner of the property (including the Federal Government or a State or local government, if applicable).

**SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $25,000,000 for each of fiscal years 2006 through 2013.

(b) USE OF FUNDS.—For each fiscal year, funds made available under subsection (a) shall be used by the Administrator, after reviewing the recommendations of the Committee submitted under section 9, for—

(1) acquisition of land and interests in land;

(2) development and implementation of site management plans;

(3) site enhancements to reduce threats or promote stewardship; and

(4) administrative expenses of the Committee.

(c) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using any assistance or grant under this Act shall not exceed 75 percent of the total cost of the activity.

**SEC. 12. LONG ISLAND SOUND AUTHORIZATION OF APPROPRIATIONS.**

Section 119(f) of the Federal Water Pollution Control Act (33 U.S.C. 1269(f)) is amended by striking "2005" each place it appears and inserting "2009".

**SEC. 13. TERMINATION OF COMMITTEE.**

The Committee shall terminate on December 31, 2013.

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**SA 4065.** Mr. FRIST (for Mr. SMITH) proposed an amendment to the concurrent resolution S. Con. Res. 113, recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month; as follows:

Strike all after the resolving clause and insert the following:

That Congress—

(1) recognizes the impact that Tourette Syndrome can have on people living with the disorder;

(2) recognizes the importance of an early diagnosis and proper treatment of Tourette Syndrome;

(3) recognizes the need for enhanced public awareness of Tourette Syndrome; and

(4) supports the goals and ideals of National Tourette Syndrome Awareness Month.

**SA 4066.** Mr. FRIST (for Mr. SMITH) proposed an amendment to the concurrent resolution S. Con. Res. 113, recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month; as follows:

Strike the preamble and insert the following:

Whereas Tourette Syndrome is an inherited neurological disorder characterized by involuntary and sudden movements or repeated vocalizations;

Whereas approximately 200,000 people in the United States have been diagnosed with Tourette Syndrome and many more remain undiagnosed;

Whereas lack of public awareness has increased the social stigma attached to Tourette Syndrome;

Whereas early diagnosis and treatment of Tourette Syndrome can prevent physical and psychological harm;

Whereas there is not known cure for Tourette Syndrome and treatment involves multiple medications and therapies; and

Whereas May 15 through June 15 has been designated as National Tourette Syndrome Awareness Month, the goal of which is to educate the public about the nature and effects of Tourette Syndrome; Now, therefore, be it . . .

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**SA 4067.** Mr. FRIST (for Mr. SMITH) proposed an amendment to the concurrent resolution S. Con. Res. 113, recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month; as follows:

Amend the title so as to read "Recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideas of National Tourette Syndrome Awareness Month."

## ORDER OF BUSINESS

Mr. FRIST. Mr. President, we have had a very long day, a long day yesterday, and a long day the day before—a very, very long day today. We are going to be wrapping up here fairly quickly. But I have a lot of business to go through. So we will go through it, and I will make some comments after that.

## UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR NO. 915

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that on Tuesday, November 16, at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to executive session to consider the following nomination on today's Executive Calendar, Calendar No. 915, the nomination of Francis Harvey, to be Secretary of the Army.

I further ask unanimous consent that there then be 2 hours for debate under the control of Senator REED of Rhode Island and 1 hour for debate under the control of Chairman WARNER; further, that after the use or expiration of that debate time, the Senate proceed to a vote on the confirmation of the nomination; further that following the vote, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NOMINATIONS PLACED ON THE CALENDAR

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the HELP Committee be discharged from the list of nominations that are currently at the desk; and further that they be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list is as follows:

Milton Aponte, of Florida, to be a Member of the National Council on Disability for a term expiring September 17, 2006. (Reappointment)

Dan Arvizu, of Colorado, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010, vice Maxine L. Savitz, term expired.

Steven C. Beering, of Indiana, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010. (Reappointment)

Gerald Wayne Clough, of Georgia, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010, vice Anita K. Jones, term expired.

Kelvin Kay Droegemeier, of Oklahoma, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010, vice Robert C. Richardson, term expired.

Louis J. Lanzerotti, of New Jersey, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010, vice George M. Langford, term expired.

Alan I. Leshner, of Maryland, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010, vice Luis Sequeira, term expired.

Jon C. Strauss, of California, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010, vice Joseph A. Miller, Jr., term expired.

Kathryn D. Sullivan, of Ohio, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010, vice Pamela A. Ferguson.

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The following candidates for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

*To be medical director*

Timothy D. Mastro
Stephen C. Redd

*To be senior surgeon*

David R. Arday
Diane E. Bennett
David B. Canton
Louisa E. Chapman
Isabella A. Danel
Karen M. Farizo
James R. Graham
Stephen G. Kaler
Marcel E. Salive
Gail M. Stennies
Kim M. Willard-Jelks

*To be surgeon*

John T. Brooks
Elizabeth C. Clark
Rodney W. Cuny
Reuben Granich

Lisa A. Grohskopf
Paul T. Harvey
Daniel B. Jernigan
Amy J. Khan
Matthew J. Kuehnert
Rachel E. Locker
Sharon L. Ludwig
Jeffrey B. Nemhauser
Lisa D. Rotz
Jeffrey C. Salvon-Harman
Laura A. Tillman
Stephen H. Waterman
Cynthia G. Whitney

*To be senior assistant surgeon*

Roxanne Y. Barrow
Mark E. Beatty
Felicia L. Collins
Sriparna D. Datta
Lisa K. Fitzpatrick
Idalia M. Gonzalez
Shannon L. Hader
James D. Heffelfinger
Terri B. Hyde
David E. Johnson
Sheryl B. Lyss
Lois R. Niska
Kelton H. Oliver
Bernard W. Parker
Farah M. Parvez
Michael D. Ratzlafft
Scott S. Santibanez

*To be dental director*

Geralyn S. Johnson

*To be senior dental surgeon*

Joel J. Aimone
Hirofumi Nakatsuchi
William V. Stenberg

*To be dental surgeon*

Randolph A. Coffey
Mark R. Freese
Arlene M. Lester
James M. Schaeffer

*To be senior assistant dental surgeon*

Kenneth S. Cho
Cielo C. Doherty
Ronald L. Fuller
Tameka D. Lewis-Baker
Laura J. Lund
Robin G. Scheper
Robert P. Sewell
Anthony Vitali
James H. Webb Jr.

*To be senior nurse officer*

Marjorie E. Eddinger
Rose A. Jenkins

*To be nurse officer*

Rosa J. Clark
Philip Jarres
Ivy L. Manning
Joyce A. Prince
Doris L. Raymond
Michael L. Robinson

*To be senior assistant nurse officer*

Diane M. Aker
Ileane Barreto-Pettit
Kelly L. Barry
Theodora R. Bradley
Frank L. Cordova
William F. Coyner
Derwent O. Daniel
Belinda E. Dean
Jenny Doan
Deanna M. Gephart
John S. Hartford
Erik S. Hierholzer
Eric M. Howser
Chad W. Koratich
Delia Marquez-Ellis
Lisa A. Marunycz
Carolyn J. McKeown
Antonio Palladino
Shelly K. Paynter
Thuyle T. Pham
Phil B. Sargent
Donna K. Strong
Judith B. Sutcliffe
Amy O. Taylor
Nancy L. Tone
Theresa Tsosie-Robledo
Victoria F. Vachon
Dawn L. Will
Zenja D. Woodley

*To be assistant nurse officer*

Glenn R. Archambault
Joyce T. Davis
Channel R. Mangum
Hung P. Phan
Monica D. Rankins

*To be senior engineer officer*

Vernon L. Tomanek

*To be engineer officer*

Danielle Devoney
Kelly B. Leseman
Karl R. Powers
Arthur D. Ronimus III

*To be senior assistant engineer officer*

Kenneth J. Grant
David E. Harvey
David E. Johnson
Marcus C. Martinez
Andrew M. Meltzer
Jamie D. Natour
Rick A. Rivers
Eric Y. Shih
Jack S. Sorum
Charles H. Weir

*To be senior scientist*

Pamela L. Ching

*To be scientist*

Laila H. Ali
Clement J. Welsh

*To be senior assistant scientist*

Carma S. Ayala
Diana M. Bensyl
Amanda S. Brown
Michael J. Cooper
Karen A. Hennessey
Daphne B. Moffett
Meredith A. Reynolds
Cynthia A. Striley

*To be sanitarian*

Jan C. Manwaring

*To be senior assistant sanitarian*

Gary W. Carter
Julia E. Chervoni
Vivian Garcia
Kit C. Grosch
Wayne L. Hall
Brian E. Hroch
Harrichand Rhambarose
Donald B. Williams, Jr.

*To be senior veterinary officer*

Yvette M. Davis
Stephanie R. Ostrowski
Lowrey L. Rhodes Jr.

*To be veterinary officer*

Estella Z. Jones-Miller

*To be senior assistant veterinary officer*

Gregory L. Langham

*To be pharmacist director*

Diane L. Frankenfield

*To be senior pharmacist*

Sharon K. Gershon
George A. Lyght
Jo Ann M. Spearmon

*To be pharmacist*

Michael S. Forman
Pamela M. Schweitzer
Paul N. Shedd
Sharon K. Thoma
Adolph E. Vezza

*To be senior assistant pharmacist*

Sean J. Belouin
Sean K. Bradley
Rosalind P. Chorak
Carmen C. Clelland
James L. Cobbs
Thomas C. Duran
Jennifer E. Fan
Carol A. Feldotto
Rebecca E. Garner
Patricia N. Garvey
Eugene Hampton Jr.
Clint E. Hinman
Tommy E. Horeis
Kristina M. Joyce
Mariann Kocsis
Yoon J. Kong
Rey V. Marbello
Jeen S. Min
Denise A. Norman
Lisa D. Oliver
Margaret A. Rincon
Amy D. Rubin
Jane J. Russell
Spencer S. Salis
Melissas R. Schweiss
Catherine W. Witte

*To be assistant pharmacist*

Kristen L. Maves
Paras M. Patel
Emily T. Thakur

*To be senior assistant dietitian*

Karl R. Blasius
Alexandria M. Cossi
Carol A. Treat
Kirsten M. Warwar

*To be senior assistant therapist*

Andra F. Battocchio
Cynthia E. Carter
Frederick V. Lief
William H. Pearce Jr.
Tarri Ann Randall
Jeffrey D. Richardson
Joseph B. Strunce
Christa L. Themann

*To be health services officer*

Malcolm B. Johns
Henry Lopez Jr.
Guy J. Mahoney
George J. Majus
Nicole M. Smith
Lola R. Staples

*To be senior assistant health services officer*

Jane M. Barnes
Michael A. Candreva
Robert P. Chelberg
David S. De La Cruz
Beth D. Finnson
Gregory J. Flaitz
Arnold L. Howard
Erich Kleinschmidt
Audrey G. Lum
Marsha R. McCrimmon
Daniel H. Reed
Ruben T. Sabater
David C. Staten Jr.
Michael D. Weahkee

*To be assistant health services officer*

Michelle M. Bleth
Carrie L. Earnheart
Cheryl L. Fajardo
Ryan D. Hill
David J. Lusche
Anthony A. Walker

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar No. 818, and all nominations on the Secretary's desk.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

### NOMINATIONS

### COAST GUARD

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C., section 271:

*To be rear admiral (lower half)*

Capt. Gary T. Blore, 3199
Capt. Craig E. Bone, 6477
Capt. Robert S. Branham, 6546
Capt. John P. Currier, 0852
Capt. Ronald T. Hewitt, 6030
Capt. Joseph L. Nimmich, 9821
Capt. Joel R. Whitehead, 5138

### NOMINATIONS PLACED ON THE SECRETARY'S DESK

### COAST GUARD

PN1876 COAST GUARD nomination of Kenneth W. Megan, which was received by the Senate and appeared in the Congressional Record of September 7, 2004.

PN1917 COAST GUARD nominations (4) beginning John B. McDermott, and ending David C. Clippinger, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1918 COAST GUARD nomination of Karen W. Quiachon, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1919 COAST GUARD nominations (62) beginning Michael H. Anderson, and ending Gordon K. Weeks, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1953 COAST GUARD nominations (13) beginning Scott B. Beeson, and ending Needham E. Ward, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

### PUBLIC HEALTH SERVICE

PN1827 Public Health Service nominations beginning Timothy D. Mastro, and ending Anthony A. Walker, which nominations were received by the Senate and appeared in the Congressional Record of July 19, 2004.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

## NOMINATIONS PLACED ON THE CALENDAR

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the following committees be discharged from the listed nominations, and further that they be placed on the calendar: from the Finance Committee, Anna Escobedo Cabral, PN1852; from the Governmental Affairs Committee, Gregory E. Jackson, PN971.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CELEBRATING THE ANNIVERSARIES OF THE INTERNATIONAL POLAR YEARS AND INTERNATIONAL GEOPHYSICAL YEAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 466, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 466) celebrating the anniversaries of the International Polar Years (1882–1883 and 1932–1933) and International Geophysical Year (1957–1958) and supporting a continuation of this international science year tradition in 2007–2008.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCAIN. Mr. President, I am pleased to support a Senate resolution to celebrate the 125th anniversary of the first International Polar Year, IPY, of 1882–1883, the 75th anniversary of the second IPY of 1932–1933, and the 50th anniversary of the International Geophysical Year, IGY, 1957–1958, in 2007–2008. The resolution would also support the continuation of such international science year traditions, particularly emphasizing activities dedicated to global environmental research, education, and protection.

Mr. President, IPY and IGY have left a legacy of scientific advancements, new discoveries, and international goodwill that continue to benefit societies today. They have made significant contributions to enhancing our understanding of the processes of environmental change and variability. In order to accurately access and monitor changes in the Earth's climate, environments, and ecosystems, it is imperative that we give adequate attention and resources to understanding these processes. Examining environmental changes in the past will strengthen our abilities to make informed decisions for the future.

IPY, first launched over 125 years ago, set precedents for internationally coordinated scientific campaigns. Accomplishments from past IPY activities include advancements in meterology, atmospheric sciences, geomagnetism, and technology. IPY also fueled the establishment of the first year-round research station inland from the Antarctic coast by the United States. Planning for an IPY in 2007–2008 is currently underway under the United States leadership of the National Academy of Science, in conjunction with the International Council for Science and the World Meterological Organization.

Modeled after IPY, IGY was first launched in 1957–1958 and also has been a model for international science activities. Accomplishments from past IGY activities include the initiation of the global space age and exploration of the upper atmosphere through the launching of Sputnik and Vanguard, the world's first satellites. IGY led to the establishment of more research stations in the Antarctic, and to the ratification of the Antarctic Treaty in 1961, which promoted peaceful international collaboration and scientific exploration in the Antarctic. It is my hope that the same research activities will occur in the Arctic region.

This resolution celebrating the anniversaries of IPY and IGY in 2007–2008 would endorse the concept of a worldwide campaign for scientific activity and expand the scope of past international science activities to promote interdisciplinary research that incorporates the physical and social sciences to enrich the understanding of diversity in life and environmental patterns on Earth. The resolution also would require the President of the United States to submit to Congress a report on steps taken by the National Science Foundation and the National Aeronautics and Space Administration, in association with the National Academy of Sciences and other scientific organizations, to ensure a successful worldwide international science year in 2007–2008.

I urge my colleagues to support this noncontroversial effort to promote continued international scientific collaboration.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 466) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 466

Whereas the year 2007 is the 125th anniversary of the first International Polar Year of 1882–1883, the 75th anniversary of the second International Polar Year of 1932–1933, and the 50th anniversary of the International Geophysical Year of 1957–1958;

Whereas the first International Polar Year of 1882–1883, which involved 12 nations, and the second International Polar Year of 1932–1933, which involved 40 nations, set the first precedents for internationally coordinated scientific campaigns;

Whereas the International Geophysical Year, conceived in and promoted by the

United States, was the largest cooperative international scientific endeavor undertaken to that date, involving more than 60,000 scientists from 66 nations;

Whereas each of these activities left a legacy of scientific advances, new discoveries, and international goodwill that still benefit us today;

Whereas the International Geophysical Year legacy includes the dedication of an entire continent to cooperative scientific study through the Antarctica Treaty and the inauguration of the global space age through the launching of Sputnik and Vanguard;

Whereas International Geophysical Year cooperation continues as the model and inspiration for contemporary world science and provides a bridge between peoples of the world that has demonstrated the ability to transcend political differences;

Whereas it also would be appropriate to use the international science year format to expand the scope of past years to encompass a broad range of disciplines and to recognize interdisciplinary research that incorporates the physical and social sciences and the humanities in enriching understanding of diverse life on Earth;

Whereas the 35th anniversary of the International Geophysical Year was commemorated by the International Space Year, a globally implemented congressional initiative conceived by the late Senator Spark Matsunaga of Hawaii, that was highlighted by globally coordinated environmental monitoring and research whose ongoing legacy continues to benefit humanity;

Whereas planning for an International Polar Year in 2007–2008 is underway, under the guidance of strong United States leadership and the National Academy of Sciences and in conjunction with the International Council for Science and the World Meteorological Organization, with this envisioned to be an intense, coordinated campaign of observations, research, and analysis that will be multidisciplinary in scope and international in participation;

Whereas an International Polar Year in 2007-2008 will include research on the conditions in both polar regions and recognize the strong links among polar region conditions and the rest of the globe, including the impact on global climate change, as the polar regions have profound significance for the Earth's climate and environments;

Whereas other scientific bodies are planning additional internationally coordinated scientific programs to advance scientific knowledge and observations from the core of the Earth to the farthest reaches of the Cosmos's effects on the Earth; and

Whereas it is entirely fitting that Congress takes the lead again, in the same spirit, in promoting global cooperation through worldwide commemoration of the past International Polar Years and the International Geophysical Year with activities reflecting the unity and diversity of life on Earth: Now, therefore, be it

*Resolved*, That it is the Sense of the Senate that the President should—

(1) endorse the concept of a worldwide campaign of scientific activity for the 2007–2008 timeframe;

(2) direct the Director of the National Science Foundation and the Administrator of the National Aeronautics and Space Administration, in association with the National Academy of Sciences and other relevant governmental and nongovernmental organizations, to continue interagency and international inquiries and discussions that ensure a successful worldwide international science year in the 2007–2008 timeframe, emphasizing activities dedicated to global environmental research, education, and protection; and

(3) submit to Congress at the earliest practical date, but no later than March 15, 2005, a report detailing the steps taken in carrying out paragraphs (1) and (2), including descriptions of possible activities and organizational structures for an international science year in 2007–2008.

## HONORING AND MEMORIALIZING THE PASSENGERS AND CREW OF UNITED AIRLINES FLIGHT 93

Mr. FRIST. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of S. Con. Res. 136, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 136) honoring and memorializing the passengers and crew of United Airlines Flight 93.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment to the concurrent resolution, which is at the desk, be agreed to, the concurrent resolution, as amended, be agreed to. the preamble be agreed to, the motion to reconsider be laid upon the table. without any intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4062) was agreed to, as follows:

(Purpose: To improve the language relating to the memorial)

Beginning on page 2, strike line 10 and all that follows through page 3, line 8, and insert the following:

(3) not later than January 1, 2006, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate shall select an appropriate memorial that shall be located in the United States Capitol Building and that shall honor the passengers and crew of Flight 93, who saved the United States Capitol Building from destruction; and

(4) the memorial shall state the purpose of the honor and the names of the passengers and crew of Flight 93 on whom the honor is bestowed.

The concurrent resolution (S. Con. Res. 136), as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 136

Whereas on September 11, 2001, acts of war involving the hijacking of commercial airplanes were committed against the United States, killing and injuring thousands of innocent people;

Whereas 1 of the hijacked planes, United Airlines Flight 93, crashed in a field in Pennsylvania;

Whereas while Flight 93 was still in the air, the passengers and crew, through cellular phone conversations with loved ones on the ground, learned that other hijacked airplanes had been used to attack the United States;

Whereas during those phone conversations, several of the passengers indicated that there was an agreement among the passengers and crew to try to overpower the hijackers who had taken over Flight 93;

Whereas Congress established the National Commission on Terrorist Attacks Upon the United States (commonly referred to as "the 9-11 Commission") to study the September 11, 2001, attacks and how they occurred;

Whereas the 9-11 Commission concluded that "the nation owes a debt to the passengers of Flight 93. Their actions saved the lives of countless others, and may have saved either the U.S. Capitol or the White House from destruction."; and

Whereas the crash of Flight 93 resulted in the death of everyone on board: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That—

(1) the United States owes the passengers and crew of United Airlines Flight 93 deep respect and gratitude for their decisive actions and efforts of bravery;

(2) the United States extends its condolences to the families and friends of the passengers and crew of Flight 93;

(3) not later than January 1, 2006, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate shall determine a location in the United States Capitol Building (including the Capitol Visitor Center) that shall be named in honor of the passengers and crew of Flight 93, who saved the United States Capitol Building from destruction; and

(4) a memorial plaque shall be placed at the site of the determined location that states the purpose of the honor and the names of the passengers and crew of Flight 93 on whom the honor is bestowed.

## AMERICAN VETERANS DISABLED FOR LIFE COMMEMORATIVE COIN ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 778, S. 1379.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1379) to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike parts shown in black brackets and insert parts shown in italic]

S. 1379

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. SHORT TITLE.**

[This Act may be cited as the "American Veterans Disabled for Life Commemorative Coin Act".

**[SEC. 2. FINDINGS.**

[Congress finds that—

[(1) the armed forces of the United States have answered the call and served with distinction around the world—from hitting the beaches in World War II in the Pacific and Europe, to the cold and difficult terrain in Korea, the steamy jungles of Vietnam, and the desert sands of the Middle East;

[(2) all Americans should commemorate those who come home having survived the ordeal of war, and solemnly honor those who made the ultimate sacrifice in giving their lives for their country;

[(3) all Americans should honor the millions of living disabled veterans who carry the scars of war every day, and who have made enormous personal sacrifices defending the principles of our democracy;

[(4) in 2000, Congress authorized the construction of the American Veterans Disabled for Life Memorial;

[(5) the United States should pay tribute to the Nation's living disabled veterans by minting and issuing a commemorative silver dollar coin; and

[(6) the surcharge proceeds from the sale of a commemorative coin would raise valuable funding for the construction of the American Veterans Disabled for Life Memorial.

**[SEC. 3. COIN SPECIFICATIONS.**

[(a) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins in commemoration of disabled American veterans, each of which shall—

[(1) weigh 26.73 grams;

[(2) have a diameter of 1.500 inches; and

[(3) contain 90 percent silver and 10 percent copper.

[(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

[(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**[SEC. 4. SOURCES OF BULLION.**

[The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

**[SEC. 5. DESIGN OF COINS.**

[(a) DESIGN REQUIREMENTS.—

[(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the design selected by the Disabled Veterans' LIFE Memorial Foundation for the American Veterans Disabled for Life Memorial.

[(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

[(A) a designation of the value of the coin;

[(B) an inscription of the year "2006"; and

[(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

[(b) SELECTION.—The design for the coins minted under this Act shall be—

[(1) selected by the Secretary, after consultation with the Disabled Veterans' LIFE Memorial Foundation and the Commission of Fine Arts; and

[(2) reviewed by the Citizens Coinage Advisory Committee.

**[SEC. 6. ISSUANCE OF COINS.**

[(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

[(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

[(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins under this Act only during the calendar year beginning on January 1, 2006.

**[SEC. 7. SALE OF COINS.**

[(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

[(1) the face value of the coins;

[(2) the surcharge provided in subsection (d) with respect to such coins; and

[(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

[(b) SURCHARGES.—All sales of coins issued under this Act shall include a surcharge of $10 per coin.

[(c) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

[(d) PREPAID ORDERS.—

[(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

[(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

**[SEC. 8. DISTRIBUTION OF SURCHARGES.**

[(a) IN GENERAL.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be paid to the Disabled Veterans' LIFE Memorial Foundation for the purpose of establishing an endowment to support the construction of American Veterans' Disabled for Life Memorial in Washington, D.C.

[(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Disabled Veterans' LIFE Memorial Foundation as may be related to the expenditures of amounts paid under subsection (a).

**[SEC. 9. FINANCIAL ASSURANCES.**

[(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

[(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

[(1) full payment for the coin;

[(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

[(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.]

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "American Veterans Disabled for Life Commemorative Coin Act".*

***SEC. 2. FINDINGS.***

*Congress finds that—*

*(1) the Armed Forces of the United States have answered the call and served with distinction around the world—from hitting the beaches in World War II in the Pacific and Europe, to the cold and difficult terrain in Korea, the steamy jungles of Vietnam, and the desert sands of the Middle East;*

*(2) all Americans should commemorate those who come home having survived the ordeal of war, and solemnly honor those who made the ultimate sacrifice in giving their lives for their country;*

*(3) all Americans should honor the millions of living disabled veterans who carry the scars of war every day, and who have made enormous personal sacrifices defending the principles of our democracy;*

*(4) in 2000, Congress authorized the construction of the American Veterans Disabled for Life Memorial;*

*(5) the United States should pay tribute to the Nation's living disabled veterans by minting and issuing a commemorative silver dollar coin; and*

*(6) the surcharge proceeds from the sale of a commemorative coin would raise valuable funding for the construction of the American Veterans Disabled for Life Memorial.*

***SEC. 3. COIN SPECIFICATIONS.***

*(a) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins in commemoration of disabled American veterans, each of which shall—*

*(1) weigh 26.73 grams;*

*(2) have a diameter of 1.500 inches; and*

*(3) contain 90 percent silver and 10 percent copper.*

*(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.*

*(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.*

***SEC. 4. DESIGN OF COINS.***

*(a) DESIGN REQUIREMENTS.—*

*(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the design selected by the Disabled Veterans' LIFE Memorial Foundation for the American Veterans Disabled for Life Memorial.*

*(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—*

*(A) a designation of the value of the coin;*

*(B) an inscription of the year "2006"; and*

*(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".*

*(b) SELECTION.—The design for the coins minted under this Act shall be—*

*(1) selected by the Secretary, after consultation with the Disabled Veterans' LIFE Memorial Foundation and the Commission of Fine Arts; and*

*(2) reviewed by the Citizens Coinage Advisory Committee.*

***SEC. 5. ISSUANCE OF COINS.***

*(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.*

*(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.*

*(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins under this Act only during the calendar year beginning on January 1, 2006.*

***SEC. 6. SALE OF COINS.***

*(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—*

*(1) the face value of the coins;*

*(2) the surcharge provided in subsection (b) with respect to such coins; and*

*(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).*

*(b) SURCHARGES.—All sales of coins issued under this Act shall include a surcharge of $10 per coin.*

*(c) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.*

*(d) PREPAID ORDERS.—*

*(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.*

*(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.*

***SEC. 7. DISTRIBUTION OF SURCHARGES.***

*(a) IN GENERAL.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be paid to the Disabled Veterans' LIFE Memorial Foundation for the purpose of establishing an endowment to support the construction of the American Veterans' Disabled for Life Memorial in Washington, D.C.*

*(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Disabled Veterans' LIFE Memorial Foundation as may be related to the expenditures of amounts paid under subsection (a).*

***SEC. 8. FINANCIAL ASSURANCES.***

*(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.*

*(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—*

*(1) full payment for the coin;*

*(2) security satisfactory to the Secretary to indemnify the United States for full payment; or*

*(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.*

Mr. FRIST. I ask unanimous consent that the committee substitute amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table en bloc, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1379), as amended, was read the third time and passed.

## ASTHMATIC SCHOOLCHILDREN'S TREATMENT AND HEALTH MANAGEMENT ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2023 which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2023) to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2023) was read the third time and passed.

## NATIONAL ESTUARY PROGRAM

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4731 which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4731) to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4731) was read the third time and passed.

## FEDERAL REGULATORY IMPROVEMENT ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4917 which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4917) to amend title 5, United States Code, to authorize appropriations for the Administrative Conference of the United States for fiscal years 2005, 2006, and 2007, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4917) was read the third time and passed.

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION EFFICIENCY ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 3478 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3478) to amend title 44, United States Code, to improve the efficiency of operations by the National Archives and Records Administration and to reauthorize the National Historical Publications and Records Commission.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3478) was read the third time and passed.

## EXECUTIVE BRANCH FINANCIAL ACCOUNTABILITY REPORTING ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 757, S. 2688.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2688) to provide for a report of Federal entities without annually audited financial statements.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendments at the desk be agreed to, the bill, as amended, be read the third time, passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4063) was agreed to, as follows:

### AMENDMENT NO. 4063

On page 2, line 10, strike "60 days" and insert "120 days".

On page 3, line 2, insert after "temporary commissions" the following: "in existence at least 12 months".

On page 3, strike beginning with line 9 through page 4, line 4, and insert the following:

(3) an assessment of the capability of and the costs that would be incurred for Federal entities of the categories listed under paragraphs (1) and (2) to prepare annual financial statements and to have such statements independently audited;

(4) an assessment of how to reduce the costs of preparing the financial statements and performing independent audits for Federal entities of the categories listed under paragraphs (1) and (2); and

(5) an assessment of the benefits of improved financial oversight encompassing the executive branch, including the Federal entities of the categories listed under paragraphs

(1) and (2), and an assessment of the feasibility of preparing annual financial statements and independently audited statements for the Federal entities in the categories listed under paragraphs (1) and (2).

The bill (S. 2688), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the Record.)

## LONG ISLAND SOUND STEWARDSHIP ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of S. 2691, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2691) to establish the Long Island Sound Stewardship Initiative.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the Lieberman amendment at the desk be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements related to the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4064) was agreed to.

(The amendment is printed in today's Record under "Text of Amendments.")

The bill (S. 2691), as amended, was read the third time and passed.

## WATER RESOURCES ACT OF 1984 REAUTHORIZATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of S. 2847 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2847) to reauthorize the Water Resources Act of 1984.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2847) was read the third time and passed, as follows:

S. 2847

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. WATER RESOURCES RESEARCH.**

(a) General Authorization of Appropriations.—Section 104(f)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(1)) is amended by striking "$9,000,000 for fiscal year 2001, $10,000,000 for each of fiscal years 2002 and 2003, and $12,000,000 for each of fiscal years 2004 and 2005" and inserting "$12,000,000 for the period of fiscal years 2005 through 2008 and $13,000,000 for the period of fiscal years 2009 and 2010".

(b) Appropriations for Research Focused on Water Problems of Interstate Nature.—Section 104(g)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(g)(1)) is amended by striking "$3,000,000 for fiscal year 2001, $4,000,000 for fiscal years 2002 and 2003, and $6,000,000 for fiscal years 2004 and 2005" and inserting "$6,000,000 for the period of fiscal years 2005 through 2008 and $7,000,000 for the period of fiscal years 2009 and 2010".

## CLARIFYING THE BOUNDARIES OF THE JOHN H. CHAFEE COAST BARRIER RESOURCES SYSTEM

Mr. FRIST. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 3056, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3056) to clarify the boundaries of the John H. Chafee Coast Barrier Resources System Cedar Keys Unit P25 on Otherwise Protected Area P25P.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements related to the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

## FOR THE RELIEF OF RICHI JAMES LESLEY—H.R. 712

## FOR THE RELIEF OF ROCCO A. TRECOSTA OF FORT LAUDERDALE, FLORIDA—S. 2042

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 712 and S. 2042, en bloc, and the Senate proceed to their immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the bills by title.

The legislative clerk read as follows:

A bill (H.R. 712) for the relief of Richi James Lesley.

A bill (S. 2042) for the relief of Rocco A. Trecosta of Fort Lauderdale, Florida.

There being no objection, the Senate proceeded to consider the bills.

Mr. FRIST. Mr. President, I ask unanimous consent that the bills be read the third time and passed, en bloc, that the motions to reconsider be laid upon the table, and that any statements relating to the bills be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 712), was read the third time and passed.

The bill (S. 2042), was read the third time and passed, as follows:

S. 2042

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. COMPENSATION OF BACK PAY.**

(a) In General.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Mr. Rocco A. Trecosta of Fort Lauderdale, Florida, the sum of $10,000 for compensation for back pay not received as an employee of the Department of Defense Overseas Dependent Schools for service performed during the period beginning April 14, 1966, through June 30, 1975. Payment under this subsection is made after the transmission of the applicable report of the United States Court of Federal Claims under section 2509 of title 28, United States Code.

(b) No Inference of Liability.—Nothing in this section shall be construed as an inference of liability on the part of the United States.

(c) Full Satisfaction of Claims.—The payment authorized under subsection (a) shall be in full satisfaction of all claims of Rocco A. Trecosta against the United States for back pay in connection with his service in the Department of Defense Overseas Dependent Schools.

(d) Limitation on Agents and Attorneys Fees.—No more than 10 percent of the payment authorized by this Act may be paid to or received by any agent or attorney for services rendered in connection with obtaining such payment, any contract to the contrary notwithstanding. Any person who violates this subsection shall be guilty of a misdemeanor and shall be subject to a fine in the amount provided in title 18, United States Code.

## THE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 761, 762, 764, 765, 767, 768, 769, and 776 en bloc, that the bills be read a third time and passed, and the motions to reconsider be laid upon the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

## FOR THE RELIEF OF DENES AND GYORGYI FULOP

The bill (S. 353) for the relief of Denes and Gyorgyi Fulop was considered, read the third time, and passed; as follows:

S. 353

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENT STATUS FOR DENES AND GYORGYI FULOP.**

(a) In General.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Denes and

Gyorgyi Fulop shall be eligible for issuance of immigrant visas or for adjustment of status to that of aliens lawfully admitted for permanent residence upon filing an application for issuance of immigrant visas under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Denes Fulop or Gyorgyi Fulop enters the United States before the filing deadline specified in subsection (c), the alien shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of immigrant visas or the application for adjustment of status are filed with appropriate fees within 2 years after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of immigrant visas or permanent residence to Denes and Gyorgyi Fulop, the Secretary of State shall instruct the proper officer to reduce by the appropriate number, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 202(e) of such Act.

## FOR THE RELIEF OF TCHISOU THO

The bill (S. 1042) for the relief of Tchisou Tho, was considered, read the third time, and passed; as follows:

S. 1042

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENT STATUS FOR TCHISOU THO.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Tchisou Tho shall be eligible for the issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Tchisou Tho enters the United States before the filing deadline specified in subsection (c), Tchisou Tho shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status are filed with appropriate fees within 2 years after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent residence to Tchisou Tho, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 202(e) of that Act.

## FOR THE RELIEF OF LUAY LUFTI HADAD

The bill (S. 2012) for the relief of Luay Lufti Hadad, was considered, read the third time, and passed; as follows:

S. 2012

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENT STATUS FOR LUAY LUFTI HADAD.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Luay Lufti Hadad shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Luay Lufti Hadad enters the United States before the filing deadline specified in subsection (c), Luay Lufti Hadad shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent residence to Luay Lufti Hadad, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Luay Lufti Hadad under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Luay Lufti Hadad under section 202(e) of that Act.

## FOR THE RELIEF OF ALEMSEGHED MUSSIE TESFAMICAL

The bill (S. 2044) for the relief of Alemseghed Mussie Tesfamical, was considered, read the third time, and passed; as follows:

S. 2044

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENCE.**

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Alemseghed Mussie Tesfamical shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of enactment of this Act upon payment of the required visa fees.

**SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.**

Upon the granting of permanent residence to Alemseghed Mussie Tesfamical, the Secretary of State shall instruct the proper officer to reduce by 1, during the current fiscal year, the total number of immigrant visas available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

## FOR THE RELIEF OF NABIL RAJA DANDAN, KETTY DANDAN, SOUZI DANDAN, RAJA NABIL DANDAN AND SANDRA DANDAN

The bill (S. 2314) for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan, was considered, read the third time, and passed; as follows:

S. 2314

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENT STATUS FOR NABIL RAJA DANDAN, KETTY DANDAN, SOUZI DANDAN, RAJA NABIL DANDAN, AND SANDRA DANDAN.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan shall each be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan enter the United States before the filing deadline specified in subsection (c), Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan shall each be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan, the Secretary of State shall instruct the proper officer to reduce by 5, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 202(e) of such Act.

## FOR THE RELIEF OF FERESHTEH SANI

The bill (S. 2331) for the relief of Fereshteh Sani, was considered, read the third time, and passed; as follows:

S. 2331

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENT STATUS FOR FERESHTEH SANI.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Fereshteh Sani shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Fereshteh Sani enters the United States before the filing deadline specified in subsection (c), Fereshteh Sani shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent residence to Fereshteh Sani, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Fereshteh Sani under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Fereshteh Sani under section 202(e) of that Act.

### FOR THE RELIEF OF DURRESHAHWAR DURRESHAHWAR, NIDA HASAN, ASNA HASAN, ANUM HASAN, AND IQRA HASAN

The bill (H.R. 867) for the relief of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan, was considered, ordered to a third reading, read the third time, and passed.

H.R. 867

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENT STATUS FOR DURRESHAHWAR DURRESHAHWAR, NIDA HASAN, ASNA HASAN, ANUM HASAN, AND IQRA HASAN.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan shall each be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, or Iqra Hasan enters the United States before the filing deadline specified in subsection (c), she shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan, the Secretary of State shall instruct the proper officer to reduce by 5, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 202(e) of such Act.

(e) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

### FOR THE RELIEF OF GRISELDA LOPEZ NEGRETE

The bill (S. 2668) for the relief of Griselda Lopez Negrete was considered, read the third time, and passed, as follows:

S. 2668

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENCE.**

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Griselda Lopez Negrete shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of enactment of this Act upon payment of the required visa fees.

**SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.**

Upon the granting of permanent residence to Griselda Lopez Negrete, as provided in section 1, the Secretary of State shall instruct the proper officer to reduce by the appropriate number during the current fiscal year the total number of immigrant visas available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

### RECOGNIZING THE IMPORTANCE OF EARLY DIAGNOSIS OF TOURETTE SYNDROME

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 113 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 113) recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the Smith amendments that are at the desk be agreed to, the resolution, as amended, be agreed to, the preamble, as amended, be agreed to, the title amendment be agreed to, the motions to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 4065, 4066 and 4067) were agreed to, as follows:

AMENDMENT NO. 4065

Strike all after the resolving clause and insert the following:

That Congress—

(1) recognizes the impact that Tourette Syndrome can have on people living with the disorder;

(2) recognizes the importance of an early diagnosis and proper treatment of Tourette Syndrome;

(3) recognizes the need for enhanced public awareness of Tourette Syndrome; and

(4) supports the goals and ideals of National Tourette Syndrome Awareness Month.

AMENDMENT NO. 4066

Strike the preamble and insert the following:

Whereas Tourette Syndrome is an inherited neurological disorder characterized by involuntary and sudden movements or repeated vocalizations;

Whereas approximately 200,000 people in the United States have been diagnosed with Tourette Syndrome and many more remain undiagnosed;

Whereas lack of public awareness has increased the social stigma attached to Tourette Syndrome;

Whereas early diagnosis and treatment of Tourette Syndrome can prevent physical and psychological harm;

Whereas there is no known cure for Tourette Syndrome and treatment involves multiple medications and therapies; and

Whereas May 15 through June 15 has been designated as National Tourette Syndrome Awareness Month, the goal of which is to educate the public about the nature and effects of Tourette Syndrome: Now, therefore, be it

AMENDMENT NO. 4067

(Purpose: To amend the title)

Amend the title so as to read "Recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month."

The concurrent resolution (S. Con. Res. 113), as amended, was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution, as amended, with its preamble, as amended, reads as follows:

(The bill will be printed in a future edition of the RECORD.)

## BIRTHDAY GREETINGS TO JOSEPH BARBERA ON HIS 100TH BIRTHDAY

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 467, which was submitted earlier today by Senator HATCH.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 467) extending birthday greetings to Joseph Barbera on the occasion of his 100th birthday and designating March 2005 as Animated Family Entertainment Month.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 467) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 467

Whereas Joseph Barbera is one of the pioneers of animated entertainment, having created, with his partner, William Hanna, some of the world's most recognizable and beloved characters, including Tom and Jerry, Huckleberry Hound, The Flintstones, The Jetsons, Scooby-Doo, and Yogi Bear, among many others;

Whereas Joseph Barbera is also one of the most honored figures in animated entertainment, his creations Tom and Jerry having received 7 Academy Awards for their antics, including their groundbreaking dancing appearances with Gene Kelly and Esther Williams in live action films, and having won multiple Emmy Awards, and Joseph Barbera himself having been elected to the Television Academy Hall of Fame;

Whereas in 1960, the team of Joseph Barbera and William Hanna created television's first animated family sitcom, "The Flintstones", a series marked by a number of other firsts—the first animated series to air in primetime, the first animated series to go beyond the 6- or 7-minute cartoon format, and the first animated series to feature human characters;

Whereas "The Flintstones" ran for 6 years and became the top-ranking animated program in syndication history, with all original 166 episodes currently seen in more than 80 countries worldwide;

Whereas Joseph Barbera cocreated a cowardly Great Dane named Scooby-Doo, who eventually made his own place in television history, for the popular series "Scooby-Doo, Where Are You?" remained in production for 17 years, still maintains the title of television's longest-running animated series, and serves as the inspiration for a series of current live-action films;

Whereas in 1981, Hanna-Barbera developed the phenomenally successful "The Smurfs", which won 2 Daytime Emmy Awards in 1982 and in 1983 for Outstanding Children's Entertainment Series and a Humanitas Award (an award given to shows that best affirm the dignity of the human person) in 1987;

Whereas at the age of 99, Joseph Barbera continues to work actively in the field, reporting to his office daily and continuing to develop new animated entertainment for the people of the United States and the world to enjoy;

Whereas March 24, 2005, will be Joseph Barbera's 100th birthday; and

Whereas the lives of families across the United States and throughout the world have been enriched by the shared enjoyment of the work of creators like Joseph Barbera: Now, therefore, be it

*Resolved*, That the Senate—

(1) on behalf of the American people, extends its birthday greetings and best wishes to Joseph Barbera on the occasion of his 100th birthday; and

(2) designates March 2005 as "Animated Family Entertainment Month" and encourages the families of the United States to take time to enjoy together the family entertainment created by the Nation's animated storytellers.

## AMENDING UNITED STATES CODE TO AUTHORIZE APPROPRIATIONS FOR ADMINISTRATIVE CONFERENCE OF UNITED STATES

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2979 which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2979) to amend title 5, United States Code, to authorize appropriations for the Administrative Conference of the United States for fiscal years 2005, 2006, and 2007, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statement relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2979) was read the third time and passed, as follows:

S. 2979

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Federal Regulatory Improvement Act of 2004".

**SEC. 2. PURPOSES.**

(a) PURPOSES.—Section 591 of title 5, United States Code, is amended to read as follows:

**"§ 591 Purposes**

"The purposes of this subchapter are—

"(1) to provide suitable arrangements through which Federal agencies, assisted by outside experts, may cooperatively study mutual problems, exchange information, and develop recommendations for action by proper authorities to the end that private rights may be fully protected and regulatory activities and other Federal responsibilities may be carried out expeditiously in the public interest;

"(2) to promote more effective public participation and efficiency in the rulemaking process;

"(3) to reduce unnecessary litigation in the regulatory process;

"(4) to improve the use of science in the regulatory process; and

"(5) to improve the effectiveness of laws applicable to the regulatory process.".

(b) CONFORMING AMENDMENTS.—Title 5 of the United States Code is amended—

(1) in section 594 by striking "purpose" and inserting "purposes"; and

(2) in the table of sections of chapter 5 of part I by amending the item relating to section 591 to read as follows:

"591. Purposes".

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

Section 596 of title 5, United States Code, is amended to read as follows:

**"§ 596. Authorization of appropriations**

"There are authorized to be appropriated to carry out this subchapter not more than $3,000,000 for fiscal year 2005, $3,100,000 for fiscal year 2006, and $3,200,000 for fiscal year 2007. Of any amounts appropriated under this section, not more than $2,500 may be made available in each fiscal year for official representation and entertainment expenses for foreign dignitaries.".

## PROVIDING FOR CONVEYANCE OF PARCELS OF NATIONAL FOREST SYSTEM LAND IN APALACHICOLA NATIONAL FOREST

Mr. FRIST. I ask unanimous consent that the Agriculture Committee be discharged from further consideration of H.R. 3217, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3217) to provide for the conveyance of several small parcels of National Forest System land in the Apalachicola National Forest, Florida, to resolve boundary discrepancies involving the Mt. Trial Primitive Baptist Church of Wakulla County, Florida, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3217) was read the third time and passed.

## LIMITING TRANSFER OF CERTAIN COMMODITY CREDIT CORPORATION FUNDS

Mr. FRIST. I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 2856, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2856) to limit the transfer of certain Commodity Credit Corporation funds between conservation programs for technical assistance for other programs.

There being no objection, the Senate proceeded to consider the bill.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. LEAHY. Mr. President, I am pleased to support the passage of S. 2856, legislation that will restore the conservation funding commitment Congress and the administration made to farmers and ranchers in the 2002 farm bill. I applaud the leadership of Agriculture Committee Chairman COCHRAN and Ranking Member HARKIN for their leadership to correct the shortfall in conservation technical assistance funding. For the last 2 years I have worked to correct this problem and am pleased to join my colleagues in this effort.

Despite historic funding conservation levels in the 2002 farm bill, family farmers and ranchers offering to restore wetlands, or offering to change the way they farm to improve air and water quality continue to be rejected when they seek USDA conservation assistance. Producers are being turned away due to the Department of Agriculture's decision to divert over $200 million from working lands conservation programs to pay for the cost of administering the Conservation Reserve Program, CRP, and the Wetlands Reserve Program, WRP, over the last 2 years. In particular, USDA diverted significant funds from the Environmental Quality Incentives Program, EQIP, the Farmland and Ranchland Protection Program, FRPP, the Grasslands Reserve Program, and the Wildlife Habitat Incentives Program, WHIP, to pay for CRP and WRP technical assistance.

The 2002 farm bill clearly intended USDA to use mandatory funds from the Commodity Credit Corporation, CCC, to pay for conservation technical assistance. The plain language of the statute, the General Accounting Office, and every Member of Congress who had a hand in writing the farm bill support this interpretation of the farm bill.

Our legislation would override USDA's decision and prevent funds from working lands incentive programs like EQIP and WHIP from being used to pay for the technical assistance costs of CRP. The House Agriculture Subcommittee on Conservation has already approved similar legislation, H.R. 1907, requiring each program to pay for its own technical assistance needs. Our legislation parallels that effort. Simply put our amendment would require the administration to honor the 2002 farm bill and mandate that technical assistance for each program is derived from funds provided for that program.

By providing more than $6.5 billion for working lands programs like EQIP and WHIP in the 2002 farm bill, Congress dramatically increased funds to help farmers manage working lands to produce food and fiber and simultaneously enhance water quality and wildlife habitat. For example, EQIP helps share the cost of a broad range of land management practices that help the environment, include more efficient use of fertilizers and pesticides, and innovative technologies to store and reuse animal waste. In combination, these working lands programs will provide farmers the tools and incentives they need to help meet our major environmental challenges.

Full funding for working lands incentive programs like EQIP and WHIP is vital not only in helping farmers and ranchers improve their farm management, but also in meeting America's most pressing environmental challenges. Because 70 percent of the American landscape is private land, farming dramatically affects the health of America's rivers, lakes and bays and the fate of America's rare species. Most rare species depend upon private lands for the survival, and many will become extinct without help from private landowners. When farmers and ranchers take steps to help improve air and water quality or assist rare species, they can face new costs, new risks, or loss of income. Conservation programs help share these costs, underwrite these risks, or offset these losses of income. Unless Congress provides adequate resources for these programs, there is little reason to hope that our farmers and ranchers will be able to help to meet these environmental challenges.

In addition, USDA conservation programs promote regional equity in farm spending. More than 90 percent of USDA spending flows to a handful of large farmers in 15 mid-western and southern States. As a result, many farmers and ranchers who are not eligible for traditional subsidies, including dairy farmers, ranchers, and fruit and vegetable farmers, rely upon conservation programs to boost farm and ranch income and to ease the cost of environmental compliance. Unlike commodity subsidies, conservation payments flow to all farmers and all regions. But, the farmers and ranchers who depend upon these programs, farmers, and ranchers who already receive a disproportionately small share of USDA funds, have faced a disproportionately large cut in spending.

By passing this legislation Congress and the administration will correct the shortfall in conservation technical assistance funding by directing USDA to use CCC funds to provide technical assistance to USDA conservation programs. This legislation restores the clear intent of the authors of the 2002 farm bill relating to the payment of conservation technical assistance.●

Mr. FRIST. I ask unanimous consent that the bill be read a third timed and passed, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2856) was read the third time and passed, as follows:

S. 2856

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TECHNICAL ASSISTANCE.**

(a) IN GENERAL.—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by striking subsection (b) and inserting the following:

"(b) TECHNICAL ASSISTANCE.—Effective for fiscal year 2005 and each subsequent fiscal year, Commodity Credit Corporation funds made available for each of the programs specified in paragraphs (1) through (7) of subsection (a)—

"(1) shall be available for the provision of technical assistance for the programs for which funds are made available; and

"(2) shall not be available for the provision of technical assistance for conservation programs specified in subsection (a) other than the program for which the funds were made available.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2004.

## INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. FRIST. I ask unanimous consent the Intelligence Committee be discharged from further consideration of H.R. 4548, the intelligence reauthorization bill, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4548) to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent all after the enacting clause be stricken and the text of S. 2386, as passed, be inserted in lieu thereof, the bill, as amended, be read a third time and passed, and the motions to reconsider be laid on the table, the Senate insist upon its amendment and request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on behalf of the Senate consisting of the entire committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4548), as amended, was read the third time and passed.

The PRESIDING OFFICER (Mr. SESSIONS) appointed Mr. ROBERTS, Mr. HATCH, Mr. DEWINE, Mr. BOND, Mr. LOTT, Ms. SNOWE, Mr. HAGEL, Mr. CHAMBLISS, Mr. WARNER, Mr. ROCKEFELLER, Mr. LEVIN, Mrs. FEINSTEIN, Mr. WYDEN, Mr. DURBIN, Mr. BAYH, Mr. EDWARDS, and Ms. MIKULSKI conferees on the part of the Senate.

## AUTHORIZATION TO SIGN BILLS AND RESOLUTIONS

Mr. FRIST. I ask unanimous consent that during the adjournment of the Senate, the majority leader, the junior Senator from Alabama, and the senior Senator from Virginia be authorized to sign duly enrolled bills on joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AUTHORITY FOR COMMITTEES TO REPORT

Mr. FRIST. I ask unanimous consent that notwithstanding the Senate's adjournment, committees be authorized to report legislative and executive matters on November 10, from 10 a.m. to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AUTHORIZING THE PRESIDENT OF THE SENATE, THE PRESIDENT PRO TEMPORE, AND THE MAJORITY AND MINORITY LEADERS TO MAKE APPOINTMENTS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER THAT ALL NOMINATIONS TO REMAIN STATUS QUO

Mr. FRIST. As in executive session I ask unanimous consent that during the upcoming adjournment of the Senate, all nominations remain status quo.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AMENDING THE AGRICULTURAL ADJUSTMENT ACT

Mr. FRIST. I ask unanimous consent the Senate now proceed to consideration of H.R. 2984, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2984) to amend the Agricultural Adjustment Act to remove the requirement that processors be members of an agency administering a marketing order applicable to pears.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2984) was read the third time and passed.

## PENDING NOMINATIONS

Mr. FRIST. Mr. President, we are on our final stretch. Before we leave for our adjournment prior to the election, I do want to take a couple of minutes to talk about the pending nominations.

The pending nominations have become an issue because it has gotten longer and longer and longer, in terms of the list. I am very disappointed. We have had a hugely successful session. The last 6 weeks and the last 3 days have been tremendously productive, but I am very disappointed that we leave here today stranding about, I believe it is 153 pending nominations that are on the Executive Calendar today. All of us have noted the calendar gets thicker and thicker, and it is because there are 153 nominations that are being held up.

For my colleagues, all of them know, but for others listening, these nominations have all been received from the President. The President has made the nominations. All of them have gone through the committee process. All are now available for Senate consideration.

That is our responsibility. But now in the last few moments before we finished our business—I am not going to go through the details why, I am not going to rehash why. But we find ourselves in a stalled position with 153 nominees right here who are being obstructed. Some on the other side of the aisle have said they have nominations which they want considered and until that happens everybody is going to be held up. Indeed, that is what has happened. It is a scorched-earth-type policy which should not be tolerated. I am troubled by it. I hear such words as, Well, if I can't have my person or the White House is not sending up the person that I asked for, I am going to punish everybody. That is what has happened.

We have 153 people who are on the calendar who are ready and available to go. Many of them have put their lives on hold. They have dedicated themselves to public service. They have gone all the way through the system and they came to this point—to the floor right here—and they are obstructed.

On the calendar, ready and available to go are ambassadorships, critical ambassadorships, for example, to Qatar, Estonia, they are representatives to the United Nations who are being held up, nominations to the Department of Housing and Urban Development positions, various positions at the Environmental Protection Agency, to the Chemical Safety and Hazard Investigation Board, to the Department of Education nominations, the Veterans Affairs Assistant Secretary being held up, and nominations to African Development being held up. There are more than 25 pages of nominations being held up.

These are real people. These are not just names on the calendar. These are real people. They have subjected themselves to the process. They said, Yes, I am willing to serve, but they are being obstructed. Most of these nominations have gone all the way through the system without any opposition and for most there is absolutely no controversy with their particular nomination. But they are being held hostage. They are being held hostage, I believe unreasonably, and it should not be tolerated. It is within a Senator's right to do that, but to me it is just wrong. These are people committed to public service. There is no controversy about them as individuals. They are being held hostage.

I understand this is not the first time we failed to act on nominations or the first time nominations have been held up to unrelated issues.

But I am disappointed that there are Members in this body who have taken to such an extreme position—25 pages of nominations.

This whole concept of putting blanket holds on everybody and holding everybody hostage simply is not appropriate and I believe is a disservice to the country. But that is what is happening. To me it is not responsible. It is not legislating responsibly.

Senators do have those individual rights, and, boy, we have seen individual rights being used today and yesterday and the day before. Those are the rules of the Senate.

But again, I plea that people respect this process and be reasonable and allow these nominations to be considered and taken up in a way which allows us to act on these deserving people in a reasonable way—a way that would allow us to proceed with our constitutional duties.

The Senate has to approve these individuals with advice and consent. We can't give advice and consent if there is this wholesale obstruction.

Again, I wanted to make sure everybody is heard in the nomination process. But the obstruction of not being able to consider them is unreasonable.

With all that said—I said I wasn't going to rehash the why's—I am very disturbed by the process and disappointed by Senate colleagues.

With that said, we will return in November. I hope that once past the election—if that is why there is this wholesale hostage holding, if that is why it is, once we get past the election being settled—we will be able to focus our attention on the calendar.

I hope we can return to the regular order and allow the Senate to act on these nominees. These are people who believe in public service. I believe public service and their consideration of public service is a noble cause. Let's not leave them on hold indefinitely. Many of them are listening to the fact that they will not get through to me right now.

## COLUMBUS DAY

Mr. FRIST. Mr. President, today is Columbus Day. When we look back on the history of Columbus Day and the history in this body, it was October 12 of 1492, the sailor onboard the Pinta landed, and the next day Christopher Columbus and his three ships landed at the Bahamian Island, ending a nearly 10-week journey across the Atlantic.

Today, as we have been working here all day, people have been celebrating Columbus Day all over the United States. It is the day to honor Christopher Columbus's sense of bravery, his curiosity, his dream in making that dream come true, all of which are concepts that are still very much alive and well today in the spirit of Americans.

The first recorded celebration of Columbus Day took place on October 12, 1792. That was to commemorate the 300th anniversary of Columbus's landing. A century later, the first official celebration occurred when President Benjamin Harrison issued a proclamation urging Americans to mark the day. And over the next decades, the Knights of Columbus, a Roman Catholic fraternal order, lobbied State legislatures to declare October 12 an official holiday. Colorado was the first to so in 1907, followed by New York in 1909. The Federal Government declared Columbus Day an official holiday in 1971.

As we have been working today and as we bring things to a close, we see all of the country marching in parades in our cities and towns, coming together to enjoy families and friends. When I finish, I will celebrate the birthday of my son, which has been put on hold until we adjourn, which will be shortly. It causes us to reflect a little bit about dreaming, curiosity, of the bravery that took place over 500 years ago.

## SPACESHIPONE

Mr. FRIST. Mr. President, last week, *SpaceShipOne* completed its third successful flight into space. Burt Rutan, Brian Binnie, Michael Melvill, and their colleagues on the Tier One Project team deserve a place on the honor roll of our Nation's greatest explorers and innovators. Their bravery, ingenuity, and hard work have launched the age of commercial space flight. I also commend the men and women who had the vision to establish the Ansari X Prize. They all had dreams—and they, with American spirit, captured their dream.

America has always been on the cutting edge of space travel. We landed the first people on the moon, performed the first docking in space, made the first successful soft landings on Mars, and built the world's first fleet of reusable spacecraft. We have explored eight of the nine planets and returned a treasure trove of information about our moon, asteroids, and comets.

As I speak, our spacecraft beam back scientific data from Mars, Saturn, and the orbit of our own planet. Soon, a spacecraft will begin to send data from Mercury and another will return from a close encounter with a comet.

Through NASA's Discovery Program, universities and research labs work in partnership with Washington policy makers to return valuable information about asteroids and our sun. And last, but not least, we have spearheaded the 16-nation effort to build and crew the International Space Station.

America will continue to push the outer reaches of space exploration. We will return the space shuttle to flight, finish the International Space Station, continue our efforts to explore the Moon, Mars, comets, asteroids, and outer planets. We will also send more humans into space. In doing this, we will achieve the President's goal to "extend human presence across the solar system."

The successful launch of *SpaceShipOne* shows that the private sector can achieve spectacular successes. In the future, entrepreneurs will launch many of the routine spaceflight activities in low earth orbit.

In time, privately financed, privately directed innovators will press forward with the exploration of the Moon and Mars. Space offers extraordinary potential for commerce and adventure, for new innovations and new tests of will. As Americans, we can't help but reach for the stars. It's our nature. It's our destiny.

The President's Centennial Challenges program encourages the private sector's efforts to fulfill this dream. His program is providing incentives for inventors and entrepreneurs to develop less expensive spacecraft, improve robotic technology, and encourage future astronauts.

The President supports a vigorous role for government in exploring places beyond our planet. He believes in the promise of space exploration. And he believes, as I do, that, in time, private citizens and entrepreneurs will lead humankind to the stars.

## APPOINTMENT OF CONFEREES—S. 2845

The PRESIDING OFFICER. Pursuant to the order of October 10, the Chair appoints the following conferees on S. 2845:

The Presiding Officer (Mr. SESSIONS) appointed Ms. COLLINS, Mr. LOTT, Mr. DEWINE, Mr. ROBERTS, Mr. VOINOVICH, Mr. SUNUNU, Mr. COLEMAN, Mr. LIEBERMAN, Mr. LEVIN, Mr. DURBIN, Mr. ROCKEFELLER, Mr. GRAHAM of Florida, and Mr. LAUTENBERG conferees on the part of the Senate.

## ORDERS FOR TUESDAY, NOVEMBER 16, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of H. Con. Res. 518 until 12 o'clock noon on Tuesday, November 16; I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period of morning business until the hour of 12:30, with Senators to speak for up to 5 minutes each.

I further ask consent that the Senate recess from the hours of 12:30 to 2:15 for the weekly policy luncheon; provided further that at 2:15 the Senate begin executive session for the consideration of Executive Calendar No. 915, Francis Harvey, to be Secretary of the Army as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Mr. President, in a moment we will be adjourning until November 16. As always, the adjournment resolution provides for both Houses of Congress to be called back into session if the public interest shall warrant it. If it were necessary for the Senate to reconvene prior to this November 16 date, certainly Senators would be given ample time to make arrangements.

If not called back, we would reconvene on that Tuesday, November 16. During that week, the Senate will try to finish up any remaining work prior to the official sine die adjournment.

In addition, both parties will be conducting their respective leadership elections in the early part of that week as well as the orientation program for newly elected Members. Thus, the next rollcall vote will occur on Tuesday, November 16, around 5:15, if all debate is necessary, and that vote will be on the nomination to the position of Secretary of the Army.

Again we have further business that week, including the remaining appropriations process. I do wish everyone a safe and hopefully restful few weeks. Many of our colleagues will be campaigning across the country and most have departed and started that process now. Hopefully, everyone in the Chamber will have well-deserved time to spend with family and with friends. We have had, as I said again and again, a very productive 6 weeks, and an unusual weekend and holiday session in order to complete our business.

I will not review the bills we passed today, but the long list of bills that we passed today, the business we went through very quickly over the last 15 or 20 minutes, again, represents substantial work, thousands and thousands of person-hours of work with legislation that is to the benefit of men and women and families all over America.

I thank the staff. Viewers can see us here now, but behind us are hundreds of people still here at this late hour. They have been here all day today and over the last 2 days, well into each evening. I thank them. I thank the police officers who protect us every day, and I thank the cloakroom staff, the doorkeepers, the legislative clerks, the reporters who were here throughout the weekend and today and tonight, especially the pages who are with us from early every morning from the time before we get here and stay until after we leave—really, everyone. The list goes on and on around the Capitol complex to keep this place running.

I thank the Presiding Officer. I have been here a lot over the last 2 or 3 days and he has been here equal to me. Every time I am here, I see him here as well. I thank the Presiding Officer because we have run on probably about 3 hours after any Members anticipated.

Very important comments needed to be made and I know we have inconvenienced a lot of people in staying around to allow everyone to speak what they felt to be important.

## ADJOURNMENT UNTIL TUESDAY, NOVEMBER 16, 2004

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of H. Con. Res. 518.

There being no objection, the Senate, at 6:58 p.m., adjourned until Tuesday, November 16, 2004, at 12 noon.

## CONFIRMATIONS

Executive nominations confirmed by the Senate October 11, 2004:

### IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

*To be rear admiral (lower half)*

CAPT. GARY T. BLORE
CAPT. CRAIG E. BONE
CAPT. ROBERT S. BRANHAM
CAPT. JOHN P. CURRIER
CAPT. RONALD T. HEWITT
CAPT. JOSEPH L. NIMMICH
CAPT. JOEL R. WHITEHEAD

COAST GUARD NOMINATION OF KENNETH W. MEGAN.

COAST GUARD NOMINATIONS BEGINNING JOHN B. MCDERMOTT AND ENDING DAVID C. CLIPPINGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

COAST GUARD NOMINATION OF KAREN W. QUIACHON.

COAST GUARD NOMINATIONS BEGINNING MICHAEL H. ANDERSON AND ENDING GORDON K WEEKS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

COAST GUARD NOMINATIONS BEGINNING SCOTT B. BEESON AND ENDING NEEDHAM E. WARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING TIMOTHY D. MASTRO AND ENDING ANTHONY A. WALKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 19, 2004.

# EXTENSIONS OF REMARKS

## HONORING MATTHEW M. LEWICKI

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. KILDEE. Mr. Speaker, I rise before you today on behalf of the members of the Michigan Department of the Polish Legion of American Veterans, USA to pay tribute to Matthew M. Lewicki, World War II veteran, for his service in the United States Army's 45th Infantry 179th Infantry Division from May 1, 1943 to November 5, 1945. On Saturday, October 16, 2004 the Polish Legion along with family and friends will gather to present Mr. Lewicki with medals he earned during his military career.

On May 1, 1943 Mr. Lewicki entered into the U.S. Army during World War II. He was assigned to the 45th Infantry 179th Infantry Division as a Private Infantry Auto Rifleman. He was wounded at Anzio Beach, Italy. Dunlop Acting Adjutant General sent notification to Mr. Lewicki's family on April 11, 1944 stating that he had been captured by the Germans and was a Prisoner of War. He had been missing in action since February 18th. The Germans sent him to a warehouse in Italy for three weeks, after which he was transferred to a prison camp in Germany where he was assigned to work on a farm. His Prisoner of War number was Stalag 7–B, #11689. Mr. Lewicki spent a total of 14 months in captivity. Corporal Lewicki was honorably discharged on November 5, 1945. Mr. Lewicki, after his discharge from the service, returned to his employment at General Motors Buick Motor Division. He retired in 1980 after 44 years of employment.

Matthew M. Lewicki was born on June 13, 1915 in Troy, New York. The Lewickis relocated to Flint, Michigan in 1917 when Matthew was 2 years old. Mr. Lewicki met his lovely wife, Albina Piotrowski, in 1940 and they were married on May 3, 1941. To this blessed union were born two sons, Matthew and David. Mrs. Lewicki passed away on March 6, 1992 at the age of 70. Matthew Lewicki is a lifelong charter member of Dom Polski and the Sea League. In his spare time Mr. Lewicki enjoys bowling and fishing.

Mr. Speaker, as a Member of Congress, I consider it my duty and my privilege to protect and defend human dignity and the quality of life for our citizens. I am extremely grateful to have a person like Matthew M. Lewicki who shares these beliefs, and has made it his life's work to see this task achieved. I honor Mr. Lewicki for his commendable service to our Nation and its mission of spreading peace. I ask my colleagues in the 108th Congress to please join me in congratulating Mr. Lewicki, and wishing him the best in future endeavors.

## THE DISABLED FEDERAL EMPLOYEES PROTECTION ACT

### HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. VAN HOLLEN. Mr. Speaker, I am proud today to introduce the Disabled Federal Employees Protection Act.

The Disabled Federal Employees Protection Act (DFEPA) simply states that in cases where federal jobs are contracted out, a Federal employee should not lose his or her job if that employee is an individual with a significant physical or developmental disability and had been hired under a program designed for individuals with such disabilities.

The DFEPA was drafted to respond to a particular situation that occurred at the National Naval Medical Center in Bethesda, Maryland. Last fall I visited the Hospital, which has developed an innovative and successful program hiring developmentally disabled individuals from our local community to work in its kitchen and cafeteria. Many of these individuals have worked there for more than 20 years. They are hard-working, reliable, and beloved by the naval officers and staff. I was shocked to learn that the Administration had selected these positions to be subject to competitive sourcing. In other words, these hard-working disabled employees, who had been hired under a federal program designed specifically to hire the severely disabled, would be forced to compete for their own jobs against people who were not disabled, leaving them on the verge of losing their jobs. I wrote the President about this injustice and am pleased that as a result of our timely intervention, plans to compete these jobs have been withdrawn and these individuals have been able to keep their jobs and the sense of dignity that comes with them.

But it is unconscionable that other severely disabled Federal workers might have to suffer through the same thing. The DFEPA will protect Federal employees with severe disabilities from losing their Federal jobs as a result of contracting out. The bill does allow for jobs to continue to be contracted out to organizations like NISH (formerly known as the National Institute for the Severely Handicapped) and the National Industries for the Blind covered under the Javits-Wagner-O'Day Act (JWOD). JWOD established specific programs to hire the severely disabled; it is not the intention of the DFEPA to interfere with JWOD.

The DFEPA is supported by many organizations, including ANCOR (The American Network of Community Options and Resources), The Public Policy Collaboration of United Cerebral Palsy and the Arc of the United States. The DFEPA also has the support of the Professional Services Council, one of the principal organizations representing government contractors, because they agree that supporting employment opportunities for the disabled is important.

Mr. Speaker, I believe that everyone in this body wants to protect employment opportunities for the severely disabled. I urge my colleagues to support and cosponsor the Disabled Federal Employees Protection Act.

I am submitting for the RECORD an article that was published by The Washington Post on October 14, 2003 that describes the situation involving the scullery workers at the National Naval Medical Center.

[From the Washington Post, Oct. 4, 2004]

### IN BETHESDA, HIRING POLICY, "COMPETITIVE SOURCING" CLASH

### NAVAL MEDICAL CENTER CONSIDERS REPLACING DISABLED WORKERS

(By Christopher Lee)

President Bush's efforts to make government run more like a business collided this month with the reality that, in many ways, government is not a business.

For the past 2 years, the Navy, as part of the Bush administration's initiative, has been studying whether a private contractor should take over the custodial and food services provided by 21 Federal employees at the National Naval Medical Center in Bethesda.

It is just one small example of Bush's "competitive sourcing" initiative, which requires hundreds of thousands of civil servants across the government to prove they can do their work better and more cheaply than a private contractor, or risk seeing the work outsourced.

But in one important way the 21 workers in the hospital scullery are different: All are mentally retarded, beneficiaries of Federal policies that promote the employment of people with disabilities.

To their supporters, the administration's requirement that they compete for their jobs misses the point that government employment has always been about more than the bottom line. Through various policies and laws, Federal agencies for decades have gone out of their way to hire members of certain populations, from veterans to disabled people to welfare mothers and students.

"There are different goals of the Federal government, and one of those goals is to get different people into real jobs," said Rep. Chris Van Hollen (D–Md.), who met last month with the scullery workers at the hospital, which is in his district. "And this [policy] will undercut that goal."

Bush has strongly defended "competitive sourcing," calling it one of his most important management initiatives. He says forcing government workers to compete with private contractors for their jobs promotes government efficiency and saves taxpayer dollars—even if the jobs stay in-house. An Oct. 3 report by the Office of Management and Budget said Federal agencies have identified 434.820 jobs that are ripe for such competition, of which 103,412 are being evaluated for possible contracting out.

"We are confident that the savings and service benefits expected from this effort will soon follow," Clay Johnson III, OMB's

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

deputy director for management, said that day.

That provides scant comfort to employees such as Devorah Shapiro, 30, who has worked at the hospital scullery for 10 years and worries what will happen if she loses her job.

"I like working here," Shapiro said the other day while taking a break from the first half of her 8-hour shift. "I work on the belt. I help push carts upstairs sometimes. I wash plates, pick silverware—I do everything."

Shapiro landed the job after interning at the hospital while a student at Rock Terrace School, a public campus in Rockville that serves 112 special-needs children in grades 6 through 12. "I live in a group home and I have to pay the rent there," said Shapiro, her dark curls tucked neatly under a hairnet. "And I have to work, or else they'll ask me to leave. I don't want to leave my friends. I don't want to leave my house. It's too nice."

The work isn't easy. The employees, clad in blue uniforms and white plastic aprons, remove trash and utensils from used trays as they navigate across a water-slicked red tile floor. Many wear earplugs to block out the drone of the industrial dishwasher that cleans the dishes and trays that pass through it on a conveyer belt before the workers retrieve and stack them in neat piles. Shifts begin at 5:30 a.m. and finish as late as 7 p.m.

James Eastridge, 38, another former Rock Terrace student, has worked in the kitchen for 22 years. That is long enough for him to earn several promotions and enough money to buy a house in Hagerstown, where he lives with his parents.

"I started out when I was 16 years old and just kept on working; the years just flew by," he said. "I hope we get to keep the jobs. When I was in school, I was pretty wild. They got me in the job . . . and I've been doing good ever since I've been here."

Randy Severt, a teacher at Rock Terrace, said more than 300 students have interned or worked at the hospital since the school formed a partnership with the institution in 1979. The Navy got reliable, long-serving employees for hard-to-fill positions. The students, who earn between $9.42 and $12.80 an hour, were given an opportunity to work, learn about money management and become more self-sufficient.

Providing such opportunities is a longstanding goal of the Federal government. The Rehabilitation Act of 1973 banned discrimination against disabled people in Federal hiring and required agencies to develop affirmative action plans to hire more people with disabilities.

Most of the scullery workers joined the hospital under a Federal hiring authority that allows agencies to take on people with mental retardation as provisional employees, then convert them to permanent status after 2 years of satisfactory service. The government employed 1,734 mentally retarded workers in 2000, about one-tenth of 1 percent of the 1.8 million-strong Federal civilian workforce, according to the Office of Personnel Management. (Overall, more than 120,000 disabled people worked for the government that year, more than 7 percent of the Federal workforce.)

If the hospital scullery work goes to a private contractor, it will mean a big adjustment for a group of workers who, due to circumstances and disability, do not cope well with change, Severt said.

"They have problems finding jobs on their own. They don't advocate well for themselves and they don't have a lot of skills," Severt said. "Some of them can speak well. Some of them have very good social skills. But they are retarded, and they need help every step of the way. They just don't adapt."

Hospital officials say the quality of the work isn't at issue. "They're very loyal employees," said Cmdr. Martie Slaughter, the hospital's nutrition manager. "I've only been here for 2 years and they are like my family."

In similar competitions across the government, the in-house bid has triumphed more than half the time, according to the OMB. Even in the cases where the private sector has won, the employees often have gone to work for the contractor. But the scullery employees are at a decided disadvantage.

"If you are special needs, you have a great need for greater supervision," Slaughter said. "And we all know that supervision costs money."

Jerry Leener, whose son Mike, 27, has worked at the hospital for 8 years, said that even a White House focused on the bottom line should realize there is little to be gained by contracting out the work. Displaced employees would turn to government entitlement programs, including Federal disability payments, Medicaid and food stamps.

"If our kids lose their jobs, the Federal government is still going to have to compensate them," Leener said. "Either way, it's going to be coming out of Federal funds. So we haven't had a cost saving as it relates to these kids. What's more, we've displaced them from their passion. They love working here. They love being a part of this."

Military officials have been sympathetic but unmoved. Slaughter said that early on in the process she asked about getting a waiver for the workers, but none was forthcoming. Over the last year, parents of some workers have written to Navy officials and members of Congress seeking help, but with no concrete results.

As recently as 2 weeks ago, Navy officials said they were still studying the situation. Parents of the workers grew nervous as a December deadline loomed for the hospital to submit its bid to keep the scullery jobs inhouse. They were told that a decision on whether a contractor would take over could come as soon as March.

Then on Oct. 2, 10 days after Van Hollen's visit to the scullery and after inquiries by the Washington Post, Navy officials passed the word internally that they had been directed to temporarily stop working on the job competition. "The study has not been cancelled, but postponed until further notice," an internal e-mail said.

Parents said they were given a vague explanation that the job competition had gone on longer than current law permits. A provision in the recently passed 2004 Defense Appropriations bill blocks new funding for single-function job competitions that have exceeded 24 months, and multifunction competitions that have exceeded 30 months. Navy officials at the hospital did not respond to two requests for more information about the decision.

"I have a suspicion that they were starting to feel political pressure and decided to put it on hold, and that maybe this thing would blow over," said Leener, who added that he remains uncertain about whether his son's job is safe. "We took it as a big victory, believe me, but it's a temporary one."

Trent Duffy, an OMB spokesman, said agencies may cancel job competitions that jeopardize protected workers, such as veterans or disabled people. "It is permissible for agencies to make that determination and cancel a competition because these protected populations, these certain people, could potentially lose their livelihoods," Duffy said. "They absolutely have that discretion under the law." Van Hollen, who wrote a letter to Bush urging him to halt the study, said he viewed the Navy's decision as little more than political expediency. He still believes competitive sourcing is "a one-size-fits-all contracting-out policy that does not take into account other important goals of the federal government," he said.

"I still think it's an example of their policy run amok," Van Hollen said. "There's no doubt what happened here. You want to applaud the Navy for reversing its decision, but you can't have a member of Congress or a member of the press visit every site where you've got . . . contracting out going on with model programs."

## PERSONAL EXPLANATION

### HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. KLECZKA. Mr. Speaker, on the evening of Tuesday, October 5 and on Wednesday, October 6, I was not present for business on the floor of the House due to personal business and was thereby absent for votes on rollcall Nos. 494 through 501. Had I been present, I would have voted "no" on rollcall No. 494; "yea" on rollcall No. 495; "yea" on rollcall No. 496; "yea" on rollcall No. 497; "yea" on rollcall No. 498; "no" on rollcall No. 499; "no" on rollcall No. 500; and "yea" on rollcall No. 501.

## RECOGNIZING THE IMPORTANCE OF THE ARTS IN COMMUNITY DEVELOPMENT

### HON. BRAD MILLER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. MILLER of North Carolina. Mr. Speaker, throughout the country there has been a rebirth of the arts, and the importance of the arts to economic development and revitalization in our communities deserves to be recognized. Cultural facilities and events enhance property values, tax resources and overall profitability for our cities and towns. In doing so, the arts have become a direct contributor to reviving many of our urban and rural areas. From major metropolitan areas to small towns, the arts have proven to be sound economic investments. I value the contributions made by the arts and believe that Congress has a responsibility to support the arts and all cultural activities.

Nationally, the arts have had a profound effect on community development but more specifically, have assisted in the economic growth in my home state of North Carolina. I am pleased to present an article by Mr. Lawrence J. Wheeler, Director of the North Carolina Museum of Art, that brings attention to the development and economic effect that the arts have had in North Carolina. In his editorial entitled

"For Development, Draw on N.C.'s Arts," which appeared in the News & Observer earlier this year, Mr. Wheeler provides insight into the positive influence that the arts have had upon communities in North Carolina. Mr. Wheeler rightfully calls on the arts to be used as full partners in future economic planning, and I believe that Congress and state governments should heed this advice.

[Editorial-Opinion—the News & Observer, April 27, 2004]

FOR DEVELOPMENT, DRAW ON N.C.'S ARTS

Twenty years ago, the idea of using art as a tool for community development would have been dismissed as a meddlesome intrusion by self-interested arts advocates. But as more and more jobs are being outsourced and downtown areas are becoming ghost towns, economic developers are viewing vibrant urban centers as critical to attracting workers, placing the arts at the center of the debate on community development.

Art has become a focal point for community leaders, economic development specialists and the citizens themselves. They look to the arts for inspiration, aesthetics and design, leadership and creativity, which can reshape our communities and make them vital, livable and relevant in the face of the economic changes of our time.

Richard Florida, author of the highly touted community development treatise, "The Rise of the Creative Class," says that if the goal is to attract a creative class of entrepreneurs and workers, then cities must provide, in addition to a tolerant social environment, diverse social and cultural enhancements, like great parks, art, music and lively community main streets. Art and design vitality are emphasized as a key factor that has enabled economic progress.

For decades, coalitions of arts organizations have undertaken economic impact studies to demonstrate their collective financial contribution to local, regional, and state economies, receiving scant attention from policymakers and political leaders. A recent study conducted by Americans for the Arts found the arts industry generates $134 billion in economic activity every year. A new report by Arts North Carolina shows that the state's arts industry produces nearly $1 billion in financial impact.

Clearly it is time to take a closer look at the measurable financial value of the arts.

The use of architecture in recent art museum design illustrates the impact of the arts on tourism and community image. Frank Gehry's Guggenheim Museum of Art in Bilbao, Spain, Santiago Calatrava's soaring structure for the Milwaukee Museum of Art, and the newly celebrated Fort Worth Museum of Modern Art by Tadao Ando have brought not only extraordinary international attention, but also tourist dollars to these cities.

Here in North Carolina, we are developing cultural landmarks as well, such as Wilmington's new Cameron Art Museum, designed by the renowned architect Charles Gwathmey. The success of this project has considerably boosted the cultural and civic energy of the city.

The Research Triangle region has invested more than $250 million in its arts and museums infrastructure in recent years, with plans to invest nearly $150 million more in cultural facilities in Durham, Chapel Hill and Raleigh. The N.C. Museum of Art in Raleigh has commissioned New York-based architect Thomas Phifer to create plans for its expansion.

Several other communities, including Charlotte, Asheville and the Piedmont Triad, are planning major investments in cultural facilities and the arts programs to attract jobs, visitors and dollars. Cities, large and small, are recognizing that cultural investments make economic sense.

As the arts take center stage in economic growth, metropolitan regions have the opportunity to put their cultural strengths to work. Many regions are investing in industry clusters—concentrations of businesses that are linked to each other through their suppliers and producers. There are abundant examples of real success stories when the cultural resources of a region become full partners in shaping economic development strategies. Asheville is developing a prosperous industry cluster around its regional crafts heritage. Handmade in America leads a coalition of regional organizations that promote the making and sale of crafts, as well as tourism to artisans' studios, related museums, historic inns and sites and the region's magnificent natural resources.

North Carolina has a rich history of providing cultural opportunities to its people. The first state-supported symphony orchestra, the first state-funded art collection and the first cabinet-level Department of Cultural Resources were all created here, along with an extraordinary network of 93 community-based arts councils throughout the State. These are superb sources to identify leaders who can be invaluable in shaping the conversations and agendas for economic development in our communities.

Our State's struggle with economic change will require a rearranging of investment priorities and significant private and public support. Only when the arts are used as full partners in planning will North Carolina see sustainable economies, lively communities and an enriched quality of life for everyone.

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## CONGRESSMAN JACK FIELDS POST OFFICE

SPEECH OF

## HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Mr. EVANS. Mr. Speaker, today I would like to voice my support for H.R. 4232, the Congressman Jack Fields Post Office Redesignation Act. This legislation would rename the United States Postal Service facility at 4025 Feather Lakes Way in Kingwood, Texas as the "Congressman Jack Fields Post Office."

I have nothing but respect and admiration for my former colleague, Congressman Jack Fields. Jack represented the 8th Congressional District of Texas in the House of Representatives from 1981 to 1997. He served on the House Committee on Commerce, and became the Chairman of the Subcommittee on Telecommunications and Finance in 1995. As Subcommittee Chairman, Jack led the effort in the House to enact the first comprehensive reform of the Communications Act of 1934, which became the Telecommunications Act of 1996. This bill was signed into law by President Clinton in February of that year.

As the Ranking Minority Member on the Committee on Merchant Marine and Fisheries, a position he held from 1981 to 1995, Jack was actively involved in the legislation related to oil spill liability that passed after the grounding of the Exxon Valdez in Alaska. He was also an advocate on issues as diverse as safety in the cruise ship industry, endangered species and wetlands, fisheries and wildlife refuges, promotion of American ports, shipbuilding, and the Coast Guard.

I am proud to support this salute to my friend, former Representative Jack Fields. This is truly a fitting tribute to a remarkable man, and I congratulate him on this honor.

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## COMMEMORATING THE CONTRIBUTIONS OF DR. CREIGHTON J. HALE

## HON. TOM OSBORNE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. OSBORNE. Mr. Speaker, I rise today to honor Dr. Creighton J. Hale who made many important contributions to sports safety in baseball and softball, as well as improving the safety of law enforcement and military personnel. Dr. Hale was born in 1924 in Hardy, Nebraska. He grew up in Nebraska and graduated from Hardy Public Schools in 1942. He then continued on to attend the University of Nebraska at Lincoln for one year, and then Doane College in the V–12 officers training program for the United States Navy.

Following active duty during World War II, he earned his bachelor's degree from Colgate University at Hamilton, New York in 1948, his master's from Springfield College in 1949, and his doctorate from New York University in 1951.

Dr. Creighton J. Hale, as an exercise physiologist, first conducted a scientific study of professional baseball players while an associate professor at Springfield College from 1951–1955. Dr. Hale developed an electronic testing device to measure the reaction times of major league baseball players. Along with this research, Dr. Hale found that children had less time to react to a pitch than major league players. With the conclusion of his findings, the Little League pitching mound was moved back from 44 feet to 46 feet, thus resulting in fewer batters being injured.

One of the next inventions that Dr. Hale worked on was the double-earflap batter's helmet, now made of a variety of lightweight plastics. The original helmet was made of fiberglass and could not withstand the impact of a pitched ball. In addition, the design did not protect the temple area. Little League made use of the new helmets mandatory in 1961. Dr. Hale was also an integral part of developing the aluminum bat and the one-piece catcher's mask attached to a helmet.

Outside of sports, Dr. Hale assisted in the development of the infantry pack in 1954 for use by the United States Army. In 1976, he became chairman of a group of scientist with the National Research Council of the National Academy of Sciences. During this time, his research aided the development of a lightweight bullet-resistant vest used by the military and law enforcement personnel. In addition, Dr. Hale co-designed a one-piece helmet made of Kevlar that offered more protection than the Army's previous steel helmet. All United States military personnel now use this type of helmet.

Dr. Hale also made invaluable contributions as president for Little League Baseball from 1973–1994. As well as serving as president, he served as Chief Executive Officer of the Board from 1983–1996. Under his leadership, the number of leagues enrolled increased from 10,006 to 21,711 and the number of participants increased from 370,000 to 3,123,205. At the turn of the 21st century, Little League Baseball and Softball had become the world's largest youth sports program, serving boys and girls ages 5 to 18.

Dr. Creighton J. Hale has made many valuable contributions to Little League Baseball and Softball in the way of innovations and moral support. He understood the mission set by founder Carl E. Stotz that Little League was about the development of good citizens rather than good athletes through "coaches teaching kids respect and discipline and sportsmanship and the desire to excel." I commend Dr. Hale for all that he has done to improve the lives of young people, servicemen and women, and law enforcement personnel.

## IN TRIBUTE TO CHARLES R. ADAMS, JR.

### HON. JIM MARSHALL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. MARSHALL. Mr. Speaker, I rise today to pay tribute to a man who for half a century has served the people of my State and District in the noble calling of the law. On October 11, 2004, my good friend Charles R. Adams, Jr. will mark his golden anniversary as an active member of the Georgia Bar.

Charlie Adams was born in Fitzgerald, GA, in 1932, the descendent of several prominent families in Middle Georgia. In 1946, Charlie, 13 at the time, served as a page in the Eighty-Seventh Congress.

Valedictorian of the Fitzgerald High School Class of '49, Charlie continued his distinguished academic and leadership record at the University of Georgia, achieving membership in the Phi Beta Kappa honorary fraternity, in the Alpha Tau Omega fraternity and served as President of UGA's Interfraternity Council. While at UGA, Charlie met and married the lovely Margaret Leah Twitty of Camilla, Ga. She and Charlie had two children, Charles R. Adams III and Mary Elisabeth Adams (Mrs. Howard) Johnson. Charles lost Leah to cancer in 1983. His son is following in his father's footsteps; it was my privilege to teach Charles Adams III at Mercer Law School.

Mr. Speaker, Charlie Adams was admitted to the UGA School of Law in 1953 and successfully took the bar exam in the summer of 1954. He was formally admitted as a member of the Georgia bar on Oct. 11, 1954, in the Superior Court of Ben Hill County, Georgia, Hon. O. Wendell Horne, Jr., presiding. In 1955, Charlie was awarded the LL.B. degree from Georgia Law School. He was commissioned as a first lieutenant in the U.S. Army and served as an attorney in the Judge Advocate General's Office, including a brief tour of duty in the Pentagon. After his military service, Charlie served for two years as a staff attorney to the Hon. Jule W. Felton, Sr., Chief Judge of the Georgia Court of Appeals. He entered private practice with the Atlanta firm of Crenshaw, Hansell, Ware, Brandon & Dorsey.

In 1962, Charlie heeded the call to return to his roots in middle Georgia and relocated his family to Fort Valley. When his district's Congressional seat came open in 1964, Charlie made a laudable bid to win the Democratic primary. He has been a life long member of the Democratic Party and has served as a member and officer of the Peach County Democratic Executive Committee since 1966.

Mr. Speaker, in this day when so many view the legal profession with cynical suspicion, Charlie Adams manifests the most noble ideals of his, and my, profession. He has always been available for public service. For many years, he took more than his share of indigent criminal defense and other pro bono publico cases. He represented the City of Fort Valley for 29 years, the Fort Valley Utility Commission for 35 years, as well as Peach County, the Peach County Board of Education, and many other local government entities. In the 1970's, he was also attorney on a statewide basis for the Georgia Electric Cities Association. Charlie has been active in his community in other ways, including the Boy Scouts, the Kiwanis Club, the Chamber of Commerce, the United Way, and the Methodist Church. For 50 years, he has lived out the finest aspects of a true professional. I am proud to claim Charles R. Adams, Jr., as a constituent and friend, and I hope that everyone will join me in wishing him many more happy and productive years to come.

## ON THE RETIREMENT OF CAPTAIN ROBERT C. WILKENS

### HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mrs. DAVIS of California. Mr. Speaker, it is with great pleasure that I rise today to recognize and honor the service and career of Captain Robert C. Wilkens as he retires after 32 years of distinguished service in support of our Nation. Throughout his career, Captain Wilkens has epitomized the Navy's core values of honor, courage, and commitment, and has displayed exceptional leadership and dedication to his country and commands.

Captain Wilkens earned his Bachelor of Science degree in Pharmacy from the Medical University of South Carolina in 1974. He then embarked on a remarkable journey in the Navy's Medical Service Corps, beginning as a staff pharmacist at the Naval Hospital, Charleston, South Carolina.

Captain Wilkens' next tour of duty was right here in the U. S. Capitol, where he served as the Director of Pharmacy in the Office of the Attending Physician to Congress from 1981 to 1985. He then entered advanced training as a Pharmacy resident at the Navy's Flagship hospital, the National Naval Medical Center, Bethesda, Maryland, in 1986.

Captain Wilkens continued with his stellar career as the Pharmacy Clinical Coordinator and Director of Inpatient Services at the Naval Hospital, Portmouth, Virginia. Upon completion of that assignment in 1990, he became a Doctor of Pharmacy Candidate at the Medical College of Virginia in Richmond.

Captain Wilkens then served as the Chairman of the Pharmacy Department at Naval Medical Center, San Diego, California from 1992–1999. By special request, he next served as the Specialty Leader and Consultant to the Navy Surgeon General for Pharmacy Policy at the Bureau of Medicine and Surgery in Washington, DC. Upon completion of that exceptional tour in 2001, Captain Wilkens returned to San Diego, and served once again as Chairman of the Pharmacy Department at the Naval Medical Center. He was home.

Captain Wilkens completes his distinguished and honorable career leaving a lasting impression of inspired leadership, mastery of science in pharmacy and policy, and allencompassing support for the Navy's medical readiness programs and quality of life.

I am pleased to recognize and thank Bob Wilkens for his long and dedicated service to this country and join with his friends and colleagues in wishing him "Fair Winds and Following Seas" as he and his wife, Linda, leave the Navy after 32 years of remarkable contributions and service.

## RECOGNIZING THE ACCOMPLISHMENTS OF MR. LOWELL E. ENSLEN

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and pleasure that I stand before you today to recognize the many accomplishments of Mr. Lowell E. Enslen. I can truly say that Lowell is a dedicated, distinguished and committed citizen. I have known him since 1973, and besides the practice of law he has been one of the most caring people involved in his community. Lowell has practiced law in Hammond and has served the community for over 50 years, including dedicated service to many charitable and civic organizations. His career as a lawyer has allowed him the opportunity to touch the lives of numerous people. For many years Lowell has helped with the induction of new citizens in cooperation with the Federal District Court of Hammond, Indiana on the Fourth of July. Mayor Thomas McDermott showed his appreciation and gratitude for the lifetime of service of Colonel Lowell E. Enslen by proclaiming July 4, 2004 as Colonel Lowell E. Enslen Day.

Lowell E. Enslen was born in Gary, Indiana in 1927. He attended Hobart public schools and Valparaiso University. Lowell was admitted to the American Bar Association in 1952. He was National President of Sigma Delta Kappa from 1963–1964, Town Attorney of Dyer, Indiana from 1957–1960, 1962, and 1964–1972 and of Cedar Lake, Indiana, from 1976–1980. Lowell has accomplished many visionary goals throughout his career. Before and during his service to the Hammond Community, Lowell served America honorably as a soldier and an officer in the United States Marine Corps, rising to the rank of Colonel. He is a member of Enslen, Enslen & Matthews Law Firm, which was established in 1960. Enslen, Enslen, & Matthews Law Firm provides general civil, criminal and appellate practice in all State and Federal courts, family/domestic relations, probate and estate planning, insurance, real estate and labor relations law.

Not only has Lowell Enslen had many accomplishments throughout his career as a lawyer, he has also actively contributed to his community through participation in various programs designed at improving opportunities for the people of Northwest Indiana. Lowell was President of Members Hammond from 1965–1966 and is currently affiliated with Lake County, Indiana State, and American Bar Associations, the American Judicature Society, the Indiana Trial Lawyers Association, the Association of Trial Lawyers of America, and the Fellow Indiana Bar Foundation. Along with his many other accomplishments, Lowell has received numerous certificates and awards.

Lowell has demonstrated his faithfulness by his extraordinary service to Enslen, Enslen, & Matthews and his community through his hard work and self-sacrifice. Although Lowell has served on numerous committees and has dedicated his time to Enslen, Enslen, & Matthews, he has never neglected to provide support and love to his family.

Mr. Speaker, Lowell E. Enslen has given his time and efforts selflessly to the people of Northwest Indiana throughout his years of service. I am proud to commend him for his lifetime of service and dedication.

## HONORING THE FAIRFAX COUNTY NEIGHBORHOOD WATCH PROGRAM

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor the Neighborhood Watch Program of Fairfax County, Virginia.

In the 25 years since its inception, the Fairfax County Neighborhood Watch Program has achieved great success, with over 900 community programs established since its inception. As former Chairman of the Fairfax County Board of Supervisors, I can personally attest to the program's accomplishment.

The Fairfax County Neighborhood Watch boasts countless volunteers who have selflessly committed themselves to informing local police of suspicious activities. While it is financially and logistically impossible to place a police officer on every street corner, the neighborhood watch has provided Fairfax County with an effective alternative. Neighborhood watch volunteers have become the eyes and ears of local police, deterring crime and saving taxpayers millions of dollars.

Those who take the time to cast a watchful eye on their surroundings ensure a safer, friendlier place to live. Through committed neighborhood watches, these participants have proven that community involvement can make a difference.

Fairfax County Neighborhood Watch participants have bridged culture and language gaps in the name of collective security. By recognizing shared community values, Fairfax County Neighborhood Watch has facilitated improved understanding and relations between individuals from a variety of backgrounds. One of the greatest assets of neighborhood watch is its ability to bring neighbors together.

One of the most active branches of the Fairfax County Neighborhood Watch is the Camelot Neighborhood Watch Program, which is the oldest continuously active neighborhood watch in the United States. This highly accomplished program serves as an impressive model for other organizations across the county and nation.

Mr. Speaker, in closing, I would like to thank the Fairfax County Neighborhood Watch Program for 25 years of dedicated service to its community. Programs like neighborhood watch are vital in our efforts to combat crime. I call upon my colleagues to join me in applauding the Fairfax County Neighborhood Watch's past accomplishments and in wishing the program continued success in the many years to come.

## CONFERENCE REPORT ON H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

SPEECH OF

### HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Mr. BOEHNER. Mr. Speaker, I rise in strong support of H.R. 4850, the District of Columbia Appropriations Act for Fiscal Year 2005, which continues to open the door of educational opportunity for the students in our nation's capital. This measure fully funds the DC School Choice Incentive Act which is fundamentally about providing new options and new hope for students and families trapped in a school system that is struggling to survive.

Since the DC School Choice Incentive Program was enacted in January 2004, the Department of Education conducted a grant competition for the administration of the program and has awarded the Washington Scholarship Fund (WSF) the opportunity to run the groundbreaking new endeavor.

And WSF is off to a strong start. More than 2,680 students applied for scholarships for the 2004–2005 school year, and over 1,840 of those students met the eligibility requirements and completed their applications. In the middle of June, a lottery was held and scholarships were awarded to 1,360 students. Of the eligible public school students, only 194 public school students did not receive scholarships because of the limitation on available space in grades 6–12.

Currently there are 53 District of Columbia private, religious and independent schools participating in the program in the 2004–2005 school year. I am pleased that many of the scholarship students have chosen to attend schools in the Center City Consortium—a group of 13 inner city DC Catholic elementary schools within the Archdiocese of Washington located in the most financially challenged neighborhoods in the District. These schools work to ensure that Catholic education continues to be available to all city families, and have enthusiastically begun to educate over 500 scholarship students.

The WSF is continuing its efforts aggressively to make sure families are aware of the scholarships available for the coming school year. With more time to prepare for this fall, the program expects more schools to participate in 2005–2006, more seats to be available, and more parents to apply.

The strength of this program is that it will not only benefit individual students and their families, but the entire education system in the District of Columbia. Everyone agrees that the public school system will remain the primary source of education for a majority of these students. We cannot, and will not, support a proposal that would harm these schools.

My colleague from New Jersey, Mr. FRELINGHUYSEN, has provided tremendous leadership in ensuring that the bill before us continues to provide new money and new options that offers the neediest students opportunities they never had before, and more importantly, provides both increased competition and an infusion of funding that will help revitalize an entire system and help it to better serve each and every student.

The bill continues to appropriate substantial new funding—and let's be clear, this is still new money; we're not draining a single dollar from the public school system in the District. The funding is the full appropriation for the DC school improvement program—giving $13 million for public school improvements, $13 million for charter schools and $14 million for opportunity scholarships to promote academic achievement and school choice.

This measure allows us the opportunity to make a difference in the lives of students and families in the District of Columbia. I'm proud of the measure before us and grateful for the work of Chairman FRELINGHUYSEN in ensuring the full appropriation. I strongly urge my colleagues to join me in support of students and families and the entire educational system in the District of Columbia.

## PRAISING A. JAY CRISTOL'S BOOK "THE LIBERTY INCIDENT"

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to congratulate Judge A. Jay Cristol of the Southern District of Florida on the completion of his invaluable research on the USS *Liberty* incident. Judge Cristol's doctoral dissertation details the tragedy that befell the U.S. Navy ship USS *Liberty* in 1967 when Israeli aircraft fired upon the ship, killing 34 sailors and wounding 171 others.

Judge Cristol's dogmatic search persuaded the National Security Agency to release classified transcripts proving that Israel's attack on the USS *Liberty* was an accident. Judge Cristol's research shows the Israeli forces attacked the American USS *Liberty* ship because they believed it was an Egyptian ship firing upon their coastline.

Through his diligent work and dedication, Judge A. Jay Cristol has assisted in strengthening the relationship between the United

States and Israel and resolving unanswered questions about this unfortunate tragedy. I applaud his efforts, and commend him for this important work.

Mr. Speaker, I encourage my colleagues to join me in applauding Florida's Judge A. Jay Cristol on this important achievement.

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## HOUSE CALLS

### HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. TAYLOR of North Carolina. Mr. Speaker, today I rise to recognize the poetic talents of one of my constituents—Mrs. Bertie Battle Wilde of Canton, North Carolina. Mrs. Wilde has lived 96 years with deep and tremendous faith. Her belief certainly is evident in her art and I am pleased to share one of her poems, titled House Calls, with my colleagues.

HOUSE CALLS

Jesus makes house calls 24 hours each day
All you have to do is bow your head and pray.
Remember, we are not promised tomorrow, only today.

He's standing at your heart's door knocking,
Will you let Him in?
He will dissolve your troubles,
And take away your sins.

If you have problems, give Jesus a call.
The number is H-E-A-V-E-N.
He'll show you what to do,
Because He loves you.

He'll talk to you anytime,
Because He's always on the line,
And it won't cost you a dime.

He don't want your money,
But His love to you He will impart.
He cares for you my child.
All He wants is your heart.

Please give your heart to Jesus without delay.
You will be glad you did,
On that final judgment day.

Your name will be written in the Lamb's Book of Life.
No more heartaches, no more dark nights.
Our heavenly Father will be your shining light.

Yes, Jesus makes house calls, night and day.
All you have to do is bow your head and pray.

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## TAIWAN'S NATIONAL DAY

### HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. ROTHMAN. Mr. Speaker, I rise today in support of Taiwan's National Day, which will be celebrated on October 10, 2004. People in the United States and around the world have always marveled at the modern miracle that is Taiwan and the enormous political and economic successes that it has achieved. As we approach Taiwan's National Day, it only seems appropriate that we congratulate our Taiwanese friends on their many successes.

In just 50 years, Taiwan has transformed from a poor authoritarian dictatorship into a vibrant modern democracy. Last March, Mr. Chen Shui-bian was re-elected the eleventh president of the Republic of China. This was the third democratically-held election for the people of Taiwan. A firm believer in the free enterprise system and the importance of democratic governance, President Chen's leadership has enabled his people to enjoy one of the highest standards of living in Asia, with only 1 percent of its population remaining below the poverty line in 2000. Taiwan has also continued to make steady progress at expanding democracy in this republic: it currently has more than 95 political parties and a Constitution that guarantees its citizens full political rights, including the freedom of speech and the freedom of assembly.

Taiwan is a strong ally of the United States. It has unequivocally supported the U.S.-led war against global terrorism and the U.S. war in Iraq. And we, in turn, have given Taiwan our pledge that Taiwanese way of life should not be threatened by any outside forces. This strong mutual relationship is manifested in many ways. Taiwan is our eighth largest trading partner. The Taiwanese people continue to demand a variety of U.S. exports and consistently choose the United States as their number one travel destination. In fact, every year thousands of Taiwanese people come to my own state, New Jersey, for vacations as well as for business purposes. I am confident that the strong relationship between the United States and Taiwan will continue to grow stronger in the years ahead.

On the occasion of Taiwan's forthcoming National Day, I wish to recognize Taiwan's many economic and political achievements and express my congratulations to President Chen Shui-bian and to the Taiwanese Ambassador to the U.S., Mr. David Lee.

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## LETTER REGARDING CONFERENCE REPORT TO H.R. 4520

### HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. THOMAS. Mr. Speaker, I would like to insert in the RECORD, the following letter concerning the Conference Report to H.R. 4520, the "American Jobs Creation Act of 2004."

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
*Washington, DC, October 7, 2004.*

Mr. GEORGE K. YIN,
*Chief of Staff, Joint Committee on Taxation,*
*Washington, DC.*

DEAR MR. YIN: Enclosed are the combined comments of the Internal Revenue Service and the Treasury Department on the new deduction relating to income attributable to domestic production activities contained in the Conference Committee Report on the "American Jobs Creation Act", that you identified for complexity analysis in your letter of October 6, 2004.

Our comments are based on the description of the provision provided in your letter, and the statutory language and description of this provision in the Chairman's Mark for the Conference Committee on H.R. 4520, dated October 4, 2004, as posted on the House Ways and Means Committee web site. Due to the short turnaround time, our comments are provisional and subject to change upon a more complete and in-depth analysis of the provision.

Overall, the conference report provides new tools that will assist the IRS in administering the tax laws. However, thus far in the appropriations process, I would note that Congress has not taken favorable action with regard to the request for incremental enforcement resources for the IRS in the President's FY 05 budget request. As noted in the attached analysis, IRS will face additional challenges and resource requirements in administering the proposed domestic production activities credit.

Sincerely,

MARK W. EVERSON,
*Commissioner.*

Enclosure.

COMPLEXITY ANALYSIS OF PROVISION FROM H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES

*Provision*

The provision provides a deduction from taxable income (or, in the case of an individual, adjusted gross income) that is equal to a portion of the taxpayer's qualified production activities income. For taxable years beginning after 2009, the deduction is equal to nine percent of the lesser of (i) the qualified production activities income of the taxpayer for the taxable year, or (ii) taxable income (determined without regard to this section) for the taxable year. For taxable years beginning in 2005 and 2006, the deduction is three percent of income and, for taxable years beginning in 2007, 2008 and 2009, the deduction is six percent of income. However, the deduction for a taxable year is limited to 50 percent of the W-2 wages paid by the taxpayer during the calendar year that ends in such taxable year.

For purposes of determining the deduction, qualified production activities income is equal to domestic production gross receipts, reduced by the sum of (a) cost of goods sold allocable to such receipts, (b) other deductions, expenses, or losses, directly allocable to such receipts, and (c) a ratable portion of deductions, expenses, and losses not directly allocable to such receipts or another class of income.

The provision is effective for taxable years beginning after 2004.

*IRS and Treasury comments*

Administration, Compliance and Controversy

The new deduction for domestic production activities will require the promulgation of extensive, detailed new guidance, particularly in the form of regulations. We anticipate that guidance will be required to address:

1. Which activities constitute production activities;
2. The statutory exceptions to the definition of production activity;
3. The allocation of revenues between production and non-production activities;
4. The allocation of deductions between production and non-production activities;
5. The application of the provision when related and unrelated taxpayers perform parts of the production activity; and
6. Numerous other issues.

We expect that such guidance will be difficult to craft. By distinguishing "production" from other activities, the provision places considerable tension on defining terms and designing anti-abuse rules.

Many businesses, particularly small businesses, will find it difficult to understand and comply with these complex new rules, which will affect not only the computation of a taxpayer's regular tax liability but also its alternative minimum tax liability. It will be difficult, if not impossible, for the IRS to craft simplified provisions tailored to small businesses or other taxpayers.

Taxpayers will be required to devote substantial additional resources to meeting their tax responsibilities, including not only employees and outside tax advisers, but also recordkeeping and systems modification resources. The resulting costs will reduce significantly the benefits of the proposal. Some small businesses may find that the additional costs outweigh the benefits, particularly during the initial phase-in period.

It will be necessary to devote significant audit resources to administering the new deduction. This will be due not only to the novelty of the rule but also to the benefits that are provided to "production activities" over other aspects of a taxpayer's business. Taxpayers naturally will classify everything possible as production activities. Audits, particularly those involving integrated businesses, will have to focus on classification and the allocation of income and costs. Significant additional IRS resources will be needed to administer the provision to avoid diverting resources from other compliance issues (such as tax shelters).

Finally, for all of the reasons discussed above, we anticipate a significant increase in controversies between taxpayers and the IRS. This will increase the number of IRS appeals cases and litigated tax cases.

### Tax Forms and Publications

The computation of the deduction relating to income attributable to domestic production activities would be figured on a new form for 2005 of at least 10 lines. The instructions for the new form would likely be at least 3 pages.

Two additional lines would have to be added to each 2005 form or schedule on which the deduction from the new form could be claimed. The deduction would be claimed on the following forms and schedules, among others.

1. Schedule C (Form 1040) (sole proprietors);
2. Schedule F (Form 1040) (farm businesses);
3. Form 1041 (estates and trusts);
4. Form 1065 (partnerships);
5. Form 1065-B (electing large partnerships);
6. Form 1120 (corporations);
7. Form 1120-A (short tax return for corporations);
8. Form 1120S (S corporations); and
9. Other Form 1120 series returns.

2005 Forms 4626, 6251, and Schedule I of Form 1041 would have to be revised to add a new line to reflect the difference between the regular tax deduction and alternative minimum tax deduction.

The instructions for all affected forms and schedules listed above would have to be revised to reflect the new deduction.

The tax forms and publications for 2007 and 2010 would have to be updated to reflect the increasing percentage of qualified production activities income taken into account beginning in those years.

Programming changes would be required to reflect the new 10 line form, the two additional lines on the above forms and schedules, and the changing percentages. Currently, the IRS tax computation programs are updated annually to incorporate mandated inflation adjustments. Any programming changes necessitated by the provision would be included during that process.

The following 2005 publications, among others, would have to be revised to cover the new deduction, adding 3 to 6 pages to each.

1. Publication 225 (farmers);
2. Publication 334 (small business tax guide);
3. Publication 541 (corporations);
4. Publication 542 (partnerships); and
5. Publication 535 (business expenses).

Training materials and the Internal Revenue Manual would have to be revised to reflect the new deduction.

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## MERRICK LITTLE LEAGUE BASEBALL

### HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. KING of New York. Mr. Speaker, I rise today to congratulate the Merrick Little League Baseball Team as our New York State Champions. These athletes should be very proud of this enormous accomplishment. I know I share in the pride of their parents, coaches and residents of Merrick.

In fact, I would like to recognize and honor the following players who will certainly be ranked the best in the New York State Little League: Louis Eiler, John Eyerman, Chad Fuschillo, Zachary Goldstein, Frankie Leavey, Jordan Leopold, Alex Ras, Robert Rosen, Brandon Serota, Noah Shulman, and Thomas Viverto.

In addition, I want to extend special recognition to the Merrick Little League Coaches Robert Ras and Michael Serota, as well as Manager Jason Shulman.

On behalf of myself and the United States House of Representatives I congratulate the Merrick Little League Baseball Team on this wonderful achievement.

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## SIMMONS AMENDMENT TO H.R. 4548

### HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. KIRK. Mr. Speaker, on June 23, 2004 during the debate of the Simmons amendment to H.R. 4548, the Intelligence Authorization Act for fiscal year 2005, I was misquoted in the CONGRESSIONAL RECORD. My statement should have read:

Mr. Chairman, I rise in support of the Simmons amendment. Unlike some other amendments in this bill that are offered for partisan advantage, this amendment is offered by a former CIA officer with detailed knowledge of how the U.S. intelligence community works. To my knowledge, there are only three current Members of Congress who worked with the CIA: our chairman, the gentleman from Florida (Mr. GOSS), the author of this amendment; the gentleman from Connecticut (Mr. SIMMONS); and me, who was detailed to the CIA from navy intelligence.

This amendment seeks to change our intelligence culture to become more effective in the age of the Internet. Today, every two-bit terror organization in the world has a Web site broadcasting information on its activities. Internet news, political parties, and foreign government sites all offer new material to our intelligence community.

For years in the cold war, our enemies collected open-source data on us, but we were forced to collect secret data on them. That is now changing. There is a wealth of open-source data on our adversaries. Every analyst in the community should be encouraged to use as much current and accurate open-source data as possible; and I applaud the gentleman, who knows the CIA so well, for offering this amendment to keep our culture up to date with the current technology.

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## THANK YOU, STAFF SERGEANT CHRISTOPHER B. WILSON

### HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. CANTOR. Mr. Speaker, on behalf of a grateful nation and the citizens of the Seventh District of the Commonwealth of Virginia, I would like to personally thank Staff Sergeant Christopher B. Wilson for his honorable service to the Armed Forces of the United States of America.

I celebrate his return from service abroad, and this country will forever be grateful for his leadership, unwavering dedication to the mission, and the bravery he demonstrated each day in the face of danger. Staff Sergeant Wilson, a proud member of the Virginia National Guard's 229th Military Police Company, returned home to his family and friends in April of 2004. He served two tours of duty defending our homeland and liberating the people of Iraq. He defended our nation's capital during Operation Noble Eagle. Again he answered our nation's call-to-arms, spending 14 months in the Middle East during Operation Iraqi Freedom.

We will never forget his service as he has set an enduring example for all Americans. His service is a perfect model for all men and women in uniform who wage the daily war on terror. His family and community, the American Military, and the United States of America should be proud of his service.

His actions are consistent with the finest traditions of military service and reflect great credit on the Commonwealth of Virginia and the United States of America. Staff Sergeant Christopher B. Wilson, I again thank you for your selfless service and welcome you home.

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## HONORING THE CONTRIBUTION OF COMMUNITY HEALTH CENTERS

### HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. GRIJALVA. Mr. Speaker, community health centers (CHCs) are at the forefront of the noble endeavor to provide quality health care to our nation's most underserved communities. Nearly 900 CHCs throughout the country treat more than 12 million patients who are typically low-income, uninsured, and disproportionately affected by chronic diseases such as diabetes. Ninety percent of patients live at or below 200% of the federal poverty level, and nearly half (5 million) lack health insurance. CHC patients are predominantly women, who require gynecologic and obstetric care, as well as pediatric care for their children. CHC patients are also ethnically and linguistically diverse—with nearly one-third whose native tongue is not English.

Not only are many CHCs the sole source of health care in the underserved communities where they operate, but they are also the sole providers of other crucial services such as dental care, mental health counseling, substance abuse treatment, and assistance to domestic violence victims. In my state, Arizona, CHCs service about 350,000 people in 85 neighborhoods—from densely populated urban centers to far-flung rural towns and tribal communities deep in desert locales, miles away from the nearest community. Last year, nearly 1.5 million visits were made to Arizona's CHCs.

Clearly, health centers save our health care system an untold amount of money by treating patients who, due to lack of access and finances, would otherwise end up in the emergency room needing intensive and expensive treatment. Yet, CHCs struggle to generate adequate revenues to maintain their operations. They do not pocket any of the savings they bring to the system, which are instead transferred by hospitals and private physicians. And while the latter can absorb losses from treating uninsured patients due to their high percentage of privately insured patients, CHCs receive the majority of their reimbursement from Medicaid, which accounts for 36% of all their revenues. Federal grants make up the second largest source of funding, at 22%. By contrast, only six percent of CHC revenues come from reimbursements of private insurers.

This year, the House allotted $1.84 billion to the federal CHC direct grant program in the FY 2005 Labor, HHS and Education appropriations bill. Although this is a welcome increase from the federal government's funding of $1.57 billion for FY 2004, I am disappointed that the Health Community Access Program was eliminated. Without Medicaid, however, CHCs would collapse. Many are already suffering from inadequate or irregular Medicaid funding, as states slash their budget expenditures and seek cost-saving Medicaid waivers that, for instance, allow them to cap the number of enrollees. To empower CHCs to function at their full potential, we must ensure that the Medicaid program is secure and well-funded. The federal government has a moral obligation to support the life-saving work of community health centers.

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## ON THE PASSING OF RUNNING LEGEND, JOHNNY KELLEY

### HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. DELAHUNT. Mr. Speaker, there are few athletes whose names evoke instant recognition and respect with their sport. Johnny Kelley was such a man. Dubbed the "Runner of the Century," he was a three time Olympic athlete, he ran the Boston Marathon 58 times (winning it twice) and was a frequent participant in the Cape Cod Marathon and Falmouth Road Race. A 1999 inductee in the Running Hall of Fame, Kelley carried the Olympic torch and served as a goodwill ambassador for the sport he so loved. He ran with greats like Jesse Owens and Stylianos Kyriakides.

Johnny Kelley was one of the Commonwealth's favorite sons—and in his time, a living legend.

His passing at the age of 97, means that for generations of Bay Staters a familiar figure will not be at this year's Boston Marathon serving as Grand Marshal. But his inspiring story will live on. On the course, at the base of the third hill in Newton, a statue depicts a 27-year-old Kelley winning in 1935 and clasping hands with an older Kelley finishing in 1991 at 83. A fitting tribute to a man that reminded us all that the spirit of competition isn't just for the young, but the young at heart.

I commend to my colleagues the following Cape Cod Times commentary on the passing of this truly great American.

[From the Cape Cod Times]

TWO-TIME BOSTON MARATHON CHAMP JOHNNY KELLEY DEAD AT 97

(By Bill Higgins)

Johnny Kelley, one of the most celebrated and decorated distance runners ever, and a name synonymous with the rich history of the Boston Marathon, died Wednesday night. He was 97.

Kelley won Boston twice and was woven into the fabric of the event by running the race 61 times, finishing the 26.2 miles from Hopkinton to Boston 58 times.

Kelley last ran Boston in 1992 at the age of 84 and then presided over the race as its grand marshal. His impact on the marathon was such that there is a statue of him on the course with two Kelleys depicted, one young, one old, running hand-in-hand across the finish line.

Kelley died only hours after leaving his home in East Dennis and moving to the Windsor Skilled Nursing and Rehabilitation Center in South Yarmouth.

Kelley was a member of three Halls of Fame and a member of three U.S. Olympic teams. He was inducted into the USA Track and Field Hall of Fame in 1980, the first marathoner so honored. The selection committee waived the requirement stipulating that an athlete be retired for at least five years because, they reasoned, Kelley would never retire from running.

Runner's World magazine named Kelley its "Runner of the Century" for his contributions to the sport.

"Johnny was an icon for all of running, not only the Boston Marathon," said Guy L. Morse III of Centerville, executive director of the Boston Athletic Association, the race's organizer. "He preached his gospel of health and fitness and was an inspiration to everyone. 'Young at Heart'; wasn't just his favorite song or the title of his book. It was the way he lived."

Born Sept. 6, 1907, John Adelbert Kelley was the oldest of five boys and five girls growing up in Medford. He ran track first at Medford High School, and later at Arlington High School after the family moved to the nearby town.

Kelley ran his first Boston in 1928 and, ironically, dropped out. He failed to finish again in 1932, but he finally got the hang of the marathon. He won his first Boston in 1935 and won again in 1945.

He also finished second seven times and one of Boston's famous landmarks, "Heartbreak Hill," was named for Kelley. In 1936 Kelley, thinking that race leader Ellison "Tarzan" Brown had exhausted himself by the last of a series of hills in Newton around 20 miles, patted Brown on the back while taking the lead. Incensed by this gesture, Brown soon regained the lead and went on to win. Kelley, heartbroken, faded to fifth.

Kelley finished 18th in the marathon at the 1936 Berlin Olympics. He made the Olympic team again in 1940, but the games were canceled because of World War II. In the 1948 London Olympics, he finished 21st at age 40.

In 1942, Kelley's wife of three years, Mary, died of cancer and he was soon drafted into the U.S. Army. Private John Kelley came up from Alabama's Fort McClellan for the 1943 Boston Marathon, where his time of 2:30:00, his fastest ever at Boston, left him second again.

Another second place followed in 1944. But in 1945, a decade after his first win in Boston, Kelley won again at 37 in 2:30:40.

In 1993, the statue "Young at Heart" was dedicated in honor of Kelley at the base of Heartbreak Hill. The statue depicts a 27-year-old Kelley winning in 1935 and clasping hands with an older Kelley finishing in 1991 at 83.

"I've had all kinds of citations and awards, but this is just unbelievable," Kelley said at the dedication.

"I've had a love affair with the marathon all my life," said Kelley, "and now, I guess, this means I'll always be a part of it."

Each Memorial Day weekend, races are held in Kelley's honor in Hyannis, with proceeds benefiting Cape Cod Hospital, his favorite charity.

Bill Rodgers, a four-time Boston Marathon champion, always called Kelley one of the greatest athletes of the 20th century.

"When you think about it, who has done as much as John?" Rodgers said. "Some people say Jesse Owens or Jim Thorpe were the greatest ever, but for me, it's Johnny Kelley. Everyone makes lists for the best this, the greatest that. Johnny's on mine. He's my hero."

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## SPECIAL OLYMPICS SPORT AND EMPOWERMENT ACT OF 2004

SPEECH OF

### HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Mr. LATHAM. Mr. Speaker, today I rise in strong support of this legislation honoring Special Olympics. I thank my good friend the Majority Whip for introducing this legislation. For over thirty years Special Olympics has played an important role in the lives of some very special individuals with intellectual disabilities. Special Olympics offer a platform of personal improvement while also fostering a spirit of camaraderie in competition.

Competition and sports teach us very important lessons about dedication, determination, responsibility, pride and team work or self-sufficiency, as the case may be. I believe that many of my colleagues in this body learned formative lessons through athletic competition, and I believe that—as the Special Olympics philosophy also articulates—lessons learned in sport and competition shape productive citizens.

In recognizing Special Olympics, I believe that we must also recognize the Shriver family for their role in envisioning the games and allowing them to become what they are today. According to the Special Olympics Web site, the Games have grown from the original 35 participants at Camp Shriver in Rockville, Maryland into a 1.4 million athlete, multi-national movement.

The bill we are considering today is entitled the Special Olympics Sport and Empowerment Act. The title is fitting because of the bill's four purposes: providing support to Special Olympics to increase athlete participation and public awareness, dispelling negative stereotypes about people with intellectual disabilities, building athlete and family involvement through sport, and promoting the gifts of people with intellectual disabilities.

As a long time supporter of Special Olympics, I am honored to be a cosponsor of this legislation. I am also pleased that Ames, Iowa will be a direct beneficiary of this bill. The inaugural Special Olympics U.S. National Games will be held in my district in Ames, Iowa. This tremendous event will take place from July 3–9, 2006 and is expected to bring 4,000 athletes from all fifty states, over 1,000 coaches, and 9,000 family members and friends to the Ames area. Volunteers are expected to number nearly 10,000.

I believe that this forward looking bill is very worthy of our support and I would ask my colleagues to join me in honoring Special Olympics.

## THETA TAU PROFESSIONAL ENGINEERING FRATERNITY

### HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. STEARNS. Mr. Speaker, the Theta Tau Professional Engineering Fraternity was founded at the University of Minnesota in 1904 and is the largest, as well as the oldest, professional engineering fraternity. Theta Tau's purpose is to develop and maintain a high standard of professional interest among its members, and to unite them in a strong fraternal fellowship. Over the past one hundred years, Theta Tau has initiated 30,000 members into a lifetime of brotherhood and 83 have been inducted into the Theta Tau Alumni Hall of Fame for contributions to the Fraternity, and their profession.

I am honored to be one of the brothers of Theta Tau Professional Engineering Fraternity. This year we are celebrating our Fraternity's Centennial Anniversary. I would like to congratulate all my brothers of the Theta Tau fraternity, and the fraternity itself for being truly, the Nation's oldest, and still foremost Fraternity for Engineers.

## WTO PROCEEDINGS REGARDING AIRBUS SUBSIDIES

### HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. DREIER. Mr. Speaker, I would like to commend Ambassador Zoellick and President Bush for their decisive steps to bring about an end to the European Union's longstanding practice of directly subsidizing their only large civil aircraft company. By artificially propping up Airbus for decades, the EU has distorted the international market and undercut the competitiveness of U.S. businesses and workers. Today's announcement that the U.S. will begin World Trade Organization (WTO) dispute settlement proceedings in this matter demonstrates this Administration's commitment to creating a competitive worldwide market for globally engaged companies.

Since 1992, the large commercial aircraft industry has been governed by the U.S.-EU Agreement on Large Civil Aircraft. This agreement was intended to cap and gradually reduce direct government subsidies in the industry, particularly by restricting the amount of launch aid. However, subsidization of Airbus by EU member countries continues to increase. To date, not one Airbus model has been developed without significant government aid. The $15 billion in launch aid alone has in effect taken $35 billion off Airbus's balance sheet.

The start of WTO proceedings in this case follows a months-long effort by Ambassador Zoellick to bring the EU to the negotiating table. The Bush Administration has made it clear that only an agreement that leads to an end of all subsidies will be acceptable, and I fully support the President in this objective.

Restoring full, free and fair competition to the international civil aircraft industry will benefit consumers, businesses, workers and investors on both sides of the Atlantic. I look forward to continuing to work with Ambassador Zoellick in advancing our open trade agenda.

## COMMEMORATING THE BICENTENNIAL ANNIVERSARY OF THE CITY OF FAIRFAX, VIRGINIA

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to commemorate the bicentennial anniversary of the City of Fairfax, Virginia.

Two centuries ago, the Town of Providence, a small community built around the Fairfax County Courthouse, was chartered by an act of the General Assembly. This steadily growing center of business and government was renamed Fairfax in 1874. During the Civil War, Providence was home to Company D, 17th Virginia Infantry, the "Fairfax Rifles" who fought in a skirmish on the courthouse lawn, and witnessed Confederate President Jefferson Davis meeting with his generals at the Willcoxon Tavern.

In 1892, the Town of Fairfax was incorporated. At the beginning of World War II, the Town of Fairfax had a volunteer fire department, central water and sewer systems, a town library and a high school. In 1961, Fairfax was incorporated as an independent city.

Since its humble beginnings as the Town of Providence, the City of Fairfax has blossomed. It is now a vibrant city that has played an important role in Virginia's history.

The City of Fairfax is the home of world-class educational facilities, thriving businesses, and is a diverse and prosperous community. It is one of the economic and intellectual epicenters of the Commonwealth of Virginia.

In 2005, the City of Fairfax will host a year-long celebration with special events to honor this bicentennial anniversary.

This milestone appropriately coincides with the Old Town Fairfax redevelopment project, which began this past July. The improvements made during this project will transform Fairfax into a city for the 21st century and beyond.

Mr. Speaker, in closing, I would like to commend and congratulate the citizens of the City of Fairfax on the occasion of their bicentennial anniversary. I call upon my colleagues to join me in celebrating the history of this great city, and in wishing for its continued prosperity.

## HONORING JOSEPH A. POWER, JR.

### HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. EMANUEL. Mr. Speaker, I would like to extend my warmest congratulations to Joseph A. Power, Jr. of Chicago on being honored by The Illinois Bar Foundation with their 2004 Distinguished Award for Excellence.

The Illinois Bar Foundation was established over fifty years ago with the mission "to serve the people of Illinois by contributing to programs dedicated to the improvement of the administration of justice and to sustain and further enhance the ideals of the legal profession." A founding partner in the law firm of Power Rogers & Smith, Mr. Power is a highly committed and respected trial attorney, who embodies this mission, and is a worthy recipient of this award.

Throughout his career Mr. Power has consistently prided himself in his representation of the 'underdog' who has suffered catastrophic personal injury or loss. He has taken on and won such important cases as representing the family of the victims of an accident caused by an unqualified truck driver.

Mr. Power's prestige within the law community was acknowledged in 1999 when he was named one of the best plaintiff's lawyers in the United States, and one of the top four in Illinois. Mr. Power was later invited to join the Inner Circle of Advocates, an organization that limits its membership to tho top hundred plaintiff's trial lawyers in the United States.

Mr. Power's past recognition serves as testimony to his significance within both the Chicago and national law communities. In 2001, he was honored both as, "Board Member of the Year," by the Little City Foundation and as

"Protector of the Working Man," by the Illinois State Crime Commission. He was appointed by Senator Joseph Biden as a legal adviser to the U.S. Senate Judiciary Committee, and was later appointed by the Illinois Supreme Court to its Rules Committee in 1995, serving as Chair Person from 1996 to 2001.

A native Chicagoan, Mr. Power's importance to Chicago extends beyond the legal community. He has been recognized as Citizen of the Year by the City Club of Chicago, awarded the "Medal of Excellence" by the Loyola University of Chicago Law School, and awarded with the "Medal of Merit" by the Illinois State Bar Association.

Mr. Speaker, I would like to join with the people of Chicago in commending Joseph A. Power, Jr. on his continual strive for excellence within the field of law and congratulate him on this well deserved recognition.

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## NATIONAL ALL SCHEDULES PRESCRIPTION ELECTRONIC REPORTING ACT OF 2004

SPEECH OF

### HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, October 5, 2004*

Mr. MARKEY. Mr. Speaker, I rise to express my strong concerns about the lack of adequate patient privacy protections in H.R. 3015, the National All Schedules Prescription Electronic Reporting Act of 2004.

H.R. 3015 is intended to support states' efforts to prevent the abuse of certain controlled substances through the provision of federal grants to the states for the purpose of establishing and implementing controlled substance monitoring programs. States would use the grants to develop and maintain an electronic database containing information about the type of medication prescribed, quantity dispensed, number of refills, and similar product information. The database also would collect personal information about each patient receiving prescriptions of the covered controlled substances, such as the patient's name, address and telephone number.

The abuse of controlled substances such as oxycontin and amphetamines is a serious problem that plagues many Americans. In response to the seriousness of the problem of prescription drug abuse, more than 20 states, including Massachusetts, have taken steps to prevent such abuse through the establishment of reporting requirements on pharmacists and the creation of drug monitoring databases similar to those contemplated by H.R. 3015. In Massachusetts, for example, pharmacies are required to report the prescriptions they fill for substances in Schedules I and II to the state's department of Public Health.

The problem is that H.R. 3015 does not provide the safeguards that are required to shield patients—the vast majority of whom will be law-abiding citizens receiving medications as part of a legitimate plan of care—from unauthorized disclosure of their personal medical information. Instead, the legislation provides the states broad leeway to establish databases of patients' private medical records with little guidance on the privacy protections that must be in place in order to qualify for the grants.

For example, H.R. 3015 does not require states to limit access to the database information to a finite and identifiable number of individuals. Instead, the bill permits disclosure of individually-identifiable patient information in the database to a wide range of professionals in addition to practitioners and law enforcement personnel, including any local, state or federal "narcotics control, licensure, disciplinary or program authority" who can make specific certifications as to the need for access to the information. Any "agent of another state" with a monitoring program approved by the bill also could gain access to patient records in the database, provided that the purpose of the access is for "implementing the state's controlled substance monitoring program." Such easy access puts the privacy of potentially hundreds of thousands of law-abiding citizens at risk of unauthorized disclosure.

Additional privacy protections that are missing from H.R. 3015 include: a requirement that states receiving grants under the terms of the bill periodically purge the database of information about any particular prescription after a limited amount of time; unambiguous language stipulating that the bill does not override established standards of medical ethics relating to privacy; establishment of specific penalties for unauthorized access and redisclosure; and a provision making clear that the term "minimum necessary" as it relates to the limitation of information to the "minimum necessary" needed to comply with a request for patient data be interpreted as defined under the Amended Privacy Rule.

While I strongly support efforts to prevent the abuse of controlled substances, H.R. 3015 does not contain sufficient guidance to the states on the level of privacy protections that they must provide in the creation and maintenance of the databases authorized under the legislation. The potential for the invasion of patient privacy resulting from such databases is not merely theoretical. The New York Times reported on October 1, 2004 that confidential records of nearly 4,000 abused and foster children in Central Florida were available to the public on the Internet for at least four months because of a security breach in a child welfare computer system. The records included the children's names, photographs, Social Security numbers, case histories and locations of the foster homes they were in, and were accessible on a Web site of a private children's agency under contract with the Department of Children and Families. I am including a copy of this article for inclusion in the Record.

Now that H.R. 3015 has been approved by the House, I urge the Senate to strengthen the privacy provisions in the legislation so that the important goal of preventing prescription drug abuse can be advanced without sacrificing the privacy of law-abiding patients.

[From the New York Times, Oct. 1, 2004]

#### CONFIDENTIALITY FOR FOSTER CHILDREN IS BROKEN

(By Terry Aguayo)

MIAMI, Sept. 30.—Confidential records of nearly 4,000 abused and foster children in Central Florida were available to the public on the Internet for at least four months because of a security breach in a child welfare computer system, the Department of Children and Families said on Thursday.

The records included the children's names, photographs, Social Security numbers, case histories and locations of the foster homes they were in, and were accessible on the Web site of Kids Central, a private children's agency under contract with the Department of Children and Families, the state's child welfare agency.

In April or May, Kids Central began using a computer system designed to let private caseworkers review state child welfare records through the Internet, said to Janice Johnson, chief executive of Kids Central in Ocala. Although a user name and a password were needed to reach the records, some passwords and user names became available online in unrestricted files created when caseworkers sought technical help with the system.

"Confidentiality is critical," said Don Thomas, district administrator for the Department of Children and Families in Central Florida. "If these kids are in the child welfare system to begin with, they have a far from ideal life, and if their personal information is available to those who don't have to know, it violates their privacy."

Department administrators ordered the Web site shut down on Wednesday after a reporter for The Miami Herald, which first reported the problem, informed them of the flaw. It was back up Thursday morning after the security issues were resolved, Mr. Thomas said.

Mr. Thomas said he knew of no one, other than the reporter, who gained access to the records because of the flaw.

"A child's case record is a child's life. It should be treated as sacred," said Richard Wexler, executive director of the National Coalition for Child Protection Reform and a strong critic of the department. "Given the kind of information, I think there is a clear danger, particularly since the locations of these children were made available to anyone."

The Department of Children and Families has been afflicted by numerous problems that surfaced after it lost track of a 4-year-old foster child, Rilya Wilson, and did not notice she was missing until 15 months later, in April 2002. She remains unaccounted for. Jerry Regier, the department's secretary, resigned in August as a result of accusations that he and two top aides took favors from contractors.

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## CONGRATULATING TAIWAN ON THEIR NATIONAL DAY OCTOBER 10TH

### HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. HONDA. Mr. Speaker, I rise today to celebrate the anniversary of Taiwan's independence, a day more commonly referred to as Double 10 Day as it falls on October 10. Double 10 Day is a joyous and important day for the Taiwanese people, and I am proud to join the people of Taiwan and President Chen Shui-bian in commemorating the Chinese people's struggle for independence.

Double 10 Day offers those of us in Congress an opportunity to recognize Taiwan's friendship and unwavering alliance with the

United States. This strong alliance is predicated in part on shared values. In fact, Taiwan has nurtured a stable democracy and vibrant economy that encourages the entrepreneurial spirit.

Through its trading relationships, Taiwan has become an economic engine in East Asia and reliable trading partner for the United States. Taiwan is our nation's 8th largest trading partner, underscoring the economic ties so critical to our two nations. In 2003 alone, two-way trade between the United States and Taiwan totaled $49 billion, and for the past 25 years the living standards have steadily risen for the people of Taiwan.

Taiwan's strong relationship with the United States will continue to flourish and grow in the years ahead. In the meantime, I wish to welcome Taiwan ambassador Dr. David Lee to Washington. Dr. Lee has recently replaced former ambassador C.J. Chen, who was an excellent statesman and will be missed by his friends here in Washington, DC. I am confident that Dr. Lee will represent Taiwan well and I look forward to working with him and his very able staff.

Again, Mr. Speaker, I extend my congratulations and best wishes to the people of Taiwan on the occasion of their National Day this October 10.

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## MARGARET A. PERRY

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. KILDEE. Mr. Speaker, I rise before you today to recognize an outstanding community leader, Margaret A. Perry of Mt. Morris, Michigan. Margaret Perry will be retiring from her post as Mt. Morris Charter Township Trustee after 16 years of commendable service and dedication. The township along with family and friends will honor Ms. Perry during a "Sweet 16 Retirement" celebration on October 23, 2004 at the Ramada Inn and Conference Center in Flint, Michigan.

Margaret Perry was born in Athens, Georgia. She has been a resident of Genesee County for 50 years and a Mt. Morris Township resident for 40 years. Margaret has been a champion for the community. She began her career in politics in 1988 when she became the 1st African American elected to a township position in Genesee County. She has held the post of Mt. Morris Township Trustee from 1988 to the present. She is a member of the Planning Commission, and Michigan Township Association. She is a member of the Heart of Senior Citizens Services Board. Margaret has been the forerunner in organizing voter registration and get-out-the-vote drives in Genesee County. She is an active member of the A. Philip Randolph Institute (APRI). She served as the Michigan Chapter APRI Vice-President from 1987–2003, Greater Flint Chapter APRI Director of Operations 1986–2002, and Greater Flint Chapter APRI Financial Secretary 1986–2002. As a loyal member of the Democratic Party, Margaret has held many leadership positions. She was 1st Vice Chairperson of the Genesee County Democratic Party from 1986–1992, and elected a delegate to the Democratic National Convention in 1988. She has also served as the field organizer for the Democratic Coordinated Campaign in 1990 and holds a Michigan Democratic Party Certificate on Campaign Organizing. She also held the positions of 7th Congressional District Democratic Black Caucus Fundraising Chairperson and Correspondence Secretary from 1984–1990.

Margaret has dedicated her life to making Mt. Morris Township and Genesee County a better place to live, work and visit. She is retired from her position with Hurley Medical Center as a Laboratory Technical Aide with 25 years of notable service. Aside from being an outstanding leader, Margaret is also devoted to her children and grandchildren, and she credits the love and support of her family for her success.

Mr. Speaker, as a Member of Congress, I ask my colleagues in the 108th Congress to please join me in paying tribute to an outstanding community activist, Margaret A. Perry, for her past and current service and contributions to Genesee County and Mt. Morris Township. I wish her the best in future endeavors.

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## TRIBUTE TO JOHN H. WATSON, INDUCTEE TO ALABAMA BUSINESS HALL OF FAME

### HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. EVERETT. Mr. Speaker, I rise to shine the spotlight on an exemplary Alabamian and resident of the Second Congressional District, Mr. John H. Watson of Dothan, who is being inducted into the Alabama Business Hall of Fame October 7th.

John Watson is well known in the Wiregrass of Southeast Alabama where his name is synonymous with hard work and business success. His life reads like a classic American success story. He started early his tradition of entrepreneurship by delivering ice and performing carpentry while still in grade school in the 1950's.

John was the first person in his family to attend college. He turned down a scholarship at the University of Alabama in order to avail himself of the superior engineering program at rival Auburn University. He graduated in 1960 with a degree in engineering, putting it to work almost immediately for Uncle Sam as a member of the U.S. Army Corps of Engineers. He proudly served as a second lieutenant in 1961 and 1962 during the Berlin Crisis.

John returned to Dothan and civilian life with his wife, Gail, to set up their home. John quickly made a name for himself as self-starter by joining the staff of Smith's Incorporated of Dothan—the largest mechanical contracting firm in the area. As an engineer, John did what he always did by putting 200 percent into his work. Within four years, he became president of the company at the age of 28. Soon after, he and two fellow employees bought the company.

This success would crown many people's business careers, but not John's. He was just getting started. First, he continued to build and expand Smith's, Inc. to weather future market trends. He then labored to help build a number of other substantial firms including Engineered Systems, Inc., Higgins Electric, Inc., Aladan, Inc., USA Yeast, Inc., South Alabama Brick Company; Southeastern Commercial Financial, LLC, and Twitchell, Inc. He also serves on the board of directors of Regional Financial Corporation.

John's ability to lead is not limited to the business area as he was called to serve as a past member and Chairman of the Alabama Ethics Commission in addition to his many Southeast Alabama volunteer efforts.

I congratulate John in his induction and wish him the very best as he continues to create jobs, serve our community, and inspire future business leaders.

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## HONORING GLORIA VOUTOS, TEXAS 2005 ELEMENTARY TEACHER OF THE YEAR

### HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. SESSIONS. Mr. Speaker, I join my fellow Lone Star State colleagues in congratulating Gloria Voutos of the Richardson Independent School District's (RISD) Spring Valley Elementary School. I am proud to represent Spring Valley Elementary School in the 32nd Congressional District of Texas.

Gloria Voutos was just recently named the Texas Elementary Teacher of the Year for 2005 by the Texas Education Agency. This award is a high distinction for Gloria, as more than 228,000 teachers in Texas are eligible to be chosen for this honor.

Gloria is a proud veteran of the U.S. Air Force, and after serving her country in uniform, she decided to further serve her local community by becoming a teacher. She completed her teacher preparation program at Southern Methodist University that I am also proud to represent. She has pursued a career of being a bilingual instructional specialist, and constantly wins high praise from her colleagues and students.

This is the second consecutive year that the RISD has produced a teacher that has been named a finalist for this year, and I am very delighted that this year Richardson was able to be the home for the winner. I wish Gloria all the best for her continued teaching excellence with the children of the Richardson ISD.

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## LAMENTING THE LOSS OF LIEUTENANT COMMANDER SCOTT ZELLEM

### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. SHUSTER. Mr. Speaker, I rise today to lament the loss of a great American hero and Naval Officer, Lieutenant Commander Scott Zellem. The people of Indiana County and this country lost a dedicated and faithful sailor when a naval training mission turned tragic on August 10th. Scott was laid to rest at Arlington Cemetery on September 7, 2004 with full military honors and after living a life of distinguished service to this great nation.

Founded upon the ideals of liberty and democracy, America is a country unlike any other. As Americans, we cherish freedom and strive for progress with every opportunity. Our men and women of the United States Military are dedicated to this cause and are respected and honored for their service.

Our troops stand resolved to protect our families and our children from danger and attack. To these American military heroes, it is understood that we must do everything possible to win the war against terrorism and keep Americans safe at home.

Scott Zellem was one of the men to which we owe our safety and freedom. His life is one that will be remembered with great admiration and respect. Tonight, October 8, 2004, Scott's high school graduating class of 1987 will join with family, friends, and the community of Indiana County to pay tribute and thank Scott Zellem for his service. Scott answered the call to duty, and for his service, we are a grateful nation. His sacrifice, and the sacrifice of thousands who have fallen before him, will not be forgotten.

## TRIBUTE TO BOB WOLFE

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. SKELTON. Mr. Speaker, it has come to my attention that a long and exceptionally distinguished career has come to an end. Mr. Bob Wolfe, of Sedalia, Missouri, has retired from his position as president of the Sedalia office of Septagon Construction Company.

Mr. Wolfe was born on August 12, 1943, in Cleveland, Ohio. After graduating from Charles F. Brush High School, he attended Iowa State University on a full football scholarship. He graduated in 1965 with a degree in Business Administration.

In 1975, Mr. Wolfe began working at a company called Temple Callison, and in 1977, Mr. Wolfe and his business associate, Tom Davis, bought Temple Callison. At the time, the Temple Callison Company generated 3 million dollars in revenue. In 1982, Mr. Davis and Mr. Wolfe turned the Callison Company into the Septagon Construction Company. The company currently has 5 locations in two states and generates over 100 million dollars. Mr. Wolfe believes in strong principles and values that have helped his business continue to be successful for so many years. He believed that the company had to be a part of the community, and the company needed to be a family of customers and employees for the company to survive and flourish. Mr. Wolfe was president of the entire Septagon Construction Company until 1998, at which time he became president of the company's Sedalia Office.

In addition to his accomplished business career, Mr. Wolfe has been very involved in his community. He has served as a board member, campaign chairman and president of the Sedalia Pettis County United Way. Also, he was a board member, officer and founder of the Ditzfeld Foundation for recovering alcoholics. He has been a member and chairman of the Central Missouri State University College of Business and Economics Advisory Board and has served as a member of the Iowa State University College of Business Advisory Board. He is a member of St. Paul's Lutheran Church, and he has been president of the congregation for three terms.

Mr. Speaker, I know the Members of the House will join me in paying tribute to Mr. Bob Wolfe for his outstanding career and dedication to his community and in wishing him all the best as he enters the next stage of his life with his wife Claudia and his children, Erika and Aaron.

## COMPREHENSIVE PEACE IN SUDAN ACT

SPEECH OF

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Mr. WOLF. Mr. Speaker, I rise in strong support of H.R. 5061 and urge all members to vote for this important legislation.

I would like to thank Representative TOM TANCREDO for introducing this important legislation. I would also like to thank Chairman HYDE and Congressman LANTOS and their staffs for moving this legislation swiftly through committee.

This legislation could not be more timely. Stories and pictures of horrific abuse and suffering in the Darfur region of Sudan are now on our nightly news. Newspapers are running daily stories. I visited Sudan in July and witnessed with my own eyes the horrific conditions.

The world has now awakened to this nightmare and we must do everything in our power to try to stop it.

We must not forget that the conflict in Darfur has been occurring for the last year and a half but that there also has been an ongoing war for the last 20 years between the Government of Sudan and the mostly Christian South.

Millions of lives have been lost. Millions more are shattered and scarred forever.

Sudan has suffered from war crimes and unspeakable human rights abuses. One country, one group of people, should not have to endure so much suffering.

Sudan is not alone. Africa has seen enormous suffering this past decade from the butchery that took place in Sierra Leone to the genocide in Rwanda. We must learn from the past, learn from the mistakes of our own inaction, and mobilize to try to save lives.

Some 50,000 people are already dead in Darfur and more than a million more are at risk. The world must act now.

The United States took a bold move under the leadership of Secretary of State Powell by calling what is occurring in Sudan what it is—a genocide. Unfortunately the international community has been slow to respond.

H.R. 5061 is based on the fact that genocide is now occurring in Darfur and that the Government of Sudan is complicit in this genocide. Significant pressure must be placed on the Government of Sudan to both end the genocide and finalize a comprehensive peace agreement with the South.

Only then will the innocent civilians, who have suffered for so long, be able to begin rebuilding their lives.

This bill immediately imposes sanctions on the Government of Sudan. I think this is sound policy. We are dealing with a government that is committing genocide against its own people, therefore we need to use every possible tool to apply pressure so that it will stop.

H.R. 5061 also outlines multilateral actions to press U.N. countries to apply additional pressure on Sudan, and most importantly provides much-needed humanitarian aid to Darfur and humanitarian and development aid to alleviate suffering in the South.

We are beyond the point of merely warning the Government of Sudan with punitive measures. We must now take action.

The world is watching and rogue regimes in other nations who have the ability to do this to their own people are watching how we respond. Our response to genocide must be firm.

The world will look back on Darfur in 10 years and know that the United States stood firm and the United States stood with the people of Darfur.

I call on every member of Congress to vote in favor of this important legislation. We must send a strong message to the Government of Sudan that the United States will not sit by while they commit genocide.

## HONORING ALL THOSE SERVING NORTHWEST FLORIDA IN THE AFTERMATH OF HURRICANE IVAN

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. MILLER of Florida. Mr. Speaker, I rise today to honor the organizations, businesses, and people who helped the residents of Northwest Florida get back on their feet during Hurricane Ivan's aftermath.

The panhandle of Florida was dealt a difficult hand, as Ivan left no life untouched. Undoubtedly once again, Northwest Floridians have proven their strength during times of devastating destruction and loss.

Returning to our homes to assess the damage, we were reassured that we were not alone and help was on the way. Gulf Power, Escambia River Electric Cooperative, local radio stations and newspapers, the Red Cross, FEMA, Army Corps of Engineers, and the Small Business Administration assisted almost everyone in the community in a variety of ways; from supplying ice, water, and food, to emotional support, the spread of information and monetary funds in the effort to help rebuild. Thanks to these folks, I'm happy to report that the lights are coming back on, bridges are mended, roofs are tarped, businesses are reopening, and naval aviators are training.

As for the Panhandle's future, it's not the character of Northwest Floridians to give up hope. Our communities will continue to unite together, and rebuild our homes and businesses better and stronger. Our military infrastructure will rebuild and Pensacola will remain the Cradle of Naval Aviation. There is no other place in the world like the panhandle of Florida and the residents there recognize that there is no better place to rebuild their lives.

Mr. Speaker, I offer my sincere thanks to all those, near and far, who have given comfort and have helped the residents of Florida's panhandle rebuild their lives.

## CONGRATULATIONS TO TEXAS INSTRUMENTS WORKING MOTHER MAGAZINE'S TOP PLACES TO WORK

### HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. SAM JOHNSON of Texas. Mr. Speaker, congratulations are in order for Texas Instruments. For the Ninth Year in a Row—Working Mother magazine has named Texas Instruments a best place to work.

It's an honor to represent the numerous employees at Texas Instruments who helped make this achievement possible.

Some would consider Texas Instruments a trailblazer in the workplace when it comes to family issues. That's because they are.

In the early 1990's, a small team of employees concerned about work and family issues created the Texas Instruments Work/Life Strategy; an endeavor that has helped shape the company's culture through changing times with outstanding results.

TI champions talented and ambitious women throughout the organization. TI has a number of very active Women's Initiatives that offer a range of speakers and programs to help women achieve their full potential in their careers at TI. Since 1989 representation of women in management job grades has increased over 450 percent.

New mothers receive eight weeks of paid maternity leave at TI, and they have a built-in support network when they return to the job. TI employees can find help and advice with work and personal issues through the LifeWorks resource and referral service. And a Corporate Concierge service can help with everything from party planning, to locating hard-to-find gifts.

TI employees receive discounts at child care centers and have access to back-up care and care for sick children.

TI offers a flexible work environment allowing employees the opportunity to effectively manage their work/life challenges.

Is it any wonder that Texas Instruments is recognized globally as a great place to work—by employees and third parties alike? Congratulations, and I salute all the people at TI who helped make this accomplishment a reality.

## A BILL TO PROVIDE FOR A TAX CREDIT TO AN INDIVIDUAL PURCHASING A GUN SAFE

### HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. HOUGHTON. Mr. Speaker, today I am introducing a bill to provide for an income tax credit relating to the purchase of a gun safe. Experts agree that firearms should be stored unloaded and locked up, with ammunition stored separately. This bill, if enacted, would help protect our children and others due to accidents, suicides, and other acts, all connected with unguarded guns.

The non-refundable credit would amount to 25 percent of the total costs of purchasing, shipping, and installing a gun safe in a taxpayer's residence. The maximum credit would be limited to 25 percent of the total costs up to $1,000, or a total credit of $250.

Over 22 million children in the U.S. live in homes with at least one firearm. A study by the prestigious Rand Corporation found that fewer than 50 percent of American families with firearms stored their firearms safely—unloaded, locked and away from the ammunition. Storing firearms unloaded in a well constructed gun safe with a keyed combination or electronic lock is the most secure method for preventing unauthorized access by children, adolescents and criminals to firearms in a home.

The FBI estimates there are more than 341,000 incidents of firearm theft from private citizens annually. Nearly one-third of these firearms will be used in the commission of another crime. Increasing the use of gun safes with keyed, combination or electronic locks would decrease the number of firearms stolen from homes and used by criminals to intimidate, harm and kill their victims.

There is nothing mandatory about this legislation. The decision to purchase a gun safe remains a personal decision as does a person's decision to take advantage of the tax credit. The legislation is designed to encourage a voluntary act and does not in any way intrude into the American home. I ask your support for this legislation, which would help protect families, especially the children, from untimely deaths due to unguarded guns.

## RECOGNIZING THE EFFORTS OF NORTHERN VIRGINIA RESIDENTS TO BRING PEACE AND SECURITY TO OUR NATION

### HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. MORAN of Virginia. Mr. Speaker, I rise today to recognize the efforts of a group of local elected officials and constituents from my Congressional district to weigh in on our Nation's budgetary priorities. These individuals are all involved in local government and community organizations. They are appealing to President Bush to ensure a viable response to the Iraq conflict and that the Nation's domestic priorities are not shortchanged in the process. They come together to oppose the nation's use of unilateral and preemptive military activity and seek to promote a more peaceable foreign policy. I am also submitting a letter that was sent to President Bush and all Washington area Members of Congress showing their concern on this important issue. Mr. Speaker, I ask you to join me in supporting their commitment to our country and concern for the pressing social needs in communities.

STATEMENT BY WASHINGTON METROPOLITAN AREA ELECTED LOCAL LEADERS TO BE FORWARDED TO PRESIDENT BUSH AND WASHINGTON AREA MEMBERS OF CONGRESS

We are concerned for the effects of the United States' involvement in Iraq on the Washington, D.C. metropolitan area. So far, Congress has appropriated more than $160 billion for the Iraq conflict. These enormous appropriations are causing the Federal deficit to reach dangerous levels. They also will cause reductions in important Federal programs that address transportation, infrastructure, and pressing social needs within the United States. This is happening at a time when serious budget problems are being experienced by every state in the union, including those in the Washington D.C. area.

Local governments already are feeling the effects of Federal and state deficits and cuts to non-defense programs. Local officials are being put in the difficult position of having to either cut needed services to residents or pass the expenses for such services to local taxpayers. Moreover, many analysts believe that the United States' foreign policy actions are strengthening and emboldening terrorist groups, which puts the United States and all of its people—particularly those in the National Capital area—at increased risk. We want to do our part to fight terrorism, but the U.S. must embrace a thoughtful and realistic approach which can garner international support.

We honor and respect the sacrifices, the professionalism, and the courage of our military personnel serving in the Persian Gulf, and are especially mindful of those from the metropolitan Washington area who have been put into conditions of extreme hardship in that area. We hope and pray that they may return safely home.

For all of these reasons, we ask that you move immediately to promote a viable resolution to the Iraq conflict. We further request that you forbid and refrain from funding further unilateral and preemptive military activity, including military strikes on any nation that is not directly threatening the United States.

Your attention to this important matter is greatly appreciated.

## MR. JAMES ADGATE HONORED AS OHIO'S OUTSTANDING OLDER WORKER

### HON. TIM RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. RYAN of Ohio. Mr. Speaker, I rise today to congratulate James R. "Dick" Adgate of Warren, Ohio for receiving Ohio's Outstanding Older Worker Award.

Mr. Adgate was born in 1921. He started working in the 1930's during the Depression at his father's greenhouse where he grew cut flowers and sold them to retail florists in the city. He liked the business but wanted to be on the retail side, so his father built a small shop, Elm Road Florist, in front of the greenhouse. From these beginnings, Mr. Adgate's business grew until he owned and operated, with the help of his wife Betty, a chain of stores throughout the area. He retired in the early 1990's. Soon after he retired, increased competition and changes in the client base made it difficult for the floral shop to compete. Mr. Adgate came out of retirement and took over the business again, working to make it more efficient. He continues to look for new ways to stay competitive.

Mr. Adgate is a veteran of the Coast Guard as well as a member of the Rotary Club, Old Erie Lodge No. 3F and Howland Community Church where he serves as trustee. He also volunteers for Mobile Meals, plays tennis every week, swims and square dances.

Mr. Adgate was honored by the Prime Time Awards Program, a year-long initiative to recognize the tremendous accomplishments of working seniors. The program's goal is to break down the barriers to hiring, training and retaining older workers. Nominations for Outstanding Older Worker are received from across the country and a panel of volunteers in each state selects the most distinguished honoree.

Mr. Speaker, once again I wish to extend my congratulations to Mr. Adgate. I believe that he is an inspiration for all of us and it is with great pride that I honor him for being named Ohio's Outstanding Older Worker.

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## ECONOMIC DEVELOPMENT ADMINISTRATION REAUTHORIZATION ACT OF 2004

SPEECH OF

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Mr. DINGELL. Mr. Speaker, the Economic Development Administration (EDA) provides critical support to distressed communities. Assistance for the productive reuse of abandoned industrial facilities and the redevelopment of brownfields is encouraged by the EDA Reauthorization Act and I agree with this worthy goal.

To the limited extent EDA is involved in funding assessment or cleanup of brownfields sites, the intent of the EDA bill is that grant funds shall only be provided consistent with the "Polluter Pays" principle. When federal funds are provided for assessment or cleanup, it is important to ensure that the costs not be shifted from the polluter to the taxpayer. This principle applies broadly whether the projects are addressed under CERCLA, in the Leaking Underground Storage Tank program under the Solid Waste Disposal Act, or under other environmental laws. For example, in a statement to the Senate Committee on Environment and Public Works on April 28, 2004, David Sampson, Assistant Secretary of Commerce, told the Committee that "EDA is not seeking to in any way relieve a responsible party from liability under CERCLA nor to provide funds to a party to undertake clean-ups required under CERCLA, since to do so would undercut the 'Polluter Pays' principle on which CERCLA was founded."

I intend to follow up on the progress of the EDA brownfields program, and to see that taxpayer funds do not bail out responsible parties. On October 5, 2004, I sent a letter to EDA with the Ranking Member of the Subcommittee on Environment and Hazardous Materials, Representative SOLIS, requesting detailed information on the brownfields cleanup program. A successful brownfields program assists in the redevelopment of abandoned sites with limited contamination. This goal must be achieved without sacrificing environmental protection and without shifting the burden of the cleanup to taxpayers when the polluters can be held accountable.

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## START MAKING A READER TODAY (SMART) READING PROGRAM

### HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. DEFAZIO. Mr. Speaker, as Congress looks for innovative solutions to educate our Nation's children—our next generation of leaders—I'd like to call attention to a nonprofit reading program called SMART: Start Making A Reader Today. SMART is making a measurable difference for Oregon children who are falling behind. It has tremendous potential as a model for the Nation.

SMART's mission is to hook children on reading at an early age. By connecting children with community volunteers for weekly one-on-one reading sessions—and giving each student free books to take home and keep—SMART cultivates a supportive environment where reading skills build quickly and confidence grows just as fast.

Perhaps most importantly, SMART delivers proven results. Independent research shows that children who participate in SMART develop key reading skills faster than their peers, and maintain these gains after leaving the program. In fact, fifth graders who have been in SMART are 60 percent more likely than their peers to reach the state benchmark in reading.

SMART began 12 years ago in eight schools and has since grown to serve more than 11,000 children annually in 31 of Oregon's 36 counties. About 9,000 adults each year volunteer with SMART in more than 260 public elementary schools.

SMART's unique track record of mobilizing whole communities to invest in their local schools has been pivotal to the program's ongoing success. By engaging so many people to make community literacy a priority, SMART is helping to create an educated workforce for the next generation. It is helping Oregon build a solid economic future.

Please join me in making SMART and other proven early reading programs a funding priority this year.

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## IN CELEBRATION OF THE OUTSTANDING TEACHING CAREER OF JULIAN SMITH

### HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. ETHERIDGE. Mr. Speaker, I rise today to praise a great North Carolinian and teacher in the Chatham County public schools, Mr. Julian Smith.

Mr. Smith received a B.S. degree in Agriculture Education from the University of North Carolina in 1965. In July of 1965 he began teaching in the Chatham County Schools where he remains to this day. He augmented his education with a Masters degree in Agriculture Education from North Carolina State University in 1971. This is truly a man who gathers knowledge in order to impart more to his students.

Mr. Smith has taught and continues to teach horticulture and floriculture to Chatham county students. He is well-liked, admired and respected by the students, parents and faculty of Chatham Central High School and throughout the county's schools because he has tremendous knowledge about his field of teaching. He began winning first place awards for Horticulture and Floriculture in 1975 and is still winning. I will submit his list of awards so that Congress can see his many, many awards!

In addition, Mr. Smith has been recognized county-wide by Chatham County public schools as their Teacher of the Year for the school years, 1980–1981, 1981–1982 and 1986–1987. He has been named Chatham County Central High School Teacher of the Year for the school years 1980–1981, 1981–1982, 1986–1987 and 1993–1994. In 1995 he was one of only 6 teachers to be recognized as a National Regional Teacher of the Year.

His principal at Bear Creek Central High School had this high praise for him, "Mr. Smith is one of the educators that will come along once in a lifetime. He is a mentor, and an innovator. He is humble, yet driven to succeed. His students will fondly remember the impact that he made for several years after they leave Chatham Central High School. They will realize that they weren't simply taught the subjects of horticulture and floriculture; they were trained for the real world application of both."

Mr. Speaker, North Carolina is truly blessed to have the abilities and talents of a teacher like Julian Smith teaching and shaping its young minds. I am pleased that Chatham County recognizes the talents of this wonderful teacher, and I am pleased to be able to recognize him in the U.S. House of Representatives.

#### JULIAN SMITH RESUMÉ

HONORS

1997 North Carolina State Outstanding Alumni from Agriculture Education
1995 National Regional Agriculture Teacher of the Year (Six in the U.S.)
1980-1961; 1981-1982; 1986-1987 Chatham County Teacher of the Year
1980–1981; 1981–1982; 1986–1987; 1993–1994 Chatham Central High School Teacher of the Year Tarheel of the Week—Raleigh News & Observer—January, 2000

NORTH CAROLINA STATE FFA TITLES

1965 First Place Tool Identification
1966 First Place Tool Identification
1970 North Carolina State FFA Officer
1971 First Place Parliamentary Procedure
1974 First Place Horticulture
1977 First Place Horticulture
1978 First Place Horticulture
1979 First Place Floriculture & Nursery/Landscape Landscape
1980 First Place Nursery/Landscape
1981 First Place Floriculture
1982 First Place Floriculture and First Place Nursery/Landscape
1983 First Place Floriculture and First Place Nursery/Landscape
1984 First Place Floriculture and First Place Nursery/Landscape
1985 First Place Floriculture and First Place Nursery/Landscape
1986 First Place Floriculture and First Place Nursery/Landscape
1987 First Place in Prepared Public Speaking
1988 First Place Nursery/Landscape
1989 First Place Floriculture and First Place Nursery/Landscape
1990 First Place Floriculture and First Place Nursery/Landscape
1991 Second Place Floriculture and Second Place Nursery/Landscape
1992 First Place Floriculture and First Place Tool Identification
1993 First Place Nursery/Landscape, First Place Tool Identification, First Place in Creed
1994 First Place Floriculture
1995 First Place Floriculture
1996 First Place Floriculture, First Place Nursery/Landscape, First Place Forestry
1997 First Place Floriculture, First Place Nursery/Landscape, First Place Extemporaneous Public Speaking, First Place Tool Identification, Seventh Place Forestry and North Carolina State FFA Officer
1998 First Place Floriculture
1999 First Place Nursery
2000 First Place Tool Identification
2001 First Place Floriculture
2002 First Place Floriculture and First Place Nursery/Landscape
2003 First Place Floriculture
2004 First Place Floriculture and First Place Nursery/Landscape

NATIONAL FFA TITLES:

1974 Tenth Place Horticulture
1977 Fifth Place Horticulture
1978 First Place Horticulture
1979 Ninth Place Floriculture and Nursery/Landscape
1980 Third Place Nursery/Landscape
1981 Second Place Floriculture
1982 Third Place Floriculture and Third Place Nursery/Landscape
1983 Ninth Place Floriculture and Fifth Place Nursery/Landscape
1984 First Place Floriculture and Second Place Nursery/Landscape
1985 First Place Floriculture—students also placed First, Second and Third individually—and First Place Nursery/Landscape
1986 First Place Floriculture and Second Place Nursery/Landscape
1987 Second Place Prepared Public Speaking
1988 Second Place Nursery/Landscape
1989 Second Place Floriculture and First Place Nursery/Landscape
1990 Fifth Place Floriculture and Third Place Nursery/Landscape
1992 First Place Floriculture
1993 First Place Nursery/Landscape
1994 Fifth Place Floriculture
1995 First Place Floriculture
1996 First Place Floriculture and Second Place Nursery/Landscape and Eighth Place Forestry
1997 Second Place Floriculture and First Place Nursery/Landscape (students also placed First, Second and Third individually)
1998 First Place Floriculture (high individual)
1999 First Place Nursery/Landscape
2001 Second Place Floriculture
2002 Fourth Place Floriculture and First Place Nursery/Landscape (top two individuals)
2003 Second Place Floriculture Team
2004 Yet to be determined

## THE "UNITED STATES BOXING COMMISSION ACT"

### HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. STEARNS. Mr. Speaker, today I am introducing legislation to help protect professional boxers throughout our country. I am introducing the "United States Boxing Commission Act" to create a Federal entity responsible for coordinating, implementing, and enforcing uniform standards for the sport of boxing. Currently, the states and tribal organizations regulate professional boxing. Although they have taken great effort to require minimum standards for the sport, uniform enforcement has been a problem.

Congress has enacted legislation to address the sport of boxing twice in the past decade. In 1996, we enacted the Professional Boxing Safety Act. In 2000, we again addressed boxing reform and passed the Muhammad Ali Act. The idea of a Federal Boxing Commission was raised in previous Congresses and it was deemed unnecessary at that time. However, after carefully reviewing the effectiveness of the laws we passed, I am convinced it is now time for a Federal Commission for professional boxing. Despite our previous efforts, enforcement of the law remains an issue and the sport continues to face problems that cannot be addressed by the states. In fact, at a hearing I held in my subcommittee, a current state boxing commissioner testified that the states need the Federal government to be directly involved.

I do not think lightly of creating a new Federal commission. I would typically be reluctant to introduce such a bill because I believe strongly in states' rights, and most of them do an excellent job in regulating boxing. However, the history and nature of the sport provide overwhelming evidence that it only takes one state to lower its standards—usually in the name of money—and undermine the integrity of the sport. More importantly, the safety of a boxer is supposed to be paramount and protected by the state authority. When a state lowers its standards or fails to follow the law, it jeopardizes every boxer's safety.

This legislation is intended to implement changes that are within the Energy and Commerce Committee's jurisdiction and is therefore narrower than what is required to fully address the issues boxers face. It creates the United States Boxing Commission which will have the power and authority to set minimum standards for the states to follow. It will not replace the state regulation, but will work with the states to develop appropriate minimum standards and to ensure their rules and standards are enforced.

As I indicated, I support additional reforms that are necessary to fully address the problems of the sport and protect boxers. While it is my preference to do more, because those reforms are not within the Committee's jurisdiction, I am committed to work with my House colleagues and the Senate to address those concerns and ensure they become Federal law as well.

## CONGRATULATIONS TO MACOMB COMMUNITY COLLEGE ON ITS 50TH ANNIVERSARY

### HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. LEVIN. Mr. Speaker, I rise to congratulate an excellent educational institution in Michigan, Macomb Community College, as it celebrates its 50th anniversary. "Community" is central to the vision of Macomb Community College (MCC), and over its fifty years of service I am confident it has touched nearly every home in Macomb County in one way or another.

MCC was founded as part of a K–14 system and was known as "South Macomb Community." Approximately 84 students attended classes, $2.00 per credit hour, in seventeen basic course areas at night in space borrowed at Lincoln High School. Today its reach extends to six campus sites and outreach centers and it enjoys an annual enrollment of 44,000 students with 1100 courses offered in the day, night, and online.

Every decade has seen expansion and distinction at MCC. In the 1960s their service area was expanded to include the entire county, and its two main campuses, South and Central, became realities so it could serve both, urban and rural areas.

Enrollment continued to climb in the 1970s and, at one point in the 1980s, MCC was the third largest college in the state behind the University of Michigan and Michigan State University. They also added a world-class facility, the Macomb Center for Performing Arts, which now holds nearly 700 events annually, enjoyed by some 260,000 individuals. It was also in the 1980s that a third campus site was added to house police and fire academies, workforce development and training, and continuing education programs.

In the 1990s, the College partnered with nine universities and upper division public and private colleges to launch the University Center where approximately 2500 students could pursue bachelors and masters degrees closer to home. Also in this decade, its fourth campus, the Emergency Services Training Center was constructed as a state-of-the-art training facility for police, fire, first responder, emergency medical and municipal services.

In 2002, MCC partnered with the State of Michigan on the site of the former Army Tank

Plant, after the property was transferred from military to public use, to build its most recent addition, "The Michigan Technical Education Center" (M–TEC) to house the College's comprehensive Workforce Development Institute.

Mr. Speaker, one might say that fifty years ago South Community College planted seeds in borrowed space. Today, those seeds have sprouted throughout the entire County. The residents of Macomb County have indeed been fortunate to have such a progressive institution committed to the educational needs of everyone in the area. The College has been forward-thinking in their approach to the needs of the County and they have been committed to the vision of a "better future for those growing up in the community as well as the community itself."

It has been my pleasure to work closely with MCC in so many important areas, like school-to-work and re-training programs, and to spend time with the students there. I ask my colleagues to join me in thanking all those who have helped build this remarkable institution, and to extend our best wishes for their important endeavors in the future.

## SERVICEMEMBERS AND VETERANS LEGAL PROTECTIONS ACT OF 2004

SPEECH OF

### HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Mrs. DAVIS of California. Mr. Speaker, I rise today to thank my colleagues for acting to protect the benefits of a vulnerable class of America's brave veterans.

Over 100,000 of America's military veterans or their dependents are not able to manage their own finances because of physical or mental disabilities. In these cases, the Department of Veterans' Affairs (VA) appoints a family member, a guardian, or another person to act as a "fiduciary" to protect and manage their monetary payments and VA benefits.

Caring for a dependent veteran involves using the payments the VA sends each month to pay utility bills, buy food, and to meet the other needs on behalf of the veteran. It is a tremendous responsibility.

Last year, during an oversight hearing into the VA's fiduciary program, I learned that some of these veterans are not always cared for by the appointed fiduciary.

In fact, the Inspector General has found cases in which a fiduciary has withheld payments completely for several years—defrauding the veteran out of several thousand dollars.

In my District Office in San Diego, my staff has tried to assist veterans who lost out on their payments only to learn that under current law, the VA does not have the authority to replace the benefits when misuse has occurred.

Because it was our veterans suffering from the lack of oversight, I introduced the Veterans Fiduciary Act of 2004 or H.R. 4023 to provide veterans with protections similar to those recently enacted to protect Social Security beneficiaries. Surely our Nation's veterans also deserve the same protections as Social Security beneficiaries.

H.R. 4032 gives veterans new avenues to recoup their losses if they fall victim to fraud. In addition, the VA will conduct more thorough background checks and will have new authority to take action against fiduciaries who are not fulfilling their obligations.

I am pleased provisions of H.R. 4032 have been included in the servicemembers Legal Protection Act of 2004 or H.R. 4568. I urge my colleagues to support this legislation today.

## MARRIAGE PROTECTION AMENDMENT

SPEECH OF

### HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 30, 2004*

Mr. DELAY. Mr. Speaker, I know some wanted to pick a fight here today, trying to get us to talk about homosexuality and all those kinds of things. We did not talk about them because that is not what this is about. What this is about is marriage and the definition of marriage. Marriage is the most enduring institution in human history—the unique, spiritual bond between one man and one woman. Marriage is a man and woman that can create children. It is the architecture of family and the most successful arrangement ever conceived for the protection and raising of children.

A man provides something that a woman cannot provide, just as a woman provides something that a man cannot provide. Women can be great mothers, but they cannot be fathers. Men can be great fathers, but they cannot be mothers. The reason that one man and one woman are necessary to rear children is so that the children can receive the benefits that a man can give them and that a woman can give them. Boys and girls need men and women, moms and dads bringing into their homes every day the complementary and unique characteristics of their genders.

Marriage is the basic unit of society, the very DNA of civilization, and if that civilization is to endure, marriage must be protected. Societies transmit their values through marriages and the families they create. A man and a woman come together in marriage to create children and rear them and hand down their values to them. Families come together to create communities. And these communities come together to create our nation. The preservation of our values as a nation starts with one man and one woman having children.

If you destroy marriage and people do not get married, several things happen.

First of all, you destroy the responsibility that comes with creating children. If you destroy marriage, men are let off the hook. Men can have the sex without consequences, without commitment, without the responsibility of raising the children. That has happened in our society and societies in Europe and other places. On the other hand, if a man has a commitment to a woman, the mother of his child, then he realizes the responsibility of trying to raise that child. So when you ask the question, what is the harm in destroying marriage, the answer is the harm done to children. Children born out of wedlock are more likely to suffer from a variety of social ills, from dependence on drugs to dropping out of school.

The recent history of our inner cities shows what can happen when fathers don't marry the mothers of their children. We have seen fathers just having many children by many mothers, and leaving these children to mothers and grandmothers and aunts to raise. And then we see the deterioration of their lives because they are raising themselves because their mothers and aunts and grandmothers have to work in order to raise them to pay for the family. These kids, who are often essentially raising themselves, grow up without the values that would be handed down to them if they lived in a stable family of father, mother, and children.

Gang violence can be traced to the pressures that have been put upon marriage and the family. Kids need a mother and father and stable family life, and when they lack these, they look for their identity elsewhere. Gangs can become the substitute for families.

Of course there are great parents raising great children in arrangements outside of marriage. There are wonderful children being raised by gay people. There are wonderful children being raised by single moms. But these arrangements are not the ideal. The ideal remains marriage between one man and one woman.

To those who say that whatever trouble that ideal is in is due in large part to heterosexuals, I wholeheartedly agree. The last four decades, on the whole, have not been good for marriage in America. Take no-fault divorce. Divorce is a pressure against marriage. No-fault divorce undermines marriage.

But I would submit that the rise of no-fault divorce, welfare policies that reward abandonment, the breakdown of the family, and every other challenge to marriage are not reasons to abandon that ideal, but reasons to hold up that ideal higher than ever.

For as much as we may suggest that marriage needs us, in fact we need it!

Society needs children to be raised by their biological, married parents.

This isn't radical or even conservative: it's common sense, affirmed by a vast majority of our countrymen, who support the protection of marriage because they know from their own experiences that without this enduring and beautiful institution, they themselves would be lost.

That is why the cultivation of the ideal family of mother, father, and children—an ideal established by nature, sustained by human experience, and supported by decades of social science—remains a compelling government and societal interest.

Despite the challenges of recent decades, marriage remains absolutely fundamental to our society—too fundamental to allow a few judges to impose a radical redefinition of it over the will of the American people.

But that is exactly what is happening.

So when the Massachusetts Supreme Court redefines marriage out of thin air, we get a little concerned, because we have seen it before.

And we have seen what happens when we don't stand up to activist judges. We did not stand up on the question of abortion, and there have been 45 million children killed, unborn children killed, because we did not stand up to activist judges using the courts to legislate.

Every leader of the groups that are opposing this legislation to protect marriage has announced to the world that they are going to take this to the U.S. Supreme Court. They are already doing it. There are 11 court cases right now. Nebraska has been overturned, Washington state, Massachusetts. There is a huge, huge effort in every state in this union, even though 44 states in this union have laws protecting the definition of marriage.

The opponents of this amendment to protect marriage are after those state constitutions, and when they get at those, or using the full faith and credit clause, they can go to the federal courts, and then it begins. Then the Defense of Marriage Act comes down. Then the United States Supreme Court, who has already signaled that they are going to, through Lawrence v. Texas, redefine marriage in this country, will amend the Constitution and redefine marriage.

We have been left no recourse. Judicial activism does not understand the word "restraint," nor does it respect the consensus opinion of the American people. The courts have forced on us this question of the future of marriage, and this amendment is our only hope of preserving it.

We are starting the effort today. Yes, it may not pass today. I wish it would, but it may not pass today. But this is only the beginning, because this nation will protect marriage. This nation knows the consequences of destroying the definition of marriage as one man and one woman. If we lose today, we will come back. We will take it from here, and we will be back. And we will be back. And we will be back. We will never give up. We will protect marriage in this country.

## THE "FAIR ACCESS TO CLINICAL TRIALS (FACT) ACT"

### HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. MARKEY. Mr. Speaker, I rise today to introduce the Fair Access to Clinical Trials (FACT) Act. This bill is designed to ensure that the public has complete and accurate information about the drugs and devices they use.

Recent revelations in the press and in the oversight hearings conducted by the Energy and Commerce Committee's Oversight and Investigations Subcommittee have raised serious concerns that some companies in the pharmaceutical and medical device industries have failed to properly disclosed important information from the public about the safety of certain drugs or medical devices. For example, there is now evidence that several pediatric anti-depressant trials that produced important new adverse information about the safety of certain drugs were not released to the public. The public is now demanding to know why these trials never saw the light of day. Although much attention has focused on disclosure problems involving the effects of certain anti-depressants on young people, the problem of selective disclosure and publication is not limited to a specific type of drug or scenario—the same concerns exist whether we are talking about drugs to treat depression, heart disease or arthritis, or even a medical device that would be implanted into the human body.

I am sure that some clinical trials do not become part of the medical literature for innocent reasons. But we cannot ignore the possibility that some studies were and continue to be intentionally buried by companies who are worried about the impact of a negative trial on their bottom line. Regardless of the motivation, however, the fact remains that we don't know what trials are currently being conducted, so it is impossible to determine whether the companies and researchers are actually telling us the whole truth about their drugs and devices or whether they are painting a distorted picture of their products by picking and choosing which trials they want to reveal.

This creates two huge problems.

The first is that in order for doctors to make good medical decisions and provide their patients with the best possible care, they need to have access to complete and sound scientific data.

The second is that when people enroll in clinical trials they give up a certain control of their own personal medical decisions, willingly taking experimental drugs and subjecting themselves to potential harm in the belief that their participation in the studies will add to the advancement of medical knowledge and potentially unlock the secrets of disease. But if a researcher or a company that sponsors a trial does not publicize the results, the knowledge gained from putting those participants at risk remains forever buried in some researcher's computer. That information will not be available to doctors, or to other medical researchers, who could use it.

In order to ensure that clinicians have all the information they need in order to make sound medical decisions, uphold the ethical responsibility to patients and protect public health, I am proud to join with the gentleman from California, Mr. WAXMAN, to introduce the Fair Access to Clinical Trials (The FACT Act) a bill to create a mandatory, public, federal registry of all clinical trials.

The FACT act will require researchers to register their clinical trials in a federal registry before starting them and report the results of those trials at the conclusion. The federal database will include both federal-funded and privately-funded clinical trials so that clinicians, patients and researchers will be able to know the universe of clinical trials on a particular drug and have access to the results of those trials. Our bill also establishes strong enforcement mechanisms, including monetary penalties of up to $10,000 per day for manufacturers who refuse to comply.

The registry established under the bill is intended to meet all of the minimum criteria for a trial registry set out by the International Committee of Medical Journal Editors, and will satisfy the American Medical Association's call for the results of all clinical trials to be publicly available to doctors and patients. Our legislation has been endorsed by the New England Journal of Medicine and the Elizabeth Glaser Pediatric AIDS Foundation.

The FACT act will ensure that patients have the tools they need to make informed decisions, maintain the integrity of the medical community, and protect the health of their patients and our families.

I look forward to working with everyone concerned about this important issue so that we end up with a system that preserves a robust system of research and ensures robust system of disclosure.

## PERSONAL EXPLANATION

### HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. NETHERCUTT. Mr. Speaker, I was unavoidably detained due to a prior obligation and missed the following votes. Had I been present I would have voted "yea" on rollcall vote No. 487; "yea" on rollcall vote No. 488; "yea" on rollcall vote No. 489; "yea" on rollcall vote No. 490; "yea" on rollcall vote No. 491; "yea" on rollcall vote No. 492; "no" on rollcall vote No. 493; "no" on rollcall vote No. 494; "yea" on rollcall vote No. 495; "yea" on rollcall vote No. 496; "yea" on rollcall vote No. 497; "yea" on rollcall vote No. 498; "yea" on rollcall vote No. 499; "no" on rollcall vote No. 500; and "yea" on rollcall vote No. 501.

## HONORING DEAN PHYLLIS O'CALLAGHAN AND GEORGETOWN UNIVERSITY'S LIBERAL STUDIES

### HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. VAN HOLLEN. Mr. Speaker, it is with great pleasure that I commend the Liberal Studies Degree Program at Georgetown University, which is celebrating its 30th anniversary. For three decades, this unique and wonderful program has served the Washington DC area by offering bachelors and masters degrees in interdisciplinary liberal arts.

And I am further pleased to commend the person who has headed and guided this unique program for the past 25 years, Associate Dean Phyllis O'Callaghan, a constituent from Chevy Chase, Maryland. As the cochair of the 30th Anniversary Celebration, Chester Gillis, Chairman of the Theology Department and Core Faculty Advisor for Religious Studies in the Liberal Studies Program, stated at the ceremony, the "heart and soul of this enterprise—someone who embodies Liberal Studies at Georgetown and commands national recognition and respect" is Associate Dean Phyllis O'Callaghan. In recognition for her work with this program and for all her accomplishments, Dr. O'Callaghan was awarded the "President's Medal," which is the highest award that Georgetown University can present.

The Liberal Studies Program at Georgetown is truly unique, outstanding and very special. The program was designed to offer most courses in the evenings and on Saturdays, in order to best accommodate the schedules of those who wish to participate in academia while still pursuing professional careers. The majority of students in the Liberal Studies program are "working students," and the program reflects the intellectual curiosity, breadth of interest, and professional experience of these students whose lives and occupations most graduate programs do not address.

The students come from all walks of life. Some are recent college graduates who wish to continue their education by working for a Master's degree. Others work for the government—on the Hill or in the Executive branch. Some are foreign born and are currently working at various embassies or international organizations. This diversity enhances class discussions and enriches the entire program. The professors represent the best Georgetown has to offer. Many teach full-time, but a number also have non-academic careers, which enable them to bring fresh experiences into the classrooms.

Fourteen curricular fields provide concentrations in broad areas of special interest. Instead of focusing on academic disciplines, the courses are designed to reflect the questions and interests these adult students carry in their lives and their occupations. The courses and instructors enable the students to read and reflect on great issues that have concerned, thrilled and disturbed major thinkers and movements in the past and in the present. At the core of these courses are the values humans cherish, debate and that are replete in the liberal arts. The Liberal Studies Program graduate and undergraduate degrees are academically structured, intellectually demanding, and personally enriching carrying into the 21st century the Georgetown-Jesuit tradition of educating the whole person.

Dr. O'Callaghan received her Ph.D. in History from Saint Louis University and then was a Professor, and then Department Chair, at Saint Mary's Notre Dame, where she also was awarded the Outstanding Faculty Award. She is active in the Association of Graduate Liberal Studies Programs and a Member of its Board of Directors. Dr. O'Callaghan helped the program to receive an $85,000 Grant from NEH; and a $1,200,000 Grant for the James Madison Foundation. The author of several articles and editor of two books; A Clashing of Symbols: Method and Meaning in Liberal Studies and Values in Conflict: An Interdisciplinary Approach, she also served at one time as a chief legislative assistant and speechwriter in Congress.

I congratulate Dean Phyllis O'Callaghan and the Liberal Studies Program and wish them success in the years ahead.

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## COMPREHENSIVE PEACE IN SUDAN ACT

SPEECH OF

**HON. JAMES A. LEACH**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Mr. LEACH. Mr. Speaker, since February 2003, over 50,000 deaths have occurred during the conflict in Darfur. The execution of civilians, mass rapes, and the raiding and burning of villages which characterize this conflict have resulted in massive displacement to areas that cannot provide vital sustenance. Of the 1.65 million people that have been displaced, over 200,000 have fled to neighboring Chad with projections that more lives may now be jeopardized by hunger, disease and inadequate shelter than by bullets and clubs.

The President, Secretary of State and Congress, all have formally declared that the tragedy underway in Darfur is genocide. Such deeds can't be considered in the abstract or simply ignored; nor can the legal responsibilities of the U.S. be ducked. Under the Genocide Convention of 1951, to which the U.S. is a party, we have a legal as well as a moral obligation to act.

In contemplating actions, we would be wise to review our failed policies in the 1990s in East Africa. In Somalia, the initial decision to use U.S. armed forces to intervene for humanitarian purposes began as a justifiable, perhaps even noble, exercise of American power. But the chaos associated with an on-going civil war frustrated our ability to provide sustainable support, causing us to choose sides in a conflict for which we had inadequate intelligence and no clear tactical plan. The trauma of becoming engaged in a civil war not of our choosing or clear understanding led to a decision to disengage and a subsequent reluctance to re-engage in East Africa when a neighboring country, Rwanda, became gripped several years later by genocidal forces. Lack of strategic clarity embarrassed Washington in the first instance. Lack of confidence hamstrung decision-makers in the second. Consequently, the world witnessed avoidable tragedies: the massacres of hundreds of thousands of innocents.

The challenge today in Sudan is to accept an obligation to act on the diplomatic and humanitarian front without becoming militarily engaged. The killing and displacement must be stopped, but little could be more counter-productive than a perceived U.S. military intervention against a third Muslim nation at this time.

In this year's presidential race there is a profound debate about whether a U.N. mandate is necessary before America can act militarily. Both major party candidates have properly noted that the U.S. reserves the right to act alone. While each gives different emphasis to the wisdom of receiving international sanction, each also recognizes the preferability, although not necessity, of obtaining international support. What hasn't been discussed is the question of whether the U.S. reserves the right not to engage militarily even if there is a U.N. mandate to act. The answer is clearly yes. We reserve the right not to use force, just as we reserve the right to defend ourselves.

Sudan is a case in point. The U.S. is attempting to nudge the Security Council in a more attentive way, but our emphasis is properly on pressing for African Union rather than U.S. force deployment, with the understanding that we may have to give material and logistic support to African soldiers. Such an approach was well envisioned by the founders of the U.N. Indeed, with the principal exception of the Korean war, the Big Five of the Security Council have traditionally provided the funding for peacekeeping forces, while the troops themselves have generally been drawn from smaller or non-aligned countries, such as Canada, Nigeria and India.

In this context, an operation to bring peace to Darfur should involve many countries and, as the Special Representative to the Secretary General for Sudan Jan Pronk said, be "broad, big, and quick." U.S. focus should be on:

1. Humanitarian assistance. Some aid is already en route, purchased with money diverted from Iraq. More is required. The need is dire and urgent. People of Darfur lack adequate shelter, potable water and health care facilities. They do not expect to see a usable harvest until January 2006.

2. Regional Organizations. To carry out its mission, the African Union needs a broad mandate for at least 3,500 armed and unarmed troops and authority to use force if necessary. As it is, the AU, currently has a limited mandate for a 305-person armed force serving to protect 100 or so unarmed monitors of the April 8th cease fire between the Sudan Liberation Army, the Justice and Equity Movement and government forces.

3. Negotiations. These must be pursued on two fronts. One, to settle the 21-year-old conflict between the North (the government) and the South of Sudan; the other, to bring peace to Darfur. The two situations are interrelated and neither can be credibly brought to a close without the other. An agreement between the North and the South hopefully can provide a framework for a settlement between the rebels and the Sudanese government in Darfur, but progress on the first front should not be a condition to seek progress on the second.

4. Leverage. The U.S. and the U.N. are preparing a list of sanctions to induce the Sudanese government to comply. In the bill before us, H.R. 5061, the President is empowered to freeze Sundanese assets, restrict travel and impose other sanctions. It is a mistake, however, to put the heat solely on the Sudanese government. Pressure must also be applied on the rebels to stop ambushing humanitarian aid convoys.

A strong international approach to Darfur has the prospect of stabilizing a dire situation and serving as a reminder to all governments that sovereignty is not a shield behind which genocidalists can hide. Combating genocide is a world responsibility. With humanitarian aid, support for the AU, a double-pronged negotiating strategy and a carrot-and-stick approach, the prospect that Sudan can move toward greater peace and security for its citizens is promising. But a timely commitment of the international community is key. It has yet to be established.

This resolution is modest but important step in the right direction. I urge its passage.

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## THE UNITED STATES SHOULD IMPROVE AIRPORT PERIMETER SECURITY

**HON. GREGORY W. MEEKS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. MEEKS of New York. Mr. Speaker, since the tragic events of September 11, 2001, anxieties about airport security have increased. Most visible improvements and modifications—such as passenger screening—have already been done. Less visible improvements, particularly in terms of protecting airport perimeters against unauthorized entry, are lagging.

A recent Government Accountability Office (GAO) report found that airport perimeter security has not appreciably improved in the past three years, despite persistent expressions of concern by Congress. The funds provided for these purposes have not been delivered to airports where they are needed.

This report's title tells the whole story: "Aviation Security: Further Steps Needed to Strengthen the Security of Commercial Airport Perimeters and Access Controls." In it, the GAO notes that "through funding of a limited number security enhancements, TSA [the Transportation Security Agency] has helped to improve perimeter and access control security at some airports. However, at the time of our review, TSA had not yet developed a plan to prioritize expenditures to ensure that funds provided have the greatest impact in improving the security of the commercial airport system."

The safety and security of our airports and air passengers are contingent on the priorities established by the TSA and other government agencies.

Congress recognizes this, and in response to the terrorist attacks on our country, it established the Federal Airport Security Capital Fund to finance improvements at U.S. airports. This fund provides $250,000,000 a year to be parcelled out according to a legally-mandated formula by the Secretary of Transportation, in consultation with the Under Secretary for Borders and Transportation at the Department of Homeland Security. Despite this fund's existence, much remains to be done.

In a "report card" published by the Airline Pilots Association, airport perimeter security in the United States was given an overall grade of "D." Based on the judgment of those who have reason to know the situation best, a grade like this is shameful and unacceptable.

Several key airports have been identified as having particular needs for expeditious improvements. These include the four airports administered by the Port Authority of New York and New Jersey (Islip, JFK, LaGuardia, Newark); Chicago O'Hare; BWI; the airports in Allentown, Harrisburg, and Pittsburgh, Pennsylvania; and Birmingham International Airport in Alabama.

In recent months, it has been my privilege to consult with several private-sector experts on airport perimeter security. Dr. Walter Estulin, Philip Allen, and David Brownstein of the New York-based high-technology company, L–3 Communications, have taken time to explain to me how off-the-shelf technology can be used to protect our airports from intruders and infiltrators who can undermine the integrity of our air transportation system. Scientists and engineers from L–3 Communications have examined the problems faced by airports (and, by extension, seaports and inland harbors) and have developed technology that can go a long way toward meeting the security needs of transportation infrastructure. One issue of particular concern is the proliferation of MANPADS—"Man-Portable Air Defense Systems"—or, in a nutshell, shoulder-launched anti-aircraft missiles. In a GAO report published in May 2004, we learn that "MANPADS pose a threat to commercial aircraft for several reasons. First, MANPADS are widely available. . . . The U.S. government estimates that a few thousand MANPADS are outside government controls. . . . Second, the characteristics of MANPADS—their lethality, portability, ease of use and concealment, and relatively low cost (from less than $1,000 to $100,000 each)—make them attractive to terrorists for acquisition and use against commercial aircraft. Third, MANPADS have been successfully used to attack and bring down aircraft." So far, luckily, none of these weapons have been used successfully within the United States. Still, in the "report card" from the Airline Pilots Association, defense against anti-aircraft missiles was given a grade of "F." This is certainly a cause for concern.

There are two actions we can take to address these matters. First, Congress should direct the Secretary of Transportation to better prioritize grants made under his authority under the Federal Airport Security Capital Fund.

Second, we should pass legislation now under consideration, introduced by Senators JAY ROCKEFELLER (D–West Virginia), JOHN MCCAIN (R–Arizona), and ERNEST HOLLINGS (D–South Carolina), called the "Aviation Security Advancement Act" (S. 2393). If passed, this bill would authorize $100,000,000 for the Department of Homeland Security "for airport perimeter security technology, fencing, security contracts, vehicle tagging, and other perimeter security related operations, facilities, and equipment." This sum should be doubled. Surely $200,000,000 is a small price to pay to assure the safety and security of the millions of Americans who travel by air each year.

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## EMBRACE DRUG REIMPORTATION

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. RAHALL. Mr. Speaker, today I ask a very serious question. Why is it, the Cheney-Bush bunch allow us to import foreign made flu vaccines, but won't allow Americans to shop for American made cheaper drugs across our borders?

We all know the importance of getting our flu vaccines every year. The Washington Post reports that last year's flu season was the worst flu season we've had in 4 years, and the flu killed 142 people. As all Americans are aware, there is another flu vaccine crisis in our country.

America's supply of the flu vaccine has practically been cut in half, because the world's second-leading supplier, The Chiron Corp. based in Britain, was shut down because of contamination reported in its batches of the vaccine.

48 million vaccines were due to be shipped before this shutdown. I repeat, 48 million doses of this vaccine were to be imported into this country, to help combat a life-threatening illness.

Mr. Speaker, I speak to address a glaring policy inconsistency on the part of the Cheney-Bush administration.

Why is it, that a long-standing health policy, that is wildly effective and successful, be permitted with respect to one killer, but denied to every other disease?

142 people died from the flu last year, and it causes outrage and action. 250,000 people die from heart attacks before they even get to the hospital each year, and it's accepted as just another statistic.

How many of these 250,000 could have been saved, if only they'd had medicine to lower their cholesterol?

How many of these 250,000 could have been saved, if only they'd been able to afford their medicine?

According to a recent press release from the University of Michigan Health System, nearly half of patients who have a prescription for any of the cholesterol-fighting drugs called statins fail to fill their prescription every time—or stop filling it altogether! The University goes on to say that the higher the prescription cost, the lower the number of prescriptions filled.

Let's ignore, for a moment, that Europe has been importing drugs safely and effectively for over 20 years.

Let us also ignore that countries like Canada, the United Kingdom, Germany, and France also have higher life expectancies and lower child mortality rates than the United States does.

But let us not ignore a new FDA proposal. A proposal that would require customs agents to return all drugs sent from foreign addresses back to their senders.

William Hubbard, a senior associate commissioner at the FDA, told Congress on June 7th, "We need to make a blanket assessment that these drugs are not safe for American consumers and they should be turned back."

Unless, of course, it's the flu vaccine.

And then it's OK if they come from the United Kingdom, as in the case of the Chiron Corp. Or if it comes from the world's largest supplier of the flu vaccine, the French company, Aventis Pasteur.

Yes, there are criticisms about the safety of imported drugs. One might be able to look to this most recent flu vaccine scare and say that this is a perfect example of why we don't import drugs. The safety of the supply could be compromised.

I would say that this is a perfect example of why we should import from countries like Canada or the United Kingdom. They have safeguards in place, just as we do, that protect the integrity of the prescription drug supply.

On August 12th, the acting FDA commissioner Lester Crawford expressed his concern that al-Qaida may attack the supply of drugs coming into this country.

I will tell you that I am JUST AS CONCERNED about the 28 percent of older adults with diabetes who, as reported in the February 2004 issue of Diabetes Care, are going without food or other essentials to pay for their insulin.

Why, in the richest nation on Earth, with this so-called comprehensive new Medicare program, are people going without food to afford their drugs?

Why is the Administration so opposed to a program that would help so many?

So, Mr. Speaker, I urge not only the duly elected Representatives of the citizens in these United States, but also the President to do what is in the best interests of these citizens.

I urge both Congress and the President to embrace prescription drug re-importation and reject the influence of the pharmaceutical companies.

## DISTRICT OF COLUMBIA PERSONAL PROTECTION ACT

SPEECH OF

**HON. SANFORD D. BISHOP, JR.**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 29, 2004*

Mr. BISHOP of Georgia. Mr. Speaker, all Americans know that gun control continues to be a serious subject of debate, right here in the District of Columbia, in the State of Georgia, which I represent, and across this nation. It's an issue of personal safety and of constitutional rights embedded in the fabric of our Nation.

I agree with those who want to restrict criminal access to guns. However, this must be done without compromising the constitutional rights of our law-abiding citizens.

I strongly support the right of law-abiding adults to purchase and own firearms for the protection of their homes and families, collecting, target shooting, and hunting. That's why I have and will continue to oppose any proposal that threatens this basic Second Amendment right.

I realize the concerns of some Americans who, in the wake of school shootings and other heinous illegal acts, call for stricter gun control measures. I understand those concerns. That's why I fully support measures that call for tougher sentences for the illegal use of firearms, to get offenders off the streets and out of our communities. I support stiff sentences of juveniles who use firearms illegally, and I support increasing the maximum penalty for adults who illegally provide those juveniles with firearms. That's how we must keep our schools and communities safe.

Mr. Speaker, tougher gun laws should not infringe on the rights of law-abiding citizens, and Congress has both the authority and the responsibility to ensure that they do not. So, the question before us today is not whether Congress can repeal the District of Columbia's handgun and self-defense bans, it is whether Congress should do so. The U.S. Constitution, the constitutions of 44 States, Federal law, the laws of all 50 States, the vast majority of Georgians and of Americans recognize the right for law abiding citizens to use firearms for protection, and for other legal purposes. Only the District of Columbia prohibits a person from having a firearm assembled and loaded at home, for the purpose of self-defense. I believe that that's wrong. We should pass this bill and allow D.C. residents to protect themselves from crime.

## UNIVERSAL NATIONAL SERVICE ACT OF 2003

SPEECH OF

**HON. RUSH D. HOLT**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, October 5, 2004*

Mr. HOLT. Mr. Speaker, I rise today to talk about a very important subject for the young people of my district and America, the draft. This week, the Congress considered H.R. 163, Universal National Service Act of 2003, which would require every U.S. citizen, and every other person residing in the United States, between the ages of 18 and 26 to perform a two-year period of national service, unless exempted.

Let me make clear, I do not support reinstatement of an active military draft system. Also it is very unlikely there will be a draft in the foreseeable future.

The legal authority for drafting men into the U.S. armed forces expired in 1973. However, the U.S. Selective Service System has been registering 18–25 year-olds on a stand-by basis. These young men could be called for service should an active draft ever be reinstated. Currently, women are not required to register with the U.S. Selective Service.

Young people, as well as their parents, across my district have heard about a draft bill, and these constituents are asking questions about the draft bill and want to find out its status. Congressman RANGEL and U.S. Senator FRITZ HOLLINGS from South Carolina introduced this legislation to reinstate an active draft and extend service requirements to women. I cannot speak for them about their motives behind this legislation, but they certainly do make a fundamental point: if we go to war, all Americans should share in the cost and sacrifice of that war. The authors point out that without a universal draft, this burden falls disproportionately on the shoulders of the poor, the disadvantaged, and minorities, as was the case during the Vietnam War.

Mr. Speaker, H.R. 163 raises important questions about the current composition of U.S. armed forces. For example, Representative RANGEL argues that among 535 Members of Congress, only four have sons or daughters who presently serve in the military.

Yet we have not had a national debate on the draft and we certainly did not have that debate this week. H.R. 163 was not marked up or voted on by any committee here in the House. This bill was added to the suspension calendar of the House reserved for non-controversial items. And yet it is quite controversial.

Mr. Speaker, the war in Iraq—combined with other worldwide deployments in Afghanistan, Korea, and over 140 other countries—has put an enormous strain on our active duty and reserve soldiers. We have seen underpaid, ill-equipped, and overextended American troops fighting in Iraq. More than two-thirds of New Jersey's National Guard will be activated this year. There are hard questions that need to be answered about how we can continue this war, at this pace. We do need to review our commitments overseas and asses our ability to meet them. This bill shows that a national debate on these issues is greatly needed. This week, we did not have that debate. The House leaders simply tried to make a political point, but I hope that this has sown the seeds of the discussion. The nation's military leaders are nearly unanimous in saying that the military can meet its needs better without a draft. None of us here in the House today would be eligible under a potential draft. We are too old. And I would like to see this debate with the input of the young people who are affected by it. I feel strongly that we should all go back to our districts and continue this discussion—but with those who it will be affected by it.

I do not believe that an active military draft system is currently necessary or advisable. More important, the generals and admirals do not believe that a draft is necessary or advisable. I have co-sponsored legislation introduced by Representative ELLEN TAUSCHER to meet military manpower needs by temporarily increasing by 8 percent the end-strength numbers of our all-volunteer armed forces during the next five years and increasing enlistees' pay and benefits accordingly (H.R. 3696). This alternative approach would increase the volunteer numbers of active duty-soldiers gradually over the next five years, thus enabling members of the National Guard and Reserve to rotate out or transition voluntarily into active duty slots with better benefits and equipment.

Mr. Speaker, I have heard from many moms and dads, and I have heard from many students from all across my district who are disturbed by the idea of renewing the draft and I agree with them. We do not need to return to the draft system.

## MENTAL ILLNESS AWARENESS WEEK

**HON. DANNY K. DAVIS**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. DAVIS of Illinois. Mr. Speaker, October 3–9 is Mental Illness Awareness Week. During any one-year period, up to 50 million Americans—more than 22 percent—suffer from a clearly diagnosable mental disorder involving a degree of incapacity that interferes with employment, attendance at school or daily life. Like so many disorders, mental illness does not discriminate and affects every age, ethnic, and socioeconomic group.

During this week, there will be a more visible push in the communities to get the information out about mental illness. There will be booths set up and mental health fairs across our country as a way to reach out to more people. I commend the efforts of organizations and individuals who not only during this week but throughout the year work to help others identify and treat their mental illness.

Unfortunately, their hard work is somewhat stifled when there is not equal health care for mental illness or every person needing psychiatric care does not have access to a psychiatrist of their choice. With one in four adults suffering from a mental illness or substance use disorder in any year, it is likely that every family will feel this impact. Yet, most health plans discriminate by providing less care for mental illness, and by requiring patients and their families to pay more out-of-pocket costs.

Mr. Speaker, Congress needs to correct this disparity. Our constituents should not be penalized because they have a mental illness compared to a physical illness. We should ensure that the mental health system provide a more individualized and holistic approach to care without shame or inequity in coverage. Mental illness is like most physical illnesses; the patient is in need of treatment, support and rehabilitation.

## JEFFERSON HIGH SCHOOL REUNION, YORK, SOUTH CAROLINA

### HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. SPRATT. Mr. Speaker, on the weekend before Labor Day, some four hundred alumni of Jefferson High School gathered for their first reunion since Jefferson closed more than thirty years ago.

Jefferson got its start in a frame school house built for African-American students next to Wesley United Methodist Church on West Jefferson Street in York, South Carolina. From there, Jefferson graduated to a Rosenwald school and became the African-American public school in a racially segregated system Although the system was called "separate but equal," Jefferson never had facilities or teaching materials equal to its counterparts, the white schools that I attended. Used books were passed on from white students, dated and worn. The school district built a new high school for white students in 1950, but left black students to make the best of their old one. The students, teachers, and administrators at Jefferson did just that. They made the most of their circumstances. The students who came back for this Reunion did not dwell on what they lacked at Jefferson High School. They saluted teachers who took a personal interest, believed in them, and encouraged them to excel. They recalled their formidable teams in football and basketball and the musical talent they produced. They recognized the values instilled in them for a lifetime.

When the alumni sat down for a banquet the last night of their reunion, the pride they felt at being "Jeffersonians" was easily felt and well-founded. Among the four hundred attending the dinner, there were graduates who had risen to the highest levels of the Civil Service and become department heads in state government; Ph.D.'s in the sciences and liberal arts; college professors; school teachers, successful entrepreneurs, attorneys; and many more who had distinguished themselves. The banquet speaker, Roberta Wright, symbolized their success. She finished Jefferson and went on to become a Phi Beta Kappa graduate of Fisk University and the University of Michigan School of Law. She made a stirring speech, challenging everyone to do more for the common good.

With the onset of integration in the early 1970s, Jefferson High School came to an end. But the three-day reunion made clear that Jefferson lives on in the lives it made better. Hundreds of the alumni attending attested to better, more productive lives because of what they learned at Jefferson under teachers who cared, encouraged, and challenged.

## IN RECOGNITION OF ADMIRAL THOMAS H. MOORER

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. CONYERS. Mr. Speaker, on February 5 of this year, a legendary American naval hero passed away in Bethesda, Maryland. Admiral Thomas H. Moorer epitomized the finest qualities of dedication and national service. His distinguished naval career spanned 41 years, including service as a naval aviator, as one of the first pilots off the ground during the attack on Pearl Harbor, as a decorated hero of numerous combat missions in the Southwest Pacific and the Battle of Midway, as Commander in Chief of the Pacific Fleet, as commander of NATO's U.S. Atlantic Command and the U.S. Atlantic Fleet, becoming the only officer in the Navy's history to command both our Atlantic and Pacific Fleets, as Chief of Naval Operations, as Chairman of the Joint Chiefs of Staff, and as a tireless advocate for American veterans. Admiral Moorer was instrumental in establishing the United States Navy Memorial on Pennsylvania Avenue. In numerous appearances before Congressional Committees, Admiral Moorer provided valuable testimony on a variety of national security concerns.

Capping this extraordinary career, Admiral Moorer made his final appearance on Capitol Hill on October 22, 2003, as Chairman of the Independent Commission of Inquiry into the 1967 attack on the USS *Liberty*. It is a privilege for me to introduce the Findings of the Independent Commission of Inquiry Into the Israeli Attack on the USS *Liberty* into the CONGRESSIONAL RECORD.

FINDINGS OF THE INDEPENDENT COMMISSION OF INQUIRY INTO THE ISRAELI ATTACK ON THE USS "LIBERTY," THE RECALL OF MILITARY RESCUE SUPPORT AIRCRAFT WHILE THE SHIP WAS UNDER ATTACK, AND THE SUBSEQUENT COVER-UP BY THE UNITED STATES GOVERNMENT

We, the undersigned, having undertaken an independent investigation of Israel's attack on the USS *Liberty*, including eyewitness testimony from surviving crewmembers, a review of naval and other official records, an examination of official statements by the Israeli and American governments, a study of the conclusions of all previous official inquiries, and a consideration of important new evidence and recent statements from individuals having direct knowledge of the attack or the cover up, hereby find the following:

1. That on June 8, 1967, after eight hours of aerial surveillance, Israel launched a two-hour air and naval attack against the USS *Liberty*, the world's most sophisticated intelligence ship, inflicting 34 dead and 172 wounded American servicemen (a casualty rate of seventy percent, in a crew of 294);

2. That the Israeli air attack lasted approximately 25 minutes, during which time unmarked Israeli aircraft dropped napalm canisters on the *Liberty's* bridge, and fired 30mm cannons and rockets into our ship, causing 821 holes, more than 100 of which were rocket-size; survivors estimate 30 or more sorties were flown over the ship by a minimum of 12 attacking Israeli planes which were jamming all five American emergency radio channels;

3. That the torpedo boat attack involved not only the firing of torpedoes, but the machine-gunning of the *Liberty's* firefighters and stretcher-bearers as they struggled to save their ship and crew; the Israeli torpedo boats later returned to machine-gun at close range three of the Liberty's life rafts that had been lowered into the water by survivors to rescue the most seriously wounded;

4. That there is compelling evidence that Israel's attack was a deliberate attempt to destroy an American ship and kill her entire crew; evidence of such intent is supported by statements from Secretary of State Dean Rusk, Undersecretary of State George Ball, former CIA director Richard Helms, former NSA directors Lieutenant General William Odom, USA (Ret.), Admiral Bobby Ray Inman, USN (Ret.), and Marshal Carter; former NSA deputy directors Oliver Kirby and Major General John Morrison, USAF (Ret.); and former Ambassador Dwight Porter, U.S. Ambassador to Lebanon in 1967;

5. That in attacking the USS *Liberty*, Israel committed acts of murder against American servicemen and an act of war against the United States;

6. That fearing conflict with Israel, the White House deliberately prevented the U.S. Navy from coming to the defense of the *Liberty* by recalling Sixth Fleet military rescue support while the ship was under attack; evidence of the recall of rescue aircraft is supported by statements of Captain Joe Tully, Commanding Officer of the aircraft carrier USS *Saratoga*, and Rear Admiral Lawrence Geis, the Sixth Fleet carrier division commander, at the time of the attack; never before in American naval history has a rescue mission been cancelled when an American ship was under attack;

7. That although the *Liberty* was saved from almost certain destruction through the heroic efforts of the ship's Captain, William L. McGonagle (MOH), and his brave crew, surviving crewmembers were later threatened with "court-martial, imprisonment or worse" if they exposed the truth; and were abandoned by their own government;

8. That due to the influence of Israel's powerful supporters in the United States, the White House deliberately covered up the facts of this attack from the American people;

9. That due to continuing pressure by the pro-Israel lobby in the United States, this attack remains the only serious naval incident that has never been thoroughly investigated by Congress; to this day, no surviving crewmember has been permitted to officially and publicly testify about the attack;

10. That there has been an official cover-up without precedent in American naval history; the existence of such a cover-up is now supported by statements of Rear Admiral Merlin Staring, USN (Ret.), former Judge Advocate General of the Navy; and Captain Ward Boston, USN, (Ret.), the chief counsel to the Navy's 1967 Court of Inquiry of the *Liberty* attack;

11. That the truth about Israel's attack and subsequent White House cover-up continues to be officially concealed from the American people to the present day and is a national disgrace;

12. That a danger to our national security exists whenever our elected officials are willing to subordinate American interests to those of any foreign nation, and specifically are unwilling to challenge Israel's interests when they conflict with American interests; this policy, evidenced by the failure to defend the USS *Liberty* and the subsequent official cover-up of the Israeli attack, endangers the safety of Americans and the security of the United States.

Whereupon, we, the undersigned, in order to fulfill our duty to the brave crew of the USS *Liberty* and to all Americans who are asked to serve in our Armed Forces, hereby call upon the Department of the Navy, the Congress of the United States and the American people to immediately take the following actions:

First, That a new Court of Inquiry be convened by the Department of the Navy, operating with Congressional oversight, to take public testimony from surviving crewmembers; and to thoroughly investigate the circumstances of the attack on the USS *Liberty*, with full cooperation from the National Security Agency, the Central Intelligence Agency and the military intelligence services, and to determine Israel's possible motive in launching said attack on a U.S. naval vessel;

Second, That every appropriate committee of the Congress of the United States investigate the actions of the White House and Defense Department that prevented the rescue of the USS *Liberty*, thereafter threatened her surviving officers and men if they exposed the truth, and covered up the true circumstances of the attack from the American people; and

Third, That the eighth day of June of every year be proclaimed to be hereafter known as USS *Liberty* Remembrance Day, in order to commemorate the *Liberty's* heroic crew; and to educate the American people of the danger to our national security inherent in any passionate attachment of our elected officials for any foreign nation.

AFFIDAVIT OF CAPTAIN WARD BOSTON, USN, JAG (RET.), SENIOR COUNSEL TO THE U.S. NAVY COURT OF INQUIRY

For more than 30 years, I have remained silent on the topic of the USS *Liberty*. I am a military man and when orders come in from the Secretary of Defense and President of the United States, I follow them.

However, recent attempts to rewrite history compel me to share the truth.

In June of 1967, while serving as a Captain in the Judge Advocates General Department of the Navy, I was assigned as senior legal counsel for the Navy's Court of Inquiry into the brutal attack on the USS *Liberty*, which had occurred on June 8th. The late Admiral Isaac C. Kidd, president of the Court, and I were given only one week to gather evidence for the Navy's official investigation into the attack. Admiral John S. McCain, Jr., then Commander-in-chief, Naval Forces Europe (CINCUSNAVEUR), at his headquarters in London, had charged Admiral Kidd (in a letter dated June 10, 1967) to "inquire into all the pertinent facts and circumstances leading to and connected with the armed attack: damage resulting therefrom; and deaths of and injuries to Naval personnel." Despite the short amount of time we were given, we gathered a vast amount of evidence, including hours of heartbreaking testimony from the young survivors.

The evidence was clear. Both Admiral Kidd and I believed with certainty that this attack, which killed 34 American sailors and injured 172 others, was a deliberate effort to sink an American ship and murder its entire crew. I am certain that the Israeli pilots that undertook the attack, as well as their superiors who had ordered the attack, were aware that the ship was American.

I saw the flag, which had visibly identified the ship as American, riddled with bullet holes, and heard testimony that made it clear that the Israelis intended there be no survivors. Not only did the Israelis attack the ship with napalm, gunfire, and missiles, Israeli torpedo boats machine-gunned three lifeboats that had been launched in an attempt by the crew to save the most seriously wounded—a war crime.

I am outraged at the efforts of the apologists for Israel in this country to claim that this attack was a case of "mistaken identity." In particular, the recent publication of Jay Cristol's book, The Liberty Incident, twists the facts and misrepresents the views of those of us who investigated the attack. It is Cristol's insidious attempt to whitewash the facts that has pushed me to speak out.

I know from personal conversations I had with Admiral Kidd that President Lyndon Johnson and Secretary of Defense Robert McNamara ordered him to conclude that the attack was a case of "mistaken identity" despite overwhelming evidence to the contrary. Contrary to the misinformation presented by Cristol and others, it is important for the American people to know that it is clear that Israel is responsible for deliberately attacking an American ship and murdering American sailors, whose bereaved shipmates have lived with this egregious conclusion for many years.

COMMONLY ASKED QUESTIONS ABOUT THE USS "LIBERTY"

1. What happened to the USS *Liberty*? The USS *Liberty* was a virtually unarmed American Navy ship that was attacked by Israeli planes and torpedo boats on June 8, 1967.

2. What were the American casualties? 34 American sailors were killed and 172 injured that day, a casualty rate of 70%. This is the highest casualty rate ever inflicted upon a U.S. naval vessel that remained afloat after an attack.

3. What was Israel's explanation for the attack? Israel claimed the attack was "a case of mistaken identity"; that they didn't know it was an American ship.

4. Why would we question that explanation more than 30 years later? The ship's survivors were afraid to speak out in the early years because of threats of "court martial, prison or worse" if they did not remain silent. However, as time passed, they have stepped forward to say the attack was deliberate.

Recently, high government and military officials have suggested that not only was the attack deliberate, but that the US government covered up the incident. Today, an Independent Commission of Inquiry has found that Israel committed "an act of war" against the United States (see Findings of Independent Commission).

In addition, the Navy's chief attorney to the original 1967 military Court of Inquiry has issued a statement that orders to cover up the incident were issued by President Lyndon Johnson and Secretary of Defense Robert McNamara [see Statement of Captain Ward Boston, USN, JAG (Ret.)].

5. Did Israel have reason to believe the USS *Liberty* was an Egyptian ship? Israel says its pilots and torpedo boat commanders confused the USS *Liberty* with the *El Quseir*, an Egyptian ship allegedly firing upon its forces in the Sinai. But there was no Egyptian naval bombardment that day; nor did the *El Quseir* (an unarmed 1920s-era horse carrier out of service in Alexandria) bear any resemblance to the *Liberty*.

6. Isn't it difficult to identify a ship if you're in an airplane? In 1967, the USS *Liberty* was the most sophisticated intelligence ship in the world, with dozens of large antennas, including a large moon-bounce "satellite-dish" mounted on a tall structure near the stern. It may have been one of the most easily identifiable ships of any navy in the world. With a displacement of 10,000 tons, it was four times the size of the antique Egyptian transport it is claimed to have resembled. Freshly painted, the *Liberty* carried large white identification numbers on its bow. Egyptian hull numbers are painted black.

7. Doesn't Israel say that the *Liberty* flew no flag? According to American survivors, a 5-by-8 feet American flag was hoisted early that morning and was flying all day until it was shot away by attacking aircraft. Within several minutes, it was replaced by the giant 7-by-13 feet holiday ensign, which flew for the duration of the attack.

8. Could Israel have thought the ship was in a war zone, acting suspiciously? According to surviving crewmembers, Israeli reconnaissance aircraft closely studied the *Liberty* over an eight-hour period prior to the attack, one flying within two hundred feet of the ship. At all times the *Liberty* was a clearly marked American ship in international waters, proceeding at a speed of only 5 knots.

9. What was the weather like the day of the attack? Weather reports confirm that it was a clear day with unlimited visibility. The Israeli reconnaissance planes could have seen the *Liberty*'s crew sunbathing on the upper decks just before the attack. The flag was flying in a 12-knot breeze for most of the afternoon.

10. Doesn't Israel say they ended the attack the minute they saw someone hoist an American flag? The Israeli attack by combined air and naval forces spanned two hours—as long as the attack on Pearl Harbor. The air attack alone lasted approximately 25 minutes: consisting of more than 30 sorties by approximately 12 separate planes using napalm, cannon, and rockets which left 821 holes in the ship. Following the air attack, three Israeli motor torpedo boats torpedoed the ship, causing a 40′ x 40′ wide hole in her hull, and machine-gunning firefighters and stretcher-bearers attempting to save their ship and crew. More than 3,000 machine-gun bullet holes were later counted on the *Liberty*'s hull. After the attack was thought to have ended, three life rafts were lowered into the water to rescue the most seriously wounded. The Israeli torpedo boats returned and machine-gunned these life rafts at close range. This was followed by the approach of two large Israeli Army assault helicopters filled with armed commandos carrying what appeared to be explosive satchels (they departed after hovering over the ship for several minutes, making no attempt to communicate).

11. Did the *Liberty* send out a distress signal when it was under attack? Throughout the air attack, the *Liberty*'s radio operators found it difficult to transmit a distress signal because the attacking Israeli aircraft jammed all five of the *Liberty*'s American, not Egyptian, emergency radio channels. However, a call for help did reach the U.S. Navy command in the Mediterranean.

12. What was the American response time? Although American carrier-based air support was only 40 minutes away, help did not reach the USS *Liberty* for seventeen hours. Navy

fighters were launched from the aircraft carriers *America* and *Saratoga* while the *Liberty* was under attack. However, they were quickly recalled by the White House. This is the only instance in American naval history where a rescue mission was cancelled when an American ship was under attack.

13. Why would Israel have deliberately attacked an American ship? Israel's motive for launching the attack has never been determined with certainty. This is why an impartial investigation is critical. One hypothesis is that Israel intended to sink the ship (with no survivors) and blame Egypt because this might have brought the United States into the 1967 war. Another hypothesis is that the *Liberty* was gathering intelligence about activities that Israel did not want revealed. Examples might include the massacre of Egyptian prisoners of war that was then occurring in the Sinai, as well as Israel's impending invasion of Syria.

14. Has the incident been investigated in the past? Some people say that there have been "thirteen official investigations" all concluding the attack was a case of mistaken identity. Several were conducted by Israel. Upon examination, however, every one is based upon the conclusions of the original 1967 U.S. Navy Court of Inquiry, which accepted the Israeli version, but which has been exposed and discredited by its chief attorney as a cover-up.

15. Did the surviving crewmembers testify in the other investigations? In not one of these "investigations" were any of the *Liberty*'s surviving crewmembers permitted to publicly testify.

16. Why would the White House prevent the rescue of an American ship? This is, perhaps, the most disturbing question arising out of Israel's attack. It is why there needs to be a thorough investigation of the actions taken by the White House and the Secretary of Defense. Why did they order the recall of the planes that had been sent to rescue the *Liberty*? Why did they order that the survivors be silenced and the true facts be withheld from the American people?

17. What kind of investigation are you calling for? We are calling for a new Court of Inquiry by the Department of the Navy, with congressional oversight, to take public testimony from surviving crewmembers and otherwise thoroughly examine the circumstances of the attack.

18. Why are you calling for a naval—and not a congressional—investigation? We believe this would remove the inquiry from the political pressures traditionally exerted by special interest groups upon individual congressional offices. Fundraising and election pressures have prevented an honest investigation from being conducted for the past 36 years.

19. Why is this significant for the American people 36 years later? We have a duty to the crew of the USS *Liberty*, while the survivors are still alive to testify, and while the perpetrators can be brought to justice. Furthermore, any policies that paralyze our elected leadership to the extent they become unable or unwilling to protect Americans and American interests, endangers not only the safety of all Americans but also the national security of the United States.

20. Doesn't America have a special relationship with Israel? No nation or people should be above the law; nor should American interests be subordinated to the interests of any foreign nation. Those Israelis responsible for ordering the attack and the resulting murder of American sailors must be held accountable for their actions.

THE INDEPENDENT COMMISSION OF INQUIRY

Admiral Thomas H. Moorer, former Chairman, Joint Chiefs of Staff—The distinguished naval career of Admiral Thomas H. Moorer spanned 41 years. Following his Graduation from the Naval Academy in 1933, he became a Navy pilot, a war hero, and a ship's captain. On December 7, 1941, as a naval aviator, Lieutenant Moorer was one of the first pilots off the ground following the attack on Pearl Harbor. A hero of the Battle of Midway, his numerous decorations for valor during WWII include the Silver Star and Purple Heart. In 1957, Moorer was promoted to the rank of Admiral. In 1965, he broke new ground, becoming the only American admiral to have ever commanded both our Atlantic and Pacific Fleets. He later served as Chief of Naval Operations, and Chairman of the Joint Chiefs of Staff. The F-14 Tomcat, the Navy's main fighter for many years, was named for Admiral Moorer. Since his retirement in 1974, Admiral Moorer has served on the boards of many American corporations, and is a tireless advocate for American veterans. Working with Admiral Arleigh Burke (CNO), Admiral Moorer was instrumental in establishing the United States Navy Memorial on Pennsylvania Avenue in Washington, D.C. He is currently Chairman of the Liberty Alliance, an organization dedicated to obtaining an honest investigation of Israel's attack on the USS *Liberty* and the official cover-up that followed.

General of Marines Raymond G. Davis (MOH), former Assistant Commandant of the Marine Corps—General Davis, one of America's most decorated heroes, passed away on September 3, 2003. As a combat veteran of three wars and a dedicated member of the Marine Corps for 34 years, General Davis received the Congressional Medal of Honor—the nation's highest award for valor—as well as the Navy Cross, two Distinguished Service Medals, two Silver Stars, two Legion of Merit awards, the Bronze Star, and the Purple Heart. General Davis was renowned for his exploits in the Pacific during WWII, as a battalion and regimental commander during the Korean War, and as Commanding General of the 3rd Marine Division in Viet Nam. Attaining four-star rank in 1971, Davis served as Assistant Commandant of the Corps before retiring in 1972. A strong proponent of veterans' issues, General Davis served as chairman of the advisory board to the Korean War Veterans Memorial in Washington, D.C., dedicated in 1995. Prior to his death, General Davis served as Vice Chairman of the Liberty Alliance and was a principal member of the Commission of Inquiry into the cover-up of the attack on the USS *Liberty*.

Rear Admiral Merlin Staring, former Judge Advocate General of the Navy—Merlin Staring's distinguished naval career, which spanned nearly 25 years, began as an ensign in December 1941. Among his numerous decorations, Admiral Staring was awarded the Navy Distinguished Service Medal. In June of 1967, Staring served as Staff Legal Officer to Admiral John S. McCain, Jr., the Commander-in-chief, U.S. Naval Forces Europe (CINCUSNAVEUR) in London, which encompassed the Mediterranean, and was assigned to review the record of the Navy Court of Inquiry's investigation into the Israeli attack on the USS *Liberty*. Admiral Staring later served as the Navy's legal advisor to Secretaries of the Navy Paul R. Ignatius and John H. Chafee. Attaining the rank of Rear Admiral in 1972, he was appointed Judge Advocate General of the Navy—the Navy's chief attorney—a position he held through 1975. Currently, Admiral Staring is Treasurer and a director of the Liberty Alliance.

Ambassador James Akins, former U.S. Ambassador to Saudi Arabia—James Akins served his country for 25 years as a distinguished member of the diplomatic corps. From 1963–1965, he served as an attache at the U.S. Embassy in Baghdad, and later as the U.S. Ambassador to Saudi Arabia during the Nixon administration. An internationally respected expert on the Middle East and energy issues, Ambassador Akins has been an active and outspoken proponent for a just resolution of the Arab-Israeli conflict. He is a respected and highly sought speaker and analyst on the Middle East peace process as well as Arab politics in general. Author Jeans-Jacques Servan Schreiber called Ambassador Akins "the westerner who knows the most about the Middle East and has the closest relationship of trust with its leaders." Ambassador Akins is a director of the Liberty Alliance.

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# PAYING TRIBUTE TO MANCEL PAGE

## HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Mancel Page, a dedicated watchmaker from Grand Junction, Colorado. Mancel is retiring at the age of 81 after 40 years in the jewelry business, and I want to take this opportunity to recognize his many years of service to his community before this body of Congress and this Nation.

Mancel came by the jewelry business naturally. His mother's uncle was a jeweler in Germany, and Mancel began taking apart and repairing clocks when he was ten years old. His store, Page Parsons Jewelers, located on the main street of downtown Grand Junction, was founded in 1895 and is one of the oldest businesses in the city. Mancel, grew up repairing clocks and loving sports. He played basketball for his school in Missouri and during the time he served in the military during World War II. Athletics are something outside of work that he still makes time to enjoy.

While in the military Mancel worked at a local jewelry store and then went on to college to study gemology before becoming a certified gemologist. Mancel and his wife Anna moved to Grand Junction in 1950 and bought the jewelry store in 1964. Through the decades Mancel has enjoyed great success. Mancel is also active in Grand Junction community organizations such as the Downtown Development Authority, and the downtown merchant's association that have been instrumental in revitalizing the downtown area to be more customer friendly.

Mr. Speaker, Mancel Page has dedicated 40 years to the jewelry business and his efforts in the Grand Junction community are highly commendable. I am honored to recognize his many years of service before this body of Congress and this Nation. Thank you for all your hard work, Mancel, and I wish you, your wife Anna, and your daughter Peggy all the best in your future endeavors.

## DEMOCRATIC PROGRESS IN KAZAKHSTAN

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**HON. RALPH M. HALL**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HALL. Mr. Speaker, I rise today to commend the Republic of Kazakhstan on its continued—and steady—progress toward building a democracy. In particular, I note the recent parliamentary elections held in Kazakhstan on September 19. While the elections show that Kazakhstan has work to do in order to more fully meet international standards for democratic elections, they were a significant improvement over past elections.

Earlier this year, I was visited by members of the Kazakhstan Embassy. Among other information I learned that Kazakhstan gained its independence in 1991. It held its first multiparty election in 1994. In 1999, the republic conducted parliamentary elections that were widely criticized by the international community. Since that time, Kazakhstan passed a much-improved law on elections, held twelve televised debates, conducted effective voter education, permitted more than 1,000 election observers to monitor the elections, and registered 12 parties—including an opposition party that had been refused registration in prior elections. These are all positive steps forward for Kazakhstan—steps that were unthinkable in past elections. I thanked them for their visit—and assured them that as Chairman of the Energy and Air Quality Subcommittee, I looked forward to working out mutual energy thrusts helpful to both Kazakhstan and the United States.

Mr. Speaker, I would like to highlight to my colleagues an essay published by United Press International on September 25, 2004, and written by Gregory Fossedal, entitled "Outside View: Big progress in Kazakhstan." The essay provides a balanced assessment of the recent Kazakh election.

Unlike many of his colleagues, Mr. Fossedal examines the elections within the context of Kazakhstan's young history. He looks at how far Kazakhstan has come since its independence and how it compares with its neighbors. Moreover, the essay makes a compelling case that, considering Kazakhstan's geographic and demographic position, its steady progress is important to U.S. security.

Mr. Speaker, I urge my colleagues to read this essay and I would like to have the text of this essay placed into the CONGRESSIONAL RECORD following my statement.

[From United Press International, Sept. 25, 2004]

OUTSIDE VIEW: BIG PROGRESS IN KAZAKHAN

(By Gregory Fossedal)

WASHINGTON, DC, Sept. 24 (UPI).—Kazakhstan held national elections on Sunday, prompting comments from a number of outside observers, and all the local opposition, that the vote was a step backwards for democracy. Was it that—or was it just not as much progress as democracy-lovers around the world, including me, might hope for?

To answer that question, we need to decide what Kazakhstan's admittedly sloppy democracy today is being compared to: the Kazakhstan of several years ago, other countries in the region 10 years ago, or Russia, China, Iraq or Florida?

By most of these standards, the country seems to have made mild but steady improvement. Progress, that is to say, motion towards a goal. Furthermore, considering Kazakhstan's geographic and demographic position, it's a steady improvement that's important to U.S. security and democracy in general.

Measuring a democracy's progress at the low end of development is a tricky matter, but Kazakhstan's recent vote appears to have at least two positive signposts.

First, the vote was held, and with numerous international observers. Some of these, especially as covered in the major press, had complaints about both voting mechanics and the social backdrop against which the vote took place—especially including reports of "intimidation" of some voters on Election Day, and the lack of a paper trail from voting machines used by about 20 percent of the voters.

In fact, to an extent, that's the point. Kazakhstan has now held a competitive election, with a largest number of international observers per capita compared to (say) recent votes in Venezuela, Indonesia or the Philippines. Critics can point out flaws, document the ruling party's heavy-handedness, and urge future improvements.

The most balanced report to emerge, by the Organization for Security and Cooperation in Europe, generated Western headlines saying the election "failed the democracy test" (The New York Times) and even was "fraudulent" (The Washington Times). But the report itself noted positive areas of "progress" as against previous Kazakh elections—the relevant unit of comparison.

Professor Frederick Starr of Johns Hopkins, who was in Kazakhstan as an observer, judged the voting to be fundamentally improved over recent Kazakh standards. "Overall . . . the election was "a step forward, not withstanding the imperfections," he said in a statement issued in Astana on Monday. Unfortunately, such views were not widely quoted in the international press.

Second, and more important, if the results hold up, at least one opposition party will be seated in the Kazakh Parliament. This is an important signpost in democratic development—as the evolution of Mexico, the Philippines, Pakistan, Turkey, and other countries shows. Looking back at countries that have completed a successful democratic transition, opposition seating is normally a key inflection point.

This doesn't mean that Kazakhstan will be a full democracy shortly, or even in five or 10 years; the government could always crack down and reverse direction. It is, however, forward motion.

In social terms, Kazakhstan also parallels some of the developments seen in Mexico or the Philippines in the 1980s. Income is surging, the economy has grown at an 8 percent to 12 percent pace each of the last five years. This, in turn, is generating a middle class with greater access to information, and insistence on freedom of expression.

Kazakhstan doesn't enjoy much of a domestic free press, for example. But foreign newspapers and magazines are available in most cities. Mobile telephone usage has more than tripled over five years. In 1997, there were as paltry 15,000 Internet users. This rose to more than 70,000 in 2000, more than 150,000 last year, and probably exceeds 200,000 today.

That's still small for an emerging middle-income country with 16 million people. But of course, every such user has family, friends, and business associates. In emerging democracies, as in Poland in the 1980s, information can spread quickly. As well, Kazakhstan now has a number of independent service providers less amenable to direct government control.

The government has tried to block access to critical news sources at home and abroad. Such efforts, however, are generally doomed to failure unless one goes all the way and imposes direct, government-controlled net access only—something the government has stepped back from doing.

Sergei Duvanov of the Institute for War and Peace Reporting outlined how Kazakhs were able to get around many of the blocks in an interesting 2001 report. As well, President Nazarbaev, stung by international criticism of his efforts to regulate speech, has rescinded a number of the 1998-2000 decrees.

This is not to say that immutable economic or social forces will bring about a full Kazakh democracy no matter what the authorities do. Countries like China, for example, have much wider Internet access and a larger middle class—but still no elections, and no substantial opposition parties.

In Kazakhstan, however, the Internet and other information sources act in combination with independent parties, muddy elections—but elections nevertheless—and what should be a parliamentary opposition. And the government has moved gradually (tortuously gradually; perhaps) towards more freedom; not less, since the country achieved independence in 1991.

The election itself raised several problems. For example, a Monday item in The New York Times, "Intimidation Alleged in Vote in Kazakhstan," starts with a quote harshly condemning the elections from Dos Kushyn, who is described as "the director of the Network of Independent Monitors," which placed 2,000 observers around the country.

This caught the attention of at least one seasoned Kazakh observer who sent me a number of pre-election clips referring to approximately 1,000 accredited election observers in the country—total, from all outside groups. How could one fellow, running an organization never mentioned before, have 2,000 observers?

It turns out that Dos Kushyn is an opposition figure and whatever 2,000 "observers" he fielded, few were accredited. This doesn't mean their opinions should be dismissed. But neither should his complaints be taken at face value, still less as coming from a wholly disinterested group.

Most Western press quoted only Kazakh officials defending the election or putting it in context. In other words, they presented criticism from independent sources, and praise only from the government, whose motives are likely to be questioned by any skeptical reader. What they didn't do was refer to the numerous independent observers, some cited above, who said that on balance, the election didn't meet Western standards—but was an improvement.

The government also used voting machines, which are, indeed, a problem—especially given that the computers Kazakhstan deployed, like some of those coming into use in a number of U.S. states, left no "paper trail." This is not a best practice. One can sympathize, however, with the government's decision to go with expensive, high-tech systems from the West, thinking this would buy some credibility.

The United States—which in contrast to Kazakhstan is allowing a total of 20 (that's right, 20) independent observers for its 2004 vote—should be a little reticent about raising this complaint.

Still less should U.S. policy aim at punishing the country with economic aid restraints and sanctions, as some in Congress have proposed.

Unlike other countries in what one observer has called "the scud belt," Kazakhstan doesn't need piles of aid (Turkey, Afghanistan, Iraq) to hold votes or stay on the democratic path. It hasn't built or tried to build nuclear weapons (Pakistan, India, China). It seems, knock on wood, to be moving the right way—as opposed to Iran, Saudi Arabia, and others.

This is said not to criticize the other countries mentioned, but to point out that the Kazakhs are building democracy quietly and by tugging their own bootstraps, and without evident imperial ambitions or terrorist-nationalist resentments.

Kazakhstan is an important potential ally to the United States, Russia, and its neighbors in the "war on terror." It's also a potential bulwark for the faintly democratic tide among countries with large (about 45 percent) Muslim populations. There is a prospect of a ring of democracies on the borders of China and Iran, the better to raise the heat on those undemocratic states. And large Muslim-population states—Turkey, Indonesia, the Philippines, Mongolia, and potentially Iraq and Afghanistan—serve as examples and proof that Islam need not be anti-democratic.

Thus Kazakhstan is moving in a democratic direction—too slowly, but not going the wrong way. The right response for friends of democracy is to offer encouragement. If matters reverse, it's time for some mild sticks. Working slowly by contrast, should bring soft applause and some small carrots.

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## HONORING CHIEF RICHARD STEINEL, JR.

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Chief Richard Steinel, Jr., for more than 30 years of outstanding public service on the police force. He is being honored today, October 8, 2004, at a retirement party in Union City, New Jersey.

Chief Steinel began his career in 1974 as a patrolman in the Union City Police Department where he worked with the Safe and Clean Neighborhood Program. He later spent time working for the Port Authority of New York and New Jersey before returning to Union City and advancing through the ranks of Sergeant, Lieutenant, and, in 1992, Captain of Police. After years of quality service as a Captain, he was promoted to Deputy Chief of Police, a position he held for the rest of his time on the force.

Earning the respect and admiration of his colleagues for his reputation for fairness, Chief Steinel was especially successful in matters concerning domestic violence enforcement and education. In addition to his police service, he was a guest lecturer at universities and was a member of the State Attorney General's Criminal Justice Training Staff. An accomplished law enforcement officer, Chief Steinel was the first person from Union City to attend the FBI National Academy in 40 years.

Continuing a long-standing family tradition of police work, Chief Steinel joined his great-grandfather, grandfather, father (Captain Richard J. Steinel, Sr.), and uncle in their proud service to the community.

Today, I ask my colleagues to join me in honoring Chief Richard Steinel, Jr., for his years of dedicated public service. His strong leadership and commitment to improving law enforcement and safety has benefited the lives of the police force and the citizens of New Jersey.

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## TRIBUTE TO STEPHEN K. GOYA ON THE OCCASION OF HIS RETIREMENT AFTER 31 YEARS OF SERVICE WITH THE CALIFORNIA DEPARTMENT OF CORRECTIONS

### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. CALVERT. Mr. Speaker, I rise today to recognize and honor Stephen K. Goya for his 31 years of dedicated service with the California Department of Corrections, Parole and Community Services. Mr. Goya is an example of the hard work and a commitment to excellence shown by California's Corrections Officers. He will be honored by the Department of Corrections on October 29, 2004 in the city of Brea, California.

Stephen K. Goya began his career as a Parole Agent I with the Department of Corrections, Parole and Community Services Division on October 10, 1977. Prior to that, he worked as a Probation Officer for the Orange County Probation Department. He was promoted to Parole Agent II/Supervisor in January 1983. He then further advanced his career with the Department of Corrections as a Parole Agent III Unit Supervisor in October 1985 and in 1987, he was promoted to Parole Administrator I. In December 1992, Mr. Goya was once again promoted to Parole Administrator II Level. In that classification, Mr. Goya functioned as the Operations Manager for the Parole Division in Sacramento as well as the Deputy Regional Administrator in Region IV Headquarters. Mr. Goya's current classification is that of Regional Parole Administrator over Region IV. Mr. Goya was promoted to Regional Parole Administrator CEA III Level on January 20, 1998. Region IV is comprised of five different counties (Orange, San Diego, Imperial, San Bernardino, Riverside), 51 field units, 21 office locations and over 742 parole staff.

We rely upon our Corrections, Parole and Community Services Officers to keep our community safe and monitor those who are making their way back into society. Stephen K. Goya has worked tirelessly for over three decades to lead these Officers in their mission. His efforts have improved life in Southern California. Stephen K. Goya has earned my many thanks and I wish him great success in all his future endeavors.

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## SALUTING THE SAN FERNANDO VALLEY SUN

### HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. BERMAN. Mr. Speaker, I rise to ask my colleagues to join me in saluting the San Fernando Valley (SFV) Sun, an important local newspaper in my congressional district.

On October 25, 2004, the Sun will celebrate its 100th anniversary. The Press—precursor to the Sun—was the San Fernando Valley's first newspaper and is the oldest continually published newspaper in the Valley. Throughout its history, the publishers have been committed to serving the local needs of its readers and advertisers.

Since 1904, the Sun changed names several times and altered its size and publishing schedule, but it has always been located in the City of San Fernando, the birthplace of the Valley. Also, it has always remained dedicated to informed, thoughtful and fair coverage of the issues most relevant to the lives of the residents of the northeast SFV. As the population of the San Fernando Valley grew—and more of its readers were Spanish-speaking, the newspaper began to publish a Spanish language insert, named El Sol.

During the last century, the Sun has been an integral part of the history of the San Fernando Valley. In 1911, it actively advocated for San Fernando city-hood. Irrespective of the various owners, the Sun has continued the high journalism standards and moral philosophy set forth by the original owner, Herbert W. Brooks. Since 2001, the new owners—Severyn and Martha Diaz Aszkenazy—have maintained these exemplary standards. They wisely brought in Diana Martinez (formally with KFWB and LA Media) to direct the editorial content. The staff won the "Best Investigative News" Award from New California Media in 2003 and recognition of its news service to the community from the University of Southern California in 2004.

Mr. Speaker and distinguished colleagues, please join me today in paying tribute to everyone associated with the San Fernando Sun on this important anniversary. We wish owners, management and staff of the newspaper 100 more years of success.

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## RECOGNIZING TAIWAN'S NATIONAL DAY

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. SOLIS. Mr. Speaker, I rise today to honor 23 million Taiwanese on their 93rd National "Double-Tenth" Day, which will take place on October 10, 2004.

On October 10, 1911, the Republican Revolution broke out and brought the end of China's Qing dynasty. Ninety-three years later Taiwan continues to prosper. It is the 15th largest economy in the world and has the 4th largest information hardware and semiconductor industries in the world.

This year Taiwan proudly rebounded from an election-eve shooting incident that resulted in a post-election dispute ongoing for several months. But, as the strong democracy it is, Taiwan resolved the situation in a peaceful manner and domestic stability remains.

Today I congratulate Taiwan and commend the Taiwanese for their commitment and dedication to the universal principles of human freedom and dignity.

## HONORING MISTY DEMICHAEL

### HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. TIBERI. Mr. Speaker, I rise today to honor Misty DeMichael of Newark, Ohio and commemorate her assistance and outstanding volunteer service through the Salvation Army. Ms. DeMichael was the recipient of the first-ever Salvation Army and Dallas Cowboys National Youth Service Award presented on September 21, 2004 at a ceremony in Washington, D.C. Additionally, for her benevolent services, Ms. DeMichael received a $10,000 scholarship for her college education donated by Dallas Cowboys Owner and General Manager, Jerry Jones. The service provided by Ms. DeMichael over the past 6 years that she has been volunteering has been immeasurable.

I would like to share one example of Ms. DeMichael's hard work and dedication. In 2001 Ms. DeMichael created a computer database called "The Clearing House". The Clearing House helps to keep track of assistance given to needy families in Licking County, Ohio during the holidays so that social service agencies may distribute their aid proportionately. Ms. DeMichael continues to serve the Licking County Salvation Army while attending nearby Otterbein College, and still dedicates extra hours during the holiday season.

Once again, I would like to congratulate Ms. DeMichael for her service through the Salvation Army. Hard work, dedication, and commitment like that exhibited by Ms. DeMichael continues to give me faith that our country's future is in good hands.

## INTRODUCTION OF THE PONCE DE LEON DISCOVERY OF FLORIDA QUINCENTENNIAL COMMISSION ACT

### HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. CRENSHAW. Mr. Speaker, I rise today to introduce legislation to establish a commission to plan the quincentenary commemoration of the discovery and colonization of Florida.

In 2013, our Nation will celebrate the 500th anniversary of Juan Ponce de Leon's landing on the east coast of Florida. As important an event as this is to America's history and heritage, I believe it is appropriate we commemorate this occasion. Such an event will serve to inform, educate, and remind the people of Florida, this Nation, and even the world of the importance and significance of Ponce de Leon's discovery and exploration.

Accordingly, the bill I introduce today establishes a commission composed of twelve members to plan, coordinate, and conduct the commemoration of the historic discovery of Florida.

Mr. Speaker, Florida's proud history begins with an explorer sailing through the Bahamas in 1513. As if touched by the hand of God, three ships commanded by Ponce de Leon were swept westward by winds and currents through the New Providence Channel and into the Florida Current. Historians believe Ponce de Leon landed at what is the present location of the city of St. Augustine.

Ponce de Leon's landing is significant to national and world history because it began what would become the establishment of the oldest permanent European settlement on the North American continent. St. Augustine was founded 42 years before the English colony at Jamestown, Virginia, and 55 years before the Pilgrims landed on Plymouth Rock in Massachusetts.

As a child, I remember learning of Ponce de Leon's fascinating voyage and Florida explorations. To this day, this remarkable moment in history inspires children across our great Nation. Our young people continue to learn of Ponce de Leon's epic voyages and his quest for the ever-elusive Fountain of Youth.

Spanish heritage is still reflected in local architecture and historic resources and attractions in the center of the old part of the city. For instance, the Castillo de San Marcos National Monument, constructed between 1672 and 1695, represents the oldest remaining European fortification in the continental United States. It is prominently located on the Matanzas River directly across the road from the Spanish Quarter of St. Augustine.

Mr. Speaker, I appreciate the consideration given to this legislation and this important part of the United States history. All Americans should enjoy the celebration of this historical moment.

## PAYING TRIBUTE TO REBECCA FRANK

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to Rebecca Frank from Grand Junction, Colorado. Rebecca has dedicated her career to representing and informing the people of her county and the State of Colorado in her capacity with the Grand Junction Sentinel and the Colorado Division of Wildlife. I would like to join my colleagues here today in recognizing her tremendous service and achievements before this body of Congress and this Nation.

Rebecca Frank served as the News Editor for the Grand Junction Sentinel where she has always performed her job with excellence and integrity, keeping the people of Grand Junction well informed of community, state, and world events. In 1985, she decided to expand her interests and left the paper to join the Colorado Division of Wildlife Commission in 1985. Currently she represents the Northwest District Colorado where she served as Chairwoman in 1987 and 1988. In addition to her duties, at the Division of Wildlife Commission, Rebecca has given several hours of her time to Grand Junction's business community. She has served as a member of the Mesa County Economic Development Council, the Grand Junction Planning Commission and both the Grand Junction and Mesa County Riverfront Commissions. She also served on the board the Grand Junction United Way and currently volunteers with Catholic Charities. .

Mr. Speaker, it is a privilege to recognize Rebecca Frank for her exceptional service to the people of Grand Junction and Colorado. She has dedicated her life to bettering her community, and it is with great pleasure that I recognize her today before this body of Congress and this Nation. Thanks for your service, Rebecca, and I wish you all the best in your future endeavors.

## RECOGNIZING SHERMAN INDEPENDENT SCHOOL DISTRICT'S READING RECOVERY PROGRAM

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HALL. Mr. Speaker, I am honored today to recognize Sherman Independent School District's Reading Recovery program

In 2001, President George W. Bush signed a landmark law, the No Child Left Behind Act, which stresses academic achievement for all students and includes more accountability for student results. The Sherman Independent School District's Reading Recovery program meets and exceeds the standards and guidelines of that law. Reading Recovery is a highly effective, short-term intervention involving one-on-one tutoring for low-achieving first graders. Students receive a half-hour lesson each school day for 12 to 20 weeks with a specially trained Reading Recovery teacher. As soon as students demonstrate that they can read within the average range of their classmates, their lessons are discontinued.

Sherman's Reading Recovery program is a big success. At the Reading Recovery site located at Crutchfield Elementary School, students who completed the program passed the TAKS (Texas Assessment of Knowledge and Skills) test by a rate of 92 percent last year. The gains made by these students are truly impressive—they had higher text reading gains than their peers, had low levels of placement in special education classes, and had high levels of advancement to the next grade level.

Reading Recovery is precisely the kind of program our schools need to advance the goals of the No Child Left Behind law. Research issued by the U.S. Department of Education finds that students tutored according to the Reading Recovery model read more proficiently than 75 percent of their untutored peers. This program is a valuable part of a comprehensive literacy plan and supplements good classroom teaching.

On behalf of the students, teachers, and administrators of the Sherman Independent School District's Reading Recovery program, I want to take this opportunity in the House of Representatives to commend their successful efforts to leave no child behind.

## HONORING LIEUTENANT CHARLES REINHARDT

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Lieutenant Charles Reinhardt for his years of dedicated service and unwavering commitment to the police force and the people of Union City. He is being honored today, October 8, 2004, at a retirement party in Union City, New Jersey.

From an early age, Lieutenant Reinhardt took an interest in military and police work. At the age of 18, he became one of the youngest officers in the history of the Union City Police Department when he joined the force as a police special. Three years later, he was sworn in as an official police officer. As an officer, he worked in a variety of areas, including traffic, crime prevention, community policing, and patrol. His tireless work and solid leadership skills earned him the rank of Lieutenant, also serving for a short time as the unit's commander and as a supervisor. He became one of the first Hispanic police sergeants in Union City and was the first Puerto Rican Lieutenant on the force.

Known for his attendance of community events, Lieutenant Reinhardt made great efforts to reach out to the citizens of Union City, particularly the Hispanic community. His passion and hard work have been acknowledged by numerous groups, including the American Federation of Police, the American Law Enforcement Officers Association, the Hispanic Law Enforcement Officers Association of Hudson County, the Union City Police Department, and the American Police Hall of Fame.

Today, I ask my colleagues to join me in honoring Lieutenant Charles Reinhardt for almost three decades of selfless service to Union City and its residents. The passion and commitment he demonstrated throughout his career and for his community made him an important member of the police force.

## TRIBUTE TO WES KEUSDER ON THE OCCASION OF HIS RETIREMENT AS PRESIDENT OF THE BUILDING INDUSTRY ASSOCIATION OF SOUTHERN CALIFORNIA

### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. CALVERT. Mr. Speaker, I rise today to pay tribute to Wes Keusder, who has been a dedicated, strong and effective voice for the principles and ideals of California's building community during his years as a member and leader of the Building Industry Association of Southern California (BIA/SC). Riverside County and all of southern California has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Wes is one of these individuals. On November 5, 2004, Wes will be honored by BIA at their 38th Annual Awards and Installation Dinner.

Wes Keusder is a third generation home builder in California and has worked for over twenty years to make homeownership a reality for thousands of California's families. Wes followed in the footsteps of his father, Walter Keusder Jr., and grandfather, Walter Keusder, by serving as President of BIA/SC as well as participating in the California Building Industry Association and the National Association of Home Builders. Wes has demonstrated exemplary leadership and service to the building industry by serving as the President of the BIA Riverside County Chapter in 2001 and 2002. Additionally, Wes served as a Director of the Building Industry Legal Defense Fund, whose mission is to defend the rights of home and property owners.

Homeownership is an American dream, and housing is a community asset which strengthens the fabric of neighborhoods. Wes has worked tirelessly to ensure that thousands of Californians can make that dream a reality. His passion and service for homeownership has improved Riverside and all of Southern California. Wes Keusder has earned my many thanks and I wish him great success in all his future endeavors.

## PENSION FAIRNESS ACT OF 2004

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. GEORGE MILLER of California. Mr. Speaker, today I have introduced the Pension Fairness Act to bring some equity to bear between corporate executives and rank-and-file workers when those executives seek to dump underfunded workers' pension plans onto the Federal Government or cut older workers' pensions through an unfair cash balance plan conversion.

Far too often, we hear of cases where executives demand concessions from their workers when the business struggles and, at the same time, sweeten their own pension and deferred compensation deals. It's past time that executives understand that the pension promises made to their workers are sacred. It's past time that executives understand that a breach of those promises carries consequences. Employees cannot be asked to absorb the full brunt of bankruptcy by having their pension plans terminated and dropped on the Federal Government. Executives should share in that pain.

When companies terminate their underfunded pension plans, the federally established Pension Benefit Guaranty Corporation (PBGC) takes over those liabilities. Today, the PBGC suffers from a $10 billion deficit. Already in bankruptcy, United Airlines, which recently defied the law and stopped making legally-required contributions to its pension plans, would add $6.4 billion to the PBGC's obligations if the company terminates its plans. United's workers and retirees would lose $1.9 billion in earned pension benefits. US Airways has asked a bankruptcy court for permission to skip a $110 million contribution to its pension plans, due last month. Plan terminations at these companies would pose serious threats not just to the retirement security of their employees but to the retirement security of other airlines' employees and to the ongoing solvency of the PBGC. When executives are faced with the choice between terminating or saving company pension plans they also should have a stake in that choice.

In recent years, we have seen companies break their pension promises by converting their traditional pension plans into cash balance plans. Many of these conversions do wonders for a company's books—to the great delight of executives and directors—but end up cutting older workers' pension benefits. Many of these conversions have given workers no choice between the cash balance and traditional pension plans. Just last year, a court found that the cash balance conversion at IBM, which all employees were forced to take, would result in a 47 percent reduction in older workers' pensions. The Government Accountability Office found similar losses of up to 50 percent of older workers' promised pensions.

Under the Pension Fairness Act, if a company terminates an underfunded workers' pension plan or converts a workers' pension plan into a cash balance plan that cuts older workers' benefits or takes away their choice to stay in their original plan, the company's executives and directors may not enhance their own deferred compensation deals for the next 5 years. If any new deals for executives or directors are cut the year prior to an underfunded plan termination or a conversion that hurts older workers, payments to executives or directors under those new deals are also suspended for 5 years. It's very simple: If the business or the pension plan is in such dire straits that a termination or conversion is necessary, then executives and directors should not be showering themselves with new and improved benefits.

This bill is about fairness and common sense. It places the retirement security of workers and executives on more equal footing. And it sends a rightly discouraging message to those executives who would seek to cut and run from their pension promises, leaving the federal government to pick up the tab.

## IN HONOR OF DR. JAMES ZOGBY

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. KUCINICH. Mr. Speaker, I rise today in honor of Dr. James Zogby, husband of Eileen Patricia McMahon, father of five children, and founder and president of the Arab American Institute (AAI). Under his leadership and vision, the Arab American Institute has advocated for the Arab community in a number of areas impacting public policy. Where the Arab American Institute has been instrumental in empowering Arab Americans through education, voter registration, and mobilization, James Zogby has led the way.

Dr. Zogby earned his doctorate from Temple University's Department of Religion after receiving his Bachelor of Arts from Le Moyne College. In 1976, Dr. Zogby was chosen as a Humanities Post-Doctorate Fellow at Princeton University and, on various occasions, has been awarded grants for research and writing by the National Endowment for the Humanities, the National Defense Education Act, and the Mellon Foundation. Dr. Zogby was a co-founder and chairman of the Palestine Human Rights Campaign in the late 1970's, and he later co-founded and served as the Executive Director of the American-Arab Anti-Discrimination Committee. In 1982, he co-founded Save Lebanon, Inc., a non-profit, relief organization funding Lebanese social welfare projects and health care for Palestinian and Lebanese victims of war.

Following the 1993 signing of the Israeli-Palestinian peace accord in Washington, Dr. Zogby led Builders for Peace, a private sector committee promoting U.S. business investment in the West Bank and Gaza. Along with former U.S. Congressman Mel Levine, his colleague and co-president of Builders for Peace, Dr. Zogby led a U.S. delegation to the 1994 signing of the Israeli-Palestinian agreement in Cairo. After 1994, Dr. Zogby continued to work with U.S. agencies including AID, OPIC, USTDA, and Departments of State and Commerce to promote and support Palestinian economic development.

Mr. Speaker, please join me in honoring Dr. James Zogby for numerous accomplishments and advocacy efforts for peace.

## CELEBRATING THE GROUNDBREAKING OF THE GREAT LAKES NATIONAL CEMETERY

### HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to recognize the groundbreaking of the Great Lakes National Cemetery in Holly, Michigan. The Great Lakes National Cemetery will serve as Michigan's second national cemetery and serve the needs of the nearly 460,000 veterans living within 75 miles of Oakland County, Michigan.

In 1987, the Detroit region was one of ten areas identified by the Veterans Administration as having a large veteran population not served by either a national or state veterans cemetery within a reasonable distance. The new 544 acre Great Lakes National Cemetery will meet the needs of Michigan's finest men and women tor the next fifty years.

Mr. Speaker, every American that wears the uniform deserves a final resting place that honors and remembers their service to America. However, the families of these veterans should not be required to travel great distances to pay their respect to their loved ones. I ask my colleagues to join me in recognizing the service the Great Lakes National Cemetery will bring to the Veterans and their families in Southeast Michigan.

## PAYING TRIBUTE TO RICH ENGLEHART

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Rich Englehart and thank him for his exceptional contributions to his community and the State of Colorado as Delta City Manager. He will always be remembered as a dedicated public servant and leader of his community. As Rich celebrates his retirement, let it be known that he leaves behind a terrific legacy of commitment to the people of Delta and the State of Colorado.

For nearly twenty years Rich has played an important role in municipal government. As City Manager, Rich is responsible for implementing the policy and procedure that the City Council makes. He also advises the City Council on all matters relating to the planning, development and operating status of the city departments. His good nature and guidance have done much to help grow the city, and foster good working relationships between civic, business, and municipal leaders. An avid outdoorsman, Rich participates in a variety of sports, including playing baseball for the Mesa State Mavericks.

Mr. Speaker, it is clear that Rich Englehart has ceaselessly dedicated his time and efforts to serving his county and the people of Colorado as City Manager for Delta. I am honored to bring his hard work and commitment to the attention of this body of Congress and this nation today. Thank you for all your service, Rich, and I wish you all the best in your future endeavors.

## RECOGNIZING OLYMPIAD PAUL FOERSTER

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HALL. Mr. Speaker, today I am honored to recognize Paul Foerster, resident of Rockwall, Texas and recipient of a gold medal in the Games of the XXVIIIth Olympiad in Athens, Greece.

On August 21, 2004, Paul Foerster, and his teammate, Kevin Burnham, won the men's team gold medal for the United States in the 2004 Olympic Regatta for sailing in the 470 Class.

Mr. Speaker, on behalf of the entire 4th District of Texas, I would like to take this opportunity to commend and congratulate Paul for his outstanding performance and representation of the United States in the Games of the XXVIIIth Olympiad.

## HONORING INSPECTOR CLAUDIO GONZÁLEZ

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Inspector Claudio González for his remarkable work with the Union City police force throughout his 27-year career. He is being honored today, October 8, 2004, at a retirement party in Union City, New Jersey.

After emigrating from Cuba in 1962 and attending school in Jersey City, Inspector González began his career as a patrolman for the Union City Police Department. Since that time, he has held an extensive array of positions within the police force, including working as a member of the Office of Professional Standards and becoming the first Hispanic Lieutenant of Police, Captain of Police, Commander of the Investigations Division, and Inspector of Police, which made him the highest-ranking Hispanic officer in the State of New Jersey. Inspector González was known for being a fair, savvy, street-smart officer who accelerated in all of his assigned divisions, relying on his impressive martial arts training as well as quick thinking to handle difficult situations.

When he was not working to secure the safety of Union City, Inspector González developed and taught anti-drug programs at local schools. He received a proclamation from the New Jersey State Legislature for his efforts, which preceded the establishment of D.A.R.E. programs. Additionally, he has taught classes to narcotic agents and members of the Detectives' Bureau.

Today, I ask my colleagues to join me in honoring Inspector Claudio González for his leadership and extensive work with the Union City Police Department. His courage, contributions to the force, and strong commitment are an inspiration to the community.

## TRIBUTE TO GENERAL ATOMICS

### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. CALVERT. Mr. Speaker, I rise today to recognize and honor General Atomics, an organization that has been a catalyst for improving science and technology education for thousands of students year after year. General Atomics, located in San Diego, California, began in 1955 for the purpose of harnessing the power of nuclear technologies to benefit mankind. General Atomics' basic research into fission and fusion has matured into many technologies, making them one of the world's leading resources for high-technology systems development ranging from the nuclear fuel cycle to remotely operated surveillance aircraft, airborne sensors, and advanced electric, electronic, wireless, and laser technologies.

While General Atomics has been pushing the boundaries of technology for almost 50 years, they have also heavily supported educational programs in their own community and beyond. As part of their commitment to education, General Atomics provided technical and administrative guidance to the newly-formed Science and Technology Education Partnership (STEP), which was created in my congressional district five years ago to inspire students to pursue an education in science and technology fields. Beyond their five years of participation in STEP, General Atomics has played an active role in bringing science and technology directly to Riverside County students and those from surrounding areas through their participation in each of the previous annual STEP Conferences that have been held in Riverside, California. They support the STEP Teacher Program by presenting tutorial workshops each year for elementary and middle school math and science teachers. In addition, they have become an integral and featured part of the STEP Student Program, which is attended by over 4,000 students plus more than 400 teachers and parents each year. Their exhibit booth in the "Discovery Zone" provides students with a hands-on introduction to plasma, electricity, thermal energy, and more. Technical personnel from General Atomics are on hand to explain to the students how the technologies work and how they are used in government and commercial applications. In the "Oh! Zone," students participate in an interactive Science Show with Rick Lee and Alex Nagy, two General Atomics scientists. The Science Show involves live demonstrations, often using student volunteers, of different technologies and scientific principles in order to show students that science can be interesting, useful, and fun.

General Atomics is a valued member of the technical community and a true partner in education. Their generous efforts have helped make science and technology interesting and accessible to thousands of students within the Inland Empire, throughout Southern California, and beyond.

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# ECONOMISTS ENDORSE INCREASING THE MINIMUM WAGE TO $7.00

## HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. GEORGE MILLER of California. Mr. Speaker, increasing the minimum wage is a vital issue for working families across the country. The minimum wage has not been increased in 7 years. The value of the last minimum wage increase has been fully eroded. Today, the minimum wage is worth less than it has been in 46 out of the previous 48 years. As a percentage of the hourly wage of non-supervisory employees, the minimum wage is at its lowest level in 55 years. This decline is causing serious hardships for low-income families.

To address this problem, I introduced H.R. 4256, the "Fair Minimum Wage Act of 2004," which increases the minimum in three steps from its current level of $5.15 to $7.00. Ninety-four of my colleagues have joined me in sponsoring this legislation. On Wednesday, more than 562 prominent economists—including 4 Nobel Prize winners in economics and 7 past presidents of the American Economic Association—are joining us in endorsing an increase in the Federal minimum wage to $7.00.

In their endorsement, these economists say, "We believe that a modest increase in the minimum wage would improve the well-being of low-wage workers and would not have the adverse effects that critics have claimed."

They go on to state:

> As economists who are concerned about the problems facing low-wage workers, we believe the Fair Minimum Wage Act of 2004's proposed phased-in increase in the federal minimum wage to $7.00 falls well within the range of options where the benefits to the labor market, workers, and the overall economy would be positive.

Below is a copy of the economists' statement. A complete list of the cosigners can be found on the Economic Policy Institute's WEB site at: http://www.epinet.org/content.cfm/minwagestmt2004.

> IT'S TIME FOR A RAISE—HUNDREDS OF ECONOMISTS SUPPORT A MINIMUM WAGE INCREASE
>
> The minimum wage has been an important part of our nation's economy for 65 years. It is based on the principle of valuing work by establishing an hourly wage floor beneath which employers cannot pay their workers. In so doing, the minimum wage helps to equalize the imbalance in bargaining power that low-wage workers face in the labor market. The minimum wage is also an important tool in fighting poverty.
>
> The value of the 1997 increase in the federal minimum wage has been fully eroded. The real value of today's federal minimum wage is less than it has been in 46 out of the last 48 years. Moreover, the ratio of the minimum wage to the average hourly wage of non-supervisory workers is 33%, its lowest level in 55 years. This decline is causing hardship for low-wage workers and their families.
>
> We believe that a modest increase in the minimum wage would improve the well-being of low-wage workers and would not have the adverse effects that critics have claimed. In particular, we share the view the Council of Economic Advisers expressed in the 1999 Economic Report of the President that "the weight of the evidence suggests that modest increases in the minimum wage have had very little or no effect on employment." While controversy about the precise employment effects of the minimum wage continues, research has shown that most of the beneficiaries are adults, most are female, and the vast majority are members of low-income working families.
>
> As economists who are concerned about the problems facing low-wage workers, we believe the Fair Minimum Wage Act of 2004's proposed phased-in increase in the federal minimum wage to $7.00 falls well within the range of options where the benefits to the labor market, workers, and the overall economy would be positive.
>
> Twelve states and the District of Columbia have set their minimum wages above the federal level. Additional states, including Florida, Nevada, and New York, are considering similar measures. As with a federal increase, modest increases in state minimum wages in the range of $1.00 to $2.00 can significantly improve the lives of low-income workers and their families, without the adverse effects that critics have claimed.

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# IN HONOR OF HISPANIC HERITAGE MONTH

## HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. KUCINICH. Mr. Speaker, I rise in honor of Hispanic Heritage Month—a celebration of Americans of Hispanic heritage and their significant, collective and individual contributions to our community and to our nation.

Hosting one of the events this year is the Cleveland Public Library. The Cleveland Public Library and regional branches continue their commitment to promoting our diverse community, richly infused with Hispanic culture and language. As part of the Library's 2004 Strategic Plan, new and permanent resources of Spanish Language collections are now underway, along with the implementation of a Spanish language Web site.

Hispanic Heritage Month is reflective of the 500-year history of Hispanic culture and contributions to America. Hispanic Americans have contributed immeasurably to all areas of our culture—from medicine, law, and business, to education, music and the fine arts. Hispanic Americans in our community and in communities across the country are life-saving doctors and nurses, veterans, inspiring professors, dedicated teachers, committed elected officials, fair-minded judges, and hardworking factory employees. Americans of Hispanic heritage bring energy, innovation, and a real sense of social justice to America, while retaining the cultural traditions of their homeland for all citizens to enjoy.

Mr. Speaker, please join me in honor and celebration of Hispanic Heritage Month, and join me in expressing my gratitude for the outstanding contributions made by Hispanic Americans. Their journey to America, fraught with significant obstacles and strife, paved the way for a better life for their children and future generations, and signifies what it means to be an American. Within our diversity we find strength. Within our traditions we find unity. And because of their journey, and the journey of people from all points of the world, we are stronger as a community, more unified as a Nation, and better as people.

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# RECOGNIZING TRW AUTOMOTIVE IN FOWLERVILLE, MI, FOR EARNING INDUSTRY WEEK'S TEN BEST PLANTS AWARD

## HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to recognize the outstanding work ethic of some of Michigan's finest workers at the TRW Automotive plant in Fowlerville, Michigan. On September 15, 2004, TRW Automotive announced that its Kelsey-Hayes Company automotive braking facility in Fowlerville, Michigan, earned a place on Industry Week's prestigious list of "10 Best Plants" in North America for 2004.

Industry Week awards its 10 Best Plants award to facilities that have made credible changes in the way they run their operations, aligning production processes with customer needs and harnessing people's desire to make things better. The Fowlerville TRW is well deserving of this distinction, the plant boasts a 100% on-time delivery performance to 15 assembly locations, less than five days' on-hand inventory levels, and a defect rate of just three parts per million, down from 64 ppm in 2000.

Mr. Speaker, I ask my colleagues to join me in recognizing the workers at TRW Automotive for their strong commitment to quality manufacturing. American automotive workers are the best trained, most highly skilled workers in the world. Industry Week's profile of these fine manufacturers is a testament to their aptitude and steadfast commitment to quality.

## PAYING TRIBUTE TO GARY HARMON

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Gary Harmon from Grand Junction, Colorado. Gary is a journalist with the Grand Junction Daily Sentinel, and has served the paper, city and state with distinction. I know Gary well, and he is a man of the utmost integrity. I would like to join my colleagues here today in recognizing his dedication and leadership before this body of Congress and this Nation.

Gary attended Casper College and California State University in Long Beach where he studied journalism. He went on to work at three different newspapers before moving to Grand Junction in 1987 to join the staff at the Grand Junction Daily Sentinel. Gary is a hard-working journalist who won the nationally prestigious John Hancock Award for Business and Financial Reporting in 1989 for an eight part series on workers' compensation. He has also won several news writing and column-writing awards from several Colorado and California press associations and the Colorado Associated Press Editors and Reporters. Gary is the father of two sons, whom he is actively involved in teaching to play basketball.

Mr. Speaker, it is a privilege to recognize Gary Harmon for his exceptional service to the people of Grand Junction and Colorado. For many years, his dedication to his community and journalistic integrity has made the Grand Junction Sentinel a thriving and influential news source. It is with great pleasure that I recognize him today before this body of Congress and this Nation. Thanks for your service, Gary, and I wish you all the best in your future endeavors.

## RECOGNIZING PRESIDENT CHEN OF TAIWAN

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HALL. Mr. Speaker, in honor of Taiwan's National Day on October 10, 2004, I wish to salute President Chen Shui-bian and the Taiwanese people for their many economic and political accomplishments.

Even though Taiwan is a small island nation with few natural resources, it has prospered. With one of the world's largest foreign exchange reserves, Taiwan's 23 million people enjoy one of the highest standards of living in the world. President Chen believes that every citizen of Taiwan ought to enjoy the right to work, the right to freedom of thought, conscience and religion, the right to an education, the right to medical care, the right to participate in elections, and the right to social security in the event of unemployment, illness and disability.

In his May 20 inaugural address to his people, President Chen expressed his hope that Taiwan-China ties could be strengthened and urged cooperation in building a dynamic "peace and stability framework" for cross-strait interaction. I hope that talks will resume toward that end.

Even though Taiwan and the United States do not have formal diplomatic ties, our two peoples are very close. In terms of trading relations with us, Taiwan is our eighth largest trading partner, thus providing many jobs for our manufacturers. In addition, more than 30,000 Taiwan students study at U.S. colleges and universities. The United States is the number one destination for most of Taiwan travelers. The U.S. and Taiwan share many values in common, such as attachment to freedom, democracy, and human rights.

As Taiwan celebrates National Day, I ask my colleagues to join me in recognizing Taiwan's many accomplishments and offering our support to President Chen as he provides leadership, vision, and direction for Taiwan.

## CONGRATULATING MAGEE RIETER ON WINNING GENERAL MOTORS AWARD FOR 12TH CONSECUTIVE YEAR

### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. KANJORSKI. Mr. Speaker, I rise today to recognize Magee Rieter Automotive Systems of Bloomsburg, Pennsylvania for winning the "Supplier of the Year" award for quality and service for the 12th consecutive year from General Motors Corporation. I ask that my colleagues pay tribute to Magee Rieter, its President and Chief Executive Officer Mike Katerman and to all the employees for winning this international recognition.

Not only is this the 12th straight award for Magee Rieter and its employees, they now have the distinction of being the only company in all of North America to earn the honor for so many consecutive years. Each year, fewer than 100 companies out of 30,000 win this distinction. Additionally, only one other company in the world can match this incredible record of quality.

As Mr. Katerman puts it, Magee Rieter manufactures the highest quality fabricated floor carpet and acoustical systems. General Motors is their largest customer.

Mr. Speaker, it is a privilege and honor to represent a company that has been internationally recognized for its commitment to quality, service, technology and value. It is equally rewarding to represent employees who are acclaimed for their hard work and ingenuity.

## HONORING PATRICA G. CLOTHIER'S DEDICATION TO THE FEDERAL BUREAU OF INVESTIGATION

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SCHIFF. Mr. Speaker, I rise today to congratulate Patricia Clothier for more than twenty-three years of dedicated service to the Federal Bureau of Investigation.

Patricia Clothier was sworn into the FBI on April 6, 1981. Since then, she has worked from the Phoenix, Charleston, South Carolina, and Los Angeles Divisions throughout her career with the Bureau in addition to traveling to several countries to conduct field work. Beginning as an agent working against organized crime, Clothier worked on anti-narcotic and anti-corruption cases, including specific cases against the Mexican Mafia and Hell's Angels. Becoming the first female bomb technician only seven years after she became an agent, Clothier was deployed to many sites to work on high-profile cases, including the terrorist bombings at the U.S. Embassies in Tanzania and Kenya and the Oklahoma City Federal Building bombing.

Clothier traveled to Montana to collect information from the cabin for the case against Ted Kaczynski, known as the Unabomber. Ms. Clothier retired earlier this fall as a supervisor in charge of the Counter Terrorism Squad and the Joint Terrorism Task Force. Her fellow agents looked to her as a supervisor who brought an ultimate sense of loyalty to the FBI in addition to someone who always stood strong for her beliefs while also being there to coach newer agents. Clothier remained a field agent even as a veteran to the Bureau, which only bolstered her credibility among the law enforcement community and colleagues.

I ask all members of Congress to join me today in congratulating Patricia Clothier for her exemplary professional and public service career, and for her immense dedication to the community and the nation.

## HONORING BELVA DAVIS

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. LEE. Mr. Speaker, I rise today to honor the legendary career and historic achievements of distinguished journalist Belva Davis. On October 12, 2004, Belva will be honored by the International Women's Media Foundation in Washington, D.C., where she will receive the Lifetime Achievement Award at the Foundation's 2004 Courage in Journalism Awards.

Belva began her career in journalism as a freelance writer for Jet Magazine in the 1950s. She soon began working as a reporter for various African-American owned newspapers such as the Bay Area Independent and the San Francisco Sun-Reporter, where she worked as the women's editor. After moving on to broadcasting jobs at Bay Area radio stations such as KSAN and KDIA, her major career breakthrough took place in 1966, when she was hired as a news anchor for KPIX in San Francisco. This was an historic achievement not only because she was the first female African-American television reporter on the West Coast, but also because in that capacity, she hosted and helped to create All Together Now, one of the country's first primetime public affairs programs to focus on ethnic communities. She later moved on to work in public television for KQED, where she stayed from 1977 until 1981, during which time she hosted A Closer Look and Evening Edition. Belva then took a job with KRON, where she worked as an anchor and urban affairs specialist until becoming a KRON special projects reporter in 1999.

Throughout the three decades Belva has spent covering politics and community affairs in the Bay Area, she has received numerous awards for her outstanding contributions to the field of journalism. In addition to winning six regional Emmy Awards, she has received two honorary doctoral degrees, as well the Northern California Chapter of the National Academy of Television Arts and Sciences' highest lifetime achievement award, the Governor's Award, in 1996. Belva has also received lifetime achievement awards from the National Association of Black Journalists and the Peralta Community College District, as well as the Golden Gadfly Award from the Media Alliance. In addition, her documentary, "Yankee Come Back," won a prestigious National Television Award, and she is currently one of only 500 journalists to be profiled in the national NEWSEUM. Furthermore, Belva is widely recognized not only as a labor activist and supporter of African-American culture and history, but has also played a pivotal role as a journalist in communicating information regarding Cuba's culture, politics, and relationship with the United States to the American public.

On this very special occasion, I would like to commend Belva's exceptional achievements not only in the field of journalism, but also for her tireless work as an advocate for social justice and public awareness regarding issues that, before her time, had long been ignored by most media outlets. Throughout her career, Belva has repeatedly demonstrated her unwavering commitment to the people of the Bay Area and the issues that are most important to them. On behalf of the Ninth Congressional District, I salute and congratulate her not only for her courage as a journalist, but also for the invaluable contribution she has made to the Bay Area, the State of California, our entire country, and the world.

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## HONORING JENNIE CHIN HANSEN

### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. PELOSI. Mr. Speaker, it gives me great pride to salute Jennie Chin Hansen for her vision, leadership, and extraordinary service to San Francisco's seniors as she prepares to step down as Executive Director of On Lok Senior Health Services. She has had a magnificent career and will continue to make invaluable contributions to our City and our nation.

Jennie joined On Lok Senior Health Services as a research assistant in 1980. At that time, On Lok was a modest initiative in San Francisco's Chinatown that offered a day health program to 100 homebound seniors. Under her leadership, On Lok was transformed into a national model for an alternative to nursing homes for the growing population of frail and elderly Americans. On Lok has demonstrated how vital it is for the elderly to continue living independently in their homes, near their friends and families, and in their communities for as long as possible.

Jennie transformed On Lok into a non-profit family of organizations. On Lok now provides a spectrum of services including comprehensive medical care, prescription drug assistance, bilingual case management, home-cooked meals, and opportunities to socialize. On Lok provides transportation to seven neighborhood centers in San Francisco. In its 25 years, 20,000 seniors have benefited from their programs. Three million meals have been prepared and served. A quarter million classes on subjects including aerobics, dance, painting, and citizenship as well as group outings have met the physical and social needs of the elderly.

Jennie Chin Hansen led the effort to develop a national initiative called PACE, Program for All-inclusive Care for the Elderly, for which On Lok served as the prototype. In 1997, President Bill Clinton signed legislation making Medicare and Medicaid money available for PACE Programs. They are now operating in 30 states nationwide.

A visionary and a fierce advocate, Jennie has greatly influenced how our nation has come to regard care for the elderly. She has shown us the richness of caring for our seniors.

We wish her well as she continues her work educating nurses at San Francisco State University, Canada College, and the UCSF Center for the Health Professions. The nursing field with its acute shortages is blessed to now have her focus, her talent, and her wisdom. Her magic will accompany her wherever she goes.

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## RECOGNIZING THE 65TH ANNIVERSARY OF THE HISPANIC DIVISION OF THE LIBRARY OF CONGRESS

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SERRANO. Mr. Speaker, October 12, 2004, marks the 65th anniversary of the Hispanic Division of the Library of Congress. Since 1939, the Hispanic Division has been systematically collecting and acquiring Luso-Hispanic materials. Today, with more than 11 million items, it has one of the most extensive collections in the world on the history and culture of Latin America, Iberia, and the Caribbean.

Specialists in the Hispanic Reading Room help patrons from all over the United States, and indeed the world, find books and other materials from the Library's collections. The website (www.loc.gov/rr/hispanic/) for the Hispanic Reading Room is tri-lingual, in English, Spanish, and Portuguese. This website is a wonderful resource for young students seeking to learn more about Hispanic culture, providing everything from manuscripts to films.

The Hispanic Division also compiles a number of widely used books and reference tools. The pioneering work, Hispanic Americans in Congress, 1822–1995, chronicles the distinguished personal histories of Hispanic members of Congress through the years. I am proud to have contributed to the book's compilation and publishing as the Chairman of the Congressional Hispanic Caucus during the 103rd Congress.

The Hispanic Division has also taken a huge step towards cataloguing academic literature dealing with Latin American issues through the annual, annotated bibliography entitled the Handbook of Latin American Studies, published by the University of Texas Press. All volumes of this publication are available online at Hispanic Reading Room website, and they receive more than 100,000 hits per month. In addition, the Division has been recording our great works of Hispanic literature for the Archive of Hispanic Literature on Tape. More than 670 Latin American and Hispanic authors have been recorded so far, including Luis Rafael Sánchez, Rosario Ferré, René Marqués, Ana Castillo, and Rudolfo Anaya.

Numerous other projects also chronicle the history of Hispanics in America. A project initiated by Dr. James Billington, the Librarian of Congress, illustrates the presence of Spain in North America from the 1500s to 1821. This project, "The United States, Spain and the American Frontier: Historias Paralelas" is designed specifically for school children, college age students and scholars to help them better navigate the Hispanic Division's rare books, manuscripts and maps.

Mr. Speaker, the Hispanic Division of the Library of Congress is a wonderful resource that answers Hispanic-Americans' questions about their personal histories and helps them find information about current issues facing Hispanic-Americans today. For students and academics, the Hispanic Division provides valuable insight into the creativity and values of

Hispanics in Latin America, Iberia, and the Caribbean. The Hispanic Division serves as a bridge from the past to the present, helping Hispanic-Americans to understand where they came from, and where they can expect to go in the years to come.

I ask that my colleagues join me in celebrating the good work that the Hispanic Division has done over the past 65 years, and in wishing them continued success in the years to come.

## RECOGNITION OF GEORGE A. HUSSEY, JR.

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. PALLONE. Mr. Speaker, I rise today to commend an exemplary individual who has made a tremendous impact on his community and continues to work tirelessly towards various worthy causes. George A. Hussey, Jr., a native of Long Branch, New Jersey, began his career at Monmouth Medical Center and was eventually hired by the City of Long Branch. While employed at the Department of Public Works, George worked as the Anti-Litter Officer, and grant coordinator for the Clean Communities Program. His efforts and commitment earned him special recognition by the Department of Environmental Protection for having the best program in the state of New Jersey. Shortly after this distinction, Mr. Hussey's responsibilities were expanded to include Municipal Recycling Coordinator.

In addition to his work towards cleaner communities, Mr. Hussey routinely serves as a volunteer, lending his time putting up holiday lighting and coordinating beach clean-ups. For several years now, Mr. Hussey has been working in the Fire Prevention and Code Enforcement Department for the City of Long Branch, and at the age of 39, he became a volunteer firefighter, receiving the Raul Award for being Rookie of the Year. In 2003, he was the proud recipient of the Firefighter of the Year Award from the VFW Post 2140 in Long Branch.

Joining the Long Branch Elks Lodge, No. 742, at the suggestion of co-worker and friend Jack Filter, who happened to be the Past Exalted Ruler for the chapter, Mr. Hussey carried on a family tradition, by becoming a 3rd generation Elk—following in the footsteps of his father and grandfather. As an officer in the Elks, Inner Guard, Mr. Hussey became active in the Handicapped Children's Committee—just as his father had been. In this capacity, he successfully raised money for Camp Moore, a camp for handicapped children.

Over the years, Mr. Hussey has selflessly volunteered his time and talent to the community and the city of Long Branch. I congratulate him on assuming the highest office in the lodge, Exalted Ruler for the fraternal year 2003–2004. I have full confidence that he will excel in this capacity, and contribute significantly to all the wonderful efforts of the Lodge.

## PAYING TRIBUTE TO MR. JIM RABY

### HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. ADERHOLT. Mr. Speaker, today I would like to honor Jim D. Raby who is celebrating his 70th birthday. Jim is a man who embodies the American principles of hard work, dedication to one's family, and service to one's country and I am honored to stand before this body of Congress and this Nation to recognize this wonderful man and his many accomplishments.

Jim was born on August 10, 1934 in the town of Jeff, Alabama. He grew up as a sharecropper in north Alabama, growing primarily cotton. He graduated from Monrovia High School in 1952 and briefly attended Andrew Jackson Business School in Nashville, Tennessee. In 1954, Jim joined the U.S. Navy and served his country honorably as a Seabee and as a Communications Technician.

Following his discharge from the service, Jim began work in Huntsville, Alabama for the Army Ballistics Missile Agency (ABMA) as an electronic technician. There he had the distinction of working with the former German Rocket Team, including Dr. Werner Von Braun, during the infancy of the U.S. Space Program. In 1960, ABMA was transformed into the National Aeronautics and Space Administration (NASA) and Jim joined the new agency as a Charter Member. He worked on almost every phase of the Pegasus, Mercury, Gemini, Apollo, and Skylab programs.

Jim's contributions included development of specifications and standards for electronic manufacturing, specifically soldering and crimp terminations as well as cable and harnesses. He installed many of these cables and harnesses in the original Mercury capsule. Jim then established schools for each of these subjects and performed lead activities in the fabrication of electronics for the Saturn and Apollo programs. Jim moved to various contractor facilities (as a NASA employee) throughout the United States to provide NASA guidance on manufacturing methods and techniques as well as providing Quality Assurance functions. He had the last word on flight readiness of electronic and electrical installations and in troubleshooting these systems when problems arose. The Moon landing during the summer of 1969 was the climax of this great era in Jim's life.

Jim left NASA in 1975 to work for the U.S. Navy at China Lake, California. While at China Lake, Jim developed the Soldering Standardization Program which standardized requirements DoD-wide and the Solder Training and Certification Program. He also started the Electronic Manufacturing and Production Facility (EMPF).

In 1984, Jim left the Navy to start Soldering Technology International, a family business in which he is still active. Soldering Technology International (STI) helps customers build more reliable electronic hardware. Under Jim's guidance, the company has twice been selected to INC Magazine's INC 500 list of fastest growing private companies. STI was also selected as Huntsville/Madison County's Small Business of the Year in the business services category for the year 2000. STI currently employs 45 people and has customers in all 50 states as well as 40 countries around the world.

Of all Jim's achievements, he is most proud of his family—wife Ellen, son David, daughter-in-law Sheila, and beautiful granddaughter Ashley. He is also proud of the many friends and admirers that he has come to know over the years.

Mr. Speaker, it is a great privilege to honor Jim D. Raby for his many accomplishments and his enduring impact on his country, community and family. Jim has been and continues to be an inspiring role model for all of us, and I wish him the best of wishes on the occasion of his 70th birthday.

## PAYING TRIBUTE TO BOB SILBERNAGEL

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. MCINNIS. Mr. Speaker, I rise today to pay tribute to Bob Silbernagel from Grand Junction, Colorado. Bob is the Editorial Page Editor for the Grand Junction Daily Sentinel, and has served the paper, city and state with distinction. I know Bob well, and he is a man of the utmost integrity. I would like to join my colleagues here today in recognizing his dedication and commitment to his community and the field of journalism before this body of Congress and this Nation.

Bob studied journalism at the University of Wisconsin, and went on to work for a number of weekly newspapers before moving on to the Glenwood Post Independent. In 1980, he joined the staff at the Grand Junction Daily Sentinel. Bob has been closely involved in writing and publication of the Colorado Riverfront Commission's People, Parks and Trails: A guide and history for the Colorado Riverfront Trail in Mesa County.

Mr. Speaker, it is a privilege to recognize Bob Silbernagel for his exceptional service to the people of Grand Junction and Colorado. For many years, his dedication to his community and journalistic integrity has made the Grand Junction Sentinel a thriving and influential news source. It is with great pleasure that I recognize him today before this body of Congress and this Nation. Thanks for your service, Bob, and I wish you all the best in your future endeavors.

## RECOGNIZING RALPH MAYRELL

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HALL. Mr. Speaker, today I am honored to recognize Ralph Mayrell for his achievement at the 2003 Veterans Day Program in Wills Point, TX. Ralph's speech, Diversity in America, won the essay contest sponsored by local veterans at Wills Point High School.

Ralph Mayrell, a senior at Wills Point High School, is an active member of both his school and his community. He is a frequent participant in academic events, such as the University Interscholastic League, in which he often serves as both coach and competitor in numerous events. He also competes in the National Forensics League and the North Texas Debate Association. Additionally, Ralph volunteers his time to the National Honor Society, an organization that stresses academic achievement and local community involvement, and extracurricular programs such as Science Geek Week, an academic summer camp for local youth.

Mr. Speaker, I would like to take this opportunity to commend and congratulate Ralph for his achievement at the 2003 Veterans Day Program and for his continued academic and community involvement.

## CONGRATULATING ST. MARY'S, OUR LADY OF PERPETUAL HELP CHURCH IN MOCANAQUA ON ITS 100TH ANNIVERSARY

### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. KANJORSKI. Mr. Speaker, I rise today to call the attention of my esteemed colleagues in the House of Representatives to St. Mary's, Our Lady of Perpetual Help Church in Mocanaqua, Pennsylvania.

The church building itself is a landmark in Northeastern Pennsylvania with a gleaming gold and white steeple, partially encircled by 85-year-old pine trees. Travelers see the gold cross and towering pine trees as they cross the Susquehanna River on Route 11. But more importantly, St. Mary's Parish has a rich history.

St. Mary's, also known as Our Lady of Perpetual Help, has roots that date back to the late 19th Century when 10 Polish and three Slovak mining families petitioned the local coal company for a place to worship.

The coal company gave them an old, abandoned schoolhouse, which became the public place of worship in Mocanaqua.

I would like to recognize the contributions of the 10 founders of St. Mary's Parish: John Bizup, Joseph Bolinski, Joseph Fraj, Charles Kadtke, Frank Kadtke, John Kadtke, John Kollar, John Kowalski, John Strzelczak and Joseph Wywiorski.

I would also like to call the attention of my colleagues to a parishioner named Mrs. Mary Kowalski Stapinski, the only immediate descendant of one of the Parish's founders. Mrs. Stapinski is 97 years old now and the oldest living member of the Parish.

Father J. Signorski celebrated the first Mass in the improvised chapel in 1885. Father Signorski traveled from Sacred Hearts of Jesus and Mary in Scranton to perform the Mass.

In 1887, Bishop William O'Hara ordered the parish to become a mission church of St. Stanislaus Parish in Nanticoke. Father Beneventus Gramlewicz ministered to the spiritual needs of the people of Mocanaqua, traveling from St. Stanislaus in Nanticoke each month.

In 1890, the Church was made a mission of St. Adalbert's in Glen Lyon, and its pastor, Monsignor Andrew Zychowicz, traveled to Mocanaqua once each month to celebrate Mass at St. Mary's. As the years went on, Monsignor Zychowicz and his parishioners saw the need for a larger place of worship because the number of families there had grown so rapidly.

Parishioners began a fundraising drive for a new church in 1897. They raised $400, and it is believed that this was the start of the annual Church picnic, which has since become a popular and beloved tradition.

The parish sought to purchase land for their fundraiser. The coal company sold parishioners a piece of land for $1 because it wanted to keep the cheap labor pool content. The men of the parish leveled the land, cleared boulders, and dug a well. The park was named Sobieski Park and was formally dedicated in 1933.

Several years ago, the Library of Congress asked Members of Congress to submit nominations for the Local Legacies Project of the American Folklife Center. The Library asked for documentation of at least one significant cultural event or tradition that is important to each district or state, and I was more than happy to nominate St. Mary's Annual Homecoming Picnic. St. Mary's annual picnic is a celebration of ethnic heritage and diversity in Northeastern Pennsylvania.

Father Stanislaus Siedlicki of Glen Lyon succeeded Monsignor Zychowicz, who was made pastor of Sacred Hearts of Jesus and Mary Church in Scranton. Construction of a new church building began in 1904. The church was located near Mocanaqua's current underpass and near the railroad.

In a tragic accident several years later, the church burned to the ground when a spark from a passing locomotive ignited the wooden structure on fire. However, the parishioners were not deterred. They again raised money for a new church, which was dedicated in 1914 at its present site, safely out of reach from the railroad.

The Rev. Andrew Smeltz took over ministering to St. Mary's, which was still a Mission Church, in 1908. In 1910, the members of the Mission felt that they deserved a full-time pastor. Bishop Michael Hoban appointed the parish's first resident pastor, the Rev. Felix Nowak, on Dec. 10, 1910.

During this time, coal miners were fighting for better wages. Many of them had left their wives and children in Europe while they came to America to earn the sufficient money to bring their families to Mocanaqua.

The miners threatened the West End Coal Company that they would quit and return to Europe if their wages were not raised. Not only were their wages raised, but they also successfully negotiated for the coal company to arrange passage for their families to come to America.

The provision of land for a cemetery was also provided in the negotiations. The first parishioner to be laid to rest in the cemetery was Basil Petrow, who lost his life at the age of 30 while working in the coal mines.

At this time I would like to pay tribute to 10 heroic servicemen from St. Mary's Parish who lost their lives during World War II and the Korean War: Michael Giunta, Edward Kadlubowski, Joseph Kalinowski, Edward Matak, Chester Okoneski, John Orzechowski, Vincent Yamilkoski, Michael Yaszczemski, John Zak, Stanley Zakrzewski.

By 1954—the year of the church's Golden Jubilee—the St. Mary's Parish had grown to include more than 400 families.

In 1976, to show their patriotism during our nation's bicentennial, the parishioners removed the historic bronze church bell which had been cast in 1914 from the steeple and placed it on permanent display in the Church yard. A bronze plaque marks the site.

Pope John Paul II has given St. Mary's Parish a special Apostolic Blessing on the occasion of its 100th Anniversary. The Library of Congress has also recognized the occasion with a congratulatory letter.

Mr. Speaker, I ask that my distinguished colleagues in the House of Representatives join me in paying tribute to St. Mary's Parish in Mocanaqua. I am honored to represent a parish with such long-standing roots in Northeastern Pennsylvania.

## TRIBUTE TO ZONTA INTERNATIONAL, PASADENA CHAPTER

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Zonta Club of Pasadena and the women who have shaped the club into the influential force that it is today in the greater Pasadena area.

Zonta International was established in 1919 in New York. Members were among the first generation of college-educated women, the first generation of North American women to vote, and a part of the growing legion of women entering the workforce. Currently, there are more than 33,000 members of Zonta Clubs in 67 countries. Their efforts are directed at increasing women's access to education and healthcare, preventing violence against women, and expanding economic self-sufficiency, as well as international service projects dedicated to world peace.

Founded in 1929, Zonta Club of Pasadena envisioned a strong network that would help women reach their rightful place in the professional world. Addressing the needs of women and children in our community, Zonta Club of Pasadena contributes volunteer time and financial support to Women at Work, Wellness Community-Foothills, Huntington Memorial Hospital, Young & Healthy, Union Station Foundation, Day One, the Pasadena Unified School District, and numerous other organizations.

In recognition of their seventy-fifth anniversary, Zonta Club of Pasadena will honor 20 women who have contributed significantly to the work of Zonta. These outstanding women are civic, educational, political and business leaders in the community, who have also provided strong leadership within the Zonta organization. The honorees are: Andrea Beal, Suzanne Burger, Beth Calleton, Priscilla Gamb,

Shirley Gold, Lucy Guernsey, Ann Hight, Sue Miele, Regenia Moses, Katie Nack, Marilynn Penny, Betty-Jean Prosser, Anne Pursel, Pat Reynolds-Christianson, Lacreta Scott, Patricia Vick, Mildred Wardlow, Marge Wyatt, Harriet Zimney, and Carol Zoeller.

It is my distinct honor to ask all Members of Congress to join me today in congratulating Zonta Club of Pasadena's seventy-five years of service and support to women and children in the 29th Congressional District.

## HONORING CHARLES EDWARD JOHNSON, SR.

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. LEE. Mr. Speaker, I rise today to honor the life and achievements of an extraordinary man, Charles "Chuck" Johnson of Oakland, California. Chuck was a prominent figure in the communications industry for over 40 years, and worked tirelessly in that capacity not only to promote equality and social justice, but to keep print and broadcast media affordable and accessible to all. Chuck passed away on July 27, 2004 after succumbing to cancer, and is survived by his son, Charles Johnson, Jr.

Chuck was born in Tulsa, Oklahoma on October 21, 1938. After growing up in Missouri, he began his career in radio in 1956. He later joined the Air Force, and following his service time, returned to working full time in the entertainment industry, where he would become the first African American to reach several technological and professional milestones. In 1959, Chuck created the first Black teen dance show, and in the early 1960s, became the first African American not only to host a #1 nightly Top 40 radio show, but also to buy and sell FM radio stations. In 1966, he began producing the nationally syndicated SoulTime USA, and would move on to establish the first Black movie distribution company to promote major Black movies. In 1978, he would become the first African American to operate a 24-hour commercial lease access television station, the Soulbeat Television Network, airing music videos and community programming in Oakland. Soulbeat is presently celebrating 22 years of continuous programming, and has not only added live interactive talk shows to its programming lineup, but in 1998 became the first network ever to broadcast full-time live streaming television to the world over the internet.

In addition to the pioneering role Chuck played in the communications industry, he was an active member of the civil rights movement throughout his life. He not only served as the president of the local NAACP Chapter in Southern California in the 1960s, but as the West Coast Chapter President of the National Association of Television and Radio Announcers, was a leader in the movement to hire the first Black radio announcers in Los Angeles. Furthermore, his founding of Soulbeat in Oakland was historic not only because he was the first African American to establish such a station, but because Soulbeat was and continues to be a vehicle for the advancement of free speech and social equality.

On August 2, 2004, Chuck's friends and family gathered to honor his extraordinary life and the impact that his work had on the lives of those around him. Chuck was a truly unique individual not only because of the record of historic achievements that marked his career, but because of his commitment to using his voice to improve the lives of the people in his community and beyond. His legacy will continue far into the future, and his memory will be treasured by all who knew him. The Ninth Congressional District salutes Chuck Johnson for the contributions he made to Oakland, the East Bay, and our entire country.

## HONORING LINDA WHITE-EPPS FOR HER LIFETIME OF OUTSTANDING SERVICE

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. DELAURO. Mr. Speaker, it is with a heavy heart and great admiration that I rise today to pay tribute to an exceptional woman whose endless energy and dedication touched the lives of all who knew her and many who did not. It has been one year since Linda White-Epps was taken from her family, friends, and community after a long and courageous battle with breast cancer. A tireless advocate and inspiring soul, Linda's message of strength and support continues through the organization she founded, Sister's Journey.

After losing an aunt as well as another significant person in her life to cancer and being diagnosed with breast cancer herself, Linda made it her life's purpose to ensure that no woman be "alone" in the battle with breast cancer. Linda always held a strong belief in the importance of sharing her story with others—to hide it was to allow the disease to win. She began Sister's Journey, a support group for women of color surviving breast cancer. She went on to create an annual calendar with each month highlighting the story of a survivor. The calender serves a tangible and visible source of encouragement—sending a message of hope to other woman striving for survivorship.

I had many opportunities to work with Linda over the years and I was always in awe of her constant energy and unwavering commitment to her cause. She strongly believed in the need for awareness, education, and outreach to those diagnosed with breast cancer and their loved ones. Linda brought the battle to the community and to Washington. The American Cancer Society was just one of the many organizations for which Linda volunteered her time. In fact, she served as a lobbyist for the organization in Washington, highlighting the concerns of Connecticut and making sure legislators knew just how vital increased funding for research and education are—not only to those fighting breast cancer, but for those who had survived as well. Linda was also responsible for organizing the first Relay for Life event in Hamden, Connecticut—now an annual event that serves as one of the largest fundraisers for the American Cancer Society.

Linda's accomplishments and advocacy did not go unrecognized. Throughout her life she was honored with a myriad of awards and acknowledgments. Perhaps the most prestigious of these many accolades was when Linda was recognized with the "Points of Light Award" in 2002. Bestowed by the President of the United States, this special honor celebrates the success of volunteers and highlights the impact that individuals have on their communities. For Linda, this was a most fitting tribute. Her efforts have left an indelible mark on our community and one cannot say enough about the difference she has made in the lives of others.

This year marks the 6th Anniversary of the "Pink Tea", an annual "Celebration of Survivorship," where the Sister's Journey Calendar has traditionally been unveiled. This year's event will indeed be special as members remember Linda's efforts and honor her memory by continuing her work. I am proud to join her mother, Phyllis White; her children, Dawn and George; her grandchildren, Dominique and Donvan; family, friends, and colleagues in honoring Linda White-Epps for her outstanding service and invaluable contributions to our community. Linda's legacy will continue to inspire and support those most in need.

## HONORING JOHN BURTON

### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. PELOSI. Mr. Speaker, with great respect, admiration, and affection, I am honored to salute John Burton for 40 years of fighting for human rights and social justice for the American people. John has been my mentor, my ally, and my dear friend for many years and throughout my time in Congress. Although term limits have now led John to continue his fight in new arenas, his leadership as President pro tempore of the California State Senate will long be recognized as a powerful force in the fight against poverty and in the fight for fairness for all.

The Burton name has occupied a revered place in California politics for decades, and John has served with great integrity in the Congress and in the California State Legislature. The vast landscape of John Burton's leadership includes legislative successes to protect our workers, to provide health care to all, to ensure equal rights for minorities, to preserve our environment, and to improve education. That landscape has been shaped by his intellect, his conviction, his humor, his sensitivity, and his ability to capture hearts, even those of his opponents.

One of John's first acts upon returning to the state legislature was to introduce a bill outlawing poverty. This was typical Burton style—deep caring mixed with a brash reminder of our Nation's core value to care for those in greatest need. John displayed this fundamental commitment to justice recently when he spoke at a Building and Construction Trades Convention and stated, "It is up to you and me and others like us to make sure that when people are asking for a job, that job has decent wages, decent working conditions, and decent benefits and that workers get their fair share of the wealth of this Nation. It's the just thing to do, it's due you, and we're going to help you fight to get what is your due."

Sadly, John's political career has been marked by tragedy—the loss of his brother, Congressman Philip Burton, at the early age of 56 and the assassination of one of his dearest friends, San Francisco Mayor George Moscone at age 49. On the murder of Mayor Moscone, John wrote: "Those senseless events brought me face to face with grief, making me realize that friends are precious and life is all too short. We should remember to take time from our own activities to spend more time with those we care about, rather than so totally immerse ourselves in our jobs and businesses that we are always too busy to relate to people."

John's life has also been marked by great fulfillment—not only in his illustrious political career, but also in his family life. John's daughter, Kimiko Burton Cruz, is the light of his life. They have traveled a wonderful journey together, and John is now the proud grandfather of Juanito and Mikala. Kimi, her husband Emilio, and their children are guiding forces for John, and will be a major part of John's future.

When you meet John Burton, you know you have met one of a kind. When you know John Burton, you have a friend. And, when you have John Burton as a friend, you know you have one of life's great treasures in hand.

John may have left the State Senate, but he will continue to be a fierce leader in our State, and in our Nation, on behalf of those who need him most.

Thank you, John, for your tireless efforts on behalf of so many in our country. May the wind be always at your back.

## TRIBUTE TO URBAN HEALTH PLAN, INC. ON THE 30TH ANNIVERSARY

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SERRANO. Mr. Speaker, I rise today to acknowledge one of the largest employers in my district, Urban Health Plan, Inc., as they celebrate their 30th anniversary. UHP has worked for three decades now to make health care more accessible to residents of the South Bronx.

Urban Health Plan began as the vision of Dr. Richard Izquierdo, who, as a private practitioner in the South Bronx, saw the lack of primary health services that the community provided to its residents. He decided to form a community health center, and in 1968, the San Juan Health Center was born.

Urban Health Plan was created out of the San Juan Health Center to offer expanded services and increase outreach into the local community. It has done just that, by providing affordable, reliable care to residents of the South Bronx. UHP offers significant primary and specialty care, in addition to numerous outreach and education programs. Because many area residents do not speak English as a first language, most of the staff is bi-lingual. Today, Urban Health Plan, Inc. has expanded to include three health centers, six local school locations, homeless shelters, and adult treatment programs under the leadership of President and CEO Paloma Hernandez.

Mr. Speaker, in an area where hospital services and preventative medicine are sorely needed, Urban Health Plan, Inc. fills an important need for residents of my district. They have helped thousands of Bronx residents address their health care needs without mortgaging their futures. I am glad to count organizations such as Urban Health Plan, Inc. as allies in the effort to improve the neighborhoods and communities of the Bronx, and I salute Urban Health Plan, Inc. for their dedication to the residents of the South Bronx.

I hope my colleagues will join me in congratulating Urban Health Plan, Inc. on their 30th anniversary, and on wishing them continued success in the years to come.

## RECOGNITION OF DR. HERBERT POCH

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. PALLONE. Mr. Speaker, I would like to take a moment today and laud the accomplishments of Dr. Herbert Poch and congratulate him for being honored by the Dr. Stanley Nichols Pediatric Auxiliary at Monmouth Medical Center. Having served as the Associate Program Director of the Pediatric Residency Program at Monmouth Medical Center for 8 years, Dr. Poch has exhibited true dedication towards his work as well as improving the lives of his young patients.

A native of Elizabeth, NJ, Dr. Poch received his medical degree from Columbia University and upon completing his residency, he returned to Elizabeth and maintained a successful private practice for 36 years. While chairing the Department of Pediatrics at Elizabeth General, he led the department to merge with Newark Beth Israel Hospital's Pediatric Department to develop a joint residency program in pediatrics, which led to notable improvements of pediatric care in the area.

Prior to joining Monmouth Medical Center as a full time faculty member in 1992, Dr. Poch served as an assistant clinical professor of Pediatrics at Columbia. Having always been a devoted teacher, Dr. Poch continues to teach on a part-time basis at Monmouth Medical, even after his retirement in 1999. In addition, he retains his academic position of clinical associate professor of Pediatrics at Drexel University College of Medicine, in Philadelphia.

His love for teaching comes second only to his love for family, including his wife of 52 years, Leila, and their 3 children, Bruce, Andi and Lesley. This gifted and devoted family man, doctor and teacher is also the recipient of three Dean's Special Awards for Excellence in Clinical Teaching, as well as the recipient of the Drexel University College of Medicine Oksana Korzenlowski, M.D. patient award for setting an outstanding standard of skill and commitment in the clinical care of patients.

Once again, I congratulate Dr. Poch on all that he has accomplished, and all that he has contributed to his community and the field of medicine. He is truly deserving of the honor that has been bestowed upon him.

## IN MEMORY OF MR. TRUMAN GLASSCO

### HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. ADERHOLT. Mr. Speaker, it is with a heavy heart that we mourn the death of Mr. Truman Glassco, who recently passed away at the age of 73. I am honored to stand before this body of Congress and this Nation to recognize this wonderful man.

Truman, a lifelong resident of Boaz, AL, in Marshall County, was born in 1931. Known by all as a wise, humble, loving, generous and prayerful man, his significant contributions to society fell primarily in three areas: Christian Fellowship, Community Service, and Education.

Truman dedicated so much of his life to spreading the Gospel through his commitment to the Alabama State Gospel Singing Convention and the Bethany Baptist Church. He was an active member of the Alabama State Gospel Singing Convention for over 40 years, serving in various positions including President in 1972 and 1989 and subsequently serving on the Board of Trustees from 1992 until his death this year. Also, the congregation of his church benefited tremendously from his service as deacon for 45 years, a Sunday school teacher for 38 years, and as Choir Director for 17 years. As if this is not impressive enough, he also served as the President of the Alabama School of Gospel Music from it's inception in 1986 until his death.

Mr. Glassco demonstrated outstanding leadership to the Boaz community as well. He held various offices in the Boaz Chamber of Commerce including President for 4 years and Secretary for 18 years. The Chamber further recognized his contributions to society when it selected Truman as their "Man of the Year" in 1987 and "Educator of the Year" in 1985. He was a long-time member of the Boaz Civitan Club, serving as President and holding various other offices. The Civitan Club recognized Truman's achievements by voting him "Man of the Year" in 1974.

After earning three masters degrees, Truman served 38 years in public education, 22 years as a principal and 8 years as Assistant Superintendent of Education. Snead College named him "Alumnus of the Year" in 2004, an honor which was accepted posthumously by his wife, Dr. Bobbie Glassco. Although he never had children of his own, he was lovingly called "Papa Truman" by hundreds of young people.

The town of Boaz, Alabama benefited tremendously from Truman's kindness and selfless service to his fellow citizens. I had the privilege of first meeting Truman Glassco and his wife Bobbie as a young boy at Antioch Baptist Church in Marion County Alabama at a convention singing. Many people can tell you that he was a "real Christian man who made a real Christian difference in an indifferent world." I could not agree more. My thoughts and prayers continue to go out to his wife Bobbie, along with his family and friends. Yes, Gospel Music lost a dear friend when it lost Truman Glassco.

## PAYING TRIBUTE TO KATHY GRISWOLD McKEAN

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. McINNIS. Mr. Speaker, it is with a sad heart that I rise to mourn the loss of Kathy Griswold McKean, the co-founder of Liberty Day, from my district. Kathy was recently killed in a car accident on her way to deliver a Liberty Day mailing. She and her husband Andy dedicated the past 10 years of their lives to bring the Constitution and the Bill of Rights into the hands and minds of students across the country, and I want to recognize their contributions before this body of Congress and this Nation today.

Liberty Day started with Kathy and Andy in the Denver Lions Club almost a decade ago. It is a national organization honoring James Madison that prints millions of America's founding documents with the help of Denver's Herschfield Press and distributes them free of charge all across America. Kathy and Andy worked without pay, donating thousands of hours and resources to the project in the hopes that Americans will understand the basic freedoms we enjoy today. The Lions International, Rotary, Kiwanis, and Optimist clubs have all embraced the project, enabling their work to have worldwide distribution.

Mr. Speaker, Kathy Griswold McKean was a dedicated patriot that selflessly served her community and country, and I am honored to pay tribute to such a diligent community servant and preservationist of American history. Her contributions to our country will not be forgotten. My thoughts and prayers go out to her family during this time of bereavement.

## REMEMBERING AND RECOGNIZING MRS. BONNIE L. GENTRY

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HALL. Mr. Speaker, today I am honored to pay tribute to Bonnie L. Gentry, a dedicated educator and sister of Buck Crowley, my longtime friend and assistant in the district. Bonnie passed away on February 2, 2002, and in March of this year, the Mesquite Independent School District recognized her by naming its 30th elementary campus in her honor.

Born in Fate, TX, to R.L. and Mattie Crowell, Bonnie received her teaching certificate at the age of 14. For the next 54 years, she served as both teacher and principal for the Rockwall and Mesquite Independent School Districts. In 1959, she became Mesquite's first female principal when she was appointed to the position at Ben F. Tisinger Elementary. She held the position until her retirement in 1974.

In addition to her teaching career, Bonnie also served in such organizations as the Texas Retired Teachers Association, the Order of the Eastern Star, the Daughters of the American Revolution, and Delta Kappa Gamma.

She is survived by her brothers Herman Crowell, R.S. "Bob" Crowell, and M.L. "Buck" Crowell; sisters Christine Davison and Leona Strain; and numerous nieces and nephews.

Bonnie will long be remembered as a devoted and caring educator who touched the lives of many. On behalf of her family, friends, students, and the Mesquite Independent School District, I would like to take this opportunity in the House of Representatives to pay my last respects to Mrs. Bonnie L. Gentry.

## CONGRATULATING FRANK MATTEI, HONORED BY THE ITALIAN AMERICAN ASSOCIATION OF LUZERNE COUNTY AS 2004 PERSON OF THE YEAR

### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to Frank Mattei as he is named Person of the Year by the Italian American Association of Luzerne County. It is an honor to join the members of this organization in paying tribute to his numerous achievements as he is honored at a dinner this Sunday.

A member of the Italian American Association for 10 years, Frank is also active in Rotary Club. As a member of the Rotary Club, Frank spent a great deal of time with the Rotary Exchange Students Program. Many students from many nations were greeted with the hospitality and warmth of the Mattei home.

Frank was born in Pergola, Italy, in 1932. He is the son of the late Marino and Celeste Mattei. He has been married to Anna Biscontini for 46 years. Frank and Anna have two children, Maria and Frank Jr., and three grandchildren. Maria lives with her daughter, Violeta, in Plains. Frank Jr. and his wife Susan live in Malvern, PA, with their daughters Daniella and Julianna.

Frank came to America in 1947. He settled in the Hilldale section of Plains and graduated from Plains Memorial High School in 1952.

Frank served his country for 2 years in the U.S. Army, and 18 of the 24 months were served in the United States forces in Austria, USFA. After that, he spent many years in the retail shoe business as the owner of Penn-Lee Footwear for 22 years.

Mr. Speaker, it is a privilege and honor to represent a man who has served his country and who has been a leader in his community. I ask that my colleagues pay tribute to Frank Mattei as he receives this well deserved honor.

## IN RECOGNITION OF THE TEMPLE CITY UNIFIED SCHOOL DISTRICT'S 50TH ANNIVERSARY CELEBRATION

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SCHIFF. Mr. Speaker, I rise today to congratulate the Temple City Unified School District for 50 years of outstanding service to the community.

The Temple City Unified School District was established as a unified school district on July 1, 1954. At the time, the district had grades kindergarten through 11th. Elementary classes were held at Cloverly, Emperor, and Longden. Oak Avenue School, formerly part of Pasadena Unified School District, was a junior high school, and in 1954 it became Temple City High School. At the time, a total of 789 students were enrolled in grades 8 through 11. The first 12th grade class of 138 students graduated from the Oak Avenue campus in 1956. The first graduation from the new campus was in 1957. During that first year, the Temple City High School Associated Student Body established the green and gold colors and the "Ram" as the school mascot.

The Temple City Unified School District is located in the West San Gabriel Valley. The population of the district's service area is approximately 35,000. The service area includes within its boundaries most of the incorporated city of Temple City, as well as small portions of San Gabriel, Arcadia, and unincorporated areas of Los Angeles County. Currently, the district maintains one comprehensive high school, TCHS, one alternative high school, Community Learning Center, one intermediate school, Oak Avenue, four elementary schools, Cloverly, Emperor, La Rosa, and Longden, and one adult school, Temple City Adult School.

A list of outstanding superintendents have served TCUSD. The first, Howard Beckner, retired in 1961. He was succeeded by Dr. Jack Rand and then Allen Rice. Superintendents Wesley Bosson and Clint Taylor followed. In 1999, Joan Hillard became the District's sixth Superintendent. It is clear that TCUSD has a history rich with spirit and values of progress, dedication, unity, and pride.

I ask all Members of Congress to join me today in congratulating the Temple City Unified School District for 50 years of outstanding educational service to the community, and for its immense commitment to the success of its students.

## IN RECOGNITION OF HISPANIC HERITAGE MONTH

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. LEE. Mr. Speaker, I rise in recognition of Hispanic Heritage Month.

In 2004, the influence of Latinos in the United States is evident now more than ever.

This community has continued to be a strong thread in the fabric of our nation. Influential Latinos can be found contributing in many fields; they are doctors and lawyers, teachers and professors, police officers and fire fighters, scientists and engineers, mayors and of course, Members of Congress.

As we celebrate Hispanic Heritage Month, I want to highlight their service to our Congress. The first Latino members of this chamber were non-voting delegates, one from the Territory of Florida, Joseph Marion Hernandez in 1822, and the other Jose Manuel Gallegos from the Territory of New Mexico in 1853. The first voting member was Romualdo Pacheco, from the great state of California, elected in 1877. Since then, many Latino Members of Congress, in both chambers, have served our nation. These members hail from a diverse group of states and territories, including Arizona, Louisiana, Texas, Illinois, New York, Guam and Puerto Rico, to name a few. They have made significant contributions, like Senator Dennis Sanchez, from the state of New Mexico, who was the first to push for any kind of Civil Rights legislation in Congress. Most notable is the formation of the Congressional Hispanic Caucus in 1976, founded by five Members of Congress, Reps. Edward Roybal (D–CA), Henry Gonzalez (D–TX), Herman Badillo (D–NY), Eligio de la Garza (D–TX), and Baltasar Corrada del Rio (NP–PR). Since then, the CHC has grown exponentially. In the 108th Congress, we have seen a record high of 23 Hispanic Members of Congress, 7 of them women.

In my district, the 9th Congressional District of California, the contributions of Latino organizations is stronger than ever. For example, the Unity Council, under the remarkable leadership of Arabella Martinez, has spearheaded the construction of the Fruitvale Transit Village, which is a model for mass transit, affordable housing, and smart growth. The Unity Council also has programs for first-time home ownership, English classes, and subsidiaries that employ a couple of hundred people in the Fruitvale community. As Ms. Martinez retires this year, she hands over the reins of the Unity Council to Gilda Gonzales, a former member of the Oakland School Board, who has served as an aide to two Oakland mayors and to this Member, when I served in the California state legislature.

Another example is Anew America, an organization founded five years ago and led by Syliva Rosales-Fike who has turned personal tragedy into triumph in the Bay Area. After having fled El Salvador after her husband was tortured and murdered, she helped to found Anew America. The non-profit organization takes "new Americans," newly-arrived immigrants from Asia, Africa, and Latin America and helps them establish their small businesses. The organization teaches the new Americans about asset management, finance, and community involvement.

And lastly La Clinica de la Raza, led by CEO Jane Garcia has programs focusing on prenatal care, family planning, parenting skills, and youth programs. They have school clinics in almost every Oakland school with satellite clinics across the Bay Area. They provide free and low-cost health care to thousands of people in the Bay Area. They are celebrating their recent move to their beautiful 40,000 square foot structure located in the Fruitvale Transit Village, which gives them ability to provide comprehensive primary care to all their patients.

Individuals in my district are the motivating force behind organizations such as these and promote civic engagement among Latinos in the 9th Congressional District. People like Tulio Serrano, who came to this country under asylum, after his family was killed in civil war in El Salvador, and had to leave his homeland after several death threats. Through the Central American Refugee Committee, a humanitarian effort, he organizes people to vote, and links people from Oakland Area to people in El Salvador in order to promote education and health. There are also women like Tina Flores, who heads the Southwest Voter Registration project in Oakland. She is helping engage our community in this nation's democratic process. Others, like Ignacio De La Fuente, President of Oakland City Council, serve in elected office. A candidate for mayor of Oakland in 2006, Council President De La Fuente has been instrumental in lowering gang violence, restoring economic development in Fruitvale, and in securing funding for job resource centers for day workers.

Latino members of the clergy are also helping in our community, including Father Antonio Valdivia, Pastor of St. Luis Bertrand Parish in Oakland. He is also a strong leader of Oakland Coalition of Congregations, Father Tony works to raise immigrant's awareness of community issues and encourages his parishioners to register and vote. Another leader is Father Marco Figueroa, Pastor of St. Elizabeth's Church, which puts on health education seminars, operates clinics and assists in the establishment of new organizations that are vital to the community.

As a Representative from California, I cannot fail to mention the over 12 million Latinos that make California the state with most Latinos in the nation. As many experts speak of the Latino population boom that this country will see in the future, California has been prospering from its growth in the Latino community for many years now. While Latinos grow in population in the United States, they continue to be left behind when it comes to education, health care, jobs, and immigration. We must make sure that we do not leave our new fellow Americans behind. We must ensure that as the Latino population in America grows, we expand their access to a good education, proper health care, and equal access to the workforce.

Mr. Speaker, in closing, I would like my colleagues to remember the contributions of Latinos to this nation during Hispanic Heritage Month and throughout the year, especially as they consider legislation that affect this great, diverse community which continues to make America the best it can be.

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## HONORING JOSEPH NICOLA DELAURO. FOUNDING DIRECTOR EMERITUS OF THE SCHOOL OF VISUAL ARTS OF THE UNIVERSITY OF WINDSOR

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to extend my sincere congratulations to my uncle, Joseph Nicola DeLauro. He was recently honored by the University of Windsor in Ontario, Canada, as they named him Founding Director Emeritus of the School of Visual Arts—the first such title the University has bestowed.

Born in New Haven, CT, Joe DeLauro attended Yale University where he received his Bachelors Degree and later gained his Masters at the University of Iowa. He is a sculptor perhaps best known for his work depicting archetypal figures from the far past and the Bible. Much of his work, including crucifixions, pietas, virgins, baptismal fonts, stone reliefs, and stained glass windows have been commissioned by churches, convents, schools, and other largely religious institutions. However, you can also find many pieces throughout the public spaces in his home of Canton, MI, and in private collections throughout the world.

Internationally recognized for his talent, he has been honored by organizations in the United States, England and Italy. Exhibitions of his work have been displayed in New York, Italy, and Canada. But perhaps his most important contribution has been through his work as a teacher. I have often spoke of the need of talented, creative educators ready to help young people learn and grow. This is especially true for the Fine Arts, where the talent of young artists must be nurtured and encouraged for them to realize their dreams.

A Professor of Art at both Marygrove College and the University of Detroit in Detroit, MI, as well, Joe DeLauro spent the majority of his career as an educator at the University of Windsor. He came to the University in 1960 where he began Windsor's Fine Arts Department. Through his efforts as head of the Department, he gained for the institution its right to grant a bachelor of fine arts degree—the first degree-granting privilege of its kind to be granted to an Ontario university. For this accomplishment, he was credited with the founding of Windsor's School of Visual Arts. In his 25-year-career with the University of Ontario, he helped to shepherd hundreds of students through the demanding maze of discipline, taste, and scholarship and on to their own careers. Mentor, friend, and educator—there is no better example of what a teacher should be.

To be bestowed with the title Founding Director Emeritus is a reflection of the respect, gratitude, and appreciation Joe DeLauro earned throughout his career at the University of Windsor. His extraordinary artistic and academic career has left an indelible mark on the University and his spirit will forever live on through the School of Visual Arts—a legacy that will touch and inspire thousands for generations to come. I am proud to stand today and join his wife, Dorothy; children, Kathleen, Gregory, and Bob; family, friends, and colleagues to extend my sincere congratulations to Joseph Nicola DeLauro on this very special occasion.

## INTRODUCTION OF COORDINATED ENVIRONMENTAL HEALTH NETWORK

### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. PELOSI. Mr. Speaker, environmental contaminants have been linked to birth defects, developmental delays, and many chronic diseases including asthma, various forms of cancer, and neurological disorders like Parkinson's, Alzheimer's, and Multiple Sclerosis.

Research shows that women and children are at especially high risk for health problems related to environmental factors. Each year, 4 percent of all births—more than 150,000 babies—are born with significant birth defects. The number of children with asthma has doubled in the past 15 years to about 5 million. And more than 8,000 children are diagnosed with cancer every year.

We do not understand the long-term health effects of the vast majority of the approximately 80,000 chemicals have been released into the environment over the past 50 years and the more than 7 billion pounds of chemicals that are released each year by industrial facilities in the United States. While many chemicals do not cause damage, we need to know which ones do.

In my hometown of San Francisco, breast cancer rates are more than 12 percent higher than they were 15 years ago. These rates are significantly higher than the rest of the nation, and public health officials are searching for answers. We must understand what could be causing such a dramatic rise, especially when three out of four women who are diagnosed with breast cancer have no family history of cancer or other known risk factors. For these women, environmental factors may be the link to their cancer.

Improved infrastructure that enables local, state, and Federal public health agencies to monitor disease rates and environmental hazards is needed. However, there is no system in place that explores the relationship between disease and potentially associated environmental factors.

Today, I am joined by Representatives STEPHANIE TUBBS JONES and LOUISE SLAUGHTER, and Senators HILLARY RODHAM CLINTON, HARRY REID, and LINCOLN CHAFEE, in introducing the Coordinated Environmental Health Network Act to respond to this urgent need by creating the infrastructure necessary to collect, analyze, and report data on the rate of disease and the presence of relevant environmental factors and exposures.

The Network would also coordinate national, state, and local efforts to bolster our public health system's capacity to investigate and respond aggressively to environmental exposures that threaten health. In addition, the Coordinated Environmental Health Network will alert health officials when there is a sudden increase in any disease or condition, including those associated with a biological or chemical attack.

Over the past 3 years, my colleagues and I have worked to secure more than $73 million for pilot programs to begin developing the capacity for a Coordinated Environmental Health Network, with an additional $28 million pending in the Fiscal Year 2005 Labor-Health and Human Services-Education Appropriations bill. These pilot projects are giving the Centers for Disease Control and Prevention and the Environmental Protection Agency the information they need to put in place a comprehensive, coordinated network.

Once fully operational, the network will coordinate national, state, and local efforts to inform communities, public health officials, researchers, and policymakers of potential environmental health risks, and to integrate this information with other parts of the public health system.

This is really an issue of environmental justice. Minority and low-income communities are particularly vulnerable to environmental health hazards. The factories and dumping sites that emit pollutants are often located near communities with little political and economic power, and therefore less ability to protest. The result is an elevated risk of exposure to harmful substances.

Numerous public health and environmental organizations understand the need for an improved response to these threats, and the Coordinated Environmental Health Network Act is supported by the Trust for America's Health, American Public Health Association, Citizens for a Cleaner Environment, March of Dimes, American Lung Association, U.S. Public Interest Research Group, The Breast Cancer Fund, Physicians for Social Responsibility, and many others.

We must respond to these health threats in a comprehensive and coordinated manner. To take action to prevent disease we must understand its cause. I look forward to working with my colleagues to enact this vital legislation.

## PERSONAL EXPLANATION

### HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. FILNER. Mr. Speaker, on rollcall No. 510, I was in my congressional district on official business. Had I been present, I would have voted "aye."

## IN RECOGNITION OF DORA BELLE THOMAS STONE

### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. ROGERS of Alabama. Mr. Speaker, I rise today to recognize Dora Belle Thomas Stone of Lee County, Alabama, in anticipation of her 100th birthday on November 8, 2004.

Born in Chilton County, Alabama, on November 8, 1904, Mrs. Stone is the daughter of the late George W. and Phairby Adeline Headly Thomas. In 1918, Mrs. Stone moved to Phenix City, Alabama, where she married William Henry Stone on October 21, 1921. She is the mother of four children: William Earl Stone, Thomas Milton Stone, George Lamar Stone, and Barbara Anne Stone Ennis. She has eight grandchildren and ten great grandchildren.

Mrs. Stone is a retired music teacher who taught Sunday school for more than 60 years, and is a member of Smiths Station Baptist Church. She says she cherishes most her family, her church, and God's Word, and studies her Bible every day.

It's not often we have the opportunity to recognize the life and accomplishments of a citizen like Mrs. Stone, and I appreciate the House's attention on this important occasion.

## COMMENDING THE CENTER FOR NATIONAL POLICY FOR FACILITATING A DIALOGUE BETWEEN MEMBERS OF THE ARAB AND MUSLIM DIPLOMATIC COMMUNITIES

### HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. FORD. Mr. Speaker, I would like to recognize the Center for National Policy (CNP) for facilitating a dialogue between members of the Arab and Muslim diplomatic communities and legislators on the Hill.

On September 8th of this year, the Center for National Policy hosted a discussion between the Honorable JIM TURNER and members of the Arab and Muslim diplomatic communities as a way of re-framing the debate on the War on Terrorism. I applaud the CNP for their continued efforts to properly inform both the American public and their elected officials on the complex issues facing policymakers.

I would like to commend Representative TURNER and my former colleague Tim Roemer for their participation in this invaluable discussion and for their active interest in fostering a better relationship with minority communities both domestically and abroad.

TO WIN THE WAR ON TERROR

A DISCUSSION WITH THE HONORABLE JIM TURNER AND MEMBERS OF THE ARAB AND MUSLIM DIPLOMATIC COMMUNITIES—MODERATED BY TIM ROEMER

*About the Event*

This event is part of a series of discussions being organized by the Center for National Policy to help reframe the debate on the War on Terrorism. CNP seeks to deepen both the public's and elected officials' understanding of the complex issues involved in the growth and spread of radical Islam, and to increase awareness of initiatives that promise to advance moderation and constructive reform.

To accomplish these goals, CNP organizes small group discussions that bring together prominent policy experts, elected officials, and public opinion specialists to explore new strategies to address both immediate and long-term threats. CNP drafts summaries of these conversations and makes them available to lawmakers on Capitol Hill and policymakers in the Executive Branch, as well as academics, journalists, and the public at large.

### *About CNP*

The Center for National Policy (CNP) is a non-profit, non-partisan public policy organization located in Washington, DC. Founded in 1981, the Center's mission is to engage national leaders with new policy options and innovative programs designed to advance progressive ideas in the interest of all Americans.

The goal of the Center is to promote the transfer of ideas and information from experts to public officials, and therefore better serve American citizens and the public interest.

Working with a small core staff, CNP brings together policymakers and experts from a range of organizations, including other think tanks, business, labor and academia, to encourage new thinking, promote public awareness and catalyze action.

The Center uses public opinion research, as well as substantive and political analysis, to frame options and make recommendations. The Center's programs include active media outreach and extensive use of the web as well as more traditional methods of dissemination.

In October 2003, Timothy J. Roemer was named President of CNP. Formerly a seven-term member of Congress from Indiana, he most recently has served as a member of the bipartisan 9/11 Commission. His predecessors as president include Madeleine K. Albright, prior to her service as U.S. ambassador to the United Nations; the late Kirk O'Donnell, who was chief counsel to the Speaker of the U.S. House of Representatives Thomas P. 'Tip' O'Neill, and Maureen S. Steinbruner, currently serving as CNP Vice President and Senior Policy Advisor.

### *Introduction*

It has been clear for some time that winning the war on terror is not only a military and security challenge. With numerous al Qaeda leaders captured or killed, the threat is now more diffuse but just as deadly. Increasingly the question is, are we taking more terrorists out of the picture than are being created every day in the streets and madrassas all over the Arab and Muslim worlds?

The United States needs a strategy for winning the war that both deals with today's terrorists but also, most importantly, works to deter and suppress the growth and power of tomorrow's. U.S. Representative Jim Turner, Ranking Member of the Select Committee on Homeland Security, put forward a series of initiatives to accomplish this, in his report, "Winning the War on Terror." At the invitation of the Center for National Policy, he joined three ambassadors to the U.S. from Muslim nations, and representatives from two other Middle Eastern embassies and the European Commission, for a discussion of his initiatives and related issues.

After an introduction by Congressman Turner framing the questions, CNP President Tim Roemer moderated a discussion. The session was off the record, except for the comments cited here.

### *Supporting voices of moderation in the Middle East*

Representative Turner stressed the fact that in fighting the war on terrorism the United States needs to look beyond targeting active terrorists and securing the homeland, to supporting voices of moderation in the Middle East as well as those advocating positive change. His report addresses the question of how to prevent the rise of future terrorists though a number of important initiatives.

These include:

Building bridges to the Arab and Muslim world, which must involve not only diplomacy programs but also fully engaging in the Israeli-Palestinian conflict;

Improving education for Arab children;

Stimulating economic development;

Stabilizing operations in Afghanistan and Iraq; and

Promoting political reform in the Middle East and moving toward greater democracy.

Representative Turner pointed out, however, that if these types of initiatives are to be successful, it will require a tremendous political effort both at home and abroad. He noted that ten of the 9/11 Commission's 41 recommendations are geared toward preventing the rise of future terrorists—but these have received little public attention. Meanwhile, polling indicates that the U.S. image abroad—not only in the Middle East, but across the globe—has declined dramatically in the past two years. It is essential that Americans understand why this is so, and what needs to be done to change it.

The war on terror, Turner affirmed, is not a war on Islam. But the United States needs to find ways to communicate its intentions much more effectively. Finally, the United States must engage in a partnership with its allies in the Middle East and in Europe if any of the ideas he and others have put on the table are to be effective.

### *A battle of ideas*

Participants generally agreed with the spirit of Representative Turner's remarks, and that fighting the war on terror must involve a battle to win the minds of those in the Arab and Muslim worlds. In the short-term, we must confront the immediate, day-to-day threats from those who participate in acts of terrorism, rooting out known terrorist groups and their leadership, and preventing wherever possible the emergence of new groups of activists. This is primarily a security issue, which involves the U.S. engaging with security and intelligence services internationally. As one participant observed, it is important to understand that "threats don't stop at anyone's borders."

But the United States must also have the patience to confront what participants see as a significant generational challenge within the Islamic world. Fully eliminating the terrorist threat is a task that will take perhaps ten or twenty years. If the United States is to be effective over the long-term, it must have some patience, and focus on accurately defining terrorism—and identifying exactly who the enemy is—in the minds of both Americans and Middle Easterners.

Participants pointed out that the number of people in the Middle East—and Muslims specifically—who actively support terrorism is in actuality very small—perhaps only a few thousand. But as recent polling shows, the numbers who are angry at the United States is much greater. The false assumption on the part of Americans that these two groups are one and the same needs to change if the U.S. image abroad is to change. The 9/11 report, for example, made it very clear that the problem of terrorism is not about faith, yet this issue has not been reflected in the current debate in the U.S. about the Commission report. It is important to distinguish between those who support terrorism and those who are angry at America because the solutions to dealing with both problems are very different.

As one participant observed, it is the people in the middle—in the Middle East as well as in the United States—who need to have their minds changed about the nature of the war on terrorism. The war on terror is not only America's problem. If the U.S. wants to find support for partnership with the Arab and Muslim world, it will have to begin by showing the benefits of such a partnership to the people in the middle-center on both sides of the relationship.

More forceful policy initiatives and efforts on the part of the U.S. will make an immediate impression. Participants agreed that a commitment by the United States to seriously engage with the Israeli-Arab conflict is absolutely necessary. An ambassador said that the shift of public opinion against the U.S. in Turkey is attributable to two factors: What is happening in Iraq; and what is not happening in the Israeli-Palestinian conflict. Another Ambassador said, "You have to seriously address the problem in Israeli-Palestinian conflict—not necessarily solve it."

In addition, actions to support economic development in the Middle East, such as providing economic assistance and scholarships, supporting WTO accession, and other steps to enhance job opportunities could show tangible benefits and demonstrate an American commitment to a broader, positive Middle East agenda. This should be the core of the argument to convince the U.S. Congress and American people that such proposals are part of the solution and that military action is not the only tool to use against the terrorist threat.

### *Homegrown reform*

Participants echoed Representative Turner's argument that it is essential that the U.S. support moderate forces in the Arab world, to ensure that they prevail over extremists. As another participant pointed out, some of the extremists' arguments on important issues such as women's rights are very weak, and they have no agenda of their own. Tim Roemer noted the recent op-ed by President Musharraf of Pakistan calling for "enlightened moderation" makes exactly this case.

Responding to Turner's ideas for promoting political, economic, and educational reform in the Middle East, participants agreed that any of these proposals would be beneficial. But they urged that the U.S. not try to lump together the whole region but recognize that different approaches are needed for different countries. Participants emphasized the importance of homegrown reform. "It's very hard to address the problem [of terrorism] by lumping together the entire region and imposing reforms on them." It was also noted, for example, that a U.S.-Jordanian partnership to increase exports from Jordan to the U.S. has been highly successful, doubling household income in poorer areas of the country and creating over 22,000 job opportunities mostly in poverty areas, 85 percent of which have been for women. It was pointed out, however, that such a program would not necessarily be right elsewhere. Regionally-generated initiatives, perhaps assisted by foreign aid, may meet with more success than unilateral efforts created thousands of miles away.

Several participants stressed that the U.S. must avoid the appearance of imposing its own reforms on other countries. They pointed out that media audiences in the Middle East closely watch the American political process. The recent Democratic and Republic National Conventions received far more airtime from television stations in the Middle East than in the United States. The point was made that extremists are watching, and they will certainly exploit the perception that "the Americans are telling us what to do" to oppose reform initiatives.

It was noted that the particularly sensitive issue of educational reform in Saudi Arabia, for example, was unable to find support in the Kingdom once the U.S. Congress vociferously supported it. "Secular" education in particular was characterized as a 'non-starter': the very word "secular" can be a form of insult in the Kingdom. Similarly, the word "democracy," per se, has some negative connotations in the Middle East—though this is not the case for many of its specific attributes, such as transparency, civic participation, free elections, and so on. One diplomat said, "This is a conflict within Islam. We must support reason and try to assure that this wins—not terrorism."

"America has become an excuse for our problems," as one participant noted. But this is a cultural reality that the U.S. must understand if it wants its reform efforts to be effective.

*The European perspective*

It was noted that European nations have been engaged with the Middle East for almost 50 years. More recently, the European Union has been working with the United States specifically on the problem of extremism in the Arab and Muslim world, both through direct E.U.-U.S. dialogue and on the G8 track. The European Union endorses the general argument that solutions must come from within the region, but with attention to regional differences. It is the E.U. point of view that there can be no "one size fits all" solution. It was suggested that Representative Turner's proposals largely fit into the European interpretation, with its emphasis on building bridges, fostering educational improvements and cultural exchange, but the point was made that regional cooperation is also necessary. Where the U.S. is still focused only on bilateral trade agreements in the Middle East, for example, the E.U. is trying to negotiate regional trade agreements. The E.U. also sees accession to the World Trade Organization by nations in the Middle East as important, and as in itself a way to promote reform.

On the whole, the European Union view is that it has been listened to by its U.S. counterparts, but there is still some frustration that long-time European efforts and investments of human and financial capital in the Middle East have not been recognized.

Although fresh ideas are appreciated, it is important to the E.U. that no initiatives are introduced into the region that will either distract from or complicate those programs already in place. Instead, new initiatives need to be streamlined and coordinated with existing projects. The Israeli-Arab peace process, for example, was described as at the heart of these efforts.

Speaking from a European perspective, it was observed that the U.S. should recognize that it has the power to put issues on the table—but a fine balance needs to be maintained between acting with haste and acting too slowly. "Like a bowl of soup," one participant observed, "if you eat it too fast, it burns you; if you let it go cold, it's tasteless."

*How and where to begin?*

Some participants noted the need for the U.S. to be sensitive to the fact that countries have their own timetables for reform. Americans too often look for quick-fix solutions to problems, and think only in short-term, two-year cycles, whereas reformers in the Middle East are willing to work for generational change. Yet it was also noted that external prodding can sometimes be important and even vital for bringing much needed reform. Turkey, for example, has had to accelerate the process of reform in order to meet European Union requirements. One participant remarked, "Cultural and religious sensitivities should not be an excuse for not doing what needs to be done."

But where exactly should the longer-term battle against extremism begin? Participants presented differing views. Education was acknowledged to be clearly a key factor in winning the battle of ideas, and school systems may therefore be the most sensible point to start any initiative that aims to prevent the rise of future terrorists. One diplomat said, "You must support the voices of moderation and reason . . . they must prevail. When you introduce the sensitive issue of education reform, it must be seen as a national homegrown plan and not U.S.-inspired." But this is a long-term effort which will have results only over the longer term. The need for judicial reform was also cited as important to promoting confidence in the rule of law.

Most participants advised putting economic reform slightly ahead of political reform in the Middle East. The point was made that political reform can be achieved in part by motivating people to use the political options that they already have. Creating job opportunities, however, and providing people with immediate and tangible benefits, can foster participation by providing hope that reform is a better way to move forward than revenge. As one Senior Middle East diplomat put it, "Economic reform must come first because we need to give people hope that this way is the better way."

Separately, several participants said that it is essential for the U.S. to achieve progress in key policy areas, such as stabilizing Iraq and seriously engaging in the Israeli-Arab conflict, to improve its image abroad and communicate its message effectively.

*Summary*

The participants in the discussion fundamentally agreed that there is a need for more effective long-term strategies to counteract the challenge of extremist ideologies in the Arab and Muslim worlds. Some caution was expressed about new U.S. initiatives, especially if unilateral. Congressman Turner's multilateral and tailored approach was applauded as a place to begin dialogue over these issues. One Middle East Ambassador summarized the situation in the following way: "We all realize we have a problem. We all realize we want to solve it. We are on the same side."

Several participants called for additional discussions such as this one, to address these and other initiatives, as well as some key existing problems. It was agreed that such discussions are vitally needed to broaden understanding, improve communication and facilitate concrete programs of cooperation among the U.S., the E.U., and various Middle Eastern countries.

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## PAYING TRIBUTE TO JON ASPER

## HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. McINNIS. Mr. Speaker, to place your life in danger for the sake of others is an honorable and noble task, and that is exactly what firefighters do regularly. Chief Jon Asper of the Greater Eagle Fire Protection District is a local legend and hero whose main goal in life is to serve his community to the best of his abilities. Jon's efforts are certainly commendable and I would like to take this opportunity to thank him for the important role that he has played in protecting and serving the people of Colorado.

"Jon Jon", as he is affectionately known, has volunteered his time to the Eagle Volunteer Fire Department for nearly 20 years. He has held various positions with the department, including Public Relations Officer, Fire Prevention Officer, Second Lieutenant Training Officer, and Operations Captain, before becoming chief of the department. He has also spent a career in business as the owner of Winterhawk Establishment, and as a friendly bartender and bar manager for a number of local establishments.

Going above and beyond his duty as a firefighter is par for the course when it comes to Jon. He is constantly trying to make himself a better firefighter and stronger leader of his crew, taking numerous Continuing Education classes towards a degree in Fire Science Technology. He has also been an instrumental figure in the Eagle County Firefighter Academy and in providing a Drivers Education Class. Jon and his crew's hard work and training have paid off numerous times in battling forest fires, especially during the Ute Creek Fire in the Summer of 2002. In 2002, the Department received the Daily Point of Light Award, from the Points of Light Foundation which honors individuals and volunteer groups that have made a commitment to connect Americans through service to help meet critical needs in their communities.

Mr. Speaker, Jon Asper acts with great commitment and leadership in all that he does for his community as Chief of the Greater Eagle Fire Protection District. Jon never forgot that safety and protection came first and foremost for the people he served. It is my pleasure to recognize Jon before this body of Congress and this Nation. I would like to extend my appreciation to him for everything that he has done and wish him the best in his future endeavors.

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## HONORING ROBERT "BOB" HOBKIRK

## HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HALL. Mr. Speaker, I am honored today to pay tribute to an outstanding citizen of Tyler, TX, the late Bob Hobkirk, who passed away on July 29, 2004, at the age of 88.

Bob Hobkirk served in the U.S. Army for 4½ years during World War II as a drill sergeant and weapons instructor. He was employed by Hormel Food Company for 43 years, until he retired in 1977.

Bob was one of the first presidents of Camp Fannin, a veteran's association, that was originally the site for training soldiers in World War II. Bob was a loving man who had a "heart of gold." He devoted his life to helping veterans of Camp Fannin and was commonly the "go-to" man when something needed to be resolved. His tireless spirit and heart-felt devotion were an inspiration to members of Camp Fannin and the community of Tyler.

Bob is survived by his wife of 60 years, Lois Gimble Hobkirk. Bob suffered a stroke 19 months prior to his death, and Lois never left his bedside during the duration of his illness. Their marriage was blessed with two daughters and a son. Jody Henning, Judy and her husband Olan Gotcher, and Robert "Bob" Jr. and his wife Pam survive their father. Bob is also survived by his granddaughter Tracy Henning, four sisters-in-law, and numerous nieces and nephews.

Mr. Speaker, as we adjourn today, on behalf of friends, fans, Camp Fannin, and the community of Tyler, I would like to take this opportunity in the House of Representatives to pay our last respects and honor the life of this great Texan and veteran's advocate—Bob Hobkirk.

### CONGRATULATING CALVARY UNITED METHODIST CHURCH ON THE OCCASION OF ITS 100TH ANNIVERSARY

## HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to Calvary United Methodist Church in Berwick as its parishioners celebrate the joyful occasion of its 100th anniversary.

Calvary United Methodist arose because Christians living in the west end of Berwick had a need for a place to worship. The increase in population left the need for a second Church. Calvary United Methodist, located on the corner of Orange and Warren Streets in Berwick, became a parish on October 6, 1904.

Parishioners have chosen the motto for the 100th anniversary fittingly from the Bible: "One generation shall praise thy works to another, and shall declare thy mighty acts," Psalms, 145:4.

Rev. Fred Fields is the pastor of Calvary United, and I ask my distinguished colleagues to join me in congratulating Reverend Fields today. The parishioners of this church should be proud of their long-standing tradition of faith.

### IN RECOGNITION OF CHIEF LARRY LEWIS WHO RETIRES AFTER 35 YEARS OF DEDICATED AND DISTINGUISHED SERVICE AS A LAW ENFORCEMENT OFFICER

## HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SCHIFF. Mr. Speaker, I rise today to honor Chief Larry Lewis of the Alhambra Police Department. Chief Lewis is a 35-year veteran of California Law Enforcement having served in five municipal police agencies. Chief Lewis began his distinguished career as a police cadet in West Covina, CA.

As the police chief for Alhambra, Larry Lewis has been an exemplary leader in working with his department to strengthen its application of the community policing philosophy as well as the department's commitment to ethical and professional behavior. He has instituted effective review procedures of police use of force and vehicle pursuits and introduced less lethal weapons and in-vehicle camera systems into department operations. In 2003, as a result of Chief Lewis' efforts, the department replaced its aging information technology system resulting in a new records management and computer aided dispatch system, mobile data computers in police vehicles, and mapping system as well as improved crime analysis abilities.

An active member of the community, Larry Lewis has served on several professional boards as well as community service associations such as Rotary International and the YMCA. He has taught and lectured on topics of police use of force, sexual harassment prevention, supervision, executive leadership and community policing. In addition, Chief Lewis served as the 2002 president of the Los Angeles County Police Chiefs Association, representing 46 municipal law enforcement agencies in the county.

Chief Lewis received a bachelor of arts degree in political science and masters in public administration from California State University, Fullerton as well as a masters of science degree in management from Cal Poly University, Pomona. He is a graduate of the POST Command College, returning as a presenter during class orientations.

Known for his charisma and sense of humor, Chief Lewis is a popular master of ceremonies for various community and charity events.

Chief Lewis celebrates 32 years of marriage to his wife, Irene in 2004. They enjoy family outings with their son, Steve, and daughter-in-law, Penny.

I ask all Members of Congress to join me today in congratulating Alhambra Police Chief Larry Lewis on an impressive and long spanning career in law enforcement.

### HONORING ALLEN TEMPLE BAPTIST CHURCH

## HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. LEE. Mr. Speaker, I rise today to honor Allen Temple Baptist Church of Oakland, California for 85 years of ministry and invaluable service to the community. Since its founding, Allen Temple has been a pillar of strength and leadership, and its tireless efforts have had a dramatic impact not only on the lives of its members, but on the entire Oakland and East Bay community.

Allen Temple Baptist Church began as 85th Avenue Baptist Church in 1919. The church was organized by the Reverend J.L. Allen, and was one of the first primarily African-American congregations in East Oakland. During the first several years following its establishment, 85th Avenue Baptist Church struggled to survive. However, the congregation gradually became stronger, and after moving to its current location on 85th Avenue, was renamed in 1927 in honor of its founder. In the years that followed, Allen Temple not only expanded its membership, but also began establishing the first of the many community service programs for which it is now known.

Allen Temple's current Pastor, a great and magnificent servant of God, Dr. J. Alfred Smith, Sr., was installed as the church's leader in 1969, and brought with him the sense of energy and direction that would serve not only to rejuvenate the church's existing programs, but to initiate several new ones. The Pastoral Staff was organized, which not only increased the scope and effectiveness of the church's operations, but which today has grown to include over a dozen ministries. In the decades that followed, Allen Temple's presence within the community would become even stronger as it continued to establish initiatives such as the Allen Temple Baptist Church Federal Credit Union, the senior and disabled housing facilities at Allen Temple Arms I-III, the Radio Ministry, and the Allen Temple Hispanic Ministry. In addition, the church went onto establish the Allen Temple Community Outreach Center, the Allen Temple Family Life Center, the Leadership Institute, and Allen Temple Manor, a 24-unit building of affordable housing for persons who are disabled due to HIV/AIDS.

In recent years, Allen Temple's involvement has become increasingly vital in the support and guidance of individuals recently released from prison, and those who are HIV positive or living with AIDS. The Dr. J. Alfred Smith, Sr. Training Academy provides job training to dozens of parolees each year. The Allen Temple AIDS Ministry works to provide spiritual support and essential medical and social services to those living with HIV and AIDS, and works with the Alameda County AIDS Interface to make these services more widely available.

On October 17, 2004, Allen Temple Baptist Church will celebrate its 85-year anniversary in Oakland, California. I would like to honor this occasion by commending the church for the vital role it has played not only as a great religious institution, but for the indispensable social and human services and support it provides to the people of Oakland. By setting the standard of service and commitment for institutions of faith and community improvement throughout its 85 years of ministry, Allen Temple has contributed immeasurably to the Oakland community, our country, and the world. On behalf of the Ninth Congressional District, I salute and congratulate Allen Temple Baptist church on the occasion of its 85th anniversary.

### HONORING KATHI McDONNELL-BISSELL

## HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. DELAURO. Mr. Speaker, earlier this year, the Town of Milford, CT lost one of its strongest advocates for seniors in Kathi McDonnell-Bissell when she lost her battle with kidney disease brought on by diabetes. This month, residents and city leaders gathered to honor Kathi's memory by dedicating the newest addition to the Milford Senior Center in her honor. I am proud to stand today to join them in paying tribute to Kathi whose tireless efforts made such a difference in the lives of so many.

Senior centers play a vital role in our communities and this is especially true of the Baldwin Senior Center. All too often, what are supposed to be one's "golden years" are filled with struggles. Health concerns, increasing health care costs, the loss of independence—these are just some of the challenges our seniors face. Perhaps even more devastating is the sense of loneliness that can come as one moves through their later years. Providing invaluable programs and services, senior centers make a real difference in the lives of some of our most vulnerable citizens. That is why they are so important to our seniors and our communities. Kathi recognized this need and, under her leadership, what began as a small office in the basement the Mary Taylor United Methodist Church has grown into one of the most respected seniors centers in the State, boasting over 4,000 active members.

Kathi served as the Senior Center's Executive Director for over 30 years—even her declining health could not dissuade her from continuing efforts to improve the quality of life for Milford's seniors. I had the remarkable opportunity to work with Kathi on a variety of projects over the years and was constantly in awe of her endless energy, compassion, and drive. She was one of the most dedicated individuals I have ever had the privilege of knowing, dedicating not only her career, but much of her own time to creating a Senior Center which was a resource for area seniors as well as a source of pride for the community. While it will be the last of such examples, the completion of the new ten thousand squarefoot, two-story addition to the Senior Center is a reflection of Kathi's dedication and commitment to providing for the ever-changing needs of her community's seniors.

For her outstanding an unparalleled service, I am proud to stand today to join her husband, Robert; her children, Suzanne, Amy, and Betsy; family, friends, colleagues, and community leaders in paying tribute to Kathi McDonnell-Bissell. Her lifetime of generosity has touched the lives of thousands and left an indelible mark on the Milford community. Kathi was an extraordinary woman whom I consider myself fortunate to have called my friend. Though she will be missed by many, I believe her legacy will continue to inspire all of those who knew her—serving as an example to us all of what a community advocate should be.

## PERSONAL EXPLANATION

### HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. FILNER. Mr. Speaker, on rollcall No. 511, I was in my congressional district on official business. Had I been present, I would have voted "aye."

## IN RECOGNITION OF MONCRE TELEPHONE COOPERATIVE

### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. ROGERS of Alabama. Mr. Speaker, I rise today in recognition of the 50th anniversary of the MonCre Telephone Cooperative in Ramer, Al.

MonCre began operations in 1954 to bring phone service to the unserved rural areas of Montgomery, Crenshaw and eventually Bulloch and Pike counties, and was the vision of the late founder and Montgomery Advertiser columnist Mildred Smith of Ramer.

Today, MonCre employs 24 highly trained technicians and staff, and serves approximately 3,500 households. Services offered 50 years later are far different from those of 1954 and now include a wide range of telephone, internet and DSL services.

It's not often we have the opportunity to recognize the achievements and contributions of a community institution like MonCre, and I appreciate the House's attention to the matter at this important occasion.

## RECOGNIZING OCTOBER AS NATIONAL SPINA BIFIDA AWARENESS MONTH

### HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. FORD. Mr. Speaker, I would like to take this opportunity to pay tribute to the more than 70,000 Americans and their many family members who are currently affected by Spina Bifida. October is National Spina Bifida Awareness Month and I hope our colleagues will join this effort to raise awareness about this disease and recognize those Americans, including many of my constituents.

Spina Bifida is the Nation's most common, permanently disabling birth defect occurring when a neural tube defect prevents the central nervous system from closing properly during the early stages of pregnancy. Each year more than 4,000 pregnancies are affected, and of these, 1,500 babies are born with the disease.

I was honored to be a part of the 16th Annual Roast for Spina Bifida on September 26th. During that dinner, Senator LINDSEY GRAHAM, Redskins owner Dan Snyder, and I roasted former CNN Anchor Bernard Shaw. I am pleased to report that even under fire, a now retired Shaw was as cool, calm, and collected as he had been during his time on CNN. He was truly a fantastic sport.

The Spina Bifida Association of America (SBAA), an organization that has helped people with Spina Bifida and their families for over 30 years, work tirelessly to prevent and reduce suffering from this devastating birth defect. There are approximately 60 chapters serving over 125 communities nationwide and I would like to acknowledge and thank SBAA and the Spina Bifida Association of Tennessee for all that they have done for the families in my state affected by this birth defect. I would especially like to thank Scott Price of Nashville, a Spina Bifida Association Foundation Board member for his great work.

In closing, I would like to thank the Spina Bifida Association of America for allowing me to be a part of their roast and wish them the best of luck in their endeavors throughout the year. I urge my colleagues here in the House to support the important efforts of the SBAA and to remember those affected by Spina Bifida, particularly during this month.

## PAYING TRIBUTE TO DORA VALDEZ

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. MCINNIS. Mr. Speaker, I rise today to pay tribute to Dora Valdez, a dedicated employee of Delta County, CO who was recently honored for 25 years of impeccable service with the County. Dora is a responsible employee who engenders the trust of everyone she encounters, and it is an honor to recognize her many years of service to her community before this body of Congress and this Nation.

Dora was born and raised in Delta and has been an active member of her community her entire life. She has worked with four county clerks and managed all areas within that domain including motor vehicles, recording, election, cashier, and birth and marriage license departments. Dora is bilingual and aides many members of the Spanish community by translating for other offices. Dora enjoys her work, and has helped to many citizens in times of need.

Mr. Speaker, Dora Valdez has spent 25 years serving her local government in Delta County. Her dedication to her community is highly commendable and I am honored to recognize her many years of service before this body of Congress and this Nation. Thank you for all your hard work, Dora, and I wish you, and your family all the best in your future endeavors.

## RECOGNIZING AND SUPPORTING EFFORTS TO PROMOTE GREATER CIVIC AWARENESS AMONG PEOPLE OF THE UNITED STATES

SPEECH OF

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Mr. HALL. Mr. Speaker, I want to thank the majority leader, Mr. DELAY, and Chairman BOB NEY for bringing this timely resolution, H. Res. 796, to the floor today. I also want to thank the cosponsors for their interest in this bipartisan bill.

H. Res. 796 recognizes and supports efforts to promote greater civic awareness among the people of the United States. The resolution recognizes those organizations and groups that actively promote voter registration and participation, as well as those communities and schools that have instituted civic awareness programs.

The resolution also encourages local communities and elected officials at all levels of government to promote greater civic awareness among the electorate and greater participation in the upcoming elections.

The Constitution of the United States establishes a representative form of government, and throughout our Nation's history, many groups of people have fought, protested, rallied, and died for the right to vote. The 15th, 19th, 24th, and 26th amendments to the Constitution represent some of those hard-won voting privileges.

The percentage of Americans registered to vote unfortunately has declined in the last 10 years. There is no better time to make citizens more aware of the importance of exercising their right—and their responsibility—to vote. Voting is fundamental to our representative form of government—and as Members of Congress we must support and promote civic awareness and participation.

Our democracy is a government of all the people, by all the people, and for all the people. All those eligible to vote have an equal voice in determining the future of our great Nation. H. Res. 796 promotes greater awareness of one of the greatest privileges we have as American citizens—the right to vote—and I urge my colleagues on both sides of the aisle to join in supporting this timely measure.

## HONORING J.D. ROGERS

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. KILDEE. Mr. Speaker, I rise before you today to pay tribute to Mr. J.D. Rogers, III, who on September 18, 2004 was honored during the UAW Local 599 Walter Reuther award ceremony in Flint, Michigan for his contributions as the longest-serving production committeeman in the history of the Local.

J.D. Rogers began his leadership career within UAW Local 599 in 1976 when he was elected as Alternative Committeeman. One month after assuming his post he was elected to fulfill the position of the recently resigned Committeeman. His superior leadership skills and support of the union membership granted him several unopposed elections to this post.

J.D. is committed to fulfilling Walter Reuther's mission of helping people, and ensuring human dignity and social justice for all. His hard work and dedication to the duties of his elected position is commendable. His deeds are self evident in the faith the members of 599 have bestowed upon him in allowing him to be re-elected. His service to the UAW extends many years and is highly regarded.

Mr. Speaker, many people have greatly benefited from the leadership and service of Mr. J.D. Rogers. His commitment to the UAW membership is unwavering. I ask my colleagues in the 108th Congress to please join me in congratulating him on obtaining his mark in history and in wishing him the very best in future endeavors.

## COMMENDING THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HASTINGS of Florida. Mr. Speaker, I stand before you as a citizen of a state that has been devastated by four major hurricanes in the past several weeks. For the first time in a century, four hurricanes, Charley, Ivan, Frances and Jeanne, hit Florida, within one month. My district, in particular has been forced to deal with the most horrendous effects of these vicious natural disasters. As the devastation from these Hurricanes struck my state, district, and constituents, the service and resolve of the National Oceanic and Atmospheric Administration (NOAA) proved to be outstanding. On behalf of all my constituents, I would like to commend the dedicated service of the National Oceanic and Atmospheric Administration and its employees.

The citizens of Florida would not have been able to withstand the disastrous effects of these hurricanes if it were not for the fortitude and service of the National Oceanic and Atmospheric Administration (NOAA). They've never hesitated to fly into the eye of a hurricane to gather information about possible landfall, and NOAA was one of the primary agencies that my office dealt with in seeking information and expert advice to combat the dangerous situation my constituents were placed in because of these storms. When people needed to be warned of these storms, NOAA was there to respond. NOAH and its employees are a tremendous service to my office and constituents.

In this time of crisis, NOAA's National Hurricane Center provided 496 live television interviews and 567 telephone briefings to the media. The information contained in these briefings was relayed to millions of Floridians, allowing for the safe evacuation of more than 4 million Florida residents during Hurricane Frances alone. All together, more than 1,000 hurricane watches, warnings, and advisories were issued during Hurricanes Charley, Ivan, Frances and Jeanne. NOAA provided updated satellite images of all four Hurricanes every five minutes over the days leading to their landfall.

For more than 30 years, NOAA, has been working for America every day. Their knowledge, data gathering, and service have saved the lives of so many. From providing timely and precise weather, water and climate forecasts to monitoring the environment and making our nation more competitive through safe navigation and examining changes in the oceans, NOAA is on the front lines in the service of our great country.

Mr. Speaker, I am honored to recognize the service of such a valued Federal institution such as the National Oceanic and Atmospheric Administration.

## SALUTING EDWARD KUSSMAN

### HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. BERMAN. Mr. Speaker, I rise today to ask my colleagues to join me in saluting Mr. Edward Kussman, a civil rights activist and a good friend, who is being honored on October 15, 2004, by the Fair Housing Council of the San Fernando Valley. Mr. Kussman, who moved to Pacoima in 1956, is a remarkable man with many accomplishments and I have been greatly honored to work with him over the last 20 years on many important community issues.

For more than seven decades, Ed has unwaveringly fought to end racial and other forms of discrimination and to improve opportunities in education, housing and employment. He is a founding member of the Fair Housing Council of the San Fernando Valley and has been an active member for the past 45 years. He has also served seven consecutive terms as President of the San Fernando Valley Chapter of the NAACP, was President of the Pacoima Chamber of Commerce, served for 25 years as a board member of the San Fernando Valley Neighborhood Legal Services, was the Past President of Northeast Valley Health Corporation, and is currently the Commissioner of the Los Angeles County Commission on Aging. His civic involvement is as impressive as it is extensive.

Ed began his fight against racial inequality in a time when African Americans were excluded from accessing many forms of employment and denied entry into public places. His fight for equal rights was instrumental in the state of California's passing the historic Rumford Act prohibiting discrimination in housing. His influence is far reaching and continues to play an essential role in the lives of community members. He is an influential member of my Senior Advisory Council and has been a trusted counselor to me on many important issues.

Born in New Orleans, Ed attended Straight University, Louisiana Frank Wigins Trade Tech, and UCLA. He has taken an active part in his community and has earned many awards including Man of the Year Award from Beta Pi Sigma Zeta Chapter, the NAACP Freedom Award and Los Angeles's Urban League Award.

Edward Kussman is married and has four daughters.

Mr. Speaker and distinguished colleagues, I ask you to join me in saluting Edward Kussman for his impressive career, dedication to the people of California and his many years of making a difference.

## SAFE DRINKING WATER FOR HEALTHY COMMUNITIES ACT OF 2004

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. SOLIS. Mr. Speaker, today I rise to introduce the Safe Drinking Water for Healthy Communities Act of 2004. This legislation will require the EPA to establish a national primary standard for drinking water for perchlorate—otherwise known as rocket fuel.

Perchlorate is a component of rocket fuel—used heavily by the military and its defense contractors. Perchlorate contamination in California is primarily the result of releases from 12 military and defense contractor sites. It disrupts the functioning of the thyroid, resulting in behavior changes and delayed development in children and thyroid tumors in adults. It removes valuable water supplies from service.

Today, communities across the country are finding perchlorate in their drinking water, groundwater, irrigation water, and soil. In mid 1997, the Metropolitan Water District of Southern California discovered perchlorate in the lower Colorado River. It was traced to a Kerr McGee plant in Henderson Nevada. Releases to Lake Mead and the Lower Colorado River have impacted the drinking water supply of 15 to 20 million people in Arizona, southern California, southern Nevada, Tribal nations and Mexico. Today more than 120 wells in Los Angeles County have been found to be contaminated with varying levels of perchlorate.

In the district I represent the water providers are struggling to handle the plumes of perchlorate, the legacy of Aerojet. The City of Baldwin Park hosts the nation's first perchlorate treatment facility—a necessity in order to maintain the reliability and availability of safe drinking water. My community faces costs over the next 15 years of at least $200 million as the result of perchlorate contamination. Yet there exists no enforceable public health standard to ensure our drinking water is safe.

This bill requires the EPA to establish a national primary drinking water standard. Without this, there is no requirement for water to have safe levels of perchlorate and water providers will continue to struggle with guaranteeing long term reliability of safe water sources. Inaction poses an unreasonable risk to both our valuable water supply and our health.

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## HONORING STEVE AND NANCY BUTCHER

### HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. TIBERI. Mr. Speaker, I rise today to congratulate Mr. and Mrs. Steve and Nancy Butcher who have been honored by the National Restaurant Association as 2004 Restaurant Neighbor Award Finalists. Mr. and Mrs. Butcher own the Nutcracker Family Restaurant in Pataskala, Ohio.

Mr. and Mrs. Butcher led the community of Pataskala in commemorating Flag Day in 2004 and honoring U.S. troops abroad. They organized local businesses and citizens to sponsor flags and display them all over the town of Pataskala and its main streets. They hosted a community dinner, two sold-out golf scrambles and a lunch for more than 120 participants to raise money for their organization, Flags Over Pataskala. The money they raised went to the Licking County Family YMCA and the Pataskala Parks and Recreation Department. Their efforts reinvigorated the patriotic holiday by selling 168 new flags and displaying 500 smaller flags throughout town.

The Butchers have a long history of service to their country: Mrs. Butcher served in the Air National Guard for 14 years, and Mr. Butcher spent 26 years in the U.S. Air Force. When asked why they use their restaurant to lead patriot efforts, Mr. Butcher said, "Its like anything else, it's just something you naturally know is right. There are a lot of organizations out there that need help."

Again, I commend Mr. and Mrs. Butcher for their efforts in Pataskala and congratulate them on being finalists for the Restaurant Neighbor Award.

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## CONFERENCE REPORT ON H.R. 4520; AMERICAN JOBS CREATION ACT OF 2004

SPEECH OF

### HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. CRENSHAW. Mr. Speaker, I rise today to express my strong opposition to an unfair tax increase contained in the conference report of H.R. 4520, the American Jobs Creation Act of 2004.

Overall I believe this bill is well crafted and contains a great number of provisions that will significantly benefit individuals, businesses and other job creators in this Nation. I commend the Ways and Means Committee and Chairman Bill Thomas for their hard work and determination on this complex and vital piece of legislation.

I must, however, express my strong opposition to an unfair tax increase for Florida's cigar manufacturers. A provision added in the final hours of the conference will force cigar makers to pay for a tobacco buyout that has nothing to do with the kind of tobacco used in cigars. This new provision—which was not included in either the House or Senate-passed versions of the American Jobs Creation Act—amounts to a $282 million tax increase and Florida companies will pay more than 75 percent of this new tax.

Mr. Speaker, well over 95 percent of the tobacco grown in this country is produced under a federal price support program. Cigar manufacturers do not use the type of tobacco produced under this program. According to industry reports, 99.9 percent of all quota tobacco produced in the United States in 2002 was used by someone other than a cigar manufacturer. Yet under the American Jobs Creation Act, cigar makers are being forced to finance the phase-out of this government support program. Assessing cigar makers for the tobacco buyout fails any test of fairness. We should not increase taxes on an industry by imposing so-called "assessments" unless the new tax has something to do with the purpose of the new program.

To make matters worse, the cigar tax assessments appear to be imposed unfairly within the cigar industry. The Internal Revenue Code distinguishes between "small" cigars and "large" cigars. Unlike cigarettes, cigars come in a wide variety of shapes, sizes, and weights. The tax code recognizes these distinctions. A 10 cent cigar is not taxed the same as a $15 premium cigar. Under the tax code, a premium, "large" cigar might pay an excise tax amount that is 25 times greater than a small cigar. Small cigars make up a small percentage of sales in the overall market, and about 2 percent of all excise taxes on cigars are collected from small cigars. Yet under the American Jobs Creation Act, small cigar manufacturers will pay about 35 percent of the new assessments, unless the Secretary of Agriculture—when writing the rules—recognizes this distinction between small and large cigars. Otherwise, small cigar manufacturers will be assessed at a level that is far out of proportion with both their current excise tax burden and their overall market share.

Mr. Speaker, this is supposed to be a jobs bill, but ironically, I believe it will eliminate tobacco jobs in my state. For the Florida cigar industry, this provision is a job killer. I would hope this issue could be revisited in the future and a correction be made to reverse this unfair tax increase.

I look forward to working with the Secretary of Agriculture to fix this issue and ensure the tax is assessed on those manufacturers actually utilizing program tobacco. Since there is no per unit assessment level for cigars set in the bill, I trust the Secretary Will recognize the inherent differences in small and large cigars and set the assessment based on the market share of the product.

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## PAYING TRIBUTE TO CAROLYN CLEMENS

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Carolyn Clemens, a dedicated employee of Delta County, Colorado who was recently honored for 25 years of impeccable service with the County. Carolyn is a responsible employee who engenders the trust of everyone she encounters, and I have the pleasure of recognizing her many years of service to her community before this body of Congress and this Nation.

Carolyn came to Delta with experience as a legal secretary and a background in accounting. She began her work with the county as an executive legal secretary to County Attorney and the County Commissioners where she obtained permits for all the counties gravel pits. Carolyn is currently an Administrative Assistant working directly with the County Administrator.

Mr. Speaker, Carolyn Clemens has spent 25 years serving her local government in Delta County. Her dedication to her community is highly commendable and I am honored to recognize her many years of service before this body of Congress and Nation. Thank you for all your hard work, Carolyn, and I wish you, and your family all the best in your future endeavors.

## RECOGNIZING DR. JOHN COBLE, OD

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HALL. Mr. Speaker, today I am honored to recognize Dr. John Coble of Greenville, Texas, recipient of the 2004 American Optometric Association's Optometrist of the Year award.

After serving his country in the United States Army and Texas Army National Guard, Dr. Coble graduated from the University of Houston College of Optometry and began his distinguished career as an optometrist. He currently practices optometry in Greenville where he also serves as clinical staff at Presbyterian Hospital and as a liaison to the Medicare Carrier Advisory Committee. He is also active in the North East Texas Optometric Society, the Texoma Optometry Society, and the Student Texas Optometric Society.

Dr. Coble frequently dedicates his time and skill to a number of civic and volunteer organizations. He is active in the Greenville Chamber of Commerce, the Greenville Rotary Club, and the United Way of Hunt County. Additionally, Dr. Coble is involved in mentoring local youth, performing vision screenings for the Dallas Headstart program, coaching YMCA baseball and basketball teams, and serving as Boy Scout Leader.

Mr. Speaker, on behalf of the 4th District of Texas, I would like to congratulate and commend Dr. Coble for his recognition by the American Optometric Association and his continued involvement in the community.

## HONORING MO FELLING

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. KILDEE. Mr. Speaker, I rise before you today to pay tribute to Mr. Mo Felling for attaining the honor of being the longest serving skilled trades committeeman in the history of UAW Local 599 in Flint, Michigan. On September 18, 2004, the UAW Local 599 members will honor Mr. Felling during their annual Walter Reuther award ceremony.

Mo Felling began his leadership career within UAW Local 599 in 1977 when he was elected to the post of Alternative Committeeman. In 1980 he was elected to the post of committeeman, a position he has held successfully to this date. His impeccable service and love for his fellow members is commendable. He is committed to upholding the mission set forth by Mr. Walter Reuther; which is to help people, and ensuring human dignity and social justice for all who are employed within the manufacturing automobile industry. I salute Mr. Felling for his great attention to detail and on a job well done.

Mr. Speaker, many people have greatly benefited from the leadership and service of Mr. Mo Felling. I ask my colleagues in the 108th Congress to please join me in congratulating him on obtaining his mark in history and in wishing him the very best in future endeavors.

## CONGRATULATING TAIWAN ON ITS NATIONAL DAY

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HASTINGS of Florida. Mr. Speaker, October 10 marks the National Day of Taiwan, and I rise today in support and to congratulate this beacon of democracy and freedom.

Taiwan has much to celebrate this National Day. It is a vibrant democracy where individual freedom is given the appreciation it certainly deserves. It is undeniable that Taiwan has moved rapidly toward full democracy. Elections for important posts in the government are held regularly, political parties have reached an established level of maturity, and people actively participate in the democratic process. Taiwanese citizens have a greater control over affairs of state than ever before.

There are so many throughout the international community who sincerely appreciate the political aspirations of Taiwan. Taiwan stands like an obelisk of democracy and hope in the South China Sea. Unfortunately, so many throughout the world have never fully benefited from all that Taiwan has to offer. For example, many of the medical advancements made by Taiwanese doctors and scientists have not been shared with the world because Taiwan lacks WHO membership. Taiwan enjoys one of the highest life expectancy rates in Asia, has relatively low infant and maternal mortality rates, and has eradicated major infectious diseases such as cholera, smallpox, and polio. Additionally, Taiwan's government was the first in the world to provide children with free hepatitis B vaccinations. The successes of Taiwan's medical experts must no longer remain locked in a chamber of politics, and access to these ideas must be extended to all countries.

The international community must recognize that each country in the world will benefit multi-fold from Taiwan's inclusion in the WHO, even if it is just as an observer. Until then, individuals in need of medical assistance throughout the world will not fully benefit from the wonderful advancements Taiwan has made in the field of medicine.

Mr. Speaker, health has no borders, and certainly neither does disease. Providing Taiwan with observer status in the WHO is long overdue. Taiwan is one of the most dramatic success stories of Asia. I join the people of Taiwan as they celebrate their National Day, and may America's support for the people of Taiwan be everlasting.

## HONORING MICHAEL C. CUDAHY, IN RECOGNITION OF HIS DEDICATED SERVICE TO THE CITIZENS OF ARIZONA AND THIS GREAT NATION

### HON. JOHN B. SHADEGG

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SHADEGG. Mr. Speaker, I am pleased to speak on behalf of a fellow Arizonan and former colleague, Michael C. Cudahy, in recognition of his dedicated service to the citizens of the State of Arizona and this great Nation. Mike grew up in Southern California and Arizona in a family that had deep roots in the cattle and meat packing industry.

After graduating from Middlebury College in Vermont and receiving his law degree from the University of Arizona College of Law, he served as a law clerk to two justices on the Arizona Supreme Court. Mike spent the majority of his professional career as an attorney with the Arizona Attorney General's Office, where he progressed through the office ranks from trial attorney to Chief Counsel and Senior Prosecutor, Criminal Division, during his 26 years of service. Through the administrations of numerous Attorneys General, who differed in their management styles and who were often from different political parties, Mike's talents for administration and skills as a litigator were consistently recognized and highly valued.

He is held in high esteem by his colleagues, opponents, and judges for his trial skills, integrity, professionalism, and most of all, his sound judgment. Often he served as lead trial counsel in some of the most difficult and challenging cases facing the Attorney General's Office. A man of courage and conviction, Mike always adhered to the principles of fairness, justice, and the rule of law.

Mike has always taken great pride in mentoring new attorneys, inculcating them with a deep appreciation and respect for the duties and responsibilities of serving as a member of the legal profession, especially those engaging in public service who often bear being held to a higher standard. He often opined that being an attorney was a privilege. Mike exemplified the highest and most honorable attributes expected of an attorney, and those who came under his tutelage were fortunate indeed.

Despite dealing with the frailties of individuals who entered the criminal justice system, Mike has maintained an optimistic perspective about the human spirit and our society. He has always remained positive about the world we live in and about the future of our Nation.

In his personal life, his love and devotion to his family—wife Joanie, daughter Catherine, and son John—are the cornerstones of his life's journey. Despite some recent challenges to his health, which have caused an early retirement, Mike maintains his sense of humor and optimistic outlook.

Every now and again, a special individual intersects with our own life in a profound way, and through his daily example creates a positive beam for us to follow. Michael C. Cudahy is one of these special individuals, and it is for these reasons I want to honor my friend and former colleague today.

## IN MEMORY OF ANDREW J. "JACK" ANDERSON

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SKELTON. Mr. Speaker, it is with deep sadness that I inform the House of the death of Mr. Andrew J. "Jack" Anderson of Harrisonville, Missouri.

Jack was born in Harrisonville, Missouri on September 27, 1924, son of William Monroe and Prudilee (Mathews) Anderson. He graduated from Harrisonville High School in 1942 and went on to answer his call to duty. Jack served his country by enlisting in the Navy in October 1942. He received a commission as an officer and earned his wings as a Navy Fighter Pilot. After serving in World War II, Jack came home and continued his service in the Navy reserves until 1959, when he was discharged with the rank of Lieutenant.

On March 27, 1945, Jack was united in marriage to Dorothea Ann Gaston. Their marriage, which lasted 54 years, was truly a story of love and admiration. Jack and his wife also were the proud parents of two sons, Andrew and Kevin.

After returning from World War II, Jack attended college, receiving his undergraduate degree from the University of Missouri, Columbia, and his law degree from Cumberland University. In 1951, Jack was admitted to the Missouri Bar. He first began practicing law with his father in Harrisonville in 1951 at the law firm that is now Anderson and Milholland P.C. and continued to work there until his retirement in 2003. Also, Jack was elected to four terms as Cass County Prosecuting Attorney, serving in this position from 1954 to 1962. In 1976, he began serving as my campaign treasurer.

Jack also made significant contributions to the community. He served over 25 years on the Board of Directors of Allen Bank and Trust and over 25 years as Municipal Judge for the City of Harrisonville. Jack also was a member of Our Lady of Lourdes Catholic Church in Harrisonville.

Mr. Speaker, Jack was a valuable leader in his church and community who was respected by everyone who knew him. He was a dear friend of mine who had a deep faith. He will be missed by all. I know the members of the House will join me in extending heartfelt condolences to his family.

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## HONORING MARY MONINGER-ELIA FOR HER OUTSTANDING SERVICE

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join the West Haven Federation of Teachers and School Nurses in honoring a very special member of our community—Mary Moninger-Elia. Teacher, advocate, mentor, and friend, Mary has exemplified all that a community leader should be and through her efforts has made a difference in the lives of many.

Our teachers are a vital resource for all of our communities. By giving our children the tools and skills they will need—the foundation on which our young people will build their future success—the contributions teachers make to our children's lives is invaluable. I have often spoke of our nation's need for talented, creative educators ready to help our children learn and grow. Mary was just that kind of teacher.

Mary began her career at West Haven High School where she spent 25 years teaching Home Economics. During her tenure, one of her most interesting additions to the curriculum was the creation of a very successful preschool program. The program paired 3 and 4 year old children with the high school students and served as a tool to teach students how to interact with toddlers. With many students having aspirations of becoming teachers and parents, this innovative approach was a first step in preparing for what one can expect from such young children. After 25 years with high school students, Mary decided to move to a different age group. She moved to Bailey Middle School where she taught both Study Skills and Social Science until her retirement just 2 years ago. Throughout her career, Mary touched the lives of thousands of students, helping them to realize their potential and make their dreams a reality.

In addition to her daily professional contributions, Mary has long been a staunch advocate for teachers and education. She has worked with legislators at every level of government to ensure that their concerns and needs were heard. She was elected to serve on the Connecticut AFL–CIO Executive Board and the Greater New Haven Labor Council. But perhaps where she had the greatest impact was through her 24-year tenure as the President of the West Haven Federation of Teachers and School Nurses—the longest consecutive term of any president of any American Federation of Teachers Local in Connecticut. Her diligence, commitment and dedication earned her a distinguished reputation throughout Connecticut. In fact just prior to her stepping down in June of this year, Mary was honored by the Connecticut branch of the American Federation of Teachers with the prestigious Unionist of the Year Award—the highest such honor bestowed by the organization.

We have certainly been fortunate to have an individual like Mary working so hard, not only on behalf of our students, but for our teachers and our education system as well. For her many contributions and outstanding service, I am proud to stand today to join the West Haven Federation of Teachers and School Nurses, family, friends, and colleagues in extending my sincere thanks and appreciation to Mary Moninger-Elia for her lifetime of good work. Hers is a legacy that will continue to live on through the many lives she has touched.

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## MARRIAGE PROTECTION AMENDMENT

SPEECH OF

### HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 30, 2004*

Mrs. MUSGRAVE. Mr. Speaker, I rise today to thank Dr. D. James Kennedy and his supporters for their support of the Marriage Protection Amendment.

Dr. Kennedy is a well-known Christian television and radio broadcaster whose programs reach some three million people, weekly. Dr. Kennedy is President of Coral Ridge Ministries, a Christian broadcasting organization, founder and president of Evangelism Explosion, a Christian lay-evangelism training program used in every nation, and Senior Minister of Coral Ridge Presbyterian Church in Fort Lauderdale, Dr. Kennedy is a respected and articulate advocate of the return to Christian moral standards in public life.

Dr. Kennedy's Center for Reclaiming America has collected the names of more than 430,000 petition signers who believe marriage is the union of a man and a woman, and they are opposed to efforts to redefine it. These 430,000 citizens from across the nation have petitioned Congress to pass the Marriage Protection Amendment.

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## PAYING TRIBUTE TO WEST ELK MOUNTAIN RESCUE

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. MCINNIS. Mr. Speaker, I rise today to pay tribute to the West Elk Mountain Rescue team, a dedicated group of people from my home district who risk their lives so that others might live. This 22 member rescue team is composed of dedicated men and women that volunteer using their own resources to equip themselves with the knowledge to find and rescue people in need. I want to take this opportunity to recognize their many years of service to their community before this body of Congress and this Nation.

The WEMR was created in 1996 and works under the authority of the Gunnison County Sheriff's office. The team consists of mainly men and women, but also includes a 5-year old golden retriever/labrador mix rescue dog who aides local and national law enforcement agencies. The human members of the team come from Crawford, Hotchkiss, Paonia, Cedaredge, and Eckert to cover a search area encompassing both Delta and Gunnison counties. Team members are certified and trained in CPR/First Aid, emergency medical technicians, avalanche rescue, water rescue, technical rock climbing skills, and general rescue. The group acquires many of its members from people who were once in need of the team's services.

Mr. Speaker, West Elk Mountain Rescue is a dedicated group of people who avail themselves to the community everyday of the year to provide search and rescue expertise to those in dire need. These brave men and women risk danger to their own lives and take time away from their families to serve others. Their dedication to their community is highly commendable and I am honored to recognize their service before this body of Congress and this Nation.

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## LAKE FENTON COMMUNITY SCHOOLS

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. KILDEE. Mr. Speaker, I rise before you today to bring to your attention an event that took place in my district. On Saturday, August 21, 2004, the Lake Fenton Community School District gathered to mark the official ribbon cutting and formal dedication of their newly constructed Lake Fenton High School. The celebration concluded on Sunday, August 22, 2004 with a non-denominational service and community open house.

Lake Fenton High School was first dedicated on May 19, 1961. With increasing enrollment and changing educational needs, the Lake Fenton Board of Education and the Lake Fenton Schools Support Services/Facilities Committee implemented plans to build a new high school. Their hard work and dedication resulted in three elective bond activities, and the final product is the first newly built facility within the Lake Fenton School District, and the only new high school constructed within Genesee County in over 30 years. This is indeed an accomplishment worth commending.

The new high school boasts state of the art technology, computer and science labs, a media center, auditorium, gymnasium, and an outdoor athletic facility. The labs will allow the school to fully support their new program entitled "Project Lead the Way". This program introduces students to the demanding field of Engineering and Digital Electronics. As stated by their principal, Julie Clontz, Lake Fenton High School is trying to in every way possible to adjust their curriculum to meet the needs of the students and help prepare them for life after high school. The completion of this beautiful new facility and the implementation of these exciting educational programs is without a doubt a step in the right direction. Superintendent Ralph Coaster has provided excellent leadership in this endeavor.

Mr. Speaker, as a Member of Congress, I consider it both my duty and privilege to work to improve the quality of our public school system. I am glad that communities such as Lake Fenton share this sentiment. They continue to work diligently to ensure students have the tools necessary to compete and succeed. I ask my colleagues of the 108th Congress to please join me in congratulating this fine community and its school district and in wishing them the very best in future endeavors.

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## INTRODUCING THE RELIEF FOR LIFE-SAVING BLOOD DONORS ACT 2004

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to introduce the Relief for Life-Saving Blood Donors Act, a bill to provide a tax deduction for the selfless act of donating blood.

Each year, more than 4.5 million Americans need a life-saving blood transfusion, and about 25 percent of all Americans will need a blood transfusion at least once in their life. This means that almost every American will come to know, through their own experience or through those of a friend or family member, the importance that the small act of blood donation can make. Indeed, a single blood donation can help as many as three people.

While 60 percent of Americans are eligible to give blood, only about 5 percent of that population, or about 8.8 million Americans, actually do. According to the American Association of Blood Banks, the average donor is a college-educated white male between the ages of 30 and 50, who is married and has an above average income. Nevertheless, blood donations are increasingly coming from women and minority groups, engendering greater participation at the community level by members who seek to develop a more solid sense of neighborhood unity.

America's blood supply is critical to our Nation's seniors. While those aged 69 years and older account for just 10 percent of the population, they require 50 percent of blood transfusions. This statistic will only increase with the aging of the Baby Boomer population, and the need for blood will be even greater.

While there is no current, nationwide shortage of blood, regional and local shortages do occur. It is not hard to imagine that a major national trauma, such as a terrorist attack, disease, or natural disaster, could strain the blood supply even further. Since blood cannot be manufactured, the system is reliant on people to donate their blood.

Mr. Speaker, donating blood is a small but entirely selfless act that does nothing but help those who need it most. Congress should support this endeavor, and encourage people to give blood as often as they can.

This legislation provides a $50 tax deduction for individuals who donate blood, with a maximum deduction of $150 a year. This maximum reflects the advice of blood bank centers and institutions that encourage people to give blood three times a year. This relief is a small reward for people who do give, and an encouragement for those who might need that extra little push to attend a blood drive.

I urge my colleagues to support this legislation, and call on the House to bring it expeditiously to the floor.

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## HONORING DENNIS CONNER, A WORLD-RENOWED SAILOR, ON HIS RESTORATION OF THE LEGENDARY YACHT "COTTON BLOSSOM II"

### HON. JOHN B. SHADEGG

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SHADEGG. Mr. Speaker, it is with profound pleasure that I rise to commend to the Nation Dennis Conner, of America's Cup fame, an outstanding American yachtsman, competitor and sailing icon, in admiration and appreciation of his magnificent restoration of the historic wooden yacht *Cotton Blossom II*. Mr. Conner's expertise and dedication to preserving yachting history are to be commended. His extraordinary efforts are a testament to his uncompromising devotion to excellence and authenticity.

Thanks to Dennis Conner's vision and generosity, *Cotton Blossom II* is an elegantly restored masterpiece that honors our country's rich yachting heritage and the classic art of wooden boat building.

*Cotton Blossom II* was designed in 1924 by Johan Anker, the leading "Q" Boat designer of the time. She was built for Lawrence Percival of Boston at the Jensen Shipyard near Oslo, Norway. *Leonore*, as she was first named, was delivered to Marblehead in October 1925. She was later sold to Walter Wheeler and christened *Cotton Blossom II*. Wheeler campaigned her with great success out of Stamford, CT. Among her many racing victories were the Vineyard Race and the Astor Cup for the New York Yacht Club. She was named the NYYC Boat of the Year in 1939, and her half model is displayed in the Club's Model Room.

Twenty-three years later, this well-designed yacht continued to win major races under the stewardship of owners Ed and Gloria Turner of the San Diego Yacht Club. *Cotton Blossom II* successfully spanned the dramatic changes that had taken place in the sport since the 1920s as she became a familiar sight winning all the major races at the club, including the Lipton Trophy, and was named SDYC Boat of the Year in 1963. Her half model is displayed in the club today.

As a young man and rising star in the sailing world, Dennis Conner sailed extensively on *Cotton Blossom II*. When he had the good fortune of acquiring *Cotton Blossom II*, Mr. Conner assembled a team of the finest craftsmen and shipbuilders to restore her with meticulous care to her original condition.

Mr. Speaker, I ask that you and my colleagues in the People's House join me in commending Dennis Conner and his talented team of skilled craftsmen for preserving U.S. maritime history with the restoration of the legendary wooden yacht *Cotton Blossom II*.

## RECOGNIZING SENATOR HAROLD L. CASKEY

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SKELTON. Mr. Speaker, a long and distinguished career in public service is coming to an end in the Show-Me State. Missouri State Senator Harold L. Caskey will retire at the end of the year. He has served the people of the 31st District since 1976.

He was born in Bates County. After graduating from Central Missouri State University with honors in 1960 with a B.A. in Psychology and Sociology, he attended University of Missouri-Columbia where he received a Juris Doctorate in 1963. He also was a member of the Order of the Coif.

From 1968 to 1972, Mr. Caskey served as the prosecuting attorney for Bates County. Then he was the Butler city prosecutor from 1973 to 1974. After serving in this position, he was an assistant professor in Business Law and Criminal Law at Northeast Missouri State University, now Truman State University, from 1975 to 1976.

Mr. Caskey was first elected to the Missouri Senate in 1976. During his accomplished tenure in the Missouri Senate, he served in many positions. He was the Senate Assistant Majority Floor Leader, Senate Majority Caucus Chair, Senate Majority Floor Leader, and Minority Caucus Chair.

Mr. Caskey awards and honors include the 2002 Access Award from the American Foundation for the Blind, the 1997 National Legislator of the Year from the National Industries of the Blind Workshop, the 1999 University of Missouri School of Law Alumnus of the Year and the National Freedom Righter from the National Rifle Association. Additionally, the Missouri Deputy Sheriffs' Association named an award for him—the Harold Caskey Freedom Award.

Mr. Speaker, I know the Members of this House will join me in thanking Mr. Caskey for his life of public service.

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## HONORING THE SAINT NICHOLAS RUSSIAN ORTHODOX CHURCH AS THEY CELEBRATE THEIR 75TH ANNIVERSARY

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join the Reverend George Lardas, members of the congregation, and the Stratford, CT, community in extending my sincere congratulations to the St. Nicholas Russian Orthodox Church as they celebrate its 75th anniversary. This is a remarkable milestone for this community treasure and I am proud to help them celebrate this momentous occasion.

The St. Nicholas Russian Orthodox Church was founded in 1929 by Russian emigres who came to Stratford to work for Igor Sikorsky. The legendary Igor Sikorsky, the father of the modern helicopter, was a founding member of the church as well as one of its staunchest supporters throughout his life. With nearly all the members employees of Sikorsky's company, a Russian community quickly grew around the church. Soon, what began as a neighborhood church in a Lake Street home moved to its present location and today welcomes congregants from several surrounding communities as well. The striking golden cupolas of the church, a unique characteristic of the building, along with the warm and welcoming arms of the congregation have made St. Nicholas a lasting landmark in Stratford.

Our churches play a vital role in our communities—providing people with a place to turn to for comfort when they are most in need. By strengthening our bonds of faith, St. Nicholas gives its members a place to find their spiritual center and to solidify and support their values. The members of St. Nicholas' have also given much to the town of Stratford. Throughout the years, as their membership grew so did their commitment to the enrichment of our community.

It is with great pride and my heart-felt congratulations that I rise today to join with the congregation and the Stratford community in celebrating the 75th anniversary of the St. Nicholas Russian Orthodox Church—a true community treasure.

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## MARRIAGE PROTECTION AMENDMENT

SPEECH OF

### HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 30, 2004*

Mrs. MUSGRAVE. Mr. Speaker, I rise again today to submit into the RECORD additional material regarding the debate about whether marriage is in decline in the Netherlands. Some members suggest that the Stanley Kurtz material is not relevant or is not accurate. I submit into the RECORD the following article written by Mr. Kurtz that addresses his critics on this point.

DUTCH DEBATE

There's a new development in the story of Europe's marriage meltdown. Recently, a group of five scholars in the Netherlands issued a letter addressed to "parliaments of the world debating the issue of same-sex marriage." The Netherlands was the first country to adopt full-fledged same-sex marriage, and this letter is the first serious indication of Dutch concern about the consequences of that decision. So it's worth quoting the letter at some length. After citing a raft of statistics documenting the decline of Dutch marriage, here is some of what these scholars had to say: . . .there is as yet no definitive scientific evidence to suggest the long campaign for the legalization of same-sex marriage contributed to these harmful trends. However, there are good reasons to believe the decline in Dutch marriage may be connected to the successful public campaign for the opening of marriage to same-sex couples in the Netherlands. After all, supporters of same-sex marriage argued forcefully in favor of the (legal and social) separation of marriage from parenting. In parliament, advocates and opponents alike agreed that same-sex marriage would pave the way to greater acceptance of alternative forms of cohabitation.

In our judgment, it is difficult to imagine that a lengthy, highly visible, and ultimately successful campaign to persuade Dutch citizens that marriage is not connected to parenthood and that marriage and cohabitation are equally valid 'lifestyle choices' has not had serious social consequences . . .

There are undoubtedly other factors that have contributed to the decline of the institution of marriage in our country. Further scientific research is needed to establish the relative importance of all these factors. At the same time, we wish to note that enough evidence of marital decline already exists to raise serious concerns about the wisdom of the efforts to deconstruct marriage in its traditional form."

You can read an interview with two of the letter's signers here, and a front-page news story about the letter in the Dutch paper, Reformatorisch Dagblad, here.

UNDENIABLE DECLINE

During last week's Federal Marriage Amendment debate, many senators referred to the Dutch scholars' statement, and to marital decline in Scandinavia and the Netherlands. Of course, you probably haven't heard about that, because, for the most part, the American press has refused to report the story.

Even so, gay-marriage advocates are worried. M. V. Lee Badgett, research director for the Institute for Gay and Lesbian Strategic Studies, has issued a new critique of my work on Scandinavia and the Netherlands. In "Unhealthy Half-Truths," I refuted Badgett's first attack. Now she's back. Badgett's critique of my work is long on statistical tricks and short on engagement with my actual argument.

The bottom line is that neither Badgett nor anyone else has been able to get around the fact that marriage in both Scandinavia and the Netherlands is in deep decline. In Scandinavia, that decline began before same-sex registered partnerships were established, but has continued apace ever since. In the Netherlands, marital decline accelerated dramatically, in tandem with the growing campaign for gay marriage.

The strategies for evading these hard truths don't work. Gay-marriage advocates regularly cite steady or improving rates of marriage and divorce in Scandinavian countries to prove that all is well. I've shown repeatedly that these numbers are misleading. Scandinavian marriage numbers are inflated by remarriages among the large number of divorced, for example. Scandinavian divorce numbers omit legally unrecorded breakups among the ever-increasing number of cohabiting parents. Total family dissolution rates in Scandinavia are actually up. I've made these points before, but Badgett and others just keep citing the misleading numbers.

European demographers know perfectly well that marriage in Scandinavia is in deep trouble. British demographer David Coleman and senior Dutch demographer Joop Garssen have written that "marriage is becoming a minority status" in Scandinavia. In Denmark, a slight majority of all children are still born within marriage. Yet citing the 60 percent out-of-wedlock birthrate for first-born children, Danish demographers Wehner, Kambskard, and Abrahamson argue that marriage has ceased to be the normative setting for Danish family life.

### ALL ABOUT THE FAMILY

Badgett uses several tricks to dodge the problem of out-of-wedlock birthrates in excess of 50 percent. Most cohabiting parents eventually marry, Badgett emphasizes. Because of that, if you look at the number of Norwegian children who are actually living with their own married parents, it is 61 percent. Well, that is certainly more than half, but a number that low hardly means that Norwegian marriage is strong. And as I showed in "Unhealthy Half-Truths," in Norway's progay-marriage north, the numbers of Norwegian children actually living with their own married parents is now almost certainly at or below 50 percent.

Of course, the fact that "most" cohabiting parents in Scandinavia eventually marry slides over the core point. A great many parental cohabiters break up before they ever decide to marry—and they do so at rates two to three times higher than married parents. So many cohabiting parents break up before they ever decide to marry that demographer Mai Heide Ottosen has said, "to be a child of young [Danish] parents nowadays has become a risky affair."

Badgett cites a study showing that American children spend even less time in total with their own married parents than Norwegians. But that study's Norwegian data comes from the 1980s. Since then, America's family disruptions have leveled off while Norway's have worsened. In any case, staging a family-stability contest between America and Scandinavia misses the point. American families are unstable because of our high divorce rates and sky-high rates of underclass single parenting. The fact that our family system has weakened is precisely the problem. America's already significant family vulnerabilities would be pushed beyond the breaking point if Scandinavian-style parental cohabitation spread here. Today, more than ten percent of American children are born to cohabiting parents. And studies show that cohabiting parents in America break up at a much higher rate than they already do in Scandinavia. So a spike in Scandinavian-style parental cohabitation in America would deal a major new blow to our already vulnerable family system.

Badgett ignores my points about the differences between Norway's socially liberal north and it's more conservative and religious south. The parts of Norway where same-sex unions are most accepted have by far the highest out-of-wedlock birthrates. That helps make my causal point. It also helps explain why Norway's out-of-wedlock birthrate is rising more slowly now—something Badgett makes much of. Rising Norwegian out-of-wedlock births have hit a wall of resistance in the recalcitrant, religious south.

In any case, at very high levels, the out-of-wedlock birthrate has to rise more slowly. That's because super-high out-of-wedlock birthrates signal a radical shift in the way parents think about marriage. In the early stages of Scandinavian-style cohabitation, parents think of first, and even second born children as tests of a relationship that might someday eventuate in marriage. But as parental cohabitation grows in popularity parents have two or more children without getting married at all. So out-of-wedlock birthrates rise more slowly as they move beyond the 40- and 50-percent marks because they are pushing through the final and toughest pockets of cultural support for marriage. That's why the slow but steady increase in Norway's already high out-of-wedlock birthrates is so frightening. It shows that even the resistant and conservative south is beginning to accept parental cohabitation, while the liberal north is beginning to abandon the idea of marriage altogether.

Okay, says Badgett, let's provisionally grant Kurtz's distinction between high and low-out-wedlock birthrate countries. Even given that, says Badgett, out-of-wedlock births have been "soaring" in some traditionally low out-of-wedlock birthrate nations (Ireland, Luxembourg, Hungary, Lithuania, and several other eastern European countries). And none of them but the Netherlands has gay marriage. So how could gay marriage be the cause of higher out of wedlock birthrates in the Netherlands when comparable countries that don't have gay marriage have similar rises?

Gay marriage is not the only cause of rising out-of-wedlock birthrates. I never said it was and it doesn't take a demographer to realize that lots of factors contribute to husbandless women having babies. In fact the out-of-wedlock birthrates that are rising so rapidly in the countries Badgett cites are rising for a distinct and clear reason. These nations are economically and culturally modernizing. For good or ill, they are increasingly adopting postmodern sexual mores, yet provide only limited access to contraception and/or abortion. That juxtaposition of divergent and even contradictory family and sexual systems creates problems. In Ireland, for example, sexual mores are loosening. Yet the Irish still tightly restrict contraception and abortion. That combination has pushed out-of-wedlock birthrates way up.

Something similar is happening in Lithuania, and in other eastern European countries. In a recent study of contraceptive availability in Europe, Erik Klijzing found that contraceptives were far less available in Lithuania and Bulgaria than in other European countries. Some eastern European nations have as little access to contraception as third-world countries. Curiously, of all the countries Klijzing studied, only in Lithuania do educated people have even less access to contraceptives than uneducated people. That fits the model of a culturally modernizing population with loosening sexual mores, but poor access to contraception. The result is soaring out of wedlock birthrates. (Some will use this to argue for more contraception. Others will argue for abstinence education and a renewal of tradition. My point here is simply that, either way, changes in sexual practices and attitudes have consequences.)

Badgett does list a country that doesn't have limited contraception: Luxembourg. But while Luxembourg's out-of-wedlock birthrate is rising, it's moving up only about half as fast as rates in Ireland, Lithuania, and the Netherlands.

Hungary is the only country that Badgett lists besides the Netherlands that has widely available birth control but a rapidly rising rate of out-of-wedlock births. This does seem to be related to greater cultural individualism. But another factor is the economic stress that has hit eastern Europe as a whole since the collapse of Communism. Under Communism, governments allotted good apartments to married couples. In the post-Communist era that incentive to marriage has disappeared. Large apartments are now too expensive for many couples to afford in stressed economic times. What used to be an incentive to marriage has turned into a disincentive. Yet nothing of this sort is happening in Holland.

### THE EVIDENCE IS CLEAR

So the real question raised by Badgett's comparison is why Holland should be virtually the only traditionally low out-of-wedlock birthrate country in which couples have easy access to birth control where out-of-wedlock birthrates are now "soaring"? I'm grateful to Badgett for (inadvertently) drawing this additional factor to my attention. Rather than weakening my point, it greatly strengthens it. It is clearer than ever that something very unusual is happening in the Netherlands. Demographically, we have a kind of Dutch exceptionalism—and the key difference is that the Dutch added gay marriage to their precarious balance between socially liberal attitudes and traditional family practices. Gay marriage—not restricted contraception or the collapse of Communism—upset that balance, with the result that the out-of-wedlock birthrate began to zoom.

The decline of marriage in the Netherlands in tandem with the growing success of the Dutch movement for gay marriage is the clearest example of gay marriage's impact on marital decline. Badgett does her best to evade the problem by claiming that the increase in non-marital births began before Dutch registered partnerships took effect in early 1998. That is a weak argument, since an increase of two-percentage points in the out-of-wedlock birthrate for seven consecutive years is rare. It was anything but inevitable that a two-percent increase in non-marital births in 1997 would be followed by six consecutive increases at the same level. In any case, the final vote to establish registered partnerships took place in 1997.

But the deeper point is that the meaning of traditional marriage was transformed every bit as much by the decade-long national movement for gay marriage in Holland as by eventual legal success. That's why the impact of gay marriage on declining Dutch marriage rates and rising out-of-wedlock birthrates begins well before the actual legal changes were instituted. The recent statement by five Dutch scholars takes exactly that position.

Badgett has no trouble accepting the idea that gay marriage might be an effect of an increasing cultural separation between marriage and parenthood. But how could gay marriage be a product of this cultural trend without also locking in and reinforcing that same cultural stance? I've offered abundant cultural evidence that the message conveyed by gay marriage does in fact reinforce acceptance of parental cohabitation.

The Dutch scholars are right. Many factors are in play in European marital decline, and more research is needed to separate out the relative importance of the various factors. But continued marital decline in Scandinavia and the Netherlands has already provided us with enough evidence to call the wisdom of same-sex marriage into serious doubt.

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## CHARLOTTE SPARROW CHIAVETTA MAKES HER MARK ON THE WORLD

**HON. BOB ETHERIDGE**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. ETHERIDGE. Mr. Speaker, I rise today to congratulate John Bryan and Rebekah Sparrow Chiavetta on the birth of their first child, Charlotte Sparrow Chiavetta. Charlotte was born on Thursday, October 7, 2004, and weighed 6 pounds and 13 ounces. Faye joins me in wishing John and Rebekah great happiness during this very special time in their lives.

As a father, I know the joy, pride, and excitement that parents experience upon the entrance of their child into the world. Representing hope, goodness, and innocence, a newborn allows those around her to see the world through her eyes . . . as a new, fresh place with unending possibilities for the future. Through a child, one is able to recognize and appreciate the full potential of the human race. I know the Chiavettas look forward to the changes and challenges that their new daughter will bring to their lives while taking pleasure in the many rewards they are sure to receive as they watch her grow.

I welcome young Charlotte into the world and wish John and Rebekah all the best as they raise her.

## COCA-COLA RECOGNITION

### HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. BONILLA. Mr. Speaker, I rise today to commend the classic beverage producer, Coca-Cola Company. Coca-Cola has been involved in its community and our Nation since the founding of the company. Through involvement in programs such as "Reading is Fundamental" and the U Promise Program, they have continually served the public. This history of public service was recently recognized when the Coca-Cola Company was awarded the United States Hispanic Chamber of Commerce, USHCC, Corporation of the Year Award at the 25th Annual National Convention and Business Expo in Austin, TX.

As the company's promise states, "The Coca-Cola Company exists to benefit and refresh everyone it touches." Such a recognition of the Coca-Cola Company by USHCC only reinforces the commitment Coca-Cola has made to make their promise come true.

The Coca-Cola Company strives to reach out to the Hispanic community through a variety of programs. These programs primarily focus on education, which Coca-Cola believes is a "powerful force in improving the quality of life and creating opportunity for people and their families around the world." Of close to 30 programs, three—the Art of Harmony, the Coca-Cola First Generation Scholarship Program, and the Coca-Cola Valued Youth Program—stand out in exemplifying the company's determination and willingness to "benefit and refresh." Through programs such as these, Coca-Cola has encouraged students who may not have a family history of going to college, or the financial stability to succeed once they get there, the means and motivation to excel.

Again, Mr. Speaker, it is an honor to recognize the Coca-Cola Company as the recipient of the USHCC Corporation of the Year Award and bring to light their outstanding efforts within the Hispanic community.

## CONFERENCE REPORT ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

SPEECH OF

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. STARK. Mr. Speaker, I rise today in strident opposition to the conference report on H.R. 4520, the so-called "Jobs Creation Act." This bill does nothing to create jobs at home, and actually provides incentives for corporations to move jobs offshore. The conference report is a $140 billion solution to a $57 billion problem, and how the Republicans intend to pay for this solution is both a sham and a disgrace.

Repealing the extraterritorial income, ETI, regime is absolutely necessary to avoid retaliatory duties imposed by the European Union. This tax scheme was found to be illegal by the World Trade Organization because it unfairly advantaged U.S. corporations in the international arena. Given that judgment, my preferred approach was to simply repeal the tax and save $57 billion for America's taxpayers.

That's what should have happened. But, even if one felt that the corporations shouldn't be penalized for the WTO ruling, keeping them whole after the ETI repeal would cost $57 billion. Unfortunately my colleagues have decided to go much further. They are replacing that illegal regime with $140 billion in unnecessary corporate tax cuts and extraneous provisions that have no business in this bill.

This bill isn't only loaded with expensive, unnecessary tax breaks, it then goes so far as to induce U.S. companies to move even more jobs overseas through its bizarre tax incentive structure. During this jobless economic recovery, we cannot afford to give corporations even more incentive to ship jobs offshore. But, I guess this is consistent with the Bush administration and Republican belief that outsourcing jobs is good for America. I disagree.

This bill also gives U.S. companies a tax break on the profits they have previously made by shipping jobs offshore. In fact, corporations are temporarily allowed to repatriate foreign profits at a rate of 5.25 percent. Why would we ever give companies a tax holiday so they can line the pockets of executives and investors? That doesn't create jobs, it just breeds more corporate greed.

The Republicans will claim that this bill is fiscally responsible because it is paid for. In reality the $80 billion in closed loopholes and other revenue raisers are just a pipe dream. Two of the biggest revenue raisers in the bill make it much harder for individuals to take the charitable deduction for donating property to non-profit organizations. I thought this was a corporate tax bill. I guess the Republicans think it is OK to raise taxes on charitable individuals so that billion-dollar corporations can have a little more money for their multimillion dollar executive salaries.

The most egregious portion of this legislation is a $10.1 billion buyout for the tobacco industry, most of which would line the pockets of large tobacco manufacturers like Phillip Morris. The tobacco buyout is nothing more than an election year bribe to enlist southern Democrats' votes on a bill they would otherwise be unlikely to support. Instead of using this opportunity to include the Senate provision to allow the FDA to regulate tobacco, Republicans have decided to give a huge windfall to the tobacco industry, while doing nothing to reduce tobacco production and improve public health. That is just plain wrong.

Finally, the Republicans have once again thwarted the democratic process by bringing a partisan 650 page bill with 617 pages of explanation up for a vote only hours after it was released. Are the Republicans afraid of what we might find if they actually gave us time to read and study the bill? I guess they just don't want to give us the time to make the public aware of the special interest giveaways loaded in their bill—covering everything from tackle boxes to sonar device industries.

This so-called American Jobs Creation Act does not create jobs. Instead, it creates new incentives for U.S. corporations to send jobs overseas. The conference report is a $140 billion solution to a $57 billion problem. Regardless of what my Republican colleagues say today, it will never be fully paid for. The extraneous provisions in this bill are mere gifts to big corporate donors and bribes to buy enough Democratic votes to pass the bill. This bill a disgrace to the American people and our tax code. Republicans should be hanging their heads in shame—but Republicans have no shame, as this bill clearly shows. I strongly urge all my colleagues to vote against the conference report for H.R. 4520.

## PERSONAL EXPLANATION

### HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. KENNEDY of Rhode Island. Mr. Speaker, on the evening of October 4, I was delayed and missed rollcall votes 487, 488, 489. I respectfully request the opportunity to record my position on rollcall votes 487, 488, 489. It was my intention to vote: "yea" on rollcall 487; "yea" on rollcall 488; and "yea" on rollcall 489.

## HONORING OWENSBORO SOUTHERN LITTLE LEAGUE BASEBALL

### HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to recognize the Owensboro Southern Little League Baseball Team for their remarkable season and recent participation in the Little League Championship Tournament in Williamsport, PA. Owensboro Southern came within one strike from advancing to the Little League World Series, finishing with an impressive semi-final victory. They demonstrated great sportsmanship before a national audience, representing competitive values that make Kentucky proud.

The hours of extra practice under the leadership of Coach Vic Evans, brought this impressive distinction to the State of Kentucky and city of Owensboro. I want my colleagues in the House of Representatives to know of the pride that I have in representing these athletes and their families.

I would like to commend the Owensboro Southern for their magnificent season—an effort that epitomized team work, sportsmanship, and persistence. I ask my colleagues in the U.S. House of Representatives to join me in congratulating these young athletes for their achievement and wish them continued success in seasons to come.

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## ON THE OCCASION OF TAIWAN'S NATIONAL DAY

### HON. G.K. BUTTERFIELD

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. BUTTERFIELD. Mr. Speaker, the Republic of China (Taiwan) will be celebrating its National Day this October 10. I join my colleagues in wishing our friends in the Republic of China (Taiwan) a very happy National Day. Taiwan is an ally of the United States and maintains strong relations with the United States.

I hope that our friendship with Taiwan will continue to grow in the months and years ahead. I also hope that Taiwan will be able to return to a number of important international organizations such as the United Nations and the World Health Organization in the very near future. Taiwan is too important a country to be ignored by the international community.

I also wish to take this opportunity to welcome Taiwan's new ambassador, Dr. David Lee, to Washington. He will do an excellent job representing his government and his people.

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## CONGRATULATIONS TO INTERNATIONAL TRUCK AND ENGINE: PROVIDING TRUCKS TO HELP SECURE A FREE IRAQ

### HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SAM JOHNSON of Texas. Mr. Speaker, congratulations are in order for International Truck and Engine of Garland, TX. Our forces in Iraq will soon be using 270 of International Truck and Engine's tanker trucks.

It is an honor and a privilege to represent the numerous employees at International Truck and Engine who helped build these trucks that will soon be helping our troops.

In Iraq, these trucks will be outfitted to transport water across the country, providing a valuable resource for not only our troops on the ground, but for the Iraqi people. With the addition of these 270 trucks to our forces, Iraq's infrastructure will be stronger and more efficient.

In addition to the tanker trucks, ITE unveiled its new monster pickup, the CXT, last month at its factory in Garland. The CXT is the world's largest production pickup, weighing a whopping 14,500 pounds and being able to tow 20 tons. The CXT definitely brings new meaning to the phrase "everything is bigger in Texas."

Many would say that International Truck and Engine is raising the bar among vehicle manufacturers. That's because they are.

ITE provides a great service to the people of this country and to the people of Iraq. Congratulations again, and thank you, to International Truck and Engine and the people of Garland, TX.

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## TAIWAN NATIONAL DAY

### HON. MELVIN L. WATT

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. WATT. Mr. Speaker, I rise today to recognize and congratulate Taiwan on its forthcoming National Day, October 10, 2004.

In recent years, Taiwan has impressed the world with its economic and political accomplishments. It is the world's 17th largest economy, with the world's 15th largest trade volume. Clearly, in this time of global economic interdependence, Taiwan has much to offer the world.

I commend President Chen Shui-bain of Taiwan on his efforts to seek greater recognition for his country in the world. President Chen has also committed Taiwan's resources to combating global terrorism and Taiwan is a valued partner of the United States in this effort.

Congratulations to the people of Taiwan on their National Day.

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## TRIBUTE TO HENRY JACKSON

### HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HUNTER. Mr. Speaker, I rise today to honor Henry Jackson, my friend and fellow paratrooper in the 173rd Airborne Brigade, who passed away last month due to cancer at the young age of 66. Henry was the consummate soldier and retired from the United States Army after achieving the rank of E–7. Even after retirement, he continued to serve his country, working as a civilian security officer on the Naval base near his home in New Orleans.

He was immensely proud of his family and had five sons who followed his footsteps by serving in the military. Henry died with dignity in the Veterans Hospital on July 6, 2004. He leaves behind a beautiful family as well as his legacy that will help keep our country strong.

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## TRIBUTE TO SIDNEY TOOL AND DIE ON ITS 50TH ANNIVERSARY

### HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. OXLEY. Mr. Speaker, I stand before you today to commend Sidney Tool and Die on its 50th anniversary. Under the ownership of Sargeant and Bensman families, Sidney Tool and Die has been a distinguished corporate citizen in the Sidney community since 1954. It has demonstrated its commitment to its customers by developing state-of-the-art tooling and assembly equipment and speciality machines for rubber and plastic product manufacturers. It takes exceptional leadership to maintain a business that prides itself on high quality products, hardworking employees and superior customer service.

Sidney Tool and Die has also given so much back to the community whose name it bears. Its owner, employees, retirees, and their families can be rightfully proud of this anniversary. Ohio is rightfully proud of its industrial base, and businesses like Sidney Tool and Die help to keep this tradition strong.

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## HONORING COLONEL MATTHEW DAPSON, USMC

### HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. WELDON of Pennsylvania, Mr. Speaker, I rise today to honor a man who has served his country proudly for over 26 years. Colonel Matthew Dapson, United States Marine Corps, is a native of Pittsfield, Massachusetts, and a 1978 graduate of Rider University in Lawrenceville, New Jersey.

After graduating from Rider with a Bachelor's degree in finance, Colonel Dapson chose to serve his country as one of the few and the proud, a United States Marine. He enrolled in Officer Candidate School at Quantico, Virginia, and was commissioned a 2nd Lieutenant on the 203rd birthday of the Marine Corps, November 10th, 1978.

Upon completion of the Basic School at Quantico, Colonel Dapson was ordered to Pensacola, Florida for pilot training. He excelled at Pensacola, reached his goal of becoming a Naval Aviator, and was given the opportunity to fly the CH–46 helicopter. Colonel Dapson's reputation as a pilot, and as a Marine were such that he was subsequently invited to serve as an aviation instructor.

Throughout his career, he emphasized the importance of attention to detail in all endeavors. It is no small feat that Colonel Dapson flew for over 18 years without a mishap, amassing over 3,000 hours of flight time. This is even more impressive when one considers the age of the CH–46 aircraft. This is a testimony to Colonel Dapson and to those many fine Marines who put in the long hours to ensure his helicopter brought him and his crew home safely.

Having established himself as one who demonstrated extraordinary diligence, Colonel

Dapson was assigned to the Joint Staff at the Pentagon for three years. While there, he was given responsibility for several key strategic and doctrinal documents. He helped write the initial national military strategy on counter-proliferation in 1994, and wrote the capstone joint doctrine for services and combatant commanders on troop welfare issues and casualty reporting in 1997.

Colonel Dapson was not to be kept long out of the cockpit. Once again, in 1998, his reputation resulted in his selection for one of the most competitive billets in the Marine Corps, command of an operational squadron. Colonel Dapson commanded HMM–268, a CH–46 squadron based at Camp Pendleton, California. His record was again one of meticulous attention to detail, combined with compassionate concern for the Marines who served under him; exactly the right mix for the inherently dangerous business of flying military aircraft.

For the last three years, Colonel Dapson has been instrumental in enhancing communication and understanding between the Marine Corps and the Congress. As the Marine Corps Liaison to the House and Senate Armed Services Committees, he has worked tirelessly alongside the Professional Staff of both Committees to ensure they had the best possible information on which to base resource allocation and legislative recommendations. From coordinating visits to the Hill by Marine Corps subject matter experts, to traveling the globe with Members and Staff, Colonel Dapson always put in whatever extra effort was necessary to make things go smoothly, and to gain access to crucial pieces of information.

Twenty-six years is a long time to serve, and to put others first. Colonel Dapson is to be commended for the legacy he has left behind, and all those whose lives he has enriched along the way. I hope all Members, especially those who serve on the Armed Services Committees, will join me in saying, "Thanks, Matt," and in wishing this fine American fighting man much success in the future.

## COMMEMORATING THE REPUBLIC OF CHINA ON TAIWAN ON ITS NATIONAL DAY

### HON. JOHN LINDER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. LINDER. Mr. Speaker, I rise today to pay tribute to the people of the Republic of China on Taiwan on the occasion of its forthcoming National Day. This day commemorates the Wuchang Uprising on October 10, 1911, which led to the downfall of the Qing dynasty and the establishment of the Republic of China on January 1, 1912. The day is celebrated in Taiwan with parades, festivities, and fireworks displays throughout the island.

Over the past 93 years, Taiwan has increasingly become more democratic. Its 2004 presidential election is a testament to this fact. More than 80 percent of eligible Taiwan voters turned out to participate in a free and fair selection of the next Taiwanese President. This commitment to democracy is consistent with the deeply-held values of the American people.

The alliance between the people of Taiwan and the United States is of great importance. Taiwan is one of our largest trading partners and is a valued ally and friend. I wish the Taiwanese people well as they celebrate their National Day, and I am hopeful that the U.S.-Taiwanese relationship will continue to develop well into the future. Taiwan is truly a success story for democracy in Asia and around the world.

## RECOGNIZING THE ACCOMPLISHMENTS OF MR. LORON HODGE

### HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. DOOLEY of California. Mr. Speaker, I rise today to recognize the accomplishments of Mr. Loron Hodge, the Executive Director of the Kern County Farm Bureau. Mr. Hodge will be retiring this fall after 25 years of advocating on behalf of the agricultural community in Kern County.

Loron Hodge was born in Arkansas in 1939, where he lived until his father accepted a job as a foreman on a ranch in Tulare County, California. It was here that Mr. Hodge first learned about farming by working on a family farm with his brother. After working in the Central Valley's agricultural economy, Mr. Hodge worked in sales in Porterville, California until 1970. In 1970, Mr. Hodge moved from Porterville to accept a job as the Assistant Manager at the Bakersfield Chamber of Commerce. Shortly thereafter, Mr. Hodge was promoted to Manager of the Chamber of Commerce.

In 1979, Mr. Hodge became the Executive Director of the Kern County Farm Bureau. Since that time, his hard work and dedication have made him a valuable advocate for farmers and ranchers in Kern County, California. In his 25 years as Executive Director, Mr. Hodge made many contributions that improved the Farm Bureau's operations and expanded its activities. Mr. Hodge played a vital role in the acquisition of the former Chamber of Commerce building, which is now the current home of the Kern County Farm Bureau. In addition to helping to improve the infrastructure of the Farm Bureau, Mr. Hodge helped to expand the Farm Bureau's agricultural education programs, including Farm Day in the City and the Teacher's Ag Seminar, which educates students and teachers throughout Kern County and America about the importance of the agriculture industry. As a result of his hard work, the Farm Bureau's membership reached an all-time high in 2001.

In addition to his role on the Kern County Farm Bureau, Mr. Hodge is a manager of the Water Association of Kern County and member of the Kern Taxpayers Association, the San Joaquin Valley Unified Air Pollution Control District and the Committee of Industries. In the past, Mr. Hodge has served on the boards of the Kern Historical Society, Project Clean Air and is former secretary of the Coalition to Protect Private Property Rights.

Mr. Speaker, I ask that you and my distinguished colleagues join me in thanking Mr. Loron Hodge for his dedicated service to the San Joaquin Valley and wishing him well upon his retirement from the Kern County Farm Bureau.

## CONFERENCE REPORT ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

SPEECH OF

### HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mrs. BONO. Mr. Speaker, I appreciate this opportunity to reiterate my position regarding charitable donations of automobiles. I believe that the language of the conference report will have serious ramifications, burdening charitable organizations and precluding taxpayers from donating their used automobiles to said organizations. The Conference Committee chose to adopt the Senate proposal, which requires donors to wait until the vehicle is sold and then deduct only the amount of the sale. This is burdensome not only to the donor but also to the charity.

Prior to enactment of this legislation, those who donate their cars can deduct amounts based on fair market value. An appraisal is needed only for cars valued above $5,000. I believe that this is the most judicious manner of treating vehicle donations and it is my contention that by altering this provision, Congress will be placing unreasonable new burdens on taxpayers, discouraging charitable donations, and hindering charitable organizations from providing much-needed benefits to their recipients.

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes:

Mr. GALLEGLY. Mr. Chairman, I move to strike the last word. I rise in opposition to the amendment proposed by the gentleman from New Jersey.

The substitute offered by the gentleman from New Jersey lacks or waters down many of the important provisions recommended by the 9/11 Commission and included in H.R. 10 in its current form.

Border security is essential to national security. The 9/11 Commission recognized this truth. H.R. 10, in its current form, does justice to the 9/11 recommendations by proposing reasonable, meaningful immigration reforms to shore up border and travel security. These provisions would speed up implementation of our entry and exit tracking system and increase the number of border patrol officers. Another provision would help "push out the border" by expanding the program for prescreening passengers before they can embark to the United States to additional countries.

The 9/11 Commission also stressed the importance of secure identity. The 9/11 Commission makes clear that without the regulation of identification documents, those who wish to harm us can use false identities to evade detection or use false identities to enter secure spaces, such as airplanes or nuclear facilities. H.R. 10 would regulate which forms of identification can be accepted as proof of identity by Federal officials—a reform I have long fought for—so that non-secure foreign IDs cannot be utilized by terrorists or violent criminals wishing to evade the law or enter secure spaces undetected. Importantly, it would also set standards for states to ensure state driver's licenses and state identification cards are secure.

I take particular pride of authorship in the provisions that would set immigrant identification standards, expand pre-inspection efforts at foreign airports, reform the designation process for foreign terrorist organizations, increase penalties for identification fraud and for false claims of citizenship, and support creation of a unified system for transliteration of names into the roman alphabet. I am pleased that these initiatives have become part of this landmark legislation.

Each of the Title III, "Border Security and Terrorist Travel," provisions are essential to the national security and should be retained in their current form. Therefore, I urge a "no" vote on the Menendez substitute amendment.

## WATER SUPPLY, RELIABILITY, AND ENVIRONMENTAL IMPROVEMENT ACT

SPEECH OF

### HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Mr. BACA. Mr. Speaker, I rise in strong support of H.R. 2828, the Water Supply Reliability and Environmental Improvement Act, also known as CALFED.

I am a proud co-sponsor of this legislation.

After 10 years of hard work and endless negotiations, we present the final CALFED product to Congress.

The California delegation has proven our commitment to the people of California that they are ensured a reliable water supply.

I want to congratulate Senator FEINSTEIN and Chairman POMBO for completing a top priority for California. Their hard work is much appreciated.

I would also like to thank Chairman KEN CALVERT and Ranking Member GRACE NAPOLITANO of the Water & Power Subcommittee for their hard work on CALFED as well.

CALFED is the link needed to ensure the quantity and quality of water in California.

And it is crucial to the future of my home state of California.

Without out clean water, or enough water, there can be no development of jobs or housing.

And without clean water, my children and grandchildren, or any child, cannot enjoy normal, healthy lives.

I sincerely believe CALFED will become a blueprint for water plans in other areas of the country.

CALFED increases the amount of water conservation, recycling and desalination projects. This will help ease the burden that perchlorate has placed on our water supplies.

Perchlorate groundwater contamination, combined with drought or other conditions, highlights the need for these water conservation projects.

The combination of perchlorate and drought caused my hometown, Rialto, California, to declare 2 water emergencies in one year.

With 15 wells in 3 towns in my district being shut down because of perchlorate, serving clean water has become difficult.

CALFED also provides the means to respond to rapid population growth.

With a growing population, there is a growing need for more water delivery and storage.

California has a population of 36 million, and expects to increase to 50 million in the year 2020.

We know we cannot rely solely only on the Colorado River anymore for water use—we have no choice.

We know we cannot wait until California reaches a water crisis to pass CALFED legislation.

H.R. 2828 is a must for California.

I urge my colleagues to support CALFED and allow California the clean and reliable water sources it needs.

## CONFERENCE REPORT ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

SPEECH OF

### HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. COSTELLO. Mr. Speaker, I rise today in opposition to H.R. 4520, the American Jobs Creation Act.

I believe that this bill does some good things. It repeals the Extraterritorial Income (ETI) program that was causing significant sanctions to be placed on a wide range of U.S. products and was hurting our world-wide trade efforts.

In addition, I strongly support the ethanol provisions that were included in the bill. This bill extends the ethanol tax credit, which is vitally important to our Illinois farmers, through 2010. It creates a $1/gallon tax credit for agribiodiesel and a 50c¢ tax-credit for biodiesel through 2006, and it ensures that the credits for ethanol do not impact the Highway Trust Fund.

However, I cannot support this bill because I believe it will provide more incentives to multi-national companies to ship jobs overseas, rather than keep them here, where American workers need them most. This bill includes 24 provisions that encourage shipping jobs overseas and provides $36 billion in additional tax benefits for offshore operations of U.S. corporations.

I also am concerned that this bill did not include language that would make tobacco products subject to FDA regulations, a concept that had strong bipartisan support, while including some special interest tax-breaks that are not germane to this bill.

Mr. Speaker, I urge my colleagues to join me in voting no on this legislation in order to send it back to the Conference Committee to address the critical problem of outsourcing American jobs.

## CONGRATULATING THE PEOPLE OF TAIWAN ON THEIR NATIONAL DAY

### HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. McDERMOTT. Mr. Speaker, Taiwan will be celebrating its National Day on October 10, 2004. On this happy occasion, I join my constituents in wishing Taiwan the best in its endeavors.

This past September I had the opportunity to meet with Taiwan President Chen Shui-bian in Seattle. He was returning to Taiwan from a trip to Central America. I was impressed by his sincerity in seeking an early dialogue with China and maintaining peace and stability in the Taiwan Strait. Mr. Speaker, peace in the Taiwan Strait is vital to the political development and economic prosperity in the Asia-Pacific region as a whole.

In past years, Taiwan and the United States have been friends and allies. In times of turmoil, both have come to each other's aid. I appreciate Taiwan's efforts and actions to protect U.S. citizens in Taiwan after 9/11 and Taiwan's cooperation with U.S. intelligence agencies in combating global terrorist activities. I am also aware of Taiwan's support for the reconstruction of Iraq and Afghanistan. Taiwan is our friend and deserves our support.

The future of Taiwan-U.S. relations is brighter than ever. With the appointment of Dr. David Lee as Taiwan's chief representative in the United States, I look forward to working closely with Dr. Lee on issues of mutual importance.

Congratulations to Taiwan President Chen Shui-bian and the people of Taiwan on their National Day.

## CONFERENCE REPORT ON H.R. 4520, THE AMERICAN JOBS CREATION ACT OF 2004

SPEECH OF

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Ms. ESHOO. Mr. Speaker, it is with great disappointment that I rise in opposition to this

Conference Report. I opposed the House version of this bill in June and hoped that what would come out of the Conference Committee would be an improvement. Instead, what we see before us is much worse.

I wish I could support this legislation because it does contain some worthwhile reforms that will benefit the economy and eliminate harmful tariffs. Some of the provisions included in this legislation would greatly benefit businesses within my district. I strongly support the inclusion of incentives for corporations to repatriate their overseas profits which would stimulate the investment of hundreds of millions of dollars in our domestic economy and, in fact, worked hard to get this provision in the bill. I cannot support a $140 billion grab-bag of special interest handouts to solve a $4 billion problem.

We had a simple job to do: to repeal the current export subsidy that led the World Trade Organization (WTO) to authorize tariffs against American goods. Rather than using this bill to bring the United States back into compliance with the WTO, it's become a Christmas tree for pet projects all over the country. Included in this legislation are handouts for tobacco growers, tackle box manufacturers, bow and arrow manufacturers, importers of ceiling fans, and even NASCAR race tracks.

What's worse is that this legislation does nothing to protect jobs here at home. Instead, it encourages them to be out-sourced. Despite the fact that we've lost 1.7 million jobs since this Administration took office, the Conference Report includes 24 separate provisions that actually encourage shipping more of our jobs overseas at a cost of $42 billion. The Senate-passed version of this bill included a provision that would have closed offshore tax shelters established for the sole purpose of avoiding U.S. taxes. This Conference Report re-opens them, leaving the American taxpayer to foot the bill.

I urge my colleagues on both sides of the aisle to oppose this legislation. It is not the right prescription for what ails us.

## CONGRATULATING TOBY GASS

### HON. C. L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. OTTER. Mr. Speaker, I rise today to acknowledge the academic achievement and great promise of graduate student Toby Gass, who is studying Forest Resources at the University of Idaho.

Toby is being honored by the U.S. Environmental Protection Agency as recipient of a prestigious Science To Achieve Results, or STAR fellowship, through the EPA's Greater Research Opportunities program.

She is only the second Idaho student ever to win such an award, and the first since 1999. Only 22 graduate students nationwide are receiving STAR–GRO fellowships for 2004, and I am extremely proud that one of them is from Idaho's 1st District.

The EPA's STAR graduate fellowship program is the only federal program exclusively for students pursuing advanced degrees in environmental sciences. It is highly competitive, with only 7 percent of applicants being awarded fellowships.

Toby and the other STAR fellowship recipients clearly are the best and brightest of America's future environmental scientists. These brilliant men and women will lead the way to unimaginable advances in more efficiently managing our natural resources and protecting human health and safety.

Mr. Speaker, please join me in congratulating Toby Gass and all the STAR–GRO fellowship winners for their achievement, and thank them for their groundbreaking work, from which we all will benefit.

## CRS SPECIALIST PAUL S. RUNDQUIST HONORED BY THE POLISH PARLIAMENT

### HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. LARSON of Connecticut. Mr. Speaker, I want to call the attention of my colleagues to the invaluable service and support we receive every day from the knowledge, experience, and hard work of the Congressional Research Service—CRS. This dedicated team of policy analysts, administrators, and support staff provides us with information services and policy analysis that is accurate, timely, and impeccably balanced and nonpartisan.

The Congress, and this people's House, are not the only beneficiaries of CRS's expertise. At times over the years, we have authorized CRS to provide temporary support for the parliaments of several nations as they worked to join the ranks of the world's democracies. In the 1960s and 70s, Congress authorized exchange programs between CRS and the Japanese and German national legislatures that helped them establish professional parliamentary research departments that are the envy of their neighbors. More recently, in the early 1990s, as the dawn of freedom broke over the nations of Eastern Europe, the Speaker's Task Force on Parliamentary Reform in Eastern Europe provided invaluable expertise and perspective to the newly emerging free parliaments of these nations.

Mr. Speaker, the seed was sown, and today we see the inspiring results, as Poland, the Czech Republic, Hungary, Slovenia, and other countries have joined the family of democratic nations. CRS provided vital assistance in this effort, and today, I am pleased to note that one of our own, CRS Specialist Paul S. Rundquist, has been honored by the Republic of Poland for his work with the Sejm ("SAYM"), the Polish Parliament: he has been awarded the Knight's Cross of the Order of Merit of the Republic of Poland.

Mr. Speaker, when I was first appointed to the position of Ranking Minority Member of the House Administration Committee by Democratic Leader Pelosi, I called CRS for information about internal House operations and organization. Dr. Rundquist was the first person to respond, and he demonstrated why CRS is held in such high regard—he was prompt, thorough, and professional. Later, when I needed information on congressional continuity, Dr. Rundquist was again there with the needed research and information. I'm certainly glad Dr. Rundquist has remained a Congressional asset all these years, and I hope he stays on for many years to come.

Dr. Rundquist is a son of Illinois; born in Chicago, he holds a Bachelor's degr from Loyola University, and an M.A. and Ph.D. from the University of Chicago. Appointed to the staff of CRS in 1974, he is a nationally renowned expert on legislative procedure, the structure, organization, and functions of the United States Congress, and congressional history. One of several CRS analysts assigned to assist the Speaker's Task Force from 1990 to 1994, Dr. Rundquist has continued to provide invaluable assistance to the members and staff of the Polish Parliament, while maintaining the full schedule of his duties at CRS. He gave generously of his knowledge and perspective, providing information and analysis to the Sejm as it developed the institutions, policies, and procedures so necessary to a vital, democratic national legislature. During several missions to Poland, he advised on the establishment of parliamentary rules and procedures, committee structure and function, and support services to members, committees, and party organizations.

In 1996, Dr. Rundquist was appointed a Fulbright Professor of Politics at Warsaw University, and also served as a visiting professor at the Jagiellonian University in Cracow. During the following two years, he lectured widely and continued to provide support and analysis for the Polish Parliament and its members, providing informal assistance to the Sejm as it drafted a new constitution, and even advice on the official translation of the new constitution into English.

His service to the United States Congress has continued uninterrupted throughout this period. His recent projects and publications have included authoritative studies on guaranteeing the continuity of Congress, especially the House of Representatives, in the event of terrorist attacks, and ground-breaking analysis of the Senate power sharing agreement of 2001–2002.

Accompanied by his wife, Ellen, and CRS colleagues and friends of many years, Dr. Rundquist was awarded the Order of Merit at a ceremony held at the Polish Embassy on September 29. I extend my sincere congratulations to this dedicated servant of Congress and the American people for his many distinguished accomplishments.

## IN HONOR OF GILDA'S CLUB OF NEW YORK CITY

### HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. NADLER. Mr. Speaker, I rise today to pay tribute to Gilda's Club of New York City, on the occasion of its 10th anniversary. In 1995, Gilda's Club opened its doors in honor of the late Gilda Radner. While most well-known for her work as a comedienne, Radner's legacy carries on in the Club because of her wish that people living with cancer, as she did so bravely, would find a community with which to talk and seek comfort while fighting the disease. A festive gala, "Celebrating Gilda," will be held on November 4th to mark the success and progress of Gilda's Club over the past ten years.

Gilda's Club, a non-profit organization with both of its branches located in my Congressional district, was founded upon the premise that "when cancer happens, it happens to the entire family," a message so eloquently conveyed by Radner herself. Gilda's Club is premised on the belief that while doctors can treat the physical effects of cancer, the emotional effects of the disease must also be treated. The Club provides a comprehensive emotional and social support community for anyone whose life has been touched by cancer in any way, free of charge. Its Basic III Plus membership provides programs ranging from Support and Networking Groups, to education in Lectures and Workshops, to a playful yet supportive atmosphere for children in Noogieland, all designed to channel strength, hope and solidarity to all participants.

The current membership of the Club is 3,615, and the Club has now passed the milestone of 100,000 member visits. An organization with a resolute mission, a compassionate heart, and an intrinsic sense of humor, Gilda's Club is a valued asset to the New York community. Testimonials, such as that of one member who said that "this club has shined light and hope into some of the darkest corners of my life," coupled with the growing membership numbers are a clear indication of the Club's magnificent achievements. I am delighted to wish Gilda's Club a joyous and memorable 10th anniversary celebration, and to convey my sincere wishes for a thriving and prosperous second decade.

## CONGRATULATING DR. LINDA BUCK

### HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. McDERMOTT. Mr. Speaker, we marvel at the wonders the Hubble Space Telescope has brought us. We gaze in amazement at the images beamed back from a rover on Mars. As astonishing and inspiring as these discoveries are, sometimes you don't have to go very far for a major discovery.

In fact, sometimes the wonder is as close as the nose on your face. We learned that earlier this week with the announcement that Dr. Linda Buck from the Fred Hutchinson Cancer Research Center had won a Nobel Prize in Medicine. Dr. Buck and Dr. Richard Axel of Columbia University will share a Nobel for their pioneering research on the sense of smell.

The more we learn about the human body, the more amazing we know the human body is.

On behalf of the people in the 7th Congressional District, I want to congratulate Dr. Buck.

This is the third time that the Fred Hutchinson Cancer Research Center has been home to a Nobel laureate. That is an extraordinary achievement in and of itself.

This is a proud moment for Seattle, Fred Hutch and our distinguished research scientist.

Thank you, Dr. Buck, for an individual achievement that we can all share.

## OCTOBER IS NATIONAL SPINA BIFIDA AWARENESS MONTH

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. STUPAK. Mr. Speaker, I rise today to recognize that October is National Spina Bifida Awareness Month and to pay tribute to the more than 70,000 Americans—and their family members—who are currently affected by Spina Bifida—the nation's most common, permanently disabling birth defect. The Spina Bifida Association of America (SBAA), an organization that has helped people with Spina Bifida and their families for over 30 years, works every day to prevent and reduce suffering from this devastating birth defect.

The SBAA was founded in 1973 to address the needs of the individuals and families affected by this disease and is currently the only national organization solely dedicated to advocating on behalf of the Spina Bifida community. As part of its service through almost 60 chapters in more than 125 communities across the country, the SBAA puts expecting parents in touch with families who have a child with Spina Bifida. These families answer questions and concerns and help guide expecting parents. The SBAA then works to provide lifelong support and assistance for affected children and their families.

Together the SBAA and the West Michigan Spina Bifida Association, the Spina Bifida Association of Southeastern Michigan, the Spina Bifida Association of Upper Michigan, and the Southwest Michigan Spina Bifida & Hydrocephalus Association work tirelessly to help families meet the challenges and enjoy the rewards of raising their child. I would like to acknowledge and thank SBAA and these local Spina Bifida organizations in Michigan for all that they have done for the families affected by this birth defect, especially those living in my state.

Spina Bifida is a neural tube defect that occurs when the central nervous system does not properly close during the early stages of pregnancy. Over 1,500 babies are born with Spina Bifida each year. There are three different forms of Spina Bifida with the most severe being Myelomeningocele Spina Bifida, which causes nerve damage and severe disabilities. This severe form of Spina Bifida is diagnosed in 96 percent of children born with this condition. Between 70 to 90 percent of the children born with Spina Bifida are at risk of mental retardation when spinal fluid collects around the brain.

The exact cause of Spina Bifida is not known, but researchers have concluded that women of childbearing age who take daily folic acid supplements reduce their chances of having a Spina Bifida pregnancy by up to 75 percent. Progress has been made in educating women on the importance of consuming folic acid supplements and maintaining diets rich in folic acid. Recent data from the Centers for Disease Control shows an increase in consumption of vitamins with folic acid by 8 percent over 2003. Since the Food and Drug Administration decision to fortify enriched grains with folic acid, CDC has documented a 26 percent decline in these birth defects.

Although this is good news, we will still have babies born with Spina Bifida who need intensive care and families that need guidance and support in caring for and raising these children. The result of this neural tube defect is that most babies suffer from a host of physical, psychological, and educational challenges, including paralysis, developmental delay, numerous surgeries, and living with a shunt in their skulls in an attempt to ease their condition. Today, approximately 90 percent of all babies diagnosed with Spina Bifida live into adulthood, approximately 80 percent have normal IQs, and approximately 75 percent participate in sports and other recreational activities. With proper medical care, people who suffer from Spina Bifida can lead full and productive lives. However, they must learn how to move around using braces, crutches or wheelchairs, and how to function independently. They also must be careful to avoid a host of secondary health problems ranging from depression and learning disabilities to skin problems and latex allergies.

After decades of poor prognosis and short life expectancy, breakthroughs in research combined with improvements in health care and treatment children with Spina Bifida are now living long enough to become adults with this condition. However, with this extended life expectancy people with Spina Bifida now face new challenges in the fields of education, job training, independent living, health care for secondary conditions, aging concerns, and other related issues.

I am proud to cochair the Congressional Spina Bifida Caucus with my colleague Representative CHRISTOPHER SMITH. The Congressional Spina Bifida Caucus brings increased attention to this condition and advances initiatives that will improve the quality of life for those individuals and their families living with Spina Bifida. So far we have 43 members, and I encourage my colleagues to join the Caucus.

I again wish to thank the SBAA and its chapters for all of their hard work to prevent and reduce suffering from this birth defect and for their commitment to improve the lives of those 70,000 individuals living with Spina Bifida throughout our nation. The Spina Bifida community and our nation owe a tremendous debt to the SBAA for its work over the past three decades. Much more work still needs to be done, and I am confident this fine organization and its chapters will lead the effort for decades to come. I wish the Spina Bifida Association of America the best of luck in its endeavors and urge all of my colleagues and all Americans to support its important efforts.

## RECOGNIZING THE DIAGEO SPIRIT OF AMERICA HUMANITARIAN RAPID RESPONSE EFFORTS ON BEHALF OF FLORIDIANS IN THE WAKE OF BOTH HURRICANE CHARLEY IN AUGUST AND HURRICANE FRANCES IN EARLY SEPTEMBER

### HON. MARK FOLEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. FOLEY. Mr. Speaker, I rise today to recognize and pay tribute to the Diageo Spirit of America Fund and its efforts during the recent devastating hurricanes that hit Florida in August and September. As we Floridians have dealt with the aftermath of these storms, it became apparent that the most precious commodity needed to jumpstart the road to recovery was electricity. Without this precious commodity, our relief workers were left literally in the dark to sort out what steps needed to be made to restore order, security, and normalcy to our devastated state.

Recognizing this need and even before either Hurricane Charley or Frances made landfall, Diageo was poised to help our cause by bringing four giant portable generators to the areas most likely in each storm's path. These generators were made available to relief workers in St. Lucie County and throughout each storm's most devastated areas.

Diageo's generosity and unique foresight helped us literally jumpstart our move down the road toward recovery. Diageo's generators were first put to task by providing power to operate Hardee County's only solid waste facility, a facility critical to public health in crisis situations. Two additional generators were used to power a local campground being used as a temporary shelter for displaced families.

In my district, Diageo helped us after Hurricane Frances by supplying one of these generators to power the Port St. Lucie pumping station, sending safe drinking water to the homes and shelters of over 88,000 residents of Port St. Lucie and the surrounding area. Water usage was restored to my constituents much faster than in hurricanes of the past because of the Diageo Spirit of America efforts. The others were used at the will of the Fort Pierce Emergency Operations Center wherever the need was greatest

This assistance effort is part of Diageo's ongoing humanitarian efforts. In the hours and days after 9/11 Diageo and its employees provided numerous relief activities and assistance. In December 2001, Diageo brought the first corporate humanitarian airlift to war-torn Afghanistan by delivering more than 100,000 pounds of food and emergency supplies to 800 orphans in Kabul. In June of 2003, the company chartered a DC–8 plane and brought a cargo of food, medicine and school supplies to Baghdad, becoming the first American company to embark upon a humanitarian mission into Iraq. In November, Diageo provided more than 12,000 turkeys to the Connecticut Food Bank so that 72,000 disadvantaged families could celebrate a traditional Thanksgiving dinner. And this past June, the Diageo Spirit of the Americas Airlift brought in and distributed emergency supplies to flood victims in Haiti and the Dominican Republic. Diageo's Spirit of America Humanitarian Aid Missions are facilitated by the Bridge Foundation, a nonprofit humanitarian aid and development organization which provides humanitarian aid worldwide. Diageo is the world's largest total beverage alcohol company.

Mr. Speaker, I ask my colleagues to join me in thanking Diageo North America and its Spirit of America Fund for its rapid response to the crisis created by these hurricanes. Their ongoing generosity and understanding of this crisis and these others throughout the world represent the finest and most compassionate qualities in America.

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## HONORING THE NATIONAL DAY OF THE REPUBLIC OF CHINA ON TAIWAN

### HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. EVERETT. Mr. Speaker, on October 10, the people of the Republic of China on Taiwan celebrate their national day. I join with my colleagues here in the House in congratulating them on this solemn and happy occasion.

The United States and Taiwan have a long history of friendship and a tradition of democracy which bind our two nations. Despite the lack of formal diplomatic relations between Taiwan and America, our economic, political, and military ties are strong and continue to grow.

For decades, the freedom and individual rights afforded to Taiwan's citizens have shown as a beacon in the darkness to the millions of oppressed Chinese citizens across the Taiwan Straits. Taiwan is a model for the mainland on many fronts, from its growing democracy to its robust economy.

I am proud to say that the United States has always been an uncompromising partner with Taiwan, making sure that our ally has the means to defend its democracy in the event of attack from mainland China. While peace in the Taiwan Straits has been fragile at times, the people of Taiwan continue to stand tall and firmly committed to their freedom.

I salute their courage and strength and know that the American people join with them in celebrating this important anniversary of liberty and democracy in East Asia.

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## HONORING ROBERT J. MANN

### HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today to honor our "Homegrown Hero," Robert J. Mann. As the founder and executive director of Bridging the Gap Inc., Bob is being honored by the organization on October 15, 2004, for his leadership and vision which transformed greater Kansas City into a collaborative and interconnected community of environmental awareness, advocacy and reformation.

Thirteen years ago, Bob created Bridging the Gap, an environmental movement of volunteers who created and maintain our first 15 local community recycling centers. It has since grown into a regional, multifaceted environmental movement involving businesses, governments, schools and thousands of volunteers. Under Bob's leadership all segments of the greater Kansas City community have become interconnected and established partnerships working together to make a difference and improve Kansas City's quality of life, economic efficiency and environmental sustainability. During a decade of creating change for a healthier community, Bridging the Gap succeeded in educating the public through environmental publications and speakers bureaus, hosting special green events for environmental awareness and advocacy, and ballot initiatives that brought curbside recycling to Kansas City.

I have been an ardent supporter of Earth Day since the first one in 1970, when I showed my support by bicycling to my job as a schoolteacher and discussing with my students the responsibility each individual has to our global environment. Since 1997 my Earth Day celebration has come to include Bridging the Gap's Earth Day Walk, an eagerly anticipated annual celebration and fundraiser for more than 1,000 Kansas Citians. More than 5,000 area residents attend the Party for the Planet at the Kansas City Zoo, another Earth Day event sponsored by Bridging the Gap.

Bridging the Gap Inc. has grown dynamically and now includes: RecycleFirst, Kansas City's curbside recycling education program; Keep Kansas City beautiful, a beautification project involving more than 7,700 volunteers for 165 metro wide cleanups; Kansas City Wildlands, a natural and wild places restoration and conservation project; Environmental Excellence Business Network, an education and mentoring program for businesses; Waste Reduction and Recycling Consultation, an advisory, assessment and action program for governments, businesses, educational and cultural institutions; Regional By-Product Synergy Initiative, a project to help business and government reduce waste and increase productivity; Shadowcliff Retreat Center, environmental education and retreat center in Grand Lake, Colorado; and Environmental Excellence Awards, an annual event to honor individuals, businesses and schools.

Bob's efforts have been recognized locally and nationally for Building the Gap's leadership. Awards include: National Recycling Coalition's Award for Environmental and Community Leadership, Kansas City Consensus Achiever Award, Missouri Governor Carnahan's Pollution Prevention Award, EPA Pollution Prevention Award, American Forest & Paper Association's Best Paper Recycling Award, Mid-America Regional Council Regional Leadership Award, Waste Reduction and Recycling Award for non-profits, Missouri Environmental Education Association Environmental Education Service Award, and Keep America Beautiful First Place National Litter Prevention Award.

Bob's leadership and vision of collaboration, his perseverance in environmental problem solving, and his service and commitment to a healthy earth have inspired thousands of individuals to make a difference. Mr. Speaker, please join me in honoring Robert J. Mann, a bridge builder who has indeed made our community, our region and our planet a better place through his tireless efforts to honor our Earth and all who share its wonders.

## CONFERENCE REPORT ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

SPEECH OF

### HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. ENGLISH. Mr. Speaker, I submit the following exchange of letters between myself and Chairman THOMAS for submission into the RECORD related to debate on H.R. 4520, The American Jobs Creation Act of 2004, which took place October 7, 2004.

HOUSE OF REPRESENTATIVES,
*Washington, DC, October 7, 2004.*

Hon. WILLIAM M. THOMAS,
*Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing to raise a concern regarding regulations issued several years ago by the Internal Revenue Service (IRS) in which they apply an expansive new interpretation of the law retroactively.

Congress enacted section 263(g) of the Internal Revenue Code as part of the Economic Recovery Tax Act of 1981 ("ERTA") to discourage the use of certain "straddle" type tax shelters known as "cash and carry" transactions. In the Report accompanying ERTA, the Senate Finance Committee noted that "[t]he committee intends to discourage these transactions, sometime called 'cash and carry' shelters, in its legislation." The Committee also described the nature of the "cash and carry" transactions Congress was trying to discourage, in detail.

Twenty years later, on January 17, 2001 the Treasury Department issued a set of proposed regulations under section 263(g), that would expand the scope of 263(g) beyond so-called cash and carry transactions, and states in its effective date section that the new rules apply to ". . . interest and carrying charges properly allocable to personal property that are paid, incurred, or accrued after the date these regulations are adopted as final . . . for a straddle established on or after January 17, 2001."

Despite the clear legislative intent, the IRS has attempted to apply the proposed regulations expanding the coverage of 263(g) to transactions undertaken prior to January 17, 2001, and a number of field agents have indicated to taxpayers that absent clear guidance to the contrary, they will continue to apply this expansive interpretation of section 263(g) on a retroactive basis.

When the tax writing committees decide to change the law in a way that might affect ongoing transactions our normal practice is to put the public on notice through an announcement. Once we have so acted, it is considered fair to make the change effective on the date of the announcement because taxpayers have been given fair warning.

I would like to know if you agree with my conclusion that the IRS should follow rules that are equally fair. If a change in the law which was not made as a result of a legislative mandate is announced in regulations, do you agree that the change should be prospective?

Thank you for considering this matter and I look forward to your response.

Sincerely,

PHIL ENGLISH.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
*Washington, DC, October 8, 2004.*

Hon. PHIL ENGLISH,
*House of Representatives, Longworth House Office Building, Washington, DC.*

DEAR MR. ENGLISH: I am writing in response to your letter regarding Sec. 263(g) of the Internal Revenue Code and the Internal Revenue Service's (IRS) application of related regulations.

Without in any way questioning whether IRS interpretation in this case was appropriate, I agree with your conclusion that the expansion of the scope of 263(g) should have been prospective. I believe the Secretary of Treasury should do whatever is necessary to make sure that the regulations that have been brought to my attention by your letter are implemented in that manner.

Sincerely,

WILLIAM M. THOMAS,
*Chairman.*

## CONFERENCE REPORT ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

SPEECH OF

### HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. BRADY of Texas. Mr. Speaker, let's be honest: Republicans don't ship American jobs overseas. Neither do Democrats. Why would they?

But our own U.S. Tax Code does, and that's the responsibility of both parties in Congress. It's time we stop pointing fingers and start working together to save American jobs.

That's what the American Jobs Creation Act does. It removes the job-killers in our Tax Code.

It's a proven, commonsense principle: Stop punishing those who build in America. Lower the tax burden on those who manufacture and produce here in America, with a higher tax rate if you build it overseas.

Create jobs in America's small businesses by letting them keep more of what they earn—making it easier to buy that new computer, that new printer, that new machinery so they can compete with anyone, anywhere.

And for all those small industries—whether they are American companies making bows and arrows, tackle boxes, small aircraft, or U.S. films—let's get rid of the job killers where our Tax Code treats them worse than their overseas competitors.

Some critics may ridicule these provisions, but it's no laughing matter to the American workers in these small industries.

This bill also restores sales tax fairness to the Tax Code, easing the sales tax burden on American families and giving a direct economic boost to Main Street.

In States like mine, it means delivering $1 billion of tax relief to Texas families each year, and creating enough new jobs to fill nearly every seat in the Toyota Basketball Arena with a new Texas worker.

Best of all, every taxpayer in America will have the option of choosing to deduct either their state and local income taxes or sales taxes, whichever is highest.

Thanks to the leadership of Chairman BILL THOMAS, the key support of Majority Leader TOM DELAY and hard work by my colleague SAM JOHNSON of Texas, we have re-opened the door to sales tax fairness that has been locked shut for 18 years.

Every legislator from a sales tax State should support this bill because this opportunity may not occur again for another two decades, if at all.

In conclusion, let's get the job-killers out of our Tax Code, and create jobs right here in America.

## RECOGNIZING FRANK D. JACKSON OF EUGENE, OREGON

### HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. DEFAZIO. Mr. Speaker, I rise today to recognize and to thank Frank D. Jackson of Eugene, OR, for his tireless efforts to improve the lives of working men and women and their families.

Frank Jackson is a man of conviction, dedicated to serving his community by strengthening labor rights. His unwavering vision for working America has put him on the front lines in the fight for decent pay and benefits, safe and healthy workplaces, and dignity and respect for the rank and file.

Until he retired in 1992, Jackson worked two jobs for decades—firefighter and union activist. He has been a steadfast advocate for workers since joining his first union at the age of 15 and was recently inducted into the Labor Hall of fame for his many years of leadership in the labor movement. He served as president and secretary-treasurer of his union, Eugene Firefighters Association Local 851, International Association of Fire Fighters; president and executive secretary-treasurer of the Lane County Labor Council; senior vice president of the Oregon State Fire Fighters Council; and Executive Board member of the Oregon AFL-CIO.

In solidarity and strength, I am proud to salute Frank Jackson for his wholehearted commitment to organized labor and working people in Oregon.

## INTRODUCTION OF THE ENHANCING NUTRITION IN MEDICAL EDUCATION ACT OF 2004

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. UDALL of New Mexico. Mr. Speaker, the importance of nutrition in attaining and maintaining a healthy lifestyle is well known.

Today, as countless reports and articles call attention to the obesity epidemic in our country, it is more important than ever that we focus on preventive health measures including good nutrition habits. Nutrition plays a significant role in the onset and progression of six of the ten leading causes of death. Nutrition intervention also decreases morbidity, mortality, human suffering, and medical costs.

That is why in 1990 Congress mandated that our Nation's medical schools integrate nutrition education into their curricula. Today, however—14 years later—many physicians and medical students are still requesting more training and education in nutrition. I believe now is the time to take action to provide additional resources for medical schools throughout the country to address the known desire and demonstrated need for increased training and education in nutrition.

To that end, I rise today to introduce the Enhancing Nutrition in Medical Education Act of 2004. This legislation authorizes a grant program for which all U.S. allopathic medical schools would be eligible to apply, to assist them in developing, implementing, and integrating innovative nutrition components into their existing medical education curriculum. To name a few of the requirements, the grants will focus on preventive health measures such as education on the causes, treatment, and prevention of obesity; prevention and treatment of common nutritional deficiencies; and office education and counseling to ensure appropriate diet for mostly healthy people. The grants awarded will be in the amount of $50,000 for any fiscal year, or a total of $100,000 for the 2-year duration of the grant.

Also, schools awarded grants will be required to submit a report to the Secretary of HHS describing the nutrition curricula they developed, along with results achieved through its implementation. The Secretary will in turn be responsible for disseminating a report to all medical schools nationwide comprised of nutrition curriculum descriptions developed by the grantees. The reporting requirement will ensure that medical schools who either chose not to apply for the grants or who were not awarded grants still receive information and models on nutrition curricula they can incorporate into their own.

In 2003 a survey was conducted of all accredited medical and osteopathic colleges in the U.S. to determine the present state of nutrition training in medical school curricula. This study showed positive trends, but with much room to grow. The study found that a nutrition course was required in forty percent of the medical and osteopathic programs, an elective course in 13 percent, and 24 percent of the schools integrated the subject in other courses. Approximately 23 percent lacked nutrition of any type. Schools that required nutrition showed a mean number of 2.5 credit hours, and it was rare for medical programs to require more than one nutrition course or for the course to exceed three credit hours.

Mr. Speaker, a similar survey conducted in 1997–1998 showed that 26 percent of medical school programs required nutrition courses. The slight increase in programs requiring nutrition courses is certainly a positive trend, but considering the alarming rates of obesity, diabetes, and other negative health affects associated with poor nutrition, we must do more.

The Enhancing Nutrition in Medical Education Act provides no new mandates to medical schools, but simply allows them the opportunity to access additional funds to enhance and increase nutrition education in their curriculum. I would like to thank the people at the American Dietetic Association and the Association of American Medical Colleges, as well as the many others who have helped me in developing this legislation. I urge my colleagues to support this bill.

## TOMORROW'S PRESIDENTIAL ELECTION IN AFGHANISTAN

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. NEY. Mr. Speaker, I rise today to congratulate the people, and the transitional government, of the Islamic State of Afghanistan on tomorrow's historic Presidential election. The Afghan people have come a long way in the past few years and deserve the recognition and support of the U.S. Congress.

Mr. Speaker, as you know, the people of Afghanistan are at a historic turning point. Leading to tomorrow's election, great progress has been made in their electoral process: of an estimated 10 million eligible voters, more than 9 million have registered, and more than 40 percent of them are women.

I congratulate the Afghan people on this high registration percentage, and I applaud the diversity of the electorate and the 18 Presidential candidates. Their participation symbolizes a true commitment to pluralism, democracy, and to an open electoral process.

Mr. Speaker, the people of Afghanistan are still facing very real threats, however. There are still news reports of voter intimidation and violence against voters and poll-workers. There are even reports of Taliban loyalists advertising rewards for anyone who kills a poll-worker.

I would like to commend President Hamid Karzai for his leadership in opposition to these militants. Under President Karzai, the Afghan people continue to stand tall, bringing their country to its moment of democracy. They have remained steadfast and, in spite of the risks, have continued to register to vote in droves.

While Afghanistan has a long way yet to go, its people have come a long way already. The greatest threat to the fundamentalists that would do harm to America is exactly what will take place tomorrow in Afghanistan: Democracy. And for that, Mr. Speaker, I commend the Afghan people.

## IN RECOGNITION OF THE DESIGNATION OF OCTOBER 12–20, 2004, AS NATIONAL AWARENESS WEEK FOR THE F.O.P. CAMPAIGN

### HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. FOSSELLA. Mr. Speaker, I rise today in recognition of the Fibrodysplasia Ossificans Progressiva (F.O.P.) Awareness Campaign and the declaration of October 12–20, 2004 as National Awareness Week. Currently 220 Americans have been diagnosed with this rare and incurable disease. F.O.P. is a musculoskeletal disorder that leads to the growth and formation of additional bones, ultimately forming a "second skeleton" in the human body. Due to the diligent and dedicated efforts of the friends and family of those diagnosed with F.O.P., there is a growing campaign to raise awareness about the disease and muster support for F.O.P. research. In addition, President Bush has declared the years 2002 through 2011 as the National Bone and Joint Decade; the kick-off for which is the National Awareness week set to begin October 12. I ask my colleagues to join me in celebrating the observance of Bone and Joint Decade National Awareness Week and to encourage our fellow citizens to support awareness and research of musculoskeletal disorders.

## INTRODUCTION OF "PREVENTING SEXUAL ASSAULTS IN THE MILITARY ACT OF 2004"

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mrs. MALONEY. Mr. Speaker, today, I introduce legislation, the "Preventing Sexual Assaults in the Military Act of 2004," along with Representatives ELLEN TAUSCHER, DIANE WATSON, and ED TOWNS, which would appropriate such funds as are necessary for fiscal years 2005 through 2007 to eliminate the backlog in processing DNA evidence, to ensure that testing takes place in a timely manner, to provide an adequate supply of forensic evidence collection kits at all domestic and overseas U.S. military installations, military academies, and theaters of operation, and to ensure that at least one military medical personnel member, who is trained as a Sexual Assault Nurse Examiner (SANE) or Sexual Assault Forensic Examiner (SAFE), is on duty at all times in the health care facility at a military academy, domestic military base, overseas military base, and theaters of operation, except where a memorandum of understanding is issued between the military installation and a local civilian hospital.

Rapes and sexual assaults are far too common in both civilian life and in the military. As the April 2004 report issued by the Pentagon states, among other findings, current DoD policies and standards do not focus on sexual assault and "the military services" policies lack integration for effective prevention and response."

This legislation will help bring justice to the victims and survivors of sexual assault by ensuring that DNA evidence is used to identify perpetrators and bring them to justice. Additionally, it will provide servicemembers who are raped with the necessary medical care.

As our soldiers are fighting for those who have long been denied basic rights, we should do everything possible to ensure that we are protecting their rights, too.

## RECOGNIZING THE ACCOMPLISHMENTS OF TAIWAN

SPEECH OF

### HON. DEBORAH PRYCE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. PRYCE of Ohio. Mr. Speaker, Taiwan will celebrate its National Day on October 10, 2004, and I wish to salute their many accomplishments.

Even though Taiwan is a small island with few natural resources, there is no question that it has prospered. With one of the world's largest foreign exchange reserves, Taiwan's 23 million people enjoy one of the highest standards of living in the world. Taiwan President Chen Shui-bian has made clear his belief that every citizen ought to enjoy the right to work, the right to freedom of thought, conscience and religion, the right to an education, the right to participate in elections, and the right to social security in the event of unemployment, illness and disability. Also President Chen has promoted efforts to protect the rights of women, children, the elderly and the indigenous people, laborers and soldiers. It is evident that President Chen is committed to improving the lives of his people.

Although Taiwan and the United States do not have formal diplomatic ties, our people are closely connected. Taiwan is our eighth largest trading partner, thus providing many jobs for our manufacturers. In addition, more than 30,000 Taiwan students study at U.S. colleges and universities, and the United States is the number one destination for most of Taiwan travelers. The U.S. and Taiwan share many values in common such as a commitment to freedom, democracy and human rights.

I am pleased to congratulate our friends in Taiwan on this special day, and hope for their continued success and progress in the future.

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## CONFERENCE REPORT ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

SPEECH OF

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to the conference report on H.R. 4520, the corporate tax bill. This bill, which repeals a portion of the U.S. tax code known as the Foreign Sales Corporation and Extraterritorial Income Exclusion (FSC/ETI),—thereby ending European sanctions on American businesses, is nothing but the latest handout in a string of unnecessary tax cuts for multinational corporations by this Republican Majority.

With 2.5 million manufacturing jobs lost in the last 3 years, including nearly 40,000 in my State of Connecticut alone, many outsourced to other countries like China and Singapore, we all understand that steps must be taken to revive what is the very backbone of America's economy. We have seen more than half a million jobs shipped overseas over the last three years and that could grow to 6 million by 2015.

I do not believe government is in the business of creating jobs; but government has an obligation to foster an environment in which jobs can be created. With this legislation, we could be providing this country's manufacturers with the opportunity to be able to stay here. We could invest in our technology and invest in our workers. And, we could promote more economic development in the United States. Instead, this Administration and its Republican Leadership follow a business model that assists companies in sending the jobs offshore, allows companies not to pay their fair share of their taxes, and then rewards these companies with Federal contracts. They simply do not get it.

Even more, by clinging to the idea that we should be rewarding companies who send jobs overseas, this majority has delayed action on this issue for more than a year. As a result, manufacturers have been paying 11 percent tariffs on more than 1,600 American-made products.

But now that the fix is in, this represents a huge missed opportunity. Rather than helping our struggling manufacturing base, this Republican conference agreement would give U.S. multinational corporations more incentive to ship jobs overseas—more than $42 billion in additional tax benefits for offshore operations of U.S. corporations.

In addition to rewarding corporations for exporting U.S. jobs, the conference report is just a grab bag of special interest provisions that will benefit few and clutter an already bewildering tax code. It includes billions for a range of new narrow special-interest tax breaks, such as tax breaks for several varieties of bows and arrows, NASCAR racetracks, electronic fish finders, bait containers, foreign gamblers who win at U.S. horse and dog tracks, nuclear steam generators, and importers of Chinese ceiling fans.

Mr. Speaker, what manufacturers need from this body is not more incentives to send jobs abroad; they need bold vision, recognizing that our Federal Tax Code could work for them, not against them, by favoring those companies who keep their jobs here. That is exactly what Democrats have been pushing for more than a year—to revitalize our manufacturing base by cutting taxes for U.S. companies in order to keep good-paying manufacturing jobs here at home and end the tariffs on U.S. products. American companies should not have to resort to transferring jobs to countries where workers make less and have fewer benefits to stay competitive.

Americans understand outsourcing. It is eroding our workforce; it has threatened every middle-class family in this country. Putting an end to outsourcing starts with helping our manufacturers here at home become more productive, more innovative. If we want to boost sales, investment in modernization and employment is the way to do it. This conference report is not the answer.

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## CONGRATULATING TAIWAN ON ITS 93RD NATIONAL DAY

### HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. BERMAN. Mr. Speaker, I would like to take this opportunity to congratulate the Republic of China on Taiwan on its 93rd National Day and to welcome its new Representative to the United States, David Tawei Lee, with whom I met just a few weeks ago.

Both Dr. Lee and his wife, Chih Lin, know the United States well. Dr. Lee received both his Master's and Ph.D. degrees from the University of Virginia while Mrs. Lee received her MBA from the University of Maryland. Dr. Lee also served as a Research Associate at Harvard University while he was heading up the Taipei Economic and Cultural Office in Boston for three years. Both of the Lee's children were born in Washington, D.C. Dr. Lee's appointment to become Taiwan's representative to the United States follows a distinguished career with the Ministry of Foreign Affairs (MOFA) and the Government Information Office (GIO). From 1998 to 2001, he served as Taiwan's spokesman. In 2002, Representative Lee won the most distinguished diplomat award given by the Ministry of Foreign Affairs.

The people of Taiwan and the U.S. share important values and have maintained a strong and dependable friendship over many years. Taiwan has transformed itself from a oneparty dictatorship to a vibrant multi-party democracy, enhanced and preserved human rights and civil liberties, and vigorously guarded the right to a free press. Its market-based economy is now the 126th largest in the world. Last year it was the 8th largest trading partner of the United States and was the ninth largest export market for U.S. goods.

On its 93rd National Day, let us celebrate Taiwan's many accomplishments and extend a warm welcome to Dr. and Mrs. Lee.

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## CONGRATULATIONS TO THE X PRIZE WINNERS

### HON. RICK LARSEN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. LARSEN of Washington. Mr. Speaker, I rise today to extend my congratulations to Paul Allen, Scaled Composites founder Burt Rutan, and SpaceShipOne pilots Mike Melvill and Brian Binnie for winning the Ansari X Prize. SpaceShipOne's two successful flights into space indicate a bright future for space travel and exploration. Just over 100 years after the Wright brothers' flight at Kitty Hawk, North Carolina, Paul Allen has proven that we continue to dream and dare to tackle evermore daunting challenges each day. The success of SpaceShipOne is truly a great victory for Scaled Composites and for innovators around the world, as well as an indication of great things to come.

It is my pleasure to specifically congratulate Paul Allen for his crucial role in this endeavor.

SpaceShipOne's success would not have been possible without his vision and confidence. Communities in my district have long benefited from Mr. Allen's investments in businesses and charities. Now the whole world will have the opportunity to benefit from his efforts to make Scaled Composites a success and to never hold back from pushing Americans' innovation to the next level.

Private space travel has been nothing more than a dream since the advent of space flight. The success of Spaceship One has prompted new fields of business and recreation. It is this kind of innovation that will bring the next generation of jobs and strengthen our economy. This breakthrough will provide the economic stimulus to financially and scientifically motivate individuals around the globe to look toward the sky. It will inspire us to surpass current scientific limitations and travel to places our grandparents could only imagine.

Innovation is the key to our future. Mr. Allen and the talented team at Scaled Composites have shown us that any goal is achievable when coupled with ambition and the drive to succeed. I congratulate all involved and look forward to seeing Paul Allen, Burt Rutan and others reach new heights and overcome new challenges.

## INTRODUCTION OF THE CROSBY-PULLER COMBAT WOUNDS COMPENSATION ACT

## HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. MARKEY. Mr. Speaker, today I am joined by 14 of my colleagues in introducing the "Crosby-Puller Combat Wounds Compensation Act," a bill to remedy the lapse in support that a wounded soldier experiences from the moment he/she is evacuated from the combat zone for medical treatment. Although some of that support can eventually be restored if a soldier is discharged and applies under certain VA programs, this bill deals with the immediate burden placed on soldiers like James Crosby, a Marine who was seriously wounded while fighting for his country in Iraq. The bill has been named after James Crosby and, at his request, Lt. General Lewis "Chesty" Puller, USMC, the most decorated Marine in the history of the Corps.

Lance Corporal James Crosby of Winthrop, Massachusetts enlisted in the United States Marine Corps when he was 17 years old. He is married to Angela and was living in California before his service and his injury.

On March 18, 2004, James was wounded by enemy fire while riding on the back of a U.S. military vehicle in Iraq. A rocket fired at the vehicle killed the driver and injured two Marines including James. A piece of shrapnel pierced James' side and penetrated his intestines and spine.

James was taken immediately to a hospital in Kuwait. He had his first operation there, was stabilized and finally flown to a U.S. military hospital in Landstuhl, Germany. In Germany, James underwent several surgeries to remove shrapnel and repair wounds. James's wife, Angela, was flown to Germany to be with him during these difficult times. James was flown to Bethesda military hospital in Maryland in late March. Congressman Markey visited James in April at which time he received the Purple Heart. James eventually returned to Massachusetts and continued to receive care at the West Roxbury Veterans Hospital in Boston. He has lost over 50 pounds since his injury and requires a colostomy bag at all times. He has undergone 14 surgeries thus far, but remains paralyzed from the waist down.

The Boston Red Sox honored James on June 25, 2004 as he threw out the first pitch before a Red Sox-Phillies game at Fenway Park.

James's pay was immediately cut when he was transported out of the combat zone in Iraq. While serving the U.S. Marine Corps in Iraq, James received his base pay as well as Combat Zone Tax Exclusion (CZTE), Imminent Danger Pay (IDP), Hardship Duty pay (HDP), Per Diem and Flight Pay. He also lost his Family Separation Allowance (FSA) once he returned to the United States for medical care. The tax exclusion and pays amounted to more than $1,000 per month. James is now still a member of the Marine Corps and has not yet been discharged. He is not entitled to Veterans benefits until he is officially discharged. James was being paid about $2,500 a month while serving in Iraq, but now is only receiving $1,300 a month.

He has relied on family and friends to help him pay for a handicapped accessible apartment as well as daily expenses, because his current military pay of $1,300 a month does not cover all of his expenses. James has also been helped by the Shutt Detachment, an association of former Marines, which held a fundraiser for him on August 19 at the Rack in Boston. Without the help of family, friends, and former Marines, James and his young wife would not be able to afford an apartment in the Greater Boston Area and cover expenses.

James eagerly wants to work to help other members of our nation's armed services that are in a similar situation. He and his family have worked with my office to address in this legislation the problems that they have experienced, first hand, in coping with wounds incurred in James's service to his country. I urge my colleagues to join us in ensuring that members of the Armed Forces that are wounded while serving in a combat zone will continue to receive certain special pays, tax exclusions and allowances associated with such service until the member recovers from the wound or injury.

## TRIBUTE TO ADMIRAL FRANK "SKIP" BOWMAN

## HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SKELTON. Mr. Speaker, I rise today to recognize and honor Admiral Skip Bowman, U.S. Navy, as he prepares to retire upon completion of more than 38 years of faithful service to our Nation.

Admiral Bowman has held the position of Director, Naval Nuclear Propulsion Program (Naval Reactors), for the last eight years. During his distinguished career, he played a pivotal role in ensuring that nuclear-powered warships continued to meet our global commitments in defense of our Nation's security.

During his career, Admiral Bowman served as the Commanding Officer of the nuclear-powered attack submarine, USS *City of Corpus Christi*, which completed a seven-month circumnavigation of the globe and two special classified missions during his command tour. Other highlights include tours as the commanding officer of the USS *Holland*, as the Director of Political-Military Affairs on the Joint Staff, and as the Chief of Naval Personnel.

Nuclear-powered warships have safely steamed over 130 million miles, and operated for more than 5,600 reactor years without a reactor accident. The last 24 million miles and 900 reactor-years have been achieved under Admiral Bowman's superb leadership. He currently oversees 105 operational nuclear reactors.

Admiral Bowman was a guiding force in the design and construction of the VIRGINIA Class submarine—our Navy's only major combatant available to the Fleet that was designed with the post-Cold War security environment in mind. These revolutionary submarines have significantly improved capabilities over their predecessors in acoustics, littoral warfare, communications, sensors, and life-cycle costs.

Admiral Bowman also drove many aspects of the design of the Nation's next-generation aircraft carrier class—the first new design in over 30 years. Owing much to his leadership, the CVN–21 propulsion plant will triple the electrical power available for transformational technology, reduce reactor compartment manning by nearly 50 percent, and increase ship operational availability by nearly 25 percent.

As the Director, Naval Nuclear Propulsion Program, Admiral Bowman's commitment to environmental stewardship and public health and safety helped foster the highest degree of public trust. The Naval Nuclear Propulsion Program continued the superb performance, safety, and environmental record of nuclear-powered warships that has existed for more than 50 years. Our nuclear-powered warships benefit from acceptance in foreign ports worldwide as a direct result of that record.

Mr. Speaker, I know the members of this house will join me in commending Admiral Bowman for a career of faithful service to his Nation. His leadership of the Naval Nuclear Propulsion Program, a highly effective, responsive, world-class organization, has contributed significantly to our Nation's ability to confront 21st century security challenges. I wish him "Fair Winds and Following Seas" as he completes his honorable and distinguished service in the U.S. Navy.

## IN RECOGNITION OF THE GLOUCESTER CITY OPEN ACCESS LEARNING CENTER, AND ITS PARTICIPANTS

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. ANDREWS. Mr. Speaker, I rise today to honor the Gloucester City Open Access Learning (GOAL) Center at the Mary Ethel Costello School in Gloucester City, New Jersey, as well as its staff and participants. With funding from the 21st Century Community Learning Center program at the Department of Education, the Camden County United Way, and the Bureau of Child Nutrition at the New Jersey Department of Agriculture, the GOAL Center provides valuable services and opportunities to children and families in my district.

Housed at the Mary Ethel Costello School and also open to students from the St. Mary's Elementary School, the heart of the GOAL Center's programming takes place in the after school hours. Children in grades four through six participate in organized recreation and exercise followed by nutritious snacks which are provided in cooperation with the Bureau of Child Nutrition. The students then receive homework assistance, and take part in other types of tutoring and enrichment activities. The Center also hosts special events, such as field trips to museums, plays, and libraries, movie showings, and game tournaments, as a reward for the hard work the students do during the week.

In addition, the GOAL Center's positive community programming extends beyond the elementary school students. Computer classes and arts enrichment courses, taught by personnel from Camden County College, are offered for families and their children. Camden County College staff also teach free college courses to both parents and high school juniors and seniors in the evenings, and parents can participate in parenting workshops offered in cooperation with the Camden County United Way. These sessions are designed to give information about helping children deal with change, such as starting school, divorce, moving, and other potentially stressful events.

Those who choose to participate in the GOAL Center's programming have demonstrated a clear dedication to improving both themselves and their community, and I believe they deserve recognition. The following students have shown a notable commitment to the goals of the program: Briana Angier, Christopher DiDomenico, Jacob Franchetti, Brianne Goffney, Thomas Hellings, Katie Morgan, William Tozer, Jessica Valcarcel, Ashlee Cruz, Joseph Hamaker, Tamasa Nobles, Kyle Pollandar, Drew Pollitt, Erika Raiken, Matthew Sacilowski, Chelsea Amwake, Alexandria DiDomenico, Lori Mangini, Amanda Martin, A'niah Nobles, Jamie Phillips, Kevin Brown, Zachary Carey, Richard Mercedes, Sydni Durity, Kathleen O'Brien, Laura Casasbuena, Tracey Causey, Charles Clair, Edward Coleman, Kimberly Dieterich, Kevin Dickson, Ashley Egbert, Stevie Gallagher, Nicole Groves, Chelsea Gunning, Kyle Harkins, Damein Hart, Devon Huaca, William Jacobs, Ronnie Joshi, Daniel Karpinski, Lauren Klipp, Paige Kopras, Samantha Mease, Jessica Medina, Kwanna Mosley, Janee Powers, Thomas Raymond, Jennifer Reyes, Alexis Sabatini, Samantha Schultz, Kayla Skotnicki, Xavair Stang, Brianna Bangle, Tina Davis, Ariana Dragone, Joseph Foley, Kyle Gaff, Alex Gallo, CJ Genarie, Thomas Gorman, Brielle Gorski-Schultz, William Gross, Edward Gunning, Mathew Hender, Brittany Higginbotham, Courtney Iacovone, Chelse' Kiefrieder, Zachary Cooper, Harley Marks, Sarah Knipp, Jack Markiewicz, Angelica Medina, Michelle Moler, Thomas Moore Jr., Kevin Mottas, Alexis Naumann, Elizabeth Salvitti, Ryan Schafer, Carla Smith, Devin Vautier, Angelica Wunsch, Dana Arroliga, Christopher Bittner, Samantha Bruccoliere, Chelsea Clair, Denise Duterich, Randy Forte, Michael Gorman, Danielle Groves, Jimmy Baehr, Devin Jaskulski, Brian Donaghy, Deanne Cobb, Steven Karpinski, Hyeji Lee, Jennifer Liebrand, Melissa Miloshevsky, Ryan Moore, Robert Mortimer, Markita Nelson, Carlos Nieves, Jessy Perez, Scott Scomolia, Corey Scott, Gabrielle Spagnolia, Marissa Wood, Destiney Woodward, Alicia Yourison, Steven Kumpf, Andrew Morgan, Andira Morgan, Joseph Cipriani, Jordan Brady, Donna Weatherly, Jessica Meller, Regina Corvino, Jessica Finch, Racheal Finch, and Raquel Cannon.

Similarly, the following staff deserve recognition for the time and energy they have put into making the Center a success: Superintendent Mary Stansky, Business Administrator James Devereaux, Mary Ethel Costello School Principal Nancy Thomas and Assistant Principal William Marble, Director of Curriculum Sue McComb, GOAL Center Coordinator Catherine George, Public Information Officer Lynda Lathrop, Teaching Staff Members Lisa Amrosino, Patricia Duer, Gina Shank, Carl Kohler, William Kohler, Darcy Fox-Fuchs, Marge Dantonio, Marilyn Holmes, Dolores Militti, Cindy Kumpel, Janeen Thomas, Kathleen Davi, Kate Narducci, Guy Groff, Christie Murray, Lorri Stasium, Christine Wilson, Betty Averell, Craig Reinhart, Ellen Richards, Renee Robson, Ellen Conway, Mary Ann Woodrubb, and Don Dantonio, and Board of Education Members Judith A. Alberti, Robert H. Bennett, Sr., Sandra Lynch-Cowgill, Joanne Gurick, Patrick Healey, Edward Hubbs, Lousia Llewllyn, Bruce Marks, Danny O'Brien, Jr., and William Lunemann.

The GOAL Center is truly a complete program in that it assists students in the crucial areas of health, nutrition, and academic achievement. It also helps to foster a desire for life-long learning, and serves as a valuable resource for families and adults seeking development opportunities. I congratulate all the current staff and students on the hard work they put into the program, and wish them and the Center continued success in the future.

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## HONORING RYAN JERABEK

### HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. GREEN of Wisconsin. Mr. Speaker, every now and then, I hear someone say that America lacks heroes—those great men and women amongst us who we can use to inspire and teach our young people. In my view, the problem is that too many people look to the playing fields or the big screen for their heroes. But all of us here today know better—because we are here to remember and honor one of our real heroes; an American who we are rightly very proud of, and whom we miss very much, Ryan Jerabek.

Now, we all know that our work in Iraq is far from over. There are many challenges ahead and, sadly, there will likely be some more dark days ahead as well. But we also know there will be brighter days ahead too, more and more of them, as freedom's sunlight chases away the shadows of tyranny. That's what Ryan helped to do—bring sunlight to the shadows.

What our servicemen and women are accomplishing is extraordinary—by any measure and compared to any mission in modern history. Sadly, their courage can be measured by the casualties—Ryan, Jesse Thiry of Casco, Warren Hansen of Clintonville, Stephen Martin of Rhinelander, Nichole Frye of Lena and others.

But on this day, let's also measure their courage by how they've changed Iraq. Just a year and a half after chasing Saddam from power, Iraq is on the path to full sovereignty and moving toward free elections. When our soldiers first reached Iraq, they found chaos and they found evil. As USAID has reported, Iraq has 270 mass graves holding perhaps 400,000 bodies—people tortured for their beliefs, and killed for their ethnicity.

Ryan and others fought, and rebuilt, and protected, and liberated—and the results have been historic. They've helped rebuild 240 hospitals, 1,200 clinics, 2,300 schools. They've distributed 1.5 million student school kits and 9 million textbooks. They've immunized over 5 million Iraqi children. They've established 16 governing councils, over 90 district councils and nearly 200 community councils.

In short, Ryan was doing a good thing—no, he was doing a great thing. And the ceremony honoring Ryan this weekend in Wisconsin is just one small sign that all of us recognize it.

Ryan used to say that he wanted to be a teacher—he wanted to teach others and shape lives. Well, he did. His life, his work, his sacrifice have taught us all so very much. We will never, ever forget him. We are in awe of his service and all that he accomplished in his tragically short life.

Ryan, you are our hero—a real hero.

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## NATIONAL ALL SCHEDULES PRESCRIPTION ELECTRONIC REPORTING ACT OF 2003

SPEECH OF

### HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, October 5, 2004*

Mr. EMANUEL. Mr. Speaker, I rise in strong support of H.R. 3015, the National All Schedules Prescription Electronic Reporting Act of 2003. As a cosponsor of H.R. 3015, I recognize that this bill represents an important step in curbing the abuse of prescription drugs.

According to the NIH's National Institute on Drug Abuse (NIDA), an estimated 9 million people aged 12 and older used prescription drugs for non-medical reasons in 1999. Sadly the NIDA predicts that number to be on the rise. This problem is compounded by the fact that many doctors have a hard time discussing this matter with their patients. In a survey by the National Center on Addiction and Substance Abuse at Columbia University, 46 percent of physicians reported they find it difficult to talk with their patients about abusing prescription drugs.

The National All Schedules Prescription Electronic Reporting Act of 2003 provides grants to establish state-run programs for prescription monitoring that will be administered and coordinated at the Federal level. This will allow physicians to monitor whether their patients have been abusing addictive drugs or acquiring addictive drugs for others, even if a patient has received prescriptions in other states. Additionally, this bill has the potential to significantly cut down on prescription drug abuse and to help physicians prescribe addictive medications to patients who really need them without fear that the patient will abuse the drug.

Since my home state of Illinois instituted the Illinois Triplicate Prescription Control Program in 1961, the program has been successful in combating prescription drug abuse back home. Now it is time to build on that success by creating a federal network so that state programs can be coordinated nationally.

Mr. Speaker, this is an opportunity for this Congress to recognize that the abuse of prescription drugs is a serious problem in this country. The National All Schedules Prescription Electronic Reporting Act of 2003 is a large part of the solution.

## PANCREATIC ISLET CELL TRANSPLANTATION ACT OF 2004

SPEECH OF

### HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, October 5, 2004*

Mr. EMANUEL. Mr. Speaker, I rise in strong support of H.R. 3858, the Pancreatic Islet Cell Transplantation Act. As a cosponsor of H.R. 3858, I recognize that this bill will aid the medical community as it learns more about the potential of islet cell transplantation. More importantly, it will help increase the supply of pancreata that can be used for islet transplantation, while also better coordinating the efforts of those involved in the process. Innovations in this field can help people suffering from Type I diabetes to live without daily injections of insulin.

According to the American Diabetes Association, there are 18.2 million diabetics in America, a figure that accounts for 6.3 percent of our population. The Pancreatic Islet Cell Transplantation Act is a strong step forward on the path to significantly improving the quality of life for these Americans.

Individuals with Type I diabetes are dependent on insulin injections because their own immune systems destroy the islet beta cells that create insulin. Islet transplantation involves taking islet cells from a donor pancreas and implanting them into a recipient where the beta cells from the islets begin to make and release insulin. The goal is to eventually be able to infuse enough islets so that diabetics can control their glucose levels without needing painful insulin injections.

By ensuring the certification or recertification of islet transplantations and research under the Public Health Service Act, this bill will aid in further developing this medical breakthrough. This bill will break down barriers that now stand in the way of this treatment. Also, by mandating an annual assessment on pancreatic islet cell transplantation, we can guarantee that this procedure and the Americans who need it are not forgotten.

Mr. Speaker, when a moment is at hand where we can improve the health of the citizens of our great country, it is incumbent upon us to do so. The Pancreatic Islet Cell Transplantation Act of 2004 presents us with precisely one of those moments. I commend the gentleman from Washington for bringing this legislation to the floor, and I urge my colleagues to support it.

## EXCESSIVE EXECUTIVE COMPENSATION

### HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. EVERETT. Mr. Speaker, on the two-year anniversary of the Sarbanes-Oxley Act, it is worth noting that this country has seen an increase in consumer and investor confidence, and a significant market recovery. Corporate scandals and plunging stock prices forced Congress to pass the most sweeping regulation of corporate activity since the 1930s, when the SEC was created.

Many positive developments have resulted from the passage of Sarbanes-Oxley, however more can be done. I fear that we have not seen the last of the corporate abuse exhibited by the Enrons and Worldcoms of the world, especially with regard to the raiding of pension funds.

I am concerned about a growing number of corporate executives in America who are less than fully accountable to their shareholders or employees. Some continue to demand and receive outrageous salaries and perks while their companies flounder. In some cases, these executives face civil and criminal investigations for fraud and corruption.

The current environment under which Corporate America pays its executives allows for minimal, if any, input by the shareholders. Oftentimes their will is often suppressed, as was the case with Alcoa Inc. in 2003 when the board of directors rejected a proposal approved by the majority of shareholders that urged the board of directors to seek shareholder approval for future severance agreements with senior executives. Boards of directors continue to reward their executives with outrageous retirement packages regardless of the company's performance. Not only is the discrepancy between pay and performance a problem, but the fact that the disclosure to shareholders comes months after the payments is also troubling.

One of the most disturbing facts of these misguided or criminal actions by corporate leaders is that their employees see their hard-earned profit sharing plans disappear. Yet, these corporate 'rock stars' ride off with their guaranteed benefits package intact, while the workers and shareholders take it on the chin. Their investments and savings, tied to corporate growth and built up over the years, have vanished. Plans of retirement are halted, either permanently or indefinitely; and many workers find themselves forced to work in their golden years.

Today, I have introduced legislation to require an advance disclosure to a company's shareholders upon the creation or increase in special retirement plans for executives. This could bring desperately needed transparency to the boardroom. Under current law, benefits payable under these plans are not considered reportable compensation, which is why this disclosure is necessary. This would allow shareholders to be proactive in determining whether or not their CEO deserves the millions he or she is getting paid.

I understand that this is a departure from the typical form of disclosure, however I believe the current environment under which Corporate America operates needs to change. We must improve investor confidence, and advance disclosure of excessive corporate compensation will move us in that direction.

## REASSESSING FOOD LAWS

### HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. WHITFIELD. Mr. Speaker, I rise today to discuss an important issue facing the next Congress. Since enactment of the Nutrition Labeling and Education Act of 1990, obesity rates in America have soared, including among children.

According to a recent briefing provided by the Institute of Food Technologists, "the most recent data from NHANES (National Health and Nutrition Examination Survey) in 2002, 65 percent of Americans were overweight or obese, 30 percent were obese and 4.9 percent were extremely obese. Over 400,000 individuals die each year due to poor diet and physical inactivity. For the first time in 100 years, children face shorter life spans then their parents, as the obesity rate for children has doubled since 1980. The total estimated direct and indirect costs of obesity in the U.S. exceed $117 billion annually. Less than 1/3 of adults engage in the recommended amounts of physical activity. In fact, more than 25 percent of Americans report no leisure time activity at all."

While evidence suggests that the increase in obesity rates is due primarily to a decline in physical activity rather than an increase in caloric consumption, the problem will not be solved by increased physical activity alone. For the sake of public health, many Americans must modify both their diets and physical activity practices.

We in Congress should examine whether our current food labeling laws are providing for the nutrition information, including claims regarding the health effects and nutritional composition of foods, that consumers need. A realistic appraisal of our food labeling law provides a mixed review:

> The law effectively prohibits false or misleading nutrition information. Uniform food labeling laws facilitate consumer education and the efficient flow of commerce.
>
> The Nutrition Labeling and Education Act (NLEA) and its implementing regulations took a prescriptive approach that emphasized fat, which effectively de-emphasized the very important consideration of total calories in a food. Though well intentioned, this approach may have exacerbated dietary problems.

The highly prescriptive approach of the NLEA, combined with the Food and Drug Administration's (FDA) cumbersome approval process, have resulted in the agency often standing in the way of providing truthful, non-misleading information to consumers. FDA has lost every major First Amendment case regarding implementation of the NLEA. In the landmark decision, *Pearson* v. *Shalala*, 164 F.3d 650 (D.C. Cir. 1999), reh'g, en banc, denied, 172 F.3d 72 (D.C. Cir. 1999), the D.C. Circuit Court of Appeals even characterized the government's defense of its stifling, moribund regulatory approach as "almost frivolous." Our law and regulatory systems cannot continue to block or excessively delay delivery of truthful, non-misleading information to American consumers.

To its great credit, the FDA has recently started to issue enforcement discretion letters. that indicate the agency would not take enforcement action against particular qualified health claims that it has determined are truthful and non-misleading, even though those, claims have not been approved pursuant to the excruciatingly slow NLEA process. While I have reservations about this approach, it is clearly a reasoned attempt to be less obstructive of truthful, non-misleading food label statements. For its part, this FDA initiative is likely to improve public health. However, it appears that Congress could do more.

Some of these observations are not new. In 1997, Congress enacted the Food and Drug Administration Modernization Act (FDAMA), which provided for streamlined procedures for allowing certain products and claims to get to market. Simply put, FDA can say "no" with relative ease and speed, but has extensive clearance procedures with correspondingly long time requirements to say "yes" to any petition. So, FDAMA provided for notifications for indirect food additives, as well as for health claims and nutrient content claims based upon authoritative statements of certain scientific bodies or the National Academy of Sciences. Under that system, if FDA does not object to a notification within a specified period, the FDAMA requirements are deemed satisfied and the product or claim approved. Thanks to addition of these provisions, FDA has more expeditiously approved health claims that have provided consumers helpful information regarding the relationships between potassium and the risk of high blood pressure and stoke, and between whole grain foods and the risk of heart disease and certain cancers, as well as nutrient content claims identifying foods that are significant sources of choline and of DHA, EPA, and ALA, specific omega–3 fatty acids. Broader use of this concept must be considered if we are to continue to allow FDA to block a product or claim before it gets to market, but expect advances in science to reach market without delay that is unacceptably costly in terms of public health and capital investment.

Finally, FDA pre-market responsibilities regarding foods are extensive and include a number of matters that are not critical to public health protection, such as temporary permits for test marketing of a food in contemplation of amending its regulatory standard of identity. Often, FDA has explained that they are not handling such matters with a responsible pace because they are low priorities. As a matter of public health protection, such prioritization makes sense. However, it is time for us to review provisions of law and regulation that require agency pre-market approvals regarding low priority matters. If pre-market regulatory scrutiny needs to be maintained regarding such matters, consideration should be given to substituting notification procedures for the dysfunctional processes in place at this time.

Mr. Speaker, I share these observations so that my colleagues may consider them prior to initiating work of the next Congress and in hopes of stimulating debate on the subject.

## IN MEMORY OF THOMAS LAUBACHER, SR.

## HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. GALLEGLY. Mr. Speaker, I rise to pay tribute to the memory of Thomas Laubacher, community leader and elected official from my district who passed away September 26 at the age of 91.

Tom Laubacher was a native son of Ventura County, California, having been born to a pioneering Oxnard family on August 29, 1913. During his life, Tom Laubacher was a farmer on his family's 150–acre farm, located between Doris Avenue and Teal Club Road; an oilman for Union Oil Company; and a B–26 pilot instructor for the U.S. Army Air Corps.

In 1954 he took over Laubacher Insurance Agency and Real Estate, which his father had founded in 1903. It remains in the family today. Tom Laubacher's son, Thomas Laubacher, Jr., now runs the business.

In 1964, Tom Laubacher ran for the Board of Supervisors for the same reason I ran for the Simi Valley City Council 15 years later: a belief that the business community needed better representation in government. He served three terms on the Board of Supervisors and I had the privilege of serving with him on the Regional Sanitation Board about 25 years ago.

Integrity is the word most associated with his public service, his business dealings and his community work.

A devout Catholic—his Uncle John was the first assistant pastor at Santa Clara Parish—Tom was a member of Oxnard Council 750 of the Knights of Columbus and served as the grand knight and district deputy. In 2002, he received the cardinal's award in recognition of a lifetime of service to his church and community.

Tom Laubacher also maintained a long relationship with the Sisters of Mercy and St. John's Regional Medical Center. He became the first lay member of its board of directors and later the board's first lay president.

Tom Laubacher is survived by his wife of 60 years, Helen, four children and 17 grandchildren.

Mr. Speaker, I know my colleagues join me in sending our condolences to Helen "Holly" Laubacher, their children and grandchildren, and pause in remembering a man for whom integrity was a way of life. Godspeed, Tom.

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

## HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes:

Mrs. LOWEY. Mr. Chairman, 3 months ago, the bipartisan September 11 Commission provided Congress with 41 recommendations to help keep our Nation secure and our people safe in the face of rising dangers and threats throughout the world.

These recommendations were targeted at eliminating terrorist organizations, at preventing the continued growth of fundamentalist Islamic terrorism, and at protecting against and preparing for future attacks.

In my judgment, the 9/11 Commission report should have made our job easy. But instead, we find ourselves faced with a bill that dangerously ignores some of the Commission's most important recommendations, and adds hundreds of pages of extraneous and controversial provisions that may do little or nothing to better secure our nation.

Let me be clear. I do support the bill's provisions that identify the target terrorist sanctuaries; that focus U.S. efforts on some of the most critical parts of the world in the war on terrorism, such as Pakistan and Saudi Arabia; and that reform the homeland security grant process to ensure that higher threat cities receive more funds.

I'd like to emphasize that last point.

As I travel through my District and New York State, what I hear most from police officers and firefighters is that we need to change the funding formula to ensure that areas facing the highest threats—like New York—will get the increased funding need to face those threats head-on. We don't have another 3 years to get this done—it needs to get done now. As long as a State like Wyoming gets seven times the amount of funding that New York receives, changing the funding formula must be this Congress's priority.

I believe this bill makes important changes to the funding formula and I am proud to have helped to craft a number of these provisions and to serve on the committee that guided the bill through the legislative process.

But, unfortunately, I have serious objections to many other provisions included in this bill that do not have anything to do with intelligence reform and other 9/11 Commission recommendations.

In my judgment, there are more effective and efficient ways of protecting our national security without infringing on the rights or civil liberties of our Nation's citizens and immigrants.

While the 9/11 Commission report made several recommendations regarding border security and immigration policy, it did not call for the undermining of the due process rights of many immigrants by significantly expending expedited deportation laws; raising the bar substantially for a grant of asylum; or authorizing the government to deport foreign nationals to countries that lack a functioning government—or worse—condone and permit torture.

And, while the 9/11 Commission report recommended that we improve FBI counterintelligence capabilities, it did not recommend that Congress allow the government to secretly investigate an individual suspected of terrorism without having to prove that person is connected to a foreign power.

And finally, while the 9/11 Commission Report called for federal standards for identification documents, including drivers' licenses, it did not recommend that immigrants should be denied a driver's license.

While I do believe that the Federal Government should have a role in helping States to coordinate efforts to strengthen the security of drivers' licenses, this bill would unnecessarily take away the power of States to set eligibility and documentation criteria for drivers' licenses.

My colleagues, the focus on immigrants and the expansion of federal powers of surveillance since September 11 has diverted attention from other critical security lapses that should be addressed in this bill, such as unfunded State and local homeland security needs, lack of adequate security at our nation's airport, intelligence gathering failures, and the substantial evidence of incompetence and lack of coordination at the Department of Homeland Security.

However, at the end of the day, I believe that Congress has an obligation to act as expeditiously as possible to make this country, and indeed the world, a safer place. I don't believe that this should be done on the backs of immigrants and law-abiding American citizens, and I'm going to work to make sure that doesn't happen.

But I don't want a single New Yorker, or American, to lose sleep at night because Congress failed to accomplish what we all agree is our highest priority—protecting America. We are 3 years after the attacks of September 11 and 3 months after the Commission issued its recommendations. We simply cannot wait any longer to move forward on these critical reforms.

So, my vote today is only a vote to protect the changed funding formula that prioritizes high-risk areas like New York, my home state, and to move this measure to conference with the Senate, which has passed a bill that more closely embodies the 9/11 Commission recommendations. And I can assure you that if the conference report that comes before our House is not significantly improved from what we have today, I will vote against it.

But for today, we must move this process forward to ultimately try to enact legislation that will truly and comprehensively improve our national intelligence structure.

## IN RECOGNITION OF DON DREYER, RECIPIENT OF SECRETARY OF HEALTH AND HUMAN SERVICES DEPARTMENT AWARD

### HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mrs. McCARTHY of New York. Mr. Speaker, I rise today on behalf of the people of the 4th Congressional District to recognize Don Dreyer of Rockville Centre, NY.

I am extremely honored to congratulate Mr. Dreyer upon being named by Health and Human Services Secretary Tommy Thompson as one of the eight people nationwide to receive the prestigious Secretary Recognition Award. Receipt of such an honor is testament to Don's impressive record of over thirty years of work on behalf of disabled persons.

Born with brittle bone disease, Don Dreyer was homebound until the age of 15. He has never let the fact that he is in a wheelchair be a handicap. Instead, he has spent much of his life seeing to it that the twenty percent of our nation's population who are disabled do not see themselves as handicapped either.

Don began his crusade for the disabled in 1971 when he served as Director of Media and Public Relations at the National Center for Disability Services. Among his duties was the planning of foundation fund-raisers, including the Center's Annual Celebrity Sports Night Dinner. Don was also responsible for securing corporate and foundation grants for the education of young children with severe disabilities.

For over 25 years, Don has served as Director of the Nassau County Office for the Physically Challenged where he has always exhibited consummate diligence and tireless effort. In this capacity, he has worked to enact State and Federal legislation to enhance the lives of both disabled children and adults. The pinnacle of Don's career was in 1990 when his efforts led to the passage of the Americans with Disabilities Act. Today, he continues to support civil rights policies for the inclusion of disabled persons in the workplace, commerce, transportation, education, and health care.

During October, which is Disability Employment Awareness Month, the Department of Health and Human Services seeks to recognize the efforts of those who have made a contribution to the disabled in both the public and private sectors. Although Don has received numerous distinctions in the past, this award distinguishes the national impact that he has had over the past three decades.

Mr. Dreyer's tireless commitment to his job has made a difference in the lives of many. Once again, I would like to offer my congratulations to him on this well-deserved national recognition and wish him the best of luck in his future endeavors.

## DISASTER AREA HEALTH AND ENVIRONMENTAL MONITORING ACT

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mrs. MALONEY. Mr. Speaker, today I am introducing the Disaster Area Health and Environmental Monitoring Act with my colleagues Representatives TIM BISHOP, SHAYS, SERRANO, MCINTYRE, MCDERMOTT, and SCHAKOWSKY.

During a disaster our first responders heroically rush to the disaster area with little regard for their personal safety in hopes of saving others. We owe it to them to at least monitor their health when it has been put at risk. Unfortunately, no such program exists. There is no better example of this than what has happened in the aftermath of 9/11.

Today, more than 3 years after 9/11, there are literally thousands of individuals who are still sick as a direct result of their work in and around Ground Zero. Included in the sick are police officers, firefighters, volunteers, residents, and area workers. Despite a clear need, there is still no one in the Federal Government in charge of caring for these individuals, there are no coordination among programs established to screen these illnesses and there is no Federal program that provides anyone with any treatment. This is why we are introducing the Disaster Area Health and Environmental Monitoring Act. This is the companion to S. 1279, which was introduced by Senators VOINOVICH and CLINTON in the Senate and passed by unanimous consent.

The Disaster Area Health and Environmental Monitoring Act would create a standard for a monitoring program following a disaster when the President determines a monitoring program is needed. This monitoring program would be set up to screen the health of affected individuals. By creating a coordinated monitoring program we can provide valuable information to affected individuals and we can assure our first responders that we will continue to care about the health affects after the disaster. I urge my colleagues to support this legislation.

## TRIBUTE TO THE MEN OF 2ND BATTALION 7TH MARINES

### HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. CAMP. Mr. Speaker, I rise today to pay special tribute to men of the 2nd Battalion 7th Marines (2/7) that have recently returned from their tour of duty in Iraq. Specifically, I would like to honor Corporal Justin Perez, Lance Corporal Andrew Kingscott, Lance Corporal Justin Sebring, and Lance Corporal Ben Gunderson, of my district, for their outstanding service in support of Operation Iraqi Freedom.

These proud Marines exemplify the honor and tradition that the Marine Corps stands for. These men have offered their lives for an idea greater than any one of us as individuals—the right of all God's children to live in freedom. Through their courage, the flame of freedom has been lit; through their bravery its warmth and light continue to shine on America; and through their courage its rays of hope and opportunity now reach a nation of people. Their actions laid the groundwork for a safe and democratic Iraq, which will ultimately make the United States and the world a safer place.

Their character is measured not only by their efforts in the field; it is measured by the hope they brought to the oppressed, the freedom they brought to the terrorized, and the bravery and fortitude with which they completed their mission. I am honored today to recognize Corporal Justin Perez, Lance Corporal Andrew Kingscott, Lance Corporal Justin Sebring, and Lance Corporal Ben Gunderson for their exemplary service on behalf of their country, and thank them for their work.

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## COMMENDING DR. ROBERT STUART

### HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. BROWN of South Carolina. Mr. Speaker. I am pleased to have the opportunity to talk about a positive, life-affirming journey which represents the best and the brightest of my district. It is with tremendous pride that I rise today to commend Dr. Robert Stuart from Charleston, SC, for being one of the 20 cyclists to participate in the Bristol-Myers Squibb Tour of Hope™.

The Tour of Hope is a grueling eight-day bike journey across America that is designed to help raise awareness about the need for increased participation in cancer clinical trials. The cross-country tour is the brainchild of Bristol-Myers Squibb and Lance Armstrong, six-time Tour de France winner and cancer survivor, who credits his survival to the many people before him who participated in the clinical trials that ultimately led to the development of the treatment that saved his life.

As Robert begins the Tour of Hope on October 1 in Los Angeles, he will be one of 20 cyclists chosen from nearly 1,200 riders who were eager to dedicate themselves to being a part of the effort to cure cancer. The Tour of Hope Team members are cancer survivors, caregivers, physicians, nurses, and researchers. Each of them has a very personal experience with cancer that makes their efforts all the more poignant. Supporting and awaiting Robert and the rest of the riders at stops across America's great landscape will be cancer survivors, family members, friends, medical practitioners, researchers, and government officials, all of whom share the riders' passion and commitment to finding a cure for cancer.

To achieve his goal of riding across America Robert will have to undertake a rigorous training schedule, battle inclement weather, and endure physical and mental fatigue, so that the tour's message—the need to support cancer research—can be delivered to communities across our great country.

A selfless act, such as this, truly deserves to be publicly acknowledged, and I look forward to tracking Robert's progress. It is my hope that in these fiscally challenging times my colleagues and I will continue to make funding for cancer research a priority for the nation.

I offer my heartfelt thanks and appreciation to Robert for his generosity of spirit, time, and fortitude. It is precisely this type of commitment that will allow us to conquer cancer once and for all.

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## NORMAN Y. MINETA RESEARCH AND SPECIAL PROGRAMS IMPROVEMENT ACT

SPEECH OF

### HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Mr. YOUNG of Alaska. Mr. Speaker, I submit the following two letters for the RECORD.

The Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure, House of Representatives, Rayburn House Office Building, Washington, DC*

DEAR CHAIRMAN YOUNG: I am writing with regard to H.R. 5163, the Norman Y. Mineta Research and Special Programs Reorganization Act, which was ordered reported by the Committee on Transportation and Infrastructure on September 29, 2004. As you know, the Energy and Commerce Committee received a named additional referral upon introduction.

I understand that you will include an amendment when the bill goes to the floor. The intent of new section 4(b) is to clarify that nothing in H.R. 5163 alters the jurisdiction of the Committee on Energy and Commerce over the National Highway Traffic Safety Administration (NHTSA). Specifically, section (b)(1) and (2) states that nothing in this Act shall grant any authority to the Research and Innovative Technology Administration over research and other programs, activities, standards, or regulations administered by the Secretary through the National Highway Traffic Safety Administration, but does not include those provisions within the jurisdiction of the Committee on Transportation and Infrastructure.

Accordingly I will waive the Committee's consideration of this legislation. By agreeing to waive its consideration of the bill, however, the Energy and Commerce Committee does not waive its jurisdiction over H.R. 5163. In addition, the Energy and Commerce Committee reserves its right to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask for your commitment to support any request by the Energy and Commerce Committee for conferees on H.R. 5163 or similar legislation.

I request that you include this letter and your response in the Congressional Record during consideration of the legislation on the House floor. Thank you for your attention to these matters.

Sincerely,

JOE BARTON,
*Chairman.*

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
*Washington, DC, October 6, 2004.*

Hon. JOE BARTON,
*Chairman, Committee on Energy and Commerce, Rayburn Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of October 6, 2004 regarding H.R. 5163, the Norman Y. Mineta Research and Special Programs Reorganization Act, and for your willingness to waive consideration of provisions in the bill that fall within your Committee's jurisdiction under House Rules.

I agree that your waiving consideration of these provisions of H.R. 5163 does not waive your Committee's jurisdiction over the bill. I also acknowledge your right to seek conferees on any provisions that are under your Committee's jurisdiction during any House-Senate conference on H.R. 5163 or similar legislation, and will support your request for conferees on such provisions.

As you request, your letter and this response will be included in the Congressional Record.

Thank you for your cooperation in moving this legislation to the House Floor.

Sincerely,

DON YOUNG,
*Chairman.*

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## RECOGNIZING MARCO ANTONIO FIREBAUGH

### HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, on December 6, 2004, Marco Antonio Firebaugh, the Assembly Majority Floor Leader for the State of California, will term-out of the Assembly after six distinguished years of public service.

Assembly Member Firebaugh was born on October 13, 1966, in Baja California, Mexico. He made California his permanent residence in 1970.

In 1990, Assembly Member Firebaugh earned his Bachelor's of Arts Degree in Political Science from the University of California, Berkeley. He subsequently earned his Juris Doctorate from the University of California, Los Angeles, School of Law in 1997.

Assembly Member Firebaugh was first elected to the California State Assembly to represent the 50th Assembly District in November 1998. He easily won re-election and was sworn into office on December 2, 2002, to serve his third term.

As Assembly Majority Floor Leader, Firebaugh has been responsible for all matters that are relevant to the order of business on the Assembly floor. Furthermore, he has served as one of the chief negotiators for Assembly Democrats.

In 2002, Assembly Member Firebaugh was elected Chair of the California Latino Legislative Caucus and thus was responsible for developing the annual Caucus' Agenda for California's Working Families. He has focused on providing resources to schools, increasing access to health care and affordable housing, and championing immigrant rights.

His legislative tenure has been highlighted with far-reaching accomplishments in numerous policy areas. Assembly Member Firebaugh's effort to ensure that California high school students have the opportunity to pursue a college education, regardless of their immigration status, illustrates his strong commitment to the people he represents.

As Chairman of the Select Committee on California-Mexico Affairs, Assembly Member Firebaugh has done extensive work in establishing a strong working relationship between California and Mexico. Through his committee work, he has launched creative initiatives to establish a Sister-State partnership with Jalisco, a key state in Mexico. He has also led efforts to reform money transmission services and disclosures to protect consumers in California.

Throughout his career, Assembly Member Firebaugh has continuously demonstrated his dedication to his profession, community and family. An avid art enthusiast, Assembly Member Firebaugh continues to seek out resources and facilities to further enable the creativity of the community to flourish. As a family man, he enjoys spending quality time with his son Nicolas and attending his daughter Ariana's soccer games.

From one public servant to another, I praise Assembly Member Marco Antonio Firebaugh for his service and dedication to the community.

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## HONORING THE SERVICE OF NATIVE AMERICAN INDIANS IN THE UNITED STATES ARMED FORCES

SPEECH OF

### HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, October 5, 2004*

Mr. McINTYRE. Mr. Speaker, I rise in support of House Concurrent Resolution 306, of which I am a cosponsor, which passed the U.S. House of Representatives on October 5, 2004. This important legislation honors the service of Native American Indians in the U.S. Armed Forces.

I have the privilege of representing the largest tribe of Native Americans east of the Mississippi River—the Lumbee Tribe. Approximately 52,000 strong, about 40,000 members of this tribe live in my home county—Robeson County, North Carolina.

Many Lumbee Indians have served our Nation with distinction, such as Rear Admiral Michael Holmes, who hails from my hometown of Lumberton and who is the first Native American to become an admiral in the U.S. Navy. I visited with Admiral Holmes in Europe last year, as I did with Army Specialist Jonathan Brooks of Pembroke, who also is from Robeson County. These gentlemen are just two of the many Lumbees serving our country. Lumbee veterans also serve on my Seventh Congressional District Advisory Committee on Military and Veterans Affairs.

In addition to the Lumbee Tribe, I also represent two other tribes—the Coharie Tribe, which has a tribal membership of more than 2,400, and the Waccamaw-Siouan Tribe, which consists of a membership of approximately 2,000. Members of each of these tribes have served honorably in the military. For example, the Coharie Tribal Chief, Mr. Gene Faircloth, is a Vietnam combat veteran and served in the U.S. Marine Corps for 6 years. And, approximately 100 members of the Waccamaw-Siouan Tribe have served honorably in conflicts since World War II. Unfortunately, on October 2, 2004, the Waccamaw-Siouan Tribe lost one of its esteemed members, Mr. Ernest Sylvester "E.S." Jacobs, who valiantly served in the U.S. Armed Forces during World War II.

I am proud of the contributions that all Native Americans, including those that make up the Lumbee, Coharie and Waccamaw-Siouan Tribes, have made to our great country, and I applaud them for their rich tradition of strength, wisdom, commitment and service. I commend them and all those in uniform who have volunteered to defend the rights and freedoms that we all hold dear. May God bless each of them and their families as they continue to serve valiantly our country.

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## IN RECOGNITION OF DR. RICHARD GROSSMAN

### HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Dr. Richard Grossman for his devoted efforts to improving the lives of burn victims in the San Fernando Valley and the Nation.

Dr. Grossman is an ally to firefighters, children, and those who have sustained burn injuries. He brings hope, comfort, and life into situations where they might otherwise seem nonexistent.

Dr. Grossman is board certified in both general surgery and plastic surgery. He holds membership in numerous societies, including the American Burn Association, the American Society for Aesthetic Plastic Surgery, the American Society of Plastic and Reconstructive Surgery, the California Medical Association, the San Fernando Valley Surgical Society, and the International Society for Burn Victims. He has been president of the Los Angeles Society of Plastic Surgeons. He has been also associated with a number of other organizations including the Foundation for Burn Research, the Los Angeles Society of Plastic Surgeons, the National Coalition of Burn Center Hospitals, the American College of Hyperbaric Medicine, and the Alisa Ann Ruch Foundation. In addition, he serves as Director of the Grossman Burn Center, Director of the Grossman Burn Unit, and Director of Research-Hyperbaric Oxygen Therapy.

His past involvement with the California Health Care Commission and a Judicial Nomination Evaluation Commission to the State Bar Association demonstrates Dr. Grossman's commitment to civic duty. In 1994, he was named Honorary Fire Chief for the City of Los Angeles, and was inducted into the California Department of Firefighters' Hall of Fame.

Mr. Speaker, Dr. Grossman is a compassionate and sympathetic man, which is evident through his work with San Fernando Valley firefighters. His expert care of burn-injured firefighters is indispensable. He is actively involved in developing training programs for the care of burn injuries. Please join me in recognizing Dr. Richard Grossman, a distinguished physician who has made it possible for many burn victims to triumph over their injuries. His dedication and expertise provide comfort and life to many.

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## RENEWABLE ENERGY FINANCING INCENTIVE ACT

### HON. STEPHANIE HERSETH

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. HERSETH. Mr. Speaker, I rise today to introduce a bill that will provide important incentives for farmers and landowners across the country to invest in the construction of renewable fuels facilities.

This bill, called the Renewable Energy Financing Incentive (REFI) Act is a carefully crafted piece of legislation that would give landowners in South Dakota and across the country additional tax planning tools when they chose to dispose of real property. At the same time, it would encourage investment in renewable fuel production facilities.

Throughout the United States, the ethanol industry is growing at an impressive rate. In fact, over the past several decades, it has been one of the most dramatic success stories in manufacturing in this country.

In 1980, there were only 175 million gallons of ethanol produced in the United States. In 2004, we will produce more than 3.1 billion gallons of ethanol in 74 different processing facilities. In addition, dozens of new plants are either under construction or in meaningful planning stages across the country. According to industry sources, 30 percent of all gasoline sold in the United States this year will be blended with ethanol. That is an impressive record of growth.

Even more significant, much of this growth is driven by the agricultural producers who actually grow the primary feedstock. In dozens of instances, corn farmers and other agricultural producers have banded together to form cooperatives and other ventures that produce ethanol. This has the double benefit of increasing the compensation they receive for the corn they grow and also providing them with income from the ethanol and the byproducts these facilities produce.

This cooperative formula is one of the few tools that have driven real economic development in rural counties throughout the heartland in recent years. This legislation would provide additional incentives and tools to further promote this development. It would allow owners of real property to avoid capital gains upon the sale of that property, provided they then invest those proceeds into a qualifying renewable fuels facility.

This bill will provide several benefits throughout rural America and across the country. It will help farmers and ranchers diversify their operations through investment in value-added agriculture. It will extend to all landowners an additional option when they seek to sell their real property. Often, in my part of the country, older individuals are forced to sell their property as they retire from farming and ranching. They then must invest their proceeds from this sale in order to provide themselves a retirement income. This bill will enable them to avoid capital gains taxes and provide them with an equity stake in a burgeoning industry.

It also will provide a new revenue stream for the ethanol and other renewable fuel facilities that are in discussion and development stages today. This will, in turn, reduce our dependence on foreign sources of oil, promote increased use of clean-burning renewable energies, and provide new economic growth opportunities throughout rural America. I urge my colleagues to support this legislation and yield back the balance of my time.

## HONORING ROBERT PARKER

### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. THOMPSON of California. Mr. Speaker, I rise to pay tribute to one of the most prolific and respected wine writers in the history of our Nation, if not the entire world. It is only fitting that we recognize the distinguished career of Robert M. Parker, Jr. on this, the 25th anniversary of the first publication of his semi-annual journal, the Wine Advocate.

On October 22 and 23, 2004, the world-renowned Culinary Institute of America (C.I.A.) will host a gala weekend of events to honor the long career of Mr. Parker. I can think of no better place than the C.I.A. to have such an event, given all that Mr. Parker has done to further the enjoyment of fine wine and good food.

Robert Parker was born in Baltimore, Maryland in 1947. The first 30 years of his life were filled with college, law school and a 10-year career in corporate America. In August of 1978, the Wine Advocate was born with less than 600 subscribers. Today, the Wine Advocate has over 40,000 subscribers in all 50 states and 37 countries around the world.

Mr. Speaker, over the course of 25 years of writing his newsletter, Mr. Parker has become known as one of the world's foremost experts on wine. Mr. Parker pioneered an innovative approach to wine criticism. Rather than limiting his ratings to a letter scale or a scale of 1–10, Mr. Parker rates wine on a scale of 50–100. This scale has become a widely accepted method of reviewing wines.

However, Mr. Parker's rating scale only accounts for a small portion of his wine reviews. Mr. Parker compiles extensive tasting notes highlighting each aspect of the wines he reviews. He is known for pinpointing the color, tastes and aroma of a wine and eloquently translating these attributes into prose.

In addition to publishing the Wine Advocate, Mr. Parker has written 11 books on wine. His first book, Bordeaux, was published in 1985 and was met with critical acclaim worldwide.

Mr. Parker has been a powerful advocate of the international wine industry. In a 1998 article, Los Angeles Times media critic David Shaw called Parker, "the most powerful critic of any kind, any where." Mr. Parker's reviews have steadily guided wine consumers for many years.

Mr. Speaker, at this time I think it is appropriate that we honor and congratulate Robert Parker on his 25 years of publishing the Wine Advocate and we thank Mr. Parker for his service as a tireless champion of the wine industry.

## DISCOVERY CHANNEL YOUNG SCIENTIST CHALLENGE

### HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. BOEHLERT. Mr. Speaker, as Chairman of the House Committee on Science, I am an avid supporter of programs that encourage the youth of America to push the limits of innovation and originality in science. One such program is the Discovery Channel Young Scientist Challenge.

Created in 1999, Discovery Communications, Inc., designed the Discovery Channel Young Scientist Challenge as part of the solution to America's chronic underachievement in science and math. The annual national contest responds to evidence that academic performance and interest in science among American students declines dramatically as students become older. This is particularly evident during the middle school years.

For these reasons, the Discovery Channel Young Scientist Challenge identifies and honors America's top middle school student who demonstrates the best skills in leadership, teamwork, and scientific problem solving. More than 7,500 middle school students have entered the challenge since its inception in order to compete for the title of "America's Top Young Scientist of the Year." Since 1999, scholarship awards for the students have totaled more than $450,000 and challenge winners have participated in science-related trips to far-off places, including the Roslin Institute in Midlothian, Scotland, and the El Yunque rain forest in Puerto Rico.

On September 20, 2004, Discovery Communications, Inc., announced the 40 middle school students who have advanced to the finals of the Discovery Channel Young Scientist Challenge. Selected from more than 1,700 entrants, the finalists represent an elite group of young Americans who demonstrated exceptional creativity and communications skills in original science research projects. The 40 finalists will come to Washington, D.C., October 23–27, where they will take part in the Discovery Channel Young Scientist Challenge finalist competition at University of Maryland's Cole Field House. They will compete in team-based, interactive challenges celebrating 100 years of Albert Einstein's physics discoveries. The winners will be announced at the awards ceremony on October 27, 2004.

The finalists for the 2004 Discovery Channel Young Scientist Challenge are: Kasey Borchardt of Vernon, Texas; Pinaki Bose of Fort Worth, Texas; Rebecca Chan of Encinitas, California; Sara Clark of Pipe Creek, Texas; Shireen Dhir of Kathleen, Georgia; Nicholas Ekladyous of Imlay City, Michigan; Julia Fanning of San Antonio, Texas; Austin Fullmer of Glendale, California; Sherri Gerten of Columbus Grove, Ohio; Joy Hines of Fort Wayne, Indiana; Daniel Jakubisin of Fairview Park, Ohio; Christine Johns of Cape Coral, Florida; Sravya Keremane of Gainesville, Florida; Kevin Lane of Flora Vista, New Mexico; Amanda Lu of Plano, Texas; Philip Mansour of San Ramon, California; David Marash-Whitman of Saratogo, California; Shannon McClintock of San Diego, California; Elijah Mena of Gales Ferry, Connecticut; Mary Anne Messer of Hattiesburg, Mississippi; Maryam Mohammed of Niceville, Florida; Ana Pedrajo of Coral Gables, Florida; Jordan Pennell of Jacksonville, Illinois; Molly Pettit of Portland, Oregon; Jonathan Reasoner of Tucson, Arizona; Chana Rich of Fairfield, Connecticut; Anastasia Roda of Lancaster, Pennsylvania; Michael Rutenberg-Schoenberg of Portland, Oregon; Celine Saucier of Midland, Michigan; Anton Schraut of Pittsburgh, Pennsylvania; David Sharples of East Windsor, New Jersey; Dustin Shea of Jacksonville, Illinois; Daniella Sinay of Trumbull, Connecticut; Janet Song of Audubon, Pennsylvania; Eric Strege of La Quinta, California; Adam Tazi of Orlando, Florida; Blake Thompson of Gainesville, Florida; David Westrich of Cape Girardeau, Missouri; Kyle Yawn of Bonaire, Georgia; and Blake Zwerling of Portland, Oregon.

At a time when science and technology plays such an enormous role in our lives, I believe it is imperative that we continue to support and nurture the next generation of young scientists. I would like to congratulate these students for their dedication and hard work in the name of science and wish them all good luck during the 2004 Discovery Channel Young Scientist Challenge.

## TRIBUTE TO CURESEARCH

### HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SAXTON. Mr. Speaker, I rise to commend CureSearch for the admirable work it does to fight against childhood cancers, the number one disease killer of children in the United States today.

CureSearch, a coalition between the National Childhood Cancer Foundation and Children's Oncology Group; which is comprised of over 5000 children's oncologist around the country, is on the frontlines of our nation's war against childhood cancer. Their efforts are making a considerable impact upon the lives of children who have been diagnosed. CureSearch's work has enabled more than 77 percent of those diagnosed to survive these diseases. This is dramatic impact considering that forty years ago childhood cancer was almost always fatal.

Certainly, this is an improvement, but we are still not doing enough to prevent children from dying of cancer. The fact that cancer still kills is proof enough that more research is crucial to eliminate these terrible diseases.

A cure for all children fighting cancer is within our grasp. By further developing the Federal partnership with CureSearch and increasing funding for research, we can eliminate these diseases within our lifetime. By uniting to fight childhood cancers, soon there will be a day when every child with cancer can be guaranteed a cure.

## HONORING JANET REDDING ON HER RETIREMENT FROM SAN JOSE STATE UNIVERSITY

### HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. LOFGREN. Mr. Speaker, Congressman HONDA and I would like to congratulate Janet C. Redding, Vice President for University Advancement of San Jose State University (SJSU) as she retires after 19 years of dedicated and honorable service.

Redding was the Special Assistant to the President for Governmental and External Relations for San Jose State University, Silicon Valley's Metropolitan University. SJSU is the oldest public institution on the West Coast (founded in 1857) and one of the largest institutions in the 23-campus California State University System. With more than 3,000 employees, SJSU is the fourth largest public employer in Silicon Valley, with an annual operating budget of over $350 million.

A former schoolteacher at both public and private schools, Redding has been at SJSU for 19 years, where she oversees External, Governmental and Community Relations. Under her leadership as Vice President for University Advancement contributions to the university have totaled more than $100 million in the last decade. During her tenure, Redding created the Division of University Advancement by expanding the Alumni Association, the Office of Communications and Public Affairs, and the Office of Development. She also created the President's Advisory Council, whose members serve as advocates and advisors to the President of the university on issues affecting the university. In addition Janet was involved with helping to secure both public and private funds for the new Martin Luther King, Jr. joint library serving both the University and the City of San Jose. She helped raise $10M from private sources and $90M from the California State Legislature. Over the past two years she worked to secure Federal funding for the CSU Coastal Initiative at Moss Landing and for Nanotechnology Research in the College of Engineering here at SJSU.

A 1993 graduate of Leadership San Jose, Redding served on the San Jose Convention and Visitors Bureau Board for six years, including a term on the executive committee as treasurer. In 1997, San Jose Mayor Susan Hammer honored Janet as one of the Outstanding Women of Silicon Valley. She is a member of the National Society of Fund Raising Executives, Silicon Valley Chapter, the Council for Advancement and Support of Education, and the Silicon Valley Planned Giving Council.

Throughout the years, we have always been impressed by her energy and dedication to the many causes she has worked so hard for. She leaves big shoes to fill and we will miss working with her for the betterment of San Jose State University. Good luck Janet.

## NATURAL HISTORY MUSEUM OF LOS ANGELES COUNTY

### HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. WATSON. Mr Speaker, a very important initiative is being launched in my district by the Natural History Museum of Los Angeles County. Many of us think of a museum as merely a place to visit to see educational exhibits. That is not always the case. Many of our Nation's museums are leading the way in critical scientific research.

The Natural History Museum of Los Angeles County is one such museum. It is the steward of one of the world's largest collections of marine life, representing hundreds of years of ocean biodiversity. The Museum aims to organize its valuable, world class marine collection and merge that with new research opportunities to gather and distribute information critical to biodiversity studies and conservation efforts. With this, the Museum is establishing the West Coast Center for Marine Biodiversity as a hub for oceanic preservation and research.

The West Coast Center for Marine Biodiversity will be an extraordinary public-private partnership that will benefit the world's oceans and the future sustainability of its valuable resources. Most importantly, the Center will take a significant step to fulfilling the goals of the Federal Government to save the world's oceans and the ecosystems they support.

There has been significant news lately regarding the status of the world's oceans with the release of the Ocean's Commission Report earlier this year. I know the researchers and data at the West Coast Center for Biodiversity can be a tremendous asset to the efforts at the National Oceanic and Atmospherics Administration (NOAA) and other Federal departments and agencies doing similar work. I strongly encourage the development of a partnership with these Federal entities and the West Coast Center for Marine Biodiversity at the Natural History Museum of Los Angeles County.

## LEONARD C. BURCH POST OFFICE BUILDING

SPEECH OF

### HON. JEFF FLAKE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Mr. FLAKE. Mr. Speaker, I join my colleagues in condemning the ongoing civil war in Southern Sudan and the genocide in the Darfur region of the same country.

I was with my colleagues of the House of Representatives on July 22, 2004, when we unanimously voted in favor of H. Con. Res. 467, a resolution declaring that the atrocities in Darfur, Sudan, are genocide. That same resolution commends the Administration's leadership in seeking a peaceful resolution to the conflict in Darfur and in addressing the ensuing humanitarian crisis.

I do not support H.R. 5061, Comprehensive Peace in Sudan Act, however, because I believe it limits the President's options in dealing with Sudan at a time when he should have flexibility. I expect continued resolve from the administration and believe that we should preserve whatever flexibility is needed to move toward effective solutions in Sudan.

## SPACE AND AERONAUTICS PRIZE ACT

### HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. ROHRABACHER. Mr. Speaker, as chairman of the Subcommittee on Space and Aeronautics, I can think of no better way to end my tenure than to finally witness the dream of commercial human space flight becoming a reality. Burt Rutan's tremendous accomplishment this week not only proved that space is no longer the sole domain of government, but it is a testament to the innovative and creative potential of space entrepreneurs. On my watch, I've been privileged to peer into the future of dynamic citizen astronauts routinely flying to and from the heavens. I applaud the hard work and dedication of Burt Rutan and the good people behind the Ansari X-Prize. They are shining examples of the American can-do spirit at its best.

Commercial space transportation is advancing on-orbit services that have so enriched our daily lives. The private sector should be encouraged to continue this successful trend. I am convinced a new generation of space entrepreneurs is ready to make their mark in contributing to low Earth orbit development, as well as returning to the Moon.

In the past, prizes have played an important role by promoting progress in the development of aviation. Charles Lindbergh won the $10,000 private Orteig Prize for becoming the first man to fly solo across the Atlantic, and the U.S. government offered prizes in the 1920s and 1930s to meet its aviation needs. The X-Prize has served as a means to stimulate private manned space activities. I believe we can do more in making the President's vision for space exploration a reality by awarding cash prizes to encourage greater participation of the private sector in the national space program. Today, I am introducing legislation that will establish a National Endowment for Space and Aeronautics for the national good.

The Endowment is intended to provide an exciting new incentive to private sector space entrepreneurs. Cash prizes in recognition of outstanding achievements in the scientific research and technology development are envisioned as critical to the Endowment's program. The program also is directed to receive donations and private gifts for the benefit of the Nation's aeronautics and space endeavors.

The Endowment is specifically directed to award a prize for the demonstration of a reusable space flight vehicle to carry at least one person to a minimum altitude of 400 kilometers from the United States, or its territories. The spacecraft is to complete at least three complete orbits of the Earth and return safely to the Earth. The total amount of the cash prize for this demonstration is not to exceed $100,000,000.

Like the pioneers before them, I'm encouraged that individuals like Burt Rutan, Mike Melvill and Brian Binnie, as well as others, will open new frontiers that will continue to benefit American's leadership role in space. The Endowment legislation is a small step in the right direction.

## TAIWAN'S NATIONAL DAY

### HON. GIL GUTKNECHT

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. GUTKNECHT. Mr. Speaker, I extend my best wishes and congratulations to Taiwan Ambassador David Lee, President Chen Shuibian, and the 23 million people of the Republic of China on the occasion of their National Day, October 10th.

The United States is Taiwan's largest trading partner. In 2000, total U.S.-Taiwan trade was approximately $65 billion, with a Taiwan surplus of approximately $16 billion. Taiwan's chief exports to the United States include clothing and footwear, toys, and various electronic products. In recent years, Taiwanese government officials have attempted to accommodate increased U.S. pressure on trade issues by meeting many U.S. demands for greater market access for U.S. goods and services, and responded to U.S. complaints by taking stronger measures to protect U.S. copyrights and other intellectual property rights.

The Republic of China on Taiwan is a genuine democracy and its people enjoy one of the highest standards of living in the world. As one of our largest trading partners and friends in the Far East, it is my opinion that the Republic of China on Taiwan deserves much greater international recognition. I will continue to press for more favorable U.S. treatment of Taiwan and for Taiwan's inclusion in some capacity in international organizations like the World Health Organization. Taiwan's participation in the World Health Organization is vital to the interests of the people of Taiwan, and will open Taiwan's access to the latest information on epidemics and diseases. I have joined the House Taiwan Caucus to express my support of this important ally.

I hope that we will continue to strengthen U.S.-Taiwan relations and raise the level of strategic cooperation between the United States and Taiwan in accordance with the Taiwan Relations Act.

## INTRODUCTION OF THE UTAH RECREATIONAL LANDS EXCHANGE ACT OF 2004

### HON. JIM MATHESON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. MATHESON. Mr. Speaker, I rise today in recognition of legislation that my colleague CHRIS CANNON and I are introducing in the House today. I am pleased that so many stakeholders have come together to create this legislation, which will preserve thousands of acres of land along the Colorado River corridor and help to fund Utah's schools.

Since statehood, Utahns has been blessed with millions of acres of lands that are held in trust to generate funding for our schools. These lands are scattered throughout the state in a checkerboard pattern, making it hard for Utah and the federal agencies with adjacent property to manage our public lands. The legislation we are introducing today would consolidate some of these lands, with the goals of improving the state's ability to maximize the funding it earns for schools, preserving land along the Colorado River corridor for recreational use, and easing the Department of Interior's ability to manage federal land in Utah.

The land exchange that is being proposed today has the potential to be a win-win solution for the State of Utah and the United States. This legislation seeks to create an equal value exchange where both American taxpayers and the school children of Utah get a fair deal. Important to achieving this goal, the legislation establishes a valuation process that is transparent for the public to view.

This legislation represents a truly collaborative process with all of the stakeholders represented. It is supported by local government, the State of Utah, the recreation community, and the environmental community and has been worked on closely with the Department of Interior. The State has been working over the past year to address the concerns of all of the stakeholders and will continue to work until the legislation is perfected.

The introduction of this legislation marks Congressman CANNON's and my commitment to working with the local stakeholders, appropriate congressional committees, and the Department of Interior to craft a legislative product with a broad range of support. I urge the Secretary of Interior and her staff to dedicate the resources and time necessary to move this process forward in the coming months.

## INTRODUCTION OF LEGISLATION CLARIFYING THE LAW PROHIBITING STATES FROM IMPOSING A TAX ON THE RETIREMENT INCOME OF NON-RESIDENTS OF THAT STATE

### HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. CANNON. Mr. Speaker, I am today introducing legislation to clarify Public Law 104–95, adopted by the Congress in 1995, prohibiting States from taxing the retirement income of nonresidents. That law was enacted in response to actions of some States which were aggressively seeking to tax nonresidents on retirement income from past employment in that state. The Congress felt that State taxation of nonresidents' retirement income was unfair and imposed an unreasonable burden on nonresident retirees.

The law defines "retirement income" as any income from specified types of qualified pension plans or from a nonqualified deferred compensation plan that meets certain payment requirements. Nonqualified deferred compensation plans are defined by reference to section 3121(v)(2)(C) of the Internal Revenue Code (the "Code") which relates to employment taxes. Specifically, any income of an individual who is not a resident of the taxing State from any plan, program, or arrangement described in section 3121(v)(2)(C) is exempt from that State's income tax, provided the income received from such plan is part of a series of substantially equal periodic payments made—no less frequently than annually—over the life expectancy of the recipient, or for a period of not less than 10 years.

I think the intent of the law is clear, but I am aware that a question could arise regarding state taxation of nonqualified retirement benefits paid by a partnership to its retired nonresident partners. Specifically, the concern is that the reference to section 3121(v)(2)(C) of the Code could be construed to limit the exemption to payments made only to retired employees—i.e. those individuals subjected to FICA tax—since that provision is written in the context of employment taxation. Under this view, nonqualified retirement benefits paid by a partnership to its retired nonresident partners would not be exempt from nonresident state income taxation because there is no specific reference to self-employed individuals in the Public Law 104–95, section 3121(v)(2)(C) of the Code, or subsequently issued Treasury Regulations for that section.

The bill makes it clear that section 3121(v)(2)(C) was meant to define nonqualified deferred compensation income, irrespective of whether the recipient was subject to FICA tax, by specifically including self-employed plans or arrangements. The rationale for applying the statute's exemption for employee retirement income applies equally to retirement income of an independent contractor or partner. Given the fact that the bill is intended to clarify what has been the intent of the bill all along, it applies as of the effective date of Public Law 104–95, i.e., to amounts received after December 31, 1995.

## THE CONGRESSIONAL CONFERENCE ON CIVIC EDUCATION

### HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. MARKEY. Mr. Speaker, the Honorable Judge Learned Hand once said:

> . . . Liberty lies in the hearts of men and women; when it dies there, no constitution,

> no law, no court can save it; no constitution, no law, no court can even do much to help it. While it lies there, it needs no constitution, no law, no court to save it.

These famous words emphasize the fact that civic participation is vital to the maintenance of a healthy democracy. A national effort is currently underway to promote the civic engagement of our citizens by focusing on the youth of our nation. By creating effective civic education programs in our elementary and secondary schools, we can educate kids at an early age and encourage them to become active in local politics.

In September of last year, the First Annual Congressional Conference on Civic Education was launched to begin a national conversation about how to encourage civic participation. One of the positive outcomes of the congressional conference was the establishment of state delegations that would enact specific policies designed to restore the civic mission of our schools.

I would like to recognize Diane N. Palmer, the facilitator, and the whole Massachusetts delegation for their leadership in working to design a strategy to improve civic education in our State. These Massachusetts activities include: Holding a statewide conference on civic education for new teachers; creating a commission to plan better civic education; and conducting a survey to determine what civic education programs are already used in high schools.

I look forward to seeing the accomplishments of the Massachusetts civic education delegation and their participation at the Second Annual Congressional Conference on Civic Education on December 4–6 of this year.

## FEDERAL CHARTER FOR THE AMERICAN INDIAN VETERANS ASSOCIATION

### HON. STEPHANIE HERSETH

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HERSETH. Mr. Speaker, I rise today to introduce legislation that would recognize and grant a Federal charter for the National American Indian Veterans Association.

Native Americans have long answered the call to serve in our Nation's military and to make the sacrifices necessary to protect this country. In fact, in World War II, more than one-third of all able-bodied Indian men between the ages of 18 and 50 served in our nation's military. Even today, Native Americans have the highest rate of military service of any ethnic group in the country. Native American soldiers serve willingly and honorably and they should have a veterans' organization befitting that service.

Last week, the National American Indian Veterans Association, held its first annual meeting in Phoenix, AZ. Native American veterans from around the country attended this convention and voted unanimously to approve the charter for this new organization. I believe this organization is long overdue and I enthusiastically introduce this legislation today.

Over the years, Congress has chartered many veterans' organizations that represent specific groups: the American War Mothers, the Blinded Veterans Association, Catholic War Veterans, Italian American War Veterans of the USA, Jewish War Veterans of the USA, the National Association for Black Veterans, and the Polish Legion of American Veterans, just to name a few. Providing a federal charter for the American Indian Veterans Association is the right thing to do and it will provide many advantages for its thousands of potential members.

It will connect its members with a network of fellow veterans that will enable them to share information as well provide each other with as personal and emotional support. This group will serve as a resource and a clearinghouse for Native American veterans to discover what benefits to which they may be entitled, and assist them in taking full advantage of the many veterans' programs that may be geared to meet their needs.

I believe that the National American Indian Veterans Association would be an important and positive resource for its members, and I encourage my colleagues to support this beneficial and important organization.

## CONGRATULATING MACOMB COMMUNITY COLLEGE

### HON. CANDICE S. MILLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mrs. MILLER of Michigan. Mr. Speaker, it is my great pleasure to congratulate Macomb Community College in Macomb County, Michigan on 50 years of educating some of Michigan's finest citizens. As a former student of Macomb, I have experienced first hand, the caliber of people associated with the college.

It has been wonderful to watch Macomb Community College expand its programs and campuses over the years. With only 84 students enrolled in its first year, Macomb has grown tremendously since its opening in 1954. Not only does the school offer precollege programs for high school students, it also provides more than 40 bachelor's degree completion and graduate degree programs.

Perhaps what is most impressive, however, about Macomb Community College, is its incredible partnership with the community. The Public Service Institute at Macomb strives not only to educate its citizens, but to equip them to serve the community with their respective skills. Classes I completed, such as marketing and speech, have certainly aided me during my years in public office.

I have formerly returned to Macomb to take additional classes, and had the same wonderful experiences. Though the school has grown, the quality and excellence remain the same. I know that in the coming years, Macomb Community College will continue to enrich the lives of its students as well as members of the community.

Congratulations to Macomb Community College on 50 of years of excellence in education and service to Macomb County. May you be persistent in your commitment to higher learning and social improvement.

## HONORING A FALLEN HERO

### HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. BOEHLERT. Mr. Speaker, colleagues, and friends, my congressional district experienced a great deal of pain and sadness as the City of Rome lost one of its finest residents—a young soldier, Sgt. Michael Uvanni. He paid the ultimate price to ensure our liberty. He gave his life so that the people of Iraq could live without repression and fear—and he gave his life so that Americans could feel safe to live their lives under a blanket of freedom. That freedom comes with a high price and we are eternally grateful for his dedication and commitment to the ideals that we hold dear.

Sgt. Uvanni died October 1 in Samarra, Iraq, as he was conducting combat operations and was shot by a sniper. Uvanni was assigned to the Army National Guard's 2nd Battalion, 108th Infantry Regiment, Morrisonville, NY.

Sgt. Uvanni meant so much to the close-knit community of Rome, NY. He was a fine son and soldier, as well as a standout football player at Rome Free Academy. Sgt. Uvanni earned special honors in 1995 as a senior, being named as a conference second team all-star defensive end.

An outgoing and patriotic young man, Sgt. Uvanni personified the qualities and dedication that make our United States military the greatest armed forces in the world. Sgt. Uvanni completed a tour with the U.S. Marines, and joined the local National Guard earlier this year. Army Guard CSM Frank Wicks said, "While I am sure he will always be a Marine at heart . . . In January he joined the local National Guard and was deployed with the 2nd Battalion 108th Infantry, New York Army National Guard. I am sure he was an outstanding Marine, I can attest to the fact that he was an outstanding member of the 2–108th and will be missed." As Sgt. Uvanni is laid to his final rest, we salute him, and all those killed in the line of duty, for their selfless service and ultimate sacrifice.

I ask my colleagues in the House, and all Americans, to extend our prayers and sympathy to his parents Kevin and Janet Uvanni, as well as the rest of his family and friends, and the entire Rome community.

Together we honor this fallen American hero.

## RETIREMENT OF ALLEN J. WELTMANN

### HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. OXLEY. Mr. Speaker, we reach the close of the 108th Congress, I rise to note the retirement of Allen J. Weltmann after 39 years of service to PricewaterhouseCoopers. Allen is a Certified Public Accountant and joined the legacy firm of Coopers & Lybrand in 1965 after graduating from Penn State. Price

Waterhouse and Coopers & Lybrand merged in 1998.

Allen began his career as an auditor in Syracuse before moving on to Philadelphia and New York. He started the firm's first government affairs unit in 1978 and has been one of the accounting profession's principal spokespersons in the public policy arena for 20 years. In that role I have worked with him on several landmark pieces of securities legislation, including the Sarbanes-Oxley Act of 2002, the Securities Litigation Uniform Standards Act of 1998 and the Private Securities Litigation Reform Act of 1995. Allen has always been held in esteem by members of Congress and his colleagues in the private sector for his grasp of technical detail and professional demeanor.

In addition to his work on accounting policy, Allen served as the Working Chair of the Transatlantic Business Dialogue, a collaboration of US and EU businesses working to reduce trade barriers between countries. He also advises the Department of Commerce on accounting issues through his seat on the Industry Services Advisory Council.

Allen belongs to the Pennsylvania Institute of Certified Public Accountants and the Greater Washington Society of Certified Public Accountants. He and his wife, Judi, live in Chevy Chase, Maryland and have four children and eight grandchildren. He plans to remain in the Washington area and to serve as Chairman of the Libraries Development Advisory Board of Penn State.

## TRIBUTE TO HAYES WENDELL JONES

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. KNOLLENBERG. Mr. Speaker, I would like to congratulate a constituent of mine, Hayes Wendell Jones. This year marks the 40th anniversary of his gold medal victory in the 1964 Summer Olympics. Since then, Mr. Jones has succeeded in business and been a dedicated servant to our community.

Hayes Jones went to Pontiac, MI, schools and became a student athlete at Eastern Michigan University. To help pay his way through college, he mopped floors and washed dishes. As an athlete, he was considered too short for hurdles, but through hard work and determination, Hayes became a worldclass track sprinter and hurdler. In 1960 at the Rome Summer Olympic Games, he finished third to win the bronze medal. Four years later, in 1964 at the Tokyo Summer Olympic Games, Hayes won the gold medal in the 110-meter hurdles.

There is no question that Hayes Jones is a track and field legend. He is a member of the Helms Athletic Hall of Fame in Los Angeles; the Michigan Hall of Fame; the Eastern Michigan Athletic Hall of Fame; the National Track and Field Hall of Fame; and the Pontiac Central High School Hall of Fame.

Hayes has also been successful in business, using his athletic experience to learn about different cultures and backgrounds. He understands that good business is really about building and maintaining good relationships. He is currently a Senior Business Development Representative for Oakland County, Michigan. As an Oakland County resident, I can say we are lucky to have him serving the county.

Hayes should also be recognized for his selfless acts to the community. He has parlayed his athletic and business success into community service. He serves as chair of the volunteer committee of the Arts League of Michigan and is on the board of directors for Dominican High School and Academy in Detroit. He is former board chair of the Pontiac Chamber of Commerce and former economic development committee chair for the Oakland County Business Roundtable and the Pontiac Area Urban League. In addition, he has served on the board of trustees for North Oakland Medical Center and the Clinton Valley Boy Scouts.

Hayes has even donated his gold medal to the city of Pontiac, MI, to inspire youngsters to achieve their dreams. He has given them the opportunity by organizing a track and field program, "The Junior Olympics," for students in Pontiac middle schools. Just as importantly, he has worked to ensure their education by serving as a school board member for the Pontiac School District.

Mr. Speaker, on this fortieth anniversary of Hayes winning an Olympic gold medal, I commend and thank him for his service and dedication to our community.

## TRIBUTE TO WEST BRANCH HOSPITAL

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. STUPAK. Mr. Speaker, I rise today in recognition of a hospital in my district that has recently passed a remarkable milestone. On October 25, the board of trustees and members of the staff at the West Branch Regional Medical Center, formerly known as the Tolfree Memorial Hospital in West Branch, MI, will celebrate their 75th anniversary. For the past 75 years, the West Branch Regional Medical Center has provided service and care to patients in West Branch area.

The original Tolfree Memorial Hospital was built in West Branch in 1929, through the generosity and vision of local farmer, lumberman and banker John Tolfree. Over the years, as the community grew and the hospital became more regional in scope, several additions were constructed.

In 1991, it was determined by the Tolfree Memorial Hospital's Board of Trustees that the region had outgrown the facility. After careful financial planning which included fundraising, ground was broken for what is now known as the West Branch Regional Medical Center in 1996. The center was dedicated in 1999 and has been successfully serving Ogemaw County and the surrounding counties ever since. Patients no longer have to travel to Saginaw, MI, which is over an hour away.

West Branch Regional Medical Center is the result of many dedicated people who from the beginning had the foresight and the dedication to see this hospital grow with the community and become a regional medical facility.

In the tradition of the past administration, the current board of trustees for the West Branch Regional Medical Center have also recognized they could offer more services to the community. Along with celebrating their 75 years of service, on October 25, the West Branch Regional Medical Center will also unveil its plan for the next 3 to 5 years which includes the construction of an Ambulatory Care Center.

Mr. Speaker, I ask the U.S. House of Representatives to join me in congratulating the West Branch Regional Medical Center and its staff on their first 75 years of service and wishing them well in their next 75 years.

## RECOGNIZING CENTER FOR CIVIL EDUCATION

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. WAXMAN. Mr. Speaker, today I'd like to recognize the important work of the Center for Civic Education and the upcoming Second Annual Congressional Conference on Civic Education, which will be held this December in Washington, DC.

The Center for Civic Education plans annual congressional conferences to focus attention on the importance of civic preparation and engagement in the United States. The first conference was sponsored by the Alliance for Representative Democracy and hosted by the Joint Leadership of the United States Congress here in Washington in September 2003.

The 2003 conference led to the formation of state delegations that are currently working on policies that will restore the civic mission of our schools, consistent with each state's unique education structure. I'd like to commend the California delegation and its facilitator, Roy Erickson, for their leadership in the current efforts to design an action plan for our state. California is creating coalitions of stakeholders in public education who will build support for, develop and implement high quality civic education programs. Through these programs, we will ensure that our youth have the necessary civic knowledge, skills and attitudes to be engaged citizens. I want to express my strong support for the Center for Civic Education's efforts to increase democratic participation, and for the work of the upcoming conference.

## THE PATENT QUALITY ASSISTANCE ACT OF 2004

### HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. BERMAN. Mr. Speaker, today I join Representative BOUCHER in introducing the Patent Quality Assistance Act of 2004, PQA Act. Introduction of this legislation comes almost exactly one year after release of a Federal Trade Commission report entitled "To

Promote Innovation: The Proper Balance of Competition and Patent Law and Policy," and several months after release of "A Patent System for the 21st" Century" by the National Research Council. These reports both made a number of recommendations for increasing patent quality and ensuring that patent protection promotes, rather than inhibits, economic growth and scientific progress. Consistent with the goals and recommendations of those reports, the PQA Act contains a number of provisions designed to improve patent quality, deter abusive practices by unscrupulous patent holders, and provide meaningful, low-cost alternatives to litigation for challenging the patent validity.

I am a strong believer that the prospect of patent protection promotes innovation. However, I also believe that the patent system is strongest, and incentives for innovation greatest, when patents protect only truly deserving inventions. When functioning properly, the patent system should encourage and enable inventors to push the boundaries of knowledge and possibility. If the patent system allows questionable patents to issue and does not provide adequate safeguards against patent abuses, the system may stifle innovation and interfere with competitive market forces.

This bill represents our latest thoughts in an ongoing discussion about legislative solutions to patent quality concerns. We have considered the multitude of comments received on patent bills in years past, and acknowledge the problems to be difficult and, as yet, without consensus solutions. It is clear, however, that introduction of specific legislation focuses and advances the discussion. It is also clear that the problems with the patent system have become exacerbated, rather than dissipating. With or without consensus, Congress must act soon to address these problems.

Thus, we introduce this bill at the end of this Congress with the intent of framing the debate going into the 109th Congress, and with every intention of passing legislation in the next two years.

The bill contains a number of initiatives to improve patent quality and ensure patents are positive forces in the marketplace.

Section 2 creates a post-grant opposition procedure. In certain limited circumstances, opposition allows parties to challenge a granted patent through a expeditious and less costly alternative to litigation.

Sections 3 and 4 permit patent examiners, within a limited time frame, to consider certain materials submitted by third parties regarding a pending patent application. Allowing such third party submissions will increase the likelihood that examiners are cognizant of the most relevant prior art, and therefore constitute a front-end solution for strengthening patent quality.

Section 5 addresses the inequitable incentives that exist between patent holders who indiscriminately issue licensing letters, and the parties who receive these letters. Patent holders frequently assert that another party is using a patented invention, and for a fee, offer to grant a license for such use. Current law provides no disincentive to indiscriminate and unfounded issuance of such licensing letters.

Conversely, parties receiving such licensing letters have a strong incentive to pay up even if they believe they are not engaged in infringement. Once in receipt of such a letter, the recipient faces no good options. If he ignores the letter, the recipient may be liable for treble damages as a willful infringer. The recipient can avoid being found a willful infringer if he obtains an opinion from a patent attorney that the recipient is not committing infringement, but such letters frequently cost up to $50,000. A recipient cannot, however, file for a declaratory judgement of non-infringement unless the licensing letter creates a "Case or Controversy," and of course these letters are typically drafted to avoid meeting this threshold.

Section 5 addresses this inequitable situation. It ensures that recipients of licensing letters will not be exposed to liability for willful infringement unless the letter gives rise to a "Case or Controversy", and thus, allows the recipient to seek a declaratory judgement.

Section 6 is designed to address the deleterious effect on innovation created by patent "trolls." We have learned of innumerable situations in which patent holders, who made no effort to commercialize their inventions, waited in the shadows until another party had invested substantial resources in a business or product that may infringe on the unutilized invention. The patent troll then steps out of the shadows and demands that the alleged infringer pay a significant licensing fee to avoid an infringement suit. The alleged infringer often feels compelled to pay almost any price named by the patent troll because, under current law, a permanent injunction issues automatically upon a finding of infringement. Issuance of a permanent injunction would, in turn, force the alleged infringer to lose the substantial investment made in the infringing business or product.

While we may question their motives, we do not question the right of a patent troll to sue for patent infringement, obtain damages, and seek a permanent injunction. However, the issuance of a permanent injunction should not be automatic upon a finding of infringement. Rather, when deciding whether to issue a permanent injunction, courts should weigh all the equities, including the "unclean hands" of the patent trolls, the failure to commercialize the patented invention, the social utility of the infringing activity, and the loss of invested resources by the infringer. After weighing the equities, the court may still decide to issue a permanent injunction, but at least the court will have ensured that the injunction serves the public interest. Section 6 accomplishes this goal.

Section 7 provides a much needed fix for the inter partes re-examination procedure, which provides third parties a limited opportunity to request that the PTO Director re-examine an issued patent. The limitations on the inter partes re-examination process so restrict its utility that it has been employed only a handful of times. Section 7 increases the utility of this re-examination process by relaxing its estoppel provisions. Further, it expands the scope of the re-examination procedure to include redress for all patent applications regardless of when filed.

Finally, Section 8 is similar to a provision in a bill we introduced during the 106th Congress. Section 8 addresses our concern that patents have been issued for the mere computer implementation of previously known inventions. The idea of implementing a method for doing business online should not, in and of itself, be sufficient to secure patent protection for that method of doing business. Section 8 creates a presumption of obviousness if the only "novelty" is in the fact that the method utilizes computer technology.

My colleague from Virginia, Mr. BOUCHER, and his staff deserve the greatest measure of recognition for their hard work in developing this legislation. In addition, the chairman of the Subcommittee on Courts, the Internet and Intellectual Property, Mr. SMITH, deserves credit for bringing these issues to the forefront with the numerous hearings on patent quality. Also deserving of thanks are the many constitutional scholars, policy advocates, private parties, and government agencies that contributed their time, thoughts, and drafting talents to this effort. I am pleased that, finally, a consensus has emerged among the various collaborators in support of the basic "post grant opposition" approach embodied in the legislation. This bill is the latest iteration of a process we started over 3 years ago.

Though we developed this bill in a highly collaborative and deliberative manner, I do not maintain that it is a "perfect" solution. Thus, I will remain open to suggestions for amending the language to improve its efficacy or rectify any unintended consequences.

As I have previously said: "The bottom line in this: there should be no question that the U.S. patent system produces high quality patents. Since questions have been raised about whether this is the case, the responsibility of Congress is to take a close look at the functioning of the patent system." Patent quality is key to continued innovation. Thus, we must act during the 109th Congress to assure the highest level of patent quality.

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## HONORING DR. GARY LOUIS ROSE M.D. ON THE OCCASION OF HIS 15TH YEAR OF PRACTICE IN LEWISVILLE, TX

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. BURGESS. Mr. Speaker, I rise today to honor the commitment of a very caring physician in my community, Dr. Gary L. Rose.

Dr. Rose came to our community 15 years ago and quickly established himself as one of the preeminent physicians in the area. Dr. Rose is an obstetrician. He has delivered thousands of babies in our area and provided consistently excellent professional medical care to his patients.

Mr. Speaker, almost anywhere I go in my district, I encounter families whose lives have been touched by Dr. Rose. They speak of him almost reverently about the high quality of care he has rendered throughout the time that he has practiced in our community. With patience and understanding he solves complex medical diagnostic dilemmas while serving the Lewisville community. He is also a technically gifted surgeon, and he has brought many a patient through a serious crisis in the operating room and back on the road to good health.

Mr. Speaker we are truly fortunate in my community to have the type of dedicated medical professional that Dr. Rose personifies, and I wish him every success during the continuance of his career in medicine.

## SITUATION IN IRAQ

### HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. LOFGREN. Mr. Speaker, the President and Vice President insist that things are improving in Iraq and that all America must do is "stay the course."

Their evaluation of our situation in that troubled land has been challenged by many. And, of course, we all know that one cannot find a diagnosis until one admits that there is a serious problem.

One of the most gripping accounts of the situation in Iraq I have read recently was prepared by Wall Street Journal reporter Farnaz Fassihi. Regrettably, it appears that this reporter may be facing ramifications for speaking the truth. The New York Post has defended her editorially.

It is important for Americans to deal with the truth. I recommend reading this reporter's account as well as her defense by the New York Post.

[From the New York Post, Sept. 30, 2004]

### WSJ EDITOR BACKS IRAQ SCREED

(By Keith J. Kelly)

Wall Street Journal Editor Paul Steiger has come to the defense of his beleaguered Baghdad correspondent, who blasted the war in Iraq as a "disaster" that has deteriorated "into a raging barbaric guerilla war" that will haunt the United States for decades.

"Despite President Bush's rosy assessments, Iraq remains a disaster," Wall Street Journal reporter Farnaz Fassihi wrote in a group e-mail to friends that inadvertently became widely posted on the Web.

Yesterday, the e-mail was mentioned prominently on the journalism blog by Jim Romenesko on the Poynter.org site.

Steiger said Fassihi's missive included "a few expressions of purely personal opinion about the situation there."

But the Wall Street Journal editor said the musings in no way distorted his reporter's ability to deliver fair coverage from Baghdad.

In her e-mail, Fassihi laments, "Being a foreign correspondent in Baghdad these days is like being under virtual house arrest."

Fears of abductions have sharply curtailed reporters ability to cover events or move about.

"My most pressing concern every day is not to write a kick-ass story but to stay alive and make sure our Iraqi employees stay alive. In Baghdad I am a security personnel first, a reporter second."

She also said the "Iraqi government doesn't control most Iraqi cities." She said there are car bombs, assassinations, kidnappings and beheadings. "The situation, basically, means a raging barbaric guerilla war."

Steiger said: "Ms. Fassihi's private opinions have in no way distorted her coverage, which has been a model of intelligent and courageous reporting, and scrupulous accuracy and fairness."

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### FROM BAGHDAD—A WALL STREET JOURNAL REPORTER'S E-MAIL TO FRIENDS

(By Farnaz Fassihi)

Being a foreign correspondent in Baghdad these days is like being under virtual house arrest. Forget about the reasons that lured me to this job: a chance to see the world, explore the exotic, meet new people in far away lands, discover their ways and tell stories that could make a difference.

Little by little, day-by-day, being based in Iraq has defied all those reasons. I am house bound. I leave when I have a very good reason to and a scheduled interview. I avoid going to people's homes and never walk in the streets. I can't go grocery shopping any more, can't eat in restaurants, can't strike a conversation with strangers, can't look for stories, can't drive in any thing but a full armored car, can't go to scenes of breaking news stories, can't be stuck in traffic, can't speak English outside, can't take a road trip, can't say I'm an American, can't linger at checkpoints, can't be curious about what people are saying, doing, feeling. And can't and can't. There has been one too many close calls, including a car bomb so near our house that it blew out all the windows. So now my most pressing concern every day is not to write a kick-ass story but to stay alive and make sure our Iraqi employees stay alive. In Baghdad I am a security personnel first, a reporter second.

It's hard to pinpoint when the 'turning point' exactly began. Was it April when the Fallujah fell out of the grasp of the Americans? Was it when Moqtada and Jish Mahdi declared war on the U.S. military? Was it when Sadr City, home to ten percent of Iraq's population, became a nightly battlefield for the Americans? Or was it when the insurgency began spreading from isolated pockets in the Sunni triangle to include most of Iraq? Despite President Bush's rosy assessments, Iraq remains a disaster. If under Saddam it was a 'potential' threat, under the Americans it has been transformed to 'imminent and active threat,' a foreign policy failure bound to haunt the United States for decades to come.

Iraqis like to call this mess "the situation." When asked "how are thing?" they reply: "the situation is very bad."

What they mean by situation is this: the Iraqi government doesn't control most Iraqi cities, there are several car bombs going off each day around the country killing and injuring scores of innocent people, the country's roads are becoming impassable and littered by hundreds of landmines and explosive devices aimed to kill American soldiers, there are assassinations, kidnappings and beheadings. The situation, basically, means a raging barbaric guerilla war. In four days, 110 people died and over 300 got injured in Baghdad alone. The numbers are so shocking that the ministry of health—which was attempting an exercise of public transparency by releasing the numbers—has now stopped disclosing them.

Insurgents now attack Americans 87 times a day.

A friend drove thru the Shiite slum of Sadr City yesterday. He said young men were openly placing improvised explosive devices into the ground. They melt a shallow hole into the asphalt, dig the explosive, cover it with dirt and put an old tire or plastic can over it to signal to the locals this is booby-trapped. He said on the main roads of Sadr City, there were a dozen landmines per every ten yards. His car snaked and swirled to avoid driving over them. Behind the walls sits an angry Iraqi ready to detonate them as soon as an American convoy gets near. This is in Shiite land, the population that was supposed to love America for liberating Iraq.

For journalists the significant turning point came with the wave of abductions and kidnappings. Only two weeks ago we felt safe around Baghdad because foreigners were being abducted on the roads and highways between towns. Then came a frantic phone call from a journalist female friend at 11 p.m. telling me two Italian women had been abducted from their homes in broad daylight. Then the two Americans, who got beheaded this week and the Brit, were abducted from their homes in a residential neighborhood. They were supplying the entire block with round the clock electricity from their generator to win friends. The abductors grabbed one of them at 6 a.m. when he came out to switch on the generator; his beheaded body was thrown back near the neighborhoods.

The insurgency, we are told, is rampant with no signs of calming down. If any thing, it is growing stronger, organized and more sophisticated every day. The various elements within it—Baathists, criminals, nationalists and Al Qaeda—are cooperating and coordinating.

I went to an emergency meeting for foreign correspondents with the military and embassy to discuss the kidnappings. We were somberly told our fate would largely depend on where we were in the kidnapping chain once it was determined we were missing. Here is how it goes: criminal gangs grab you and sell you up to Baathists in Fallujah, who will in turn sell you to Al Qaeda. In turn, cash and weapons flow the other way from Al Qaeda to the Baathists to the criminals. My friend Georges, the French journalist snatched on the road to Najaf, has been missing for a month with no word on release or whether he is still alive.

America's last hope for a quick exit? The Iraqi police and National Guard units we are spending billions of dollars to train. The cops are being murdered by the dozens every day—over 700 to date—and the insurgents are infiltrating their ranks. The problem is so serious that the U.S. military has allocated $6 million to buy out 30,000 cops they just trained to get rid of them quietly.

As for reconstruction: firstly it's so unsafe for foreigners to operate that almost all projects have come to a halt. After two years, of the $18 billion Congress appropriated for Iraq reconstruction only about $1 billion or so has been spent and a chuck has now been reallocated for improving security, a sign of just how bad things are going here.

Oil dreams? Insurgents disrupt oil flow routinely as a result of sabotage and oil prices have hit record high of $49 a barrel. Who did this war exactly benefit? Was it worth it? Are we safer because Saddam is holed up and Al Qaeda is running around in Iraq?

Iraqis say that thanks to America they got freedom in exchange for insecurity. Guess what? They say they'd take security over freedom any day, even if it means having a dictator ruler.

I heard an educated Iraqi say today that if Saddam Hussein were allowed to run for elections he would get the majority of the vote. This is truly sad.

Then I went to see an Iraqi scholar this week to talk to him about elections here. He has been trying to educate the public on the importance of voting. He said, "President Bush wanted to turn Iraq into a democracy that would be an example for the Middle East. Forget about democracy, forget about being a model for the region, we have to salvage Iraq before all is lost."

One could argue that Iraq is already lost beyond salvation. For those of us on the ground it's hard to imagine what if any thing could salvage it from its violent downward spiral. The genie of terrorism, chaos and mayhem has been unleashed onto this country as a result of American mistakes and it can't be put back into a bottle.

The Iraqi government is talking about having elections in three months while half of the country remains a 'no go zone'—out of the hands of the government and the Americans and out of reach of journalists. In the other half, the disenchanted population is too terrified to show up at polling stations. The Sunnis have already said they'd boycott elections, leaving the stage open for polarized government of Kurds and Shiites that will not be deemed as legitimate and will most certainly lead to civil war.

I asked a 28-year-old engineer if he and his family would participate in the Iraqi elections since it was the first time Iraqis could to some degree elect a leadership. His response summed it all: "Go and vote and risk being blown into pieces or followed by the insurgents and murdered for cooperating with the Americans? For what? To practice democracy? Are you joking?"

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## INTRODUCING THE EMERGENCY RELIEF FOR CARIBBEAN NATIONALS ACT

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HASTINGS of Florida. Mr. Speaker, epic floods, death, and starvation. Unfortunately for the people of Haiti, Grenada and the Cayman Islands these are not Biblical times of which I speak, but the here and now.

Mr. Speaker, Tropical Storm Jeanne and Hurricane Ivan have particularly devastated Haiti, Grenada and the Cayman Islands. There are no structures in place to respond to the needs of the populations, especially in areas like Gonaives, St. George and Grand Cayman, where Jeanne and Ivan hit hardest.

The unusual and extraordinary hurricane activity in the Caribbean during the 2004 season has prevented many Caribbean nationals in the United States from returning to their home countries, and for these countries to receive their repatriation.

Responding to these dire needs, I have introduced the "Emergency Relief for Caribbean Nationals Act," which designates Haiti, Grenada and the Cayman Islands under section 24 of the Immigration and Nationality Act in order to make nationals of those countries eligible for Temporary Protected Status (TPS).

Mr. Speaker, if there was ever a time for the federal government to grant Temporary Protected Status it is now.

TPS has been granted in the past to nationals of Sudan, Liberia, Guinea-Bissau, Somalia, Burundi, Bosnia-Herzegovina, El Salvador and Guatemala due to political unrest in those countries.

Also, TPS was granted to Hondurans and Nicaraguans after Hurricane Mitch in 1998 and to Salvadorans after an earthquake in 2001, and to Montserratians in 1995 after a volcano eruption. Sadly, Tropical Storm Jeanne and Hurricane Ivan caused similar devastation and suffering in Haiti, Grenada and the Cayman Islands, and in the same way merit TPS.

The startling facts of the natural disaster in the Caribbean are the following:

Tropical Storm Jeanne came ashore on the Island of Hispaniola, lashing first the Dominican Republic and then Haiti on September 16. When Jeanne hit, Haiti was already struggling to deal with political instability and the aftermath of serious floods in May. Nevertheless, Tropical Storm Jeanne hit Haiti with devastating force. More than 1,500 people are now known to have died and more than 1,000 are missing. Also, more than 300,000 people have been left homeless.

The situation is so calamitous that Haiti's Prime Minister Grerard Latortue said after visiting the stricken northern city of Gonoies, "We have a problem with bodies: there is a risk of epidemic. If you can picture this: there is no electricity, the morgues are not working, there is water everywhere."

Only weeks earlier, Hurricane Ivan, the strongest storm to hit the Caribbean in a decade, pounded Grenada. Hurricane Ivan killed 39 people in Grenada and left 40,000 of its 90,000 people living in 183 houses, schools and churches that have been converted into shelters. Grenada's capital, St. George, was hit by 125 mph winds—flattening homes and disrupting power. The storm destroyed the city's emergency operations center, the main prison, many schools, and damaged the main hospital.

Now an environmental health hazard has arisen in Grenada. The runoff, which contains pathogens from several sources, including human waste, is contaminating rivers where people are washing and bathing.

Thereafter, Hurricane Ivan blasted the Cayman Islands with 150 mph winds that ripped roofs off houses, uprooted trees and caused flooding across the British territory. 15 to 20 percent of homes on the eastern part of the Cayman Islands were completely destroyed, and another 50 percent suffered significant damage.

The extraordinary and temporary conditions caused by nature, and resulting in floods, epidemics and other environmental disasters in Haiti, Grenada, and Cayman Islands warrant granting their nationals Temporary Protected Status. Giving TPS to people from Haiti, Grenada and the Cayman Islands is consistent with the national interest of the United States, and denotes the values and morals that have made this nation strong.

Therefore, I urge you to cosponsor the "Emergency Relief for Caribbean Nationals Act."

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## TOPICAL AGENDA

### HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. ABERCROMBIE. Mr. Speaker, great interest has been generated by the publication of a document from the 11th of February 2003 entitled "Topical Agenda". It involves the Department of Defense Personnel and Readiness Undersecretary and the Selective Service System and its Acting Director.

This document appears on the web site of "Rock the Vote". The interest is intense because of the content of the agenda. It involves a review of selective service major policy issues since 1973; a synopsis of Department of Defense Policy regarding the draft and a detailed proposal for the renewal of the draft and conditions attendant to it.

The participation of the Department of Defense in the discussion associated with the agenda has been confirmed by the Secretary of Defense. The DOD contention is that the meeting on the agenda was for purposes of discussion only and that it took place off Pentagon premises. Obviously, the location of the discussion and the origination of the agenda for discussion purposes is immaterial to the issue at hand. The point is the Department of Defense from the Secretary on down has vigorously denied that any such discussions have ever taken place let alone been contemplated. This document shows that a detailed proposal for a new draft involving men and for the first time women has been under consideration and discussion by the Department of Defense. It also clearly indicates that consideration has been given to drafting not only for military needs but for purposes associated with the Department of Homeland Security. In addition it proposes that the draft age be extended from 18 to 34. It includes a proposition that a "self-declaration" of skill sets be required of all potential draftees to be periodically updated until the age of 35.

It is not enough for the Department of Defense to say it rejects the proposal and its findings. Saying "no" doesn't make it so. Denials that any such consideration has even been given let alone presently extent ring hollow in the wake of the implications of this agenda and the Department of Defense's participation in discussing it.

Given the broad and deep concern of the public about the draft and the possibility of its being reinstituted it is imperative that the public be enabled to see, understand and analyze what the Department of Defense has had under consideration. The public, of course, can draw its own conclusions. The "Agenda" report follows.

TOPICAL AGENDA

DoD Participants: Hon. Charles S. Abell, Principal Deputy Undersecretary of Defense for Personnel and Readiness; Mr. William Carr, Acting Deputy Undersecretary of Defense for Military Personnel Policy; Colonel David Kopanski, Deputy Director, Accession Policy.

SSS Participants: Mr. Lewis C. Brodsky. Acting Director of Selective Service; Mr. Richard S. Ftahavan. Director of Public & Congressional Affairs.

### *I. Review 30-year time-line—SSS major policy issues*

A. Draft ends in 1973: Agency placed in "Deep Standby" from 1976 to 1980. Ninety-eight "record-keepers" remain to SSS, part-time Reserve Officers kept on board, but no registration, no Board Members.

B. 1980—Cold War continues. President Carter decides to revitalize SSS after Soviets invade Afghanistan and MOBEXs indicate need. No draft, but resumes registration program for men. Wants to include women but Congress says no. 10,000 Board Members appointed and trained. DoD sets preparedness goal for SSS: "Be ready to provide first draftees to MEPS at M+13 and 100,000 by M+30."

C. 1988—Congress reacts to military medical shortages ("war stoppers"). Language inserted in the Defense Authorization Act telling SSS to develop a "structure" which would allow the registration and induction of health care personnel in an emergency. DoD identifies more than 60 health care specialties to include in the SSS Health Care, Personnel Delivery System (HCPDS). Planning calls for first HCPDS draftees by M+42. HCPDS becomes a paper and computer exercise lasting many years.

D. 1989–1991—End of Cold War, Desert Storm; no draft, and SSS remains in standby status with flat-lined annual budgets.

E. 1893 and 1994—Detractors in the Congress challenge need for continuing to fund SSS and peacetime registration. Section 647(b), FY 1993 DOD Authorization Act requires SECDEF, in concert with SSS, to report on continuation of peacetime registration. This was accomplished, registration is retained, and an interagency task force review was formed, led by the NSC. Conclusion is announced by President Clinton: preserve SSS and peacetime registration in current standby status for three reasons.

1. A hedge against underestimating the number of soldiers, needed to fight a future war;

2. A symbol of national resolve to potential adversaries; and,

3. A link between the all-volunteer Armed Forces and society-at-large.

Clinton also instructs SSS to increase operational efficiency. Instructs DoD to update MOB requirements for SSS, re-examine timelines, and review arguments for and against continuing to exclude women from registration.

F. 1994—Defense issues new "post-Cold War" guidance to SSS: "provide first untrained draftee to MEPS at M+193; first Health Care draftee at M+222." DoD reaffirms that it is not necessary to register or draft women (for a conventional draft of untrained manpower) because they are prohibited by policy from serving in ground combat assignments. SSS recognizes women may have to be included in a health care draft.

G. 1998—DoD Health Affairs says health care personnel would be needed earlier than M+222 in a future conflict. Guidance changed to M+90. Today, HCPDS can be implemented, but ability to meet M+90 time frame is doubtful. Program not fully tested and compliance aspects still not complete.

H. 1995 through 2000—Anti-SSS Members of Congress almost successful in eliminating SSS through the appropriations process. SSS undergoes structure and program reductions to make ends meet. Readiness suffers.

I. 2000 and 2001—DoD and SSS plan and implement joint mailing project to increase peacetime relevancy of SSS and improve timeliness and address accuracy of DoD recruiting direct mail campaigns.

J. 2002 and 2003—Administration says use of draft not an option for war on terrorism or potential war with Iraq. Rep. Rangel and Sen. Hollings introduce bills (H.R. 163 and S. 69) call for reinstituting a draft for military and national service. SECDEF adamant and vocal against using the draft for any immediate or likely contingency. Most recently, Reps. Paul, DeFazio and Frank introduce H.R. 487, calling for repeal of the Military Selective Service Act and an end to the SSS within six months of the bill becoming law.

*Synopsis:* With known shortages of military personnel with certain critical skills, and with the need for the nation to be capable of responding to domestic emergencies as a part of Homeland Security planning, changes should be made in the Selective Service System's registration program and primary mission.

*Situation:* Currently, and in accordance with the Military Selective Service Act (MSSA) [50 U.S.C., App. 451 et seq.), the Selective Service System (SSS) collects and maintains personal information from all U.S. male citizens and resident aliens. Under this process, each man is required to "present himself for and submit to registration" upon reaching age 18. The methods by which a man can register with Selective Service include the Internet, mail-back postcard, checking a box on other government forms, and through the driver's license applications process in many states. The collected data is retained in an active computer file until the man reaches age 26 and is no longer draft eligible. It consists of the man's name, address, Social Security number, and date of birth. Currently, 91 percent of all men, ages 18 through 25, are registered, enabling the SSS to conduct a timely, fair, and equitable draft in the event the Congress and the President decide to reinstate conscription during a crisis.

However, the Secretary of Defense and Department of Defense manpower officials have stated recently that a draft will not be necessary for any foreseeable crisis. They assume that sufficient fighting capability exists in today's "all-volunteer" active and reserve Armed Forces for likely contingencies, making a conventional draft of untrained manpower somewhat obsolete. Yet, Defense manpower officials concede there are critical shortages of military personnel with certain skills, such as medical personnel, linguists, computer network engineers, etc. The costs of attracting and retaining such personnel for military service could be prohibitive, leading some officials to conclude that while a conventional draft may never be needed, a draft of men and women possessing these critical skills may be warranted in a future crisis, if too few volunteer.

*Proposal:* In line with today's needs, the SSS' structure, programs and activities should be re-engineered toward maintaining a national inventory of American men and (for the first time) women, ages 18 through 34, with an added focus on identifying individuals with critical skills.

An interagency task force should examine the feasibility of this proposal which would require amendments to the MSSA, expansion of the current registration program, and inclusion of women. In addition to the basic identifying information collected in the current program, the expanded and revised program would require all registrants to indicate whether they have been trained in, possess, and professionally practice, one or more skills critical to national security or community health and safety. This could take the form of an initial "self-declaration" as a part of the registration process. Men and women would enter on the SSS registration form a multi-digit number representing their specific critical skill (e.g., similar to military occupational specialty or Armed Forces Specialty Code with Skill Identifier), taken from a lengthy list of skills to be compiled and published by the Departments of Defense and Homeland Security. Individuals proficient in more than one critical skill would list the practiced skill in which they have the greatest degree of experience and competency. They would also be required to update reported information as necessary until they reach age 35. This unique data base would provide the military (and national, state, and municipal government agencies) with immediately available links to vital human resources . . . in effect, a single, most accurate and complete, national inventory of young Americans with special skills.

While the data base's "worst-case" use might be to draft such personnel into military or homeland security assignments during a national mobilization, its very practical peacetime use could be to support recruiting and direct marketing campaigns aimed at encouraging skilled personnel to volunteer for community or military service opportunities, and to consider applying for hard-to-fill public sector jobs. Local government agencies could also tap this data base to locate nearby specialists for help with domestic crises and emergency situations.

With the changes described above, SSS programs would be modified to serve the contemporary needs of several customers: Department of Defense; Department of Homeland Security (FEMA. U.S. Border Patrol, U.S. Customs, INS). Corporation for National Service, Public Health Service, and other federal and state agencies seeking personnel with critical skills for national security or community service assignments. The SSS would thus play a more vital, relevant, and immediate role in shoring up America's strength and readiness in peace and war.

### *II. Are today's SSS capabilities in sync with DoD needs?*

A. Is there a need to preserve the capability of conducting a draft of untrained manpower? If so, is the time frame still M+193?

B. How likely is it that DoD will need SSS to conduct a Health Care draft?

C. How severe are any other critical skills shortages in the military?

D. Are the Clinton-era's abstract reasons for preserving the SSS and peacetime registration still valid?

E. Would DoD still fight any and all Congressional initiatives to cut or eliminate the SSS?

### *III. Consider restructuring the SSS to address contemporary national security needs*

A. Focus might be on relieving critical skills shortages

B. Include potential service to DHS and other government agencies that must attract/recruit skilled personnel.

C. Explore the feasibility of developing a single-point data base of virtually all young Americans, 18 through 34 years old, immediately identifiable by critical skills possessed and practiced. Data base could be used for a draft in war and for recruiting in peacetime.

1. Would require modification of SSS mission and changes to authorizing law.

2. Cost considerations.

### *IV. Next steps—Statement of Administration Policy needed*

A. DoD decides what services it needs and wants from SSS: Three options for consideration:

1. SSS status quo; however, redefine the DoD mission guidance and time lines to make the SSS more relevant to DoD's needs and the SECDEF's policy. The current guidance of providing untrained inductees at M+193 runs counter to the SECDEF's views and is out-of-sync with possible wartime scenarios.

2. Return the SSS to "Deep Standby" status. If a draft of any kind is highly unlikely and undesirable, eliminate peacetime registration and dismiss the 10,000 trained volunteer Board Members. However, should a draft be needed, it would take more than a year to get the system capable of conducting a fair and equitable draft from Deep Standby status.

3. Restructure the SSS and shift its peacetime focus to accommodate DoD's most likely requirements in a crisis. Plan for conducting a more likely draft of individuals with special and critical skills.

a. Minimum requirement: SSS mission guidance and time lines must be redefined promptly by DoD to allow more relevant pre-mobilization planning and funding for the possibility of a critical skills draft at M+90 of sooner. Peacetime registration of men 18 through 25 would continue, but consideration would also be given to identifying men with certain critical skills among these year-of-birth groupings. A post-mobilization plan would also be devised and computer programming accomplished for a full-blown critical skills draft. The HCPDS program is completed, brought to the forefront of SSS readiness planning, and tested through exercises. Without a reaffirmation of relevance and adjustment of mission, the SSS will be an easy target for reduction or elimination by detractors in the Congress and the Administration.

b. Expanded pre-mobilization requirement: SSS peacetime registration expanded to include women and men, 18 through 34 years old, and collects information on critical skills within these year-of-birth groupings. Requires change of law and additional funding (see Issue Paper dated 11 Feb 2003).

B. If more examination of the issue and options is needed, consider forming an interagency task force to provide the Administration with a policy recommendation. Possible players: DoD, SSS, DHS, NSC, OMB, Corporation for National Service, PHS, others.

C. After suitable analysis, obtain a White House Statement of Administration Policy (SAP) announcing plans for the future of the SSS (course of action 1, 2, or 3, above).

D. If the SSS is to expand its pre-mobilization activities to include registration of women and collection of critical skills identifiers, it will be necessary to market the concept for approval by the Armed Services Committees and Appropriations Committee draft implementing legislation for congressional consideration. The changes will be implemented after the amended law is signed and funding is identified.

## TRIBUTE TO MR. LIPINSKI

### HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. PETRI. Mr. Speaker, I want to join in this tribute to the many years of public service and the more than 20 years of service here in the House of our colleague Bill Lipinski.

I have had the privilege of serving with Bill on the Transportation and Infrastructure Committee for many years. During this Congress, he has served as the ranking Democrat on the Subcommittee on Highways, Transit and Pipelines. Together, we have had to navigate through the often frustrating, confusing and twisting course of the transportation bill reauthorization effort this year and last. Bill has always been a steady partner and a strong defender of the program. He certainly hasn't been reluctant to voice his strong support for increased investment in transportation. He is a great fighter, and we have been lucky to have him on our side during this particular fight. I have valued his advice and counsel these past two years as together we have worked to produce a transportation program that moves our country forward.

Beyond our work together on the Subcommittee, we have worked together on other issues, such as the expansion of O'Hare and many years fighting the whistle ban to protect our towns that had developed around the railroad tracks crisscrossing through our districts.

Apart from the Committee activities, Bill has been a tireless advocate for his constituents. He was born on the southwest side of Chicago, and he truly knows and understands his district. Prior to coming to Washington, Bill was a Chicago City alderman and he still is a Ward committeeman—a good education for any member of this House!

So I want to acknowledge Bill's courage, his strength in standing by his convictions, and his love for the city of Chicago. He has had a real impact, and his successes can be seen all over the city—whether riding the "el" or landing on a plane at Midway.

I wish him and his wife, Rose Marie, all the best on his retirement. He has been a valuable member of the House, and we will miss him.

## TRIBUTE TO MR. BILL LIPINSKI

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. CRANE. Mr. Speaker, I am pleased to join my colleagues in a tribute to my good friend, Bill Lipinski, who has made countless contributions to the State of Illinois and to the country during his years serving in the House.

George Washington is quoted as saying, "How far you go in life depends on your being tender with the young, compassionate with the aged, sympathetic with the striving, and tolerant of the weak and the strong. Because someday in life you will have been all of these." I believe Bill Lipinski modeled his Congressional career around this quote.

Bill's efforts in transforming our country's transportation infrastructure, especially that in the State of Illinois, has made every American's life a little easier by more efficient travel. Throughout the years, Bill and I have worked together on several transportation projects, from Metra expansion to road projects. In working with him on each of these projects, he showed great leadership, but most of all he showed great friendship. It is for this that I admire Bill the most. He could look past the harsh realities of partisan politics and work with me to help residents within my district. I will be eternally grateful not only for Bill's support of the projects he and I worked on but also for his friendship.

Another thing I will always remember Bill for is his independence. While Bill is a loyal Democrat—one that I haven't yet been able to convert—he was never afraid to break from the ranks to cast his vote as he saw fit. I will always miss his camaraderie, and his love for this cathedral of democracy.

Bill, in the years to come, I hope I will still get to see you on the flights to and from Chicago and I wish you all the best in your retirement.

## CONFERENCE REPORT ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

SPEECH OF

### HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mr. MARKEY. Mr. Speaker, this week the price of oil rose to more than $53 a barrel, a record that will translate into higher home heating oil prices this winter and higher gasoline prices at the pump.

Last night, the Republican-controlled House of Representatives responded to this news by passing a tax bill that renews an expiring tax loophole for small businesses to buy huge, gas-guzzling SUVs, like the Hummer.

Our tax code should offer incentives for people to conserve energy. Unfortunately, the SUV tax loophole does just the opposite. The Republican Hummer tax loophole entices Americans to buy the biggest, heaviest, and least fuel efficient vehicles on the market. Under this loophole, a small business that purchases a large SUV, such as a Hummer or Cadillac Escalade, can deduct up to $25,000 of the vehicle's cost. In contrast, citizens who purchase a fuel efficient hybrid vehicle this year will be entitled to just $2,000; starting in 2006, the hybrid vehicle tax deduction will shrink even further until it disappears entirely by 2009.

In 2003, nearly 1,000,000 large SUVs were sold in the US, outnumbering the number of hybrid vehicles sold by a ratio of 23 to 1.

The best-selling hybrid vehicle, the Toyota Prius, achieves an estimated 55 miles per gallon. In contrast, the Hummer H2, Ford Excursion, and Land Rover Range Rover all achieve less than 15 miles per gallon.

The Toyota Prius emits 3.5 tons of greenhouse gas emissions annually; the annual greenhouse gas emissions for the Hummer H2, Ford Excursion, and Land Rover Range Rover each emit more than 4 times the amount of greenhouse gases than the Prius.

Instead of working towards independence from Middle East oil, the Republicans have voted to extend tax loopholes that will only help make us even more dependent. So far, we have had 1,066 American soldiers die in a misdirected, misguided attempt to stabilize the government holding the world's second largest oil supply. The war in Iraq has made our country more vulnerable to the extremists of the Middle East.

Instead of making our air cleaner and protecting our environment, the Republican Hummer tax loophole is making our air dirtier, making our planet warmer, and contributing to the pressure to drill for oil in one of the last pristine ecosystems remaining in not only America but on the planet. Large SUVs are extremely polluting, particularly in regards to greenhouse gases. Due in part to the oil wasted by large SUVs, the Administration would like to open the ecologically pristine Arctic National Wildlife Refuge to drilling in order to extract a total of 6 months worth of oil—oil that would be pumped right into the tanks of Hummers and other SUV gas guzzlers.

Instead of working to pay down the nation's debt, the Republican Hummer tax loophole is digging our children's financial hole even deeper. For every 100,000 taxpayers that drive through the Hummer loophole, the Treasury is denied almost $900 million.

Instead of helping the poor, the tax loophole is once again aiding the wealthy. Because Hummers and other large SUVs use an inordinate amount of fuel, they increase the demand for gasoline, which in turn causes the price of gasoline to rise. The price of gasoline in Massachusetts currently is $1.93 a gallon. The price of oil is almost $53 a barrel. These price increases make a disproportionately higher impact on the bank accounts of the nation's poorest households. In addition, because the SUV tax poolhole is designed for type-S corporations, the beneficiaries include lawyers, doctors, and real estate agents.

Clearly, something needs to be done to help wean the United States off of oil and free ourselves from the chains of OPEC. A step in the right direction would be for the United States to promote the use of high fuel economy hybrid vehicles.

This problem could be solved easily if we only had the willpower to do so. By changing one sentence in the tax code, we could preserve the tax deduction to small businesses owners, such as farmers, who were intended to benefit, and eliminate the benefit to those who abuse it. In the current version, some long overdue language was added to distinguish between large SUVs and industrial vehicles. That change somewhat improved the situation, dropping the deductible amount for large SUVs from a ridiculous $100,000 to a sublime $25,000; however, the fact that $25,000 deductions for large SUVs are being extended until 2008 while the already minuscule deductions for hybrid vehicles are disappearing is ludicrous.

By not extending the SUV tax loophole and not eliminating the deductions for hybrid vehicles, we can help to increase our nation's security, protect our environment, reduce the national debt, and ease the financial burdens of the poor. It is time for the majority in the Congress to steer our nation in the right direction by saying no to the special interests who are working to keep this loophole open. The House vote last night to approve the Republican tax bill represents a failure of vision. We can only hope now that the Senate will block this legislation to extend the Republican Hummer loophole from 2006 until 2008.

Last year when we tried to get rid of this loophole during the energy conference, I resorted to bad poetry as a way of prying my colleagues free of this obscene subsidy. It didn't work. But I am told by people in the business of psychological operations that you can sometimes free a hostage by playing the same thing over and over again until the hostage-taker comes screaming out of the house saying "Stop It! I Can't Take It Anymore!" So, for the sake of good policy, I am resorting once again to the same bad poetry.

"A TAXPAYER'S LAMENT," OR "WHY AM I PAYING FOR OTHER PEOPLE'S HUMVEES?"

I don't mind paying taxes, for energy and such
As long as I don't have to pay very much,
And as long as I don't end up subsidizing trucks
Called "Humvee Ones" and "Humvee 2s" for 25,000 bucks!
They don't fit in a parking space; they guzzle gas like a hog,
And they leave our children gasping for air turned in to smog.
I'm not for banning Humvees—some people think they're cool.
But subsidizing this luxury treats taxpayers like a fool.
With our soldiers now in Baghdad fighting for the oil
Wasting gasoline this way just makes my blood boil.
Voting for this subsidy is impossible to defend.
All we want to know out here is when will this end?

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## HONORING GENE HOOPER'S 50 YEARS IN BANKING

### HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. GORDON. Mr. Speaker, I rise today to honor my friend Gene Hooper's service to the banking community of Middle Tennessee. Gene and his wife, Vera, are residents of Cookeville, Tennessee.

Fresh out of high school, Gene began working at Third National Bank in 1954. There, he formed a partnership with Homer Tidwell, and the two young men teamed up to win the American Institute of Banking's National Debate Contest.

Gene continued working for Third National Bank for more than 20 years. In 1976, he joined the Bank of Putnam County. At the time, the bank was preparing to open its second office in Cookeville. Under Gene's leadership, the Bank of Putnam County has grown into a two-bank holding company with 12 offices in four counties.

Gene has been a leader in banking, as well as a leader in the community. He has served as an officer in the American Institute of Banking, and he has served on the government relations committees for both the Tennessee Bankers Association and the American Bankers Association. He also is an active member of the Cookeville Chamber of Commerce and Cookeville Noon Rotary.

Gene has accomplished much in his 50 years of service. I thank him for his good advice over the years, and I congratulate him on his long and distinguished career.

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## TRIBUTE TO MADGE J. OVERHOUSE

### HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HONDA. Mr. Speaker, today I rise in memory of Madge Jennings Overhouse to recognize her lifelong achievements and indisputable legacy of selfless volunteerism and dedication to public service. Madge Jennings Overhouse was born on July 29, 1924 in The Dalles, Oregon, and soon moved to San Jose. She attended San Jose State University, graduating cum laude in history, where she met her husband, a member of both the football and track teams. Madge married Howard Overhouse in 1949, and they had one son, Richard, and three lovely grandchildren, Ashley Ann, Katie and Will Overhouse.

Madge was a descendant of several generations of San Jose natives who served their city and passed that community service ethic on to her. The city's first and third fire chiefs, George and Richard Brown, were ancestors, and her father, Ralph James, was a San Jose fire captain. Her late husband, Howard Overhouse, also was a city firefighter. Madge herself worked for thirty years as a librarian at San Jose State University and San Jose City College.

Her career as a librarian spanned almost 40 years and two institutions, beginning at San Jose State, then moved to San Jose Community College. Typical of Madge, she assumed a leadership role in her profession, serving on the Santa Clara County Library Commission from 1976 to 1982, as well as serving on the California Library Agency for Systems and Services from 1979 to 1984, representing Santa Clara County as an alternate for Supervisor Rod Diridon. Madge also served on the Steering Committee for the Master Plan of California Libraries.

Madge's multitude of contributions to the community throughout her lifetime is legend, and the list of civic organizations that Madge has helped is extensive. We would like to take a moment to reflect on a few pivotal moments here.

Madge was one of the first women to serve on the Executive Board of the Santa Clara County chapter of the Boy Scouts of America. The Santa Clara County Fair Association benefited from Madge's input as a Board member from 1987 to 1995. Madge also served on the boards of the Iota Delta Chapter of the Chi Omega sorority and the Campbell Historical Preservation Board. Madge was a long-time member of the San Jose Metropolitan Chamber of Commerce. In addition, Madge lent her talents to the Multi-Modal Transportation Task Force, which led to the completion of Highway 85, which is now a major transportation artery in the Bay Area. She was honored in 1994 as a County Woman of Achievement for her volunteerism. At the time, she was the political director for the county Democratic Information Center, which she co-founded in 1969. In 1986, she was named County Democrat of the Year. She was a Democratic nominee for the 22nd Assembly District in 1974, served as chairwoman of the Northern California women's division of the Democratic Party and was selected to vote as an elector in the 1992 Electoral College. Over the years, she has been honored by local police, firefighters and the AFL–CIO Labor Council. This past January 2003, she was presented the California Democratic Party's lifetime achievement award.

Madge Overhouse, known for years as the godmother of the Democratic Party in Santa Clara County, hobnobbed with top local, state and national Democrats for more than 30 years. She was a Democratic National Committee member and attended all but one of the party's conventions, since Jimmy Carter's presidency.

Madge began volunteering for political causes when politics was uncharted territory for women. As a result, she helped future generations of women see more possibilities available to them in politics. Also known as an Oracle of the Democratic Party, Madge lent her expertise to the careers of many public officials both male and female. Speaking from personal experience, Madge's gentleness in behavior, in advice and admonition will be my compass.

It was on Wednesday, September 29, 2004 that Madge Overhouse died of apparent heart failure after battling breast cancer for two years. She was 80. The original diagnosis of cancer was she had a month to live.

Mr. Speaker, I rise today to mourn the loss of a friend, a role model and a constant inspiration. Madge Overhouse's heroic service to our community and guidance to individuals inspired many to go beyond their expectations and, as a result, contribute to the betterment of our beautiful and diverse community in Santa Clara County. Madge was a true hero, in every word and action.

## HONORING YULIYA KOSTROMITINA

## HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. HOOLEY of Oregon. Mr. Speaker, I rise today to honor Yuliya Kostromitina, a student from McKay High School in Salem, Oregon. Yuliya, the daughter of immigrants from Russia, was selected as a delegate to the National Council for Community and Education Partnerships 2004 Youth Leadership Conference in Washington, DC. As a result of the leadership demonstrated by Ms. Kostromitina, she was chosen as one of just four students nationwide, and one of forty internationally, to attend the 7th International Partnership Network Conference in London, England.

Yuliya's achievement is proof that the GEAR UP program, or Gaining Early Awareness and Preparedness for Undergraduate Programs, in which she participates at McKay High, can help build great students. GEAR UP provides five-year grants to states and partnerships to provide services at high-poverty middle and high schools. GEAR UP programs serve an entire group of students beginning in middle school and continuing through high school. Within each school GEAR UP funds are used to provide meaningful academic enrichment activities that result in systemic school improvement and increased student achievement that will prepare students to go to college. GEAR UP funds are also used to provide college scholarships to low-income students. With its emphasis on school improvement, GEAR UP dovetails well with the high standards set by No Child Left Behind and gives schools the resources needed to meet NCLB standards. This outstanding program helps at-risk students succeed in school and prepares them to attend college, an option many of them had previously considered out of reach. GEAR UP helps students from low-income backgrounds realize that they too can succeed in college and shows them the path to a better future.

As Congress considers reauthorization of the Higher Education Act, I hope my colleagues will recognize the value of the GEAR UP program and continue to provide resources that will help students like Yuliya reach their potential.

## HONORING MIM KELBER

## HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mrs. MALONEY. Mr. Speaker, I rise to pay tribute to Mim Kelber, one of the bright, shining lights of the women's movement. Mim passed away this summer, leaving a legacy of extraordinary activism and passion for social justice. Best known as Bella Abzug's best friend, soul mate and speechwriter, Mim was also a much-admired activist and leader in her own right.

I had the privilege of speaking at her memorial service on August 17, 2004 where I said, "This weekend the world lost one of the great feminists—Mim Kelber.

A labor journalist, freelance writer and activist, Mim devoted her life to improving the world she lived in. Together with her great friend, Bella Abzug, Mim encouraged women to use their political power to ensure their rights.

There is not an American woman alive today who does not have more rights, command more respect or enjoy more opportunity as a result of their work together. Mim and Bella broke through barriers, shattered glass ceilings and woke people up.

Mim was a consummate organizer, a terrific writer and a true idealist. As co-founder of the National Women's Political Caucus, the Women USA Fund, the Women's Foreign Policy Council and WEDO, Mim worked to bring other women together to work to achieve common goals.

As an author, Mim helped draft a roadmap for women to follow in fighting for our rights. She wrote part of Bella's unyielding call to arms, including the Contract with the Women of the USA. Mim used her pen to help people change the way they looked at the world and how they lived their lives.

Whenever I wanted to organize women to pass the ERA, to fund UNFPA or to bring women together for any cause, I would call Mim. She was a source of inspiration for me. A veteran of many of the old battles, she always had good advice about how to fight new struggles.

It is incumbent upon all women to keep her spirit alive and to further the irresistible momentum that Mim helped foster. May we long remember her contributions.

To honor her memory, I want to insert into the RECORD some of the other loving tributes made by family, friends and colleagues that day:

Her daughter, Karli Kelber: "I am so proud to be Mim Kelber's daughter. She was a great speech writer and she also gave many speeches—some in this very room. She was very modest. She would have been amazed by the number of people here today. She could have written for Presidents though unfortunately none of the presidents in recent history would have been worthy enough to read her words.

My mother spent her life working to make the world a better place. She had so many great ideas, especially for organizing women. She would often lament, "If only the men could stay home and the women could run things."

She hated religion, blaming it for so many wars. She often told me to remember that there were more good people than bad people in this world. She believed in the golden rule. She also warned us that happiness was not a constant state of mind—although she wanted her daughters to be happy all the time.

The consummate reporter, she was always asking questions. She taught me the five "w" questions at an early age and her sharp editing skills helped me through high school and college—if only she could have edited this speech!

She educated me to care about others. To help make a difference. The lessons started quite early. She was pregnant with me when she was called to the House Un-American Activities hearings in Washington where she took the 5th Amendment. She then named me after a very famous Karl.

Women's Strike for Peace and PTA politics were a constant in my childhood. She took my sister and me to countless peace demonstrations. And then there was Bella Abzug's strong influence on our lives. I was incredibly proud of the powerful speeches my mother wrote for her and mesmerized by the way Bella spoke. There was always hope in the air despite so many setbacks—and the victories were exhilarating.

Those were exciting times for my mother yet she told me that her happiest days were raising my sister and me in our Clark Street apartment across from the Brooklyn Heights promenade. She had a deep love and admiration for my father. She was in awe of his constant energy and determination and would often exclaim, "Your father is really a remarkable man!" That he is. And she adored her five grandchildren.

The peaceful world she envisioned has not yet come to pass. After witnessing terrorism from her living room window, in despair she told me, "We worked so hard—we always thought that things would get better." She labeled herself "a realist" yet her whole life was guided by an optimistic activism. Although her last days were a painful struggle for her, her intellect and political astuteness would often shine through. She was constantly composing letters to the editors in her head.

Katherine Hepburn, my mother's favorite actress, who was a true feminist, said, "I have no fear of death. Must be wonderful, like a big sleep. But let's face it: it's how you live that really counts."

My mother leaves behind a legacy of social activism and love. She had a real vision of the way things could be and she taught us never to give up—and mom, we never will."

Bella Abzug's daughter, Liz Abzug: "First, I want to send my deepest condolences to Mim's family and her friends.

Mim knew my mother, Bella Abzug, for 60 years. They were classmates at Walton High School in the Bronx. They worked together at Women's Strike for Peace in the sixties—pro bono, of course—and when my mother ran for Congress, Mim was tirelessly there for her, from the first campaign to the last.

In 1971, when my mother was elected to her first term in Congress, she named Mim as her executive policy assistant and speech writer. Mim chose to work out of New York instead of Washington because she didn't want to be separated from Harry and her children.

In 1980, Mim and my mother co-founded the Women USA Fund and in 1990, they co-founded Women's Environment and Development Organization, WEDO. Along the way, they co-authored many, many publications. Just to name a few—*Bella Abzug's Guide to Political Power for American Women; Women and Government, New Ways to Political Power* and *Gender Gap* which they dedicated "To our daughters and to young women everywhere, the future leaders of our Nation."

In other words, Bella Abzug couldn't have gotten along without Mim Kelber. I remember these lively discussions they had together, these great debates that were often loud—at least on my mother's part—and I think each inspired the other.

My mother often told me that she thought Mim was brilliant. From everything we've heard here today, I think it's obvious why."

Harold Holzer: "I first met Mim Kelber on a Monday morning in March of 1975—at Bella Abzug's Congressional offices at 252 Seventh Avenue. It was more than 29 years ago . . . a lifetime, really. But it seems to me, and probably to many of you, like yesterday. A yesterday when, unlike today, hope really did seem to be on the way.

I can still see the configuration of our office with vivid clarity: Bella and Dora Friedman in side-by-side offices, usually arguing. Sylvia Epstein and her constituent services operation to the south, although she was always available to come around the corner, for arguing. And to Bella's North—in a bullpen setting with steel and frosted glass walls that only rose five feet off the floor, sat Mim. An island of isolation and serenity. Tranquility and concentration in the eye of a hurricane. And right outside Mim's enclave was what passed for the press office . . . namely, me. Arguing.

But not with Mim. In fact, for 2 years I don't think I ever saw Mim's face for more than a few minutes every day. That's because her back was always to me. What I saw was her blonde hair, her head rigidly facing her desk against the wall, as if her gaze could not be torn away from the paper before her, no matter how loud the distraction. Her concentration was awesome. I've never seen anything like it before or since. What I heard from her direction was the constant clatter of her electric typewriter—remember that familiar sound in the days before computers? Rhythmically, rapidly, relentlessly, from 9 in the morning until 6 at night, when she would calmly board the Lexington Avenue subway for Brooklyn Heights to claim a bit of peace until the next morning.

Even more remarkably, not only did those words flow quickly—but also flawlessly. It's hard to imagine—these, after all, were the days before we could move paragraphs, re-arrange words, and correct errors with the mere press of a button. But Mim had a computer operating in her head when Bill Gates was still a baby. She would pause from time to time, but for what only seemed like a second—then would come another clatter of the keys and another flood of words.

The office had its own particular assembly line. Speeches and statements flowed from Mim's electric typewriter to my desk for adaptation into press releases—while an office worker faxed a copy on to Bella in Washington—page by laborious page. Yes, those were also the days of the dinosaur fax—complete with chemical smells.

Somehow we got it done. And inevitably, almost routinely, by the time Bella rose to speak-on the floor of the House, on the campaign trail around the state, and later around the world—the magic of the words were filtered through the singular personality and passion of her lifelong soul-mate. And the result made history.

I wasn't there to observe the development of the dynamic synergy that bound these two great women together. By the time I joined the assembly line, it was well-oiled, honed by years of practice, give and take, debate, a little fighting, and lots of passion—the fire and ice, yin and yang, of a partnership that inspired, challenged, and ultimately changed the nation. I simply had the privilege, for a few precious years, to observe it, promote it, marvel at it, celebrate it. And see some of its more hilarious manifestations, too.

Once, during the Senate campaign, Mim had prepared a 20-page speech for Bella to deliver in Buffalo. But Mim had also written a 20-page speech to deliver a few nights later in New York. Bella liked both of them—she didn't know which to use—and then hours before we were ready to leave, she demanded that Mim write an entirely new speech, based on the best of both. Mim's reply was simple: "Forget it Bella." They exchanged words. Bella screamed. Mim shouted back—in her own way. Then she simply turned and left. Bella's response: "I'll do it myself." Then she added: "The quiet ones always get you in the end!"

We were late: she grabbed up the two speeches and took them with her. We flew to western New York—Bella, Maggi Peyton, and me—she was holding the two speeches, still trying to figure out what to include and what to cut when we took an elevator up to the top floor of a Buffalo hotel. But when the doors opened, a huge gust of wind blew into the cab and all the papers went flying into the air and settled slowly to the floor. Bella said to us: "Pick those papers up and give them to me." We handed her 40 pages, which she simply shuffled together in no particular order. That night Bella Abzug gave two Mim Kelber speeches in one—and you know what? It sounded fine. Happily, Bella ran out of gas about two-thirds of the way through, or she might have spent the entire campaign there.

Bella is gone now. 252 Seventh Avenue is a luxury co-op—a far cry from the place where Dora couldn't leave animal crackers in her desk overnight without the mice eating them. But Bella's memory burns bright. And Mim's words live on-in every thought inspiring the hope for a saner world—the world of peace and equality to which she gave such articulate vision.

The quiet ones will get you in the end. And Mim's quiet—her quiet dignity, tirelessness, eloquence—got us right in the heart—in the beginning, for the duration, in the end, and always.

One day, Mim walked out of the office-after an upheaval of a fight with Bella, accompanied by slamming doors and angry words—the full deal—about something quickly forgotten. But ever the professional, before she left Mim took her latest speech and practically threw it on Bella's desk.

Bella erupted. She pounded her fist on the table, took off her hat and slammed it down, and only then picked up the pages and started reading. She turned one page, then the other, grew silent, then looked up and smiled and said: "There's no one like Mimi." As usual, Bella was right."

Mim was a source of strength and inspiration to thousands of women who heard her words or followed her career. Mr. Speaker, I ask my colleagues to join me in celebrating the life of Mim Kelber, a brilliant strategist, eloquent writer, and faithful friend.

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## TRIBUTE TO ART GINSBURG

### HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. BERMAN. Mr. Speaker, I rise today to ask my colleagues to join me in saluting my good friend, Mr. Art Ginsburg. On November 6, 2004, the Los Angeles Valley College will honor him at its annual President's Gala. Art is a successful businessman and respected community leader who selflessly devotes much of his time and resources to community, governmental, civic and charitable organizations.

As the Vice President of the Los Angeles City Planning Review Board, he works hard to enhance the commercial areas of Studio City. He is a founding member of the Studio City Improvement Association and helped create its "Sidewalk Walk of Fame." Also, Art has been an active member of the Studio City Chamber of Commerce for 47 years and he serves as a member of the Studio City Residents Association.

A wonderful place to eat and one of the San Fernando Valley's famous landmarks is "Art's Delicatessen and Restaurant" in Studio City. It is a family run business that has been a favorite of many of my constituents since its opening in 1957. I know first-hand that, "every sandwich is a work of Art."

In addition to his business accomplishments, Art is a strong supporter of Los Angeles Valley College which he attended in 1956 and 1957. He is a member of the Board of Directors college foundation, the Patrons Association, and serves on the business liaison, executive council and scholarship committees. He has established a number of scholarships that have greatly benefitted many students. Art frequently sponsors campus activities by providing food from his Deli.

Art and his lovely wife, Sandy, have three children and three grandchildren. Two more grandchildren are expected soon.

Mr. Speaker, I ask you to join me in saluting my good friend Art Ginsburg and congratulating him on the honor being bestowed on him by Los Angeles Valley College.

## RECOGNIZING THE YOUNG MEN'S LEAGUE OF GUAM FOR THEIR EFFORTS TO BRING RESOLUTION TO GUAM WAR CLAIMS

### HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. BORDALLO. Mr. Speaker, I rise today to commend the efforts of the Young Men's League of Guam (YMLG) in building community support for the recommendations of the Guam War Claims Review Commission and working to bring resolution to a painful era in Guam's history.

As Guam's oldest fraternal organization, the Young Men's League of Guam, in conjunction with the Mayor's Council of Guam, has taken a lead role in building community consensus on the issue of Guam War Claims following the presentation of the Guam War Claims Review Commission report to Congress on June 9, 2004. YMLG and the Mayor's Council collected 1,800 signatures in a petition to the President, Congress, and local leaders requesting Congressional action to bring closure to the horrific experiences endured by the people of Guam, demonstrating broad support within our community for resolving the issue of Guam War Claims. YMLG advocates quick action on the recommendations of the Review Commission's report to bring closure for the remaining survivors of the occupation.

YMLG President and Chairman Dr. Jose T. Nededog and other YMLG leaders have championed the cause of bringing recognition and justice to those who experienced the occupation. Dr. Nededog, who lost his older brother in the Fena cave massacre during the occupation, is like many Chamorros, who after enduring enemy occupation went on to proud careers of service in the U.S. military.

Guam is the only United States jurisdiction invaded and occupied by enemy forces since the war of 1812. Over 8,000 Chamorros suffered personal injury, including rape, beatings, forced labor, forced march and internment, and approximately 1,000 were killed at the hands of the Japanese Imperial Army. YMLG is concerned that many of those who survived the brutal 32 month occupation are passing away before the issue of War Claims is fully resolved.

I commend Dr. Nededog, the Young Men's League of Guam, and the Mayor's Council of Guam for being a voice for the survivors of the occupation of Guam and for actively engaging in the effort to bring closure to the issue of Guam war claims. I welcome their support and encouragement and look forward to moving this issue through the U.S. Congress.

Mr. Speaker, I would also like to submit for the RECORD a copy of the Young Men's League of Guam Resolution No. 01–04 "Relative to Expressing Strong Support to the Recommendations of the Guam War Claims Review Commission for the Chamorro People."

RESOLUTION NO. 01–04

Whereas, the Young Men's League of Guam is the oldest Chamorro fraternal organization on Guam, established in 1917; and

Whereas, members of the League are replete with great leaders of Guam who determined the destiny of Guam and its people; and

Whereas, the majority of the members of the League and their families have experienced the atrocities of the Japanese occupation of Guam during World War II; and

Whereas, the majority of the members of the League have testified before the Guam War Claims Review Commission during their visit to Guam to secure testimonies from the Chamorro people who experienced the atrocities of the Japanese occupation; and

Whereas, the Board of Directors and the Council of Elders of the League were elected at large by the general membership; and

Whereas, the Board of Directors and the Council of Elders are representatives of the General membership with the fiduciary responsibility of overseeing the general welfare and well being of the members: Now, therefore be it

*Resolved*, That the Young Men's League of Guam totally supports the recommendations of the Guam War Claims Review Commission that would bring closure to the long awaited recognition for the undue suffering of the Chamorro people through Japanese atrocities during World War II because of their dedication and loyalty to America; and be it further

*Resolved*, That the Young Men's League of Guam requests the Guam Legislature and the Governor of Guam to jointly support the recommendations of the Guam War Claims Review Commission.

## NATIONAL WILDERNESS PROCLAMATION MONTH

### HON. ANTHONY D. WEINER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. WEINER. Mr. Speaker, it has been 40 years since Congress passed the 1964 National Wilderness Act, which has allowed parts of public land to be protected by law for future generations.

It might surprise some to know that this groundbreaking act of legislation was derived in part from the work of a New York City resident, David McClure, who chaired the Committee on Forest Preservation at the state constitutional convention in Albany in 1894.

McClure helped draft an article, which ensured that certain state land would remain "forever wild." Those words, adopted by the convention and later approved by the voters, have never been altered and remain in effect for the 3-million acre New York State forest preserve in the Adirondack and Catskill parks. This visionary accomplishment was the inspiration for those who drafted the 1964 Wilderness Act.

Mr. Speaker, I would like to insert into the RECORD a New York City Proclamation honoring the 40th Anniversary of the Wilderness Act and designating September 2004, in New York City, as National Wilderness Act Month.

PROCLAMATION

Whereas: While we thrive in a concrete jungle, New Yorkers are not blind to the necessity of forest preservation. In fact, our urban sensibility allows us a special appreciation for green spaces and wilderness.

Whereas: It has been forty years since Congress passed the 1964 National Wilderness Act, which has allowed a small percentage of the nation's public lands to be protected by law for future generations. It might surprise some to know that this groundbreaking act of legislation was derived in part from the work of a New York City resident, David McClure, who chaired the Committee on Forest Preservation at the State Constitutional Convention in Albany in 1894. He helped draft an article that ensured that State land known as the Forest Preserve in the Adirondacks and Catskills would remain "forever wild." Adopted by the convention and later approved by the voters, the words of Article 14, Section 1 of the State Constitution have never been altered, and remain in effect for the three million-acre New York State Forest Preserve in the Adirondack and Catskill Parks. This visionary accomplishment was the inspiration for those who drafted the 1964 Wilderness Act.

Whereas: Eleanor Roosevelt said, "perhaps nature is our best assurance of immortality." As we celebrate the fortieth anniversary of this important act, New Yorkers are called upon to follow in the footsteps of Mr. McClure and become environmental stewards.

## PERSONAL EXPLANATION

### HON. DENISE L. MAJETTE

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. MAJETTE. Mr. Speaker, I was unable to be in attendance for a number of rollcall votes. Had I been present I would have cast my votes as follows: "Yes" on rollcall 487, "yes" on rollcall 488, "yes" on rollcall 489, "no" on rollcall 490, "no" on rollcall 491, "no" on rollcall 492, "yes" on rollcall 493, "no" on rollcall 494, "yes" on rollcall 495, "yes" on rollcall 496, "yes" on rollcall 497, "no" on rollcall 498, "no" on rollcall 499, "yes" on rollcall 502, "yes" on rollcall 503, "yes" on rollcall 504, "yes" on rollcall 505, "no" on rollcall 506, "yes" on rollcall 507, "yes" on rollcall 508, "yes" on rollcall 509, "yes" on rollcall 510, "yes" on rollcall 511, "yes" on rollcall 512, "no" on rollcall 513, "no" on rollcall 514, "no" on rollcall 515, "no" on rollcall 516, "yes" on rollcall 517, "yes" on rollcall 518, "no" on rollcall 519, "yes" on rollcall 520, "yes" on rollcall 521, "yes" on rollcall 522, and "yes" on rollcall 523.

## THE TERROR ATTACKS IN EGYPT

### HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. ROTHMAN. Mr. Speaker, I rise today to express my profound shock and sorrow concerning the bombings that occurred yesterday, October 7, 2004, in Taba, Egypt, where at least 29 people died and 160 were injured. The fact that the attacks coincided with the joyous Jewish festival of Sukkot is particularly horrifying. Two years ago we witnessed similar acts of violence when terrorists struck the Park Hotel in Netanya, killing dozens of Israelis celebrating the traditional Passover meal and again in Mombasa, Kenya where terrorists unsuccessfully attempted to take down an Israeli passenger jet but were successful in killing twelve people at an Israeli-owned hotel.

Yesterday's bombings, which occurred at a popular hotel and camping ground in Egypt, are especially jarring for two reasons. First, the attacks show the indiscriminate nature of these terrorists who killed innocent Muslims, Christians and Jews, Egyptians, Russians, Britons and Israelis alike. Second, photos and accounts of Israelis rushing the border to get back into Israel are a jarring reminder of why the State of Israel was created—to provide a safe haven for Jews the world over who all too often cannot find peace elsewhere.

Mr. Speaker, the bombings in Egypt also illustrate another important point—that the security fence being built around Israel works. Although no group has yet been definitively tied to this attack, it is clear the attack in Egypt was chosen because it would be too difficult to perpetrate inside of Israel. The security fence is a sad reality for those living on either side, but a necessary reality in order to save lives. As our strategic military partner, ally, trusted friend of 56 years, and only democracy in the Middle East, Israel needs the continued support of the United States as it works to secure her people from Palestinian and other terrorists who seek Israel's destruction.

Mr. Speaker, it has been said that the bombers may have hoped to bring an end to talks between Egypt and Israel that focused on halting arms smuggling from Egypt to Palestinian terrorists in Gaza, and addressing other issues of shared concern to both nations. We must not let that happen. Egyptians died in Taba just as Israelis did, Egyptians that lived and worked in peace with Israelis each and every day. I encourage Egypt and Israel to continue to work together and I applaud President Mubarak and his government for coordinating with Israeli rescue workers and response teams to allow them access to the site of the attack in Egypt.

Mr. Speaker, my heart goes out to all those whose loved ones were killed or wounded in these vicious attacks and I vow to continue my work to fight terror to prevent such horrifying attacks in the future.

## INTRODUCTION OF THE CLINICAL LABORATORY COMPLIANCE IMPROVEMENT ACT OF 2004

### HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. CUMMINGS. Mr. Speaker, today I rise to introduce the Clinical Laboratory Compliance Improvement Act of 2004, legislation to improve the accuracy and reliability in medical testing and to provide protections for employees who report laboratory problems to their superiors or regulatory entities.

Medical laboratory testing is a fundamental pillar of our nation's health care system. Virtually every American undergoes testing in the course of receiving medical care and relies on the accuracy of laboratory tests to receive appropriate medical care and treatment.

Incorrect test results, in the worst case, can contribute to misdiagnosis that leads to inappropriate care and possible adverse health consequences for the patient. In the best case, incorrect or invalid results can lead to undue stress and inconvenience. Inaccurate testing for communicable diseases poses an especially serious threat to the public health.

On March 11, 2004, the Baltimore Sun reported that Maryland General Hospital (MGH), located in my district had issued invalid HIV and hepatitis test results to hundreds of patients from June 2002 to August 2003 when an Adaltis Labotech Immunoassay Analyzer ("Labotech") was used to conduct HIV, hepatitis and other tests at the MGH lab. The tests results were issued despite instrument readings indicating that the results might be erroneous. It was also disclosed that the testing equipment itself might be at issue.

In May and July of this year, the House Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources held hearings to investigate the lab deficiencies that led to the release of hundreds of invalid HIV/AIDS and Hepatitis C test results by MGH. I requested the hearings as the Subcommittee's Ranking Minority Member, and, with the cooperation and support of the distinguished chairman—the gentleman from Indiana, Representative Mark Souder—the Subcommittee conducted the hearings on a strictly bipartisan basis.

During the hearings, the Subcommittee received testimony from: Teresa Williams and Kristin Turner, two former laboratory employees who complained to superiors and state health officials about serious, longstanding deficiencies in the lab, including failure to implement quality controls on a diagnostic device used to read tests for HIV and hepatitis; officials from the Food and Drug Administration and the Centers for Medicare and Medicaid Services (CMS) responsible for implementing federal regulations governing medical diagnostic devices and for regulating laboratory operations, respectively; the former chief executive of Adaltis US, Inc., manufacturer of the device used to run the invalid tests; the College of American Pathologists, the private accrediting organization responsible for certifying the laboratory's compliance with federal and state regulations on behalf of CMS and the state; and the Maryland Department of Health and Mental Hygiene.

In fact, it was Ms. Turner's complaint in December 2003 that triggered investigations by the state, CMS, the Joint Commission for Accreditation of Healthcare Organizations (JCAHO), and CAP, between January and March. The investigations confirmed Ms. Turner's allegations that, during a 14-month period between June 2002 and August 2003, Maryland General Hospital issued more than 450 questionable HIV and hepatitis test results to hospital patients. During this time period, the hospital laboratory was inspected and accredited for two years by CAP, receiving CAP's Accredited with Distinction certificate (standard for CAP-accredited labs). Despite an earlier anonymous complaint by Ms. Williams and several colleagues, the state also was unable to identify the problems, and serious deficiencies in two key departments of the lab went undetected by CAP and the state until January.

I should also point out that the ongoing faulty testing and related problems at the MGH lab were brought to the attention of the public only after former lab technician Kristin Turner filed a lawsuit.

This spring, inspectors from the state, CMS, and JCAHO concluded that laboratory staff had falsified federally instrument quality control results and reported patient results even though quality control checks failed. Learning of the problems by way of news reports, CAP conducted a complaint inspection in April, found similar deficiencies, and suspended accreditation of the lab's chemistry and point-of-care departments for 30 days.

To its credit, Maryland General Hospital conducted its own internal review and vigorously undertook efforts both to retest the affected patients and to revamp the lab's leadership and operations.

Fortunately, retesting verified the accuracy of the overwhelming majority of the HIV and Hepatitis C tests. In addition, Maryland General has made enormous strides in improving its lab operations so that patients receive test results that are accurate and reliable.

Nevertheless, Mr. Speaker, this is a situation that caused great distress to the community that Maryland General serves, and I should note that I live in that community and have received care at Maryland General Hospital. This is a situation that could have put many lives in jeopardy and one that simply should never have occurred given the regulatory safeguards that exist to ensure quality testing.

Mr. Speaker, Congress recognized the importance of ensuring that all Americans receive accurate diagnostic test results when it enacted federal standards for medical laboratories under the Clinical Laboratories Improvements Amendments Act of 1998, now known as "CLIA." Under CLIA, the Centers for Medicare and Medicaid Services (CMS) were charged with developing and implementing regulations to ensure that all labs conform to strict federal standards.

Pursuant to CLIA regulations and agreements between CMS and the states, clinical laboratories that choose to be accredited by

CAP or one of the five other private accrediting organizations are "deemed" to be in compliance with federal and state regulatory requirements and can bill for services provided to Medicare beneficiaries.

Mr. Speaker, there is no doubting the fact that CLIA has made medical testing more accurate and more reliable and, surely, the overwhelming majority of labs do their best to conform to these high standards. Unfortunately, the Maryland General case clearly demonstrates that not all laboratories will play fair and that the current system does not guarantee that serious instances of noncompliance will be detected or corrected.

Testimony before the Subcommittee indicated that, in the Maryland General Hospital case: laboratory supervisors failed to implement quality control measures and deliberately masked lab deficiencies from inspectors from CAP and the state; employees who complained were subject to retaliation and intimidation; state and CAP inspection teams were unable to identify or verify serious ongoing deficiencies during accreditation and complaint surveys; and enforcement entities failed to share information about reports of deficiencies, investigative actions taken, and their investigative findings.

Since our hearings concluded, another CAP-accredited laboratory in my state, Reference Pathology Services of Maryland, had its CAP accreditation and state license revoked because of longstanding deficiencies related to testing for sexually transmitted diseases and cervical cancer. This case and other information brought to the Subcommittee's attention suggest that at least some of the problems that occurred at Maryland General are not unique to the Maryland General case.

Chairman SOUDER and I have asked the Government Accountability Office (GAO) to examine a number of issues related to the enforcement of federal standards for labs and I expect that investigation to tell us more about the prevalence of such problems.

For now, it is unclear how many other laboratories may be experiencing such problems and, certainly, one would hope the number is few. But the record gives us little assurance that what happened at Maryland General could not occur elsewhere and I believe the Maryland General case reveals weaknesses in the current system for ensuring compliance with federal clinical laboratory standards.

The bill I am introducing today aims to correct the weaknesses that are apparent:

The Clinical Laboratory Compliance Improvement Act of 2004 seeks to improve compliance with laboratory standards by (a) facilitating the disclosure and detection of deficiencies by employees and (b) increasing cooperation and accountability among entities involved in the accreditation and monitoring of federally regulated medical labs.

Specifically, the bill would amend Section 1846 of the Social Security statute to:

(1) Establish whistleblower protections for employees of clinical laboratories and providers;

(2) Require the Centers for Medicare and Medicaid Services, state health agencies, and private laboratory accrediting organizations such as CAP to share information about reports of deficiencies and investigative activity undertaken pursuant to such reports;

(3) Require that standard accreditation surveys be conducted without prior notice to the provider or clinical laboratory facility to be surveyed; and

(4) Require the Secretary of Health and Human Services to submit an annual report to Congress describing how CMS, private accrediting organizations, and state health agencies responded to reports of deficiencies during the preceding year.

The whistleblower provisions would facilitate reporting of deficiencies by: Requiring that participating providers and clinical laboratories post a conspicuous notice advising employees how and to whom to report deficiencies; prohibiting retaliation by providers and clinical laboratories against employees who report deficiencies to CMS, accrediting organizations, or state health agencies; and establishing a federal cause of action for employees who are retaliated against for reporting deficiencies.

With regard to unannounced inspections, the bill sets forth a civil monetary penalty of up to $2,000 for persons who provide notice to a lab or provider about the timing of a survey.

Mr. Speaker, it is sad but true that we cannot afford to take it for granted that all laboratories will approach compliance with laboratory standards in a good faith manner, or even that deficiencies will be discovered when conscientious lab employees want to disclose them.

The Clinical Laboratory Compliance Improvement Act of 2004 would reduce the likelihood that serious laboratory deficiencies will escape the notice of entities charged with ensuring compliance with the standards that we in Congress have established to ensure a high standard of healthcare for all Americans.

I urge my colleagues to join me in demonstrating their support for strengthening our national system for ensuring accuracy and accountability in medical laboratory testing.

I invite my colleagues to cosponsor this important legislation.

Finally, I want to thank my Subcommittee counsel, Tony Haywood, as well as Jolanda Williams, Trudy Perkins and Kimberly Ross of my staff for their tireless work on this issue.

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## PERSONAL EXPLANATION

## HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. MATSUI. Mr. Speaker, I was absent on Friday, October 8, 2004, and missed the rollcall votes ordered, due to illness.

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## PERSONAL EXPLANATION

## HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall votes 494–497, 502, 505, 507–508, 510–512, 517, 518, 520–524, and 526–527. Had I been present, I would have voted "aye" on rollcall votes 495, 496, 497, 502, 505, 507–508, 510, 511, 512, 517, 518, 520, 521, 522, and 527. I would have voted "nay" on rollcall votes 494, 523, 524 and 526. Mr. Speaker, I ask unanimous consent that my statement appear in the permanent RECORD.

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## CONFERENCE REPORT ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

SPEECH OF

## HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in opposition to H.R. 4520, the so-called American Jobs Creation Act, because it is just another example of the Republicans' seriously misplaced priorities. Instead of closing corporate tax loopholes to fund housing, education, and veterans' programs, the Republicans decided to give 276 new tax breaks in industries from oil and gas corporations to tackle boxes and ceiling fans makers. Instead of encouraging companies to create jobs in the U.S., the Republicans chose to reward companies that export jobs overseas. Instead of helping six million working families make ends meet, the Republicans decided to strip the overtime protections in the Senate bill and erode the 40-hour work week. Instead of regulating tobacco, a drug that kills 400,000 people every year, the Republicans gave tobacco companies a bail out. It seems the Republicans are interested in helping big businesses avoid paying their fair share of taxes and subsidizing the tobacco industry, even if it is at the expense of American workers and families.

The Republicans rammed through those corporate taxes cuts, although corporate taxes are at their lowest level since the 1930s. The Government Accountability Office recently revealed that over 60-percent of large corporations do not pay any taxes. In fact, a recent study of 275 of the Fortune 500 companies revealed that those companies alone have avoided paying over $175.2 billion in owed taxes.

The Republicans claim the tax cuts for corporations in H.R. 4520 will not add to the largest deficit our country has ever faced. However, a study by the Center for Budget and Policy Priorities reveals that once all their cost-hiding gimmicks are stripped away, this bill will put us at least $80 billion more in debt than we are today. The increase in debt will mean more cuts to vital programs, such as children's health care and homeland security. This new round of tax cuts is a continuation of the failed Bush economic policies that turned a federal surplus into deficit. We do not need more of the same, we need a new direction.

We have lost a net total of over one million jobs since President Bush took office. With the passage of H.R. 4520, we are at risk of losing even more American jobs. H.R. 4520 adds even more incentives for corporations to ship jobs overseas. But, not only are Republicans intent on aggravating our already dismal jobs picture, they are also acting to severely undermine the quality of jobs that do stay in our country.

The few new jobs that have been created in the past few months pay an average of $9,000 less than the jobs they are replacing and many lack affordable health benefits. Yet, the Republican conferees rejected a Senate provision in H.R. 4520 that would have restored six million workers' right to overtime that the Administration took away earlier this year. The Republicans have total disregard for the fact that costs for basic necessities, like health care and energy, have skyrocketed and that families must make do with much less income.

What H.R. 4520 did include was a $10 billion bail out for the Big Tobacco—that is equal to the tobacco industry's advertising budgets for one year. In another win for the tobacco industry, the Republicans refused to include the Senate to allow the Federal Drug Administration to regulate tobacco products. According to recent statistics, more than 400,000 people die each year from tobacco-related diseases and, if action is not taken, more than five million children living today will ultimately die as a result. We cannot afford this loss of life or the $89 billion in annual public and private health care costs attributable to tobacco. The passage of H.R. 4520 shows that not only do the Republicans have complete disregard for our fiscal health, but our children's physical health as well.

H.R. 4520 is a shameful bill that will make millions of Americans pay through cuts to vital programs, like health care for children and heating assistance for seniors, cuts to U.S. jobs, and cuts to workers' protections in order to subsidize big business and special interests.

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

## HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention, and prosecution, border security, and international cooperation and coordination, and for other purposes:

Ms. ROYBAL-ALLARD. Mr. Chairman, in November 2002, Congress authorized the creation of a bipartisan 9/11 Commission to prepare a report on the status of our intelligence prior to the terrorist attacks on September 11, 2001, the effectiveness of our response to those attacks, and to make recommendations to strengthen identified weaknesses. I applaud the work of the commission and support their recommendations to strengthen our country against attacks at home and abroad.

It is critical to our national security that Congress act quickly and thoughtfully to implement the 9/11 Commission's recommendations. I was hopeful, therefore, that the Republican leadership would put the interest of the country ahead of political considerations and bring to the floor a bipartisan bill that would protect our country from terrorist attacks. Unfortunately, the bill before us, H.R. 10, as currently written, fails to meet this standard, and I must reluctantly oppose it.

H.R. 10 is full of extraneous provisions that have nothing to do with the 9/11 Commission recommendations. The Republican leadership has added highly divisive immigration-related provisions which have been criticized by the chairman and vice chairman of the 9/11 Commission, the families of the 9/11 victims, and even the White House. For example, the bill seeks to deport people without due process, punish those seeking asylum, return victims of torture to cruel governments, and prevent hardworking individuals from obtaining basic forms of identification.

The serious problems with H.R. 10 could have easily been avoided had the Republican leadership written this bill in a bipartisan manner. Instead, they removed provisions that were passed in committee on a bipartisan basis. At a time that our country is at war and we are threatened on a daily basis by potential terrorist attacks, it is unconscionable that the Republican leadership has turned the bipartisan recommendations of the 9/11 Commission into a politically divisive piece of legislation.

The Senate has proceeded in a bipartisan manner and passed, by an overwhelming vote of 96 to 2, an intelligence reform bill that follows the framework recommended by the bipartisan 9/11 Commission. It is my sincere hope that the serious problems with H.R. 10 will be resolved when the final product emerges. Americans are trusting that Congress will push partisan politics aside and unite in support of legislation that will truly make this country safer.

## FREEDOM FOR FIDEL SUÁREZ CRUZ

## HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Fidel Suárez, a political prisoner in totalitarian Cuba.

Mr. Suárez Cruz is a farmer and pro-democracy activist in totalitarian Cuba. He is a member of the Party for Human Rights in Cuba. Mr. Suárez Cruz also heads the private library "San Pablo." Because of his admirable beliefs in freedom, democracy, and human rights, Mr. Suárez Cruz has been the target of the nightmare called the Castro regime.

According to Amnesty International, in 2000 Mr. Suárez Cruz was sentenced to 6 months of restricted freedom for "disobedience" for fishing in a restricted area: however, this sentenced was changed to imprisonment in the totalitarian gulag because he was arrested for carrying out peaceful political activities.

On March 18, 2003, as part of the dictator's condemnable crackdown on peaceful pro-democracy activists, Mr. Suárez Cruz was arrested because of his belief in freedom and human rights. In a sham trial, he was "sentenced" to 20 years in the inhuman, totalitarian gulag.

Mr. Suárez Cruz is currently languishing in an infernal cell in the totalitarian gulag. These depraved conditions are truly appalling. The State Department describes the conditions in the gulag as, "harsh and life threatening." The State Department also reports that police and prison officials beat, neglect, isolate, and deny medical treatment to detainees and prisoners, including those convicted of political crimes. It is a crime of the highest order that people who work for freedom are imprisoned in these nightmarish conditions.

Mr. Speaker, Mr. Suárez Cruz is suffering in a grotesque gulag because he believes in freedom. My Colleagues, we cannot allow peaceful pro-democracy activists to languish in the depraved prisons of tyrants. We must demand immediate freedom for Fidel Suárez Cruz and every prisoner of conscience in totalitarian Cuba.

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

## HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security and international cooperation and coordination, and for other purposes:

Mr. RUPPERSBERGER. Mr. Chairman, this is a historic moment for our Nation as we take a giant step forward in national security by reforming our intelligence community to make our citizens and our communities safer. These reforms include the establishment of a National Intelligence Director and the implementation of new information sharing strategies to break down old barriers between agencies. While no legislation is perfect and I believe the Collins/Lieberman version of Intelligence Reform legislation passed in the Senate this week is a better solution, I stand in support of H.R. 10 and vote for this bill today. These reforms move us towards a safer and stronger America.

In the course of the House debate of H.R. 10, many concerns have been raised about immigration and I would like to speak about this particular component of the bill. I remain convinced that illegal immigration is a serious issue that needs to be addressed by the Congress. People who circumvent our Nation's laws and enter this country illegally should not be here. I believe this is central to our national and economic security for hard working Americans and others who come to this country legally.

But I also believe it is important that we remember the purpose of this bill and what brought us to this historic point in time. The purpose of this bill is to reform our Intelligence Community; to lay the foundation we need to protect Americans today. The 9/11 Commission specifically addressed Intelligence Reform. With five Republicans and five Democrats, the Commission spent 20 months on an exhaustive examination of millions of pages of documents, countless interviews and hearings, and hundreds of hours of debate—and produced a bipartisan, unanimous list of 41 recommendations. This report provided the Congress with a real, workable and effective blueprint that became the foundation of the Collins/Lieberman bill that passed the Senate 96–2 on October 6, 2004.

So while I applaud some of the measures in H.R. 10 and have ultimately chosen to vote for this bill because it provides many measures to protect all Americans and our communities, I remain concerned about some of the extraneous provisions it includes like immigration. There are enormous differences between illegal aliens and legal immigrants. There are enormous differences between immigration and terrorism. All of these issues are incredibly important to the fabric of our Nation and deserve to be considered in full and separately.

## CORRECTING THE WASHINGTON POST RECORD ON THE VA

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to set the record straight on what is happening to recently-separated veterans who seek benefits and services from the Department of Veterans Affairs. There has been significant progress made in the last 3 years; some of that progress was reported correctly in a Washington Times article this past Sunday, but the headline in a piece from the Washington Post that appeared on the same day and was quoted by one of my colleagues on Monday made it seem that VA is totally unprepared to provide disability, compensation, rehabilitation and other benefit to America's veterans.

It is inaccurate to describe the current inventory of 323,000 claims for VA benefits as a "backlog," if by that term you mean to imply that veterans are waiting unnecessarily for an answer from VA. The truth is that at any given time, the VA is actively processing more than 250,000 claims while receiving more than 70,000 new and reopened claims each month. It's normal for the VA to have a working inventory of at least 250,000 claims.

In fact, Mr. Speaker, at the request of this President, Congress provided additional funding to increase the number of VA claims processors by more than 1,300 since he took office. When we authorized these new employees, we effectively overstaffed the VA so that experienced employees would be available to train these new employees without an adverse effect on the timeliness of claims processing. These new employees are now fully trained and productive, and there should be no reduction in services to veterans.

With respect to meeting veterans' benefits needs, the Washington Post article cited recently one of my colleagues failed to mention any of the documented improvements in VA claims processing. In the past four years, the VA has reduced the average time to decide disability claims from a high of 233 days to 160 days, reduced the percentage of pending claims for over six months from 48% in 2002 to 21% now, reduced rating-related claims from 432,000 in 2002 to 323,000 currently and is on track to meet the VA goal of 250,000.

Most importantly, VA has increased the number of claims decisions from an average of 40,000 per month in 2001 to nearly 70,000 in 2004. These are significant accomplishments by the Bush Administration on behalf of veterans, and all of us should be proud to have supported the increased funding which the Administration requested to make this possible.

Mr. Speaker, the Washington Post article lead readers to believe that there was some delay in providing benefits to a soldier on active duty, and that the VA is unresponsive to America's veterans. In fact, I am advised that VA has already evaluated this particular soldier's disabilities and will begin awarding benefits on the first the day he is discharged from the Army. As all of my colleagues should know, VA cannot provide veterans benefits to a soldier until he or she is discharged from active duty.

The Departments of Veterans Affairs and Defense are working hard to ensure that military members have a "seamless transition" from active duty; this means prompt decisions on claims for disability benefits and quality health care when needed. Even before servicemembers are discharged, VA provides transition services at 136 military bases so that servicemembers can ask questions and be briefed about their VA benefits and how to file for those benefits as they approach discharge. The VA has even assigned its own professional staff to Walter Reed Army Medical Center, the National Naval Medical Center at Bethesda and the Landstuhl Army Medical Center in Germany to ensure our wounded American heroes will be aware of their VA health care and benefits long before they are discharged.

Mr. Speaker it is often said that you shouldn't argue with an entity that buys ink by the barrel, but the Washington Post has its facts wrong in this case. This is not that surprising since the Post has not reported on any of the hearings—and we've had many—on these issues held by either the House Committee on Veterans Affairs which I chair and the House Armed Service Committee during the past year. Had they done so, their readers could have learned about the problems which have faced separating service members in the past and what is being done today to prevent those problems from occurring in the future.

Both the Armed Forces and VA are working more closely together than in any previous conflict to ensure that the benefits which service members earned by their faithful service are delivered in a timely and compassionate manner. Members who attended those hearings learned that while mistakes have occurred, no one is more dedicated to ensuring that these deserving veterans than the current VA Secretary Anthony Principi and his able staff. The VA, the Congress and the President are all working together to make sure that our newest generation of combat veterans are taken care of. They deserve nothing less.

## PERSONAL EXPLANATION

### HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. ISSA. Mr. Speaker, if I had been present for the vote on the conference report for H.R. 4200, "The National Defense Authorization Act for FY 2005," and conference report for H.R. 4567, "The Department of Homeland Security Appropriations Act for FY 2005," I would have voted "yea" on both.

## H.R. 1047, MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. CRANE. Mr. Speaker, I rise in strong support of H.R. 1047, the Miscellaneous Trade and Technical Corrections Act of 2004. This important, bipartisan legislation is long overdue, and I am pleased we have the opportunity to consider the conference report this evening.

H.R. 1047 is a compendium of trade provisions drawn largely from legislation introduced by individual Members. The bill contains provisions involving the temporary suspension of duties on narrowly defined products, miscellaneous trade items, and technical corrections to the Trade and Development Act of 2000.

There are a number of provisions in this bill that are noteworthy, including several that I have long championed. For instance, I am pleased that the legislation follows in the tradition of both the 2000 and 2002 Trade Acts, by including a reduction of the tariff for certain types of wool used in the production of men's suits.

This reduction in tariffs is important not only as a matter of trade policy, but also to suitmakers across the country, who not too long ago saw their industry decimated by high tariffs. Reducing these tariffs has stabilized the domestic industry, and nowhere is this more apparent than at Hart Marx, the only publicly-traded company manufacturing suits in America today.

I had the opportunity to tour the wonderful Hart Marx facility in Des Plaines, IL, this past August, and saw firsthand how important that tariff reduction is for the nearly 600 employees at Hart Marx, many of whom are my constituents.

I am therefore most pleased that this legislation will further reduce the tariff on worsted wool. History shows us that this will not only save jobs, but even add to jobs, in Illinois and throughout the country.

I urge my colleagues to support this important legislation.

## HAITI SMOLDERING ON THE EDGE OF CHAOS

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### HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Ms. WATERS. Mr. Speaker, on February 29 of this year, President Jean-Bertrand Aristide, the first democratically elected President of Haiti, was overthrown in a coup d'etat. This coup d'etat was led by heavily armed thugs and killers, many of whom are former members of the Haitian Armed Forces which were disbanded in 1995 and are notorious for their history of human rights violations. These thugs and killers have refused to disarm and now control several Haitian towns and cities, where they terrorize the local population. They are demanding the reestablishment of the Haitian Armed Forces, and they even had the gall to claim that the Haitian Government owes them more than 10 years of back pay.

The following research paper, entitled "Haiti: Smoldering on the Edge of Chaos," is an insightful analysis of the crisis in Haiti brought about by these thugs and killers. The paper was written by Jessica Leight, a research fellow at the Washington-based Council on Hemispheric Affairs, a nonpartisan, nonprofit research organization. I hope my colleagues find Ms. Leight's analysis informative.

### HAITI: SMOLDERING ON THE EDGE OF CHAOS

Six months after the abrupt and violence-laced departure of constitutionally-elected President Jean-Bertrand Aristide, and over three months after the deployment of U.N. peacekeeping units which were hailed as an instrument for order and stability for this long-troubled Caribbean island, Haiti remains poised on the edge of chaos. Just as nature in the form of a tropical storm that has managed to kill as many as 3,000 Haitians, thousands more have died over the past decade, victims of right-wing military and paramilitary forces. Today, ruled by a bumptious, ineffectual and illegitimate cabal whose only validity is supplied by U.S. fiat, Haiti now faces the imminent de facto reconstitution of its brutal Haitian Armed Forces (FADH), dissolved by Aristide in 1995. Across the island, bands of former soldiers are seizing police stations and establishing themselves as the de facto local power, at times displacing the remnants of the national police and placing large swaths of the country under what is effectively outlaw rebel jurisdiction. Meanwhile these soldiers demand the restitution of unpaid wages over the past ten years for such services as torturing and murdering civilian victims.

These soldiers of ill-fortune have met little, if any, resistance from the rump Washington-imposed interim government of Prime Minister Gerard Latortue, and at times they have received open encouragement from Latortue's "cabinet members," most notably Interior Minister (and former general) Herard Abraham and the island's notorious justice minister Bernard Gousse, both of whom have suggested that former soldiers—some of the most prominent among whom have already been convicted in absentia for human rights violations committed during the military government of 1991–1994—could simply be integrated into the police force.

### AN ARMY REBORN

In the face of these developments, FADH leaders are gathering strength in a bid to retake political power and restore the repression for which the army could always be counted to provide throughout most of Haiti's turbulent twentieth-century history, the U.N. stabilization force and the international community alike have remained almost deafeningly silent. At the present time, the U.N. presence in Haiti is more myth than fact, while a handful of renegades with a military background, in conjunction with the tiny opposition business and professional Group of 184, have the clearest access to the Latortue regime and its ability to obtrusively impact on the daily lives of the population. Within Haiti, international troops drawn principally from the former rogue armed forces of Brazil, Argentina and Chile, which were better known for the repression of their own citizens during previous eras of military rule than for their nation-building skills, are seemingly paralyzed by inaction. These U.N. forces have made only the paltriest of efforts to preserve order in the face of paramilitary power-grabs by ex-FADH and police figures like Louis-Jodel Chamblain and Guy Philippe. They have proven better at stalking pro-Aristide Lavalas party's political forces than well-armed renegade former soldiers.

In Washington, a State Department preoccupied by Iraq and North Korea appears to have all but overlooked the island's existence; and in New York, a craven lack of political will is in evidence, accompanied by the kind of Machiavellian plotting by the U.S. and French U.N. Security Council delegations that was witnessed when that body refused to provide an international police force to defend Arisitide earlier this year. Nor is U.N. Secretary General Kofi Annan any more sensitive to the plight of the Haitian populace than he was just before Aristide's downfall, when he provided cover for the U.S. insistence that the former president deserved to be forced into exile because he was a failed leader.

There has yet to be any kind of clear acknowledgment of the magnitude of the threat that Haiti's already battered democratic institutions face from the military resurgence on the island, much less the strategy which will be used to disarm these illegal militias as well as clearly establish the authority of a trained, professional police force, and bring to justice the same former soldiers accused of human rights abuses who are now making outrageous demands for compensation. Quite to the contrary, as the exoneration of mass murderer Louis Chamblain by Justice Minister Gousse and the island's tainted courts graphically exemplifies, Haiti is still a very sick country.

Thus as the clock continues to tick on a peacekeeping mission originally authorized for only six months, it seems increasingly likely that the United Nations will exit Haiti much as the United States and Canada precipitously did in 1996: leaving behind a profoundly unstable political situation dominated by heavily armed factions, as thousands of weapons remain in the possession of right-wing vigilantes as well as some in the hands of pro-Aristide supporters. The situation is made even more volatile today by the former military leadership's aspirations to restore both the army and the same reign of terror it applied during the decades-long Duvalier and post-Duvalier military dictatorships, as well as under the brutal 1991–1994 military junta led by the brute General Roaul Cedras.

### THE HAITIAN MILITARY: RISING FROM THE ASHES?

Among the most alarming signs of military resurgence within the last sixty days was the acquittal on August 17, in a show trial, of former army captain and paramilitary leader Louis-Jodel Chamblain, previously convicted in absentia for the 1993 murder of prominent Aristide supporter Antoine Izmery. This outrageous verdict, achieved under the aegis of Latortue's disreputable justice minister, Bernard Gousse, was reached after a ludicrously brief overnight trial in which the prosecution called only one witness who proved to be entirely irrelevant to the case. This earned for the interim government opprobrious remarks on the editorial pages of the New York Times and the Washington Post, as well as widespread denunciations from human rights organizations, and even from the State Department, which bears much of the blame for the current dysfunctional rule of the island. However, the subsequent rash of self-serving individual power plays on the part of the ex-soldiers, and the government's utter unwillingness to confront or even denounce such challenges to state authority, has received virtually no attention outside of Haiti. This development has to be rightfully considered part of the same dangerous phenomenon which includes the growing power of former military figures like Chamblain, as well as sly ideologues like the grinning Justice Minister Gousse, who was clearly complicit in orchestrating Chamblain's acquittal.

For example, only six days after the conclusion of the Chamblain trial, the Haitian Times reported on August 18 that the interim government had appointed Winter Etienne—a leader of the bloody armed uprising in Gonaives that preceded Aristide's exile, who is also the coordinator of the National Reconstruction Front, a party headed by former army officers, including rebel leader Guy Philippe. The last named became the director of the National Port Authority in Gonaives, the very city he earlier had helped sack. At the Ministry of Interior, former ranking military figure Minister Herard Abraham continues to add former high-ranking military cronies to his staff; among the recent arrivals is former colonel Williams Regala, a particularly sinister aide to former dictator General Henri Namphy and undoubtedly a main plotter of the massacre of voters during Haiti's aborted November 29, 1987 election. Regala joins another former colleague, Colonel Henri-Robert Marc-Charles, a member of the Cedras-led military junta that overthrew democratically-elected President Aristide 1991, who currently is the target of a (as yet un-enforced) judicial order requiring his imprisonment prior to trial for alleged involvement in a peasant massacre in Piatre in March 1990.

### EROSION OF AUTHORITY OF THE MOST PATHETIC GOVERNMENT IN THE CARIBBEAN

Given these pro-military signals on the part of the Latortue government, which consistently has demonstrated its sympathy for former military leaders at the same time it officially rejects the idea of reconstituting the armed forces on the grounds that such a momentous step should be taken only by the next elected government, it is hardly surprising that bands of former soldiers are making ever more far-fetched bids for power in municipalities across Haiti. On August 17, five officers of the national police's riot squad (CIMO) returned to their Port-au-Prince headquarters asserting that a group wearing the garb of the disbanded military had attacked them and seized their weapons and uniforms. Subsequently, Radio Kiskeya reported that other CIMO officers have accused the government-appointed director of the National Police Administration and former military figure, Destorel Germain, of organizing the attack along with a number of demobilized soldiers seeking reinstatement, an accusation that raises the specter of collaboration between some of the more predatory elements of the police force and bands of ex-soldiers, in the latter's fight for legal status.

Former military elements already have begun to establish their control over a series of small urban areas, particularly in the desperately poor Central Plateau region. On September 1, a large force of 150 former soldiers took control of Petit-Goave, southwest of the capital, and seized ten police officers as hostages the following day in neighboring Grand-Gove. This was in retaliation for the arrest of four soldiers by police officials. The two sides subsequently agreed to an exchange of prisoners. Also on September 2, more than fifty heavily armed ex-soldiers demonstrated in Gonaives, calling for the reconstitution of the army and the restoration of their back pay. Once there, they were met with open arms by the fiercely anti-Aristide rebel group, the Gonaives Resistance Front—itself largely constituted by former soldiers—which expressed its support for the immediate formation of a legally reorganized and retrained army.

Even more alarming was the response of the official government authorities to the Gonaives march. Rather than denouncing this clear threat to public order on the part of a "gang of thugs" (as they earlier had been characterized by Secretary of State Colin Powell), departmental delegate Elie Cantave declared that the former soldiers had no aim other than to help the people of that city as he prepared to negotiate with them over their taking over as their headquarters a state school located within the city. Further south in Jacmel and on the same day, yet another contingent of former soldiers arrived to reinforce with arms and ammunition a group of their colleagues occupying the office of Radio Ti Moun. And in perhaps the most symbolically important incident, former soldiers occupied the police station in Belladere on the Dominican border on September 5 and immediately repainted the facility in yellow, the traditional color of FADH barracks. Simultaneously, the band of ex-soldiers in control of Petit-Goave was swelled by new arrivals, and coast guard installations in Les Cayes remained under the control of ex-soldiers.

The first evidence of a response on the part of the government and the U.N. peacekeeping force came on September 7, when Haitian police, backed by Argentine troops, regained control of Saint-Marc a day after former soldiers took control of the city sixty miles north of Port-au-Prince. In response, rebel leader Sergeant Remissanthe Ravix declared on behalf of the ex-soldiers,. "We'll fight to the last man. We'd rather die in combat instead of dying on our knees. They [government authorities] came to power thanks to our weapons they now declare illegal. If they think they can deny us our rights, they will know the same fate as Aristide. The fact that we left Saint-Marc does not mean we gave up. We'll teach a lesson to those who want to destroy the military." Ravix, once implicated in a brutal 2002 massacre committed by former FADH personnel in Belladere, is now the most visible and rambunctious spokesman for the ex-soldiers' movement, which is on the brink of maintaining de facto control over large swaths of Haiti.

ESCALATING VIOLENCE, INEFFECTIVE RESPONSE

The government's show of resolve in Saint-Marc on September 7 hardly deterred the ex-soldiers in their attempts to establish themselves as a rival security force. Also, on September 7 in Port-au-Prince, two ex-soldiers, reportedly from Petit-Goave, were shot and killed by riot police near the Prime Minister's office in Musseau after firing at a police station. According to Police Commissioner Fritz Gerald Appolon, the two were riding in a seized police car that had been reconfigured as an army vehicle, and were fatally wounded after one of them shot at an officer who had called upon him to lay down his weapon. Ravix denounced the incident as an "assassination" and called for retaliation across the country. The following day, in response, a group of ex-soldiers attacked the police station in Hinche and hundreds of former FADH and its supporters from other anti-Aristide factions paraded in Cap-Haitien demanding ten years of back-pay. These former soldiers already had begun arrogating police functions to themselves inside of Cap-Haitien, including going out on surveillance patrols. In Petit-Goave, rebels took four police officers hostage and seized their weapons, though they were released later that day.

In the face of this wave of new challenges, the government and U.N. peacekeepers alike appear virtually helpless. Prime Minister Latortue and his self-caricaturing government have made bold declarations that peacekeepers will "imminently" retake control of all government buildings, but the prospect of any such action occurring any time soon appears to be nothing more than a mixture of bluff and fantasy. The government has set up a committee to negotiate with the soldiers and offered as an initial concession, the integration into the police force of up to 1,000 former soldiers of a body that once numbered over 6,000 in strength. However, Ravix refused to meet with the commission, declaring in Petit-Goave, "The government doesn't need to reconstitute us. We are here. We have always been here. The only thing the government has to do is pay us the 10 years, seven months they owe us and let us do our jobs." On September 12, the government did succeed in obtaining the commitment of a group of representatives of former military personnel (of which Ravix was not a member) to a vaguely worded declaration asserting that "The matter of the military will be dealt with through dialogue; the authority of the Government must be respected; [and] the voluntary and peaceful evacuation of public buildings actually under the control of demobilized soldiers must be done . . . within the framework of an agreement between the two parties."

Whether this vague rhetoric will produce any concessions in practice on the part of the ex-soldiers remains to be seen, but subsequent demonstrations in their support in St.-Marc and Petit-Goave, on September 13 and a march of ex-soldiers wearing military uniforms in the capital on September 15 sent a clear signal that the militant remnants of the FADH are far from ready to yield their arms to civil authority.

STABILIZATION MISSION IS TOO WEAK TO STABILIZE

At the same time that the government has shown itself utterly incapable of (or uninterested in) controlling the rebel bands, the U.N. Stabilization Mission (MINUSTAH) has disavowed itself of any responsibility in dealing with the ex-soldiers. Spokesman Toussaint Kongo-Doudou declared, "We have no comment on the subject because it is a government problem. It is not a problem of the MINUSTAH. This is a Haitian affair." As astounding as this statement appears, given that among the principal points of MINUSTAH's mandate are the disarmament of armed factions—of which the ex-soldiers are currently the most powerful—the establishment of a climate of security in advance of national elections on the island is a must. The acknowledgement of a stalemate when it comes to security issues is an all too accurate description of the current limitations of the undersized U.N. force now in Haiti. To date, only 2,755 of an authorized 6,700 U.N. troops have arrived in Haiti, making deployments in the north and east of the country impossible, and only a few hundred of the 3,000 civilian police officers authorized have been trained and deployed. Thus the U.N. is unable to maintain a security presence in many of the more remote regions of the countryside, and has yet to launch the disarmament program that is a fundamental prerequisite for the reestablishment of some measure of political stability.

Moreover, the U.N. force's Brazilian commanders have openly warned that they do not have enough troops to stop renewed conflict. Likewise, Argentine Defense Minister Jos Pampuro highlighted the particularly troubling prospect that renewed skirmishes could have taken place on September 18, the anniversary of the dissolution of the army by Aristide. While additional troops from Sri Lanka, Nepal, Spain and Morocco, among others, are expected to bring the total MINUSTAH force to 5,000 members by the end of October, for the moment, the U.N. peacekeepers have been rendered completely incapable of fulfilling their most basic function: preserving order and a measure of governmental authority.

THE SOUND OF SILENCE: WASHINGTON, NEW YORK TURN THEIR EYES AWAY FROM PORT-AU-PRINCE

Perhaps the most alarming aspect of the rapidly deteriorating security situation in Haiti is the extraordinary indifference, aside from some storm-related humanitarian aid in response to the natural catastrophe that just hit Haiti, that has been exhibited by the international community in the face of this creeping coup being executed by the former FADH. The Security Council issued only an anemic statement on September 10 in which it stressed "the urgency of disbanding and disarming all illegal armed groups," but offered not even the whisper of a commitment to ensure that this task is in fact achieved. The Organization of American States has remained silent, as has the State Department, and much of the Caribbean Community, which over the past six months had taken the most courageous stands on unfolding events in Haiti. CARICOM is now riven by internal divisions over whether to readmit the Latortue government into CARICOM.

Also strangely absent is the recently appointed U.N. Special Representative to Haiti, Chilean diplomat Juan Gabriel Valdés. His selection was widely hailed at the time as evidence of a new Latin American commitment to inter-hemispheric cooperation, but he has since all but disappeared from carrying out his admittedly difficult mission. While his capacity for action may be constrained, Valdés should at the very least be actively attempting to convey to the Security Council, the Bush administration and the leaders of other hemispheric bodies the gravity of the unfolding military takeover in Haiti. Unfortunately, up to now, Haiti's plight has been overshadowed by the persistent bloodshed in Darfur, Iraq, and Afghanistan, or has been patronizingly dismissed as yet another round of violence in a perennially unstable country. Additionally, the natural disaster that occurred to the island landed a devastating blow to its ability to function.

Haiti has reached a point of crisis, and decisive intervention is required if any shred of, or hope for, Haitian democracy is to be preserved. However shorthanded and overburdened its staff may be, the task of convincing the international community of the necessity of such intervention falls first to the U.N. Stabilization Mission and to Valdés. Hopefully, in the coming months they will decisively demonstrate their commitment to ensuring that Haiti is not being abandoned by the international community yet again, or that leading U.N. authorities, including Valdés, will at least have the dignity of resigning from their assignment in protest of the cruel hoax now being unleashed on the island and its population.

## CONFERENCE REPORT ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

### HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Mrs. CHRISTENSEN. Mr. Speaker, the American Jobs Creation Act of 2004 is misnamed as it relates to my congressional district, the U.S Virgin Islands, because of changes it makes to our Economic Development Program. These changes could "likely cripple our Economic Development Commission (EDC) program, robbing it of many of the incentives it uses to lure mainland businesses to the islands, if companies decide to pull their investments, jobs and money out of the territory."

The conference report contains a new provision, not previously considered by either the House or Senate, which poses a serious risk to our EDC program. The Government of the Virgin Islands strongly opposes this provision as currently drafted. This provision, which was added in a closed door meeting with House and Senate tax writers over this past weekend and unveiled in the draft conference report late last Monday night, would require V.I. taxpayers to be physically present in the Virgin Islands at least 183 days in any tax year in order to be deemed a "bona fide V.I. resident" under the U.S. Internal Revenue Code. The new provision eliminates the alternative 3-year 122-day test included in the original Senate bill.

The new provision also restricts the type of income that can qualify for EDC benefits to V.I. source income. It would eliminate the possibility that some of an EDC beneficiary's U.S. source income that is "effectively connected" with a V.I. trade or business could qualify for tax reduction under the EDC program. The 1986 Tax Reform Act specifically permitted the Virgin Islands to reduce tax liability on income "effectively connected" with a conduct of a V.I. trade or business even when such income is sourced outside of the Virgin Islands in certain circumstances. Neither the House nor the Senate bill contained any provision on source of income rules.

Mr. Speaker, we recognize and accept that the genesis of this new provision is the fact that there have been participants of our EDC program that have taken positions that they are bona fide Virgin Islands residents when they did not in fact spend a significant amount of time in the territory. We also acknowledge that there have been situations where individuals have received EDC tax exemptions even though they continued to live and work in the United States. We agree that the rules governing this situation need to be clarified and made certain. And to that end, we look forward to working with the Treasury Department in crafting reasonable regulations which accomplishes these goals while preserving the essential elements of our program which was designed to promote fiscal autonomy for the Virgin Islands.

We encourage the Treasury Department to develop reasonable rules, post haste, that will ensure the integrity and effectiveness of the Virgin Islands EDC program and promote both tax compliance and economic growth. Without such rules, the impact of the conference report language on legitimate businesses in the Virgin Islands or on local government revenues could be enormous, creating the financial equivalent of a massive hurricane leveling the islands.

## HONORING TOM FILLIPPO

### HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. GERLACH. Mr. Speaker, I rise today to honor my constituent, Tom Fillippo, the President and CEO of Devault Foods in Chester County, Pennsylvania. This month, Tom will be honored at the Chester County Council of the Boy Scouts of America's 3rd Annual Distinguished Citizen Awards Dinner.

Tom grew up in Malvern, Pennsylvania and has remained in the area his whole life. He is committed to the community and county he grew up in and he currently serves as the Chair of the Council of Trustees at West Chester University. Tom is also the Chair of the Chester County Chamber of Business and Industry and of the Foundation at Paoli Hospital. In the past, Tom served as the Chair of the Chester County Industrial Development Authority. Today, he still sits on the Board of the Chester County Industrial Development Authority and is affiliated with the organizations that work within their authority. Tom is also been a member of the Board of Directors of the American Meat Institute and involved in other industry organizations.

Tom has served as Devault Foods' President and CEO since 1972 when he took over the family business from his father. Devault Foods began as a family-owned, one room butcher shop in 1949. The small business grew tremendously in the following years and, in 1963, Devault Foods began to supply Burger King with ground meat. This move gave an explosive boost to the business. In 1972, when Tom took over for his father, he wanted to expand the company's customer base. He made a business deal with Wendy's fast-food restaurant and became the fast-food chain's new meat supplier. Today, Devault Foods is one of Chester County's largest privately held businesses.

Outside of business, Tom has always been active and has participated in sports, particularly football. Tom played on the West Chester University football team that went to the Tangerine Bowl twice, and he was the head coach at General Wayne Middle School and at Malvern Prep football teams.

Mr. Speaker, I ask that my colleagues join me in honoring Tom Fillippo. As an outstanding businessman, community leader, philanthropist, and beloved family man, he is one of Chester County's and Pennsylvania's exemplary citizens and is most deserving of this House's recognition and kudos.

## HONORING CHARLES G. (CHIP) ROACH

### HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. GERLACH. Mr. Speaker, I rise today to honor Charles G. (Chip) Roach who was recently awarded the Pennsylvania Association of Realtors Distinguished Service Award.

Chip Roach is most deserving of this award in that he has worked for over 25 years with the Pennsylvania Association of Realtors; has held leadership positions on local, state, and national associations; and has proven himself to be a local leader whose performance of service and involvement in political and community activities has been extraordinary. This legacy of service has been in Chip's family for five generations. Today, he has two children in the business with him and a son who works as a developer in Colorado Springs, Colorado.

Chip Roach is a broker for Prudential Fox & Roach Realtors and for the Trident Group, a multi-service homeownership company in the Philadelphia area. Trident Group is the fifth largest provider of home services in the nation, with more than 3,200 sales associates in 60 sales offices spanning three states.

Currently, Chip is a director of the National Association of Realtors and the Pennsylvania Association of Realtors. Not only does Chip help oversee preeminent realty associations, but he also is a director at the Philadelphia Committee to End Homelessness and is a former director of the Employee Relocation Council.

Chip has served as the Chairman of the Board of Trustees of Rosemont College, the Main Line Chamber, and of Genesis, a relocation network of over 25,000 sales associates in the United States. Today, Chip is also the President of Fox & Roach Charities. Under Chip's leadership, the Fox & Roach Charities have donated over one million dollars to different organizations that are involved with providing housing for families in need.

Outside of work and his community contributions, Chip enjoys spending time with his wife, three children, and five grandchildren. Chip has been described as an upbeat person with a positive attitude that inspires those he works with. His wife describes him as always "on the go," and everyone always knows he is coming by his happy whistle and big smile.

Mr. Speaker, I ask that my colleagues join me today in honoring Chip Roach for his exemplary community service and the excellent work he has done in the Pennsylvania Association of Realtors. The Pennsylvania Association of Realtors Distinguished Service and National Award Chip received is a most prestigious honor and one that appropriately acknowledges Chip's outstanding contributions to his profession and community.

## HOLOCAUST MUSEUM TO HONOR TURKISH DIPLOMAT FOR SAVING JEWISH LIVES

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. LANTOS. Mr. Speaker, on October 26th, the Holocaust Memorial Museum will honor former Turkish diplomat Selahattin Ulkumen. Few honors anywhere have been more deserved.

In 1944, Mr. Selahattin was a young diplomat who stared down German military authorities on the occupied island of Rhodes, convincing them to rescind the deportation orders of 50 Jews and their families and saving them from certain death. He paid a painful price for his courage.

Today Rhodes is part of Greece, but it was part of the Ottoman Empire from 1522 to 1912 and under Italian control from 1912 through most of World War II. There were 1,700 Jews on the island when Germany took over Rhodes in 1943, after the death of Mussolini hastened the disintegration of Italian rule.

On July 19, 1944, the Gestapo ordered all Jews on Rhodes to report for "temporary transportation to a small island nearby." Everybody knew what that meant. They were to be transported—and not temporarily—to Auschwitz.

When the Jews were rounded up, Consul-General Ulkumen went immediately to the detention center and demanded the release of the Jews who were Turkish citizens, as well as their spouses and families. The German commander refused at first, but Ulkumen persisted, claiming that deportation of Turkish citizens would violate German-Turkish treaties and boldly asserting that neutral and neighboring Turkey would raise the matter to the level of an "international incident" if Turkish citizens were deported. In the eyes of Turkish law, he said, all citizens are equal.

The German commander finally relented, but insisted that only Jews with citizenship papers—a total of 13—would be released, not their spouses and families. Ulkumen, however, would not give ground. According to Turkish law, he said indignantly, the spouses and families of Turkish citizens ARE Turkish citizens. He was lying through his teeth. There was no such Turkish law. But the German commander fell for it, and, after a few days, agreed to release the spouses and families. In at least one instance, the husband of a Jewish Turkish citizen actually was taken off a train already bound from the Greek port of Piraeus to Auschwitz after Ulkumen won his point. Ulkumen also managed to win the release of some 25–30 Jews who were former Turkish citizens but had allowed their citizenship to lapse.

In all, according to the website of Israel's Yad Vashem Memorial Museum, Ulkumen managed to win the freedom and save the lives of some 50 Rhodes Jews. He was their only line of defense against the final solution. The remainder of Rhodes Jews all were deported to Auschwitz, where 90% of them perished.

The story doesn't end there. Shortly after the release of the Turkish Jews and their families, the Germans—perhaps having discovered that Consul-General Ulkumen had tricked them regarding Turkish law—took their revenge. They bombed the Turkish Consulate on Rhodes. Consul-General Ulkumen escaped harm, but his pregnant wife did not. She was seriously wounded—mortally, it turned out a few weeks later. But, before she died, she managed to give birth. Ulkumen himself died last year at the age of 89, but the product of that pregnancy, a son—now a 60-year-old man—will accept the Holocaust Museum's award on his late father's behalf.

Ulkumen went on to hold many distinguished positions in the Turkish foreign service before retiring in the 1970s. Yad Vashem paid tribute to his courage in 1990 by naming him one of the "Righteous Among the Nations" and planting a tree in his honor. He was the first Muslim ever to receive this honor. In 2001, his own nation bestowed its highest award on Ulkumen—the Supreme Service Medal—for his Holocaust-era heroism on behalf of Jews.

In both Judaism and Islam, it is said that saving one life is like saving the world. Thanks to Mr. Ulkumen, several family trees flourish today that otherwise would have been eliminated forever. He put his life—and that of his family—at risk rather than compromise his belief in equality and his commitment to the sanctity of human life. Unfortunately for Europe's Jews, bravery of his sort was all-too-rare. I commend the Holocaust Museum for venerating the memory of Selahattin Ulkumen and his deeds and for bestowing this honor on this profoundly honorable man.

## CELEBRATING 25 YEARS OF THE NEWSPAPER ASIANWEEK

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. LANTOS. Mr. Speaker, a distinguished, nationally-distributed newspaper based in San Francisco is celebrating its 25th anniversary. Today I would like to ask my colleagues to join me in saluting a quarter-century of achievement by this important information resource, AsianWeek.

Founded in 1979 by John T.C. Fang, who came to the United States from China in the early 1950s, AsianWeek now boasts a confirmed readership of 175,000 people in its print form and countless others on-line. It is the only English language, national newsweekly chronicling the Asian Pacific American experience in all its variety. AsianWeek also offers an opportunity for Americans as a whole to learn about issues of particular importance to one of the country's fastest-growing communities, including civil rights, immigration, employment, and international affairs.

John Fang launched the paper to help his fellow new Americans better themselves, and his legacy has passed to his family: Now published by his son James and edited his son Ted, and with the guidance of their mother, Chairwoman Florence Fang, AsianWeek reaches a broad cross-section of Americans, from recent arrivals in the immigrant community to leaders of national stature in business, politics, academia and culture. Its mission is to tell the story of Asian Pacific American life, to provide a forum in matters of importance to its readership, and to involve Asian Pacific Americans meaningfully in the nation's political process.

To this end, the paper recently scored an important exclusive among the Asian American press: an interview with presidential nominee JOHN KERRY, who discussed a range of subjects with editor-in-chief Samson Wong, from a proposed federal program combating hate crimes to the new vistas that have opened for his niece, a toddler adopted in China.

But perhaps more important than any single story, AsianWeek aspires with every edition to deliver consistent, high-quality information on all manner of subjects of interest to its target readership. For these efforts, it has won several awards—both for overall coverage and individual citations from New California Media, a national association of more than 700 ethnic media organizations.

The paper also provides place where disparate views on those subjects can be freely expressed. Dedicated to promoting discussion among people whose backgrounds include the many ethnic groups of South Asia, Southeast Asia and the Pacific, AsianWeek describes itself as "The Voice of Asian America."

Mr. Speaker, may the Asian Pacific American community, and U.S. society as a whole, continue to benefit from the availability of this eloquent and extraordinary voice.

## PROVIDING FOR CONSIDERATION OF H.R. 10, 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

### HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Ms. JACKSON-LEE of Texas. Mr. Speaker, it pleases me that the Committee on Rules had the prudence to make the amendment offered by the gentleman from New Jersey, Mr. MENENDEZ, in order. This important amendment has been endorsed by the 9/11 Commission and embodies the provisions found in the Collins/Lieberman proposal, S. 2845 and the McCain/Lieberman proposal, S. 2774.

Nevertheless, I am disappointed that we only have 3 hours and 40 minutes of general debate to divide between eight of the many committees of jurisdiction with respect to this legislation. In our work on H.R. 10, we have a duty to take into account the families that will be affected. We in this august body have a duty to take into account that these families—in fact, all American families, will be waiting and watching to see if this body will act responsibly, appropriately, and adequately.

The base bill includes over 50 extraneous provisions that were not recommended by the 9/11 Commission. Within these extraneous provisions are legislative "poison pills" that will ultimately frustrate our overall purpose—to make America safe. These poison pills include:

Giving the President "fast track" authority to reorganize the intelligence agencies, undermining the reforms recommended by the 9/11 Commission;

Giving the President authority to bypass Senate confirmation of the Director of the CIA and other key intelligence and defense officials, weakening congressional oversight;

Giving Federal law enforcement officials new authority to deport foreign nationals, revoke visas, and deny asylum without judicial review;

Creation of new national databases of drivers licenses, birth certificates, and criminal histories, raising civil liberties and privacy concerns; and

Expansion of the authority of the Justice Department by relaxing grand jury secrecy requirements and increasing its ability to conduct secret surveillance.

I serve on the House Select Committee on Homeland Security, and it troubles me that while that body received a referral for markup, the leadership has chose not to schedule such a hearing. The very committee that would presumably hold the most jurisdiction over this matter deferred its opportunity to make this legislation better. That does not sit well with my colleagues on this side of the aisle and it does not sit well with the families of the victims of 9/11—it does not sit well with the American people.

Furthermore, while the September 11 Commission has set forth its bipartisan suggestion for rebuilding and improvement, we cannot even move legislation that authorizes homeland security spending through a markup by the main committee of jurisdiction. These issues are indicative of a body that has its priorities misplaced.

Mr. Speaker, in recognition and tribute to the families of the 9/11 victims, there should never be a price limitation placed on effectively securing the homeland. Nor should solid legislation be ignored or thwarted in carrying out the will of the American people. For this reason, I fully support the goals set forth in the Shays-Maloney proposal that was not made in order by this committee. I also fully support the Menendez amendment that has been endorsed by the 9/11 Commission and embodies the provisions found in the Collins/Lieberman proposal, S. 2845 and the McCain/Lieberman proposal, S. 2774.

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## CONFERENCE REPORT ON H.R. 4200, RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

SPEECH OF

### HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. LANGEVIN. Mr. Speaker, as a member of the House Armed Services Committee, I am pleased to speak in support of the conference report before us. Chairman HUNTER and Ranking Member SKELTON deserve great credit for negotiating a bill that will provide our military—and the men and women who serve in it—the resources they need to keep America strong in the 21st century. It is always a daunting task to craft legislation that balances the needs of our services, and such an effort is even more challenging during a time of military conflict. The chairman and ranking member have succeeded admirably in this endeavor, and the product before us today is a fine example of careful craftsmanship and bipartisan cooperation. We are proud of our men and women in uniform, and we must ensure that they are given the resources necessary to succeed in their mission.

H.R. 4200 recognizes the importance of our service men and women in the field and around the world and demonstrates the appreciation of Congress through the provision of a 3.5% pay increase for military personnel in FY 2005 and a permanent increase in the family-separation allowance and imminent-danger pay. I am particularly pleased that the measure extends TRICARE benefits to nonactive duty reservists. Our Reserve component has served the Nation professionally and valiantly even though they and their families have often had to make sacrifices. Providing enhanced access to TRICARE will provide greater stability to reservist families and will ensure that we do not lose qualified servicemembers because of insufficient access to health care.

The conference report also addresses several major problems that my colleagues on the committee and I have been working to solve. Our committee and our colleagues on both sides of the aisle in the House have fought for an end to a current flaw in our survivor benefits system that penalizes military spouses. For too long, military spouses have witnessed their survivor benefits drop by more than one-third once reaching the age of 62. Comparable civilian plans provide survivors a lifetime annuity of 50–55 percent of retired pay and protect against a drop in annuity at age 62. As a cosponsor of the Military Survivor Benefits Improvement Act, I have supported efforts to repeal this unfair burden and am pleased that this legislation would phase out from October 2005 to March 2008 the current offset under the Survivor Benefit Plan, and increase the annuities paid to survivors of military retirees who are 62 years or older. Additionally, the agreement expedites last year's concurrent receipt improvements by authorizing full concurrent receipt for disabled military retirees rated 100% disabled.

I am, however, disappointed, that the conference report scaled back the provisions that I offered with Congressman JIM COOPER during committee consideration that would ensure greater equity and efficiency of the Department of Defense's contracting process. The agreement appears to close loopholes that have allowed the Department of Defense to avoid Congressionally mandated competition requirements and provides limited appeal rights for government employees to challenge contract decisions. Yet it falls short in other areas intended to guarantee taxpayer savings and improved efficiency in DoD contracting procedures. I look forward to working with the committee to implement H.R. 4200's provisions and to address other shortcomings in this area.

Overall, this legislation is a well-balanced approach to the needs of our Nation's military, and I commend the chairman, ranking member, and my colleagues on the committee for a fine work product.

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## HONORING MARY MILLS

### HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mrs. BLACKBURN. Mr. Speaker, I want to take time today to recognize someone who has been a true public servant in Williamson County, Tennessee. Few communities are fortunate enough to have someone like Mary Mills. But we in Tennessee have been blessed by her hard work and dedication for years now.

Williamson County Commissioner Mary Mills has consistently and without fanfare worked to improve her community. As a former educator and an active member of the African Methodist Episcopal Church, Commissioner Mills has been a leader in everything she does.

This week she's being recognized by the United Community Resource Foundation with a Lifetime Achievement Award, and I join the people of Williamson County in thanking Mary for her dedication.

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## IN SUPPORT OF BORDER BINATIONAL HEALTH WEEK

### HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mr. REYES. Mr. Speaker, I rise today in strong support of an important event that I am proud to say will soon take place in my congressional district of El Paso, Texas—Border Binational Health Week. Through the efforts of federal, state, and local stakeholders and community members in the United States and Mexico, Border Binational Health Week will raise awareness and strengthen our commitment to overcoming border health challenges.

The border is a very dynamic region and a gateway for diseases such as gastrointestinal illnesses, a tuberculosis, and HIV/AIDS, and a disproportionate number of border residents suffer from chronic illnesses like cancer, heart disease, and diabetes. It is impossible to stop the spread of diseases at the border, so we must work together, bi-nationally, to address health concerns and combat illness. In short, Mexico and the United States must be partners in achieving our common goal of solving health problems along the U.S.-Mexico border.

As part of that critical effort, I am pleased to announce that Border Binational Health Week will be held from October 11–17, 2004, and is being sponsored by the U.S.-Mexico Border Health Commission. The Commission, along with many partners on both sides of the border, has worked diligently in developing the agenda for this extremely important event.

The theme for Border Binational Health Week is "Families in Action for Health." Some of the many topics to be highlighted are improving access to health care, reducing health disparities, and increasing immunization rates. The week will also include community mobilization efforts, informational presentations, policy forums, models of excellence programs, and health careers and professional exchanges—all illustrating the steps to a healthier border and advancing the goals of the Healthy Border 2010 initiative.

I ask my colleagues to join me in commending the efforts of the U.S.-Mexico Border Health Commission and all those involved with Border Binational Health Week, and in wishing them a productive and successful week of events.

## PROVIDING FOR CONSIDERATION OF H.R. 10. 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

**HON. SHEILA JACKSON-LEE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 7, 2004*

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to support the National Defense Authorization Act which provides almost $450 billion to support out troops. I want to start by thanking and congratulating the Ranking Member of the Armed Services Committee, Mr. SKELTON who worked so hard for so long to make this legislation beneficial to our men and women of the Armed Forces. While I will vote for this legislation it is truly unfortunate that a more bipartisan approach was not taken in order to include numerous important Democratic provisions which would have further benefited our fighting men and women. I am also saddened that this Defense Authorization comes at a time of such great need for our Armed Forces because they have been pushed into a war that could have been avoided and has been so poorly managed from the start. It is truly unfortunate that the brave men and women of our Armed Forces are fighting around the world while the Department of Defense is in the current state it is in. The Administration must be accountable for the actions of the Armed Forces; the unfortunate events taking place in Iraq have caused our nation irreparable harm. I only pray that the provisions in this legislation that will help protect our fighting men and women in Iraq are not the only step we take to alleviate their burden.

I am heartened by the fact that Democrats have worked so hard to put pieces of our ideas into this legislation. As I stated earlier, too many vital Democratic proposals that would have given our Armed Forces the equipment and support they need to successfully complete their dangerous missions, were denied based simply on partisanship. However, the few Democratic principles that were put into this legislation will greatly help our soldiers past and present and their families.

Because of Democrats insistence this conference report provides additional funds for force protection measures, including additional body armor, countermeasures for improvised explosive devices, and armored Humvees. It also includes a Democratic proposal that would reimburse families who purchased body armor or other protective equipment for a loved one serving overseas. Sadly, before today many families had to take the safety of loved ones serving overseas into their own hands. Those kinds of practices make it seem as if we are running a civilian militia as opposed to the greatest Army in the history of mankind. According to a report commissioned by DOD, as much as 25 percent of U.S. combat deaths might have been prevented if there had been sufficient supplies of body armor and armored vehicles. These facts are astounding and yet truly saddening, yet another indication that this Administration sent our young men and women to fight in Iraq and never gave them the proper plan or the proper support.

This conference report also provides long overdue retirement benefits for our service men and women that Democrats have been demanding for years. Because of Democratic pressure, Republicans finally included bipartisan provisions to end the Widow's Tax, and Democrats were successful in adding provisions that would immediately end the disabled veterans tax for the most severely disabled veterans. This conference report also ensures that every member of the Guard and National Reserve called up to serve in Iraq or Afghanistan can purchase TRICARE coverage for their families after they return home. Members would be eligible for one year of coverage for every 90 days of service after they have been called up. TRICARE, the military health program is an essential need for every member of the Armed Forces, especially those with families. It seems so intolerable to me that we would allow even one member of our Armed Forces to go without proper health coverage.

This conference report also includes a 3.5 percent across-the-board pay raise for members of the Armed Forces. It permanently increases the rate for imminent danger pay from $150 to $225 per month and increases the family separation allowance from $100 to $250 per month. It also ensures that construction of new family housing for almost 50,000 military families will proceed without delay. Again, it sickens me to think that we left these brave and proud military families out in the dark for even the shortest possible period. This conference report finally ensures that these families will receive some justice for the sacrifice they make everyday to keep our Nation protected.

I must also add that it is truly unfortunate that this Defense Authorization continues this Administration's policy of having misplaced priorities. Instead of directing more money for proper planning in Iraq, or for greater protection equipment for our troops, or maybe for greater pay raises for our troops; this Administration has decided to budget $10.2 billion for missile defense next year—twice the request for any other weapons system. Missile defense systems are not new; in fact they have been discussed for decades. The truth is that missile defense systems have proven to be overly complex, unreliable, and often been little more than pipe dreams. Why in good conscience, in this time of budget constraints and increased need, would we allocate even more money for failed programs? There are more responsible ways to budget this money. Money from the Defense Authorization should go to our men and women in the Armed Forces who actually defend our nation instead of into programs that just waste needed funds. Also, once again Democrats have been able to restore some sanity to this issue. Because of their efforts the Pentagon's Office of Testing and Evaluation regains an oversight role and there will be some controls over this dubious program. OT&E is tasked with devising a realistic test regimen for the Ballistic Missile Defense system.

While I will support this legislation because of the support and protection it provides to our men and women in the Armed Forces, I sincerely hope in the future that such significant legislation as this will involve the debate and full consideration of all necessary and relevant provisions from both sides of the aisle. The men and women of our Armed Forces and indeed the American people as a whole deserve as much. It is our duty in Congress to serve the interests of the people, it is the duty of the Armed Forces to protect and serve our national interests; one can only hope we can serve our mission as well as the members of the Armed Forces have served theirs.

## TRIBUTE TO NANCY SALISBURY, RSCJ

**HON. ANNA G. ESHOO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Ms. ESHOO. Mr. Speaker, I rise today with a heavy heart to honor Sister Nancy Salisbury RSCJ, a distinguished and nationally respected and beloved educator who passed away on September 27, 2004 at Oakwood in Atherton, California.

Born May 15, 1930 in New York City, Sister Salisbury was the daughter of the late Philip Turner Salisbury and Ethel Walsh Salisbury. She was educated at Convent of the Sacred Heart in Overbrook, Pennsylvania, and earned her bachelor's degree from Manhattanville College of the Sacred Heart in Purchase, New York in 1952. She received a master's degree in History from Manhattanville in 1962 and a second master's degree in Mathematics from the University of Detroit in 1968.

Sister Salisbury entered the Religious Order of the Sacred Heart in 1952 and devoted her life to the Society as a teacher, administrator, headmistress and mentor. The stature of her accomplishments are reflected in the following:

Headmistress, Convent of the Sacred Heart, New York City, 1980–2000

Chair, New York State Association of Independent Schools Accreditation Commission

Vice Chair, Board of Trustees, New York State Association of Independent Schools

Headmistress, Convent of the Sacred Heart, Greenwich, 1970–1980

Head of Middle and Upper Schools, Convent of the Sacred Heart, Greenwich and New York City

Teacher, Administrator, Sacred Heart Schools: Greenwich, Grosse Pointe, Kenwood, New York

Chair, Guild of Headmasters of Independent Schools, New York City

Chair, Fairchester Association of Headmasters

Chair, Board of Trustees, Carrolton School of the Sacred Heart

Vice Chair, Board of Trustees, Early Steps

Member, Network of Sacred Heart Schools Commission on Goals (NCOG)

Member, Boards of Trustees: Network of Sacred Heart Schools: Greenwich, Doane Stuart; Youth Services Opportunities Program, Independent School Admissions Association of Greater New York, Connecticut Association of Independent Schools, Manhattanville College Alumni Association Member, Committees of the New York Province of the Society of the Sacred Heart

Upon her retirement as headmistress of the Convent of the Sacred Heart School in New York, Sister Salisbury spent time in Chicago where she continued her mentorship of young women entering the congregation. It was in recent years that she came to the Oakwood Community, and earlier this year became its Director. Of Oakwood she said "I continue to discover each day the deep roots of the love of God, the Society and the Community. I believe it is these bonds which make Oakwood a home of joy, understanding, reconciliation and celebration. I see my responsibility to find new ways of keeping this spirit alive and visible as we celebrate the end of our journey together in love."

Sister Salisbury was a holy woman, devoted to her RSCJ community and their mission, and deeply committed to living her life loving and serving the Sacred Heart of Jesus. Her wisdom was recognized by anyone who met her. Her wisdom was more than being smart . . . it came not from a busy head but from a deeper well . . . her peaceful heart. Her leadership skills lifted people to new heights and she emulated Jesus by gathering, teaching, and loving the children and she contributed mightily to the future well being of our nation, preparing generations of young women for leadership roles. I ask my colleagues to join me in honoring this good and great woman, paying tribute to her, the life she lived and the lives she shaped. How blessed I am to have known her and benefited from her love, counsel and wisdom.

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## CELEBRATION OF THOMAS JAMES OWENS

### HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mr. DICKS. Mr. Speaker, Tom Owens was my friend; he came to Washington, DC, almost weekly until he retired in 1996. Tom always wanted to play tennis and go to the best restaurants for dinner. Tom was a very effective lobbyist. He worked both sides of the aisle very skillfully.

His friends and family were all shocked when he suddenly died on September 16th.

I wanted to include in the RECORD a recent article about Tom and his family. Tom Owens was a tremendous human being who will be missed by all who knew him.

#### THOMAS JAMES OWENS

Thomas James Owens—Born June 2, 1928, in Pittsburgh, Pennsylvania. Tom died suddenly and unexpectedly in his north Capitol Hill home early in the morning, September 16th. He was preceded in death by his parents, Helen Reese and Edward Addison Owens, and brother J. David Owens. A graduate of Amherst College and Michigan Law School, he moved to Seattle in 1955 where he began a law practice and eventually met and married his wife of 44 years, Angela (Pellegrini). A lobbyist, he worked on both the state and federal levels, retiring from a successful practice in 1996. A masterful communicator and intermediary, he was liked and respected by Democrats and Republicans alike. Impeccably dressed, with his unmistakable trench coat, he was a fixture in political circles in both Olympia & Washington D.C. Tom was also an accomplished racquets man. After a successful tennis and squash career in the Ivy League, he went on to become one of the more dominant amateur players in the area, winning numerous titles in the Pacific Northwest and British Columbia, including the Pacific Coast Championship in 1964, ranking him among the best amateur players in the country. His true passions, first and foremost, were his loving family and dear friends. A particular joy in his life was the time he spent together with his children and their friends. A gracious host, he loved to surround himself with friends, family, wonderful meals prepared by Angela, and fine wine, most often a robust cabernet made by his late father-in-law, Angelo Pellegrini. Loud, boisterous and laughter filled evenings, roast pork, roast potatoes, hot peppers and greens from the garden were the norm in the Owens home, with Tom at the head of the table, wine glass in hand, belaboring the occasional anecdote or joke. To hear him tell a story was an experience in and of itself. In Tom's case, punch line were an irrelevant detail, as the delivery, often scrambled and confused were what made his diatribes so unforgettable. He also loved travel, particularly to Italy, working out, playing the piano, cigars, spending time with his children and grandchildren, bullmastiffs, trees, and golf. He is survived by his loving wife, Angela, two children Tom (Dena) and Sarah (Scott Lindblad), five grandchildren, Olivia, Evan, Reese, Cameron, Lauren and surrogate granddaughter Gabriella Pellegrini. He is also survived by a brother, Dr. E. Reese Owens (Betsy), of Pittsburgh, PA. We will miss your thoughtful generosity, your wit, love of family and friends, and your frank and honest emotional support. For now we say to the man clad in the trademark blue blazer, see you again someday, somewhere, as we lift a glass in fond farewell to our beloved patriarch: Salute! e Addio, caroTommaso. Sarai sempre nel nostro cuore e nei nostri pensieri. There will be a celebration of Tom's life at 4 p.m., Friday, October 1st at the Seattle Golf Club.

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## IN REMEMBRANCE OF MICHAEL ANDREW MITCHELL

### HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mr. DAVIS of Florida. Mr. Speaker, I rise in remembrance of Michael Andrew Mitchell, a loving family man who nobly served his community as a Tampa Police Officer.

A natural athlete, at Tampa Bay Technical High School Michael excelled in football, track and basketball and earned a football scholarship to Miles College. After graduating from the police academy, Michael went on to serve in the Tampa Police Department, for 25 years.

During his career, Michael earned the praise of his colleagues and superiors. He was twice awarded the Tampa Police Department Commendation Award, as well as earning a Special Award of Recognition from the Department of Justice. But more important than any award, Michael earned the trust of his fellow officers. As Jose Feliciano, Michael's former partner said, "I never worried when I was with Mike. I always knew he had my back."

Michael's dedication to serving his community extended beyond his role as a police officer. A lifetime member of First Baptist Church of College Hill, Michael was active in nearly every aspect of the church. He was a member of the Youth Choir, Youth Usher Board, Young Adult Choir, Tape Ministry, Breakfast Ministry, Security Ministry and Deacon Board Ministry. And Michael always had time for young people. His patient, calm and caring demeanor drew people of all ages.

However, Michael may best be remembered for his devotion to his family. In June, he gave up his career at the Police Department so he could take care of his mother. His brother Pat remembers how "if the family needed him for anything, he'd be there." Michael was never one to miss the weekly family dinners on Friday or the family get-togethers at church on Sunday.

On behalf of the entire Tampa Bay community, I would like to extend my thanks to Michael for his dedication to serving others and offer my deepest sympathies to his many loved ones.

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## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

### HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and co-ordination, and for other purposes:

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the amendment offered by the Gentleman from Indiana designated as #29. This amendment directs the

Secretary of Homeland Security to "ensure that all appropriate personnel engaged in security screening of individuals have access to law enforcement and intelligence information maintained by DHS." It also calls for the submission of an overview of all the agencies, databases, and other capabilities that exist within the Department involved in intelligence relating to terrorism, drug trafficking, illegal immigration, screening, investigations, and inspection of goods or individuals entering the United States. Furthermore, this amendment would require the submission of a report to Congress within 180 days on actions taken and plans in place to improve access and the flow of information.

Proposals that seek to ensure that DHS is functioning efficiently, effectively, and in accordance with the U.S. Constitution with respect to individual rights and liberties should be supported fully because the function of DHS is a bi-partisan issue. Protecting the American people is a bi-partisan issue.

Similar to this amendment, I would have offered a proposal that would make the "Next Generation Airline Passenger Prescreening" provision (Section 2173) more effective while taking active measures to protect individual rights and liberties.

The existing language in Subsection (i) of Section 2173(a)(C) assigns the task of testing the next generation passenger prescreening system against automatic selectee and no-fly lists and records in the consolidated and integrated terrorist watchlist maintained by the Federal Government to the "Assistant Secretary or designee." This is a very loose assignment of a very important task. Moreover, the duties of the Assistant Secretary would hardly allow for the time and effort that is necessary to perform the functions of this provision to address the needs of the American public.

The Jackson Lee Amendment would have assigned this task rather to the "Civil Liberties Protection Officer" or designee thereof—in consultation with the Assistant Secretary. Therefore, this amendment would have added teeth to the existing provision in the area of personnel assignment.

The Civil Liberties Protection Officer is the most appropriate personnel to perform this function.

Therefore, it is very important that we not only make this legislation efficient and thorough but that we craft it to protect civil rights and civil liberties. Mr. Chairman, I ask that my colleagues support the amendment by the Gentleman.

## PERSONAL EXPLANATION

### HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mr. DAVIS of Illinois. Mr. Speaker, I was unable to cast votes on Thursday, September 30, 2004, due to a death in the family. If I was present for rollcall votes, it would be the following:

No. 480 on motion to recommit with instructions—Surface Transportation Extension Act of 2004, Part V—1 "yea."

No. 481 on Passage, Surface Transportation Extension Act of 2004, Part V—H.R. 5183—"yea."

No. 482 on motion to suspend the rules and pass H.R. 5149—the Welfare Reform Extension Act, Part VIII—"yea."

No. 483 on motion to suspend the rules and pass, as amended H.R. 4231, the Department of Veterans Affairs Nurse Recruitment and Retention Act of 2004—"yea."

No. 484 on passage of H.J. Res.106. Proposing an amendment to the Constitution of the United States relating to marriage—"nay."

No. 485 on motion to suspend the rules and agree on H. Con. Res 501, Honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, and supporting the annual Duke Ellington Jazz Festival . . .

No. 486 on motion to suspend the rules and agree on H. Res. 792, Honoring the United Negro College Fund on the occasion of the Fund's 60th anniversary and the Fund's unflagging dedication to enhancing top quality college opportunities to millions of students . . .

## PERSONAL EXPLANATION

### HON. DENISE L. MAJETTE

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Ms. MAJETTE. Mr. Speaker, I was unable to be in attendance for a number of rollcall votes taken on October 8, 2004. Had I been present I would have cast my votes as follows:

"No" on rollcall No. 524; "yes" on rollcall No. 525; and "no" on rollcall No. 526.

I was unable to be present for votes taken on October 9, 2004, however, I would have voted:

"Yes" on final passage of conference report on H.R. 4200—Defense Authorization Act for FY 2005; "yes" on final passage of the conference report on H.R. 4837—Military Construction/Emergency Supplemental Appropriations; "yes" on the conference report on H.R. 4567—Homeland Security Appropriations; and "no" on the Adjournment Resolution, because the 108th Congress should complete its work before it adjourns. The Republican-led Congress has failed to address the needs of middle class families. Republicans have failed to create jobs, end outsourcing, improve national security, lower health care costs, improve education, or protect our environment.

## IN MEMORY OF BISHOP MOSES TAYLOR, MINISTER TO AND FRIEND OF THE PEOPLE OF LONG ISLAND CITY AND ASTORIA, NY

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mrs. MALONEY. Mr. Speaker, I rise to acknowledge the life and achievements of Bishop Moses Taylor, one of New York City's foremost spiritual leaders. I am saddened to report to the members of this chamber that Bishop Taylor passed away on October I, 2004. He is survived by his loving family, his many friends and the congregations of the three ministries he founded in Long Island City and Astoria, Queens.

Bishop Taylor was a fixture of his community for more than 60 years. Bishop Taylor's ministry began in a small house on 12th Street in Long Island City, where he preached to a group of twelve followers; in the next few years, this ministry moved to a larger, permanent home across the street and became known as the Long Island City Gospel Tabernacle. It was during this time that Bishop Taylor began many of the community service initiatives for which his ministries would become widely known in the Queens community. Indeed, the two founding principles of the Bishop's ministries are "to teach and preach the Word of God with simplicity and understanding" and "to undergird, strengthen and increase (the) community through programs, targeted activities for men, women, singles and families, combined with educational instruments that will address the whole need of man."

Building on the success of the Gospel Tabernacle, Bishop Taylor went on to found the Astoria Outreach Ministries and the Center for Hope International in Long Island City, which is now led by his son, Pastor Mitchell G. Taylor. I am certain that Bishop Taylor was extremely proud to see his son follow in his footsteps and dedicate his life to enriching the lives of people in the Queens community.

The three ministries founded by Bishop Taylor have become invaluable parts of New York City's spiritual life. They are true reflections of the vibrant and generous Queens community that Moses Taylor so faithfully served.

Mr. Speaker, I request that my colleagues join me in honoring the late Bishop Moses Taylor, whose dedication to community service lives on thanks to the generosity of his many followers. With his passing, the community has lost one of its true heroes.

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

### HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes:

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to address the Amendment offered by Mr. KIRK of Illinois which would require that the President submit a report to the congressional intelligence committees detailing how the Drug Enforcement Administration (DEA) can be integrated into the intelligence community. I believe it is important that we recognize the vital role the DEA has played in our War on Terror and we should study how effective it would be to officially include the DEA in our intelligence apparatus.

Many of the terrorist groups including Al Qaeda that are targeting our Nation derive much of their income from the sale of drugs which finances their terror network. It is clear that narcoterrorism is becoming a larger threat to our security and the DEA is playing a significant role in reducing this threat. Just last December the USS *Decatur* intercepted a boat in the Gulf near the Strait of Hormuz that was found to be carrying almost two tons of hashish valued at up to $10 million. The boat was found to have direct connection to the Al Qaeda terror network. While this large shipment was intercepted we can safely assume there are many others that are out there that pose a threat to our national security.

In Afghanistan, we replaced the brutal Taliban regime that was harboring Al Qaeda terrorists, but today Afghanistan faces many threats from those same terrorist networks. President Karzai himself has said that the cultivation of drugs namely the poppy crop is one of the biggest threats that Afghanistan faces. The U.S. State Department has indicated that poppy cultivation in Afghanistan is expected to jump by 40 percent this year. In fact, Afghanistan is one of 22 nations listed by President Bush in his annual report to Congress on "major" drug-producers. Our own Pentagon is reporting that the drugs trade is corrupting Afghan government institutions and that without vigorous eradication, security will not improve quickly. The U.N. released figures earlier this year saying three-quarters of the world's opium poppy was now grown in Afghanistan. These figures are staggering and indicate the battle we face to eliminate these drugs so that they can not benefit our terrorist adversaries.

The DEA has played a critical role in challenging Al Qaeda and other terror networks that engage in narcoterrorism. The DEA currently has an international presence with 77 offices in 55 countries that gather drug enforcement intelligence, take part in host-country drug-related law enforcement operations, and train host-country law enforcement personnel. An indication of DEA's effectiveness in foreign operations can be found in the intelligence information the DEA gathered to reveal that Osama bin Laden himself had been involved in the financing and facilitation of heroin-trafficking activities, which were then shut down by our military operations in Afghanistan. Today, the DEA continues to push forward in identifying narcoterrorism threats that are vital to maintaining our national security. I look forward to seeing a report from the President that will indicate the efficacy of officially including the DEA in our intelligence system. Clearly, the DEA plays an important information gathering and enforcement role in our War on Terror, this report will simply clarify their position in our national intelligence system.

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## JEFFERSON HIGH SCHOOL REUNION—YORK, SC

### HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mr. SPRATT. Mr. Speaker, on the weekend before Labor Day, some 400 alumni of Jefferson High School gathered for their first reunion since Jefferson closed more than 30 years ago.

Jefferson got its start in a frame school house built for African-American students next to Wesley United Methodist Church on West Jefferson Street in York, South Carolina. From there, Jefferson graduated to a Rosenwald school and became the African-American public school in a racially segregated system. Although the system was called "separate but equal," Jefferson never had facilities or teaching materials equal to its counterparts, the white schools that I attended. Used books were passed on from white students, dated and worn. The school district built a new high school for white students in 1950, but left black students to make the best of their old one. The students, teachers and administrators at Jefferson did just that. They made the most of their circumstances. The students who came back for this reunion did not dwell on what they lacked at Jefferson High School. They saluted teachers who took a personal interest, believed in them, and encouraged them to excel. They recalled their formidable teams in football and basketball and the musical talent they produced. They recognized the values instilled in them for a lifetime.

When the alumni sat down for a banquet the last night of their reunion, the pride they felt at being "Jeffersonians" was easily felt and well-founded. Among the 400 attending the dinner, there were graduates who had risen to the highest levels of the Civil Service and become department heads in state government; Ph.D.'s in the sciences and liberal arts; college professors; school teachers; successful entrepreneurs; attorneys; and many more who had distinguished themselves. The banquet speaker, Roberta Wright, symbolized their success. She finished Jefferson and went on to become a Phi Beta Kappa graduate of Fisk University and the University of Michigan School of Law. She made a stirring speech, challenging everyone to do more for the common good.

With the onset of integration in the early 1970s, Jefferson High School came to an end. But the 3-day Reunion made clear that Jefferson lives on in the lives it made better. Hundreds of the alumni attending attested to better, more productive lives because of what they learned at Jefferson under teachers who cared, encouraged, and challenged.

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## PERSONAL EXPLANATION

### HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mr. ORTIZ. Mr. Speaker, because of business in my district (27th Congressional District of Texas) I was absent for rollcall vote Nos. 509–530. If I had been present for these votes, I would have voted as indicated below: 509—"Yes"; 510—"Yes"; 511—"Yes"; 512—"Yes"; 513—"Yes"; 514—"Yes"; 515—"Yes"; 516—"No"; 517—"Yes"; 518—"Yes"; 519—"No"; 520—"Yes"; 521—"Yes"; 522—"Yes"; 523—"No"; 524—"No"; 525—"Yes"; 526—"No"; 527—"No"; 529—"Yes"; 530—"Yes."

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## IS ISRAEL STILL AN ENEMY OF THE STATE IN THE NEW IRAQ?

### HON. SHELLEY BERKLEY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Ms. BERKLEY Mr. Speaker, I rise today to express my deep concern, and frankly my disbelief, at the arrest of Mithal Al Alusi, an Iraqi citizen who was charged recently for visiting an enemy state.

The world took little notice of what one might expect to be major news in the United States and around the world. Unfortunately, this story has been nearly invisible.

What makes this case so disturbing is the fact that the nation he dared visit, the nation labeled an enemy state by the new post-Saddam government in Iraq is none other than America's strongest ally in the Middle East—the State of Israel.

As unbelievable as it seems, under a 35-year-old law written by Saddam's Baath Party, Israel remains an enemy of the Iraqi State. And any Iraqi who dares visit our ally Israel, can expect the same criminal punishment now being sought against Mr. Al-Alusi.

A New York Times article published on October 6, 2004, described the situation this way:

> In recent days, Iraq's special criminal court established by the American occupation authority issued a warrant for Mr. Al-Alusi's arrest based on the 1969 law. According to the Oct. 4 issue of the Iraqi newspaper Al Sabah, a court official said, "Al-Alusi committed a crime by visiting the enemy, the Zionist state," and the official vowed "to protect the Islamic and Arab identity of Iraq."

Is this the new Iraq that we have sacrificed more than a thousand American lives to protect? A country that allows Israel to be labeled as a Zionist threat, and whose courts, which were established under our Coalition rule, are now being used as a tool to inflame anti-Israeli sentiment.

It is a disgrace that as we shed American blood, and the blood of our allies to bring democracy to the people of Iraq, those who have persecuted Mithal Al-Alusi remain in authority.

Secretary Powell is reported as saying that he is looking into the outrage committed against Mr. Al-Alusi. I encourage him to swiftly complete his examination and to provide guidance toward a U.S. policy that forever eliminates this type of bigotry from Iraqi law.

I hope President Bush, Secretary of State Powell and Members of Congress will step forward and without reservation, condemn this continuation of an anti-Semitic policy that is a hateful and dangerous residue of Saddam Hussein's failed regime.

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

### HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security; and international cooperation and coordination, and for other purposes:

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the amendment as offered by my Texas colleague Mr. BONILLA of the 23rd Congressional District to increase the number of beds available for immigration detention and removal operations in the Department of Homeland Security. As the Ranking Member of the House Immigration Subcommittee, I recognize the urgent need for this proposal.

The growth of the Immigration and Enforcement Agency's (ICE) and Border Patrol Servicess (BPS) enforcement efforts, along with the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which requires INS to detain aliens subject to mandatory detention, have increased the Department's need for detention bed space in recent years.

The average daily bed space usage has more than doubled from 8,279 average daily detention beds in FY 1996 to 18,518 in FY 2000. Every year the Department of Homeland Security arrests over 1.6 million aliens.

Immigration and Customs Enforcement has 19,444 beds a night. But an average 22,500 detainees are in custody on any given day. The lack of space has led to a $1.3 billion shortfall that must be made up in other areas of the budget for Immigration and Customs Enforcement and detention.

One of my concerns is the rise of the harmful effects of the "capture and release" program. Brought on by a shortage of detention space, the program allows immigration officials to routinely release tens of thousands of illegal immigrants from countries other than Mexico after extracting a promise from each to show up at a future detention hearing.

DHS officials acknowledge that more than 70 percent of those released disappear from law enforcement's radar, resulting in a fugitive population of 400,000 nationwide. Mexican migrants who are detained are deported and are usually bused to a port of entry where they cross the bridge to Mexico.

Some 15,000 of these people (non-Mexican migrants) are in communities in Texas in the last eight months. Nearly half of non-Mexicans arrested since October 2003 were released on the U.S. side of the border, according to Department of Homeland Security statistics released last week to the Chronicle. So far this fiscal year, which began Oct. I, 2003, Homeland Security officials released from Border Patrol custody 21,979 of the 49,705 illegal immigrants from countries other than Mexico, known to the Border Patrol as OTMs.

As a member of the House Select Committee on Homeland Security's Subcommittee on Infrastructure and Border Security and Ranking Member of the House Judiciary Subcommittee on Immigration and Border Control I joined Mr. BONILLA and another of my Texas colleagues, Mr. SOLOMON ORTIZ for a series of briefings and field visits at the Brownsville border areas.

When Border Patrol (BP) officers catch undocumented immigrants, they take them to a facility to be processed. If they are Mexican, they usually are placed on a bus and returned to Mexico. If they are not Mexican, BP classifies them as "OTM" (other than Mexican). Under a new detention policy popularly known as "catch and release," thousands of OTMs are released on their own recognizance pending a deportation hearing scheduled to be held months after they are released. Apparently, a large percentage of the OTMs abscond instead of appearing for removal proceedings.

I share many of the concerns that my colleagues SOLOMON P. ORTIZ and HENRY BONILLA have expressed about border security. The catch and release policy appears to be the result of a lack of funding for detention facilities. The security concern about the catch and release policy is that it includes individuals from nations the U.S. defines as state sponsors of potential terrorism. Before commenting on the catch and release policy, I want to emphasize that immigration does not equate with terrorism. All but a few of the immigrants who enter our country unlawfully are hardworking people who are coming to the United States because they want better lives for themselves and their families.

I favor the approach that Canada takes to border security, namely, they emphasize identifying the people who might be dangerous. We must improve intelligence operations so that our border patrol officers will be able to separate out the potential terrorists. This involves a two step process. We must first identify the potential terrorists, and then that information must be made available to the border patrol officers.

My colleagues SOLOMON P. ORTIZ and HENRY BONILLA have said that we need to increase the number of immigration judges. They believe that an increase in the number of immigration judges will dramatically reduce the need for detention facilities. I agree that we need more immigration judges. I also think that we need more Board Members for the Board of Immigration Appeals. Attorney General Ashcroft removed 5 experienced Board members a few years ago in a misguided effort to increase the productivity of the Board.

My alien smuggling bill, the CASE Act, or H.R. 2630, will address one of the major impediments to gaining control over our borders. The CASE Act would establish a three-point program to facilitate the investigation and prosecution, or disruption, of reckless commercial alien smuggling operations that features incentives, penalty enhancements, and an outreach program. This three-point program would provide government investigators and prosecutors with tools that have proven their worth in other areas of criminal law and would be just as useful with commercial alien smuggling operations. The result would be fewer deaths from alien smuggling operations.

Therefore, this amendment will address a very clear need, and I support the amendment offered by the gentleman from Texas.

## PERSONAL EXPLANATION

### HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mr. MCINTYRE. Mr. Speaker, on October 5, 2004, I was unavoidably absent for rollcall votes 494, 495, and 496. Had I been present I would have voted, "no" on rollcall vote no. 494, H.R. 163; "yes" on rollcall vote no. 495, H.R. 2929, and "yes" on rollcall vote no. 496, H.R. 5011.

## EGYPTIAN SINAI BOMBINGS

### HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mr. CROWLEY. Mr. Speaker, today I rise in deep disgust to speak about the ghastly attacks on three Egyptian Sinai resorts.

It should be obvious to all of us that these attacks were perpetrated because we are entering the final days of the Jewish holiday of Sukkot.

The terrorists who committed these heinous attacks had one goal—that goal was to kill as many innocent Israelis as possible.

The three terrorist attacks murdered at least 29 people and injured scores of others but unfortunately I fear the number of dead will rise as rescue teams search through the rubble.

The international community to the fullest extent must condemn these attacks.

It is time for the anti-Israeli elements within the United Nations to stop their one-sided resolutions and recognize that terrorism is a continuing threat to Israel and to the world.

The nations who continually work to pass these anti-Israeli resolutions within the United Nations General Assembly—must stop their rhetoric and instead do something to stop these attacks.

These nations can no longer be content by sitting on the sidelines and criticizing the actions of the Israeli government to protect their citizens.

Instead, it is time for these nations to help the Palestinian people who seek a nation that is not lead by corrupt leaders who support terrorism.

If these nations really want to see the success of the Palestinian people they will not only condemn these attacks, but they will finally begin to work toward ending terrorism and the attacks we see in the Middle East and around the world.

## SPECIALTY CROPS COMPETITIVENESS ACT OF 2004

SPEECH OF

### HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Mr. DOOLEY of California. Mr. Speaker, I rise in support of H.R. 3242, the Specialty

Crops Competitiveness Act of 2004, albeit with reservations about the scaled down version of the substitute bill that comes before us today.

When I joined Representative DOUG OSE last year in introducing H.R. 3242, it was a natural reflection of my longstanding interest in a prosperous and competitive specialty crops sector.

U.S. farm policy has long overlooked the importance of specialty crops, despite the fact that these non-subsidized crops account for the majority of crop production in this country. Instead, U.S. farm policy has tended to focus on so-called "program" crops, such as cotton, rice, sugar, peanuts, wheat, corn, oilseeds, feed grains, and others, which account for less than half of domestic production.

H.R. 3242 was introduced not to bring fruits, vegetables, tree nuts, and other horticultural products into the category of "program commodities" but instead to focus federal attention and resources on the problems facing this segment of U.S. agriculture. The bill as introduced included various regulatory reforms as well as a modest level of federal dollars to invest in non-market-distorting ways in the competitiveness of the U.S. specialty crop sector.

As the lead Democrat sponsor of H.R. 3242, however, I am very disappointed that the version of the bill that moved out of the House Agriculture Committee and is before us today is significantly scaled down from the original bill. In particular, the federal funding provided by this substitute bill has gone from a mandatory spending level of $508 million per year for five years, to a discretionary authorization of only $54 million per year that is further subject to annual appropriations.

This is a far cry from the level of federal commitment to the specialty crop sector that is warranted.

Specialty crops have an annual farm-gate value of $52 billion and receive no federal subsidies. Program crops, on the other hand, have a farm-gate value of only $48 billion. Yet the program commodities received federal subsidies in the amount of $12–13 billion, the equivalent of 27 percent of their farm-gate value.

This bill does not change the fact that producers of specialty crops receive no federal subsidy payments, and instead rely solely on the market for their income. No new federal price supports, direct payments, marketing loans, or counter-cyclical payments are created in this bill.

A serious federal commitment to this sector, however, requires a serious level of federal dollars.

The bulk of federal expenditures under H.R. 3242 would go to a block grant program that would distribute federal dollars to interested states for research, marketing, promotion, and other competitiveness-enhancing programs for their specialty crop industries. These funds are designed to increase consumer awareness and demand for specialty crop products and otherwise strengthen U.S. producers' ability to supply a safe, nutritious and quality product to both domestic and foreign markets.

Unfortunately, the bill as amended drastically reduced the federal commitment to this block grant proposal, from $470 million in mandatory spending down to $44.5 million in discretionary spending.

During the Agriculture Committee's markup of this bill, I attempted to restore merely half of the mandatory funds provided under the original bill for the block grant program. In order to keep the legislation revenue-neutral from a budgetary standpoint, I offered two separate alternative offsets—one based on a small, pro rata reduction in direct fixed payments to program commodity producers, and the other based on a bipartisan payment limitations proposal pending in the Senate (S. 667).

My amendment to finance the cost of a mandatory $220 million per year block grant program for specialty crops would have reduced the annual federal subsidies received by program crops by merely 1.7 percent. As a percent of program crop gross income, this represents a 0.36 percent reduction. Yet even this minuscule reduction encountered strong resistance by those farm and commodity organizations benefiting from these federal subsidies today.

The inequitable distribution of federal expenditures between program commodities and non-subsidized specialty crops must be changed. The United States can no longer afford to short-change the majority of its crop producers who rely on market forces—not federal program payments—to drive their income. The fact that the current farm bill, enacted in 2002, does not expire until 2007 is no excuse for not reallocating a small portion of federal expenditures by less than 2 percent.

Some of my colleagues seek to support the specialty crop sector without simultaneously disturbing the enormous benefits enjoyed by the program commodities. However, federal dollars are scarce resources and a more equitable distribution of these limited resources is long overdue. I hope my colleagues will eventually agree.

In the meantime, I urge adoption of this legislation today and hope that it will lay an effective foundation for a stronger federal investment in our specialty crop sector in future years.

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## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

### HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform, of the intelligence community, terrorism prevention and prosecution, border security and international cooperation and coordination, and for other purposes:

Ms. JACKSON-LEE of Texas. Mr. Chairman, the protection of the Nation against terrorist attacks is foremost on all of our minds. We all agree that we need to identify, detain, and prosecute those who intend to inflict terror on this Nation and its people. While I agree on the prosecution of terrorists requires tools that go beyond those available in our criminal justice system, I believe that this amendment goes too far.

Specifically, this amendment denies pre-trial release of terrorist suspects upon a certification from the Attorney General. Denial of pre-trial release would impede the ability of the wrongly accused from clearing their name. They would be hampered in their ability to select and meet with counsel, to search for witnesses who could vouch for them, and collect their own personal documents and other effects as evidence which could absolve them.

These concerns are not theoretical. We need only look to Oregon attorney Brandon Mayfield who was arrested in May as a suspect for the horrific terrorist attacks in Madrid last spring. Mayfield, a former U.S. Army lieutenant, was detained for three weeks because authorities believed that his fingerprints were found on evidence recovered in Madrid. Shoddy practices were used to transmit Mayfield's fingerprints by U.S. officials to Madrid. The poor quality of those transmitted prints should have precluded any positive identification. However, the compulsion to catch the perpetrators lead investigators to jump to the conclusion that Mayfield, a Muslim, must have been involved. Only after good quality fingerprint data was transmitted to Madrid was Mr. Mayfield cleared.

We need to pass responsible legislation that will be effective in detaining those who seek to harm this Nation. This amendment includes some provisions that overreach this responsibility.

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## IN MEMORY OF VERNON ALLEY

### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Ms. PELOSI. Mr. Speaker, It is with great personal sadness and San Francisco's deep sorrow, that I rise to pay tribute to Vernon Alley, the most distinguished and beloved jazz musician in San Francisco's history, who passed away on October 3rd. Vernon honored his beloved City by choosing to pass up playing in the big jazz cities of New York and Chicago to devote his life to enchanting and inspiring generations of San Franciscans. He elevated our City with his music and his dedication to racial justice.

A lifelong San Franciscan, Vernon went to high school with Joe DiMaggio, where he became an all-star fullback. His interest in jazz began as a boy when his parents took him to see jazz pioneer Jelly Roll Morton. He started his own group in the 30's in the Fillmore. In 1940 he went to New York and joined the Lionel Hampton Band. Two years later, he became a member of the Count Basie Orchestra.

Vernon Alley knew and played with the greatest jazz musicians and performers of his generation—Duke Ellington, Dizzy Gillespie, Charlie Parker, Erroll Garner, Nat King Cole, Charles Mingus, Ella Fitzgerald, and Billie Holiday.

He returned to his beloved San Francisco in 1942. The music scene exploded in the 40's when African Americans moved to San Francisco's Bayview District to work in the shipyards. Vernon fostered jazz in the Bay Area during the heyday of the Fillmore District and North Beach jazz scenes of the 1940's and 50's.

Vernon was as dedicated to fighting racism as he was to his music. He singlehandedly integrated the San Francisco Musicians Union. As chairman of the board of the black musicians local, he fought for integration of the City's jazz clubs, luring most of the white musicians into his local, because they wanted to play jazz in the swing clubs. As an accompanist for Ella Fitzgerald, he fought the segregationist policies of the casinos of Las Vegas.

A close friend of many San Francisco mayors, he served for years on the San Francisco Arts Commission and the Human Rights Commission. He was active in the City's arts community and hosted two popular radio programs and a television show. His good friend, columnist Herb Caen, whom he first showed around town when Caen was a young newspaperman, often mentioned Vernon as a man "whose smile lights up the town, even on foggy days."

Vernon was inducted into the San Francisco State University Alumni Hall of Fame in 1997. In 2001, when his health was declining, the San Francisco Jazz Festival put together a 3½ hour tribute called "The Legacy of Vernon Alley" that drew more than a thousand musicians and friends. Later that year, an alley in a redevelopment project was named "Vernon Alley."

We will never forget our most beloved jazzman. With a twinkle in his eyes, an infectious smile, a booming laugh, and his bass "Baby" in hand, he captivated us all. I hope it is a comfort to his brother, Eddie, his longtime companion, Loma Ruyter, and his nieces and nephews that so many friends and fans share their grief and are praying for them at this sad time.

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## APPLAUDING LOUISVILLE'S JEWISH HOSPITAL

### HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mrs. NORTHUP. Mr Speaker I rise today to recognize the incredible accomplishments of one my district's premier hospitals in the field of medical technology advancements. Jewish Hospital HealthCare Services is a regional network of more than 50 health care facilities providing services for Kentucky and Southern Indiana residents. It has recently opened the doors of a "next generation" medical center, Jewish Hospital Medical Center East, offering the region's most advanced outpatient diagnostic procedures and treatment options in the areas of outpatient surgery, endoscopy, gender-specific medicine, diagnostic medical imaging, cardiopulmonary services, rehab services and occupational health.

Earlier this year, Health and Human Services Secretary Tommy Thompson announced a legislative plan to electronically link health records nationwide, part of President Bush's call for an electronic health record for every American in the next 10 years. The aim is to make patient information available to several physicians in multiple locations and to expand the capacity for monitoring disease trends and other indicators, as well as to facilitate research.

The benefit of linking medical records nationwide is clear: even when you are out of town and unable to reach your doctor or hospital, the staff at any ER or medical facility will have your medical history available at their fingertips. That can save valuable—possibly lifesaving time. It is the healthcare of the future, but it's already happening in Louisville at Jewish Hospital.

The electronic health records system in place at Jewish Hospital Medical Center East is now referred to as a "show-site" for medical technology. Accessing medical records, in the past, would take anywhere from 30 minutes to an hour. Now the process is instantaneous. And according to an HHS report, only 13 percent of hospitals and between 14 and 28 percent of physician practices have such computerized patient records. The Louisville facility is, indeed, ahead of the curve.

I applaud the efforts and advancements in medicine pursued by Louisville's Jewish Hospital and offer them up as a model of health care excellence for the nation.

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## NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM REAUTHORIZATION ACT OF 2004

SPEECH OF

### HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. MOORE. Mr. Speaker, I rise in support of H.R. 2608. Title I of the bill is the National Earthquake Hazards Reduction Program Reauthorization Act and Title II is the National Windstorm Impact Reduction Act. Both of these sections passed by the House separately earlier this year.

I want to acknowledge the leadership of Research Subcommittee Chairman SMITH and my colleague from Washington, Mr. BAIRD, in introducing and championing the National Earthquake Hazards Reduction Program.

The National Earthquake Hazards Reduction Program—often called NEHRP—was established 25 years ago to address the serious seismic hazards in the United States. The program has the primary goal of determining how to lower the risk to people and to the built environment.

Most observers of NEHRP believe it has made many valuable contributions toward advancing understanding of earthquake processes and in developing detailed information about the geographic distribution of earthquake risk.

Equally important, the program has helped to improve engineering design and practice for structures and lifelines suitable for earthquake prone regions.

H.R. 2608 focuses on strengthening NEHRP by reinvigorating program leadership and by increasing program emphasis on transitioning the results of research to practice.

When I first introduced Title II of H.R. 2608 5 years ago, I modeled it after the NEHRP program because of its success over the past 30 plus years.

I would like to thank Chairman BOEHLERT for following through on his promise to mark up legislation on wind storms in the 108th Congress. I would also like to thank Congressman NEUGEBAUER for working with me on this important legislation.

I would like to thank Representatives MARIO DIAZ-BALART, MELISSA HART, and WALTER JONES for working with me over the past three Congresses. I would like to thank Minority Counsel JIM TURNER of the House Science Committee and Brian Pallasch of the American Society of Civil Engineers for working on this issue tirelessly over the course of the past 5 years.

Almost 6 years ago, my hometown of Wichita, Kansas, was hit by a F4 tornado which plowed through the suburb of Haysville, killing 6, injuring 150, and causing over $140 million in damage. The devastation of this attack motivated me to try to do something.

I put together a bill, my goal—to mitigate loss of life and property due to wind and related hazards.

I reviewed comments from the American Society of Civil Engineers, the National Association of Home Builders, the insurance industry, meteorologists, emergency managers, academia, industry, and the manufactured housing associations to fine-tune the legislation.

On May 4, 2003, almost 4 years to the day after the deadly 1999 Kansas and Oklahoma tornadoes, tornadoes touched down in metro Kansas City and the surrounding suburbs, as well as in many of my congressional colleagues' districts, destroying property, killing and injuring our constituents.

These tornadoes did not check with Congress to see if they were hitting Republican or Democratic districts; they are truly an equal opportunity destroyer. This is not a Republican or a Democratic issue; it is a human issue, and it is a human tragedy. These windstorms destroy lives; I have seen it in my own district and know many of my colleagues have seen it in theirs.

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## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

### HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes:

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today to support this amendment that will help to facilitate emergency preparedness between the Federal Government and the States. This amendment instructs the Director of the Federal Emergency Management Agency to develop emergency preparedness compacts for acts of terrorism, disasters, and emergencies throughout the Nation. Specifically, this will require the identification and cataloging of emergency response capabilities from Federal-State collaborations and from the Federal Government. It also shares examples of best practices between responders at the State, local, and Federal levels. No obligations are imposed on the States as a result of this amendment.

In August and September we saw the benefit of State and local government collaboration in the wake of the devastation caused by the four hurricanes that caused so much devastation in Florida, Alabama, Georgia, and other southeastern states. This amendment will help to strengthen those collaborations and help to extend the benefit to all States.

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes:

Mr. UDALL of Colorado. Mr. Chairman, after the horrific attacks of September 11, Americans understand the significance and seriousness of the 9/11 Commission's recommendations. Developed in a bipartisan manner after long study and debate, the recommendations (if implemented) would radically reorganize the intelligence community and unify government efforts to prevent future terrorist attacks. Of course, once the depth of the failure of our intelligence agencies became clear after 9/11, many of us recognized the need for such reform. The question Congress asked the 9/11 Commission to answer was—how?

We got an answer in the form of the 9/11 Commission report. The Commission put forth forty-one in depth recommendations to serve as a proposed blueprint for intelligence reform. While I believe Congress should not necessarily rubber-stamp the Commission's work, I also believe that we should honor the bipartisan spirit of the Commission by working in a similarly bipartisan way to reach agreement on the best way to implement the recommendations.

That is what has been so deeply disappointing about the process in the House. While the Senate—through an open and deliberative process—reached agreement on a substantive bill that reflects the views of both parties, the Commission, and the families of 9/11 victims, the House has played shameful politics with intelligence reform.

The Republican bill (H.R. 10) only fully implements eleven of the 41 recommendations of the 9/11 Commission, while it ignores some of the most important Commission recommendations. For instance, it fails to give the National Intelligence Director sufficient authority over the budgets and personnel of intelligence agencies. It fails to include a strong National Counterterrorism Center. It fails to strengthen the Nunn-Lugar programs and other nonproliferation programs to secure nuclear materials around the world. It fails to create an integrated border screening system to improve security at our borders. It fails to improve communications for first responders. It fails to create a government-wide Civil Liberties Oversight Board to review the use of intelligence powers and address civil liberties concerns. The list goes on.

Meanwhile, the bill includes dozens of extraneous provisions that the Commission did not recommend and that are opposed by the Commission, families of 9/11 victims, human rights and civil liberties groups, and some by the White House itself. The provisions include new authority allowing the President to completely undo the intelligence reforms passed by Congress, expedited removal of undocumented immigrants without judicial review, revocation of visas, exceptions to the UN Convention Against Torture, and allowing the U.S. government to spy on individuals without proving they are connected to a foreign government or terrorist group, among others.

These extraneous provisions aren't just objectionable because of their content—they are objectionable because at a time when we most need to think of country before politics, to find ways to come together to make our country safer, not ways to further divide us, the Republican leadership is more interested in scoring political points than in passing responsible legislation.

Even so, I am voting for H.R. 10 today because I believe that we need intelligence reform. This bill does not go far enough to protect the American people, but it is better than no reform at all. The good news is that the Senate—by a 96–2 vote—produced a bipartisan bill that should help strengthen the Senate's hand (and the voice of reason) in the conference committee. With the President supporting the Senate bill and every Republican in the Senate voting for it, it seems to me that House Republicans' misguided criticisms of the bill in conference won't carry much weight.

I am optimistic that the conference report will more closely reflect the Senate bill. As 9/11 Commissioners Thomas Kean and Lee Hamilton wrote in the Washington Post last month, "We should not wait until another [intelligence] failure takes place, until another commission has a task as somber as ours. We welcome refinements to our recommendations through the legislative process. But the time has come to act."

H.R. 10 is not the legislative refinement Commissioners Kean and Hamilton had in mind, nor is it mine. But it is a start. As the legislative process continues, I will do all I can to help move the bill in the right direction. I hope my colleagues across the aisle will do the same. At a time when our security is at risk, Congress must set politics aside and pass intelligence reform legislation that will truly make America safer.

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

### HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes:

Mr. BRADY of Texas. Mr. Chairman, I rise in strong support of this measure which would reform and improve our security and intelligence structure.

The Houston area, of which I represent part of, meets every single criteria for critical infrastructure terrorist targets—14 of 14—we are a perfect storm of terrorist targets. Texas shares about half of its borders with International interests—Mexico and The Gulf of Mexico—leaving us even more vulnerable and facing some unique security needs.

Houston and surrounding areas are ripe for trade, are magnets for the petrochemical industry, have been thriving agriculture regions and remain the center of activities for the energy, banking and many other industries. We have ports and airports large and small, NASA, many tourist attractions, and an environment that invites businesses large and small. All these things make our area wonderful to live in but at the same time make it a higher potential target for terrorism and disasters. Greater risk area because of our size, population, not only in urban core but also in outlying areas geographically and population density.

H.R. 10 is about protecting our interests at home and abroad and protecting our way of life. It would be irresponsible to not act. I'd like to take a few minutes to talk about a few provisions in this bill which I think are particularly important:

Taking serious action to strengthen our borders—doubling border patrol agents—trippling immigration agents.

To seriously restructure our intelligence community and truly making the way we do business more intelligent.

Sending more targeted First Responder grants to where the real threats are and supporting the folks on the ground who are our own front line. Our colleges and community colleges and first responders throughout the state and their ability to quickly respond to local needs make our area an excellent model for delivery of training.

Treating terrorists like terrorists and not giving them free U.S. vacation visas and asylum.

Cracking down on terrorists—whether acting alone or state sponsored or some guerrilla regime—knocking the wind from their sails and taking our country—our way of life—back.

We stand for freedom and democracy and terrorism targets these values—the things this nation hold most dearly. We need to act now to protect our families and our way of life.

## SUPPORT OF WORLD FOOD DAY

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Ms. LEE. Mr. Speaker, I rise today on behalf of myself and Mr. PAYNE to recognize World Food Day on October 16.

It is imperative to reflect on one of the greatest problems facing humanity today, hunger. Statistics show that close to a billion people around the globe suffer from the effects of hunger and malnutrition. Sixteen thousand children die daily of hunger-related illnesses.

The United Nations Hunger Task Force estimates that, globally, 50 percent of hungry people are in farm households; 22 percent are the rural landless; 20 percent are urban; and 8 percent are directly dependent on natural resources. The fight against hunger must target rural populations in developing countries.

The World Food Summit and the first Millennium Development Goal, MDG, aim to reduce the number of hungry by 2015.

Increasing a population's productivity lends itself to community development and access to resources. These resources can be used to facilitate agricultural and educational programs, which from people can learn and teach themselves to grow. As a result, healthy women are more likely to pass on these positive aspects to their children.

In 1943, President Franklin D. Roosevelt took the initiative to address concerns about world hunger. He assembled 44 governments in Hot Springs, VA, to establish a permanent organization for food and agriculture. Two years later that assembly became the FAO—the Food and Agriculture Organization of the United Nations.

Since its establishment in 1945, FAO has committed itself to raising levels of nutrition, improving agricultural productivity, for the betterment of people residing in rural areas. Each year on October 16, FAO's commemorates its founding with World Food Day (WFD). The theme for 2004, "Biodiversity for Food Security," addresses biodiversity's role in ensuring that people have sustainable access to enough high-quality food to lead active and healthy lives, www.fao.org/wfd.

More than 150 countries observe World Food Day. Numerous activities take place on this day to promote awareness within the United States. Examples of these are the World Prize Award Ceremony and Symposium in Des Moines; hundreds of WFD teleconference sites at colleges across America and at U.S. Embassies around the world; "Restaurants against Hunger" in New York, Washington, DC, San Francisco, Los Angeles, Chicago and Boston; 2204 CROP walks sponsored by Church World Service in some 2,000 communities. Jacques Diouf, Director General of FAO will keynote observances at the United Nations in New York on October 18 and at Howard University's Law School on Tuesday, October 19.

While conflict and harsh climate—the more publicized conditions—often create hunger emergencies; chronic malnutrition claims the majority of the lives lost in the battle against hunger. The world possesses the capabilities to alleviate hunger. Lacking are stabilized governments in developing areas and proper distribution of desperately needed materials, where it be food, medication, or equipment.

The U.S. Alliance Against Hunger is working on the following: making hunger an election issue, helping develop the International Alliance Against Hunger and encouraging business, religious and nongovernmental organizations to build the public will to overcome hunger.

The International Alliance Against Hunger, IAAH, assists in building national alliances around the globe. These alliances composed of governments, international organizations, civil society organizations and the private sector work to raise public awareness about the 2015 hunger goal. Eighty-four countries have expressed interested in being part of this global effort.

Individual governments must do more to indicate change of these staggering numbers. Bread for the World estimates, that Congress' bipartisan agreement increased poverty-focused development assistance by nearly 30 percent in 2003. The Millennium Challenge Account, MCA, has provided new hope to selected countries. Sadly, appropriations for the MCA have been cut in half in 2004 by the president's request, and neither the President nor Congress is currently keeping the promises they have made. These funds must be resorted in order to make progress against worldwide hunger.

In closing Mr. Speaker, we stand in full support of World Food Day and the efforts of the international community to end hunger throughout the world.

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

### HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes:

Mr. LANGEVIN. Mr. Speaker, I rise today in support of this measure, not because I endorse all of its provisions, but because I believe that Congress must act swiftly to reform our intelligence community and to protect our homeland.

As a member of the House Armed Services Committee, I believe H.R. 10 does not go far enough to establish a National Intelligence Director with real authority. I agree that we must provide the Department of Defense and our men and women in uniform with the military intelligence needed to be successful, an assertion that 9/11 Commission Vice Chairman Lee Hamilton accepted even though it was not specifically addressed in the report. At the same time, if we do not grant the NID true authority over our intelligence assets, we run the risk of adding another layer of bureaucracy that complicates, not simplifies, the challenges facing our system.

Furthermore, I am disappointed that H.R. 10 is largely silent in addressing the threat of nuclear weapons proliferation. There is no greater danger to our homeland than the possibility of a nuclear weapon being smuggled into our country by terrorists. Russia and many former Soviet republics retain nuclear material that is not appropriately safeguarded, and the United States must lead an international effort to track down, lock up and destroy those potentially deadly weapons. Unfortunately, an amendment offered in committee by the gentlewoman from California, Mrs. TAUSCHER, and the gentleman from South Carolina, Mr. SPRATT, was blocked from consideration.

On a more positive note, this legislation appropriately recognizes the need to enhance our human intelligence capabilities and creates a national counterterrorism center to coordinate interagency intelligence efforts.

I am also heartened that H.R. 10 heeds the Commission's call to enhance America's image in the world and prevent the rise and recruitment of future terrorists. Dr. Joseph Nye, the former dean of the Kennedy School of Government and Assistant Secretary of Defense for International Security Affairs, has talked about the need to supplement our military might with "soft power"—efforts to win the world's hearts and minds with our values and culture. Successfully exercising this type of power requires that we pursue many fronts, including international diplomacy, democracy-building, cultural exchanges, economic development, educational initiatives and communication about our values and ideals.

To win the ideological battle being waged in the world today, we have to offer an alternative to the hopelessness and despair that the likes of Osama bin Laden and al-Qaida prey upon. There are millions of young people in the Islamic world who are hungry for hope and opportunity, and it is in our interest to show them that hope lies in freedom, liberty and democracy—not in extremism and hate. In doing this, we take a major step towards ensuring that we win the long-term war on terror.

As the 9/11 Commission so eloquently put it: "We need to defend our ideals abroad vigorously. If the United States does not act aggressively to define itself in the Islamic world, the extremists will gladly do the job for us." While H.R. 10 does not implement all of the Commission's recommendations in this regard, I am pleased that our nation is finally taking an important step toward bolstering its stature in the world. I am hopeful that the Conference Committee will adopt stronger provisions from the Senate bill regarding our efforts in Afghanistan, public diplomacy initiatives, educational and cultural exchange programs, and economic development initiatives.

With regard to domestic security, the measure before us today takes some major steps forward. As recommended by the Commission, the bill calls for the creation of a stronger biometric entry-exit screening system, global standards for security systems, a transportation security strategy for all sectors, and improved prescreening of airline passengers. H.R. 10 also moves closer to a threat-based formula for distribution of first responder grants, an important change in the way we fund state and local preparedness efforts. Unfortunately, the bill falls short of several critical goals, among which are protecting privacy in information-sharing, ensuring spectrum and equipment for public safety interoperable communications, enhancing private sector preparedness, and improving the way we track terrorist travel and financing.

Most disappointingly, H.R. 10 undertakes a number of controversial immigration modifications not recommended by the 9/11 Commission and not found in the Senate legislation, which passed earlier this week by a resounding vote of 96–2. The inclusion of these divisive sections will likely slow down the upcoming conference and delay implementation of the many beneficial parts of this legislation.

One worrisome provision of H.R. 10 strips from the courts their traditional judicial oversight in many immigration cases and may require automatic deportation of noncitizens, even if they will face torture in the country to which they are sent. Not only is this provision a violation of the International Convention Against Torture, it is morally unacceptable and risks further damaging America's image in the world.

In addition, the bill expands the use of secret intelligence court orders, which can be issued under a far lower standard than conventional warrants or wire taps. The unfortunate inclusion of these and other extraneous provisions threatens civil rights and civil liberties and endangers the future of intelligence reform. I look forward to addressing some of these issues during the amendment process and urge conferees to reject any provisions which would threaten the bipartisan, bicameral response that the 9/11 Commission's report requires.

I am pleased that we will have the opportunity to vote on a substitute offered by the gentleman from New Jersey, Mr. MENENDEZ, and I urge all of my colleagues to support its passage. The Menendez substitute is based on the bipartisan McCain-Lieberman-Collins legislation, which has the support of the 9/11 Commission, the White House and families of the 9/11 victims. This amendment addresses all 41 of the Commission's recommendations, and does so without adding controversial and divisive provisions that jeopardize the broad-based support the recommendations have garnered.

I am deeply disappointed that the House leadership has denied the minority a voice in drafting this bill, and I urge my colleagues to support the Menendez substitute to correct these problems. However, should it fail, I am confident that we will be able to improve this legislation in negotiations with the Senate and the White House so that we may provide the type of reform that the American people deserve.

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## THE DEBT WE OWE OUR WOUNDED

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mr. SCHIFF. Mr. Speaker, in his 1917 poem, Disabled, the British poet Wilfred Owen, whose haunting verse brought the horror of the First World War to millions throughout the English-speaking world, described the loneliness and emptiness of a soldier who had lost his leg in war.

Alone, in a wheelchair by a window, the soldier remembers all that he has lost and how the cheers that accompanied his departure for the front were not so loud upon his return—how

> only a solemn man who brought him fruits
> Thanked him; and then enquired about his soul.

Today thousands of young Americans face many of the same challenges of the young amputee in Owen's poem. Thanks to vastly improved battlefield medicine and body armor, fewer of our troops in Iraq and Afghanistan die from their wounds than in any of America's previous wars. But this improved survival rate does not come without a price: Thousands of young Americans are returning home paralyzed or without limbs. More than 7,000 Americans have been wounded in Iraq according to the Defense Department and many hundreds more have been wounded in Afghanistan.

Last month, when I visited our troops in Iraq, I spent some time at a military field hospital near Baghdad. It was a deeply moving experience to confront the costs of war. Two weeks ago, I shared with this House a discussion I had had with two young Marines whose armored Humvee had been blown up by a roadside bomb. Nearby there was another soldier whose spine had been severed by shrapnel. He was unconscious when I was there, but his doctor told me that he will be a quadriplegic for the rest of his life.

We have asked so much from the young people we send into battle and they have the right to expect that if they are wounded that we as a nation and as a people will be there for them. That is the covenant that we have made with them.

The vast majority of our most severely wounded will receive cutting-edge medical care; many will convalesce right here in the Washington area at Walter Reed or the Bethesda Naval Hospital. During my visits to Walter Reed I have been impressed by the work of the doctors, nurses and therapists who are doing a marvelous job for the troops there, many of who stay for months as they recover from their wounds and begin a new life—often with prosthetic limbs.

Many of the troops who are treated at Walter Reed or Bethesda are discharged from the military shortly after leaving the hospital. As they continue their recovery most of these former soldiers will still require medical treatment, physical therapy, and counseling. Some will need care for the rest of their lives.

For many veterans, especially the severely wounded, navigating the labyrinthine bureaucracy of the Department of Veterans Affairs is a frustrating challenge in itself. Yet, even as the VA is taking on thousands of newly disabled veterans, the largest such group since Vietnam, three VA hospitals are slated for closure, while another eight will be partially closed.

The backlog of disability claims is growing and now exceeds 330,000, while the backlog of veterans claims pending before the Board of Veterans Appeals has nearly doubled in the last four years. Even though it now takes the VA about 160 days to process a claim—more than 5 months, the Administration wants to cut 500 claims processors in FY 2005.

I see no reason why, at a time when we should be adding to the VA's 162 medical facilities, we are shutting them down. In a survey released in March of last year by the American Legion, patients wait an average of seven months to see a primary care physician at VA facilities and more than half reported that they had an appointment postponed by the VA, with an average wait of an additional 2½ months.

When they finally receive care at VA facilities, some of our veterans receive substandard care. In April of this year, an ABC News aired investigation of two VA facilities in the Cleveland area, found dirty bathrooms, halls filled with dirty linens, unclean examination rooms, and memos discussing broken sterilization machines. Former patients spoke of insensitive staff who often ignored patient needs; one woman spoke of patients begging for food and water.

As bad as conditions were before, they are likely to be worse now as the influx of wounded from Iraq grows. In August alone, more than 1,100 U.S. troops were wounded.

The treatment of those wounded in battle is a good measure of a nation, and Congress, and the president must take corrective action now. I realize that fixing a problem of the magnitude of that facing our veterans cannot happen overnight, but we can begin now. The House should do is to pass immediately H.R. 5057, which will expand the Army's innovative Disabled Soldier Support System to all of the military services. The bill was introduced by my colleagues, Mr. RUPPERSBERGER, Mr. HOYER, and Mr. JONES, and enjoys support on both sides of the aisle. The DS3 program has helped more than 200 severely wounded soldiers to adjust to their new lives, but there are thousands more who need help.

We must also rely on the generosity of the American people to help wounded soldiers. Local communities, service clubs, religious congregations, schools and individuals can pitch in to help new veterans. Medical professionals, social workers, and therapists can volunteer to help until we can get the VA medical system into shape. Contractors can donate their services to remodel homes for soldiers who are paralyzed or have lost a limb. Automobile dealers can donate vehicles that are modified for the needs of their new owners. Students can volunteer their time to run errands, do laundry or just visit with these heroes, many of whom are only a few years older than they are.

Mr. Speaker, no American who has served this Nation in the armed services and been grievously wounded should ever be left to stare out a window and dream of a life that could have been. We are a stronger, prouder and more grateful nation than that.

## IN HONOR OF MIM KELBER

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### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mrs. MALONEY. Mr. Speaker, I rise to pay tribute to Mim Kelber once again. When Mim passed away this summer, we lost a woman whose clear vision and verbal acumen helped change the world. A brilliant writer, Mim used her facility with words to inspire supporters of the feminist, labor and environmental movements, among others.

Mim became friends with Bella Abzug when they were still in high school, and they attended Hunter College together. At Hunter, Mim became editor of the Hunter Bulletin while Bella was elected president of the student body. From 1943 to 1955, Mim was national news editor and Washington Bureau Chief of Federated Press, a national syndicated labor news service. She covered the founding meeting of the United Nations in San Francisco, and the labor movement, as well as Congress and the White House. She was an editor/writer for Science and Medicine from 1958 to 1970, leaving that position after Bella was elected to Congress (1971–78).

Mim served as Bella's executive assistant and chief speechwriter, co-edited Bella's Congressional newsletter and was her policy adviser on women, foreign policy, urban affairs and civil liberties. Family life was always of paramount importance to Mim, and she insisted on working out of Bella's New York office, so she could remain in her Brooklyn apartment with her husband, Harry Kelber, a labor journalist and educator, and their two daughters.

In 1974, Mim chaired the Media Committee of the National Women's Political Caucus and directed a national media campaign, Win With Women, a major effort to elect more women to Congress. She was a policy consultant/writer for President Carter's National Advisory Committee for Women (1978–79) and co-authored the official report of the committee's Houston conference. She also co-authored Gender Gap: Bella Abzug's Guide to Political Power for American Women (1984); Women and Government: New Ways to Political Power (1994), and Women's Foreign Policy Directory (1988). In 1990 she co-founded Women's Environment and Development Organization with Bella, and remained involved with WEDO until her death. Mim leaves her beloved husband, Harry, two daughters, Karli and Laura, and five grandchildren.

Many people spoke movingly at a memorial service held for Mim on August 17, 2004, and I have already included some of their tributes in the RECORD. To honor Mim's memory, I am pleased to offer some additional statements given that day:

Robin Morgan: "I wrote down a few thoughts, because I could almost hear Mim saying, "Don't wing it," and adding, "Quote me every chance you get."

When Harry kindly asked me to say a few words today, the first thing I thought of was Mim's lifelong love affair with words. Others have noted—as history will—the many details of her early, continued, consistently principled life, starting with political engagement even as a young girl and intensifying across the decades: the social-justice and labor and civil rights and peace and feminist and environmental organizations she founded, cofounded, and participated in with never-lessening commitment—and always more than slightly ahead of the curve.

Of course, just as it was difficult to speak of Bella Abzug without speaking of Mim, so the reverse is true. They met in the 1930s: young girls in high school. As Mim herself wrote: "Bella was class president and already a fearless leader, and I was shy and hung out in the library. She was an active young religious Zionist—I was an atheist marching in radical May Day parades." Later, they were both in the first class to enter tuition-free Hunter College's new Park Ave. building where—Mim's words again: "Bella majored in political science and was president of the Student Council—I was a journalism major, news editor of the Hunter Bulletin—and still shy." Over their lifetimes, Mimi and Bella loomed as giants in virtually every progressive movement of the time and—with all due respect to their beloved husbands (Harry; and the late Martin)— they were like a 20th-century version of a "Boston marriage": joined in political creativity and dedication, their relationship illuminated by laughter, trust, incredibly hard work, dauntingly long hours, the familiarity and ability to finish each others' sentences, HUGE fights, and makings-up. In sum, a lasting political and personal dynamic duo, an historic—and certainly odd—couple. It's no exaggeration to say that they were the Elizabeth Cady Stanton and Susan B. Anthony of our time. Personally, I never fully realized, just how challenging it had been for Mimi to write speeches or statements for Bella—for years—until I tried it for the first time myself. I just about killed myself, draft after draft, revision after revision. Finally, Bella approved the text. "It's OK," she shrugged, "but it sure ain't Mimi."

Nor were speeches all Mim penned, with and for Bella—but also on her own. Books. Articles. Manifestos. Reports. Position papers. Drafts of legislation. Journalism and analysis and rousing rhetoric. Always intelligent, well-crafted, powerful. "Power," Mim once wrote to me, "is a word for which women should never apologize." It was one of many words she loved, in a life passionately dedicated to ideas and the language for expressing them. My only regret is that the world's sufferings and her resolve to alleviate them left too little time for her to write all the novels that shy girl in the library had dreamed of writing.

Because her passion was not confined to politics, Mim was one of two or three American political activists I have ever known to read serious literature—even poetry, even contemporary poetry—for pure pleasure. We sometimes snuck away for a quiet coffee at various conferences, and could be seen whispering secretly, almost guiltily, in corners. Were we discussing conference takeovers, purges, devious amendments? No. We were talking about Milton and Donne and Seamus Heaney; about Kafka, Mann, the Brontes, Mary Shelley, Aphra Behn, Hawthorne, Wolfe, Twain, Faulkner—and especially and always, Mim's greatest favorite, Jane Austen. That taste for understatement was reflected in Mim's own sharp wit—which was sometimes so dry it could pucker. She could get depressed, yes, and be bitter, too—at the state of the world, at stupidity, cruelty, cupidity, violence, hypocrisy, and at, as she growled once, "A bit too much so-called pragmatic compromise." But her anger and even, at times, despair was rooted in a brilliant grasp of history, and a too-rare capacity for irony. This surfaced again during the one of the last conversations I had with her, when she was in the hospital. We were talking by phone about the framers of the Constitution, and I made a passing reference to the familiar quote of Abigail Adams to her husband John, to "remember the ladies." Then, out of nowhere—or, rather, out of pain, fragility, and that fading memory we're all prone to—Mim sighed, "Yeah, but," then suddenly snapped back with John Adams' far-too-little known response to Abigail's plea: "Depend upon it we know better than to repeal our masculine systems."

In a culture cheapened by relentless commercial cheer and prone to instant, superficial fixes and fake spiritual grace, her acerbic intellect was bracing in its integrity. Even when discouraged, though, she never stopped pushing boundaries throughout her rich, full, consistently principled life. Perhaps because she had already been a fierce, uncompromising atheist when so young, she knew early on that there was no need to hope for any better heaven—and no need to fear any worse hells—than what life itself offers. So she deliberately faced into it and lived it utterly, in all its bleakness and all its glory. About this Mim was never shy.

She leaves a trail of light behind her, for us to read by and see our way by, in her political legacy, and in her cherished, well crafted words.

Our deep gratitude to Harry, their daughters, and the rest of her family, for having shared Mim Kelber with us—and with history."

Blanche Wissen Cook: "Modest and too often anonymous, Mim Kelber had the best ideas, wrote the best speeches, the most searching essays, the most valuable political analyses.

Mentor and guide, I learned something important from Mim every time we spoke on the phone, every time we were together. Brilliant and precise, she was a great journalist, a splendid organizer, a peerless leader, a caring, considerate teacher, a warm and generous friend.

Perhaps best known publicly as Bella Abzug's partner during and after the congressional years, she was for most of us the person to consult with on the most difficult questions of political strategy on war and peace, women and policy.

One depended on Mim, who never asked anything for herself. Wise, discerning, informed, Mim was above all a great writer and editor. She turned the most difficult issues into the clearest arguments, the most vivid paragraphs.

She did not (so far as I know) finish her book, Women and War, but Harry, her devoted husband, beloved ally and champion, also our guide, gave us the gift of her publications, The Bella Abzug Reader, and also her novel, A Pride of Women.

We will miss her every day, and have forever the legacy of her bold vision, her steadfast commitment to goodness, justice, environmental sanity, and complete respect and love for the people she loved, all the people of earth.

June Zeitlin: "I had the good fortune to work with Mim over a period of almost 30 years—first, as a young lawyer working in Bella's Congressional office in Washington. We would always send our statements up to New York for Mim to look at—I didn't know her well then but I knew the work better be up to her high standards!

Inside the Carter Administration, I watched Bella and Mim and others transform the National Commission on the Observance of International Women's Year into a radical force for change. We still cherish its publications, which Mim not only wrote but infused with such far ranging ideas, we could go back to them today.

Their active involvement in international women's year activities and the nascent global women's movement led Bella and Mim to focus more of their attention on both US foreign policy and global policy in general. Seeing that it was mostly men who were making foreign policy and the policies that even at that time weren't working so well (at least if you were female or happened to be poor), they formed the Women's Foreign Policy Council to show the news media and foreign policy community that there were many women with expertise to draw on as well.

Mim and Bella saw the 1990s and particularly the Earth Summit at Rio as an opportunity to bring women—with their unique and diverse experiences, perspectives and voices to the critical issues of war and peace, environmental degradation, social and economic justice and of course women's rights. Together, they founded a new organization—the Women's Environment and Development Organization—WEDO and We Do!

This is not an organization about the environment in the traditional sense. To Bella and Mim, it was the planet! And their goal was a peaceful and healthy planet and human rights for all. Joining with amazing women leaders from around the world—Wangari Mathai, Peggy Antrobus, Vandana Shiva, Chief Bisi Ogunleye, Thais Coral and many others, they brought 1500 women from 83 countries to Miami in 1991 for the World Women's Congress for a Healthy Planet. There, the participants formulated and adopted the Women's Action Agenda, a comprehensive global vision that articulated women's leadership and empowerment as catalysts for change.

Women's Action Agenda was a direct challenge from the world's women to government officials, the UN, and the World Bank to shape the official Rio platform and subsequent global policy documents. To lobby for this comprehensive agenda, WEDO established the Women's Caucus, bringing together women from North and South, East and West, in a systematic and participatory mechanism for bringing women's experiences and voices into UN processes. The results were extraordinary—a whole chapter devoted to gender equality and, for the first time, formal recognition of women's central role in achieving sustainable development.

By the time I joined WEDO in the fall of 1999, more than a year after Bella's death, the burden and responsibility for ensuring the ongoing work of the organization had fallen to a very committed core of the Board of Directors and the staff—all of whom were guided on a day to day basis by Mim. But Mim was already experiencing severe hearing loss and other physical ailments. And the world, too, had changed—despite her great and steadfast faith in the United Nations, she kept saying—"We have so many words on paper—we don't need any more words—we need actions!" But she herself was unable to join in the "actions" which left her deeply frustrated and sometimes discouraged.

Yet Mim was a giant—we have all drawn inspiration from her lifetime commitment to activism and her prodigious work. We have lost several of our giants in recent years—Bella, Patsy Mink, earlier this year Millie Jeffries, and now Mim. As she wrote in her novel, "Goddess help me!" But these were women and Mim was a woman "who would never give up and never give in." We at WEDO will continue their work and their fight—and make it our fight—and we are committed to never give up and never give in until we have achieved a peaceful and healthy planet with human rights for all."

Mr. Speaker, I ask my colleagues to join me in celebrating the life of Mim Kelber, a remarkable woman whose words will continue to inspire future generations.

## ARMY 1ST LIEUTENANT TYLER BROWN

## HON. PHIL GINGREY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mr. GINGREY. Mr. Speaker, I rise this evening to pay homage to the life of a fallen American hero, U.S. Army 1st Lieutenant Tyler Hall Brown of Atlanta, Georgia. Lieutenant Brown was killed by sniper fire on September 14, 2004 in Ar Ramadi, Iraq, a town 70 miles west of Baghdad. Tyler was leading his unit on a reconnaissance patrol in the Iraqi town when he and his unit were ambushed by insurgents. He was a heroic leader to his men even until his passing as he, though mortally wounded by the sniper's shot, was able to give a warning to his men, preventing any others from being injured.

His fellow officer, Captain Daniel M. Gade considered Lieutenant Brown one of the finest officers he'd known, saying that he was an inspirational leader, both on and off the field of battle who during numerous enemy contacts, was calm, leading his men with bravery and aplomb. He loved his men, and they loved him in return.

That is how Tyler lived life, a born leader, a born officer that had a passion for people and a passion for life. His leadership qualities were identified early. While President of his high school senior class at Woodward Academy, his classmates considered him a politician in the making; patriotic, red, white and blue to the core; and figured he could even become President of the United Stated some day.

After high school, Tyler proudly followed in the footsteps of his father, Carey and his older brother, Brent to Georgia Tech, which is my alma mater. At Georgia Tech, Tyler served as President of the Student Government Association for the 1999–2000 academic year, a position that his father had also held while in school. His hard work, dedication, and commitment to inclusion inspired fellow students to become more involved on campus and to get the most out of their college days. Tyler graduated in 2001 with dual Bachelor of Science degrees in management and in history, society and technology. Commissioned from the ROTC program at Georgia Tech, he earned paratrooper's wings and completed the rigorous Army Ranger training course before joining the Army's 1st Battalion, 9th Infantry Regiment, 2nd Infantry, based at Camp Hovey in Tongduchon City, Korea.

Tyler was among 3,600 troops of the Army's 2nd Infantry Division deployed to Iraq in early September from South Korea. He had only been in Iraq 2 weeks when he was killed. Tyler had been approved for service in the Army's famous 3rd Infantry Regiment, known as the Old Guard, one of the oldest and most respected Infantry Regiments in the United States Army. The Old Guard has the responsibilities of guarding the Tomb of the Unknowns at Arlington National Cemetery, serving as the Army's ceremonial unit and, as an active and well-trained Infantry Regiment, the 3rd Infantry is also responsible for the protection of Washington, DC.

Instead of accepting this prestigious assignment he chose to go to Iraq with his men. That decision exemplified his life, putting the good of others in front of his own interests.

On September 28, Tyler finally was joined with the Old Guard as they escorted him to his final place of rest with full military honors in Arlington National Cemetery. He was posthumously awarded a Purple Heart, a Bronze Star, and the Combat Infantryman Badge for his heroic service.

I had the privilege of being present at his interment and to pay respect to a young man who in only 26 years had made a difference and touched more lives than many do in their entire life. As the bugler began to play taps and the honor guard fired a rifle volley salute, I couldn't help but look around at some of those lives who stood beside me and see the heaviness in their hearts and the sadness in their eyes, but I could tell we were saying goodbye to a truly special individual.

My heart went out to the Brown family, a proud American family giving so much to their country, as the flag that draped Tyler's coffin was folded and presented to his mother, Sally, and the medals that had been earned by the ultimate sacrifice were placed into the hands of his father.

The heavy rain that fell down that day was fitting to the somber mood created by this loss. Tyler Brown was a young man, a son, a brother, a friend, an officer, a leader who left this world with so much potential and so much ahead of him.

His brother Brent said that Tyler "died for the country he loved, doing what he wanted to do. He lived well and died a hero. He lived life to the fullest, he truly did. He became a role model to me."

Mr. Speaker, Tyler Brown in his life and in his death has become a role model to me, a role model for all of us. I salute his service to our nation, the love he showed to his family and all those with whom he came into contact. We know that he is in a better place now and pray this knowledge will provide some measure of comfort for his family in the days ahead.

Mr. and Mrs. Brown along with the entire Brown family are to be commended and honored for their sacrifice and my thoughts and prayers remain with them as they endure this difficult time.

## TRIBUTE TO STEVEN J. FINKELMAN.

### HON. JOHN ABNEY CULBERSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mr. CULBERSON. Mr. Speaker, on May 2, 2004, Steven J. Finkelman received the Southwest Achievement Award from the American Israel Public Affairs Committee, and I am proud to memorialize here in the CONGRESSIONAL RECORD the accolades Steven received as he accepted this prestigious award. Steven is a devoted father and husband, and he is equally devoted to his community and his country. He has devoted countless hours of his life to preserve, protect and defend the United States of America, and he understands, as I do, that America's strongest ally in our war against terrorism is the State of Israel.

Here again tonight I want to record my immense pride in Steven's achievements and my gratitude to him for all that he has done to improve the lives of our neighbors in Houston, and for his tireless work to promote the principles of individual freedom grounded in faith and self reliance that have America the greatest and most prosperous nation in the history of the world.

Congratulations Steven, on receiving AIPAC's Southwest Region Distinguished Leadership Award for 2004. No one deserves this high honor more than you do. I am pleased to memorialize here in the CONGRESSIONAL RECORD my own congratulations, your speech as you received the award, and the eloquent words of our good friend Melvin Dow as he introduced you.

#### AIPAC PRESENTATION TO STEVE FINKELMAN

The video mentioned that Steve is the child of a Holocaust survivor. That fact sends two messages about this presentation to Steve.

First, it is a tribute to Steve's family that one generation arrives in this country with nothing, and a generation later the family operates a respected successful business, has educated its children and grandchildren, and Steve, as the video pictures reflect, is a personal friend of Senators, Congressmen and other government leaders—the American dream coming true.

Second, the story illustrates the unique glory of this wonderful country which takes, in the words on the Statue of Liberty, "the tired, the poor, the wretched refuse of a teeming shore" and offers them the golden opportunity to enjoy freedom and to use their talents and energy to be whatever they can be.

Hillel said: "Do not separate yourself from the community. Be involved and be a part of the community." Steve is the paradigm of Hillel's concept.

Steve is in numerous Jewish organizations, not just as a member, but as an active, involved leader. I will tick off a few:

First, naturally, I will mention AIPAC—Steve is on the National Executive committee and the Houston Advisory Council.

He also has served or currently serves on the board of directors of these organizations:

The Republican Jewish Coalition;

The Jewish Institute for National Security Affairs (JINSA);

The Institute of Hebraic Christian Studies;

State of Israel Bonds (Steve has been President of the Prime Ministers Club);

Ben-Gurion University of the Negev;

Congregation Beth Yeshurun;

Holocaust Museum of Houston (Steve has served on the Board of Directors or Advisory Board since the inception of that organization);

Anti-Defamation League;

Jewish Federation of Greater Houston;

Camp Young Judaea;

University of Texas at Austin Hillel.

I could go on, but that gives you the idea.

Steve has won awards from the Jewish Federation of Houston, Hillel, State of Israel Bonds, and Yad Vashem, the Holocaust Museum in Israel.

He spent a year studying and working in Israel. He's been to Israel *16* times.

A tribute to Steve would not be complete without also paying tribute to Sandra—his wonderful partner of almost 17 years. Steve and Sandra share not only community property but also a heart-felt appreciation of the American dream, a profound dedication to the security of Israel, and a deep commitment to Jewish values. In the latter connection, their three children all attended Jewish day schools and all attended Young Judaea summer camp.

For all these reasons, AIPAC is proud and honored to present its Southwest Achievement Award for 2004 to Steve Finkelman.

#### STEVEN J. FINKELMAN—RESPONSE FOR AIPAC SW REGION DISTINGUISHED LEADERSHIP AWARD

Thank you, Melvin. Receiving this award from you makes it even sweeter!

Friends! I am filled with humility and gratitude for being chosen as a recipient for this award. I have so much respect for AIPAC and for it's vital mission to support the U.S.-Israel relationship. Being recognized by AIPAC, therefore, means so much to me.

When I heard Joy's beautiful rendition of the national anthems earlier this evening, I didn't hear two separate songs, rather two verses of the same song.

In my mind, love for the United States and love for the State of Israel don't compete with one another; they compliment each other.

Memory can be fickle and in the whirlwind of current events and competing interests, it is easy to forget the fundamentals. No one does a better job keeping us focused than AIPAC.

Tonight, I am inspired . . .

Inspired by the incredible dedication of people whom I have met through my involvement in politics . . . grassroots activists, elected officials, candidates—all of you have my deepest admiration.

Inspired by our Christian Zionist friends who mean so much to me and who have opened their hearts to Israel and to the Jewish people.

Inspired by the words we heard earlier this evening from Sen. John Cornyn and the members of our local Congressional Delegation, who prioritized their schedules to be here tonight. And by all the other elected officials who have joined us here tonight as well.

Inspired by our wonderful Houston Jewish Community and the professionals and lay leaders with whom I have the privilege of working. Each organization plays an important role in the totality we call Klal Yisrael.

Inspired by a strong spiritual attachment to Judaism. My faith and the values that derive from our rich heritage are the underpinnings for my political activism.

I want to thank Relda for sharing this honor with me. And to the entire AIPAC staff who worked so hard on this event.

As a Holocaust survivor, my father's legacy to me is the sacred duty to remember those who did not survive. My mother, of blessed memory, was an example of unending endurance and inner strength, and my mother-in-law's zest for life is very special to me.

Sandra and I have been blessed with three wonderful children—Jordan, Seth and Marissa. They have learned to cope with the evenings that both Mom and Dad are out at meetings. However, Friday nights are spent together at Beth Yeshurun and Shabbat Dinner afterwards.

I hope my children will look around this room and see how many of you have taken the time to support the important mission of AIPAC.

Things can get pretty crazy in our home between all the meetings and events Sandra and I are involved with. Yet, Sandra still makes sure that there are three meals a day on the table, and that each kid gets to wherever they need to go. She is an awesome mother, wife and partner. I am so fortunate to have a wife who is not only supportive, but who makes me proud for all that she does. Sandra, I love you.

At one time or another, all my other family members who are here to support me this evening end up pitching in to help in one way or another. Thank you all.

I close with a hope that each of us this evening has been inspired to increase our level of pro-Israel activism at least one notch—it begins with education on the issues. There is no better place for that than AIPAC . . . get involved with candidates, elected officials, and the political party of your choice . . . or better yet, with the political party of my choice. Not to worry, Mark, that's as partisan as it gets tonight.

The great sage Hillel asked—"If I am not for myself who will be? If I am only for myself, what am I? If not now, when?" The answer to the question "when" is "now!" Let's go do it!

Thank you.

## IN CELEBRATION OF THE HAMPTON HIGH SCHOOL CRABBERS 700TH VICTORY IN FOOTBALL

### HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mr. SCOTT of Virginia. Mr. Speaker, along with my colleagues, Representative JO ANN DAVIS and Representative ED SCHROCK, I rise with great pride to call attention to a group of young students who have distinguished themselves, their school, their community, and the Commonwealth of Virginia.

The Hampton High School Crabbers football team won their 700th game last night. By doing so, the Crabbers became one of only 11 high school football programs in the Nation to reach 700 victories. This is a remarkable feat and I believe they deserve formal recognition for their accomplishment.

Hampton High School began playing football in 1899, so the legacy of this milestone extends to the hundreds of players who have worn the Crabber uniform and to coaches such as Mike Smith, Dick Esleeck, James "Suey" Eason, and Johnny Palmer. Coach Smith has been head coach for more than half of the Crabbers' 700 wins, and has been a part of more than 400 victories.

My colleagues JO ANN DAVIS, ED SCHROCK, and I would like to extend our enthusiastic congratulations to the Hampton High School players and their families, Coach Smith and the rest of his coaching staff, Hampton High alumni, and the entire Hampton High community for their remarkable accomplishment.

## THE INCREASED MENTAL HEALTH NEEDS OF OUR RETURNING SOLDIERS AND VETERANS

### HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mrs. NAPOLITANO. Mr. Speaker, October 3 through October 9 is Mental Illness Awareness Week. During this week, it is critical that Members of Congress and the American public recognize the increased mental health needs of our returning soldiers and veterans.

As co-Chair of the Congressional Mental Health Caucus, I rise today to express my strong support for expansion of the mental health benefits offered to our veterans and the men and women currently serving in our armed services. Those who have witnessed the atrocities of war must have professional assistance to deal with the traumatic memories that they are going to live with for the rest of their lives. These traumatic memories can lead to post-traumatic stress disorder, or PTSD, a dangerous biological condition affecting a soldier's body, mind, and certainly family. Unfortunately, soldiers returning home often do not receive the comprehensive care they need. Some even sign their rights-to-service away.

Many of the soldiers who served in recent wars in the Middle East have a desperate need for mental health services. Here are some alarming statistics. Out of 15,000 veterans returning from the Middle East who have utilized VA healthcare services, 12 percent presented symptoms related to psychological trauma. It is estimated that more than 25 percent of troops returning from Iraq are being examined for mental health concerns. These are startling statistics and dramatically demonstrate the need for more mental health services.

We must concern ourselves that many soldiers find it difficult to obtain treatment or fail to seek help because of the stigma attached to mental illness due to a lack of sensitivity. Just look at our jails and our homeless population. Our communities and our social service system are affected, yet we refuse to admit a problem exists.

I am also deeply troubled and concerned, as are many women Members of Congress, with our returning women soldiers who may have been exposed to the traumatic experience of sexual assault. For example, a horrendous 8 percent of female Gulf War Veterans experienced an attempted or completed sexual assault during deployment. The PTSD from sexual assault is just as harmful as combat related PTSD. This must cease immediately.

In the past three decades, the Veterans' Administration has taken great strides toward better mental care services for men and women, and there is now a better understanding of PTSD because of research conducted through the VA health system. More remains to be done. Twenty-five years ago, the VA offered no PTSD services, no Vet Centers, no homeless services. Today these services exist though limited. However, many veterans will not benefit from these services because of a lack of access. There are just not enough Vet Centers, and the need for services will only continue to grow as a result of U.S. involvement throughout the world.

Additional funding for the VA health system must be appropriated to improve access to care. The President's proposal of funding increase of only 2 percent for the VA health system does not even cover increases in cost of living and is insufficient even to maintain the inadequate current level services. The demand on PTSD services has not kept up with the increase need of services. The wars in Iraq and Afghanistan have greatly increased the need for these vital services. Some veterans who need weekly or biweekly follow-up appointments for therapy are forced to wait weeks, and in many cases even months. This is unconscionable. The VA does not have enough mental health professionals due in part to lack of funding, and the President's low funding proposal will exacerbate this problem. Our returning soldiers and veterans deserve better from their government. They have earned what was promised them.

The Bush administration has repeatedly emphasized that the war in Iraq is not another Vietnam. However, by not providing veterans the necessary mental health resources, we can assure the same high rates of suicide that existed among Vietnam veterans. As we conclude our recognition of mental illness awareness this week, we will continue our fight to ensure that our veterans and service personnel will be able to receive the mental health services they deserve. Their sacrifice for our beloved country paid for them.

## CONFERENCE REPORT ON H.R. 4200, RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

SPEECH OF

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. HOLT. Mr. Speaker, I rise to speak in support of adoption of this conference report which authorizes $447.2 billion for the U.S. Defense Department (DOD) and the national security programs of the U.S. Department of Energy (DOE).

As is always the case, there are many provisions in the final version of this massive bill every year which I enthusiastically support and others that I do not. On balance, this conference report has more merits than shortcomings.

First, I am pleased that it provides more generous pay and benefits for the men and women who currently serve in our armed forces and for those who have done so in the past.

It authorizes a 3.5 percent across-the-board pay raise for our troops. This is the sixth consecutive year that Congress will have provided a pay raise for our men and women in uniform greater than the level of private sector pay raises. This will help to further reduce the gap between average military and private sector pay. Similarly, it makes permanent the increased rates for imminent danger pay from $150 to $225 per month, and the family separation allowance from $100 to $250 per month, while also eliminating out-of-pocket housing expenses.

For members of the National Guard and Reserves, it extends several special pay provisions and bonuses through December 31, 2005, including bonuses for enlistment, reenlistment, and prior service. Reservists and family members will also receive enhanced TRICARE benefits.

For our Nation's military retirees and their survivors, this legislation goes further in protecting their financial security. It will eliminate the Social Security offset under the Survivor Benefit Plan (SBP) by increasing in stages the annuities paid to survivors of military retirees who are 62 years of age or older from 35 percent of retired pay.

Last year's version of this legislation, made significant and overdue strides in redressing the disparity by which disabled military retirees have their pension benefits reduced, dollar for dollar, by the amount of disability benefits they receive from the U.S. Department of Veterans Affairs (VA). It authorized full concurrent receipt to be phased in over 10 years. This bill makes further progress by removing disabled retirees, who are rated as 100 percent disabled, from the 10-year phase-in period. These deserving military retirees will be authorized for full concurrent receipt effective next January.

Second, we now know that our troops were poorly served by Pentagon war planners in advance of the invasion of Iraq. Many of them were sent into harm's way without adequate supplies of body armor, armed Humvees, and other essential equipment. This bill will help correct these inexcusable miscalculations by providing a $572 million increase to speed the production of up-armored Humvees plus $100 million for add-on armor kits for Humvees already in use.

Third, it is no secret that current troop strength is inadequate and our troops in Iraq and elsewhere are stretched too thin. To redress this military manpower shortage, this bill increases active Army end strength from the present level of 482,400 to 502,400 in 2005 and authorizes further increases to 512,400 by

2009. Similarly, it increases the Marine Corps from its current level of 175,000 to 178,000 in 2005 and to 184,000 by 2009.

Fourth, in their recent presidential debate, both President Bush and U.S. Senator JOHN KERRY spoke about the importance of stepping up nonproliferation efforts to curb the spread of weapons of mass destruction (WMD) and to lessen the danger of terrorists acquiring these horrible weapons. While I'd have preferred a higher level of funding, this bill provides $409.2 million for the Cooperative Threat Reduction Initiative that will help dismantle, secure, and eliminate WMD and WMD facilities in the former Soviet Union.

On the negative side, this legislation provides $10 billion for a bogus missile defense program. In defiance of physics, this Congress continues to shovel ever increasing sums of taxpayer funds to deploy a missile defense system that has not been tested adequately nor demonstrated to work.

There is continued authority and funding in this legislation for further research on new tactical nuclear weapons. Specifically, it provides an additional $27.9 million for the Robust Nuclear Earth Penetrator—the so-called nuclear bunker buster, plus an additional $9 million for advanced concept initiatives. While these sums may not seem all that significant in a $447.2 billion bill, they continue our nation down a dangerous and destabilizing path. By continuing to fund this type of research; the U.S. is opening Pandora's box and encouraging other nations to develop and deploy supposedly more usable nuclear weapons.

Finally, I am disappointed that a provision authored by U.S. Senators BOXER and COLLINS was dropped from this conference report that would have afforded stronger protection for women serving in our armed forces who are victims of rape. More specifically, it would have permitted women victimized by rape to receive medical abortions without having to pay for the procedures themselves.

Recent statistics from DOD reveal that as many as 6 percent of active-duty service women report having been sexually assaulted. There have been 112 reports of sexual misconduct over the past 18 months in Iraq, Kuwait, and Afghanistan.

U.S. Army officials recently issued a policy statement to Army medical professionals clarifying their position on care for victims of sexual assault. In it, they instructed that "the Army has existing medical and legal policies and programs to assist leaders. Use these resources to provide victims with immediate medical care, follow-up counseling, and seamless victim assistance." However, by banning abortion funding for rape victims in the military, this provision will severely impede the ability of rape victims to receive the appropriate medical care and assistance they need. This ban further injures the women who are bravely defending our country, and keeps victims who have already suffered an unspeakable assault from exercising their constitutionally-protected right to choose.

On balance this legislation will enhance our Nation's security.

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## FEDERAL EMPLOYEES DENTAL AND VISION BENEFITS ENHANCEMENT ACT OF 2004

SPEECH OF

### HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. DAVIS of Illinois. Mr. Speaker, visual health and oral health are integral to our general health. Eye and oral diseases are progressive and become more complex over time. Our ability to eat, see, read, learn, and communicate all depend on good visual and oral health.

Periodic eye and dental examinations are an important part of routine preventive health care. Many visual and oral conditions present no obvious symptoms. Therefore, individuals are often unaware that problems exist.

There are safe and effective measures to prevent the most common eye and dental diseases. That is why early diagnosis and treatment are important for maintaining good visual and oral health and why a vision and dental benefit should be made available to federal employees and annuitants.

We know that in 1987 the Office of Personnel Management (OPM) stopped plans in the Federal Health Benefits program from adding new vision and dental packages. OPM did so for various reasons. However, that decision was made over 15 years ago, and it is time to take a fresh look at how we can meet the visual and oral health needs of federal employees.

In the long run, preventive care, through periodic examinations and doctor visits, will help keep down long term vision and dental costs due to early detection.

Therefore, I am extremely pleased to be an original cosponsor of H.R. 5295, which permits OPM to contract with qualified companies to offer dental and vision benefits to federal employees and retirees under the Federal Employee Health Benefits Program.

I am also pleased that this bill includes a provision that requires OPM to study the feasibility of providing hearing benefits to federal employees and retirees. Currently, over 28 million Americans suffer hearing loss, half of whom are under the age of 50. Hearing loss is not just a problem affecting adults. Thirty-three children are born everyday with some form of hearing loss. With early detection and treatment, these children can be taught in regular classes, saving a school system as much as $500,000 during a 12-year education.

I included similar language in H.R. 3751, which passed the House in June. Like vision and dental benefits, most insurance plans do not provide hearing benefits, such as coverage for hearing aids. I believe the Federal Government should consider taking a lead in this area.

I urge my colleagues in the House to support this legislation.

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## CONFERENCE REPORT ON H.R. 4200, RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

SPEECH OF

### HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. OWENS. Mr. Speaker, the bill before us contains several extremely important provisions. They are designed to provide essential medical care and compensation for the brave Americans who worked from the 1950s through the 1970s to build this Nation's atomic weapons, often at serious risk to their own health and well-being. In far too many cases, these atomic energy workers were deliberately misled about the serious health risks their occupational exposure to radiation, heavy metals, and other toxic and dangerous substances would entail. Although Congress enacted the Energy Employee Occupation Illness Compensation Program Act, EEOICPA, in 2000 to provide such workers with essential medical care for specified types of cancer and compensation for their inability to work due to illness, a scarce few actually received it. Moreover, a number of workers died without the government ever making good on its promises to recognize their critical contributions to national defense work. In such cases, the surviving spouses and dependent children of these workers remain justly entitled to compensation.

Mr. Speaker, in the early 1950s there were two atomic weapons employers in my district, the 11th Congressional District of New York. One such plant, the American Machine and Foundry, AMF, designed and produced industrial equipment for the Atomic Energy Commission. By carrying out metal machining work for the Atomic Energy Commission—with uranium, thorium and zirconium—employees at this plant were exposed on a daily basis to large volumes of radioactive and hazardous metals. A second plant in my district, the Wolff-Alport Chemical Corporation, procured thorium sludge for stockpiling by the Atomic Energy Commission. Wolff-Alport Chemical workers were likewise exposed to thousands of pounds of dangerous radioactive substances.

Mr. Speaker, the provisions in this bill will settle long-standing health care and compensation claims by providing guaranteed Federal benefits for eligible employees whose work in Department of Energy nuclear facilities caused serious illness, impairment and/or disabling conditions. Likewise, this bill will guarantee Federal benefits for the uranium miners, millers and transporters made ill as a result of their work and covered under the Radiation Exposure Compensation Program, RECA.

From Brooklyn, NY, to Berkeley, CA, the atomic energy workers and surviving relatives have been hurt twice. First, many workers contracted grave diseases, often after a long latency period, as a result of exposure to dangerous nuclear and toxic materials. Second, the workers and their families were hurt for too many years by a policy of denial with respect to our national responsibility to them. It is imperative we reverse this policy of denial for once and for all. This bill accomplishes just that. It provides a guaranteed Federal benefit for the critical health care and compensation these workers and their families both require and deserve. In closing, I would like to thank my distinguished colleague from Missouri, the ranking minority member of the Armed Services Committee, as well as minority and majority staff, for their hard work and persistence in making certain these deserving workers and families will finally get justice.

## PERSONAL EXPLANATION

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Saturday, October 9, 2004*

Mr. MENENDEZ. Mr. Speaker, I was absent from votes in the House late in the afternoon on Thursday, September 30, due to an unavoidable commitment, and for the first two votes on Monday, October 4, due to mechanical problems on the plane from Newark International Airport. Had I been present, I would have voted the following way: On rollcall vote 484, H.J. Res. 106, an amendment to the Constitution of the United States relating to marriage, "no"; on rollcall vote 485, H. Con. Res. 501, honoring the life and work of Duke Ellington, "aye"; on rollcall vote 486, H. Res. 792, honoring the United Negro College Fund on the occasion of the Fund's 60th anniversary, "aye"; on rollcall vote 487, S. Con. Res. 76, recognizing that November 2, 2004, shall be dedicated to "A Tribute to Survivors" at the United States Holocaust Memorial Museum, "aye"; and on rollcall vote 488, S. 1814, the Mingo Job Corps Civilian Conservation Center legislation, "aye."

## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

### HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform of the Intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes:

Mr. SHERMAN. Mr. Chairman, I voted against the Carter amendment and the Green amendment to H.R. 10, the 9/11 Recommendations Implementation Act. I certainly understand why my colleagues introduced these amendments. Their intention was to make us safer.

However, the amendments are not drafted well enough and their operation relies on particularly vague underlying statutory definitions and agency decisions. In addition, the purpose of each amendment can be achieved under present law in virtually every case.

In particular, these amendments rely upon the definition of terrorist act and terrorist organization. One would have to have overwhelming faith, perhaps even blind faith, in current and future administrations to believe that these amendments will be immune from misuse.

I have seen the State Department place or remove organizations on the terrorist list, influenced, at least in substantial part, by diplomatic, political, and even trade considerations.

The Carter amendment essentially attempts to create a felony murder rule for terrorist offenses. If a defendant is part of a conspiracy to commit a felony, and someone dies in commission of that felony, the harshest penalties are applied, even if the conspiracy did not envision anybody dying. I support felony murder rules, particularly those applied to violent terrorist conspiracies. Unfortunately, this amendment, in the hands of unwise or politically motivated prosecutors, could be used to seek the death penalty for those involved in a Sierra Club protest at federal facilities, if there was some tragic and perhaps unforeseeable action.

I am confident that the Judiciary Committee will work on these matters in the weeks and months ahead and design legislation to bring us the safety-enhancing objectives of the foregoing amendments, without raising the same concerns.

# SENATE—*Tuesday, November 16, 2004*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. STEVENS).

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, we praise Your greatness, might, and majesty. You are all that is in Heaven and Earth. Yours is the kingdom, O Lord, and You are exalted above all. Both riches and honor come from You and in Your hands is power. Your compassion never fails.

Bless our Senators as they strive to do Your will. Give them wisdom and courage for the living of these days. Bless the Members of this body who will be leaving us. May they find fulfillment in the knowledge that the full harvest of their labors is yet to come.

Unite us in the common endeavor of making America a beacon of freedom for our world. May all we say and do in the days to come truly honor You. We pray in Your powerful Name. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, I welcome everyone back for the final wrapup of the 108th Congress. I was just speaking with the Democratic leader, and we were remarking that we have a lot to do in a short period of time over the course of the week.

There is a lot going on in terms of orientation of new Senators who will not officially take office until January, but there are also leadership elections occurring today and tomorrow. I expect that in this brief session, which will bring the 108th Congress to a close, we will finish before Thanksgiving for sure. And as we sort out both the agenda and work that has been accomplished over the last several weeks, we will have a much better and clearer idea as to when we will finish this brief session.

I know everybody is anxious to get back to their families after this week or week and a half and to spend time with constituents and begin enjoying the eventual holidays and planning for the year ahead.

I look forward to working with the new Senators as they come onboard, and the leadership, as the leadership elections occur. I think we will all join with a renewed commitment to working together, working across the aisle, working with civility and respect for the traditions of the Senate. I think we will be able to build effectively on the accomplishments we have achieved to date in the 108th Congress.

Over the next several days, we have a lot of business, with three essential pieces of business that must be addressed. The nine remaining spending bills for fiscal year 2005 are currently being addressed in what is called an omnibus bill. It is a bipartisan bill. There has been huge progress over the last several weeks as staff and Senators have been working together on this very important bill.

Second, we have intelligence matters and an authorization bill for the Intelligence Committee that is currently being addressed, as well as legislation that is currently in conference that addresses the 9/11 Commission reform recommendations, an effort we began to aggressively address in late July once the 9/11 Commission Report was released, and immediately Senator DASCHLE and I set a course that has been followed pretty much as we intended. That is, following hearings, we would discuss and write a bill in the Senate and pass that bill, and the House likewise.

Conferees were appointed several weeks ago, and the conferees have been working constantly to generate and produce a bill that I am very hopeful we will be able to bring to the floor later this week.

The third issue is the debt limit. Secretary Snow informs us that we have a short window of opportunity to get the debt limit accomplished. The Treasury Department estimates that Congress must take action by Thursday in order to prevent the Federal Government from defaulting on the debt. Discussions have been underway in the last several days and will be underway today as to how best we accomplish that.

We have some scheduling challenges that will occur over the course of this week, a little bit later in the week. It obviously is an issue we will be addressing. I am confident we will be able to take the necessary steps to avoid even any consideration of default.

In addition, there are a number of other issues that we will be addressing, such as nominations that we would like to settle in this 108th Congress. Those discussions are underway. We have the Individuals with Disabilities Education Act, IDEA. The House and Senate conferees will be meeting on Wednesday to approve the negotiated language. So I expect we will be able to pass that bill by the end of the week and have it on the President's desk before we adjourn.

Briefly, with respect to the schedule today, we will be recessing at 12:30 p.m. in order for the Democratic policy luncheon to meet. This side of the aisle will be conducting our leadership elections in a policy meeting tomorrow.

Today, we will reconvene at 2:15 p.m. to begin consideration of the nomination of Francis Harvey to be Secretary of the Army. The order provides for up to 3 hours of debate, and if all that time is used, we will be voting at approximately 5:15 p.m. today. We will be updating Members this afternoon as it becomes clear how much of that debate time will be necessary.

We will be having discussions with leadership over the course of the day on the debt extension bill as to how we will plan that out in terms of voting so people will be able to have their schedules accommodated for especially Thursday. As all of our colleagues know, the Clinton Library will be inaugurated at that point in time, and we will be making appropriate accommodations for voting.

I mentioned the appropriations process. I do think we are going to be able to carry out closure on those negotiations quickly and that we will have something for action sometime this week.

We in all likelihood will remain here this week and finish our work on the appropriations bill—hopefully this week, obviously very late this week. We will keep Senators notified as to the schedule.

I mentioned the Intelligence reform bill is still in conference. Members were working late last night and are in through today. As I mentioned, it has been nonstop. I am very hopeful we will be able to complete that bill as well.

In short, in closing, there are a very few days remaining. We have a lot of scheduling challenges. I will be looking forward to working with our counterparts on the other side of the aisle in addressing the business with the expectation, if at all possible, that we will be able to complete work this week, which would be the objective. Again, that is a lot to accomplish in the next several days.

I yield the floor.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democrat leader is recognized.

## THIS WEEK'S AGENDA

Mr. DASCHLE. Mr. President, I want to acknowledge the work the majority leader has clearly laid out as an agenda that I think both sides wish and hope we can accomplish this week. There is a lot to be done but a lot has been done.

The distinguished chairman of the Appropriations Committee has worked diligently these past weeks to reach a point where we have agreement, as I understand it, on all but one of the bills. That will allow us to expedite consideration of the appropriations process this week.

A lot of work has been done on the 9/11 Commission. Even though we still have not resolved some of the remaining questions, I hope Senators—and House Members especially—would refrain from extraneous issues because that only complicates our ability to complete our work.

There is a lot of effort that has been made now on the nominations package that has been the subject of a great deal of discussion and negotiation for many weeks. As the distinguished majority leader has noted, there is a possibility that we could also do IDEA. I think that would be a great culmination of the effort that has been made throughout the last several weeks as we have looked to completing that work before the end of the year.

So much remains. Much has been done. We hope to work very closely with our Republican friends to make this as productive a week as we can.

We are also appreciative of the majority leader's willingness to accommodate the schedule for many of us to allow for the travel to Little Rock to attend the dedication ceremonies for the new Presidential library, the Clinton Library.

It will be an exciting week, a very busy week, and one that I hope, at the end of the day, will be a very productive one as well. I look forward to working with the majority leader in that regard and will have more to say on many of these bills as the week unfolds.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 12:30 p.m., with Senators permitted to speak for up to 5 minutes each.

Who seeks recognition?

The majority leader is recognized.

## ACCOMPLISHMENTS OF THE 108TH CONGRESS

Mr. FRIST. Mr. President, I will be very brief. I just want to make a few more comments since we have a few minutes before 12:30 and I see we do have another Senator in the Chamber who is desiring to speak.

Over the 108th Congress, we have worked hard to move America forward. Indeed, we have gotten results. We have an economy now that is rebounding with job growth that is robust: 2.4 million jobs have been created since August of last year with 14 straight months of job gains. We have unemployment down from its 6.3 percent peak last year. Unemployment rates have fallen across categories of race and age and all levels of education. Inflation remains low. Interest rates remain low. Our tax cuts clearly have had a huge effect on the economy. Americans today enjoy more of their hard-earned money to spend, to save, to invest as they choose. We have home ownership at an all-time high including among African Americans, where it is at an all-time high. Health care security has made huge advances.

We have a lot more to do. Many of these issues played out in the recent elections. I think, as we all begin to plan for the next Congress, clearly health care will remain high on that agenda. We have a lot to be proud of in this Congress in addressing health care security for seniors, addressing Medicare modernization, strengthening of Medicare with the biggest reform package in the last 40 years. All this translates down to better health care security for seniors and individuals with disabilities.

For the first time, Medicare will cover the most powerful tool we have in medicine today and that is prescription drugs. That is a huge service to seniors to give them the health care security they deserve. That is a good first step. Again, we have to come back and look and make sure we continue to strengthen Medicare over time.

Over the last week, as I traveled around the country, I have taken the opportunity to ask about these drug discount cards we have made available through Medicare. Indeed, 4 million seniors today have these Medicare discount cards that give them discounts of 10 percent to 25 percent, which they simply did not have before we passed that legislation.

I do want to remind low-income seniors who have not yet signed up for one of those prescription drug cards that if you sign up for one of those cards, it has, in addition to those discounts, $1,200 of value on it and $600 of that value will go away after January 1 of next year. So I encourage you to sign up for those cards. If you have any questions, as most seniors know, you can call 1-800-MEDICARE and have those questions answered.

Health savings accounts—a lot is being written about them in the newspapers today. In fact, in the Federal Employees Health Benefits Plan, medical savings accounts for the first time will be made an option for us in the Senate and for the 8 or 9 or 10 million Federal employees around the country. Indeed, I look forward to signing up for a health savings account myself here as we reenroll in the next several weeks.

The President's agenda for the upcoming Congress is going to be vigorous. I had the opportunity to meet with the President yesterday, and with the Speaker of the House. Although we focused mainly on finishing the work over the course of this week, as I mentioned in my opening statement, I am very excited about the agenda, the vision that is laid out for next year.

As I also said in my opening comments, I look forward to working aggressively across the aisle, with civility, in a bipartisan way, as we address this agenda that the American people really deserve. The issues are many. We will have the opportunity to discuss those in the future.

Mr. President, we are back for a short period of time. It is real clear, in terms of what we have to accomplish. We are not going to be doing a lot of new business because we have much unfinished business to do.

I do welcome my colleagues back. Over the next several days there will be opportunity for tributes for Senators who are retiring and leaving this body. The Democratic caucus just had their leadership elections and I want to congratulate each one of those new leaders and will do so formally, not quite now but a little bit later, in phone calls to them. We have our leadership elections tomorrow. I look forward, leadership to leadership, to working in a vigorous, robust way to accomplish the agenda before the American people.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDENT pro tempore. There is no unanimous consent required. The Senator is authorized to speak for 5 minutes.

## FINDING COMMON GROUND

Mr. DURBIN. Mr. President, I listened closely to the comments made by the majority leader, Senator FRIST, a man whom I respect and with whom I have worked over the past several years and look forward to working with again in this new Congress.

The Presidential election is completed. The people have spoken. A few moments ago the Democratic Senators gathered just a few feet from this Chamber in the Old Senate Chamber where we had an election of our new leaders for the upcoming Congress. In that meeting was Senator JOHN KERRY, who was our standard-bearer in the last election. We are all extremely proud of the job he did. Both he and Senator EDWARDS covered the United States, crisscrossed it from every corner, taking their message to the American people. The outcome was very close. When it was all said and done, President Bush had emerged the clear winner. The day after the election Senator KERRY and Senator EDWARDS conceded to the President and Vice President.

We now have a question before us as to which direction this Nation is headed. It is a question that is going to be dramatized even more by the recent resignations of key members of President Bush's Cabinet. It will now be up to the President and his close advisers to decide the team that he will put on the field for the next 4 years to serve and represent the American people.

The President will also have an opportunity and responsibility to develop an agenda, an agenda of issues to bring before the Congress.

At an early point the President will have to make threshold decisions. Will he make decisions in terms of his leadership team, an agenda where we will try to find a bipartisan approach to solving our problems, or will we separate as we have in the past? I sincerely hope the President chooses the former and not the latter. It will be a better service to our country if we sit down on a bipartisan basis and address some of the serious issues we face.

On foreign policy, we can't escape the stubborn realities. We still have the ongoing threat from terrorists. The war in Iraq and Afghanistan is far from over. We face a nuclear North Korea. Our military concerns stretch across the world from Saudi Arabia to the Philippines. Our military is stretched to the limit, and our resources are constrained by record deficits which we have seen during the last several years in the Bush administration.

On the home front, the President's policies raise questions about the future of Social Security and whether we can trust it to continue to pay as it has in the past, and our ability to invest in America and the many freedoms we value which Senator FRIST talked about earlier. That is an issue that is front and center in my State of Illinois.

As I traveled across the Nation, I heard concern about the cost of health insurance from business leaders, families, and individuals alike. In the last 4 years absolutely nothing has been proposed from the administration to deal with the cost of health insurance. I hope the President will come forward with a good, sensible plan. A good starting place might be the Federal Employees Benefit Health Plan, a plan that covers millions of Federal employees and which offers them an enormous variety of options for health insurance at reasonable costs. That is a model we should use to offer the same insurance to small businesses and the American people.

Senator FRIST spoke of the Medicare prescription drug plan. This plan has been very coldly received by seniors across America. They cannot understand why Congress couldn't pass something that was understandable and which would truly help them. The Medicare prescription drug plan as passed by the Congress is so bad that we postponed its effective date until after this election. Those who wrote it knew if seniors saw exactly what we had proposed, they would rise up in opposition to it. They are learning that when you give everything to the pharmaceutical companies and you don't protect the seniors, you don't solve the problem.

We have a lot to do in the months and years ahead. I hope we can do this on a bipartisan basis. It would be a value to this country to see us come together. But it will start with leadership from the White House, and decisions by the President which can bring us together.

We have stood together, Democrats and Republicans, on the declaration of the Afghanistan war, No Child Left Behind, intelligence reform, Sarbanes-Oxley, a bill to reform corporate governance, and also the approval of 201 of the President's proposed 211 judicial nominees. There has been good cooperation in many areas. If the President's party expects Senate Democrats to walk away from their basic values, I don't think that is going to occur.

I listened in this caucus we left and I wondered if some of the writers who said since the election the Democrats were adrift listened to the Democratic Senators. We understand their values. They are American values, and they are values which we take to the American people in each of our own States.

I look forward to working with our friends on the Republican side of the aisle in trying to find common ground, which is so important. We believe that on critical matters of personal responsibility and freedom we should have an honest resolution. We also believe that caring for the less fortunate is a moral value and most major religions should be respected. I look forward to the upcoming Congress and I hope we can find the common ground.

I yield the floor.

The PRESIDENT pro tempore. The Senator from New Mexico is recognized.

## APPRECIATION OF PAUL NITZE

Mr. BINGAMAN. Mr. President, I wish to speak for a very few minutes to recognize and reflect on the extraordinary career in public service of Paul Nitze who died on October 21, since the Congress recessed.

Paul Nitze was probably the paragon of the private citizen rendering public service at the request of his government. His service was rendered to Democratic and Republican Presidents alike.

Paul Nitze was first summoned to Washington in 1940 by James V. Forrestal, his former boss at the New York investment bank where both had worked. Once in Washington, Nitze became involved in a variety of activities leading up to and supporting America's efforts in World War II. He helped draft the Selective Service Act. He served as chief of the Metals and Minerals Branch of the Board of Economic Warfare. He oversaw foreign procurement of goods and services for the U.S. Government.

From 1944 to 1946, Nitze served as vice-chairman of the U.S. Strategic Bombing Survey, which studied the impact of U.S. bombing in Europe and Japan after we had dropped the atomic bomb on Hiroshima and Nagasaki. This office applied rigorous analytical methods to assess the effectiveness of weapons and tactic in World War II. It was the forerunner of today's Program Analysis and Evaluation Office on the Pentagon.

After the war, the scope of Paul Nitze's contributions continued to expand. He headed a billion-dollar global relief program to feed those left homeless and without food by World War II. Perhaps his most far-reaching contribution was as the head of the State Department's policy planning staff in the Truman administration. Working under Dean Acheson and along with other influential thinkers such as Charles Bohlen and George Kennan, Nitze was the principal author of the National Security Council document, entitled "United States Objectives and Programs for National Security," but more commonly known as NSC–68, that provided the strategic outline for the conduct of deterrence during the Cold War.

Key insights from NSC–68 still ring true today.

For example, NSC–68 situated our strategy towards the former Soviet Union in a broader world context. It stated, in part:

> Our overall policy at the present time may be described as one designed to foster a world environment in which the American system can survive and flourish. It therefore rejects the concept of isolation and affirms the necessity of our positive participation in the world community. This broad intention embraces two subsidiary policies. One is a policy which we would probably pursue even if there were no Soviet threat. It is a policy of attempting to develop a healthy international community. The other is the policy

of "containing" the Soviet system. These two policies are closely interrelated and interact on one another. Nevertheless, the distinction between them is basically valid and contributes to a clearer understanding of what we are trying to do.

Paul Nitze continued to make significant contributions to out national security through the 1960s, as Secretary of the Navy under Presidents Kennedy and Johnson and Deputy Secretary of Defense under President Johnson.

President Nixon appointed Nitze to the U.S. delegation to the Strategic Arms Limitation Talks with the Soviet Union in 1969, and he played an important role in negotiating the ABM Treaty with Moscow during that time. Under Presidents Nixon and Ford, he served as Assistant Secretary of Defense for International Affairs.

During the term of President Carter, Nitze played a seminal role as an external critic of national security policy. His stature was such that his opposition to the SALT II Treaty negotiated by President Carter was an important factor in its failure to garner support in the U.S. Senate.

Yet, his reputation as a hard-liner on defense was too simplistic a characterization for his formidable intellect and ability to respond to new realities with new strategies to maintain U.S. security.

The most famous example, perhaps, of this characteristic was Paul Nitze's famous "walk in the woods" with his Soviet counterpart in arms control negotiations, Yuli Kvitsinsky. His informal proposal to put drawdowns in intermediate-range nuclear missiles in a broader context of arms reductions was considered too radical at the time, and was rejected by both sides. Yet, only a few years later, a more comprehensive approach is precisely what both sides agreed to, for in 1987 the United States and the Soviet Union signed the so-called "double zero" agreement that limited all medium-range missiles in Europe as shorter-range missiles as well.

But perhaps the most important lessons we can learn is from the pattern of Paul Nitze's life and contributions. At this time, when the news headlines are dominated with stories of transitions and resignations from the Executive Branch, covered like a sports story of who's won and who's lost, the tendency is to think of those leaving public service as persons who have had their shot, and are not likely to be heard from ever again. I think that the example of Paul Nitze shows how much the United States stands to lose if we were to fall into such an unfortunate way of thinking with respect to public service.

I for one hope some of those who are now leaving public service will in the future find additional ways to serve their country, as Paul Nitze found ways to serve his country over many decades. I hope Paul Nitze's life and career will inspire all of us to a vision of how our Nation can benefit from the extraordinary expertise of its citizens who are willing to respond to the call to public service.

## RECESS

The PRESIDENT pro tempore. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:29 p.m., recessed until 2:15 p.m., and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

## EXECUTIVE SESSION

## NOMINATION OF FRANCIS J. HARVEY TO BE SECRETARY OF THE ARMY

The **PRESIDING OFFICER**. Under the previous order, the Senate will proceed to executive session for consideration of Executive Calendar No. 915, which the clerk will report.

The assistant legislative clerk read the nomination of Francis J. Harvey, of California, to be Secretary of the Army.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I rise today in support of the President's nomination of Dr. Francis J. Harvey to be Secretary of the U.S. Army. Dr. Harvey was nominated by the President to be Secretary of the Army on September 15, this year. The Armed Services Committee conducted a hearing on Dr. Harvey's nomination on October 6. The committee voted favorably on the nomination on October 7. At that meeting there was some expression in opposition by members of the committee, but the majority of the committee voted in favor.

At the hearing, there was a fair exchange of viewpoints, recognizing that Dr. Harvey is coming to this position from outside of the Department of Defense and has, during the course of his distinguished career, not a specific opportunity to form opinions about some of the key issues that confront the U.S. Army today.

No one should underestimate the challenges that have been faced by the Army and in large measure have been met by the Army under the distinguished leadership of the Acting Secretary of the Army and the current Chief of Staff of the Army. I commend both of them, who are daily meeting the new challenges as they arise.

There will be today in the course of this debate, and I shall await other Members coming to the floor, expressions of opinion different from what I am providing the Senate today so I will wait until such time as they may appear and then seek under my time the opportunity to rebut their views.

At the hearing of the committee on October 6, I indicated that Dr. Harvey has had an extraordinary career—and I underline very extraordinary career—as a business executive with extensive experience leading and managing very large corporate enterprises, particularly program-based organizations involved in the development and deployment of technology and systems.

As the Army goes through its transformation, he will have the opportunity to provide unique decisionmaking ability given his experience in those areas.

Dr. Harvey has a solid record of achievement in the private sector in areas related to transformation, financial management, and contracting which, as I said, will serve him very well if confirmed by the Senate as Secretary of the Army.

At the nomination hearing, as those in attendance will recall, I went to some length to emphasize that there is another side to the Army and that is the human side. I was privileged at one time in my lifetime to be in the Department of Defense and to be Secretary of the Navy. It is not all contracts and negotiations and things of that nature; there is a very strong family side to each of the military departments. I referred to it in that hearing as the human side. That reflects the hopes and aspirations and patriotism of soldiers, sailors, airmen, marines, and their families.

The family today has an ever increasing role in the life of the uniformed member of that family, be he male or female. Families now are instrumental in the decision process by which members of the military at the time they are up for consideration elect continuing service, to retire, or otherwise step aside and join the private sector. It is often the decision of the family that controls that sailor, airman, marine, as he or she makes that decision.

I urged Dr. Harvey to travel as soon as possible to Iraq, Afghanistan, the Republic of Korea, in order to gain firsthand appreciation for the sacrifice being made by the soldiers and the stress being placed upon them and their families. Soldiers must be confident that the civilian leader of the department he represents is truly aware of their specific meanings and the emphasis on the family role.

The Army is facing a great challenge today for which there are few precedents in a long, distinguished history. Dr. Harvey assured the committee on October 6 he would undertake this mission of familiarizing himself with the people who make up the Regular Army, the Army Reserve, and the National Guard. It is extraordinary, with over 400,000 who have been in this particular cycle of conflicts in Afghanistan and Iraq from the Guard and Reserve.

At the hearing, Dr. Harvey committed that he would put people first.

He emphasized that even as the Army carries out its responsibilities in the near term, it must also develop a future force that is better able to meet the challenges of this dangerous security environment by implementing the key element of defense strategy. He is committed to this transformation that has been laid down in the years previous by the Secretary of Defense, whom I commend for his undertaking and transforming the Army, and the Chief of Staff who currently serves and, indeed, the accomplishments to date by the distinguished Acting Secretary, Secretary Brownlee.

Before I yield, I will say a few words about Secretary Brownlee. I was privileged to have the services of Secretary Brownlee on my personal staff and as a member of the committee staff. I note that he served as the senior member of the Armed Services Committee staff, chief of that staff, at the time our distinguished late colleague Strom Thurmond was chairman. He was a superb combat soldier. He brought to his work on behalf of the Senate an extraordinary record of a highly decorated officer. He had a tremendous inner confidence in his ability to understand the men and women in the Armed Forces and to understand particularly those who are experiencing the stress of combat, wherever that may be in the world—an extraordinary man: Two Silver Stars, three Bronze Stars, and the Purple Heart. He was a marvelous staff director not only for Senator Thurmond but to me. He is highly revered and respected and always will be by the Senate as a whole.

Many colleagues came up to me during the course of the vacancy at the Secretary of the Army position in expressing hopes that he would be considered. Indeed, I talked to the Secretary of Defense on several occasions about it. On behalf of myself, most particularly, and other colleagues, I advocated consideration be given to him, but the Secretary and the President made a decision. I am urging the Senate to go forward with that decision today and to confirm the nomination of Dr. Harvey.

I will yield the floor as I see the presence of my distinguished ranking member and the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me first suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, the Army's current situation is approaching crisis proportions. The Army is bearing the largest burden of the war in Iraq and of the larger war on terror worldwide as well as maintaining forward-deployed forces to deter a possible conflict in Korea. The intense operations and personnel tempo are having a severe impact on both people and equipment, and relief is currently not in sight.

There are nearly 270,000 soldiers deployed overseas in 120 countries. Soldiers make up 90,000 of the 135,000 U.S. troops in Iraq and 15,000 of the 20,000 in Afghanistan. The 495,000 active-duty soldiers have been stretched to the limit. The Army National Guard and Army Reserve soldiers have been called upon to shoulder the ever-increasing burden.

For instance, the first rotation in Iraq consisted of 75-percent active and 25-percent reserve component soldiers. In the current rotation, the Active Force has dropped to 61 percent and the Reserve Force has risen to 39 percent and the next rotation is projected to continue that trend, with about 57,000 percent active and 43 percent reserve.

This trend is simply not sustainable. Many reserve component soldiers are approaching their 24-month limit on active duty and many more will reach that limit as the war in Iraq drags on. The stress on reserve component soldiers, family members, and civilian employees will only grow worse, as Senator REED has pointed out to this body on many occasions and in the Armed Services Committee, has already had an adverse effect on reserve component recruitment, and greater problems are predicted for the future.

Further, as reserve component units have been mobilized, personnel and equipment shortages have been addressed by tasking other units to fill those shortfalls. This is a snowballing effect as those units that were tasked to provide personnel and equipment are then alerted and deployed to subsequent rotations and have to fill ever-increasing personnel and equipment shortfalls.

Ultimately, units lose cohesion and effectiveness as they are cobbled together from disparate pieces with people who do not know each other, have not trained together, and are short of required equipment, or unfamiliar with the equipment provided.

This could have disastrous consequences, as evidenced by the leadership and performance failures witnessed in the 800th MP Brigade, a brigade formed in that manner during the Abu Ghraib incidents.

The Active component is and will be under increasing stress as the Reserve component commitments become unsustainable. The Army's 33 active combat brigades have all been deployed to Iraq or Afghanistan since those two operations began. Some units, including the 3rd Infantry, which led the initial attack into Iraq, have been alerted or deployed for a second 12-month combat tour. Two of these combat brigades had Iraq combat tours extended to 15 months last April during the Shiite uprising instigated by Moqtada Sadr. I understand that contingency plans exist to extend the combat tours of other Army brigades currently in Iraq to similarly build up troop levels prior to the Iraqi elections.

Army policy is that soldiers should have at least 12 months between combat rotations or 1 month for each month deployed. However, there are already soldiers who are returning to Iraq or Afghanistan, having left there only 9 to 10 months ago. And during those 9 to 10 months, the soldiers are working long hours to repair equipment and spending several months away from their families as they train in preparation for their unit's return to combat.

The Army is creating 10 additional combat brigades in an attempt to address the problems created by the high rotation rate. However, as the Army creates those additional brigades, it is reorganizing all of its brigades into brigade combat teams which are somewhat smaller than current brigades with respect to direct combat maneuver forces. Although the Army asserts that these brigade combat teams are more lethal because they have added artillery and reconnaissance assets that were previously located at the division level, it is not at all certain that the increased effectiveness that the Army expects from these redesigned brigades will make up for fewer combat troops on the ground. If more brigades than are currently deployed to Iraq and Afghanistan are then required to make up for the fewer number of combat troops in the new brigade structure, the operation and personnel tempo of the Active Force will not be much improved.

The Army is also addressing the personnel problem by imposing a stop-loss policy on soldiers in units alerted to deploy on combat rotations, forcing many to remain in the service well beyond their contracted time in the service. Additionally, the Army has had to recall over 5,600 members of the individual Ready Reserve, soldiers who have already served their contracted Active-Duty time, for involuntary tours of duty. Clearly, many of the soldiers in the "All-Volunteer Army" are no longer volunteers. As several critics have pointed out, this can be considered tantamount to a "backdoor" draft.

The Army has also been suffering from the failure of the Department of Defense requirements generation and planning processes. The Department of Defense and the Army greatly underestimated the requirements for up-armored high-mobility multipurpose wheeled vehicles—Humvees—and individual body armor for the war in Iraq and Afghanistan, and have continually lagged behind in meeting those requirements, as well as requirements for armor for the entire truck fleet.

Similarly, the Army has had to implement a crash program to equip its helicopters with aviation survivability equipment. For instance, the requirement for individual body armor was originally limited to combat arms soldiers only, even though for years the Army has been predicting a battlefield where there would be no distinct front and rear areas and where support soldiers would also find themselves in combat situations.

The Army similarly failed to anticipate the need for armor for its trucks, again even though it had been predicting such a fluid battlefield. The Central Command requirement for up-armored Humvees was originally set at only 253. That requirement has been continually increased throughout the last year from 253 to 1,233 to 1,407 to 2,957 to 4,149 to 4,388 to 4,454, and now to 8,105. The Army and Congress have poured over a billion dollars in the last year into armor for trucks, but as of last month, the Army was still reporting a shortfall of $380 million to meet its requirement for armored trucks, and that is simply unconscionable. There is no one in this Congress who would deny the Army the funding needed to meet its requirements for force protection.

However, force protection items are not the only funding shortfalls. The Army has had $1.6 billion in equipment combat losses, $1.4 billion of which are aviation losses. Much of that loss occurred in fiscal year 2003, and much of it has not been addressed in any of the supplemental appropriations bills to date because the Department of Defense did not choose to include all of those combat losses in its requests. This does not bode well for the Army as it continues its heavy engagement in Iraq.

Similarly, Army equipment repair and replacement is not keeping up with the increased wear and tear induced by such a high operations tempo. The Army's requirement for fiscal year 2003 was $4.4 billion, of which none was funded. The cumulative requirement in fiscal year 2004 was $11.1 billion, of which only $3.4 billion was funded. If this trend continues at those emerging requirements and anticipated funding rates, by fiscal year 2007 the Army cumulative equipment repair and replacement requirement will be $28.8 billion, of which only $12.1 billion will have been funded. At that point, the Army will face a $16.7 billion maintenance backlog. This may have a severe impact on the Army's ability to sustain combat operations in the future.

Several months ago, the Army estimated that it would cost over $20 billion to create the additional 10 combat brigades and reorganize the existing 33 in the Active Force into the new modular design. No estimate was provided Congress for the cost of similarly reorganizing the Reserve component. The Army expects the new and reorganized brigades for the Active Force to be completed by the end of fiscal years 2006 and 2007 respectively, and paid for through supplemental funding. It is my understanding that the Army, having received $15 billion from the initial $25 billion fiscal year 2005 supplemental appropriation provided by Congress, will send the Department of Defense a request for an additional $45 billion, a fiscal year 2005 supplemental total of $60 billion. Of this amount, only $10 billion is expected to be for equipment. How far that will go toward meeting the Army's requirement is not clear at this time. Nor is it clear the Department of Defense will actually request that larger supplemental for the Army alone. Past history does not bode well for the Army in that regard either.

The challenges for the Army are huge, and the civilian leadership in the Department of Defense has certainly not been supportive of the Army's uniform leadership. In fact, it has often been hostile and vindictive. When General Shinseki, the former Chief of Staff, in answering my prewar hearing question concerning the troop level required for postwar stability and support, opined that it would take several hundred thousand troops, he was publicly ridiculed by the Secretary and Deputy Secretary of Defense and effectively sidelined. When Army Secretary White defended the Chief of Staff, he was fired.

Dr. Harvey, the nominee for Secretary of the Army, appears to have a wealth of industry experience but appears to have virtually no experience with regard to Army issues. In responding to questions for the record on his nomination before the Senate Armed Services Committee, Dr. Harvey answered one question concerning whether the Army had enough authorized Active-Duty end strength to sustain its commitments by saying he would use his "independent judgment and past experience" to determine the viability of Army initiatives to increase combat power and to "reach conclusions and make recommendations accordingly."

I have no reason to question his ability to make an independent judgment. I am concerned as to whether his past experience qualifies him to reach appropriate conclusions, under the circumstances which I have just outlined, with an Army which is under so much stress and strain. I also question whether he would be willing to make recommendations contrary to the known positions of the Department of Defense leadership given the treatment received by his predecessors when they did so.

In answering a question concerning the problems in the Army's requirements generation and planning processes that resulted in such a large shortfall in individual body armor, armor for trucks, and aviation survivability equipment, Dr. Harvey said that his "current understanding is that the underestimation of the total requirement for armor protection for our Nation's service members was not the result of problems with the requirements generation process. The primary cause of the initial underestimation was a change in the hostile conditions under which military forces are now operating in Iraq."

Dr. Harvey apparently did not realize that is exactly the kind of hostile conditions which the Army for several years has been predicting for the future operational environment. It is an example of why I am concerned about Dr. Harvey's lack of experience as to whether he would be in a position to ask the hard questions and arrive at the appropriate recommendations under the very extraordinary and difficult circumstances in which the Army finds itself.

There are numerous challenges that the Army faces, and it would be preferable that the Secretary of the Army be one more knowledgeable of the service that he will lead.

Finally, I wish to comment on the comments of my good friend, Senator WARNER, about Les Brownlee. I thoroughly and totally concur with Senator WARNER's thoughts and feelings about Les Brownlee. He has served this Nation extremely well. He served our committee well before he went over to be the Under Secretary and then the Acting Secretary of the Army. I add my support for his service and for him personally on the RECORD today, as his former boss and employer has already done so eloquently and thoughtfully. I want to let Les Brownlee know, if he is listening, but more importantly let my friend, Senator WARNER, know that he was right on the mark when he expressed the thoughts he did about Les Brownlee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I will yield the floor momentarily, but I do thank my colleague for his comments with regard to Les Brownlee.

I remember the privilege I had introducing him at the confirmation hearing before our committee as Under Secretary of the Army. I went back and reread that introduction. I said he represented a tower of strength, dedication, and expertise that few could match. And, indeed, he has shown that in his exemplary manner in handling the very difficult challenges that have been presented by the conflicts in Afghanistan and Iraq. I thank my colleague for those remarks.

Mr. President, the distinguished ranking member and I are trying to advise our leadership with regard to a procedural matter. So at this time, I suggest the absence of a quorum and ask that it be charged to both sides equally.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I thank Chairman WARNER for his consideration in arranging this opportunity to discuss the nomination of Dr. Harvey to be the Secretary of the Army. First, let me say it is obvious Dr. Harvey is an admirable person with experience and skill. In my view, this debate is less about Dr. Harvey and more about the United States Army; whether he is prepared to take the necessary steps to respond to severe crises that affect the Army today. The Army is extended across the globe. The Army is engaged in Iraq and Afghanistan.

I just returned from a trip to both Iraq and Afghanistan. I have seen these magnificent soldiers serve us with distinction and courage, but it is a very stressful and demanding responsibility that each day they discharge, and, indeed, for the Army the stresses are beginning to build.

I think we have to recognize affirmatively that the Army must be bigger, not on a temporary basis but on a permanent basis. I think we also need to recognize the Army needs additional resources. Senator LEVIN, in his comments, pointed out the shortfall between the money the Army has estimated is necessary to recoup and repair their equipment and the actual funds they have available. If we do not address these issues, I believe we will begin to expose the Army to irreversible damage which certainly no one here in this body wants to see happen.

One inescapable conclusion of my trip to Afghanistan and Iraq is that we will be in these countries for years; not months but for years. The cost, the human cost and the financial cost to the country and to the Army particularly, will be substantial.

I have no doubt Dr. Harvey is a consummate professional. He is very skilled in managing organizations. I know he is committed to doing his best as Secretary of the Army, but I believe the Army needs a leader, not necessarily a manager. Also, I think we need an aggressive advocate for the Army. I hope that perhaps the result of this debate, if Dr. Harvey is confirmed, is that he will become that aggressive advocate for the Army. I know advocacy has to be appropriate. He has to be loyal to his civilian superiors. But he has to be someone who will take the case of the Army to the Secretary and, if necessary, beyond. Also, I believe any Secretary of the Army has to be cooperative with this Congress. He has to respond candidly and directly to our questions and our comments.

One of the issues we all have as leaders is the necessity to speak truth to power on occasion. One of the observations I would make is that we have seen, in the experiences of General Shinseki and Secretary Tommy White, occasions where they gave us their best opinion and they effectively were punished for those views.

I think that is wrong. I think that attitude has to be corrected. That is another responsibility of the Secretary of the Army, to ensure that uniformed officers have the opportunity to express themselves appropriately and not fear retribution. All of us will benefit from the advice the uniformed officers of this country can so wisely give to us.

Secretary White was discharged many months ago as Secretary of the Army. It took a very long time for the Secretary of Defense and the President to nominate Dr. Harvey. In the interim we were extremely well served by Acting Secretary Les Brownlee. I don't have to add more than what the chairman and the ranking member have said about the qualities of that individual. I just had the privilege about 10 days ago to be with Secretary Brownlee up in West Point where he represented the Army at the Board of Visitors meeting. He is a consummate professional, someone who has rendered extraordinary service to the Army and to the Nation. But one of the issues I find somewhat disturbing is that even though we were well represented by Secretary Brownlee, it took so long for the Secretary of Defense to nominate a permanent Secretary. I think that I can put it this way: I find that doesn't suggest the importance the job must bear. That is another reason I found it somewhat unusual, at the very end of our session, before the election, there was a sudden rush to confirm Dr. Harvey.

I had the occasion to speak with Dr. Harvey.

Mr. WARNER. Mr. President, in the interest of accuracy, I wonder if the Senator will yield?

Mr. REED. Yes.

Mr. WARNER. I know you want to be accurate. You are known on the committee as being a very accurate person, but you know the Secretary of Defense did forward the name of Secretary Roche, Secretary of the Air Force, to the Senate. Therein we discovered other situations that dictated in good, common sense that nomination should be withdrawn. But it did show action by the Secretary, and I wanted that part of the record.

Mr. REED. I thank the chairman. I reclaim my time, and I thank him for that important and accurate input. I think, though, we have been so many months without a Secretary, and even when the nomination of Secretary Roche seemed to be in doubt, there was not the kind of response I thought necessary to show we had a permanent Secretary in place.

Then, of course, Dr. Harvey was nominated in July. The chairman is absolutely right. After it became apparent that Secretary Roche would not lead the Air Force—but, July until, again, September or October, there was no movement to get someone confirmed in an office that is vital. The chairman is correct. He is entirely accurate and I accept that gratefully.

One of the real issues that we have to deal with is the situation in the Army, and I think there are three areas that are of critical importance. First is end strength. Senator LEVIN has spoken to that. Second is the recapitalization issue, how do we repair this equipment and how do we buy new equipment. Again, Senator LEVIN has talked to that. Finally, there is this issue of leadership, of making sure that the Army is accountable to its peers in the legislative branch, accountable to Congress, and accountable to the values that we have all seen as the hallmark of the military.

These are critical issues that the next Secretary will have to address.

On the issue of end strength, during the last several months it has become increasingly clear to me, at least, that the Army needs to increase defense. It needs more Active-Duty soldiers in its ranks.

Since 1989, the Army military end strength has been cut by more than 34 percent, and civilian end strength by more than 45 percent, while undergoing a 300-percent increase in mission rate. That is not illogical.

At the end of the Cold War—1989–1990—with the vanishing of the Soviet threat, the notion that we needed a heavy-armored corps in Europe to stop the potential thrust into Central Europe was no longer operative. So the Army was reduced. That logic was apparent.

Then mission rate began to increase not just a few years ago but through Somalia, Haiti, and the Balkan threat. Just as there was logic in the early 1990s to reduce the size of our Army, I believe there is a compelling logic today to increase the size of our Army.

For the past several years, the Army end strength has been virtually constant at 418,400. In December 2001, for example, with the 482,400 end strength, there were about 100,000 Army personnel stationed abroad. Today, there are about 330,000 Army personnel stationed abroad.

You can see the tremendous increase in demand for these troops to be taken from home stations and deployed overseas.

Similarly, in 2004, 26 of the Army's 33 active combat brigades were deployed overseas at least once, and in 2003 and

2004 all 33 of the active Army combat brigades will have been deployed.

We all recognize that our operations in Iraq were conducted by extraordinarily brave troops, and extraordinarily effectively in the opening phases. In a matter of days, the Iraqi military was destroyed. Saddam was toppled from power. Then we began what in retrospect was the most critical part of the campaign—the occupation and reestablishment of civil society in Iraq.

One of the aspects of this phase is the growing recognition that it was not well planned. And we are indeed paying for that in terms of American military on the ground. Mistakes were made in the planning process.

According to a recent article in the Philadelphia Inquirer, when a lieutenant colonel briefed war planners and intelligence officers about phase 4-C—not the combat but the occupation operations, both civilian and military operations after the battle is won—he was briefing them in March 2003. But he was a little bit reticent because the slide he had simply said this: "To be provided."

We did not have good plans to occupy the country of Iraq. Today, we are paying for that lack of planning.

The same Philadelphia Inquirer article pointed out that it is not because we didn't recognize there were potential problems in Iraq, but in the words of the article, there was a "foot high stack of material" discussing the probability of stiff resistance in Iraq. A former senior intelligence official stated, "It was disseminated. And ignored."

But we see at least some indication of the difficult path ahead when the office referred to the comments General Shinseki made in February 2003. Senator LEVIN asked him how many troops it would take. He said, "Something on the order of several hundred thousand soldiers." He was immediately castigated by Secretary Rumsfeld, saying this estimate was "far from the mark." Secretary Wolfowitz called it "outlandish."

And, once again, it raises another challenge for the next Secretary of the Army to deal with.

How do we ensure that military officers will give their best advice and not suffer adverse consequences when they are asked by the Congress? We have a role to play. In fact, I think when many of us looked back, we hoped we had played a more significant role, particularly about the postwar occupation of Iraq.

I think it is important for this next Secretary to develop a situation where these officers feel confident of being candid with their superiors in uniform and with Members of Congress.

I know it has been pointed out that General Shinseki already had announced his plans to retire, or the Secretary had announced his plans for him. But, nevertheless, I think the treatment he received after his candid response to the committee was shabby and not comparable with the service this gentleman rendered the U.S. Army and the Nation.

We understand, given the occupation unanticipated in many respects, we are going to require a significant number of soldiers in Iraq. This, again, should not come as a surprise to many people.

This chart is illustrative. It basically compares the ratio of soldiers in Iraq with historical records. The first line—the blue line—is the occupation of Germany. Again, we had huge numbers of soldiers on the ground in Germany. The red line shows the troop level for Japan. The next is the Somalia level, then Haiti, and noticeably the successful operations in the Balkans. This horizontal line represents our troop levels in Iraq today, 142,000.

History should have shown us that we would need a much larger Army to carry off this occupation in Iraq.

You might say, Well, we succeeded in Japan. But we succeeded by essentially preempting the entire Japanese Government. Once the Emperor made his fateful visit to General MacArthur and bowed to him, our problems with insurgency and rehabilitation of the Japanese were all but over. It took years but not militarily successful; again, in Somalia and Haiti. In Somalia, we left abruptly without a great deal of grace despite the courage of soldiers who performed magnificently there. Haiti might be a special case. But it should be clear that we need more troops on the ground.

If you need more troops on the ground, then you just simply need a larger Army.

That is something that we have to confront. That is just one.

Last summer, Secretary Rumsfeld asked the Defense Science Board, an independent group of experts, to study the transition from hostilities. Do we need more troops or less? Can we rely on technology or troops? They took a comprehensive look at missions and initiatives to reduce strain on the Army. Again, these are very sophisticated individuals selected by Secretary Rumsfeld. Their conclusion:

> A smaller force may be needed to defeat opponents than that needed for stabilization and reconstruction operations. Technology has not had the same leverage in stabilization sales and reconstruction that it has in conflict. Warfighting transformation is not likely to save manpower needed for stabilization and reconstruction.

Consistent with history, consistent with what military officers tell us and presumably telling the Department of Defense, we need more troops for operations such as stabilization operations.

We also understand that there are roughly 138,000 troops stationed in the country today. And in anticipation of the election, in January the Pentagon announced they were going to try to increase that size.

Again, I think the inescapable conclusion from history and from uniformed military leaders candidly telling us their best judgment and from the result of the Defense Science Board is that we need more troops. We need a larger Army for these missions.

But there are other issues that should suggest to us that we could use more troops effectively. We recently heard about a huge ammo dump that was discovered. It was apparently looted, and apparently unguarded for many months.

When I was in Iraq traveling with the chairman and ranking member in July, we were in Kirkuk. I was amazed to hear a general of the 4th Infantry Division talk about the hundreds and hundreds of unsecured American ammo dumps. I don't believe they were unsecured because we believed there was no danger. It is simply because they did not have sufficient forces then to guard every ammo dump. They didn't have loyal Iraqi forces to support their efforts.

Again, we have seen a situation in the last few days where we have conducted very successful and very difficult operations in Fallujah. Once again, the courage of the marines and the soldiers has been extraordinary—house-to-house fighting, difficult fighting. They have endeavored and succeeded in many respects not only in taking valuable terrain but also sparing innocent civilians with extraordinary demonstration of courage and skill.

But as they reduce Fallujah, the insurgents again move operations into Mosul and Bogoba. They span out and spread out and hit us. Frankly, one of the reasons they were successful in Mosul was because there was no significant American forces there. And the local police—some fought valiantly and a few others disappeared. Over a period of time, the whole town was under the control of the insurgents.

When we went into Mosul and started injecting American forces and more reliable Iraqi forces, they now hit Bogoba and other parts of the Sunni triangle. That is another strong suggestion that more American forces might be useful in country.

Finally, the borders of Iraq remain very porous. Smuggling is a venerable tradition in that part of the world, and the smuggling trade continues to operate.

Could we use more troops? Yes. The administration and the Department of Defense have said that our future and our salvation is with the Iraqi security forces. I believe they are right, but that is the long term. That is years from now. We are training an Iraqi national army force. And, frankly, the training is at the level of squads and platoons. They haven't reached the level of companies or battalions that can effectively replace American units. They do not have the kind of equipment we have. The prospect of reliable, well-trained and well-disciplined Iraqi forces is many months if not years away.

We have a large number in Iraq already. Some might say: Goodness gracious, you have a bigger army than the 130,000 troops that are there right now—140,000 troops. But I don't think people recognize that the troops that are deployed are just, if you will, the tip of the spear. They are behind in administration, behind in troops that are training there, and there are troops that are recovering from being there.

It is important to recognize that even though there are roughly 140,000 troops in Iraq, it is clearly tasking our Army.

An observer of the scene, former Army officer Phillip Carter, tried to put this in perspective. Even the simplest military task, such as moving a unit from point A to point B, requires a Herculean logistical effort. Planes have to be scheduled; trains have to be contracted and loaded; ships must be diverted and filled with equipment. Just consider what it takes to move a single tank company from Fort Stewart to Fallujah. Soldiers have to spend days inspecting and packing their vehicles before loading them onto trains to take them to port. The trains will be met by more soldiers at dockside, who will work with longshoremen and contractors to put the tanks on a ship. Then the ship has to sail across to Kuwait where it will be met by more troops and contractors. Only then can they roll them north to Iraq. Moving one tank company costs a fortune and requires hundreds of people.

Now imagine you want to move an entire unit such as the 3rd Infantry Division with hundreds of tanks and thousands of other vehicles. The size and complexity of the task is staggering. It may cost as much as $1 billion to send a division to Iraq. And it can't be done quickly.

Major bases in the United States have a finite "throughput" capacity, meaning that they can only squeeze so many pieces of equipment out the door any given day.

The tip of this spear is in Iraq. But whatever we have there, we need many more back here, again raising, I think, the obvious need for additional end strength for our Army.

In January 2004, LTG John Riggs, in charge of the Army of the future, stated:

> I have been in the Army 39 years, and I've never seen the Army as stretched in that 39 years as I have today.

In July, LTG Jay Garner, who was the Bush administration's first generation in postwar Iraq, stated:

> I think people are worn out, equipment is run down, and we've overstressed the reserves. We're drastically short [of] infantry and MPs because the Army is too small.

But all of this seems to have not made an impression on the Department of Defense with respect to the need to increase the size of the Army.

I think it is not just a question of numbers. It is a question of the stress being borne by soldiers and their families.

Approximately 16,000 Active-Duty soldiers have had two tours in Iraq, and if they stay in the service longer, they will have another.

That is a very significant statement.

In June of 2004, DOD projected that over the next 3 to 5 years it will continuously have 100,000 to 150,000 Reserve component members mobilized.

It has been estimated that if we do not increase the Army size, forces that have already been deployed to Iraq will have to return two more times. Mr. President, 3,600 troops normally stationed in Korea to protect us against North Korea, a country that arguably is a dangerous threat to us with their nuclear weapons and their mentality, have been redeployed to Iraq.

On July 6, the Defense Department stated it was calling up 5,674 members of the Individual Ready Reserve soldiers who have completed active duty, were in an 8-year period to be recalled, and they are being recalled, but they do not drill on a regular basis and some have not put on a uniform in 3, 4, 5, 6 years.

The DOD also implemented a series of stop-loss policies, what some might call a backdoor draft. Since September 11, DOD has announced six stop-loss policies for the Army, two for the Navy, five for the Air Force, and two for the Marine Corps. Only the Army still has a stop-loss policy, which means, effectively, once the unit is alerted, until 90 days after they return, that individual soldier cannot leave the Army even if his enlistment is up. These tours are increasingly longer. It is not just 12 months in-country; it is also the training beforehand and the demobilization after.

As many have pointed out, a great burden is falling on our Reserve and National Guard units. Men and women who have full-time jobs, men and women who have families far away from their mobilization point. Today, frankly, we cannot meet our requirements in the Army without the Guard and Reserve. These are extraordinarily talented, consummate professionals. The citizen soldiers have done a remarkable job for us, but the strain is immense on the Reserve and National Guard, once again suggesting we need a larger regular force. We have adopted all sorts of measures, stop-loss, relying heavily on the Reserves, but the underlying point which has to be confronted by the next Secretary is how do we increase permanently, with regular budget authority, the Regular Forces of the United States. The average mobilization for members of the Reserves and National Guard has increased to 342 days this year from 156 during the Persian Gulf, again corresponding to the increased reliance we are placing on the Reserve soldiers.

As we pointed out previously, the DOD mobilization authority states that the members of the Reserve component can be mobilized for no more than 24 months. Currently, 30,000 Reserve component members are up against this 24-month cap. But in 2005, indeed, a large portion next year will bump up against this cap. So we are using the Reserves and National Guard, and they are performing well, but this underscores the need for a large regular force. A larger regular force is included in the budget, but not funded by emergency provisions through supplemental appropriations.

We are beginning to see, as a result of the stress on the Guard particularly, an erosion in terms of recruitment and retention. The Army National Guard ended fiscal year 2003 approximately 7,800 soldiers below the recruiting goal. Last month, the Army National Guard announced it expected to fall 5,000 short of the goal of 56,000 soldiers. A survey by the Army Research Institute for Behavioral and Social Sciences reported to us that more than one in three Army reservists plan to leave or transfer to the inactive reserve when the current enlistment ended: only a quarter will reenlist.

The Active Army made the reporting goal, but they did this by pulling forward one-half of the delayed entry program. Each year, they sign up young men and women who do not expect to report until the next year. In order to make the goal, they counted those soldiers in this year's accounting. So they start off essentially in a hole for this year because they cannot double-count those soldiers.

The other factor I see potentially damaging in the longer run, for the first time in a very long time, a small fraction of soldiers is being led into the Army who are normally rejected because of lower qualifications. It is roughly 2,000 out of 100,000, but that is a trend that certainly we do not want do see grow or continue, and it is illustrative of the need to make the totals because of the stress our military is under.

The other aspect is we are committed to making sure that the Army is there and we are trying to do that through incentives and bonuses, which puts additional financial stress on the budget of the Army. Again, this is something we can't avoid. That is the way we have to fund and maintain a volunteer force, but it is an issue in terms of long-term ability of the Army to find the resources so that they can pay these bonuses, they can pay the benefits, they can enlist the force.

One other final aspect of this issue of reliance upon a force which I believe is too small. We have seen, for the first time in a notable way in Iraq, reliance and overreliance on contractors—not contractors who do the mess halls. By the way, they are doing a magnificent job over there. The quality of life of soldiers is first-rate. But I am taken aback when I see private contractors providing security. We all recall that even Ambassador Bremer's security was provided not by military people but by private civilian contractors. That is another indication to me that we have to increase the Regular Army.

Part of this was a result of a plan that did not anticipate a long-term, intensive involvement in Iraq. As mentioned before, this has been pointed out by others. In December of 2003, Jeffrey Record, of the Army's own Strategic Studies Institute, published a report that stated the ground force requirements in Iraq have forced the U.S. Army to the breaking point. He says the Army appears incapable of sustaining a commitment of 16 of its 33 active-duty combat brigades in Iraq absent a reduction elsewhere or expansion of its force structure.

Again, the Defense Science Board stated that current and projected force structure will not sustain our current projected globalization. There are inadequate total numbers of troops and a lack of long-term endurance. The board recommended adding troops or cutting back missions. It is very difficult to cut back missions.

I should point out that the board was aware of the attempts to reform the military, the modularity that is going on within the military. Again, this is a very positive development. I commend the Chief of Staff, General Schoomaker, and those who are trying to reforge the Army to be more efficient, but the Defense Science Board recognized these efficiencies and still stated that we need more troops.

We have in the Senate, with the cooperation of the chairman and ranking member, tried to do this. Again, going back a year or so ago, together with Senator HAGEL, we introduced legislation that would increase the Army by 10,000. It passed this Senate, but the Department of Defense objected to it, and it fell out of the conference report. We were successful in the last authorization to include an increase of 20,000 end strength, but once again the Department of Defense insisted that these troops be paid through emergency procedure.

We have to have a situation where the end strength is increased but it is also paid for through the regular budget process. My fear is that eventually it will get more difficult to pass supplementals. Senator LEVIN pointed out how the Army will rethink the demand of a significant amount of money next year in the supplemental for 2005. Yet even with that money they might not be able to sustain all their needs, equipment, or otherwise.

Unless we have an authorized end strength that is paid for through the regular budget process, we may end up leaving the Army in the lurch in the years ahead. When the budget comes down, the supplementals are not as robust, and they still have the missions and the troops they need to conduct those missions. That is a critical issue that the Secretary must address. I raised these issues with Dr. Harvey. He certainly listened attentively, but I received no commitment that he was going to move aggressively to do this.

The other issue of equipment, which has been addressed by the ranking member, is the Army has sustained 1.6 billion in equipment battle losses in Afghanistan and Iraq. Presently it has an unfunded requirement of 1.3 billion for ammunition. The Army estimates a third of the equipment is either already in Southwest Asia or en route. In fiscal year 2005, approximately 1.6 million pieces of Army equipment will be sent back to the United States from Iraq and Afghanistan for repairs, upgrade, or replacement. The Army expects to need $7 billion for this effort.

We have an extraordinary demand to keep Army equipment going, and the requests, so far, the supplemental requests have not met those demands. I personally believe we have to have a robust, dedicated fund from sources outside the Army so we can fund the simple recapitalization of the equipment needs of the military.

There is another aspect of the equipment demand. We have taken a great deal of equipment from the National Guard and forces in the United States, moved it overseas, leaving our National Guard back here with a fraction of their critical equipment. As my colleagues recognize, the National Guard plays a critical role in homeland security, a critical role in aiding States and localities with disaster assistance, and they are not only deployed overseas but many of the guardsmen left behind do not have the full complement of equipment—another issue we have to deal with.

I could go on at great length talking about recurring equipment needs. There are other examples that are critically important. Nearly all the equipment, for example, in our stockpiles in Southwest Asia has already been deployed forward. We do not have those robust stockpiles of equipment necessary if there is another contingency in the area. The only area where stocks appear to be untouched is Korea, which I think is a very prudent decision. This is another example of the issues we are facing in terms of equipment.

As we go forward, we have endeavored to provide the resources to our military to conduct the important operations overseas. In the past 17 months, President Bush has requested and Congress has appropriated $187 billion for Afghanistan and Iraq. We also anticipate an additional request of $70 billion in the next few weeks or months. We are spending a great deal of money, but still the needs of the Army are unmet. We have to provide for the needs. We have to provide for the necessary equipment.

We have a crisis in end strength. We have a crisis in recapitalization of equipment, and we also have an issue of leadership. I have stressed this before so I will be brief.

We have had two individuals serving the Army in this administration. General Shinseki and Secretary White were called upon to give their best views to the Congress. They did, and essentially they were punished for those views. That, to me, is not an effective way to use the offices of the Army or to get the kind of cooperation within the executive branch and the kind of cooperation between the Congress and the military service that is so necessary. Again, I feel the inhibitions that resulted from that very dramatic public behavior might have prevented individuals from appropriately sharing with us information about the planning problems for postwar Iraq, about the need for additional forces, about the need for recapitalization of equipment. In the long run, it is a very destructive and corrosive force. The next Secretary has to deal with that on an individual basis and on a collective basis in the Army and within the Department of Defense.

Also, too, an issue that has concerned many, and one that we were shocked by, was the scenes of the Abu Ghraib prison, where individual soldiers have been held accountable, enlisted people, E–5s, E–6s, E–4s, but anyone who has read the reports and anyone who has been in the area in which the chairman has conducted it in a very professional and very courageous fashion has to understand that accountability does not stop here.

We have had numerous reports by the IG, by General Taguba, by General Kern, and by others which suggests at least people at ranks beyond noncommissioned officer have to be held accountable. Yet to date there has been no accountability, in my mind.

I was curious as to just simply who had the responsibility to press court-martial charges against some of the individuals notified in the report by General Karpinski. Now, that is, I am told no general officer can go before a court-martial without an IG report. The IG has conducted a report. I found out that the IG, General Mikolashek, is scheduled to retire in a few days. I don't know what the status of his report is, whether he forwarded it to the convening authority and whether the convening authority is taking steps.

The convening authority is General Helmsley, who is the Reserve component commander. Colonel Pappas, who is out of the 5th Military Intelligence Brigade, and General Sanchez was originally the convening authority—he decided because of appearances, and I think appropriately, that he shouldn't be involved. It was then sent to General Bell, the USAREUR commander, and now it has been delegated to General Benny Williams. It seems to me in the course of trying to establish responsibility beyond the company grade level that we have not made much progress.

I believe the next Secretary of the Army has to deal with this issue directly because it would be unfortunate—more than unfortunate—if individual soldiers were punished and it appeared that seniors who might be culpable—not directly involved in brutality but for dereliction of duty or for failure to follow the law of warfare—simply walked away or were lost in the shuffle of paperwork and reports. That is the challenge this Secretary has to deal with because the essence, in my mind, of a military officer is accountability and responsibility, and you do not get that by pushing reports and pushing paper and suddenly trying to make it go away.

Maybe I am just premature in my demands for some type of finality to this situation. I don't think so. Again, I believe the next Secretary of the Army has to establish a very simple rule: Soldiers are responsible for what they do and commanders are responsible for their commands. I hope that is done because, if not, all the issues I have talked about—the lack of troops, the need for new equipment and refurbishment of equipment—will pale in comparison if people can draw the lesson that only soldiers are punished and superiors are somehow able to escape, at least the opportunity to be held accountable.

Mr. WARNER. Will the Senator yield? He brings up a subject of great importance to the committee. Indeed, I commend the committee as a whole for the manner in which it pursued its look into this situation. We are awaiting what is described as maybe the final report—the Senator is aware of that—which is to be a compendium analysis of previous reports and such other factors deemed relevant.

There is also an outstanding request that I put to General Kern and his group in the course of the hearing that we would like to have them, once again, assess the full meaning of accountability as they use that.

I thank the Senator for raising the question. I assure him it is something I will continue as chairman in the coming Congress. This is a matter which the committee will once again address.

Mr. REED. Mr. President, I reclaim my time. Let me, once again, commend the chairman because he took a position that was very difficult.

Mr. WARNER. I thank the distinguished Senator. The ranking member was a full working partner, together with all Members of the committee.

Mr. REED. Let me add, honestly, without his sensitivity to the importance of this issue, to the long run values of the military, it would not have received any attention. I commend the chairman for continuing his efforts.

I just point out, all this might be coincidental. General Kern retired on Saturday, I believe. I hope the report and response is ready and en route to the chairman. I hope he, too, agrees with me that this is not an issue that we can ignore.

I must say also this is not just an Army issue. I think there was a tendency initially to portray this as the aberrant behavior of young soldiers. As we now know, there was much more complicated and high-level involvement. What involvement is still unclear, but we cannot walk away from this issue. And because the next Secretary of the Army will have so much authority with respect to reports, with respect to reviewing at least court-martial proceedings or involved in these decisions, this issue has to be addressed. And that is one of the major challenges I think Dr. Harvey will address, I hope, if he is confirmed.

Let me again conclude by thanking the chairman not only for his leadership but for the gracious way he has helped today to illustrate these issues and to assist me in my presentation. I thank him. I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Virginia.

Mr. WARNER. Mr. President, before recognizing the distinguished Senator from Colorado, I would like to respond to two issues raised by our colleague from Rhode Island in the course of what I think has been a very constructive debate today.

The first is on the issue of end strength.

Senator REED has argued that the Regular Army—the active duty force—needs to be larger, and I would agree with him.

In the Ronald Reagan National Defense Authorization Act for fiscal year 2005, signed by the President on October 28, Congress required that the Army increase its active-duty strength by 20,000 soldiers over fiscal year 2004 levels.

The conference report, while noting that in a time of national emergency the President may direct even higher levels, specifically authorized an increase of 30,000 soldiers between 2005 and 2009.

These increased numbers reflect the recommendations of General Peter Schoomaker, the Chief of Staff of the Army, who is a great soldier. He has proven to be a superb Chief of Staff of the Army.

In the committee hearing on General Schoomaker's nomination last year, I recall very well the questions asked of him as to whether he thought that the Army needed to have more soldiers. General Schoomaker responded candidly that his intuition told him that he thought the Army needed to be larger.

He was right. Following his confirmation and appointment in August 2003, he has testified on several occasions about the end strength issues and communicated his views about what needs to be done to ensure the Army is prepared and ready in all respects for its current missions.

The Army laid out a plan to temporarily increase end strength by 30,000 over the next 5 years as it was transforming to "modular units of action."

General Schoomaker, for example, testified on November 19, 2003, in a full committee hearing on "Current Army Issues." I questioned him about the force level of the Army, asking General Schoomaker about whether we need additional troops.

His response was that as a result of stop-loss and stop-movement, which currently serves to ensure unit manning and cohesion, the Army was operating with 20,000 more soldiers in the regular Army than in 2002. He went on to emphasize that

> the greatest move we can make is to get the proper utilization of the soldiers within the Army that we have authorized and we are paying for right now. This is going to require significant active-Guard and Reserve rebalancing and significant restructuring of policies that will give us access to more of the force that we are paying for and have on hand right now.

General Schoomaker reiterated this point in February 2004 when he testified with the Secretary of Defense on the President's fiscal year 2005 budget. General Schoomaker shared his "rain barrel" and "spigot" analogy with us in which he noted that because of the Army's current organization and composition, the Army cannot make use of the bulk of its manpower.

General Schoomaker has called for transformational changes in Army personnel planning, such as conversion of billets from military to civilian employees; he has advocated rebalancing of reserve and active skills to improve readiness; he has called for greater numbers of soldiers with essential occupational skills, and implementation of new technology. In doing so, he consistently has argued throughout the past year that precipitous increases in end strength were not the answer to the Army's readiness challenges.

In a recent interview last month, General Schoomaker stated:

> We all agree the Army should grow. The issue is how to pay for it. Right now we have supplemental funding to increase numbers we're bringing in and retaining. . . . We are growing through increased accessions and retention. We have grown to 495,000 on active

duty, up from 480,000 last year. We are making the Army as big as we can, as fast as we can. But paying for it is another issue.

In summary then, three points need to be made:

First, the Army is increasing in size. The Army active-duty strength on September 30 of this year was 499,530. That was about 17,000 above the authorized end strength for fiscal year 2004. The Army is projecting that it will meet the requirement to expand by 20,000 soldiers by the end of fiscal year 2005.

Second, while all agree that the Army is stretched, the Department of Defense has been clear that if the combatant commander in U.S. Central Command calls for more troops, he will receive them.

And, third, the cost of 10,000 additional active-duty soldiers has been estimated to be $1.2 billion. It is essential that budgeting realities be taken into account and that the Army not be required to absorb additional soldiers "out of hide." To do otherwise would undermine General Schoomaker's critically important transformational vision.

I draw to my colleagues' attention that General Schoomaker, the current Chief of Staff of the Army, has addressed this issue. I questioned him in the course of the hearing on November 19 about the force level of the Army. I asked him how he felt about the need for additional troops. His response was that as a result of the stop-loss and stop-movement which currently serves to ensure unit manning and cohesion, the Army was operating with 20,000 more soldiers in the Regular Army than in 2002.

In a subsequent interview last month, he stated:

> We all agree that the Army should grow. The issue is how to pay for it.

The Senator from Rhode Island raised that point.

General Schoomaker went on to say:

> Right now we have supplemental funding to increase numbers we're brining in and retaining. . . .

I think he has looked at this in a very responsible way, recognizing that the supplemental, hopefully, has cared for the immediate needs of the Army and will provide funds to implement the legislation the committee incorporated in the Ronald Reagan Defense Act of 2004 that we put through.

Also, the Senator raised a question about General Shinseki, and that is one in which I have been increasingly interested through the years. And actually, on this floor, I stated to the Senate that so much has been said about this distinguished officer's career and how he concluded, which I always thought was the regular way, that the Chief of Staff would step down at the conclusion of his term. But others have views about that, and I am not going to get into that.

I would like to put in the RECORD the colloquy between Senator LEVIN and General Shinseki on February 25, 2003, when he addressed this question of the forces that could be used or required. It is interesting to go back and read it because I think people have seized on this so often to refer to it as a basis for their observations. But here is what he said. Senator LEVIN asked the question:

> General Shinseki, could you give us some idea as to the Army's force requirement for an occupation of Iraq following the successful completion of the war?

Bear in mind, the operation had not even started at that time, and this question was put to General Shinseki after all the chiefs had made opening statements. General Shinseki had put into the record his full statement and then testified in open session to most of that statement.

General Shinseki said: "In specific number, I would have to rely on combatant commanders' exact requirements," which is much what the President and the Secretary of Defense have said each time this issue is up. If the combatant commanders made requests, indeed he, the President, would consider it and, in all probability, meet those requests.

Then he went on. It is very interesting. He is a most distinguished officer, and I share the Senator's views about him. There are moments in our Senate career that we never forget, but I remember in the course of the confirmation of General Shinseki, our distinguished colleague from Hawaii, Senator INOUYE, rose and gave one of the most magnificent speeches on the floor of the Senate I have ever heard about any individual in the 26 years I have been privileged to serve here. I share in the full respect for this officer.

Here is what he said again to Senator LEVIN:

> I would say that what has been mobilized to this point, something in the order of several hundred thousand soldiers, is probably a figure that would be required.

In other words, it was not a finite statement. It was more or less a generalized statement. He continued:

> We are talking about post-hostilities control over a piece of geography that is fairly significant with the ethnic tensions that could lead to other problems.

That is showing a lot of foresight.

> It takes a significant ground presence to maintain a safe and secure environment to make sure that people are fed, that water is distributed, all with the responsibilities that go along with administering a situation like this.

But he makes no reference at that point that he ever anticipated the level of insurgency, the infiltration of these terrorists from other nations to come in and fuel this fight.

In fairness to him, I think the exact text that he responded to that question, which, again, was referred to by my distinguished colleague, the ranking member, and myself today should be made a part of this RECORD.

I inquire of the Presiding Officer as to the time remaining under the control of the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia has 40 minutes.

Mr. WARNER. And the distinguished ranking member, I believe, has roughly an hour.

The PRESIDING OFFICER. The ranking member has 56 minutes.

Mr. WARNER. I notice the presence on the floor momentarily of our distinguished colleague from South Carolina and, indeed, the current junior Senator from South Carolina. I know the Senate is anxious to hear from both our colleagues with regard to the forthcoming retirement of our distinguished colleague, Senator HOLLINGS.

I also see my colleague from Colorado who desires to speak to the matter before the Senate. I say to the Senate that I think this debate and discussion among the members of the committee as relating to the nomination is about to come to a close, and subject to the ranking member's views, which I ask he provide the Senate at this time, I would like to give—how much time would the Senator from Colorado desire?

Mr. ALLARD. I request from the chairman 10 minutes. I probably will not use that amount, but if there is a minute or two, I will yield that back.

Mr. WARNER. I think the Senator from Oklahoma, Mr. INHOFE, wants about 5 minutes. Perhaps 15 minutes on this side. I say to my colleagues, is the remainder of the time we would seek on this nomination.

Mr. LEVIN. Mr. President, if the Senator will yield for a unanimous consent request first. I am glad the Senator put in the RECORD the remarks of General Shinseki. I think they fully support what Senator REED was saying and what I was saying. I also ask unanimous consent at this point in the RECORD that the reaction of Secretary Wolfowitz to those remarks be printed. We will provide those for the RECORD, to the effect General Shinseki was widely off the mark and that it is hard to believe it would take more troops to occupy a country than it would be to win the war. I ask those remarks be made part of the RECORD. We will supply those remarks to the clerk, if that meets with the agreement of the Senator.

Mr. WARNER. I certainly would not impose any objection to a colleague wishing to expand the remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### THE STATEMENT OF U.S. DEPUTY SECRETARY OF DEFENSE PAUL WOLFOWITZ BEFORE THE HOUSE BUDGET COMMITTEE ON FEBRUARY 27, 2003

If I might digress for a moment, Mr. Chairman, from my prepared testimony, because there's been a good deal of comment, some of it quite outlandish, about what our post-war requirements might be in Iraq. . . .

> But some of the higher-end predictions that we have been hearing recently, such as the notion that it will take several hundred thousand U.S. troops to provide stability in post-Saddam Iraq, are wildly off the mark.
>
> First, it is hard to conceive that it would take more forces to provide stability in post-Saddam Iraq than it would take to conduct the war itself and to secure the surrender of Saddam's security forces and his army. Hard to imagine.

Mr. WARNER. Mr. President, I call to the attention of my colleague that this issue of General Shinseki's remarks has been and perhaps will continue to be debated and discussed.

But actually, on the floor of the Senate—and my recollection is it was last fall from this fall in connection with the conference report—I said to the Senate that I had asked repeatedly of the Army, of members of the Army: Was there any staff work done on this issue of the troop levels required in a post-conflict situation, either in the Department of the Army or in the joint staff? I urged that that be forthcoming and that information be given to the committee.

To the best of my knowledge, no one has come forward to show any staff workup that provided the basis for the General's reply. As I point out, the General did not, in the course of these opening remarks, in a prepared statement, make any reference to that. As a matter of fact, he was supportive of the figure that was in the budget.

Mr. LEVIN. If the Senator will yield, though, again, for a comment on that.

Mr. WARNER. Yes.

Mr. LEVIN. If there was no staff workup on that issue, it would be shocking. There surely should have been staff work on the question of how many troops it would take to secure a country after its occupation. There have been a number of press reports to the effect that there in fact were some assessments as to how many troops, but I have never seen that assessment. If it did not exist, it would be pretty serious mismanagement, it seems to me, and if it does exist, we ought to get a copy of it.

Either way, I think General Shinseki was mistreated. He was the subject of calumny, almost, inside the civilian part of the Defense Department, for expressing an opinion.

I know my friend, the chairman, would agree with me that when a military officer is asked a question, he is required by a commitment that he makes to us when he is before us for confirmation to give us his honest professional judgment, and he was pressed by me to give us that judgment. He said he couldn't be specific, and then I pressed him to give us a range and he said: Several hundred thousand. The reaction to that amongst the civilians is that is widely off the mark. He paid a price he never should have paid for giving an honest opinion to a congressional committee.

Mr. WARNER. You address this thing in a very broad context, which you are free to do. I was very specific. When he said several hundred thousand, I inquired as to whether there is any document, either in the Department of the Army or the joint staff, which supported that several hundred thousand individuals would be needed in a post-conflict situation.

Mr. LEVIN. Is there a document that supports 130,000 would be needed? I would like to see a document that supports any analysis of what would be needed. That is the problem with the failure to plan for the aftermath. It is that there was no plan for the aftermath. If there is a document that says 130,000—and maybe my good friend from Rhode Island has the document we are referring to?

Mr. REED. I don't have the document, but an article in the Philadelphia Inquirer of October 17, 2004 made several references. First:

> Franks' Central Command did have an extensive plan to restore order and begin rebuilding the country, called Operation Desert Crossing, said retired Marine Gen. Anthony Zinni, who drew up the plan and updated it continuously when he led Centcom until 2000. It was never used.

Further in the story:

> Central Command originally proposed a force of 380,000 to attack and occupy Iraq. Rumsfeld's opening bid was about 40,000, "a division-plus," said three senior military officials who participated in the discussions. Bush and his top advisers finally approved the 250,000 troops the commanders requested to launch the invasion. But the additional troops that the military wanted to secure Iraq after Hussein's regime fell were either delayed or never sent.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Oct. 17, 2004]

THE IRAQ WAR: MISCALCULATION AND MISSTEP

WASHINGTON.—In March 2003, days before the start of the U.S.-led invasion of Iraq, American war planners and intelligence officials met at Shaw Air Force Base in South Carolina to review the Bush administration's plans to oust Saddam Hussein and implant democracy in Iraq.

Near the end of his presentation, an Army lieutenant colonel who was giving a briefing showed a slide describing the Pentagon's plans for rebuilding Iraq after the war, known in the planners' parlance as Phase 4–C. He was uncomfortable with his material—and for good reason. The slide said: "To Be Provided."

An Inquirer Washington Bureau review of the Iraq policy and decisions of the administration has found that it invaded Iraq without a comprehensive plan in place to secure and rebuild the country. The administration also failed to provide about 100,000 additional U.S. troops that American military commanders originally wanted to help restore order and reconstruct a country shattered by war, a brutal dictatorship, and economic sanctions.

In fact, some senior Pentagon officials had thought they could bring most American soldiers home from Iraq by September 2003. Instead, more than a year later, 138,000 U.S. troops are still fighting insurgents who slip easily across Iraq's long borders, diehards from the old regime, and Iraqis angered by their country's widespread crime and unemployment and the United States' sometimes heavy boots.

"We didn't go in with a plan. We went in with a theory," said a veteran State Department officer who was directly involved in Iraq policy.

The military's plan to defeat Hussein's army worked brilliantly and U.S. troops have distinguished themselves on the battlefield.

However, the review found that the President and many of his advisers ignored repeated warnings that rebuilding Iraq would be harder than ousting Saddam Hussein, and they tossed out years of planning about how to rebuild Iraq, in part because they thought pro-American Iraqi exiles and Iraqi "patriots" would quickly pick up the pieces.

The CIA predicted up until the war's opening days that the Iraqi army would turn against Hussein, which never happened.

This report is based on official documents and on interviews with more than three dozen current and former civilian and military officials who participated directly in planning for the war and its aftermath. Most still support the decision to go to war but say many of the subsequent problems could have been avoided.

Every effort was made to get those who were interviewed to speak for the record, but many officials requested anonymity because they didn't want to criticize the administration publicly or because they feared retaliation.

President Bush and top officials in Secretary of Defense Donald H. Rumsfeld's office did not respond to repeated requests for interviews. They have publicly defended their plans for the invasion and its aftermath, and now some top officials are blaming the CIA for failing to predict the messy aftermath of Hussein's fall.

The United States and interim Iraqi Prime Minister Ayad Allawi are now taking steps to defeat the Iraqi insurgency and will have national elections in January. They have negotiated an agreement to disarm some of the militia led by radical Shiite Muslim cleric Muqtada al-Sadr and are pressing an offensive against Sunni rebels. After more than a year of internal squabbling, U.S. military commanders, intelligence officers, and diplomats in Baghdad are acting as a team.

But the hole created by the absence of an adequate plan to rebuild Iraq, the failure to provide enough troops to secure the country, the misplaced faith in Iraqi exiles, and other mistakes made after Baghdad fell is a deep one.

"We've finally got our act together, but we're all afraid it may be too late," said one senior official who is engaged daily in Iraq policy.

The Bush administration's failure to plan to win the peace in Iraq was the product of many of the same problems that plagued the administration's case for war, including wishful thinking, bad information from Iraqi exiles who said Iraqis would welcome U.S. troops as liberators, and contempt for dissenting opinions.

However, the administration's planning for postwar Iraq differed in one crucial respect from its erroneous prewar claims about Iraq's nuclear, chemical and biological weapons programs and links to al-Qaeda.

The U.S. intelligence community had been divided about the state of Hussein's weapons programs, but there was little disagreement among experts throughout the government that winning the peace in Iraq could be much harder than winning a war.

"The possibility of the United States winning the war and losing the peace in Iraq is real and serious," warned an Army War College report that was completed in February 2003, a month before the invasion.

Without an "overwhelming" effort to prepare for the U.S. occupation of Iraq, the report warned, "The United States may find itself in a radically different world over the next few years, a world in which the threat of Saddam Hussein seems like a pale shadow of new problems of America's own making."

A half-dozen intelligence reports also warned that U.S. troops could face significant postwar resistance. This foot-high stack of material was distributed at White House meetings of Bush's top foreign policy advisers, but there's no evidence that anyone ever acted on it.

"It was disseminated. And ignored," said a former senior intelligence official.

The Pentagon's Defense Intelligence Agency was particularly aggressive in its forecasts, officials said. One briefing occurred in January 2003. Another, in April 2003, weeks after the war began, discussed Hussein's plans for attacking U.S. forces after his troops had been defeated on the battlefield.

Similar warnings came from the Pentagon's Joint Staff, the State Department's Bureau of Intelligence and Research, and the CIA's National Intelligence Council. The council produced reports in January 2003 titled "Principal Challenges in Post-Saddam Iraq" and "Regional Consequences of Regime Change in Iraq."

Unlike the 1991 Persian Gulf War, in which Iraqi troops were trying to maintain their grip on Kuwait, "they are now defending their country," said a senior defense official, summarizing the Joint Staff's warnings. "You are going to get serious resistance. This idea that everyone will join you is baloney. But it was dismissed."

Retired Army Lt. Gen. Jay Garner wasn't named to lead Iraq's reconstruction until January 2003 and didn't oversee the first major interagency conference on postwar Iraq until Feb. 21, less than a month before the invasion.

At the Pentagon, the director of the Joint Staff, Army Gen. George Casey, repeatedly pressed Gen. Tommy Franks, the head of the Central Command, for a "Phase 4," or postwar, plan, the senior defense official said.

"Casey was screaming, 'Where is our Phase 4 plan?'" the official said. It never arrived. Casey is now the commander of U.S.-led coalition forces in Iraq.

Franks' Central Command did have an extensive plan to restore order and begin rebuilding the country, called Operation Desert Crossing, said retired Marine Gen. Anthony Zinni, who drew up the plan and updated it continuously when he led Centcom until 2000. It was never used.

The same officials who saw no need for a plan to secure and rebuild a defeated Iraq also saw no need to position thousands of U.S. soldiers, including military police, engineers, ordnance disposal teams, and civil affairs specialists, to begin taking control in Iraq even before the war against Hussein was over.

Long-standing Army doctrine calls for beginning reconstruction in freed areas of a country while fighting rages elsewhere. It also calls for a shift in military forces from combat troops to civil affairs, military police and the like.

"Unfortunately, this did not occur despite clear guidance to the contrary," Army Col. Paul F. Dicker wrote in an assessment.

Bush, Rumsfeld, and other top officials insist that their military commanders were given everything they requested, and Franks wrote in his book, American Soldier, that Rumsfeld supported his war plan.

Technically, that's accurate. However, three top officials who served with Franks at the time said the plan was the product of a lengthy and sometimes heated negotiation between the Central Command and the Pentagon, in which Rumsfeld constantly pressed Franks and other senior officers to commit fewer troops to Operation Iraqi Freedom.

At one point, Secretary of State Colin Powell, a former chairman of the joint chiefs, weighed in on Franks' side and helped persuade Rumsfeld to commit more troops, a senior administration official said.

Rumsfeld and his aides wisely wanted to keep the U.S. footprint in Iraq as small as possible, realizing that more troops would likely breed more Iraqi resentment, and they wanted a smaller, faster force that could overwhelm the Iraqi military before it could torch the country's oil fields, retreat into the cities and create a humanitarian disaster.

"There were different motivations by different people in this administration for going after Iraq, but they all came together . . . in a way that blotted out prudence and caution," said a senior intelligence official.

Central Command originally proposed a force of 380,000 to attack and occupy Iraq. Rumsfeld's opening bid was about 40,000, "a division-plus," said three senior military officials who participated in the discussions. Bush and his top advisers finally approved the 250,000 troops the commanders requested to launch the invasion. But the additional troops that the military wanted to secure Iraq after Hussein's regime fell were either delayed or never sent.

As a result, the two Army divisions that Centcom wanted to help secure the country weren't on hand when Baghdad fell and the country lapsed into anarchy, and a third, the First Cavalry from Fort Hood, Texas, fell so far behind schedule that on April 21 Franks and Rumsfeld dropped it from the plan.

Moreover, one senior military official said, there was a realization that fresh troops would eventually be needed to replace worn-out units in Iraq.

"We could not burn the candle on the Cav prematurely," he said.

Others said that civilian officials in the Pentagon were so convinced that these "follow-on forces" wouldn't be needed in Iraq that they thought they could withdraw 50,000 troops from Iraq in June 2003; 50,000 more in July; and a final 50,000 in August. By September 2003, Rumsfeld and his aides thought, there would be very few American troops left in Iraq.

Instead of providing a plan and enough troops to take control of Iraq, officials, advisers and consultants in and around the Pentagon and Vice President Dick Cheney's office bet on Iraqi exiles such as Ahmed Chalabi of the Iraqi National Congress, who assured them that Iraqis would welcome U.S. troops as liberators.

Gen. John Keane, the vice chief of the Army staff during the war, said some defense officials believed the exiles' promises.

"We did not see it [the insurgency] coming. And we were not properly prepared and organized to deal with it. . . . Many of us got seduced by the Iraqi exiles in terms of what the outcome would be," Keane told a House committee in July.

Rumsfeld's office "was utterly, arrogantly, ignorantly and negligently unprepared" for the aftermath of the war, said Larry Diamond, who was a political adviser in Baghdad from January to March of this year.

Douglas Feith, the Defense Department's number-three official, and former Pentagon consultant Richard Perle both acknowledged that their vision for post-Hussein Iraq included putting pro-Western exiles in power.

"We had a theme in our minds, a strategic idea, of liberation rather than occupation, giving them [Iraqis] more authority even at the expense of having things done with greater efficiency" by coalition military forces, Feith told The Philadelphia Inquirer last month.

Perle, in an interview, said he and others had for years advocated "helping the Iraqis liberate themselves—which was a completely different approach than we settled on."

"We'll never now how it would have come out if we did it the way we wanted to do it," he said.

The CIA, the Defense Intelligence Agency, and the State Department all warned that Chalabi was a charlatan, and the uniformed military dragged its heels in training exiles to join the fight against Hussein.

The battle over Chalabi was one of numerous bitter interagency fights about Iraq that Bush and his national security adviser, Condoleezza Rice, never resolved.

"I'm not going to put my thumb on the scale," Bush said at a White House meeting in which Chalabi's bona fides were hotly debated, according to an official who was present.

That left Pentagon officials to plow ahead with their attempt to position Chalabi and his militia, the Free Iraqi Fighting Forces, to take power after Saddam's fall.

Within 48 hours of their arrival in Baghdad in April, some of Chalabi's men, including members of his personal bodyguard force, began taking cars, bank accounts and real estate, said a senior military officer who received reports of the events. It became evident almost as quickly that Chalabi and other exiles had a larger political following in the Pentagon than they did in Iraq.

Intelligence officials now charge that Chalabi or some of his senior aides were paid agents of Iran's intelligence service, and that Chalabi or his security chief provided classified U.S. military information to Iran. Chalabi has denied the allegation.

Mr. WARNER. Mr. President, at this point I further ask unanimous consent to have printed in the RECORD testimony by General Franks in response to questioning by Senator LEVIN on this issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senator LEVIN. Could you give us just a range of troops? I mean, would it be from 100–150,000 for many years? I'm not asking for any kind of precise figure, but what's your current best estimate?

General FRANKS. Senator Levin, that actually is not as hard to answer as it might seem. We have about 145,000 troops in there right now. As I have talked to commanders at every level inside Iraq, one finds that that footprint appears to us on the operational side to be about what that footprint needs to look like. There has been suggestion that perhaps there should be more troops, and, in fact, I can tell you in the presence of this Secretary that if more troops are necessary, this Secretary is going to say yes. We have talked about this on a number of occasions, and when the tactical commanders on the ground determine that they need to raise force levels, then those forces in fact will be provided. The Secretary may want to comment on that, but what we——

Mr. WARNER. That concludes the debate at this point. I wonder if Senator ALLARD and Senator INHOFE—I see Senator SESSIONS—we are trying, if I might, to acquaint my colleagues who have arrived on the floor—the distinguished senior Senator from South Carolina desires to speak to his forthcoming retirement. The senior Senator wishes to speak to that. Yet this issue has been fully debated by those who have been on the floor. I judge my colleagues here wish to take some time.

If my colleague could indicate that to me, I would like to allocate the time you would like to have.

First, Senator ALLARD.

Mr. ALLARD. Mr. Chairman, if I might have 10 minutes. I am not sure I would use that time, but I appreciate that.

Mr. WARNER. Other Senators?

Mr. SESSIONS. Mr. Chairman, I will be pleased—2 minutes will be sufficient to me.

Mr. WARNER. Let's say 5. He is the chairman on the subcommittee for the Army and I think that is important.

Mr. SESSIONS. I also have a 4 o'clock commitment I will need to be in.

Mr. WARNER. I say to the Senator from Oklahoma——

Mr. INHOFE. Mr. Chairman, if there is 10 minutes, I would like to have that. If not, I will downgrade that.

Mr. WARNER. I will leave that to the Senator's judgment. For the moment I will say 7 minutes. Is that agreeable?

Mr. INHOFE. That is agreeable.

Mr. WARNER. Does the Senator from Colorado wish to allow our distinguished colleague from Alabama to proceed?

Mr. SESSIONS. Mr. President, I ask if the Senator from Colorado will give me 2 to 3 minutes. I want to say a couple of things.

Mr. WARNER. For that purpose, I ask unanimous consent for the Senator from Alabama, to be followed by the Senator from Colorado, followed by the Senator from Oklahoma, to address the Senate in the confines of the time allocated.

Mr. ALLARD. That is all right with me. I yield 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I was present when Dr. Harvey came before the Armed Services Committee for the nomination hearing on his appointment as Secretary of the Army. As the hearing went along, I became more and more impressed with this extraordinary man. This is not the time to debate somebody's differing opinions about how General Franks and others should have handled the war in Iraq. They did a dadgum good job of it, as far as I am concerned, in achieving the victory over there and in Afghanistan also. There will always be people to second-guess it.

But Dr. Harvey has extraordinary experience of remarkable breadth. He has his B.S. from Notre Dame and Ph.D. from the University of Pennsylvania in metallurgy and materials science. He has been CEO of some of the country's largest corporations. He has been a COO of two high-tech startup companies in recent years. He is high-tech oriented. He is management oriented. He will bring those skills to the Department of Defense.

As he goes through it, he will be able to help us decide how big the Army should be and how the transformation should go forward to help us transform our great Army, which is doing magnificent work this very moment in a hostile environment in Iraq. He will help us make it better. I am convinced of that.

He is not a uniform man himself, nor should he be. He will bring his talents to bear to that subject. I am excited by his nomination. I believe he will do an outstanding job.

I thank Senator WARNER for his leadership and I yield the remainder of my time to Senator ALLARD and Senator INHOFE.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I have the utmost confidence in Dr. Francis Harvey and I do believe he will act on behalf of our men and women in the field. I think he has a sincere concern about what happens to them and that they have the adequate equipment and manpower and whatnot to do their job. Frankly, it boils down to the fact that we can always anticipate what the force size has to be. That has to be determined basically by the men in the field, the commanders in the field. To try to run a war out of the Pentagon is a mistake. I happen to be rising in support of the nomination of Dr. Francis Harvey for the post of Secretary of the Army because I think he understands that.

I will say a few things here to comment on Dr. Harvey's qualifications.

In addition to the time Dr. Harvey spent with us in committee hearings, I spoke with him individually on a variety of Army issues, critical not only to our overall national security but also the citizens of Colorado. I believe Dr. Harvey to be fully qualified for this post. My distinguished colleague from Alabama, I think, went over some of his qualifications. I thank our distinguished chairman from Virginia for this timely debate and confirmation.

Let me first acknowledge the outstanding performance of the current Acting Secretary of the Army, Les Brownlee. Secretary Brownlee, together with General Schoomaker, the Army Chief of Staff, has successfully directed the Army through this time of challenge and change. The Army is leading our Nation in the global war against extremist terrorists, and is making giant strides in transforming warfighting, logistics, and business management capabilities.

Additionally, I know the Nation greatly appreciates the significant improvements in the quality of life of our Active Duty, Reserve, and National Guard soldiers. This includes our retirees, veterans, and dedicated spouses and families. I applaud Secretary Brownlee for these achievements and am thankful for his continued service to our country.

The challenges and pace of change in the Army remain steady and are top national priorities. Based on my conversation with Dr. Harvey, I am confident he has the right skills and experience to lead this next period of transformation. Dr. Harvey demonstrated a record of management success in both public and private enterprise that will enable him to develop prudent choices and solutions for several strategic Army outcomes. Among the key strategic evaluations are force structure and force sizing reviews in pursuit of Army transformation objectives; global posture and "mission needs" evaluations to improve Army mobility and responsiveness regarding future demands at home and abroad; and, finally, manpower studies to assess and balance both the military, civilian, and the Active-Reserve distribution of skills to ensure we are optimally employing our military personnel and resources. These critical activities will define the composition and capability of the U.S. Army for the foreseeable future, and will improve the recruitment, retention, and motivation of our men and women and families throughout the Army family.

Another high priority I covered with Dr. Harvey is the Army's commitment to, and funding for, our obligations to eliminate our chemical weapons stockpiles. The Army is the executive agent to carry out the chemical demilitarization and disposal program at various sites across the country. Unfortunately, the program is falling behind schedule and costing more money than originally planned.

Dr. Harvey's qualifications and experience are well suited to address the problems associated with the chemical demilitarization program. In my personal conversations with the nominee, and again in public testimony, I received Dr. Harvey's assurances and commitment for Army leadership to pay close attention to and fix the problems within the technology and demilitarization programs at all of our chemical weapons facilities. I am convinced Dr. Harvey is as dedicated as I am to seeing the United States fulfill our chemical weapons treaty obligations.

Thank you, Mr. Chairman, for the opportunity to speak in support of Dr. Harvey's nomination. I believe Dr. Harvey is well qualified for the significant challenges facing him and I look forward to working with him to keep our Army the greatest the world has ever known.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 23 minutes, of which 10 minutes has been allocated to the Senator from Oklahoma.

Mr. INHOFE. Thank you, Mr. President.

First of all, let me address some of the things that have been talked about today. We have had a drawdown in the military, starting with the Cold War. When it was over, all of us heard so many people say the Cold War is over, we have no need to have the strength we had before. Then after the 1991 gulf war, the drawdown continued. The Army is on the right track right now to regain the manpower they lost during that drawdown. I agree with the Senator from Rhode Island, who has been concerned about the end strength. I have joined him in that, and feel the same way.

But I agree the drawdown in force that took place at the end of the Cold War went too far. We cut 365,000 troops, too many for the force we had. We should have stayed with the original number provided by General Powell during the first Bush administration.

During the Clinton administration, we took a procurement holiday that cost us dearly. Budgets were woefully inadequate to sustain our force. Readiness suffered. The euphoria was around the fact that "the Cold War is over," we no longer need this much military. We found out we were wrong. From fiscal year 1994 to 2001, we did not keep up with inflation. Defense spending lost $430.2 billion in constant 2002 dollars. This was an average of $53.8 billion a year. We are talking about a loss of that amount. The deterioration would have been $53.2 billion greater if not for the Congress plus-up of the Clinton budget from fiscal year 1996 onward.

The Republicans gained control of both the House and the Senate in 1994. To turn this positive from fiscal year 1996 onward, it would have been $58.1 billion or $9.7 billion a year average.

The Democratic Congress had even reduced the Clinton request from 1994 to 1996 by $4.8 billion, or $2.4 billion a year average, and reduced the last fiscal 1993 year Bush budget request by a whopping $8.1 billion.

The Republican Congress was able to flatten this trend by fiscal year 1997 and turn the trend upward from fiscal year 1999 to fiscal year 2004 but never recovered the shortfall.

When George W. Bush took office, the military readiness was in decline. We had not made the proper investment in modernization, readiness, and standard of living for our soldiers.

I know it is true. I chaired the readiness subcommittee of the Senate Armed Services Committee during that timeframe. We desperately needed to reorganize the military to cope with this post-world war era.

Just short of 9 months after taking office, George W. Bush was faced with 9/11. He was faced with mobilizing the military to protect the United States in a new kind of war, a new kind of war we never experienced before, one not properly dealt with by previous administrations, and one the military had not been funded to cope with.

We are now paying for that mistake. We have been playing catchup. We need to put the Army back on the right track. And General Shoomaker and Acting Secretary Brownlee have done just that. We are reorganizing the Army to retrain soldiers from skills needed in today's threatened environment to skills more appropriate to those threats.

We are adding 30,000 soldiers to the force and turning many noncombat jobs being performed by soldiers today into civilian positions.

We are stabilizing families and rotating units rather than individual soldiers through Iraq and Afghanistan.

We are accelerating equipment fielding to incorporate the latest innovations to defend against EIDs, the threat that we really didn't know about in years past.

We are committed to providing the Army with anything and everything they need, but we can't waste resources by throwing money at the problem. We have to respond to the requests of our leaders in the field. I think we have done that, and I am committed to making sure we continue to do that.

I am confident that Secretary Harvey, as has been said by so many people, will also continue to do that. I am confident he will be successful because he understands industry. Today, we need industry to give their best and as fast and as affordable as possible. It is important to have someone of Dr. Harvey's character and ability to provide the guiding hand and make this partnership between Government and industry work for the maximum benefit of our soldiers.

You have to keep in mind that is one of the serious problems we face right now. The number of defense contractors is about one-fifth of what it was 20 years ago. It is important that we have someone who understands industry, and certainly Dr. Harvey will be such a person.

We are playing catchup in the world. It is changing daily before our eyes. The Army must reorganize and modernize.

How many people in America know we are sending our troops out many times with equipment that is not as good as that of our potential adversaries? In the area of artillery, five countries make a better artillery piece than we have, including South Africa. We found out from a very courageous general back in 1998 that in fact our best strike vehicles—F-15 and F-16—are not as good as some of the SU series being sold by Russia to many of our potential adversaries in the future. We must mobilize our Guard and Reserve in ways we haven't seen since World War II to fight this world war.

We have a great team to accomplish all of that. General Shoomaker and Dr. Harvey and Les Brownlee and the brave men and women of our Army, both uniformed and civilian. What a task they have and what a team we have.

Senator AKAKA and I are both veterans of the Army. We started the Army Caucus. Up to that time they had not been given the proper attention as to how we are reliant on our Army for our ability to sustain this war against terrorism.

I look forward to the confirmation of Dr. Harvey as the next Secretary of the Army, and support the Army's advice to end this war.

We want to give, I believe, 10 minutes for the Senator from South Carolina. Is there more than 10 minutes remaining at this time?

The PRESIDING OFFICER. At this time, the majority has 15 minutes remaining.

Mr. WARNER. Mr. President, does the Senator from Oklahoma desire additional time?

Mr. INHOFE. I will take only maybe 3 or 4 minutes.

Mr. WARNER. Mr. President, I yield to the Senator 3 more minutes.

Mr. INHOFE. Mr. President, a lot of things have been said about the condition of the soldiers in Iraq and about their attitudes. I can tell you that I don't think there is any Member of this body who has spent more time in Iraq and Afghanistan than I have. I hear statements of individuals. They are proud of the mission. They are proud of what they are doing. They have a spirit I have never seen before.

I would like to quote Secretary Brownlee. He said:

> Some in this country have charged that the situation in Iraq is getting progressively worse. You who have been there know the truth, and so do the people of Iraq. Things are getting better, not worse. Though the insurgents have caused immense pain and suffering and delayed reconstruction efforts in some parts of Iraq, most Iraqis are looking at the future with hope, hope they lacked under the former regime.

These successes constitute significant milestones of which the people of our Nation should be proud and hopeful. But the fight is by no means over to ensure that Afghanistan and Iraq attain stability and success and the transition into the democracies is very key.

I think we have seen this with the election in Afghanistan. I personally was there when officials turned over to the Iraqis the training of the Iraqi National Army. I see the successes over there. The media has not done a good job and I feel they need to spend more time congratulating and talking about the great job we are doing.

As Mr. Brownlee said, the Army is decisively engaged in fighting terrorism. But our soldiers are also building alliances, training other militaries with tenets of democracy and civilian control, executing counter drug operations and providing disaster relief and humanitarian assistance. These missions are equally important to our national security. They help to increase mobile stability to prevent the development of serious crises and to demonstrate the goodwill of the American people.

In light of the potential for terrorism to spread, the Army remains committed to participate. That is exactly what they are doing.

I just got back from eight countries in Africa. There is a concern there. There is terrorism. As the squeeze comes in, terrorism is now infiltrating into the continent of Africa, and we are in the process of doing something with four brigades or five African brigades. So we will have them trained to face this when that time comes.

I see other Senators waiting.

I yield the floor.

Mr. ROBERTS. Mr. President, I rise today to offer my support for the President's nomination of Dr. Fran Harvey to the post of Secretary of the Army.

Our forces are deployed around the world as they have never been before. They are fighting hard and they are fighting well to defend Americans in the war on terror, and the Army is at the front line of that fight.

Gone are the days when massive and overwhelming force was all this country needed to ensure victory. The threats we face and the stresses they cause on our force require visionary solutions. Fran Harvey is the visionary we need at the head of our largest force.

Fran Harvey knows how to look at a large organization where the bureaucracy is an overwhelming force in its own right, and mold it to meet future threats. Dr. Harvey is a successful executive who has extensive experience in leading and managing large organizations, particularly program based organizations involved in the development and deployment of technology and systems.

He will bring a results oriented management approach to an organization where results matter more than anywhere else. As part of this approach, Dr. Harvey places major emphasis on business transformation through process improvement in combination with the application of information technology.

Fran Harvey's broad base of experience has been multi-dimensional in terms of industries, functions, and markets. His industrial experience is very diverse and includes aerospace and defense, environmental and infrastructure, energy, government facilities management, communications and information systems and electronics.

Fran Harvey has the requisite experience to be Secretary of the Army, but what is more important, he is a visionary where long-term vision is badly needed. It is my great pleasure to support what I am sure will be a successful tenure leading our Army.

• Mr. SANTORUM. Mr. President, due to a prior commitment, I will not be able to vote in the Senate today on President Bush's nomination of Dr. Francis J. Harvey of California to be the next Secretary of the Army.

I wish to state for the record that, had I been able to cast my vote today in the Senate, I would have voted in favor of Dr. Harvey. As he noted in his appearance before the Senate's Committee on Armed Services, Dr. Harvey has experience in leading, managing and fostering change in large organizations. In addition, I also appreciate that Dr. Harvey has experience in the defense industry, experience that should help him as he oversees the Army's important process of transforming to meet 21st century threats.

On this last point, I hope that Dr. Harvey will devote considerable time and effort to the Army's transformation initiative. If the Army is to be a relevant force in future combat operations, it must have the resources and the commitment from senior leadership necessary to transform. This means that Dr. Harvey and others will need to fight for critical science and technology funds to enable key transformational programs, such as the Future Combat System, to succeed. While the Army does have current needs that require critical funds, it cannot sacrifice its future if it hopes to successfully transform.

In addition, transformation encompasses more than just equipment and weapons platforms. I am hopeful that Dr. Harvey will continue to make sure that we achieve the proper balance of skills located in the Active Duty with those located in the Reserve component. Too many Low Density/High Demand capabilities, such as military police and civil affairs, are found in Army's Reserve component. I am hopeful that the Army, under Dr. Harvey's leadership, will be able to strike the right balance so that Operational Tempo problems—highlighted by the war on terrorism—are not exacerbated.

Again, had I been present in the Senate today, I would have voted in favor of confirming Dr. Francis J. Harvey as the next Secretary of the Army. I wish Dr. Harvey good luck on his new responsibilities and duties as Secretary of the Army.•

Mr. CHAMBLISS. Mr. President, I rise today in support of Dr. Fran Harvey to be the next Secretary of the Army. I have met with Mr. Harvey and discussed the responsibilities of this position with him, and I believe he is well qualified to lead the Army during this critical time.

As I stand here today, the U.S. Army is succeeding in the global war on terrorism despite continued stress on and transformation of the force. It is remarkable that the Army is succeeding to the extent that they are while—at the same time—undergoing a significant reshaping of the force. Many of my colleagues have suggested that a simple increase in the number of troops in the Army will solve the Army's challenges. While I believe that the Army does, at least in the near-term, need additional troops, I believe the Army's largest and most promising challenge is to continue transforming itself into a 21st century fighting force with 21st century tools and a 21st century management structure. I believe that Francis Harvey will help lead the Army in this direction.

As I see it, to relieve the stress on the force, we have to create a more flexible force, and I commend Secretary Rumsfeld on the steps he has taken to achieve this. To implement these reforms, the Army needs a leader who has experience with leading, managing, and reforming large organizations. Mr. Francis Harvey has that experience, and the necessary business acumen and results oriented approach to get the job done.

I have confidence in Mr. Harvey's ability to lead the men and women of the U.S. Army as they meet the challenges of the next decade. He will be an effective, forward-thinking leader who will take the Army where it needs to go in the coming years.

In closing, I would also like to recognize the outstanding leadership and contribution of the Acting Secretary of the Army over the last 18 months, my good friend Les Brownlee. Les has led the Army during an extraordinary time in the Army's history and deserves to be commended for his professionalism and his selfless service to our country and to the men and women of the U.S. Army.

Mr. WARNER. Mr. President, I wish to conclude this debate on the nominee. The nomination will be voted on, I am told, at 5:15, subject to modifications at that time.

I say in conclusion that I think we have had a very good debate on this nomination and also the serious issues affecting the Department of the Army. I think it has been helpful in many respects.

I am prepared to yield back all the remaining time which I have in the debate. I understand the distinguished ranking member is prepared to do likewise.

Mr. LEVIN. We yield back the remainder of our time.

Mr. WARNER. Mr. President, in that case, I yield the floor with the understanding that the distinguished colleague from South Carolina can now proceed as he desires with regard to a very important set of remarks the Senate is anxious to receive. I say that in all sincerity.

I thank colleagues for their participation in this debate. I strongly urge Members of the Senate to vote for confirmation of the nominee. This particular individual who is nominated to be Assistant Secretary of Defense came before the Armed Services Committee. He was reported out favorably to the floor and had been waiting for some period of time for confirmation to that position. The Secretary of Defense made the decision to resubmit his name in connection with the Secretary of the Army.

I strongly urge colleagues to support this nominee. This is the nomination of the President of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I thank the chairman and Senator LEVIN for allowing us to use the time, and I appreciate it very much.

## FAREWELL TO SENATOR HOLLINGS

Mr. President, the task at hand for me is a difficult one. I want to take some time to talk about my senior Senator, Senator HOLLINGS, who is retiring. Trying to do justice to his career is going to be a difficult task for me, but I will do my best.

I want the people of South Carolina to understand that whatever differences I may have with Senator HOLLINGS, they are political in nature. They have never been personal, and I cannot thank him enough for the time he has dedicated to the transition from the House to the Senate for our office. Senator HOLLINGS has been a tremendous benefit to me personally. He has made the transition from the House to the Senate very enjoyable. He has helped my staff. He has been indispensable in our getting started in the Senate. I want to thank him personally and thank him for the kindnesses he has shown to me.

Trying to follow Senator Thurmond and Senator HOLLINGS is a tough act. South Carolinians have relied on these two great gentlemen for literally my entire lifetime. With the retirement of Senator HOLLINGS, I think it is going to be hard to put in words how much he will be missed by the Senate and South Carolina.

But when you start talking about a man, trying to give tribute to him, I think the first thing you have to start with is what means most to that person, to the man himself, and to his family. His wife Peatsy is one of the most delightful people you ever hope to meet. She is beloved by the colleagues in this Chamber and their spouses on both sides of the aisle. She is a joy to be with. She is a lot of fun, and she has been a great soulmate to Senator HOLLINGS for many years. I know he is equally proud of his children. He lost a daughter. It is a terrible thing to have happen. He has four children and I think seven grandchildren.

For those people listening in South Carolina, the demands on one's time in this job are immense, and your family sacrifices in a variety of ways, whether it is going back home on the weekend to try to say hello to constituents or to be in a parade. I don't think we stress enough how important families are to Members. Senator HOLLINGS has enjoyed the support of a first-class group of family members who have represented South Carolina very well.

Wherever Peatsy Hollings goes, South Carolina goes, and there is no better way to be introduced in our State than to meet her.

Senator HOLLINGS' time in the Senate will be coming to an end. He has chosen to retire. It is a lifetime of public service that I will try to talk about in the next 10 or 15 minutes.

As his generation is noted for "The Greatest Generation," the World War II generation, he seems to have been there every time his State and his country needed him. He was a graduate of the Citadel. He graduated in 1942.

As you can tell by his accent, which is the ultimate low country accent, he is from Charleston. If you had to create an image of a Senator, he would be my model. He looks like a Senator and he sounds like a Senator, and he also acts like a Senator. I mean that in the highest form of a compliment.

He has represented my State since 1996 in the Senate but that is not the first time he has represented my State. It is not the first time he has served this country. As I mentioned, in 1942 he graduated from the Citadel. That was the class that got their diploma in the morning, got commissioned in the afternoon, and their orders the next day and they went off to fight a war. He is very emblematic of that generation. They never really had a chance to be young because the day they graduated college they went off to take on a vicious enemy.

People talk about 1-year tours and the stress it puts on families—that is true—but in World War II you signed up for the duration. You didn't know when you were coming home and you didn't know if you were coming home. You were coming home when the war was over, when Berlin fell and when Tokyo fell. His generation never enjoyed the benefits of getting out of college and being young men or young women because they had a tough task at hand at an early age.

Let it be said for Senator HOLLINGS and an entire generation, you handled the job exceedingly well. You rose to the occasion. You made the world free. If the Senator had done nothing else, that would have been a pretty good legacy for life. He went on to fight in north Africa and Europe. He fought the Nazis. He received the Bronze Star and seven campaign ribbons. He was in the action. He did his job well. He commanded troops in combat.

At the ripe old age of 26 he comes back to South Carolina, but a 26-year-old back then is not like a 26-year-old in normal times. I would argue that the 26-year-olds who come back from Iraq are going to be a little bit different, too. I can only imagine how war matures and ages you. It makes you able to put in perspective what is important. And his entire generation has had that perspective from the time they came back from the war and for the rest of their lives.

It was shown in Senator Thurmond's and Senator HOLLINGS's life. Both are World War II veterans. When he came back to South Carolina, he was elected to the House of Representatives at the age of 26. Shortly thereafter, he became Speaker pro tempore. So his colleagues saw in him something of a leader at an early age. They saw what the rest of South Carolina has seen for decades: Somebody who will speak their mind. You can be on the receiving end of speaking that mind—I have been on the receiving end—but he is fair. He has been tough on everybody. But people know he has a good heart. And he also has a good heart for South Carolina. That is why his colleagues put him at a young age in charge in the House.

In the Brown v. Board of Education litigation, one of the first cases that came about was the South Carolina case involving Clarendon County. Senator HOLLINGS participated in that case. It was a life-changing experience.

In 1953, he became Lieutenant Governor. In 1958, he was elected Governor, the youngest Governor in South Carolina history at that time. From 1959 to 1963, he was a young Governor who had served in World War II, participated in one of the greatest legal cases of our time, and he took that experience and changed my State for the better.

From 1959 to 1963, if you open up any history book, particularly in the South, these are tremendously troubling times. Social change is abounding. The old way of doing business is being challenged. People are fighting and sometimes dying throughout the South to bring about a new way of doing business.

I never will forget Senator HOLLINGS telling me about the court appearance in the Supreme Court when an African-

American lawyer stood up and talked about fighting in the war, coming back home and being told to go to the back of the bus. And Senator HOLLINGS said, "that ended it for me. There was no way that I was going to be a voice for segregation." It hit him like a ton of bricks.

One of his best legacies for my State and the Nation and the power of the Governor from 1959 to 1963—no lives were lost in South Carolina—as he was leaving the office, there are all kinds of speeches going on in the South by Governors. Some people were standing in front of a schoolhouse and saying: You are not coming in; segregation now and segregation forever. Senator HOLLINGS said that in South Carolina we will be a government of laws, not men. He challenged my State to accept the inevitable. He challenged my State to respect the Supreme Court decision. He led the way to the successful integration of Clemson University in 1963.

The list goes on and on of what he has done to empower African Americans in South Carolina. He has been a champion for racial fairness his entire time. It is fashionable now. It is the politically correct thing to do now. But in 1963 it was not the politically correct thing to do in South Carolina or any other Southern State. But he chose the path less traveled. Our State is better off for it, and because of his leadership and others who followed, we were able to do things in South Carolina in a way of which we should all be proud. Hats off to you for that, Senator HOLLINGS.

During the time as Governor, he did some things economically that we have the benefit of today. Our technical school program, for those who are not familiar with South Carolina, is No. 1 in the Nation. If you are looking at doing business in South Carolina, we have a technical school system that will meet your needs. We will design a training program for your employees, specifically for your business. We have thousands of South Carolinians receiving college level education through our technical schools in an affordable manner. We have 16 colleges now, over 160 career programs and high-tech professionals who have made the Michelins, BMWs, and Fujis possible to come to our State. He is the father of that legislation.

If he had done nothing else, that would have been a great tribute, but there is a lot more that he has done. He created the South Carolina public broadcasting system, one of the best in the Nation, if not the best in the Nation. South Carolina ETV is known all over the world, really.

As a young Governor, he took the road less traveled; he invested in education in a new and different way that pays dividends today. That is something he should be proud of and I am proud of on his behalf.

In 1966, as a young man, he comes to the Senate. I don't have the time to read his legislative accomplishments because it would take most of the afternoon. It is fair to say that since Senator HOLLINGS has been in the Senate he has not let any grass grow under his feet. He has been one of the most proactive Senators I have ever known. Almost anything that has been done in South Carolina with Federal assistance has been as a result of his efforts and that of Senator Thurmond.

Primarily, Senator HOLLINGS has led the charge on the Appropriations Committee in making sure South Carolina was as well taken care of in terms of Federal Government assistance as humanly possible. You will be missed, Senator HOLLINGS.

I will have, along with Senator DeMint, a very tough act to follow. We will try our best. But the Senator has done some things that I don't think most people know about but which have had a huge impact on who we are as a State and really the Nation.

The Coastal Zone Management Act of 1972 was Federal legislation for the first time addressing the coastal areas of the United States. In 1972, you were so far ahead of your time. The Costal Zone Management Act allowed Senator HOLLINGS to be named Environmentalist of the Year by about every group in the Nation. Because of that act, we have come up with a plan to manage our coastline in terms of erosion.

The Senator has also contributed to the clean health of the ocean, in 1976, with the Ocean Dumping Act and the Maritime Transportation Act, a series of legislation that Senator HOLLINGS offered that has changed the way we treat our coastlines as a nation.

He probably has the most proactive environmental policy that we have had as a nation dealing with our coastal areas. It was a result of his efforts. Long after he is gone, the coastline of South Carolina and every other coast in the United States will be the beneficiary of his time in the Senate.

He was talking about deficits before it was fashionable. Gramm-Rudman-Hollings was an attempt in the 1980s to bring fiscal sanity to the Congress. By the time the 1990s came along, it becomes the way we campaign. About 10 years after his efforts—along with his colleagues, Senators Gramm and Rudman—it got to be the fashionable thing in politics to talk about not running up the debt.

Senator HOLLINGS was talking about the social integrity of Social Security before anyone else I have ever known. What are we talking about today? We are going to save Social Security. I hope we do. It would be wise to listen and learn from what he has been trying to instruct us to do.

The first national park and only national park in South Carolina happened a couple years ago, the Congaree Swamp. That will be a monument to a balance between development and the environment for the rest of the time that South Carolina exists, long after we are gone. The Congaree Swamp will be well taken care of.

There are so many things. The ACE Basin is probably one of the best monuments to our Creator. God has been good to South Carolina. When you travel through our State from the mountains to the sea, you will see some nature that is beyond description. From the mountains to the sea, Senator HOLLINGS has been integrally involved in preserving what God has given us. The ACE Basin is a project he helped fund that has saved some coastal areas and some waterways in South Carolina. The whole basin is a monument to the environment. We worked together preserving over 30,000 acres in perpetuity in South Carolina. The Congaree Swamp is in the middle.

As we look back over Senator HOLLINGS's time in the Senate, you can see that he used his power in the Senate to make sure that future generations of South Carolinians would enjoy the things he has experienced as a young man. What better legacy to leave than a State that maintains its beauty.

He has been aggressive when it comes to changing the fabric of the education climate in South Carolina with technical schools. One thing he should be most proud of is the Hollings Cancer Institute at the Medical University of South Carolina. South Carolina has pockets of health care problems that are Third World in nature. One day we are going to conquer these problems, but we have a litany of health care problems in South Carolina. My mother died of Hodgkin's disease. The Hollings Cancer Institute and the Medical University of South Carolina is doing some research that will pay great dividends in the future in terms of conquering this disease called cancer.

My personal commitment to Senator HOLLINGS is that I will continue to build upon what the Senator has started. It is my hope that the National Cancer Institute will designate this and we will try our best to make sure this happens as a tribute to the Senator.

Again, I could go through legislative enactments, specific projects that have helped South Carolina, but I would like to end by saying that life is short. No matter how long it seems you have been around, it really is a small time in the scheme of things. South Carolina has enjoyed two long-serving Senators: Senator Thurmond and Senator HOLLINGS. Both will have departed the Senate come next January. Let it be said about Senator HOLLINGS that his time in the Senate will be felt by South Carolinians as long as there is a South Carolina. What the Senator has been able to do with the power entrusted to him by the people of South

Carolina is to bring about a lot of good, Senator HOLLINGS. The Senator has made our State a better place to live. The Senator has preserved things that would have been lost without the Senator. The Senator has talked about the future in responsible terms. The Senator has served our Nation during peace and war. The Senator has served South Carolina and the Senate well.

I am honored to call you my senior Senator. It is my wish that you have many more years to help my State, help our State, and help our Nation. I hope that comes to pass.

As I try to go forward as a Senator from South Carolina, I hope I am smart enough to draw upon what you have done and look at the model you have created and build upon that model.

I am a Republican; Senator HOLLINGS is a Democrat. That means something, but it really does not mean that much because we are both Americans, and we both love South Carolina.

God bless, godspeed, and well done. I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The senior Senator from South Carolina.

### FAREWELL

Mr. HOLLINGS. Mr. President, my distinguished colleague has been more than generous, and I thank him not just for today but for the years to come. I do so genuinely in the sense that his coming here as a Senator is like going over on the wall and turning on the lights. Here I had somebody diligently working to get things done. That is why I came to the Senate, to get things done for South Carolina. And Senator GRAHAM has not only worked hard—we all work hard; there is no lazy Senator in the 100 Senators—but he has that secret of making friends. After all, this is a political body, and you cannot get things done unless you make friends.

He instantly came to the Chamber and started working with Democratic Senators, which was a surprise to me. Things are so confrontational at the present time in politics, to see that occur, I said: That fellow is going to be here a long time. And I believe it. He is going to be here a long time.

Just this past week, he got on to my crusade of trying to get jobs and industry. He's following in the footsteps of, our distinguished former colleague, the senior Senator from Kentucky, Wendell Ford, who is on the floor and graces us. He makes me feel like old times when he was our whip, and no one, as chairman of the Rules Committee, did a better job. But LINDSEY GRAHAM went out of his way to get things done.

This past week he has been taking around ambassadors from various countries to prompt their interest in investing in South Carolina. As Governor, I started going on trips in 1960 to encourage businesses to move to South Carolina, and now we have 134 German industries in South Carolina. We have French Michelin, and we have Japanese Hitachi, Fuji, and others. Now, Senator GRAHAM is working the beat. He is a realist, and he knows how to get things done.

I cannot thank him enough for being already distinguished, not just because we gave him the title, but because I have heard from colleagues on both sides of the aisle: That fellow, LINDSEY GRAHAM, is really a fine fellow. He is working, and you really ought to be proud of him.

I address the distinguished Senator from South Carolina by saying that the only way I can show my gratitude is to make sure he gets this desk. I have the John C. Calhoun desk. You will laugh, Wendell. When I got here I told Senator Russell, I would like to have this desk. He said: Colleague, colleague, colleague—you know how he talked—I guess you would like to have this desk. My father sat at this desk, my mother sat at this desk, and I am sitting at this desk.

I said: Excuse me. I didn't know all three of them had been there.

He came to me the night before he left, and gave me the Calhoun desk, and I am going to make sure the Sergeant at Arms gets this desk to Senator GRAHAM.

This is my chance to thank my colleagues for putting up with me for 38 years. I thank the distinguished staff, not just my staff and the committee staff, but particularly this afternoon the floor staff, Marty and Lula and everybody else. We couldn't get anything done without their wonderful help. And I thank the poor reporters. If you can understand what I am saying—

(Laughter.)

They are always asking later, Mr. President: What did he say and how did he say it?

I will never forget politicking for President. I went up to Worcester, MA. I kept calling it Worcester. I knocked on the door and the lady said: Who are you?

I said: FRITZ HOLLINGS. She thought it was a German trucking company.

I do thank the reporters who have done an outstanding job for me over the many years.

I started my career as a trial lawyer, and I made enough as a good trial lawyer to afford to come to Washington and be in the United States Senate. Senators don't make enough money. You ought to double their pay, and I say that before leaving. I have said that along with TED STEVENS for years. No little young fledgling lawyer, such as HOLLINGS, can afford to run, keep up two homes, and everything else. It can't happen anymore. You all are just politically using the salary and not really attracting the best of the best.

I don't leave with the idea that the Senate is not what it used to be in the sense of personnel. We have a way better group of Senators. We had five drunks or six drunks when I came here. There is nobody drunk in the United States Senate. We don't have time to be drunk and, more than that, we have the women. We had one woman. She was outstanding, but she was outstandingly quiet. That was Margaret Chase Smith from Maine, a wonderful lady. Now we have 14, and you can't shut them up. They keep on talking and talking and talking. If you get into a debate with BARBARA MIKULSKI or BARBARA BOXER, they will take your head off, I can tell you that. They know how to present a viewpoint, and that is very valuable.

The Senators have done a wonderful job. The Senate itself is the greatest of institutions, but I know we can do better. As a trial lawyer, I was overjoyed. When I came here, we had the proceeding to learn the truth and we could hear the best of witnesses. I had better clients as a United States Senator, and obviously, I could make the final argument to the jury and then go in the jury room and vote. That, to me, is a trial lawyer. I had reached the ultimate.

Yet as I am leaving, I am very sensitive to the full docket of unfinished business. I am constantly being asked about legacy, legacy, legacy. I am thinking the things we ought to have done long ago and have not done because rather than seeking the truth—and I say this advisedly—we have obscured it.

Take right now the issue that is going to confront us tomorrow afternoon or Thursday of raising the debt limit. I read the business page of the New York Times this morning. We are spending at the rate of $600 billion more than we are taking in. That is a deficit. Don't give me this doubletalk of on-budget deficit, off-budget, or Government debt and public debt. We are spending $600 billion more than we are taking in, which is 6 percent of our GNP.

In the European Union, if you exceed 3 percent of your gross national product, you are not eligible to be in the European Union. Here we are telling the world what they ought to do in diplomacy, international affairs, defense affairs, and fiscal affairs, and we would not even be eligible to be in the European Union.

We have, Mr. President, the economy on steroids. Add it up. Add up the deficit of 2001, 2002, 2003, and 2004—those 4 years—and you have $1.7 trillion that we have goosed into the economy with these tax cuts. We have not increased spending on the war $1.7 trillion. No, no. We have tax cut, tax cut, tax cut, and they still want more tax cuts. I am talking bipartisan because both sides are guilty. I am not talking in a partisan fashion.

We have to do something about that deficit. I was here when we balanced the budget without Social Security in 1968. President Clinton got the Government back into the black when Bush came in. But he turned a $6 trillion projected surplus, to a $5 trillion projected deficit, and now we have to increase the debt limit. Now the dollar is in a deep dive. Interest rates are going to have to go up. We are depending on financing our debt some $700 billion by the Japanese, $170 billion by the Chinese, and $67 billion by Korea. Can you imagine going with a tin cup to Korea, begging: Please finance my debt because I need another tax cut?

What about Social Security? Let's tell the truth about it because there isn't any question that we have been spending Social Security moneys for any and everything but Social Security, in violation of the law.

And don't give me this thing about, oh, yeah, Lyndon Johnson used Social Security. He did not. Look at the record. He balanced it, and we did not spend Social Security moneys until the seventies when Wilbur Mills, the chairman of the Ways and Means Committee on the House side, started giving these inordinate COLAs. We started draining the fund.

We appointed the Greenspan Commission in 1983. The Greenspan Commission came out with an inordinately high tax to take care of the baby boomers in the next generation. Don't misunderstand me. They act like the baby boomers are coming along as a new problem. We foresaw that in 1983. We said, as a result of this high tax, do not spend this money on anything but Social Security. I fought like a tiger, but we finally got it into law. On November 5, 1990, George Herbert Walker Bush signed into law section 13301 that says that the President and the Congress cannot use for budget purposes Social Security moneys.

I was talking a minute ago to my distinguished colleague from South Carolina. He is going to try, I guess, to raise taxes. I would support it so long as we are not raising taxes for anything and everything but Social Security.

You are going to have to increase the age. You are going to have to get some revenues to make it fiscally sound. But if we started immediately with the Social Security surplus going to just the Social Security trust fund, we immediately have $160 billion, and with that $160 billion in 7 years, we would have a trillion dollars and you wouldn't have to worry until 2045 or 2050, and there would not be any crisis. We ought to study that.

It is the same with trade. Everywhere in the land people cry: Free trade, free trade, free trade. There is no such thing; never has there been and never will there be free trade. I know about freer governmental restrictions, subsidies, and quotas, but that is not going to happen.

People ought to remember that we built this industrial giant and power, the United States of America, with protectionism. The Brits corresponded with the Founding Fathers, and they said: Under David Ricardo's comparative advantage, what needs to be done is we will trade with you what we produce best and you trade back with us what you produce best. Free trade, free trade, free trade.

Hamilton wrote the Report on Manufacturers. He said: Bug off, we are not going to remain your colony. We are going to maintain our own manufacturing capacity.

The second bill that ever passed this Congress in history, on July 4, 1789, was a 50-percent tariff on articles and we started with protectionism, linking the steel mills with protectionism. Roosevelt came in with protective subsidies on agriculture. Our friend, President Eisenhower, had import quotas on oil—protectionism. President Kennedy came in with a 7-point program to protect textiles. More recently, our good friend President Ronald Reagan, put in voluntary restraint agreements on automobiles, steel, handtools, and semiconductors.

Ask Andy Grove if he would have Intel today if President Reagan had not put in that protectionist measure. There would not be any Intel.

We did that with Sematech and everybody knows it. But we were treating trade as aid in the war of capitalism versus communism right after World War II. We had the only industry. So we sent over, with the Marshall Plan, money, experts, equipment, and we started giving away my textile industry—giving it away.

Right now 70 percent of the clothing I am looking at is imported; 86 percent of the shoes on the floor are imported. It is all gone. All that time they said: Don't worry. We are going to be a service economy.

My light bill in South Carolina is administered in Bangalore, India. So we have lost the service economy. We have lost the manufacturing economy and capacity.

What happens is your security is like a three-legged stool. You have the one leg, your values as a nation. Around the world we stand for individual freedom and democracy.

We have the second leg, unquestioned, as a superpower.

The third leg of the economy has been fractured intentionally and we are happy about it because capitalism has defeated communism in Europe, in the Soviet Union, and in the Pacific rim. And it is defeating it right now in China. Let's not disturb it and what have you, except to begin to compete. As Akio Morita says: That world power that loses its manufacturing capacity will cease to be a world power. What we need to do is to rebuild.

We can begin to immediately rebuild by changing the culture, the mindset, the legislation. Around here we passed, 4 weeks ago, a $50 billion tax cut bill that was supposed to represent foreign credit sales. Instead, it subsidized the export of jobs, the outsourcing of jobs overseas.

We are still treating trade as aid. If you are going to open up Sununu Manufacturing, before you open the door you have to have a minimum wage, clean air, clean water, Social Security, Medicare, Medicaid, plant closing notice, parental leave, OSHA, a safe working place, safe machinery, and I can go all the way down. And in Manchester, NH, your competition has moved to China because they can operate and produce there for 58 cents an hour and none of those requirements. If you don't move to China yourself, you are going broke. You will go bankrupt.

The policy of the crowd that is hollering and wailing and moaning about the outsourcing of jobs is exactly the policy of the very crowd that is causing that outsourcing. If you head up a multinational, you are supposed to compete and make a profit. We are supposed to create a strong economy and produce jobs. The Congress of the United States, the Senate, we are the guilty parties. We have to put in a change of the culture. We need a Department of Trade and Commerce, and to put the Special Trade Representative over there and to do away with the International Trade Commission, because this is just a sop. The International Trade Administration—and not Commission should find the penalty rather than having that separate hearing and say there is no injury and everything else of that kind.

I have worked with the lawyers. We need a Deputy Attorney General for Trade in the Justice Department. We have one for antitrust. We have one for civil rights. We have one for taxation. We don't have one for trade. We need somebody enforcing those laws. We need, by gosh, to turn around and start competing the way they have done. We need more customs and—but that is a long story.

Let me just say what we need to do is get ahold of ourselves and realize we have a problem.

I was at a meeting earlier today where one of the Senators was counseling the new Senators: Don't take too many committees. They are going to take all the committees. Our time has come. We want it all. So we want all the committees.

The rules ought to say a Senator should not be on any more than two committees. You can't keep up with it. I am on the Appropriations Committee. They used to have 17 members; now they have 29 members. You know, the Appropriations Subcommittee on Defense has 19 members. You can't hardly get a quorum for the Appropriations Subcommittee on Defense. We have a third of the Senate. Everybody wants to be on all the committees, so you have your staffs doing all the work, because you can't keep up.

But the main culprit, the cancer on the body politic, is money: Money, money, money. When I ran 6 years ago, in 1998, I raised $8.5 million. That $8.5 million is $30,000 a week, every week, for 6 years. If you miss Christmas week, you miss New Years week, you are $100,000 in the hole and don't you think we don't know it and we start to work harder at raising money.

As a result, the Senate doesn't work on Mondays and Fridays. We have longer holidays. The policy committee is adjourned and we go over to the campaign building because you can't call for money in the office. So we go over to the building and call for money and obviously we only can give attention to that. We don't have time for each other. We don't have time for constituents, except for the givers. Somebody ought to tell the truth about that.

Unless and until we excise this cancer, the Congress and Government is going to languish alone because it has to be done.

When I helped write the Federal Election Campaign Practices Act in 1973, we said each Senator would be limited to so much per registered voter. That meant that Strom Thurmond and I were limited to $637,000. Fast forward 25 years, add in inflation, and give me $2.5 million. Quadruple it, $2.5 million but not $8.5 or $10 million that you have to spend because all your time is on the campaign and not the country. I can tell you right now we are in real, real trouble.

I worked with JOHN MCCAIN and RUSSELL FEINGOLD on the McCain-Feingold. I worked with Senator BIDEN on public finance. What really needs to be done, and I tried 20 years ago, is to put in a constitutional amendment that Congress is hereby empowered to regulate or control spending in Federal elections. Then we can go back to the 1973 act: So much per registered voter. When you are limited to $2.5 million, you have limited the campaign. You have limited the time of the campaign; you have limited the expenditures of the campaign. Then you have time for constituents. Then you have time for problems.

When I came here, Mike Mansfield would have a vote at 9 o'clock just about every Monday morning and we would work to Friday at 5 o'clock. We all stayed here on the weekends and we didn't have all of these long holidays we have now.

But if you want to limit campaigning and if you want to change—as Abe Lincoln said—disenthrall ourselves of the dogmas of the quiet past that are inadequate for the stormy present of money grubbing, then we have to think anew and act anew. We need to disenthrall ourselves from this money grubbing and go to work finally for the country instead of the campaign.

That is our situation. I have watched it. I have studied it. I have seen it. They don't have me going to meetings. They have me going to the telephone and calling and calling, traveling all over the country for money. Money is a cancer on the body politic.

Other than that, I have spoken seriously about trying to face up to some of these problems that we have confronting us. There are a lot of opportunities.

They are talking now about immigration. Mexico is not a foreign country. They are our neighbor. All you have to do is put down the billions that we spend: Give them a Marshall Plan, increase their standard of living just like Canada. Then you don't have immigration.

I can tell you right now, the money spent on immigration, drugs, and border patrol, and financing that government out of the banks in New York and then refinancing it on us taxpayers, we could have a Marshall Plan and solve the problem.

There are a lot of problems that we can solve. But if there is a last word, it is one of gratitude. This has been the finest experience I have ever had. When you come right down to it, I was always worried that I couldn't make enough money to stay in Washington. Now I have looked at my trial lawyer colleagues who made a lot of money. Most of them are dead. Those who are alive are looking for a new golf course and a new drink and they don't know anything about what is going on and they are not interested in anything going on. If you really want to be enriched in your life be a United States senator. The best postgraduate course is to run and be in this Senate.

It is with heartfelt gratitude I thank the colleagues for their indulgence this afternoon, particularly my colleague, Senator GRAHAM. We just have a fine time working together, and I know he will be representing us in the Senate for years to come.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quroum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, my understanding is that the vote is ordered for 5:15.

The PRESIDING OFFICER. Under the previous order, a vote will occur at 5:15.

## FAREWELL

Mr. DORGAN. Mr. President, I wanted to come to the floor to say that this Senator is going to miss the booming voice and the southern drawl of the Senator from South Carolina who is one of a few who has relentlessly, over a long period of time, talked about the issue of international trade. He has talked about how it relates to our country's economy. Very few come to the floor to talk about the doctrine of comparative advantage and Adam Smith and the kind of things that I have had the privilege of hearing from Senator HOLLINGS.

As one who comes to the floor to talk about trade a lot, I am going to miss very much the work which has been done by Senator HOLLINGS and which he has been doing for so many years. He is absolutely right about these issues.

They will take a look at statements and say, well, he is a protectionist. I don't view Senator HOLLINGS as wanting to put up walls around this country. I think if the charge is that Senator HOLLINGS or I or others want to protect the economic interests of the United States, we ought to plead guilty quickly. That is why I am here and why he has served this country for so many decades. We want to protect the economic interests of this country.

I wanted to say, having heard the comments just offered by my colleague from South Carolina, how proud I am to have served with him. Being here when Senator HOLLINGS was here and when Senator BYRD has been here and a few others is a very special privilege for someone like myelf.

Mr. HOLLINGS. Mr. President, will the distinguished Senator yield?

Mr. DORGAN. Of course, I yield.

Mr. HOLLINGS. I wanted to thank the distinguished Senator from North Dakota. He has been in the vanguard. He headed up our policy committee and we have learned more. I was on the original policy committee under Senator Mansfield. But it has been quite an education. He has really put the program so we can learn about the issues. I thank him for that. But I particularly want to commend him for his leadership on trade because he has been leading the way on that score. I thank him very much.

Mr. DORGAN. I thank my colleague from South Carolina and wish him well.

## SINKING OF THE "LEOPOLDVILLE"

Mr. President, yesterday I was privileged to be at a very moving ceremony at the Tomb of the Unknown Soldier.

Very few people will know of this issue, but I want to mention it because yesterday was the commemoration of the 60th year of the sinking of the SS *Leopoldville*, a troopship that was sunk in the English Channel on Christmas Eve 1944 by a torpedo shot by a German U-boat. Seven-hundred and sixty-three young American soldiers died in the frigid waters of the English Channel on that Christmas Eve.

What was most interesting about this and in many ways the most tragic of this circumstance is that those young soldiers died in the waters of the English Channel, and virtually no one knew of them.

On Christmas Eve of 1944, at a critical period, during the Battle of the Bulge, the announcement that 763 young American soldiers had been killed would have been devastating to the psyche of the American public, according to the Defense Department. So the result was there was no news. This was an enormous tragedy that occurred with virtually no one knowing of it.

Yesterday, we placed a wreath at the Tomb of the Unknown Soldier. I was proud to have been a part of the ceremony. My uncle was on this ship and was killed when it sunk. I walked down the aisle to place the wreath with Tony Martinez, one of the survivors from that night, and with Lucy Ruggles, the widow of one of the fellows who was killed in that event. I believe 20 survivors from this ship were there yesterday at Fort Myers and at the Tomb of the Unknown Soldier, along with more than 100 family members and friends.

Let me say just a word about what happened.

The *Leopoldville* was a Belgium ship staffed by a Belgium crew. It was within 5 miles of the French coast. They could see the lights of the French coast when the German U-boat hit it with several torpedoes. Then this ship sank. There were 2,300 soldiers on this ship, and 763 of them died on Christmas Eve 1944.

There was no notice to anybody about the tragedy because the Americans, the English, the Belgiums, the French, and others decided to keep it silent. Sixty years later, we know much more about it largely thanks to a book that was written, by Allan Andrade.

Let me say thanks to Carmella LaSpada, who is the Executive Director of the White House Commission on Remembrance, for putting together a program yesterday that was extraordinarily moving. At that program, we heard from the survivors of the *Leopoldville*. They told us that the Belgium crew in most cases didn't speak English. When the ship was torpedoed and began to sink, the Belgium crew got in the life boats, and by and large the young American soldiers were stranded on that ship, and 763 of them died.

I was invited to be a speaker yesterday and to be at the Tomb of the Unknown Soldier as a part of the ceremony because my uncle, Allan Dorgan, was one of the casualties that evening.

I have known a lot about this in recent years because there has been a lot of investigation done.

I just wanted to say that yesterday was a very moving day with discussions and visits with those who survived this sinking, and also a tribute to the memory of those who perished in the sinking of the *Leopoldville*.

I hope America remembers that the young soldiers, 19, 20, 18, and 21 years of age who died that night in the frigid waters of the English Channel did not die in vain. They were patriots.

There is an old saying that when the night is full of knives, the lightning is seen, and the drums are heard, the patriots are always there ready to fight and die as necessary for their country. These 763 patriots died that evening, and the world didn't know it. But they know it now. Yesterday's ceremony was a tribute to their service to our great country.

I know we have a 5:15 vote. My colleague, I believe, wishes to speak. I wish to speak just for a moment about a trade issue. Might I ask my colleague how much time he needs?

Mr. BURNS. I will only require about 5 or 6 minutes.

Mr. DORGAN. Mr. President, I think as a courtesy to my colleague from Montana, I will not speak 5 or 6 minutes on trade. I will do that tomorrow because I think we have about 6 minutes before the vote.

But let me just say this in 1 minute.

### TRADE

My colleague from South Carolina has talked about trade. I just got off the telephone talking with some workers. They are concerned about their jobs going to China.

We just passed a bill in Congress that continues to provide incentives for businesses to move their jobs to China. I think job one for us as we convene in a new Congress is to start deciding we need to stop the outsourcing of American manufacturing jobs. We especially ought to decide that in the Tax Code of this country we ought not reward companies that move American jobs overseas. That is an outrage. There is no one in Congress who ought to be voting for and supporting the rewarding of companies that move their American jobs elsewhere.

I will come to the floor of the Senate tomorrow to talk more about what is happening with our manufacturing base that I think injures this country in an irrevocable way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Thank you, Mr. President. I want to thank my colleague from North Dakota for yielding. It will not take me long to make this statement.

(The remarks of Mr. BURNS pertaining to the introduction of S. 2987 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order, the vote now occurs on the nomination.

Mr. BURNS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Francis J. Harvey, of California, to be Secretary of the Army? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. McCONNELL. The following Members were necessarily absent from today's session of the Senate:

The Senator from Pennsylvania (Mr. SANTORUM).

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Louisiana (Mr. BREAUX) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 12, as follows:

[Rollcall Vote No. 212 Ex.]

YEAS—85

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeWine
Dole
Domenici
Dorgan
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kerry
Kohl
Kyl
Landrieu
Leahy
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Rockefeller
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—12

Akaka
Carper
Corzine
Daschle
Dodd
Durbin
Kennedy
Lautenberg
Levin
Mikulski
Reed
Stabenow

NOT VOTING—3

Biden
Breaux
Santorum

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

Mr. WARNER. I move to reconsider the vote and I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

Mr. WARNER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## FREE TRADE AGREEMENT WITH THE UNITED ARAB EMIRATES

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached correspondence from the Executive Office of the President be printed in today's RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, THE UNITED STATES TRADE REPRESENTATIVE,
*Washington, DC, November 15, 2004.*

Hon. TED STEVENS,
*President Pro Tempore, U.S. Senate,*
*Washington, DC.*

DEAR SENATOR STEVENS: In accordance with section 2104(a)(1) of the Trade Act of 2002 (the Trade Act), and pursuant to authority delegated to me by the President, I am pleased to notify the Congress that the President intends to initiate negotiations for a free trade agreement (FTA) with the United Arab Emirates (UAE). We expect these negotiations to get underway in the beginning of 2005, and we will be consulting closely with the Congress over the next 90 days, as required by the Trade Act.

An FTA with the UAE will promote the President's initiative to advance economic reforms and openness in the Middle East and the Persian Gulf, moving us closer to the creation of a Middle East Free Trade Area. A U.S.-UAE agreement will build on the FTAs that we already have with Israel, Jordan, and Morocco, as well as the FTA that we recently have signed with Bahrain, and will encourage the six members of the Gulf Cooperation Council (GCC) to adopt standards that promote trade and investment. In 2003, the UAE had $4.6 billion in two-way trade with the United States, and the United States had a $2.4 billion trade surplus with the UAE. The UAE is an important strategic partner on a broad array of foreign and national security issues.

This FTA will directly benefit the United States. By reducing and eliminating barriers to trade, a comprehensive FTA with the UAE will generate export opportunities for U.S. companies, farmers, and ranchers, help create jobs in the United States, and help American consumers save money while offering them more choices. The UAE already provides an attractive market for U.S. products, and is a regional transportation and business hub in the Gulf and the Middle East. The UAE's Jebel Ali port is the third busiest port in the world, with excellent growth opportunities. In 2003, U.S. businesses exported $3.5 billion worth of products in such areas as machinery, aircraft, vehicles, electrical machinery, and optical and medical instruments. Agriculture exports from the United States totaled $259 million during the same period. The United States' trade relationship with the UAE is the third largest in the Middle East, behind only Israel and Saudi Arabia.

An FTA will provide new export opportunities for U.S. services firms in sectors such as telecommunications, finance, distribution, energy, construction, engineering, health care, legal services, accounting, tourism and travel, and environmental services. An FTA will also support the UAE's commitment to transparency, openness, and the rule of law, thereby enhancing respect for intellectual property, labor rights, and environmental protection. An FTA will also allow the United States to work more closely with UAE customs and port authorities that manage Jebel Ali and other transshipment points, an important opportunity for cooperation similar to that provided by our FTA with Singapore and the agreement we are negotiating with Panama.

Last year, the UAE entered into a Trade and Investment Framework Agreement (TIFA) with the United States. Since signing the TIFA, the UAE has demonstrated a serious commitment to free trade. It has become a party to the World Intellectual Property Organization (WIPO) Copyright Treaty, and has pledged to join the Information Technology Agreement (ITA) and the WIPO Performances and Phonograms Treaty.

Our initial consultations with the Congress, including with the Congressional Oversight Group on September 8, 2004, indicate broad bipartisan interest in an FTA with the UAE. Following these consultations, I visited the UAE to discuss with top officials the topics covered in our comprehensive FTAs, to identify particular areas for work, and to assess the UAE's commitment to moving forward with an FTA. I came back with a strong sense of the UAE's interest in connecting the FTA to their plans for development, growth and openness. The UAE interest in an FTA also complements The 9/11 Commission Report recommendation urging the United States to expand trade with the Middle East as a way to "encourage development, more open societies, and opportunities for people to improve the lives of their families."

Through our FTAs in the Middle East, the United States is supporting moderate Islamic countries led by modernizers who are promoting openness and economic growth. Supporting countries such as the UAE as they expand their trading and investment relationships with the United States is a concrete and mutually beneficial way for the American people to enhance opportunity and hope in this critical region.

The Administration will continue to work closely with the Congress, including through the consultation, notification, and reporting procedures in the Trade Act. Moreover, to ensure that interested stakeholders are informed and have ample opportunity to provide their views, the Administration will conduct the negotiations in a transparent and accessible manner.

The specific objectives for negotiations with the UAE are as follows:

### TRADE IN GOODS

Seek to eliminate tariffs and other duties and charges on trade between the UAE and the United States on the broadest possible basis, subject to reasonable adjustment periods for import-sensitive products.

Seek to eliminate the UAE's non-tariff barriers to U.S. exports.

Pursue fully reciprocal access to the UAE's market for U.S. textile and apparel products.

### CUSTOMS MATTERS, RULES OF ORIGIN, AND ENFORCEMENT COOPERATION

Seek rules to require that the UAE's customs operations are conducted with transparency, efficiency, and predictability, and that customs laws, regulations, decisions, and rulings are not applied in a manner that would create unwarranted procedural obstacles to international trade.

Seek rules of origin, procedures for applying these rules, and provisions to address circumvention matters that will ensure that preferential duty rates under an FTA with the UAE apply only to goods eligible to receive such treatment, without creating unnecessary obstacles to trade.

Seek terms for cooperative efforts with the UAE regarding enforcement of customs and related issues, including trade in textiles and apparel.

### SANITARY AND PHYTOSANITARY (SPS) MEASURES

Seek to have the UAE affirm its WTO commitments on SPS measures and eliminate any unjustified SPS restrictions.

Seek to ensure that the UAE's policies regarding agricultural biotechnology products and food safety standards are science-based and do not create unjustifiable barriers to trade.

Seek to strengthen collaboration with the UAE on implementing the WTO SPS Agreement and to enhance cooperation with the UAE in relevant international bodies on developing international SPS standards, guidelines, and recommendations.

### TECHNICAL BARRIERS TO TRADE (TBT)

Seek to have the UAE reaffirm its WTO TBT commitments, including those relating to labeling requirements on U.S. food and agricultural products produced through biotechnology, and help ensure that the UAE's technical regulations, standards, and conformity assessment procedures do not serve as an unnecessary impediment to trade.

Seek to strengthen collaboration with the UAE on implementation of the WTO TBT Agreement, enhance regulatory transparency, and create a procedure for exchanging information with the UAE on TBT-related issues.

### INTELLECTUAL PROPERTY RIGHTS

Seek to establish standards to be applied in the UAE that build on the foundations established in the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Agreement) and other international intellectual property agreements, such as the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

Seek to have the UAE apply levels of protection and practices in line with U.S. law and practices, including appropriate flexibility, in areas such as trademark, copyright, patent, and data protection and enforcement of intellectual property rights.

Seek to strengthen the UAE's procedures to enforce intellectual property rights, such as by ensuring that the UAE authorities seize suspected pirated and counterfeit goods, and related equipment and documentary evidence.

Seek to strengthen measures in the UAE that provide for compensation of right holders for infringements of intellectual property rights and to have the UAE provide for criminal penalties to deter piracy and counterfeiting.

### TRADE IN SERVICES

Pursue disciplines to address discriminatory and other barriers to trade in the UAE's services market, and pursue a comprehensive approach to market access, including any necessary improvements in access to the financial services, telecommunications, and distribution sectors, while permitting each government to address domestic sensitivities.

Seek improved transparency and predictability of the UAE's regulatory procedures, and seek specialized disciplines for financial services and additional disciplines for telecommunication services and other sectors, as necessary.

In parallel with the FTA negotiations, work with the UAE in its efforts to make commitments in the WTO on access to its market for basic telecommunications services.

### INVESTMENT

Seek to establish rules that reduce or eliminate artificial or trade-distorting barriers to U.S. investment in the UAE, while ensuring that UAE investors in the United States are not accorded greater substantive rights with respect to investment protections than U.S. investors in the United States, and to secure for U.S. investors in the UAE important rights comparable to those that would be available under U.S. legal principles and practice.

Seek to ensure that U.S. investors receive treatment as favorable as that accorded to domestic or other foreign investors in the UAE and to address unjustified barriers to the establishment and operation of U.S. investments in the UAE.

Provide procedures to resolve disputes between U.S. investors and the UAE that are in keeping with the trade promotion authority goals of being expeditious, fair, and transparent.

### ELECTRONIC COMMERCE

Seek to affirm that the UAE will allow products and services to be delivered electronically and will not unjustifiably discriminate among those products and services.

Seek to affirm that the UAE does not apply customs duties on digital products that are delivered electronically.

Seek to ensure that the UAE determines the dutiable value of digital products contained in carrier media based on the value of the media, not their content.

### GOVERNMENT PROCUREMENT

Seek to establish rules requiring government procurement procedures and practices in the UAE to be fair, transparent, and predictable for suppliers of U.S. goods and services who seek to do business with the UAE.

Seek to expand access for U.S. goods and services to the UAE's government procurement market.

### TRANSPARENCY/ANTI-CORRUPTION/REGULATORY REFORM

Seek to make the UAE's administration of its trade regime more transparent, and pursue rules that will permit timely and meaningful public comment before the UAE adopts trade-related regulations and other measures.

Seek to ensure that the UAE applies high standards prohibiting corrupt practices affecting international trade and investment and enforces such prohibitions.

### TRADE REMEDIES

Provide an appropriate bilateral safeguard mechanism, if necessary.

Make no changes in U.S. antidumping and countervailing duty laws.

### ENVIRONMENT

Seek to promote trade and environment policies that are mutually supportive.

Seek an appropriate commitment by the UAE for the effective enforcement of its environmental laws.

Establish that the UAE will strive to ensure that it will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in its environmental laws.

Help the UAE strengthen its capacity to protect the environment through the promotion of sustainable development, such as by establishing consultative mechanisms.

### LABOR, INCLUDING CHILD LABOR

The UAE needs to independently take significant further steps to address concerns we have raised regarding protection of worker rights. Within the text of the FTA, we will:

Seek an appropriate commitment by the UAE to effectively enforce its labor laws.

Establish that the UAE will strive to ensure that it will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in its labor laws.

Establish procedures for consultations and cooperative activities with the UAE to strengthen its capacity to promote respect for core labor standards, including compliance with ILO Convention 182 on the worst forms of child labor.

### STATE-TO-STATE DISPUTE SETTLEMENT

Encourage the early identification and settlement of disputes through consultation.

Seek to establish fair, transparent, timely, and effective procedures to settle disputes arising under the agreement. In addition, the FTA will incorporate other U.S. objectives such as the protection of legitimate health, safety, environment, essential security, and consumer interests.

The Administration is committed to concluding these negotiations with timely and substantive results for U.S. workers, farmers, ranchers, businesses, and families. We look forward to continued close consultations with Congress as negotiations begin and to pursuing the specific, overall, and principal U.S. negotiating objectives set out in the Trade Act. Working together, we will achieve an FTA that benefits the United States and the UAE, and that advances America's broader goals.

Sincerely,

ROBERT B. ZOELLICK.

## HONORING OUR ARMED FORCES

### SPECIALIST JAMES C. KEARNEY, III

Mr. GRASSLEY. Mr. President, I rise today to pay tribute to Emerson, IA native Spc. James C. Kearney, III, who lost his life when the military vehicle he was traveling in was struck by a rocket-propelled grenade and small arms fire near Sharan, Afghanistan. Spc. Kearney was assigned to the Iowa Army National Guard Company B, 1st Battalion, 168th Infantry, Air Assault, based in Shenandoah, IA. Spc. Kearney enlisted as an infantryman in 1999 and was mobilized for Operation Enduring Freedom in March 2004. My prayers go out to James's mother and father, Theresa and James Kearney, Jr., as well as his brothers and sister.

In paying tribute to Spc. Kearney, we recognize the efforts of an extraordinary young man who worked to make the world a safer place. The Rev. Ken Gross, a friend of James, describes him as ". . . a person of character with great determination. He was adventurous, fearless and enjoyed taking risks." Spc. Kearney will always be remembered for the good work that he did for his community and for his country. As a soldier and patriot, Spc. James C. Kearney, III has given us a model of true dedication and virtue.

### SPECIALIST RAYMOND L. WHITE

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Elwood, IN. Specialist Raymond L. White, 22 years old, died on November 12 during an ambush in Baghdad, Iraq. Choosing not to hide within the safety of the armored Humvee in which he was riding, Raymond returned fire. During this selfless attempt to protect other members of his company, Raymond was shot. With his entire life before him, Raymond risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A 2001 graduate of Frankton Junior-Senior High School, Raymond went on to attend the New Mexico Military Institute for 2 years before following a long-standing family tradition of joining the military. According to friends and loved ones, Raymond was pleased to follow in the footsteps of his father, uncle and great-uncle. His mother Sharon recalled to the Indianapolis Star a time when she asked Raymond why he wanted to go to Iraq. He responded simply, "Well, Mom, it's my patriotic duty."

Raymond was the thirty-sixth Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. He was assigned to the 1st Battalion, 8th Cavalry Division, Fort Hood, Texas. This brave young soldier leaves behind his parents, Sharon and Henry White and his brothers, Henry, Daniel and Jessie.

Today. I join Raymond's family, his friends and the entire Elwood community in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Raymond, a memory that will burn brightly during these continuing days of conflict and grief.

Raymond was known for his dedication to family and his love of country. When looking back on Raymond's life, family friend Don Cox told the Indianapolis Star that "He grew up to be a very fine young man." His father, Henry, recounted to the Indianapolis Star the description of Raymond's heroic efforts that he received from his commander, highlighting the fact that his son had died in the same fashion in which he had lived. "He always put others first," Henry said. Today and always, Raymond will be remembered by family members, friends and fellow

Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Raymond's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Raymond's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Raymond L. White in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Raymond's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Raymond.

### FIRST LIEUTENANT EDWARD IWAN

Mr. HAGEL. I rise to express my sympathy over the loss of Edward Iwan of Albion, NE, a 1LT in the United States Army. First Lieutenant Iwan was killed on November 12, 2004 in Fallujah, Iraq when a rocket-propelled grenade hit his Army vehicle. He was 28 years old.

First Lieutenant Iwan grew up on his family's farm in Albion and enlisted in the U.S. Army upon graduation from Albion High School in 1994. After serving 3 years, he joined the Army Reserve Officers' Training Corps at the University of Nebraska—Lincoln where he earned a degree in criminal justice and received a commission in the U.S. Army. At Lincoln, he was a leader in the ROTC program. First Lieutenant Iwan was a platoon leader in the Army's 2nd Infantry Division who will be remembered as a loyal soldier who had a strong sense of duty, honor, and love of country. Thousands of brave Americans like 1LT Iwan are currently serving in Iraq.

Lieutenant Iwan is survived by his parents, Donna and Kenneth Iwan of Albion and two sisters, Ginger and Kate. Our thoughts and prayers are with them at this difficult time. The United States of America is proud of Edward Iwan's service and mourns his loss.

For his service, bravery and sacrifice, I ask my colleagues to join me and all Americans in honoring 1LT Edward Iwan.

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## RETIREMENT OF SENATORS

### SENATOR JOHN EDWARDS

Mr. CONRAD. Mr. President, today I want to pay tribute to Senator JOHN EDWARDS and acknowledge his dedication to fighting for the middle class.

Senator EDWARDS, the son of a mill worker, was the first in his family to go to college. He then went on to law school where he met his wife, Elizabeth. Following his graduation from law school, he earned a reputation as one of the best trial attorneys in the country, taking on the causes of those who had suffered serious tragedies as a result of the negligence or malfeasance of others.

Elected in 1998, Senator EDWARDS has served just one term in the Senate, but he made a mark in a number of areas. First and foremost, he was a lead advocate for a Patients' Bill of Rights. From his background helping families that had suffered injuries at the hands of our health care system, Senator EDWARDS brought a passionate understanding of the need to hold health insurance companies accountable when their decisions led to serious injuries or death. More importantly, he championed changes in rules that would prevent these adverse outcomes in the first place. His dedication to this cause paid off in 2001, when the Senate finally passed the Patients' Bill of Rights.

Senator EDWARDS also made a big contribution on education policy. He was an early voice in favor of education reform, and worked to provide additional resources to help local schools achieve higher standards. As a co-chair of the Senate Rural Education Caucus, I saw first hand his work to support funding to meet rural school needs like the Rural Education Achievement Program and to make certain that the unique challenges for rural schools in complying with the No Child Left Behind Act are recognized.

Senator EDWARDS also, of course, distinguished himself in running for President and serving as the Democratic nominee to be Vice President. His concern about our country fracturing into "Two Americas"—one wealthy and privileged, the other increasingly left behind—resonated with millions of Americans.

Senator EDWARDS is leaving this body. But I am confident he will not turn his back on public service and look forward to his continued contribution to our Nation's political debate. Working with the Senator from North Carolina has been a joy, and we wish him and his wife a happy and health future.

### SENATOR DON NICKLES

Mr. CONRAD. Mr. President, I want to take this opportunity to pay tribute to and acknowledge how much I will miss Senator DON NICKLES in the United States Senate.

Since joining the Senate in 1980, Senator NICKLES has been a forceful advocate for smaller and smarter government, while at the same time tenaciously fighting for the interests of the people of Oklahoma. In a body filled largely with lawyers and career politicians, Senator NICKLES brought a small businessman's perspective to the legislative table. Throughout his career he spoke from personal experience about the need to relieve unnecessary burdens on our Nation's small businesses.

Personally, I have come to know Senator NICKLES well from our joint service on the Budget and Finance Committees. Although we were often on the opposite side of policy debates, he was always a straight-shooter, a gentleman, and a pleasure to work with. In areas where we disagreed, he was a formidable and articulate advocate for his position. In areas where we agreed, he was a powerful and determined ally. I am proud to say that, despite this era of too much partisan division, I consider Senator NICKLES a good friend. His ability to maintain a civil and respectful tone and demeanor in even the toughest policy disputes has exemplified the finest traditions of the Senate.

In his role as Budget Chairman, I am particularly grateful for the graciousness and respect with which he treated me and my staff. His efforts to strengthen the Budget Committee and the budget process will be an important part of his legacy in this body.

I have been honored to serve with Senator DON NICKLES. I join my colleagues in wishing the Senator and his family all the best in the future and in paying tribute to his tremendous contributions to the Senate and our Nation. We will miss him.

### SENATOR PETER FITZGERALD

Mr. CONRAD. Mr. President, today I want to pay tribute to Senator PETER FITZGERALD as he prepares to leave the United States Senate.

For the past 6 years, Senator FITZGERALD has done important work as a member of the Agriculture Committee, on which we had the pleasure of serving together. Senator FITZGERALD supported the creation of a commission to investigate changes to the Federal farm payment system. We share the belief that small, family-owned farms should receive adequate assistance from the Federal Government, and the creation of this commission has helped to ensure this goal.

I am also grateful for the support that Senator FITZGERALD has shown for legislation I have introduced related to the tax treatment of leasehold improvements. He and I understand the need to modernize business infrastructure by shortening the cost recovery period for changes that commercial landlords make in space rented to tenants. By reducing the cost recovery period, the expense of making these improvements would fall more into line with the economics of commercial lease transactions, and more building owners would be able to adapt their buildings to fit the needs of today's business tenants. I thank Senator FITZGERALD for his strong support of this important initiative.

Senator FITZGERALD also recognizes the importance of improving the overall health of Americans, and has shown this through the introduction of his Healthy Lifestyles Act. Encouraging physical activity is an essential component in the fight against obesity, and is an important tool in preventative health care. I commend Senator FITZGERALD for his work in this area.

More generally, Senator FITZGERALD has proven himself to be a dedicated public servant who has served the State of Illinois and the country with honor. Today, I join my colleagues in paying tribute to Senator FITZGERALD and wish him well in all of his future endeavors.

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## TRIBUTE TO OHIO VETERANS

Mr. DEWINE. Mr. President, on May 29, 2004—coinciding with the dedication of the National World War II Memorial in Washington, DC—World War II veterans, their families, and their friends gathered at the Don Gentile American Legion Post 532 in Columbus, OH to honor their comrades who fought bravely in World War II.

Fifty veterans attended the service where they were honored by a crowd of more than 500. Guest speakers included Columbus Dispatch columnist Mike Hardin, Post 532 commander Ray Papp, and Isabella Gentile Beitman, the Post namesake's widow. Memorabilia was displayed throughout Post 532, area ROTC units paraded, and the Columbus Symphony Orchestra provided the music. Following the memorial garden dedication, military planes conducted a fly-by. Additionally, each veteran received a framed certificate with the Memorial picture and an angel pin, signifying how our veterans are truly guardian angels.

The Post 532 members' hard work made this service possible, and I would like to personally thank auxiliary secretary, Gladys Caudill, who registered more than 300 World War II veterans for their inclusion in the National Registry. These efforts and the dedication ceremony are fitting reminders of the sacrifices these brave men and women made for our freedom—sacrifices that have shaped all of our lives, our children's lives, and the lives of our grandchildren. I thank them for all they have done for us so that we may continue to enjoy Life, Liberty, and the Pursuit of Happiness—all because of their efforts some 60 years ago.

I honor the members of Post 532 by asking to have their names printed in the RECORD. They selflessly fought for our Nation in World War II, I remember them and honor them at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

| Members of Post 532 | Branch | Hometown |
|---|---|---|
| Acocella, Guydon | Navy | Columbus, OH |
| Albrecht, Richard | Navy | Columbus, OH |
| Arrasmith, James | Navy | Columbus, OH |
| Bailey, Carl | Air Force | Columbus, OH |
| Barker, Robert | Army | Fairmont, WV |
| Bartoe, Oral Jr. | Air Force | Logan, WV |
| Bauer, Chester | Air Force | Albert, TX |
| Bauman, Ray | Army | Lancaster, OH |
| Beitman, Jesse | Air Force | Baltimore, MD |
| Berg, Omer | Navy | Columbus, OH |
| Boggs, John | Navy | Hilliard, OH |
| Bricker, Paul | Navy | Uhrichsville, OH |
| Brown, Harry | Army | Barnesville, OH |
| Bryant, Jack | Army | Columbus, OH |
| Buhacevich, Milton | Navy | Columbus, OH |
| Burchfield, Leo | Air Force | Columbus, OH |
| Callarik, George | Army | Bridgeport, OH |
| Callif, George | Marines | Columbus, OH |
| Carpenter, Elmer Ellworth | Army | Hopewell, KY |
| Carter, Clyde | Navy | Columbus, OH |
| Cavanaugh, Thomas | Navy | Columbus, OH |
| Chase, Thomas | Army | Columbus, OH |
| Compton, Edward | Navy | Columbus, OH |
| Connor, Phillip | Navy | Logan, OH |
| Cox, Raymond | Army | Wash. Ct. House, OH |
| Cramer, Charles | Air Force | Columbus, OH |
| Crites, Robert | Coast Guard | Columbus, OH |
| Curtiss, Richard (deceased) | Navy | Columbus, OH |
| Davis, Delbert (Nick) | Navy | Thurman, OH |
| DelCeillo, Vito | Army | Columbus, OH |
| Delia, Joseph | Marines | New York, NY |
| Diebold, Robert | Marines | Newark, OH |
| Dillon, Howard | Navy | Columbus, OH |
| Donnelly, William Jr. | Army | Junction City, OH |
| Douglas, Russell | Army | New Lexington, OH |
| Driscoll, Ray | Navy | Columbus, OH |
| Dymek, Joseph | Army | Columbus, OH |
| Edwards, Harold | Navy | Columbus, OH |
| Eilerman, Cletus | Navy | Sidney, OH |
| Eiselstein, Jack | Army | Columbus, OH |
| Emrick, Frank | Army | New Straitsville, OH |
| Estep, James | Army | Huntington, WV |
| Evans, Robert | Navy | Columbus, OH |
| Fickle, Glenn (deceased) | Army | Columbus, OH |
| Fisher, William | Army | Columbus, OH |
| Fitzpatrick, T. J. | Army | W. Prestonburg, KY |
| Flichia, Gus | Navy | Columbus, OH |
| Foresman, Earl | Army | Columbus, OH |
| Francis, Joseph | Army | Logan, OH |
| Frazee, Jack | Army | Dayton, OH |
| Fultz, Russell | Army | Columbus, OH |
| Gallagher, Paul | Air Force | Columbus, OH |
| Ganczak, Richard | Air Force | Buffalo, NY |
| Geiszler, George | Navy | Columbus, OH |
| Gibson, Robert | Army | Columbus, OH |
| Gill, Merrill | Army | Columbus, OH |
| Goldhardt, William | Navy | Grove City, OH |
| Graves, Victor | Army | Columbus, OH |
| Gray, Richard | Air Force | Columbus, OH |
| Green, Clyde | Navy | Madison, OH |
| Greer, James | Army | Columbus, OH |
| Griffiths, Robert | Army | Columbus, OH |
| Griggs, Benjamin Sr. | U.S. Coast Guard | Columbus, OH |
| Grinstead, Roy | Army | Columbus, OH |

| Members of Post 532 | Branch | Hometown |
|---|---|---|
| Hankison, Franklin (Hank) | Navy | Columbus, OH |
| Hatzer, Sheldon | Army | Columbus, OH |
| Haycook, Joseph | Marines | Columbus, OH |
| Heise, Robert | Army | Columbus, OH |
| Hemmer, Paul | Air Force | Indianapolis, IN |
| Herderick, George | Army | Columbus, OH |
| Hinzey, Charles | Navy | Detroit, MI |
| Hirn, Joseph | Navy | Columbus, OH |
| Hoenie, Arthur (deceased) | Army | Columbus, OH |
| Hopwood, Harry | Navy | Columbus, OH |
| Immel, Phillip Jr | Navy | Columbus, OH |
| Johnson, Richard | Army | Columbus, OH |
| Johnson, William | Navy | Columbus, OH |
| Johnston, Raymond | Navy | Columbus, OH |
| Jones, Charles (Chuck) | Navy | Columbus, OH |
| Justice, Oscar | Army | Pikeville, KY |
| Kazee, Henry | Army | Ashland, KY |
| Keckley, Harry | Army | Utica, OH |
| Keller, Kenneth | Marines | Jackson, OH |
| Kelley, Edward | Air Force | Columbus, OH |
| Kelly, Kenel | Army | Columbus, OH |
| Kent, Willard | Army | Ethel, WV |
| Kerber, John | Navy | Columbus, OH |
| Kerchmar, Carl | Navy | Elyria, OH |
| Kincade, Howard | Army | Columbus, OH |
| Kinney, Otis Jr. | Army | Columbus, OH |
| Kirby, James | Navy | Columbus, OH |
| Kline, Francis | Air Force | Columbus, OH |
| Knapp, Donald | Army | Obetz, OH |
| Knight, Lake (Shorty) | Army | Columbus, OH |
| Krebs, Henry | Navy | Columbus, OH |
| Krizinski, Roman | Air Force | Dowagiac, MI |
| Kueterman, Harold | Air Force | Versailles, OH |
| Landes, Leo Jr. | Air Force | Columbus, OH |
| Large, Thomas Sr. | Coast Guard | Columbus, OH |
| Larue, Leah Fox | WAC | Boise, Idaho |
| Lash, Homer | Navy | NW Canton, OH |
| Lavinger, Joe | Navy | Bethlehem, PA |
| Lawler, Joseph | Coast Guard | Columbus, OH |
| Lease, Harry Jr. | Army | Belfontaine, OH |
| Lehman, Robert | Army | Mansfield, OH |
| Lewis, James | Navy | Columbus, OH |
| Lowther, Robert Jr. | Navy | Columbus, OH |
| Luke, Arthur | Navy | Pittsburgh, PA |
| Lusk, Mike | Air Force | Cambridge, OH |
| Lyons, Joseph | Army | Columbus, OH |
| Madden, Robert | Navy | Chillicothe, OH |
| Markham, Howard | Army | Columbus, OH |
| Marmon, Boyd | Army | Columbus, OH |
| Martin, Ralph | Marines | Columbus, OH |
| Maue, Joseph | Army | Dayton, OH |
| McGrail, John Jr. | Air Force | Columbus, OH |
| Mertens, John | Navy | Columbus, OH |
| Michalzuk, Daniel | Navy | Columbus, OH |
| Milburn, Keith | Navy | Anderson, iN |
| Miller, Carl | Navy | Columbus, OH |
| Miller, Eugene | Army | Bee, VA |
| Miller, George | Air Force | Martins Ferry, OH |
| Miller, Robert Lee | Navy | Canal Winchester, OH |
| Minnix, Robert | Navy | Columbus, OH |
| Montoney, Jack Sr. | Navy | Columbus, OH |
| Moore, Charles | Air Force | Delaware, OH |
| Morse, Harold (Hal) | Army | Columbus, OH |
| Murphy, Donald | Navy | Columbus, OH |
| Murphy, John | Navy | Clifton, NJ |
| Murphy, Lon | Army | Glen Alum, WV |
| Nelson, Thearl | Air Force | Omar, WV |
| Nolan, Westland | Navy | Columbus, OH |
| Notturiano, Darwin | Navy | Columbus, OH |
| Notturiano, Rudy | Army | Columbus, OH |
| OBryan, John | Navy | Louisville, KY |
| Ocker, Reed | Navy | Scranton, Iowa |
| Parr, Robert | Army | Mansfield, OH |
| Parsley, Wilson | Army | Crum, WV |
| Pemwell, Harvey Jr. | Navy | Springfield, OH |
| Perry, Chester | Merchant Marines | Columbus, OH |
| Phillips, Robert (Bob) | Air Force | Ironton, OH |
| Powers, William Jr. | Air Force | London, OH |
| Quivey, Charles | Merchant Marines | Middleport, OH |
| Rains, Charles Sr. | Army | Columbus, OH |
| Randolph, John | Navy | Crooksville, OH |
| Rice, Lou | Navy | Columbus, OH |
| Roberts, Bernard | Air Force | Jeanette, PA |
| Roberts, Raymond Lee Sr. | Navy | Columbus, OH |
| Sanfillipo, Joseph Jr. | Navy | Columbus, OH |
| Sarto, William | Army | Lore City, OH |
| Schellhaas, Edwin | Army | Grove City, OH |
| Schnitzer, Frederick | Navy | Mount Vernon, OH |
| Schreck, Margaret | Army | Hilliard, OH |
| Schreck, Victor | Army | Marienthal, KS |
| Scott, Ivan | Navy | Columbus, OH |
| Shank, Stephen | Navy | Glendale, PA |
| Sharpe, Gerald | Army | Columbus, OH |
| Shea, John | Navy | Columbus, OH |
| Shirley, Frank | Army | Ieager, WV |
| Siniff, R. Edward | Army | Columbus, OH |
| Sipe, William Jr. (Bill) | Army | Columbus, OH |
| Smith, Clyde | Navy | Columbus, OH |
| Smith, Harold | Army | Columbus, OH |
| Smith, Lawrence | Army | Columbus, OH |
| Snedegar, Garland | Army | Dayton, OH |
| Sottovia, Virginia | WAC, Army | Manchester, OH |
| Souders, Albert | Army | Columbus, OH |
| Stafford, Victor | Army | Columbus, OH |
| Stange, Robert | Army | Grove City, OH |
| Stauch, Donald | Army | Columbus, OH |
| Steiner, John | Army | Bellaire, OH |

| Members of Post 532 | Branch | Hometown |
|---|---|---|
| Stephenson, Charles | Navy | Ironton, OH |
| Stewart, Richard | Air Force | Wellston, OH |
| Susi, Arthur Sr. | Marines | Columbus, OH |
| Swain, Lindsay | Navy | Columbus, OH |
| Taylor, Archie | Navy | Loudenville, OH |
| Taylor, Robert | Air Force | Columbus, OH |
| Ternan, Robert | Navy | Columbus, OH |
| Thomas, Donald | Army | Cheshire, OH |
| Thomas, Earnest | Army | Columbus, OH |
| Thompson, John (Wiltshire) | Navy | Columbus, OH |
| Tonti, Edward | Army | Columbus, OH |
| Townsend, Delbert | Army | Columbus, OH |
| Tracy, Martin | Navy & Marines | Columbus, OH |
| Triffon, Manuel | Army | Columbus, OH |
| Tuttle, Harold | Army | Columbus, OH |
| Underdown, Guy | Army | St. Clairesville, OH |
| Vagnier, John | Air Force | Lancaster, OH |
| Verne, Stephen | Coast Guard | Columbus, OH |
| Vawters, Howard | Navy | Columbus, OH |
| Wade, Kenneth | Army | Galloway, OH |
| Walker, John | Air Force | Gallia, OH |
| Walls, Howard | Army | Pittsburgh, PA |
| Walters, Howell | Army | Columbus, OH |
| Warren, Charles | Army | Athens, OH |
| Weaver, Fred | Army | Columbus, OH |
| Wells, Robert | Army | Columbus, OH |
| Wihl, Lewis | Navy | Columbus, OH |
| Wiley, Paul | Army | Columbus, OH |
| Williams, Charles | Army | Columbus, OH |
| Willis, Richard Sr. | Coast Guard | Columbus, OH |
| Woehrle, John | Navy | Columbus, OH |
| Wolfe, John | Navy | New Lexington, OH |
| Yates, Tony | Air Force | Pittsburgh, PA |
| Yoder, Leroy | Coast Guard | Marion, OH |
| Non-members or Deceased: | | |
| Acocella, Pat | Army | Columbus, OH |
| Amspoker, Richard Leo | Army | Columbus, OH |
| Anderson, Howard | Army | Waverly, OH |
| Ballengee, Sherman Sr. | Marines | Reed, WV |
| Bartoe, Robert | Army | Logan, WV |
| Bennett, Paul | Army | West Jefferson, OH |
| Beougher, Howard | Air Force | Columbus, OH |
| Bonham, Gerald | Marines | Galloway, OH |
| Bowling, Richard | Army | Memphis, TN |
| Bowling, Walter Carl | Navy | Columbus, OH KIA |
| Brogan, Bernie | Army | Rainelle, WV |
| Brooks, Walter | Navy | Columbus, OH MIA |
| Brown, Paul | Army | Huntington, WV |
| Carter, Dave | Army | London, OH |
| Clark, Duane | Marines | Columbus, OH |
| Clifford, Charlie | Army | Columbus, OH |
| Clifford, Jack | Air Force | Columbus, OH |
| Cole, Howard Alton | Navy | Preston, MD KIA |
| Cole, Kenneth Hynson | Army | Preston, MD |
| Cole, Leonard Francis | Army | Preston, MD |
| Corbett, Joseph | Army | Crooksville, OH |
| Cosgrove, James | Navy | Columbus, OH |
| Cosgrove, John | Army | Columbus, OH |
| Cosgrove, Robert | Army | Columbus, OH |
| Crown, Sam | Navy | Columbus, OH MIA |
| Capuano, Patsy | Army | Columbus, OH |
| Daum, Ray | Army | Columbus, OH |
| DeWeese, Albert | Army | Ripley, WV |
| Divney, Don | Air Force | Columbus, OH |
| Divney, James | Army | Marion, OH |
| Divney, Raymond | Army | Columbus, OH |
| Domrose, Richard Wm | Air Force | Oak Harbor, OH |
| Domrose, Ramone George | Army | Oak Harbor, OH |
| Edwards, Harold | Coast Guard | Oak Hill, OH |
| Estep, Walter | Army | Delaware, OH |
| Farrand, Larry | Navy | Columbus, OH |
| Flick, Stanley | Navy | Wooster, OH |
| Follmer, Edward | Army | Columbus, OH |
| Gentile, Dominic (Don) | Air Force | Piqua, OH |
| Get z , George Jr. | Army | Columbus, OH |
| Goldhardt, Richard | Army | Georgesville, OH |
| Griggs, Mary (Buckler) | Auxiliary | Columbus, OH |
| Griggs, Dorel Dobbins | Navy | Columbus, OH |
| Griggs, John Robert | Marines | Columbus, OH |
| Griggs, Stanley Evans | Mer.Mar./Army | Columbus, OH |
| Griggs, Jack | Army | Columbus, OH |
| Griggs, Charles Ernest | Navy | Columbus, OH |
| Hammock, Wilbur | Air Force | Columbus, OH |
| Hammond, Clarence | Navy | Ironton, OH |
| Hammond, Lawrence | Army | Ironton, OH |
| Hartley, Paul | Army | Stoutsville, OH |
| Haverfield, Frank | Army | Evanston, IL |
| Horton, Richard | Navy | Columbus, OH |
| Ingles, Goble | Army | McDermott, OH |
| Jamison, Robert | Air Force | Columbus, OH |
| Jubeck, Jack | Air Force | Pittsburgh, PA |
| Knisley, Earl | Army | Columbus, OH |
| Knisley, Hal Richard | Army | Columbus, OH |
| Knisley, Jesse | Army | Columbus, OH |
| Lester, Quinten | Army | Kentucky |
| Mace, Jacob Andrew | Navy | West Virginia |
| McCleese, Daniel Scott | Air Force | Columbus, OH |
| McLane, Paul | Navy | Elmira, NY |
| Monroe, George | Army | Columbus, OH |
| Morse, Fred | Army | Columbus, OH |
| Moore, Keith | Navy | Columbus, OH |
| Norton, Naldo | Navy | Columbus, OH |
| Oestreicher, Frank | Air Force | Columbus, OH |
| Overturf, James | Army | Columbus, OH |
| Papp, Frank Jr. | Army | Columbus, OH |
| Papp, John | Army | Columbus, OH |
| Papp, Joseph | Air Force | Columbus, OH |

| Members of Post 532 | Branch | Hometown |
|---|---|---|
| Pearce, Charles | Army | Radcliff, OH |
| Perry, John Wm. | Marines | Fredricktown, MO |
| Ponthier, Ory | Air Force | Bossier City, LA |
| Pritchard, Joe | Army | Westerville, OH |
| Rankin, William | Navy | Columbus, OH |
| Rinehart, Robert | Army | Columbus, OH |
| Roush, George | Army | Mason City, WV |
| Russo, Lawrence | Navy | Columbus, OH |
| Salmons, Anderson | Army | Hamden, OH |
| Sanders, Ralph | Army | Plain City, OH |
| Shea, James | Army | Columbus, OH |
| Sisson, Kenneth | Navy | Columbus, OH |
| Smith, Sherwood | Army | Rome, NY |
| Snider, Fred | Army | Columbus, OH |
| Sottovia, William | Air Force | Brockport, PA |
| Stein (Gregory) | Army Nurse | West Pittson, PA |
| Stratton, Jack Harry, Jr | Navy | Raymond, OH |
| Sullivan, John | Navy | Elmira, NY |
| Tarquino, Anthony | Air Force | Columbus, OH |
| Taylor, Virgil | Army | Columbus, OH |
| Walls, Henry | Navy | Columbus, OH |
| Wharton, Paul | Navy | Columbus, OH |
| Wherrity, Eugene | USN/MC | Mauch Chunk, PA |
| Williams, Paul | Navy | Columbus, OH |
| Zervis, Roy | Navy | Hamden, OH |

Those in attendance at the WWII celebration day not listed above: Bennett, Paul; Dawson, Donald; Griggs, Carl; Landman, William; Pennell, George (Duke); Puchovich, Jordan; Stevens, Harold; Watson, Leland.

## VETERANS' DAY

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute and recognize our Nation's veterans. Too often, the sacrifices of our Nation's brave men and women of the Armed Forces go unnoticed and underappreciated. I wish to take a moment now to share a recent experience I had with some of New Jersey's Vietnam Veterans.

On November 11, 2004, I was honored to participate in a Veterans' Day Ceremony hosted by the New Jersey Vietnam Veterans' Memorial in Holmdel, New Jersey. At this ceremony, I was touched by the words of Major Frank M. McDonough, Esq., a retired member of the United States Marine Corps. Major McDonough has written a moving piece about what it means to be a veteran.

Mr. President, in honor of the sacrifice of our Nation's veterans, I ask unanimous consent that Major McDonough's written statement be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOVEMBER 11, 2004

(By Frank M. McDonough, Esq. Major, United States Marine Corps, Ret.)

The Marine CH-46 helicopter swept high and wide over the clouds of smoke, shrapnel, and exploding shells.

Mayhem spewed from the burning ammunition dump. It had been struck the night before by a rocket launched by some of the 40,000 enemy troops surrounding the miserably exposed plateau encampment.

As the Crew Chief shouted debarkation instructions over the din of the rotors, the Marines craned around in their canvas benches to see the mile-long, half-mile wide combat base below, through the glassless chopper windows. For most it would be their first combat experience. For the 26-year-old Lieutenant this was neither his first nor his last trip "in-country," but it would be the longest 77 days of his life.

Suddenly the helicopter dropped like a stone toward the airstrip and the Crew Chief was screaming, "Get out! Get out!" as the Marines grabbed packs and seabags and rushed to the lowered ramp in the rear of the rapidly descending bird.

They tumbled out, ass over teakeatle, several feet in the air, as the aircraft started to roll and rise, never actually having touched the ground.

As instructed, the passengers rushed to the waiting drainage ditch at the edge of the metallic runway. Mortars and rockets struck all around; and the din was so great that they never heard the safe departure of the big dirty green bird that had just deposited them in the middle of no man's land.

Nor did they care; for this was run for life.

The Lieutenant streaked across the landing strip as fast as his legs would move, carrying the 80 pound seabag behind him a protection against the flying shards of aluminum runway matting mixed with shrapnel, dirt and other debris . . . but ready to abandon if necessary.

The dense clouds of smoke and loud clanging sounds which deadened his ears and shrouded his movement could not protect him from the flying death around him.

But in seconds he was in the trench, on his face, in the dusty red clay that he would live in, bathe in, eat in, sleep in, and wear for many weeks to come.

The crump, crump, crump of the deadly explosives slowly subsided with the disappearance of the chopper behind the hills.

Soon, there was absolute silence.

Navy Medical Corpsmen from Charlie Med, the makeshift hospital across the road . . . conveniently located next to the equally makeshift mortuary . . . started working their way along the trench . . . backs and shoulders bent . . . bodies crouched to avoid enemy snipers . . . making sure that everyone was okay.

The Lieutenant checked his moving parts. They seemed to be all there. Even his seabag made it unscathed. Then he looked up for the first time since hitting the ground at Khe Sahn.

Directly in front of him was a large sign. In scarlet and gold . . . the Marine Corps' colors . . . a sign which pointed him to his destination.

"1st Battalion, 13th Marines. Turn Right and Run like Hell."

It was combat humor at its best.

According to military records, since 1775, 2 million men and women have given their lives for our country; men and women of all colors, religions, and beliefs. They wore many uniforms over the decades: some blue, some red, some gray . . . some green, white, khaki; and some of the various colors of camouflage.

Some had no uniforms but fought anyway; and some performed their service behind the enemy's lines in the clothing of the day, hopeful that they would be protected by their anonymity.

Some were farmers; some city kids. Some had never seen a pair of boots before they joined; others like me signed up with long hair, motorcycle boots and way too much attitude.

They were young, old, married and single. They were poor; and they were rich. Most were free; some were freed slaves. Some were paid to serve in the place of others. Some volunteered and some were conscripts.

Shanghaied, they would tell you.

There were summer soldiers who left in fall to harvest their crops. Others served for a fixed number of years; and there were many who served their entire lives. There were too many whose entire lives were not very entire.

When they were in, they spent much of their time complaining; but when they got out they spend much of their time bragging . . . about where they went and who they went with . . . although not very often about what they did.

In fact, in the Marine Corps we used to say that a Marine wasn't happy unless he was bitching; and most couldn't wait until they got out. Yet check out all the proud United States Marine Corps decals on the cars traveling along the Garden State Parkway.

One thing they shared. No matter what their origins or their social status, there was no telling them apart in the trenches of France, the frozen fields of Pennsylvania, the steamy islands of the Pacific, the bloody battlefields of Spotsylvania, the deadly skies over Korea, the tropical scrub of San Juan hill, or the boiling waters of the South China Sea.

They were one.

Some were recognized for their heroism.

In the beginning by receiving an award called the Badge of Military Merit, created by our first Commander-in-Chief.

In 1932, that badge became known as the Purple Heart. It eventually was emblazoned with George's image and restricted to those who shed their blood in the service of their country.

Tens of thousands of Purple Hearts have been awarded for wounds received in battle. Too many thousands never lived to see theirs; and would happily have done without.

And there is another award that goes back to the early years. Presented since the Civil war, it is called the Medal of Honor. There have been 3,459 of those medals presented for 3,454 separate heroic actions.

The earliest Medal of Honor was presented for an action against Native-Americans in 1861. Ironically, since 1861, 22 Native-Americans have received the Medal for their own valorous actions in defense of a country that once seemingly sought to exterminate them.

I have known many who were awarded the first medal, and four who were awarded the second.

Despite their heroism and suffering . . . or perhaps because of it . . . I really don't know . . . they seemed no different than the thousand others I served with, and the many thousands more that we have all heard or read about.

They all served their country . . . in good times and bad . . . in peacetime and in war . . . with valor and distinction.

At Valley Forge, they wrapped rags around their frozen feet then marched to take Trenton; 175 years later they wrapped rags around their frozen feet then fought their way out of the Chosin Reservoir.

In 1805 they marched across 600 miles of burning desert to destroy the Barbary Pirates at Tripoli; 178 years later, not that far from Tripoli, they died in a barracks in Beirut.

Still they would not be deterred. And only a few years later, they freed one European people from a tyrannical butcher; and a Middle Eastern country from a demented invader.

But in Yemen they simply made a goodwill port call and 17 paid the ultimate price.

And in Somalia they tried to help a starving people they didn't even know . . . and had probably never heard of; and they paid yet again.

They jumped out of airplanes into the dead of night at Ste. Mere-Eglise; and a few miles away they scaled the deadly cliffs of Normandy with the bodies of their buddies drifting in the surf below.

At Midway, they brought a thousand year old Empire to the beginning of its end.

In 1865, a women cut off her hair, donned a soldier's uniform, and fought alongside her compatriots as a man. She was simply following the example of an earlier heroine who joined the battlefield right here in Monmouth County. More than 1.7 million women have served in the military since.

Some nursed our fighters in the jungles, in the freezing cold, and aboard ships under kamikaze attack. And not only do they still serve in tents, bomb craters, and blown out buildings around the world; but they now command units in Iraq and fly choppers in Afghanistan.

Some military personnel carry no weapons and wear no scrubs, but use a bible, the Torah or the Quran, to minister to their fellow soldiers. One from Staten Island earned the Medal of Honor of his heroic Chaplain's service.

And let's not forget the 6,000 Merchant Marines and their 700 ships lost during World War II.

In five years, my immigrant family from Scotland and Ireland sent seven men and women off to fight for their adopted country. It is something we as a people do. We rarely question why. We just do.

Now, one of my sons is in a place called Fallujah, while his brother launches fighter jets from the Abraham Lincoln somewhere in the Pacific.

I would never ask them to do this. I certainly didn't even encourage them. It is the only thing in my entire life that has ever brought me fear! But is their chosen destiny; and like all others before them, they just do.

In just my lifetime, I can think of a number of heroes who could have avoided serving, or flown a desk in the rear, but chose not to. One was the son of a legendary Marine General who had earned five Navy Crosses in combat. The younger Marine came home a double amputee, his life so shattered that he ultimately died by his own hand.

One was a famous baseball player who left his team not once, but twice, to fight for his country in not one, but two wars. And he came back to his beloved Red Sox to finish his career.

One was the son of the future Chief of Naval Operations, the highest rank in the Navy. He probably could have gotten any job he wanted, but he went into combat anyway; and came back to die of Agent Orange.

Another was the son and grandson of two Naval Heroes, but he spent 8 years in the Hanoi Hilton.

And then, of course, there was the son of the former Ambassador to Great Britain. He didn't have to go either, but he chose to be a PT boat skipper; and spent the rest of his too-short life in excruciating pain.

They all could have found a way out, but didn't. Not even the young Marine Lance Corporal I met in I Corps who had a Columbia medical degree in his resume, but he chose to fight his war, at the front, on the ground, as a grunt.

Like that young Lance Corporal, they had a belief in themselves, in their creed, in their country, and many times . . . more often than not . . . in their cause.

If nothing else, they learned to believe in their fellow soldiers and to serve them . . . to the death if necessary.

Today, we celebrate all veterans, those alive and among us, those who have gone on to their reward, and those still serving.

It matters not whether in peace or in war. If in war, it matters not what the outcome. It is the man and the woman that we honor.

We can do no less than one man . . . not of this country . . . did in honoring that legacy.

He was a 30 year old Vietnamese Squad Leader. A member of the 320th Division of the People's Army of Vietnam during one of the most trying periods in a ten-year war, the hallowed memory of which surrounds us here today in this poignant Vietnam Veteran's Memorial.

He was the enemy!

After the war he went back to farming. But then, in 1996, at the age of 58, he walked into the US Army POW/MIA office in Hanoi to tell his story.

While serving North Vietnam in uniform in 1968, he found the body of a dead American Marine. He buried it in a bomb crater. But he never forgot.

So he lead the MIA team to the remains, which were then recovered and returned to the Marine's home community just two months ago, some 30 years after the fall of Saigon.

Now I can tell you from personal experience that the spring of 1968 was one of worst periods in the war.

Yet this soldier took the time to bury his enemy. And then, almost thirty years later, report the location to his former enemies.

That kind of respect is the kind of respect we see all too little of in this fast-paced, too distracted, self-absorbed, politically-riven society of ours.

But it is the kind of respect we are here today to show our men and women, in or out of uniform, living and dead, still serving or not.

They need no medals. They need no special proclamations. They need no special treatment. For they stand out in their own merit, on their own sacrifices, on their own heroism, and on their own unequalled accomplishments.

But we stand here today anyway. For they are the reason we can do so; the reason that we enjoy the right to do so. The reason we can be proud of our nation; and the reason that, like the Vietnamese soldier-farmer, we can respect who they are.

To paraphrase a well known writer and broadcaster, we are here today because they are the greatest of all our generations!

## BUDGET SCOREKEEPING REPORT

Mr. NICKLES. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32. the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2004 budget through September 30. 2004. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2004 Concurrent Resolution on the Budget, H. Con. Res. 95, as adjusted.

The estimates show that current level spending is above the budget resolution by $10.126 billion in budget authority and by $31 million in outlays in 2004. Current level for revenues is $3.115 billion above the budget resolution in 2004.

Since my last report dated September 13, 2004, the Congress has cleared and the President has signed the Surface Transportation Extension Act of 2004, Part V (P.L. 108–310), which changed budget authority for 2004.

This is my final report for fiscal 2004.

I ask unanimous consent the report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, October 7, 2004.*

Hon. DON NICKLES,
*Chairman Committee on the Budget, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The enclosed tables show the effects of Congressional action on the 2004 budget and are current through September 30, 2004. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, as adjusted.

Since my last letter, dated September 9, 2004, the Congress has cleared and the President has signed the Surface Transportation

Extension Act of 2004. Part V (Public Law 108–310), which changed budget authority for 2004.

The effects of this action are detailed on Table 2.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF SEPTEMBER 30, 2004

[In billions of dollars]

| | Budget resolution | Current level[1] | Current level over/under(-) resolution |
|---|---|---|---|
| ON BUDGET | | | |
| Budget Authority | 1,873.5 | 1,883.6 | 10.1 |
| Outlays | 1,897.0 | 1,897.0 | * |
| Revenues | 1,331.0 | 1,334.1 | 3.1 |
| OFF-BUDGET | | | |
| Social Security Outlays | 380.4 | 380.4 | 0 |
| Social Security Revenues | 557.8 | 557.8 | * |

[1] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

NOTE: *=Less than $50 million.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF SEPTEMBER 30, 2004

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| Enacted in previous sessions: | | | |
| Revenues | n.a | n.a | 1,330,756 |
| Permanents and other spending legislation[1] | 1,117,131 | 1,077,938 | n.a. |
| Appropriation legislation | 1,148,942 | 1,179,843 | n.a. |
| Offsetting receipts | −365,798 | −365,798 | n.a. |
| Total, enacted in previous sessions: | 1,900,275 | 1,891,983 | 1,330,756 |
| Enacted this session: | | | |
| Surface Transportation Extension Act of 2004 (P.L. 108–202) | 1,328 | 0 | 0 |
| Social Security Protection Act of 2004 (P.L. 108–203) | 685 | 685 | 0 |
| Welfare Reform Extension Act of 2004 (P.L. 108–210) | 107 | 58 | 0 |
| An act to reauthorize certain school lunch and child nutrition programs through June 30, 2004 (P.L. 108–211) | 6 | 6 | 0 |
| Pension Funding Equity Act of 2004 (P.L. 108–218) | 0 | 0 | 3,363 |
| An act to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses (P.L. 108–220) | 13 | 7 | 0 |
| Surface Transportation Extension Act of 2004, Part II (P.L. 108–224) | 482 | 0 | 0 |
| TANF and Related Programs Continuation Act of 2004 (P.L. 108–262) | 80 | 35 | 0 |
| Surface Transportation Extension Act of 2004, Part III (P.L. 108–263) | 422 | 0 | 0 |
| Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108–265) | 7 | 6 | 0 |
| An act approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003 (P.L 108–272) | 0 | 0 | −2 |
| AGOA Acceleration Act of 2004 (P.L. 108–274) | 0 | 0 | −2 |
| Surface Transportation Extension Act of 2004, Part IV (P.L. 108–280) | −646 | −7 | 0 |
| Department of Defense Appropriations Act, 2005 (P.L. 108–287) | 0 | 10 | 0 |
| Surface Transportation Extension Act of 2004, Part V (P.L. 108–310) | 2,160 | 0 | 0 |
| Total, enacted this session | 4,644 | 800 | 3,359 |
| Entitlements and mandatories: | | | |
| Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs | −21,334 | 4,221 | n.a. |
| Total Current Level[1][2] | 1,883,585 | 1,897,004 | 1,334,115 |
| Total Budget Resolution | 1,873,459 | 1,896,973 | 1,331,000 |
| Current Level Over Budget Resolution | 10,126 | 31 | 3,115 |
| Current Level Under Budget Resolution | n.a. | n.a. | n.a. |

[1] Pursuant to section 502 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level excludes $82,460 million in budget authority and $36,644 million in outlays from previously enacted bills. From the current session, the current level excludes $27,656 million in budget authority and $154 million in outlays from the Department of Defense Appropriations Act, 2005 (P.L. 108–287) and $2,000 million in budget authority from the Emergency Supplemental Appropriations for Disaster Relief Act, 2004 (P.L. 108–303). In addition, pursuant to section 312(c)(3)(A) of S. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2005, up to $500 million in budget authority and $330 million in outlays for wildland fire suppression accounts are exempt from the enforcement of the budget resolution for the current fiscal year. In this current level report, these amounts are excluded from the total for the Department of Defense Appropriations Act, 2005 (P.L. 108–287).

[2] Excludes administrative expenses of the Social Security Administration, which are off-budget.

NOTES: n.a. = not applicable; P.L. = Public Law

Source: Congressional Budget Office.

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## RETIREMENT OF VEE BURKE

Mr. GRASSLEY. Mr. President, I rise today to pay a tribute to Vee Burke, specialist in income maintenance, Domestic Social Policy Division, a dedicated and gifted employee at the Congressional Research Service, who will be retiring from CRS at the end of this month.

Mrs. Burke is a graduate of the University of Chicago. She has four grown children and is the widow of Vincent Burke with whom she wrote Nixon's Good Deed, a book about Nixon's welfare reform proposals.

When Mrs. Burke joined CRS more than 30 years ago, she was already a recognized expert in the field of public welfare. During her tenure at CRS, she became a leading expert on the history, evolution and interaction of welfare and public assistance programs for low-income individuals and families.

Because of her stature as one of the leading authorities in the country in this policy area, Mrs. Burke's advice and assistance has often been required by the Congress. Over three decades, Mrs. Burke has contributed to major congressional deliberations affecting AFDC and related public assistance programs, including the sweeping welfare reforms enacted in 1996 that replaced AFDC with TANF.

During the consideration of the reauthorization of the 1996 welfare reform legislation in both the 107th and the 108th Congress, Mrs. Burke provided invaluable assistance to the Senate Finance Committee. In the 108th Congress, Mrs. Burke was especially helpful to myself, as Chairman of the Senate Finance Committee and to my staff. She assisted in the drafting of the committee mark and legislation, providing technical assistance as well as continuously analyzing state data. Because of her vast knowledge, Mrs. Burke also functioned as an impromptu tutor to Senate Finance Committee staff on this history of welfare.

The work of the Congress is detailed and complex—in order to do our work members and our staffs need to be well versed in policy in order for us to make the best decisions. For this expertise, we often rely on the analysis of the Congressional Research Service. CRS provides a unique service to the Congress in that they are truly nonpartisan. The specialists from CRS provide non-biased, research based analysis that helps guide us, as policymakers, to make the best decisions.

Mrs. Burke, throughout her long and admirable career, has embodied the very best of what CRS provides for the Congress. Those of us who care deeply about programs affecting the poor thank her for her efforts, will miss her and wish her well.

## RETIREMENT OF SHARON HICKEY

Mr. LIEBERMAN. Mr. President, I rise to express my deep gratitude and best wishes to a dedicated and long-serving member of my Washington staff, Sharon "Sherry" Hickey, who has worked on Capitol Hill for nearly 31 years and who is retiring from the U.S. Senate on December 3, 2004.

Sherry has been a member of my Senate family since I was first elected to this office in January 1989. She has many talents, "wears many hats," is always willing to lend a hand or offer guidance, and her contributions to the work of this office, particularly in the area of constituent outreach, have been invaluable. She began in my office as assistant to the chief of staff and military caseworker. As caseworker, she most clearly demonstrated her compassion and empathy for others. Sherry assisted many grateful soldiers and their families in my home State of Connecticut, including during the first Gulf War, by intently listening to their concerns and successfully resolving the variety of problems they faced to the fullest extent possible.

Sherry is also a gifted and eloquent writer. As my personal/legislative correspondent, she has researched and drafted responses for literally thousands of constituent communications on important issues before Congress, as well as requests for tribute, congratulatory, and recommendation letters that I have received over the years. With her expressive, articulate, and intuitive communication skills, Sherry has a knack for preparing responses to each of them in the informative, yet personalized, style that I prefer.

Prior to the good fortune that brought her to my office, Sherry first began her Hill career when she was hired by Representative John Melcher (D-MT) in December 1973. Following his election to the Senate in 1976, Sherry remained on his staff as a personal assistant and consumer affairs caseworker until he left office in 1988. Previously, she served as secretary to the Assistant Director of the U.S. Department of the Treasury's Bureau of the Mint from 1967–1971.

Some may find it surprising to learn that, among her many hidden abilities, Sherry is a talented artist. Perhaps her retirement will afford her more time to pursue this interest. Still, what has always been most important to Sherry is her family. She met her husband Peter while she was a member of Senator Melcher's staff; and their son, Brian, of whom they are both enormously proud, spent 2 years as a toddler at the Senate Employees Child Care Center. Sherry often brought Brian to the office for a visit, so it is hard for me to believe that he has since achieved the Boy Scout rank of Eagle Scout and is now a second-year student at the University of Virginia! For her own part, after spending precious time devoted to raising her son and guiding him along the path toward adulthood, Sherry applied her energies after work, and, with her usual determination, completed her Associate in Science degree from Northern Virginia Community College earlier this year.

Sherry has had and exemplary career and fully understands the value of a public service commitment to help others. She has always had a special caring touch in reaching out to the constituents we serve and getting them the help they need and deserve. She has provided a guiding hand and has been a resource and support to so many members of my staff. Sherry has what some may call an "old-fashioned" work ethic, but it is one based on immense pride and satisfaction in a job well done. I can certainly attest to that.

Sherry is proud to be a native Washingtonian, and she can now be proud of the years she has dedicated to my State of Connecticut and to the State of Montana. I know her well-deserved retirement will afford her many new opportunities. Sherry has made many friends on the Hill, and we will miss her ready smile and kindness. It is with great fondness and my personal thanks that I wish her only the best in whatever direction she chooses to go from here. Congratulations on a job well done!

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On August 25, 1998 in Tremont, ME, Robert Powers was arrested for allegedly taunting a man with anti-gay slurs and throwing rocks at him.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## ADDITIONAL STATEMENTS

## AUDRAIN MEDICAL CENTER AUXILIARY OF MEXICO, MISSOURI

● Mr. BOND. Mr. President, today I join with my constituents in recognizing the Audrain Medical Center Auxiliary 50th Golden Jubilee.

For the last 50 years, the Audrain Medical Center Auxiliary has voluntarily helped raise money for the Audrain Medical Center. Fifty years ago the group was created with 65 charter members and in 2 years grew to 165. Today, the membership is a unique group of 224 Missourians who are dedicated to bettering their local community through their service work. As of 2004 the group has raised $839,700 for the Audrain Medical Center. This year donations will go toward the telemetry unit for cardiac rehabilitation and a portable x-ray machine. I stand here today rest assured that through their continued hard work and dedication the group will soon reach their goal of $1 million.

It is my great honor to recognize the community participants that comprise the Audrain Medical Center Auxiliary on this, the 50th Golden Jubilee of the organization. On behalf of the people of the State of Missouri, I look forward to 50 more years of leadership and outstanding civic participation from the Audrain Medical Center Auxiliary.●

## CALVERT ALLIANCE AGAINST SUBSTANCE ABUSE, INC.

● Ms. MIKULSKI. Mr. President. I wish to pay tribute to the Calvert Alliance Against Substance Abuse, Inc., CAASA, a grassroots organization that has been dedicated to fighting alcohol and drug abuse in Calvert County since 1989.

Since its inception fifteen years ago, CAASA has been working hard to establish a healthy, drug-free environment for the entire community. This grassroots organization meets the people where they are. CAASA encourages citizens to take an active role in preventing substance abuse through public awareness, education, treatment and law enforcement. Its programs benefit students in the classroom, families at home and individuals in the workplace.

CAASA has consistently supported the expansion of school-based substance abuse prevention activities and programs to help abusers and their families achieve a drug-free lifestyle. It has also assisted businesses in promoting an alcohol and drug-free workplace. I believe that the best ideas come from the people. CAASA does just that—it awards grants to members of the community who approach them with new ideas. By working together with the people, CAASA is helping to strengthen our communities and fight the drug war right here in Maryland.

Many of the programs that CAASA has sponsored have benefitted the youth of Calvert County, such as Project Graduation. Project Graduation is a drug-free and alcohol-free all night celebration for the graduating seniors from Calvert County's public high schools. Since the inception of this program, there have not been any drug or alcohol related motor vehicle incidents involving members of Calvert County's graduating classes on graduation night.

This group has proven to be a critical part of our Nation's war on drugs by working locally in communities in Maryland. For this we owe them our graduate. I ask my Senate colleagues to join me today in recognizing the Calvert Alliance Against Substance Abuse, Inc. for showing the community how to "choose life . . . not drugs."●

## TRIBUTE TO JOHN "RODDY" SUNCHILD

● Mr. BURNS. Mr. President, today I want to recognize a truly great citizen, a great tribal leader and a miltary hero, John "Roddy" Sunchild. The Rocky Boy Tribe of North Central Montana, the State of Montana and the United States of America have lost an outstanding leader, citizen and soldier. And for those of us who had the privilege of knowing him, his family and colleagues, we have lost a great father, grandfather, husband and friend.

John "Roddy" Eagle Sunchild, Sr. an enrolled member of the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation was born June 30th, 1930, the grandson of Sunchild, an early leader of the Cree people. He attended schools on the Rocky Boy's Indian Reservation in Montana in his youth.

Roddy was a quiet, unassuming man. At the same time, he was a fierce advocate for his community and his people and a courageous warrior/soldier for his country. He possessed a gentle, understated sense of humor that put people at ease and, at the same time, made points more eloquently than long-winded speeches.

At age 17, Roddy enlisted in the U.S. Airborne Paratroopers and was immediately assigned to a tour in Korea. It was during his time with the 4th Airborne Ranger Company that he distinguished himself as one of the most honored members of the 187th Regimental Combat Team. Roddy received citations which included the Master Parachutist Badge, Airborne Glider Badge, the Silver Star, the Bronze Star with Double Valor, the Purple Heart, the U.S. Good Conduct Medal, Korean Campaign Medal, the U.S. Presidential Unit Citation, the French Fourragere, and Master Sergeant. The highest level he attained in the military was an E7.

Roddy and his wife Florence, a retired teacher for the Rocky Boy Elementary School system, have four children, nine grandchildren, and one great grandchild.

In 1984, he was elected to the Tribal Business Committee, where he advocated for tribal education opportunities for his people, along with better health services. His leadership, while serving as Chairman for the Stone Child College Board of Directors, was the primary catalyst for the college in achieving full accreditation. He initiated various wellness programs for the Chippewa Cree Tribe and sought opportunities for individual improvement though health, education, and a stronger tribal government.

In 1992, Roddy was elected Tribal Chairman and during his tenure the Chippewa Cree Tribe sought, and was awarded, a Self-governance Compact from the U.S. Department of Interior Bureau of Indian Affairs, BIA. Roddy was a staunch proponent for Tribal Higher Education and for improved Health Care for his people. Roddy was very well known throughout the United States and Canada for his active involvement in the well being and improvement of Indian Country.

Over the past several years, Roddy founded and served as the Chief Executive Officer for the National Tribal Development Association, NTDA, which administers federal grants and cooperative agreements to enhance the governance and economies of Indian Reservations. The NTDA also works to promote inter-tribal trade and commerce and create programs that serve as a hand up, rather than a hand-out.

Roddy exemplified what could be construed as a true modern warrior. He was able to advocate and promote modern ways in order to ensure that Natives could compete in today's world. While doing this he still held on to and practiced his true traditional and cultural ways. He was one of our Sundance leaders, and had earned the right to practice various other cultural ceremonies. His presence played an integral part in most cultural ceremonies held on the Rocky Boy's Reservation.

Family was of particular importance to Roddy. What Roddy enjoyed most was being at home with his family. He especially enjoyed his many grandchildren. Roddy was an active member of numerous Native American organizations and associations and was a great advocate for Native American Veterans, especially on the Rocky Boy.

Roddy not only set an example for others to follow, he set about his life's work with the sole purpose of helping others to reach their full potential. At the core of his being was his deep commitment and love for his people, the Chippewa Cree. Through them, his legacy continues.

As a great leader, Roddy personified the meaning of commitment, vision and honor. His people, Indian Country, the United States of America and the world are better for having been witness to his life on earth.●

## BENJAMIN CARSON

● Mr. SMITH. Mr. President, today it is my privilege to honor an Oregon Veteran Hero. On December 12, 1941, 18-year-old Benjamin Carson left his family dairy farm in rural Minnesota to join the United States Marine Corps. He would join a long family legacy of military service. Carson's grandfather's grandfather was in the Revolutionary War, his great grandfather served in the Civil War, his dad fought in World War I, and he would soon fight in World War II. Though all were wounded in battle, none of them died as a result of their service.

After arriving in San Diego at the U.S. Marine recruit depot, Carson began a strict training regimen. A month later, he graduated from recruit school and volunteered to go to war immediately. Carson was interviewed by James Roosevelt's son who asked him four questions—what he did for a living, whether he could swim, whether he could march 30 miles a day on a cup of rice, and how often did he go to Sunday School. Carson must have given the correct answers because 4 days later he was selected for duty.

Carson left that day with members of the 2nd Marine Raider Battalion commanded by Colonel Carlson, known today as "Carlson's Raiders." Carson was selected for a special unit because of his strong swimming skills. On August 8, 1942, Carson joined more than 200 men on submarines headed for the Makin Islands. Their objective was to destroy enemy installations, gather information, and divert Japanese attention from the Solomons.

Fighting broke out nearly immediately as Carlson's men landed ashore on August 17, 1942. About 30 men were lost and another 16 wounded. Under fierce opposition, Colonel Carlson made a decision to withdraw back to the original landing site and launched his boats for a return to sea. However, since morning the surf had kicked up considerably, and with their outboard motors repeatedly swamped, relatively few of the boats could make it out through the breakers. Many capsized, and most of the marines were cast back onto the beach. Carson was one of the few that survived.

In November of 1942, Carson was sent to Guadacanal. He was overseas fighting in various battles until January of 1944, when he was sent home for a 30-day furlough at which time he met his future wife. He married Helen on May 5, 1944, and two days later shipped out to battle again.

On February 19, 1945, Carson was a squad leader in the 5th wave to hit Red Beach in Guadacanal. The fighting was intense and men were dropping quickly. With only nine of his men left, Carson was shot in the arm. He spent 5 weeks in a hospital base on Pearl Harbor and received the Purple Heart for his injuries. He was discharged on January 6, 1946 after the war had ended.

Carson went to college on the GI Bill and received a degree in Forestry from Iowa State College. He went on to work for the Forest Service and maintained an active lifestyle with his wife and two sons. Eventually the couple moved to Oregon, where they have lived since 1978.

Carson says his military experience has very much shaped his life. His sense of duty to his country and the people who have died in the name of freedom has never left him. Nearly 60 years after the famous battle on Makin Island, Carson participated in a campaign to recover the dead. In 2001, authorities located 19 bodies on Makin Island, all American servicemen. Carson says it was extremely gratifying to be able to offer some closure for the families of the deceased.

Though he has an artificial shoulder from the injuries he suffered while shot in battle, Carson still travels and works on his farm. He and his wife volunteer with the Mercy Corps and recently traveled to Uzbekistan, where they helped teach Uzbeks about agriculture.

For his selfless service to others, and to the United States in times of war, I salute Benjamin Carson as an Oregon Veteran Hero.●

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## NEW JERSEY COMMUNITY DEVELOPMENT CORPORATION

● Mr. CORZINE. Mr. President, I rise today to recognize the decade of economic development and social service leadership provided to my State by the New Jersey Community Development Corporation. NJCDC's success has been widely and deservedly acknowledged. And the foundation for that success is the complete commitment to its mission of revitalizing urban areas through job creation, affordable housing, educational initiatives and effective and pragmatic social support services.

Established in Paterson, NJ, the city planned by Alexander Hamilton as this country's premier urban industrial center, NJCDC has built a corporate model for grassroots advocacy and activism based on Paterson's tradition of cultural diversity and industrial vitality.

The agency is the linchpin of a collaborative network of community, educational and government organizations and agencies. The results of this partnership are notable: an AmeriCorps project enlisting volunteers as mentors to at-risk youth and support companions for the frail elderly; community economic development and restoration efforts including the refurbishing of Paterson's historic raceway system and its Great Falls Historic District; the establishment of a transportation opportunities center to provide job training and jobs for a disadvantaged population; building and operating housing for homeless youth and the homeless mentally ill population; community residences and day programs to help developmentally disabled adults lead independent lives; educational initiatives including an alternative academy high school for inner-city students and a YouthBuild program; and one of my own priorities, financial literacy programs leading to economic security for inner-city and senior populations.

All of this in the relatively short span of 10 years.

I am pleased to enter this tribute into the CONGRESSIONAL RECORD, with every expectation for NJCDC's continued achievements.●

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## MEL SHELTON, EDUCATOR AND INSPIRATION TO MANY

● Mr. CRAPO. Mr. President, today I wish to recognize an Idahoan of exceptional talent. Many possess remarkable talents, but this individual stands out because he has used his gifts to enrich the lives of others, educate young people, inspire creativity and provide beauty and drama that resides in the music of the heart. Mel Shelton, former Boise High School Band Director, Bose State University, BSU, Director of Bands and Professor of Music Education, member of the Boise Philharmonic, conductor and soloist with the Boise Municipal Band, founder and conductor of the Treasure Valley Concert Band, retired Professor Emeritus, Director of Bands from BSU, and internationally recognized composer has proven to be an exemplary artist, passionate and driven educator and dedicated citizen.

Mel has pushed countless students to reach out to the furthest boundaries of their talent and energy. He has exposed young musicians to new places and foreign countries, providing them with experiences that they will be able to draw artistic inspiration from for the rest of their lives. His incredible orchestral and band compositions are interpretations of profound life experiences. His exposure to and friendship with students from the Basque community in Boise, incidentally the largest such community in the nation, inspired him to compose the first Basque music specifically published for concert band media. Some of the most rugged peaks of Idaho, the Grand Tetons, were the inspiration for a piece by the same name. Mel also composed a work in honor of fallen wildland firefighters recently entitled "Requiem for Wildfire Heroes." These and many other of Mel's works have been on "Required Lists" for contests and festivals throughout the country, and he has been the well-deserved recipient of many distinguished local, State, and international awards.

Mel says, "Music is a picture painted on a background of silence. It is unique in that it allows our brain to see with our ears and hear with our hearts." Mel Shelton transforms the mystery and passion of Idaho and its citizens from the transcendent to the realm of the discernable, unlocking our ability to appreciate Idaho's heritage and beauty. I commend him on his lifelong dedication to music, to Idaho's children, and remarkable accomplishments as a master in his field.●

## INDIANA SERVICE LEADERS SUMMIT

● Mr. BAYH. Mr. President, I wish to tell you about the extraordinary young Hoosiers I recently had the privilege to meet. Last month, I hosted my second annual Service Leaders Summit to honor high school students from across Indiana for their service and dedication to their communities and hopefully to inspire them to continue serving throughout their lives.

The young men and women I met last month have answered the call to service. Some of them have helped build homes, some tutored and mentored younger students, and others have raised money to support cancer research and to feed the hungry. Several of the young men and women started service clubs on their own to address the problems in their schools and communities. Each one of the students I met spent hours making a difference in their hometowns and together they have impacted the lives of thousands of Hoosiers.

The student leaders heard from Hoosiers of all backgrounds who have chosen to dedicate their lives to serving others. The speakers focused on the different aspects that make up a successful service project: inspiration, organization, dedication, evaluation and reflection. Following the speeches, the students and I prepared care packages to send to Hoosier troops serving in Iraq. Later, the students planted nearly 170 trees at a local park. Through their work together, these student leaders were able to experience the dramatic results from the power of service.

Robert F. Kennedy once said that "Some men see things as they are and say 'Why?' I dream of things that never were and say, 'Why not?'" Each one of these young men and women have already asked themselves "why not?" and have worked to make positive changes in their communities. They represent a new generation of promise with the potential to make a real difference across Indiana and the Nation.

I would like to thank each one of the following individuals for participating in the summit and for their service to their communities: Jennifer Ahoni, Kayla Ambers, Ashley Amerman, Carrie Anderson, Emily Backer, Kristy Backfish, Robin Baker, Shayla Bearman, Jennifer Behzadi, William Bennett, Hannah Bessinger, Natalie Binkholder, Joseph Bizjak, Allison Blumenthal, Jessica Bougs, Theodore Bourke, Josh Bowman, Eric Brichto, Bethany Brisco, Benjamin Brock, Sabrina Bruce, Stefan Burk, Mitch Burk, Jennifer Burks, Tyler Camp, Stacey Carroll, David Chan, Abby Charlesworth, Maria Clark, Chelsie Clausar, Michael Coffee, Nick Creager, Kelley Day, Jill Devine, Sydney DeVries, Caitlin DeWater, Lauren Dinsmore, Shane Dixon, Danielle

Dresner. Stefanie Dyar, Chloie Eavinger. Kahler Elliott. Alyssa Flannery, Jeniece Fleming. Michelle Foisy, John Ford. Matthew Frye, Marcus Gadison, Christina Gephart, Julie Gidley. Emily Giles. Matt Green, Nicole Hakes, Deiter Hammerstein, Katelyn Hausman, Jennifer Hayden, Cory Heimann, Kristy Hentchel, Eric Hilton, Lorin Hinsberger. Daniel Hodgkiss, Julia Horn. Yin Huang, Maurice Jackson, Jonathan Jackson. Ryan Johnson, Jonathan Jones, Amanda Jursic, Caitlin Kelley, Krystle King, Kyle Kinnett, Becky Klimaszewski, Lana Knox, Jeremy Kunzman, Andrew Landis, Michelle Lavengood, Alyssa Lee. Kara Levell, Cassandra Lewis, Kristen Liming, Cara Lonis, Lauren Looney. Shandra Lynch, Kevina Lyons, Connie Mach. Meredith Marschand. Krystle Martin, Emelie Martlage, Sarah Matney. Mallory McClain, Bernie McGee, Brittney McPheeters, Lauren Mesinger. Bryan Meyer, Andrea Miller. Mark Modesitt. Jessica Moore, Alex Munder, Cassie Myers, Jessica Niksich, Collin Northcutt, Tyler Orem, Nick Oschman, Elizabeth Otte, Joyce Partyka, Heather Peebles. Steven Pelych, Monica Poplawski, Kolin Pound. Sheena Reed. Sieyda Requeno, Meredith Ress, Elizabeth Rice, Rachel Robbins. Brooke Robertson, Ashley Rodarmel, Zach Rodgers, Chantal Roullins, Kimberly Roush, Ben Schrodt, Allison Shafer, Megan Sikes, Jessica Singleton, Anthony Smith, Larissa Smith. Kristen Stout. Hannah Streeval. James Strycker, Randall Suggs, Kate Summers, Megan Sutherland. Katie Terrell, Lindsay Terry, Tracey Todd, David Toupin, Nicole Tow. Lyndsay Trauner. Brandon Tucker, Melissa Van Westrum, James Victery, Ryan Waggoner. Ben Walker, Shaun Wendel. Lauren Wendling, Sarah Wermuth, Alexander Whiteman. J.D. Willett, Chase Winkle, Olivia Worland, Taryn Zubel.●

## TRIBUTE TO WILLIAM RANDLE AND CONNIE MARIE HUDGENS

● Mr. PRYOR. Mr. President, it is with the greatest pleasure that I rise today to honor William Randle and Connie Marie Hudgens on the occasion of their 70th wedding anniversary. The Hudgens were married on November 10, 1934, in England, AR, and celebrated their Platinum Anniversary on November 10, 2004.

Mr. Hudgens was born in Cornersville, AR, on January 16, 1915. His family moved to England, Arkansas, in 1922 where he met and later married his wife, Connie Marie Saulter.

Mr. Hudgens is a retired farmer and heavy equipment operator. He contributed greatly to Arkansas' highway system with his work on the construction of Interstates 30 and 40.

Mrs. Hudgens retired from a position with Wal-Mart and worked with several other companies in central Arkansas. Her most important and rewarding role, however, was as a wife and mother.

The Hudgens raised two beautiful daughters, Joyce Cates of North Little Rock, AR, and Sandra Evans of Lonoke, AR. Their lives have also been blessed with six grandchildren and six great-grandchildren.

Mr. and Mrs. Hudgens now reside in Lonoke, AR. They are devoted members of the Lonoke Baptist Church, where Mr. Hudgens serves as a Deacon Emeritus.

It is my honor and privilege to join the Hudgens' family and friends in recognizing the very special and momentous occasion of their 70th wedding anniversary. I ask my colleagues to join me in offering Mr. and Mrs. Hudgens best wishes for continued happiness.●

## TRIBUTE TO NORM NIELSEN

● Mr. HARKIN. Mr. President, I want to salute Norm Nielsen, president of Kirkwood Community College in Cedar Rapids, IO, on his upcoming retirement. Dr. Nielsen has served the college and the greater community with dedication through both good and difficult times. During his tenure, and because of his commitment, talent and hard work, Kirkwood Community College has become a major contributor to economic development in Eastern Iowa.

During Dr. Nielsen's illustrious 18-year tenure at Kirkwood, the college has become the third largest institution of higher education in Iowa. Its excellence has been recognized with numerous honors and awards. For example, Kirkwood was named by the National Alliance of Business as its 2000–01 Community College of the Year.

I have known Norm for many years. I respect him as a true visionary who has helped to shape and transform the mission of our Nation's community college system. I respect him as a builder of programs and partnerships focused to enhance the quality of life in Eastern Iowa. Most of all, I respect Norm as a builder of people, a dedicated educator who believes in the transforming power of higher education and advanced training.

I salute Norm for his extraordinary work over the years in improving Iowa's community college system. I know that we can count on him to continue to play a contributing role even in retirement.

Norm Nielsen's leadership will be missed. But he will leave Kirkwood Community College in good hands, as Mick Starcevich takes over as president. Dr. Starcevich was previously superintendent of Prairie Community School District. Norm Nielsen is a tough act to follow, but I know that Mick is superbly qualified to take on the challenge of leading Kirkwood Community College into the future.●

## TRIBUTE TO WENDELL L. JOHNSON

● Mr. WARNER. Mr. President, today I commend an outstanding Virginian, Mr. Wendell L. Johnson, whose work has adorned the walls of many members of the House of Representatives. The "Member of Congress" seal designed by Mr. Johnson has been used numerous times by our federal legislators over the years, and he deserves the acknowledgment of this chamber for his service to the United States.

As a young man of 18 years, Mr. Johnson enlisted in the Army to help his country during World War II. Rising to the rank of Sergeant, he earned a Good Conduct Medal before being honorably discharged in December 1945. Continuing a career of public service, Mr. Johnson joined the staff of United States Representative Alvin E. O'Konski of Wisconsin. While assisting the congressman in preparation for a televised speech in 1958, Mr. Johnson astutely realized that the viewing audience, who soon would be tuning in with this new medium, might not be able to identify Representative O'Konski at first sight. Understanding correctly the value of the congressman's image on television, Mr. Johnson hurried to the hardware store for the tools and supplies necessary to create a logo dignified enough to appear with a member of the United States Congress. By the time that the good people of Wisconsin had turned on their RCAs and Zeniths, Representative O'Konski spoke proudly from behind a podium bearing Johnson's exceptional "Member of Congress" seal.

While not the official seal of either the House of Representatives or the Senate, Mr. Johnson's noble design represented the first insignia and plaque used for an individual member of the United States Congress. In the decade following its first use, his handiwork became very popular among Representative O'Konski's colleagues in the House. Mr. Johnson was thrilled to see orders for his product from the House Stationery Clerk, and he made a hobby of providing plaques to a host of members, including Harold Ostertag, Louis Wyman, Bill Brock, Dan Rostenkowski, and Donald Rumsfeld.

Mr. Johnson's artistry expertly reflects the dignity and honor of the legislative branch. Featuring a proud eagle under a field of fourteen stars, the circular plaque bears the words "Member of Congress" above the name of our nation. A banner of "E Pluribus Unum" is clutched in the beak of the eagle, which holds in its talons a branch of olives and three arrows. Mr. Johnson's design has earned the esteem of many, as it has appeared on Congressional stationery, the official oil portrait of two committee chairmen, and even a number of gravestones.

I thank you for the opportunity today to give Mr. Wendell L. Johnson the recognition that he so rightly deserves for his service to Congress.●

## PREMATURITY AWARENESS DAY

● Mr. LUGAR. Mr. President, I rise today to draw attention to a growing number of premature births in the United States. The March of Dimes has declared November 16th Prematurity Awareness Day. This event is part of a five-year plan, launched in 2003, to use the combined power of awareness, education, and research to significantly decrease the number of premature births in the United States.

The rise in premature births throughout the country and in my own State—despite all of our achievements in medicine—is astounding. Nationally, more than 480,000 babies were born preterm in 2002. Nearly 13 percent of Indiana's infants are born preterm and in half of the cases, doctors cannot identify the cause. Prematurity is the leading cause of infant death in the first month of life. Many of these infants will suffer lifelong health problems—such as cerebral palsy, mental retardation, chronic lung disease, and vision and hearing loss—and some will die. Reducing the number of premature births will improve the health of hundreds of thousands of infants born each year.

Aside from these human costs, the financial cost of caring for preterm infants is enormous. The March of Dimes estimates that the national hospital bill for infants with a diagnosis of prematurity/low birthweight was $13.6 billion in 2001.

I am pleased to be a cosponsor of S. 1726, the PREEMIE Act, legislation that seeks to expand and coordinate research on the prevention of preterm birth and the most effective care for babies when they are born preterm.

Senator LINCOLN and I have also introduced S. 1734, the Prevent Prematurity and Improve Child Health Act, which seeks to improve Medicaid and the State Children's Health Insurance Program to better reflect our current state of knowledge on preterm birth. For example, medical research tells us that smoking is a considerable risk factor for preterm and low birthweight infants. Our bill takes this knowledge and translates it into practice by ensuring that smoking cessation services and pharmaceuticals are available for pregnant women enrolled in Medicaid.

My wife Char and I have been longtime volunteers for the March of Dimes and I am pleased that they are committing such an enormous amount of time, energy and resources into conquering the stubborn problem of preterm birth with their five-year Prematurity Campaign. Both of these bills have the potential to make a real difference in many lives and I hope that our colleagues will consider joining us in this effort.

I am proud to tell you that the Indiana March of Dimes Chapter has many events planned for Prematurity Awareness Day. I commend the March of Dimes for its dedication in working toward a day when babies and their families no longer have to face the devastating consequences of premature birth. I call on my colleagues to join the fight against premature birth.●

● Mr. CRAIG. Mr. President, I rise today to draw attention to a serious issue—the growing number of premature births in the United States. According to the National Center for Health Statistics, 480,000 babies were born prematurely—that is, born at less than 37 completed weeks of gestation—in 2002. The number of premature births in the United States increased 27 percent between 1982 and 2002.

In my own State of Idaho ten percent of babies born in 2002 were preterm, and the rate of preterm births in Idaho has risen 21 percent since 1992. The preterm rate for our Native American population was 12.8 percent and 11 percent in our Hispanic community. In addition, 6.1 percent of all babies born in Idaho had a low birth weight. It is even higher for Hispanic babies—6.9 percent of them are born with low birth weight, higher than the national average.

The March of Dimes has begun to address the issue of prematurity and health disparities by funding prenatal education and outreach projects in different parts of Idaho. Two projects are in our largest cities, Boise and Nampa, and target low-income and low-income Hispanic women and one outreach project is on a rural reservation. Finally, the March of Dimes is funding a smoking cessation project for pregnant women in one of our northern cities, Lewiston.

The March of Dimes has declared November 16th Prematurity Awareness Day. This event is part of a 5-year plan, launched in 2003, to use the combined power of awareness, education, and research to significantly decrease the number of premature births in the United States. In Idaho this week there will be media coverage spotlighting prematurity awareness, and pink and blue street lights in downtown Boise for 2 weeks drawing public attention to the issue. In addition, many retailers will be providing free information to shoppers about the early warning signs of prematurity.

Let me share the story of this year's Idaho ambassador family. During a routine medical exam, the mother of twins Morgan and Max was placed on immediate bed rest due to signs of preterm labor. Fortunately, when Morgan and Max were born 10 weeks early, they received specialized medical care at the neonatal intensive care unit and were able to come home after just five weeks. Today they are healthy, vibrant toddlers.

Thanks to research being supported by the March of Dimes, doctors are better able to identify signs of preterm labor—a life-saving factor in the case of Morgan and Max. Advances made by the March of Dimes in the treatment of premature babies—like surfactant therapy—gave these twins a good start toward a healthy life.

The March of Dimes has long been a national leader in the fight for infant and child health. I commend the March of Dimes for its dedication in working toward a day when babies and their families no longer have to face the devastating consequences of premature birth.●

## JOHN SPINA'S NAVY SERVICE

● Mr. CRAIG. Mr. President, today I say thank you to a patriot and a technical expert, Mr. John Spina, who is retiring from civilian service to the Navy in December 2004.

John was born and was raised in the Philadelphia, PA area. He began his government career in 1954 at the Navy's David Taylor Model Basin in West Bethesda, Maryland, as a cooperative student while attending Drexel University. He received a Bachelor of Science in Mechanical Engineering from Drexel in 1958. John continued his Federal career at the Model Basin—now NAVSEA, Naval Surface Warfare Center, Carderock Division—culminating in 50 years of diligent service to the Navy. John and his wife Rosemary live in Virginia and have been married 46 years.

John's early assignments included travel to the David Taylor Model Basin's Field Station at Lake Pend Oreille in Bayview, ID where he led the initial testing at the large capacity haul down site, Wigwam, using 10-foot long rising bodies.

As part of the Acoustics and Vibration Laboratory, he conducted tests on body shapes for signal devices followed by tests with a special buoyantly-propelled device. He performed extensive torpedo tests with Pennsylvania State University, using buoyant, powered rise and "gravity drop" methods. He also participated in towed array tests with Bell Labs and was instrumental in testing the initial core samples of the bottom of the lake in the late 1960's in preparation for the first big haul down system to be used for large model, Kamloops.

John completed his master's degree at Catholic University in 1971. His work with large models and testing at the Bayview facility continued and led to the design, development, construction, and deployment of several large-scale submarine models: Steelhead, Mackinaw, S6W, Kamloops, and Dolly Varden, named after fish in Lake Pend Oreille. Unparalleled in the history of quieting, these models and the associated test programs were an immense success, contributing to the understanding and reduction of all aspects of submarine noise.

The introduction of Dolly Varden provided a valuable capability for investigating noise sources and mechanisms with the economy of cost and time not possible in full scale. As test requirements and submarine quieting demands changed, these models were modified and adapted to hundreds of unique configurations, demonstrating the performance of materials and shapes for submarine applications.

In the late 1980s, the Navy required powered model testing to further the science of quieting. A cooperative effort by the David Taylor Research Center and the Naval Sea Systems Command culminated in the design, construction, delivery, and successful operation and employment of the large-scale vehicle, Kokanee, in 1988. Again, John was actively involved, forming the crew, directing the logistics, and developing the operating plans and procedures. The results of the Kokanee testing offset over $1 billion in comparable full scale test and demonstrated superb prediction of full scale performance.

The success and accomplishments of the Kokanee program showed that large models provide a valuable contribution to submarine development and John again led the specification, design, and development process for a second powered vehicle, the 200-ton Cutthroat model of the Virginia Class.

In a parallel effort, static submarine tests also required additional test facilities and capabilities. Shortly after the deployment of Kokanee, plans were implemented for the construction of the Intermediate Scale Measurement System, ISMS. This multi-million dollar program provided a dramatic improvement in the ability to understand structural acoustics and to demonstrate advanced silencing theories and methods.

While others pioneered new designs, data acquisition, and processing methods, John supported testing through the development of model handling and alteration capabilities, and an infrastructure of dedicated, trained personnel, unique equipment, and documentation of test methods that has continually improved performance and reduced costs. It is, therefore, fitting that we recognize and honor him for his years of service, months of travel, and unwavering support for the facility at Lake Pend Oreille and the Navy.

John Spina has been a significant contributor to our nation's research and development in the area of quieting vessels and submarines, present and future capabilities, as well as numerous performance improvements for quieting operational and future vessels and submarines. I extend to John and Rosemary best wishes, fair winds, and following seas in their future endeavors.•

## CONGRATULATIONS TO MRS. BILLIE TRAVIS

• Mr. BUNNING. Mr. President, I would like to honor Mrs. Billie Travis, a mathematics teacher at Scott County's Georgetown Middle School, who has been named the 2005 Kentucky Teacher of the Year.

For the past 19 years, Mrs. Travis has been teaching mathematics at the Georgetown Middle School. As a career educator she earned a bachelor's degree in education from Morehead State University and a Master's degree in education from Georgetown College. Mrs. Travis has taken her own Kentucky education and reinvested in the community. Whether it is serving on the regional board of the Kentucky Middle School Association or the Kentucky Council of Teachers of Mathematics, Mrs. Travis is a leader both inside and out of the classroom.

This is the fourth year that Ashland Inc. and the Kentucky Department of Education have sponsored the Kentucky Teacher Awards. I would like to congratulate Mrs. Travis again on her achievement and thank her for this significant contribution to middle school education in Kentucky.•

## TRIBUTE TO ROBERT SNYDER

• Mr. ALLARD. Mr. President, today I pay tribute to a singularly worthy public servant, Mr. Robert Snyder, Senior Executive Service, who has served our country and the American people with great distinction for over 35 years. I make this statement to recognize his retirement from his current position as Executive Director and senior civilian of the Missile Defense Agency.

Rob Snyder has been uniquely qualified to discharge his responsibilities at MDA. A graduate of Temple University in business administration, he went on to earn two masters degrees, one in business and another in public administration. He is a graduate of executive programs at American University, the Federal Executive Institute, and Harvard. And he served with honor in Vietnam with the U.S. Army.

After working for almost two decades elsewhere in the Defense Department—most of that time involved in trench warfare over budgets—in 1988, he came to the missile defense business. That year, he was promoted to the Senior Executive Service as the Deputy Comptroller of SDIO, the Strategic Defense Initiative Organization. His maturity of judgment, breadth of experience, and absolute integrity quickly made him a driving force for getting things done, and done the right way. Five years ago, after earning several promotions, he was made the first Executive Director of what was then BMDO, the Ballistic Missile Defense Organization, and is now MDA.

His responsibilities increased, but he never lost his focus on programmatic issues. When we, here on the Hill, needed accurate and timely responses to our detailed questions on what has always been a politically contentious program, more often than not, it was Rob Snyder who came over to brief us. We always came away from those meetings better informed of the specifics and purposes behind the issues at hand, and with a clearer understanding of the rationale for Agency decisions and recommendations.

We came to rely on him the same way that multiple Directors have, first, of SDIO, then, of BMDO, and now, of MDA. He has been, almost single-handedly, the missile defense program's institutional memory.

His work on various Agency efforts has been largely out of public view. But that's not to say he didn't have an impact. Program audits, financial controls, budgetary accuracy, facility relocation, personnel management—all must be managed efficiently, effectively, and with absolute integrity. Any shortcomings here can lead to chaos in an organization. Yet as the Agency's first Executive Director, Rob Snyder maintained the highest standards, held himself accountable, and kept this infrastructure in solid shape so that senior program managers could focus on making the missile defense program a successful one.

He has been a hero behind the scenes, and because of his enduring contributions to the missile defense program, we stand on the threshold of eliminating long-standing vulnerabilities to the very real threat of ballistic missile attack to our homeland, our deployed troops, and our allies and friends.

Among other recognitions, he has received the Department of Defense's highest award for civilians. With over 16 years in the SES—almost half of his Federal service—he has had an extraordinarily productive career and one we in this Chamber are right to honor.

We will miss his wise counsel as he moves on to a well-earned retirement. We owe him a profound debt of gratitude for the contributions he has made to our Nation and our security over a lifetime of service. I am sure I speak for all of us in this body in saying that we wish him and his family many years of health and happiness.•

## NATIONAL BIBLE WEEK

• Mr. BROWNBACK. Mr. President, I rise today in honor of National Bible Week 2004. During the week of November 21–28, communities and churches across the United States will participate in this annual celebration by reading and reflecting on the teachings of the Bible. In doing so, they recognize the Bible's importance in our daily lives. I am thankful for the opportunity to serve as Senate Co-Chairman of National Bible Week this year, and I commend the National Bible Association for its sponsorship of this yearly tradition.

The first National Bible Week, organized in 1941, was created as a way to extend comfort and hope to our nation during the tumultuous days of World War II. Today, our country is again in a time of difficulty. As our brave men and women of the Armed Forces continue to fight the War on Terror, I call on my fellow Americans to look to God's Word for its great inspiration, spiritual guidance, and strength. I pray that all Americans, particularly our soldiers and their loved ones, would receive "the peace of God, which transcends all understanding" (Philippians 4:7).

I believe Americans of all religions and faith backgrounds can find wisdom and understanding in the Holy Scriptures. Indeed, the Bible and its teachings have greatly influenced my own life. I encourage all Americans to read the Bible and consider the wisdom, lessons, and traditions that have come to us from it. I congratulate the National Bible Association for its dedication to the celebration of the Holy Bible.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, withdrawals and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE DURING ADJOURNMENT

### ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 7, 2003, the Secretary of the Senate, on October 13, 2004, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 524. An act to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes.

S. 1368. An act to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 2195. An act to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

S. 2864. An act to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted.

S. 2883. An act to amend the International Child Abduction Remedies Act to limit the tort liability of private entities or organizations that carry out responsibilities of the United States Central Authority under that Act.

S. 2895. An act to authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights in honor of breast cancer awareness month.

S. 2896. An act to modify and extend certain privatization requirements of the Communications Satellite Act of 1962.

H.R. 1533. An act to amend the securities laws to permit church pension plans to be invested in collective trusts.

H.R. 2608. An act to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes.

H.R. 2714. An act to reauthorize the State Justice Institute.

H.R. 3858. An act to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

H.R. 4175. An act to increase, effective as of December 1, 2004, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes.

H.R. 4278. An act to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

H.R. 4555. An act to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards.

H.R. 4567. An act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.

H.R. 4837. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

H.R. 5185. An act to temporarily extend the programs under the Higher Education Act of 1965.

H.R. 5186. An act to reduce certain special allowance payments and provide additional teacher loan forgiveness on Federal student loans.

Under the authority of the order of January 7, 2003, the enrolled bills were signed by the Acting President pro tempore (Mr. SESSIONS) during the adjournment of the Senate, on October 13, 2004.

Under authority of the order of the Senate on January 7, 2003, the Secretary of the Senate, on October 13, 2004 during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 1134. An act to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965.

S. 1721. An act to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes.

H.R. 712. An act for the relief of Richi James Lesley.

H.R. 867. An act for the relief of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan.

H.R. 2023. An act to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

H.R. 2984. An act to amend the Agricultural Adjustment Act to remove the requirement that processors be members of an agency administering a marketing order applicable to pears.

H.R. 3056. An act to clarify the boundaries of the John H. Chafee Coast Barrier Resources System Cedar Keys Unit P25 on Otherwise Protected Area P25P.

H.R. 3217. An act to provide for the conveyance of several small parcels of National Forest System land in the Apalachicola National Forest, Florida, to resolve boundary discrepancies involving the Mt. Trial Primitive Baptist Church of Wakulla County, Florida, and for other purposes.

H.R. 3478. An act to amend title 44, United States Code, to improve the efficiency of operations by the National Archives and Records Administration and to reauthorize the National Historical Publications and Records Commission.

H.R. 3706. An act to adjust the boundary of the John Muir National Historic Site, and for other purposes.

H.R. 3797. An act to authorize improvements in the operations of the government of the District of Columbia, and for other purposes.

H.R. 4306. An act to amend section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment.

H.R. 4471. An act to clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996.

H.R. 4556. An act to designate the facility of the United States Postal Service located at 1115 South Clinton Avenue in Dunn, North Carolina, as the "General William Carey Lee Post Office Building."

H.R. 4618. An act to designate the facility of the United States Postal Service located at 10 West Prospect Street in Nanuet, New York, as the "Anthony I. Lombardi Memorial Post Office Building."

H.R. 5107. An act to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

Under the authority of the order of January 7, 2003, the enrolled bills were signed by the Acting President pro tempore (Mr. SESSIONS) during the adjournment of the Senate, on October 13, 2004.

Under authority of the order of the Senate of January 7, 2003, the Secretary of the Senate, on October 15, 2004 during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolution:

S. 2292. An act to require a report on acts of anti-Semitism around the world.

H.R. 2010. An act to protect the voting rights of members of the Armed Services in elections for the Delegate representing American Samoa in the United States House of Representatives, and for other purposes.

H.R. 2400. An act to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam.

H.R. 3391. An act to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project.

H.R. 3479. An act to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States, and for other purposes.

H.R. 4046. An act to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the "Sergeant Riayan A. Tejada Post Office."

H.R. 4066. An act to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes.

H.R. 4381. An act to designate the facility of the United States Postal Service located at 2811 Springdale Avenue in Springdale, Arkansas, as the "Harvey and Bernice Jones Post Office Building."

H.R. 4481. An act to amend Public Law 86-434 establishing Wilson's Creek National Battlefield in the State of Missouri to expand the boundaries of the park, and for other purposes.

H.R. 4579. An act to modify the boundary of the Harry S Truman National Historic Site in the State of Missouri, and for other purposes.

H.R. 4632. An act to designate the facility of the United States Postal Service located at 19504 Linden Boulevard in St. Albans, New York, as the "Archie Spigner Post Office Building."

H.R. 4731. An act to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program.

H.R. 4827. An act to amend the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 to rename the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area.

H.R. 4917. An act to amend title 5, United States Code, to authorize appropriations for the Administrative Conference of the United States for fiscal years 2005, 2006, and 2007, and for other purposes.

H.R. 5027. An act to designate the facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, as the "Specialist Eric Ramirez Post Office."

H.R. 5039. An act to designate the facility of the United States Postal Service located at United States Route 1 in Ridgeway, North Carolina, as the "Eva Holtzman Post Office."

H.R. 5051. An act to designate the facility of the United States Postal Service located at 1001 Williams Street in Ignacio, Colorado, as the "Leonard C. Burch Post Office Building."

H.R. 5131. An act to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

H.R. 5133. An act to designate the facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, as the "Martha Pennino Post Office Building."

H.R. 5147. An act to designate the facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, as the "Evan Asa Ashcraft Post Office Building."

H.R. 5294. An act to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes.

H.J. Res. 57. Joint resolution expressing the sense of the Congress in recognition of the contributions of the seven Columbia astronauts by supporting establishment of a Columbia Memorial Space Science Learning Center.

Under the authority of the order of January 7, 2003, the enrolled bills and joint resolution were signed by the Acting President pro tempore (Mr. SESSIONS) during the adjournment of the Senate, on October 15, 2004.

Under authority of the order of the Senate of January 7, 2003, the Secretary of the Senate, on October 21, 2004, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 129. An act to provide for reform relating to Federal employment, and for other purposes.

S. 144. An act to require the Secretary of Agriculture to establish a program to provide assistance to eligible weed management entities to control or eradicate noxious weeds on public and private land.

S. 643. An act to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes.

S. 1194. An act to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems.

H.R. 3819. An act to redesignate Fort Clatsop National Memorial as the Lewis and Clark National Historical Park, to include in the park sites in the State of Washington as well as the State of Oregon, and for other purposes.

H.R. 4200. An act to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

H.R. 4520. An act to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad.

Under the authority of the order of January 7, 2003, the enrolled bills and joint resolution were signed by the Acting President pro tempore (Mr. WARNER) during the adjournment of the Senate, on October 21, 2004.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

S. 2986. A bill to amend title 31 of the United States Code to increase the public debt limit.

## ENROLLED BILLS PRESENTED DURING THE ADJOURNMENT OF THE SENATE

The Secretary of the Senate reported that on October 12, 2004, she had presented to the President of the United States, the following enrolled bills:

S. 33. An act to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Ozark-St. Francis and Ouachita National Forests and to use funds derived from the sale or exchange to acquire, construct, or improve administrative sites.

S. 1791. An act to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes.

S. 2178. An act to make technical corrections to laws relating to certain units of the National Park System and to National Park programs.

S. 2415. An act to designate the facility of the United States Postal Service located at 4141 Postmark Drive, Anchorage, Alaska, as the 'Robert J. Opinsky Post Office Building'.

S. 2511. An act to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, New Mexico, and for other purposes.

S. 2742. An act to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court.

The Secretary of the Senate reported that on October 13, 2004, she had presented to the President of the United States, the following enrolled bills:

S. 524. An act to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes.

S. 1368. An act to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 2195. An act to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

S. 2634. An act to amend the Public Health Service Act to support the planning, implementation and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, to authorize grants to institutions of higher education to reduce student mental and behavioral health problems, and for other purposes.

S. 2864. An act to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted.

S. 2883. An act to amend the International Child Abduction Remedies Act to limit the tort liability of private entities or organizations that carry out responsibilities of United States Central Authority under that Act.

S. 2895. An act to authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights in honor of breast cancer awareness month.

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S. 643. An act to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes.

S. 1194. An act to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-9672. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period from April 1, 2004 through September 30, 2004; ordered to lie on the table.

EC-9673. A message from the President of the United States, transmitting, pursuant to law, the report of the continuation of the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-9674. A message from the President of the United States, transmitting, pursuant to law, the report of the continuation of the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order 12978 of October 21, 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC-9675. A communication from the Trial Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Reporting of Information and Documents About Potential Defects" (RIN2127-AJ41) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9676. A communication from the Legal Adviser to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Jamestown, ND" (MM Doc. No. 00-127) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9677. A communication from the Legal Adviser to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Gunnison, Crawford, Olathe, Breckenridge, Eagle, Fort Mogran, Greenwood Village, Loveland, and Strasburg, CO and Laramie WY" (MB Doc. No. 03-144) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9678. A communication from the Legal Adviser to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television" (FCC04-192) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9679. A communication from the Legal Adviser to the Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico; Amendment of Part 22 of the Commission's Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico" (FCC03-130) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9680. A communication from the Legal Adviser to the Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Extending Wireless Telecommunications Services to Tribal Lands, WT Doc. No. 99-266" (FCC04-202) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9681. A communication from the Legal Adviser to the Chief, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Part 101 of the Commission's Rules to Streamline Processing of Microwave Applications in the Wireline Telecommunications Services" (FCC02-218) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9682. A communication from the Deputy Bureau Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of 2000 Biennial Review—Review of Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers; Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers" (FCC04-153) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9683. A communication from the Deputy Bureau Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Part 1, Subpart N of the Commission's Rules Concerning Non-Discrimination on the Basis of Disability in the Commission's Programs and Activities" (FCC03-48) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9684. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of the Establishment of Policies and Service Rules for the Non-Geostationary Satellite Orbit Fixed Satellite Service in the Ka-Band" (FCC03-137) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9685. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Policy for Licensing Domestic Satellite Earth Stations in the Bush Communities of Alaska" (FCC03-197) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9686. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Redesignation of the 17.7–19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7–20.2 GHz and 27.5–30.0 GHz Frequency Bands and the Allocation of Additional Spectrum in the 17.3–17.8 GHz and 24.75–25.25 GHz Frequency Bands for Broadcast Satellite-Service Use" (FCC02-317) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9687. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission" (FCC03-45) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9688. A communication from the Attorney, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Section 64.2341 Nondiscriminatory Rates, Terms, and Conditions Under Section 222(e) of the Act" (FCC04-206) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9689. A communication from the Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Promoting Efficient Use of Spectrum Through the Elimination of Barriers to the Development of Secondary Markets" (FCC04-167) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9690. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Revision of the Commission's rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems” (FCC02–120) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9691. A communication from the Attorney Advisor, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “The 4.9 GHz Band Transferred from Federal Government Use” (FCC03–99) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9692. A communication from the Attorney Advisor, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Improving Public Safety Communications in the 800 MHz band” (FCC04–168) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9693. A communication from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations” (FCC04–220) received on October 12; 2004; to the Committee on Commerce, Science, and Transportation.

EC–9694. A communication from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Athens and Doraville, GA)” (MB Doc. No. 03–190) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9695. A communication from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Glendive, MT” (MB Doc. No. 04–188) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9696. A communication from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Caliente, Bunkerville, Laughlin, Logandale, NV; Mohave Valley, AZ; and St. George, UT)” (MM Doc. No. 01–135) received on October 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9697. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Inseason Adjustments” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9698. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Closure; Prohibiting Directed Fishing for Groundfish by Vessels Using Trawl Gear in the GOA, Except for Directed Fishing Pollock by Vessels Using Pelagic Trawl Gear in those Portions of the GOA Open to Directed Fishing for Pollock” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9699. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Atlantic Highly Migratory Species; Bluefin Tuna Fisheries; Atlantic Bluefin Tuna Retention Limit Adjustment” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9700. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Closure of Pollock Fishery in Statistical Area 610 in the Gulf of Alaska” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9701. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “NMFS Is Opening Directed Fishing for Pollock in Statistical Area 630 of the GOA for 48 Hours” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9702. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “NMFS is Opening Directed Fishing for Pollock in Statistical Area 610 of the Gulf of Alaska (GOA) for 24 Hours” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9703. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Closure of the Eastern U.S./Canada Area and Prohibition of Harvesting, Possessing, or Landing of Yellowtail Flounder from the U.S./Canada Management Area” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9704. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Closure of Pollock Fishery in Statistical Area 630 in the Gulf of Alaska” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9705. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Closing Atka Mackerel in the Western Aleutian District of the Bering Sea and Aleutian Islands” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9706. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Closing Directed Fishing for Groundfish by Vessels Using Hook-and-Line Gear in the Gulf of Alaska, Except for Demersal Shelf Rockfish in the Southeast Outside District or Sablefish” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9707. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Reopening Inshore Pacific Cod in the Central GOA” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9708. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 16–3” (RIN0648–AS26) received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9709. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Closing Atka Mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9710. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Closure of Rougheye Rockfish in the Bering Sea and Aleutian Islands Management Area (BSAI)” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9711. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Closure of Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9712. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Inseason Adjustment of the Quarter III Fishery for Loligo Squid” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9713. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Tilefish Fishery; Quota Harvested for Part-time Category; Closure” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9714. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Atlantic Surfclam and Ocean Quahog Fishery; Suspension of Minimum Surfclam Size Limit” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9715. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled “Fisheries Off West Coast States and in the Western Pacific; Pacific Halibut Fisheries; Oregon Sport Fisheries; Inseason Action” received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9716. A communication from the Deputy Chief for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled “Re-Issuance of NASA FAR Supplement Subchapters H and I” (RIN2700–AC88) received on October 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9717. A communication from the Under Secretary for Industry and Security, Department of Commerce, transmitting, pursuant to law, a report relative to foreign policy-based export controls on exports of certain items destined for rocket or unmanned air vehicle systems (UAVs) end-uses; to the Committee on Commerce, Science, and Transportation.

EC-9718. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Nomenclature Change: References to Another Agency" (RIN0694-AD31) received on October 26, 2004; to the Committee on Commerce, Science, and Transportation..

EC-9719. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's Annual Report of the Maritime Administration (MARAD) for Fiscal Year 2003; to the Committee on Commerce, Science, and Transportation.

EC-9720. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, transmitting, pursuant to law, the report of a rule entitled "FMVSS Nos. 403 and 404 Response to Petitions" (RIN2127-AJ18) received on October 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9721. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC 8 102, 103, 106, 201, 202, 301, 311, and 315 Airplanes; Doc. No. 2002-NM-338" (RIN2120-AA64) received on October 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9722. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulation: Tensas River, Clayton, LA" (RIN1625-AA09) received on November 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9723. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Mandatory Ballast Water Management Program for U.S. Waters; Corrections" (RIN1625-AA52) received on November 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9724. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations (Including 2 Regulations) CGD07-04-120, CGD05-04-138" (RIN1625-AA08) received on November 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9725. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Alternate Hull Examinations Program for Certain Passenger Vessels, and Underwater Surveys for Nautical School, Offshore Supply, Passenger and Sailing School Vessels" (RIN1625-AA57) received on November 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9726. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Mandatory Ballast Water Management Program for U.S. Waters" (RIN1625-AA52) received on November 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9727. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, a report relative to a housing demonstration project on or near the Coast Guard installation at Kodiak, Alaska; to the Committee on Commerce, Science, and Transportation.

EC-9728. A communication from the Legal Advisor and Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services; WT Doc. Nos. 02-381, 01-14, 03-202; Report and Order Portion of Report and Order and Further Notice of Proposed Rulemaking" (FCC04-166) received on November 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9729. A communication from the Deputy Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC doc. No. 96-128, FCC 04-251" (FCC04-251) received on November 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9730. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Sections 73.606(b) and 73.622(b), Table of Allotments, TV and DTV Broadcast Stations; Mobile, AL" (MB Doc. No. 04-281) received on November 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9731. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b) Table of Allotments, DTV Broadcast Stations; Fresno, CA" (MB Doc. No. 04-236) received on November 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9732. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622 Table of Allotments, DTV Broadcast Stations; Billings, MT" (MB Doc. No. 04-183) received on November 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9733. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Related Identity Theft Definitions, Duration of Active Duty Alerts, and Appropriate Proof of Identity Under the Fair Credit Reporting Act, 16 CFR Parts 603, 613, and 614" (RIN3084-AA94) received on November 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9734. A communication from the Assistant Secretary for Policy, Management, and Budget, Department of the Interior, transmitting, pursuant to law, a report relative to marine mammal resources under the Department's jurisdiction; to the Committee on Commerce, Science, and Transportation.

EC-9735. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "NMFS is Opening Directed Fishing for Pollock in Statistical Area 620 of the Gulf of Alaska" received on October 14, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9736. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure; Prohibiting Directed Fishing for Shallow Water Complex in the GOA" received on October 14, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9737. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "NMFS is Opening Directed Fishing for Pollock in Statistical Area 630 of the Gulf of Alaska" received on October 14, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9738. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Modification of a Closure; Opening the Chiniak Gully Research Area to Directed Fishing for Groundfish Using Trawl Gear" (RIN0648-AS60) received on October 14, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9739. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement the International Dolphin Conservation Program Act" (RIN0648-AS45) received on October 14, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9740. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Reallocation of Pacific Sardine" received on October 14, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9741. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure; Prohibiting Fishing with Non-Community Development Quota (CDQ) Trawl Gear in the Chum Salmon Savings of the Bering Sea and Aleutian Islands Management Area (BSAI)" received on October 14, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9742. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement the 2004 Harvest Specifications for the Skate Fisheries in the Gulf of Alaska" received on October 14, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9743. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of the Directed Fishery for Illex Squid" received on October

14, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9744. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: [Including 237 Regulations]" (RIN1625–AA00 & AA87) received on November 9, 2004; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

Under the authority of the order of the Senate of October 11, 2004, the following reports of committees were submitted on November 10, 2004:

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 297. A bill to provide reforms and resources to the Bureau of Indian Affairs to improve the Federal acknowledgement process, and for other purposes (Rept. No. 108–403).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 519. A bill to establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans, and for other purposes (Rept. No. 108–404).

By Mr. CAMPBELL, from the Committee on Indian Affairs, without amendment:

S. 702. A bill to amend the Native Hawaiian Health Care Improvement Act to revise and extend that Act (Rept. No. 108–405).

By Mr. CAMPBELL, from the Committee on Indian Affairs:

Report to accompany S. 2843, A bill to make technical corrections to laws relating to Native Americans, and for other purposes (Rept. No. 108–406).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2647. A bill to establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration, to ensure effective interagency coordination, and for other purposes (Rept. No. 108–407).

By Ms. COLLINS, from the Committee on Governmental Affairs, with amendments:

S. 2275. A bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes (Rept. No. 108–408).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1798. A bill to provide for comprehensive fire safety standards for upholstered furniture, mattresses, bedclothing, and candles.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 593. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred (Rept. No. 108–409).

By Ms. COLLINS, from the Committee on Governmental Affairs, with an amendment:

S. 2409. A bill to provide for continued health benefits coverage for certain Federal employees, and for other purposes (Rept. No. 108–410).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 556. A bill to amend the Indian Health Care Improvement Act to revise and extend that Act (Rept. No. 108–411).

S. 1696. A bill to amend the Indian Self-Determination and Education Assistance Act to provide further self-governance by Indian tribes (Rept. No. 108–412).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with amendments:

S. 1715. A bill to amend the Indian Self-Determination and Education Assistance Act to provide further self-governance by Indian tribes (Rept. No. 108–413).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LUGAR:

S. 2980. A bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations; to the Committee on Foreign Relations.

By Mr. LUGAR:

S. 2981. A bill to provide for the elimination and safeguarding of conventional arms; to the Committee on Foreign Relations.

By Mr. SANTORUM:

S. 2982. A bill to amend title 38, United States Code, to make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance program; to the Committee on Veterans' Affairs.

By Mr. WYDEN:

S. 2983. A bill to establish hospice demonstration projects and a hospice grant program for beneficiaries under the medicare program under title XVIII of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. WYDEN:

S. 2984. A bill to amend the Public Health Service Act to increase the number of permanent faculty in palliative care medicine at accredited allopathic and osteopathic medical schools and to promote the development of faculty careers as academic palliative specialists who emphasize teaching; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER:

S. 2985. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the gain from the sale of a principal residence by certain employees of the intelligence community; to the Committee on Finance.

By Mr. FRIST:

S. 2986. A bill to amend title 31 of the United States Code to increase the public debt limit; placed on the calendar.

By Mr. BURNS (for himself, Mr. JOHNSON, Mr. THOMAS, Mr. ENZI, and Mr. DORGAN):

S. 2987. A bill to amend the Agricultural Marketing Act of 1946 to expand the country of origin labeling for certain covered commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU (for herself, Mr. DURBIN, and Mr. SANTORUM):

S. Res. 469. A resolution supporting the goals and ideas of National Time Out Day to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing errors in the operating room; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HATCH (for himself and Mr. LEAHY):

S. Con. Res. 145. A concurrent resolution to correct the enrollment of H.R. 1417; considered and agreed to.

## ADDITIONAL COSPONSORS

### S. 171

At the request of Mr. DAYTON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 171, a bill to amend the title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

### S. 198

At the request of Mr. SMITH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 198, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

### S. 453

At the request of Mrs. HUTCHISON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

### S. 514

At the request of Mr. BUNNING, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 514, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

### S. 556

At the request of Mr. CAMPBELL, the name of the Senator from Washington

(Ms. CANTWELL) was added as a cosponsor of S. 556, a bill to amend the Indian Health Care Improvement Act to revise and extend that Act.

S. 884

At the request of Ms. LANDRIEU, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 884 , a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1408

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1408, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for the travel expenses of a taxpayer's spouse who accompanies the taxpayer on business travel.

S. 1557

At the request of Mr. MCCONNELL, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1557, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

S. 1840

At the request of Mr. CONRAD, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1840, a bill to amend the Food Security Act of 1985 to encourage owners and operations of privately-held farm and ranch land to voluntarily make their land available for access by the public under programs administered by States.

S. 1925

At the request of Mr. KENNEDY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1925, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

S. 2038

At the request of Mr. BAYH, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from West Virginia (Mr. BYRD) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 2038, a bill to amend the Public Health Service Act to provide for influenza vaccine awareness campaign, ensure a sufficient influenza vaccine supply, and prepare for an influenza pandemic or epidemic, to amend the Internal Revenue Code of 1986 to encourage vaccine production capacity, and for other purposes.

S. 2298

At the request of Mr. BREAUX, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2298, a bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes.

S. 2352

At the request of Mr. ENSIGN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2352, a bill to prevent the slaughter of horses in and from the United States for human consumption by prohibiting the slaughter of horses for human consumption and by prohibiting the trade and transport of horseflesh and live horses intended for human consumption, and for other purposes.

S. 2395

At the request of Mr. CONRAD, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Montana (Mr. BAUCUS), the Senator from Indiana (Mr. BAYH), the Senator from Utah (Mr. BENNETT), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Louisiana (Mr. BREAUX), the Senator from Montana (Mr. BURNS), the Senator from Delaware (Mr. CARPER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from New Jersey (Mr. CORZINE), the Senator from Ohio (Mr. DEWINE), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Florida (Mr. NELSON), the Senator from Nebraska (Mr. NELSON), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 2395, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 2468

At the request of Ms. COLLINS, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2468, a bill to reform the postal laws of the United States.

S. 2542

At the request of Mr. KENNEDY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2542, a bill to provide for review of determinations on whether schools and local educational agencies made adequate yearly progress for the 2002–2003 school year taking into consideration subsequent regulations and guidance applicable to those determinations, and for other purposes.

S. 2553

At the request of Mr. DODD, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 2553, a bill to amend title XVIII of the Social Security Act to provide for coverage of screening ultrasound for abdominal aortic aneurysms under part B of the medicare program.

S. 2568

At the request of Mr. BIDEN, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Utah (Mr. BENNETT), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), the Senator from Georgia (Mr. CHAMBLISS), the Senator from New York (Mrs. CLINTON), the Senator from Maine (Ms. COLLINS), the Senator from Idaho (Mr. CRAIG), the Senator from Connecticut (Mr. DODD), the Senator from North Dakota (Mr. DORGAN), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. HARKIN), the Senator from Wisconsin (Mr. KOHL), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Georgia (Mr. MILLER), the Senator from Rhode Island (Mr. REED), the Senator from Nevada (Mr. REID), the Senator from Maine (Ms. SNOWE) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2602

At the request of Mr. DODD, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from North Dakota (Mr. DORGAN), the Senator from North Dakota (Mr. CONRAD), the Senator from Nevada (Mr. REID), the Senator from Delaware (Mr. BIDEN) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 2602, a bill to provide for a circulating quarter dollar coin program to honor the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, and for other purposes.

S. 2614

At the request of Mr. CONRAD, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2614, a bill to amend title XVIII of the Social Security Act to improve the benefits under the medicare program for beneficiaries with kidney disease, and for other purposes.

S. 2635

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from

New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 2635, a bill to establish an intergovernmental grant program to identify and develop homeland security information, equipment, capabilities, technologies, and services to further the homeland security needs of the United States and to address the homeland security needs of Federal, State, and local governments.

S. 2647

At the request of Mr. HOLLINGS, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2647, a bill to establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration, to ensure effective interagency coordination, and for other purposes.

S. 2648

At the request of Mr. HOLLINGS, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2648, a bill to strengthen programs relating to ocean science and training by providing improved advice and coordination of efforts, greater interagency cooperation, and the strengthening and expansion of related programs administered by the National Oceanic and Atmospheric Administration.

S. 2722

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 2722, a bill to maintain and expand the steel import licensing and monitoring program.

At the request of Mr. SPECTER, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 2722, supra.

At the request of Mr. DURBIN, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 2722, supra.

S. 2731

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2731, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 2744

At the request of Mr. SUNUNU, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Montana (Mr. BURNS), the Senator from Washington (Ms. CANTWELL), the Senator from Idaho (Mr. CRAIG), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Mississippi (Mr. LOTT), the Senator from Maryland (Ms. MIKULSKI), the Senator from Washington (Mrs. MURRAY), the Senator from New York (Mr. SCHUMER) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 2744, a bill to authorize the minting and issuance of a Presidential $1 coin series.

S. 2759

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2759, a bill to amend title XXI of the Social Security Act to modify the rules relating to the availability and method of redistribution of unexpended SCHIP allotments, and for other purposes.

S. 2789

At the request of Mr. BROWNBACK, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2789, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 2794

At the request of Mr. KENNEDY, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 2794, a bill to improve elementary and secondary education.

S. 2817

At the request of Mr. DURBIN, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2817, a bill to provide for the redesign of the reverse of the Lincoln 1-cent coin in 2009 in commemoration of the 200th anniversary of the birth of President Abraham Lincoln.

S. 2828

At the request of Mr. MCCAIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2828, a bill to amend the Federal Election Campaign Act of 1971 to define political committee and clarify when organizations described in section 527 of the Internal Revenue Code of 1968 must register as political committees, and for other purposes.

S. 2849

At the request of Mr. HAGEL, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 2849, a bill to provide certain enhancements to the Montgomery GI Bill Program for certain individuals who serve as members of the Armed Forces after the September 11, 2001, terrorist attacks, and for other purposes.

S. 2869

At the request of Mr. TALENT, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2869, a bill to respond to the illegal production, distribution, and use of methamphetamines in the United States, and for other purposes.

S. 2886

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 2886, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain hazard mitigation assistance.

At the request of Mr. BOND, the names of the Senator from Florida (Mr. GRAHAM) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2886, supra.

S. 2889

At the request of Mr. ALEXANDER, the names of the Senator from Oklahoma (Mr. NICKLES), the Senator from Wisconsin (Mr. KOHL), the Senator from Alabama (Mr. SESSIONS), the Senator from Hawaii (Mr. INOUYE), the Senator from Virginia (Mr. ALLEN), the Senator from California (Mrs. FEINSTEIN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KERRY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Minnesota (Mr. COLEMAN), the Senator from Arkansas (Mr. PRYOR) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 2889, a bill to require the Secretary of the Treasury to mint coins celebrating the recovery and restoration of the American bald eagle, the national symbol of the United States, to America's lands, waterways, and skies and the great importance of the designation of the American bald eagle as an endangered species under the Endangered Species Act of 1973, and for other purposes.

S. 2902

At the request of Ms. STABENOW, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 2902, a bill to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops.

S. 2908

At the request of Mr. SPECTER, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2908, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. CON. RES. 136

At the request of Mr. CONRAD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. CON. RES. 143

At the request of Mr. DEWINE, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. Con. Res. 143, a concurrent resolution recognizing community organization of public access defibrillation programs.

### S. RES. 164

At the request of Mr. ENSIGN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

### S. RES. 365

At the request of Mr. BROWNBACK, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 365, a resolution expressing the sense of the Senate regarding the detention of Tibetan political prisoners by the Government of the People's Republic of China.

### S. RES. 392

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 392, a resolution conveying the sympathy of the Senate to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased United States involvement in bringing an end to these crimes.

### S. RES. 456

At the request of Ms. STABENOW, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from Connecticut (Mr. DODD) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Res. 456, a resolution designating October 14, 2004, as "Lights On Afterschool! Day".

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR:

S. 2980. A bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations; to the Committee on Foreign Relations.

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By Mr. LUGAR:

S. 2981. A bill to provide for the elimination and safeguarding of conventional arms; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise to introduce two new bills to strengthen U.S. nonproliferation efforts. One of these is a new Conventional Arms Threat Reduction Act. The other is the fourth installment of the Nunn-Lugar legislation, the nonproliferation program that Sam Nunn and I sponsored in 1991.

In that year, Sam Nunn and I authored the Soviet Nuclear Threat Reduction or Nunn-Lugar Act, which established the Cooperative Threat Reduction Program. That program has provided U.S. funding and expertise to help the former Soviet Union safeguard and dismantle their enormous stockpiles of nuclear, chemical, and biological weapons, means of delivery and related materials. In 1997, Senator Nunn and I were joined by Senator DOMENICI in introducing the Defense Against Weapons of Mass Destruction Act, which expanded Nunn-Lugar authorities in the former Soviet Union and provided WMD expertise to first responders in American cities. In 2003, Congress adopted the Nunn-Lugar Expansion Act, which authorized the Nunn-Lugar program to operate outside the former Soviet Union to address proliferation threats. The bill that I am introducing today would strengthen the Nunn-Lugar program and other nonproliferation efforts and provide them with greater flexibility to address emerging threats.

To date, the Nunn-Lugar program has deactivated or destroyed: 6,462 nuclear warheads; 550 ICBMs; 469 ICBM silos; 13 ICBM mobile missile launchers; 135 bombers; 733 nuclear air-to-surface missiles; 408 submarine missile launchers; 530 submarine launched missiles; 27 nuclear submarines; and 194 nuclear test tunnels.

The Nunn-Lugar program also facilitated the removal of all nuclear weapons from Ukraine, Belarus, and Kazakhstan. After the fall of the Soviet Union, these three nations emerged as the third, fourth, and eighth largest nuclear powers in the world. Today, all three are nuclear-weapons-free as a result of cooperative efforts under the Nunn-Lugar program. In addition, Nunn-Lugar is the primary tool through which the United States is working with Russian authorities to identify, safeguard, and destroy Russia's massive chemical and biological warfare capacity.

These successes were never a foregone conclusion. Today, even after more than 12 years, creativity and constant vigilance are required to ensure that the Nunn-Lugar program is not encumbered by bureaucratic obstacles or undercut by political disagreements.

I have devoted much time and effort to overseeing and accelerating the Nunn-Lugar program. Uncounted individuals of great dedication serving on the ground in the former Soviet Union and in our Government have made this program work. Nevertheless, from the beginning, we have encountered resistance to the Nunn-Lugar concept in both the United States and Russia. In our own country, opposition often has been motivated by false perceptions that Nunn-Lugar money is foreign assistance or by beliefs that Defense Department funds should only be spent on troops, weapons, or other war-fighting capabilities. Until recently, we also faced a general disinterest in nonproliferation that made gaining support for Nunn-Lugar funding and activities an annual struggle.

The attacks of September 11 changed the political discourse on this subject. We have turned a corner—the public, the media, and political candidates are paying more attention now. In a remarkable moment in the first Presidential debate, both President Bush and Senator KERRY agree that the number one national security threat facing the United States was the prospect that weapons of mass destruction could fall into the hands of terrorists.

The 9/11 Commission weighed in with another important endorsement of the Nunn-Lugar program, saying that "Preventing the proliferation of [weapons of mass destruction] warrants a maximum effort—by strengthening counterproliferation efforts, expanding the Proliferation Security Initiative, and supporting the Cooperative Threat Reduction Program." the report went on to say that "Nunn-Lugar . . . is now in need of expansion, improvement, and resources."

The first bill that I am introducing today is "The Nunn-Lugar Cooperative Threat Reduction Act of 2004." It would underscore the bipartisan consensus on Nunn-Lugar by streamlining and accelerating Nunn-Lugar implementation. It would grant more flexibility to the President and the Secretary of Defense to undertake non-proliferation projects outside the former Soviet Union. It also would eliminate Congressionally imposed conditions on Nunn-Lugar assistance that in the past have force the suspension of time-sensitive nonproliferation projects. The purpose of the bill is to reduce bureaucratic red tape and friction within our Government that hinder effective responses to nonproliferation opportunities and emergencies.

For example, recently Albania appealed for help in destroying 16 tons of chemical agent left over from the cold war. In August, I visited this remote storage facility, the location of which still remains classified. Nunn-Lugar officials are working closely with Albanian leaders to destroy this dangerous stockpile. But the experience also is illustrative of the need to reduce bureaucratic delays. The package of documents to be reviewed by the President took some 11 weeks to be finalized and readied for President Bush. From beginning to end, the bureaucratic process to authorize dismantlement of chemical weapons in Albania took more than 3 months. Fortunately, the situation in Albania was not a crisis, but we may not be able to afford these timelines in future nonproliferation emergencies.

The second piece of legislation that I am introducing is the "Conventional Arms Threat Reduction Act of 2004" or "CATRA." This legislation is modeled on the original Nunn-Lugar Act. Its purpose is to provide the Department of State with a focused response to the threat posed by vulnerable stockpiles of conventional weapons around the world, including tactical missiles and man portable air defense systems, or MANPADS. Such missiles and other weapons systems could be used by terrorists to attack commercial and military targets, and U.S. facilities here at home and abroad. Reports suggest that Al Qaeda has attempted to acquire these kinds of weapons. In addition, unsecured conventional weapons stockpiles are a major obstacle to peace, reconstruction, and economic development in regions suffering from instability.

My bill declares it to be the policy of the United States to seek out surplus and unguarded stocks of conventional armaments, including small arms, light weapons, MANPADS, and tactical missile systems for elimination. It authorizes the Department of State to carry out an accelerated global effort to destroy such weapons and to cooperate with allies and international organizations when possible. The Secretary of State is charged with devising a strategy for prioritizing, on a country-by-country basis, the obligation of funds in a global program of conventional arms elimination. Lastly, the Secretary is required to unify program planning, coordination, and implementation of the strategy into one office at the State Department. The bill also authorizes a budget increase commensurate with the risk posed by these weapons.

The Department of State has been working to address the threats posed by conventional weapons. But in my judgment, the current funding allocation and organizational structure are not up to the task. Only about $6 million was devoted to destroying small arms and light weapons during fiscal years 2003 and 2004. We need more focus on this problem and additional funding to take advantage of opportunities to secure vulnerable stockpiles from proliferation, theft, or diversion.

In August, I visited Albania, Ukraine, and Georgia. Each of these countries has large stockpiles of MANPADS and tactical missile systems and each has requested U.S. assistance to destroy them. On August 27, I stood in a remote Albanian military storage facility as the base commander unloaded a fully functioning MANPAD from its crate and readied it for use. This storage site contained 70 MANPADS that could have been used to attack an American commercial aircraft. Fortunately, the MANPADS that I saw that day were destroyed on September 2, but there are many more like them throughout the world. Too often, conventional weapons are inadequately stored and protected. This present grave risk to American military bases, embassy compounds, and even targets within the United States. We must develop a response that is commensurate with the threat.

I am offering these two bills now, during the November session, so that the administration, Congress, and the public can begin an examination of their merits. I will reintroduce these bills when Congress reconvenes in January. I am hopeful for strong support that reflects the priority status of U.S. nonproliferation efforts.

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By Mr. SANTORUM:

S. 2982. A bill to amend title 38, United States Code, to make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance program; to the Committee on Veterans' Affairs.

Mr. SANTORUM. Mr. President, I rise today to offer remarks on a bill that I am introducing that would make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance (SGLI) program.

Experiencing the death of a child results in both emotional trauma and financial hardship for parents and families. However, further stress is added when the family involved is in the military. I was recently contacted by a constituent family that experienced a stillbirth and subsequently learned that they were not eligible for the military's dependent death benefit because the child was stillborn.

The Servicemembers' Group Life Insurance (SGLI) program is currently available to all members of the uniformed services, their spouses, and dependents. Specifically, when a servicemember's family experiences the death of a child, the family is entitled to a $10,000 child death benefit under the SGLI program. However, if a servicemember's family experiences a stillbirth, the family is not eligible for a death benefit under the SGLI program because current insurance standards require that a death certificate be issued for a child to be covered. However, neither a birth certificate nor a death certificate is issued for a stillborn infant.

In a recent Federal court case, Warnock v. Office of Servicemembers' Group Life Insurance, the issue of whether a stillborn infant is an "insurable dependent" under SGLI was litigated. The court held as a matter of law that both statute and SGLI policy do not provide coverage for a stillborn infant. To further substantiate the necessity of modifying this insurance coverage, the Army Family Action Plan supported providing a death benefit for stillborn infants at their annual conference in 2003, thus demonstrating this is an important issue for all military families.

This legislation is imperative because it will alleviate some of the financial hardship that a servicemember's family must endure as a result of a stillbirth. My bill would amend Title 38 of the United States Code to make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance program.

By including stillborn infants within the scope of the SGLI program, we will be helping to ease the financial burden of military servicemember families at a time of great loss and emotional stress.

I hope that many of my colleagues will join me in supporting this essential legislation.

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By Mr. WYDEN:

S. 2983. A bill to establish hospice demonstration projects and a hospice grant program for beneficiaries under the medicare program under title XVIII of the Social Security Act, and for other purposes; to the Committee on Finance.

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By Mr. WYDEN:

S. 2984. A bill to amend the Public Health Service Act to increase the number of permanent faculty in palliative care medicine at accredited allopathic and osteopathic medical schools and to promote the development of faculty careers as academic palliative specialists who emphasize teaching; to the Committee on Health, Education, Labor, and Pensions.

Mr. WYDEN. Mr. President, our health care system is structured to cure but often neglects how we die and how to make dying patients and their families more comfortable. Today, I am introducing two bills which I believe will provide better care options for dying patients in our country. The Medicare Hospice Demonstration Act seeks to test ways in which to improve the Medicare hospice benefit, and the Palliative Care Training Act recognizes that we need a larger cadre of health care professionals who know how to help those with terminal illnesses have a better quality of life.

Although this Congress made improvements in the Medicare Hospice benefit last year, I believe we need to continue to test new modes of providing hospice care so that more seniors are not only aware of the benefit, but access it when needed. Medicare introduced the hospice program in 1983 as an optional benefit for achieving a "good death". This benefit is widely recognized as effective in improving quality of life for terminally ill patients. Hospice programs provide a range of services to control pain and provide comfort care, primarily to individuals in their own homes. In the past decade, the number of Medicare patients receiving hospice care has more than doubled. Today, about 20 percent of patients who die in the United States receive hospice care. However, average lengths of stay in hospice have been dropping. According to the GAO, twenty-eight percent of Medicare patients in the hospice program receive hospice care for one week or less. One reason for this shift in hospice use is patient unwillingness to forego curative care—or to abandon hope despite a terminal diagnosis. The Medicare hospice program pays for medical procedures necessary for pain control and other symptom management, but not those aimed at curing the patient. As a result, many seriously ill patients resist the program because it forces them to make a choice between the hope that there might be a cure and the acceptance that one's life is coming to an end.

The Medicare Hospice Demonstration Act would remove this obstacle by permitting patients to seek hospice care as they continue curative treatment. I believe more people would use the hospice benefit and use it in a timely manner so they could get the full benefit of the range of services hospice offers if they did not have to give up hope. I also believe that this concept along with counseling assistance provided by this demonstration project would help the medical community be better able to help patients accept hospice care.

The second bill I am introducing, "The Palliative Care Training Act", uses the model already in law for other specialities to create a Hospice and Palliative Care Academic Career Award. This award would foster the creation of faculty at our Nation's medical schools to teach palliative care, once the specialty is recognized as a board certified specialty.

For some the term "palliative care" may be new. Palliative care improves the quality of life of patients and their families facing the problem associated with life-threatening illness, through the prevention and relief of suffering by means of early identification, assessment, and treatment of pain and other problems, physical, psychosocial and spiritual. It neither hastens nor postpones death. This type of care offers a support system to help patients live as actively as possible until death and to help the family cope during their loved one's illness and in their own bereavement. In addition, palliative care is applicable early in the course of illness, in conjunction with other therapies that are intended to prolong life, such as chemotherapy or radiation therapy.

No one likes to think about what it will be like at the end of our lives. We rarely have the discussions we need to have with our medical providers about how to help us have a "good" death. Much of the fault lies in the way we have structured our health care system. With all that the American health system has to offer, we need to make sure resources are put in place to assure patients and their families better care in their last days. I believe these two bills provide important components to do that.

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By Mr. FRIST:

S. 2986. A bill to amend title 31 of the United States Code to increase the public debt limit; placed on the calendar.

Mr. FRIST. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2986

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. INCREASE IN PUBLIC DEBT LIMIT.**

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking "$7,384,000,000,000" and inserting "$8,184,000,000,000".

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By Mr. BURNS (for himself, Mr. JOHNSON, Mr. THOMAS, Mr. ENZI, and Mr. DORGAN):

S. 2987. A bill to amend the Agricultural Marketing Act of 1946 to expand the country of origin labeling for certain covered commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BURNS. Mr. President, as you know, we are trying to finalize the appropriations bills this week so that we can get that done and go home. But in these appropriations bills, there are a lot of surprises. One of them is a movement to water down the country-of-origin labeling, a law that was passed in the 2002 farm bill.

I will tell you that over the past weeks—in fact, before the election—I was in 45 communities and traveled 2,500 miles and found out that my State supports country-of-origin labeling and does not want to see it watered down. I heard from my folks. They strongly support it.

In Montana, we want "U.S.A" on it. They are proud of what they produce. They are proud of the finished product. Of course, I have supported country-of-origin labeling for many years, and I was glad to see it finally pass in 2002 when we passed the 2002 farm bill.

Now we are at the task of trying to write the administrative rules on a law that is already in place. We are having problems with that.

But as Congress completed the bill and the President signed it into law, we had some folks already trying to dismantle it. That is wrong. Some folks wanted to muddle it up. That was wrong for the simple reason that you can't implement a law unless you know what the rules are. We don't know what those rules are right now. In fact, I think it is kind of like if the Washington Redskins go over to play Baltimore in football and they don't make the rules until after the opening kickoff. I don't think that works very well.

But right now we have some folks who want to take another run at it. They are getting very aggressive and working overtime to get it done. Granted, the law has a couple of flaws in it. It is nothing that we can't fix. But keeping it muddled up all the time while we are trying to write the administrative rules becomes very difficult.

There is a move to defund the entire writing process at one time. That was defeated.

Now, instead of having a mandatory COOL law in effect today, which was the original intent to have a good program, of course, the rules continue because the implementation wasn't supposed to be until 2006. That was a compromise to continue the rulemaking process. Now I am told that there is another move again to soften the law and make it a voluntary law instead of a mandatory law. I don't support that. My producers don't support that. They are tired of waiting around.

We need to get the country-of-origin labeling done. It needs to be done right, and it needs to be mandatory.

I have a concern with the COOL law currently on the books. But today I am introducing legislation that begins to fix one part of that law.

Right now, very little beef will actually be labeled in the grocery stores. The law excludes over half of the beef sold in this country. But let me be clear. Under no set of circumstances do I support rolling back the country-of-origin labeling. If Congress votes to make COOL voluntary, it may as well repeal the law because voluntary COOL does not work.

On October 2002, the Secretary published guidelines for a voluntary labeling program so any retailer who chose to label could do it. But none did.

Some of my friends say if we mandate a program, then let us try voluntary again. It is now time to shift the balance of power in the world of agricultural marketing and mandate country-of-origin labeling.

You see, overwhelmingly, the folks who support COOL are small cow/calf producers—my ranchers back home in Miles City, Judith Gap, Rudyard, Dillon, and across the State of Montana.

These are guys who have worked hard on their ranches each and every day. They raise and produce healthy cattle and they want "U.S.A." on their products. I don't blame them. But they do not have a lot of say in this decision. Once the calves leave the ranch, producers lose control to other parts of the industry.

While what I am doing is offering a bill to fix it, let us expand the bill to processed meats. We have to do that. The bill I am introducing will remove the exemption in the law for processed foods. In practice, this means beef jerky, sausages, and marinated pork tenderloins which are all excluded from the labeling requirements as it stands. These are common consumer products and none of them would be just the same as they are for fish and shellfish which is already in effect. Looking at those rules, we are not asking for any more.

With that, let us understand that attempts to weaken the law cannot happen in this body nor should it happen on these appropriations bills.

## SUBMITTED RESOLUTIONS

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### SENATE RESOLUTION 469—SUPPORTING THE GOALS AND IDEAS OF NATIONAL TIME OUT DAY TO PROMOTE THE ADOPTION OF THE JOINT COMMISSION ON ACCREDITATION OF HEALTHCARE ORGANIZATIONS' UNIVERSAL PROTOCOL FOR PREVENTING ERRORS IN THE OPERATING ROOM

Ms. LANDRIEU (for herself, Mr. DURBIN, and Mr. SANTORUM) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 469

Whereas according to an Institute of Medicine report entitled "To Err is Human: Building a Safer Health System", published in 2000, between 44,000 and 98,000 hospitalized people in the United States die each year due to medical errors, and untold thousands more suffer injury or illness as a result of preventable errors;

Whereas there are more than 40,000,000 inpatient surgery procedures and 31,000,000 outpatient surgery procedures performed annually in the United States;

Whereas for the first time, nurses, surgeons, and hospitals throughout the country are being required by the Joint Commission on Accreditation of Healthcare Organizations to adopt a common set of operating room procedures in order to help curb the alarming number of deaths and injuries due to medical errors;

Whereas the Joint Commission on Accreditation of Healthcare Organizations has developed a universal protocol, endorsed by more than 50 national healthcare organizations, which calls for surgical teams to call a "time out" before surgeries begin in order to verify the patient's identity, the procedure to be performed, and the site of the procedure;

Whereas 4,579 accredited hospitals, 1,261 ambulatory care facilities, and 131 accredited office-based surgery centers will be required by the Joint Commission on Accreditation of Healthcare Organizations to adopt the universal protocol beginning July 1, 2004;

Whereas the Association of periOperative Registered Nurses has created an Internet website and distributed 55,000 tool kits to healthcare professionals throughout the country to assist them in implementing the universal protocol; and

Whereas the Association of periOperative Registered Nurses, the Joint Commission on Accreditation of Healthcare Organizations, the American College of Surgeons, the American Society of Anesthesiologists, the American Hospital Association, and the American Society for Healthcare Risk Management are celebrating National Time Out Day on June 23, 2004, to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing errors in the operating room: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals and ideas of National Time Out Day, as designated by the Association of periOperative Registered Nurses and endorsed by the American College of Surgeons, the American Society of Anesthesiologists, the American Hospital Association, and the American Society for Healthcare Risk Management, to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing errors in the operating room; and

(2) congratulates perioperative nurses and representatives of surgical teams for working together to reduce medical errors to ensure the improved health and safety of surgical patients.

Ms. LANDRIEU. Mr. President, we have all heard the expression, "To err is human." We teach our children that mistakes are okay because we learn from them. However, there are some mistakes that are more costly to make than others. In 2000, the Institute of Medicine released a report entitled, "To Err is Human: Building a Safer Health System." The report revealed the following devastating statistic: every year, between 44,000 and 98,000 hospitalized people in the United States die due to medical errors.

Science has not yet found a cure for cancer or even the common cold, but it has discovered a way to prevent the thousands of fatalities that occur every year due to medical errors. The Joint Commission on Accreditation of Healthcare Organizations developed a universal protocol that calls for surgical teams to literally call a "time out" before surgeries begin. This "time out" serves a brief period for surgeons and nurses to verify the patient's identity, the procedure to be performed, and the site of the procedure. Endorsed by the American College of Surgeons, the American Society of Anesthesiologists, the American Hospital Association, the Association of Perioperative Registered Nurses, and the American Society for Healthcare Risk Management, this idea of a "time out" may seem almost simplistic, but the fact of the matter is even the best surgeon in the world can make a very costly mistake if he or she does not stop for a moment for surgery and take a "time out."

Therefore, it is my pleasure to rise today to submit this resolution, which promotes a National Time Out Day and promotes the adoption of the Joint Commission on Accreditation of Healthcare Organization's universal protocol for preventing errors in the operating room.

To err may be human, but for the thousands of relatives that are currently sitting in a hospital waiting room, waiting for a loved one to come out of surgery, human error is not an acceptable answer.

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### SENATE CONCURRENT RESOLUTION 145—TO CORRECT THE ENROLLMENT OF H.R. 1417

Mr. HATCH (for himself and Mr. LEAHY) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 145

*Resolved by the Senate (the House of Representatives concurring)*, That in the enrollment of H.R. 1417, an Act to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, and for other purposes (the Copyright Royalty and Distribution Reform Act of 2004), the Clerk of the House of Representatives shall make the following corrections:

(1) In section 801 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—

(A) in subsection (b)(7)(A)—

(i) in clause (i), strike "the other participants" and insert "participants"; and

(ii) in clause (ii), strike "any other participant described in subparagraph (A)" and insert "any participant described in clause (i)";

(B) in subsection (b)(7)(B), strike "118(b)(2) or (3)" and insert "118(b)(2)";

(C) in subsection (b)(8), insert a comma after "802(g)"; and

(D) in subsection (c), strike "As provided in section 801(f)(1), the" and insert "The".

(2) In section 802 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—

(A) in subsection (a)(1), in the second sentence—

(i) strike "two Copyright" and insert "2 Copyright"; and

(ii) strike "one shall" and insert "1 shall";

(B) in subsection (c)—

(i) strike "appointed the Chief Copyright" and insert "appointed as the Chief Copyright"; and

(ii) strike "appointed Copyright" and insert "appointed as Copyright"; and

(C) in subsection (f)—

(i) in paragraph (1)(A)(ii), strike "14 days of receipt by the Register of Copyrights of all" and insert "14 days after the Register of Copyrights receives all";

(ii) in paragraph (1)(B)(i)—

(I) strike "The Register shall" and insert "The Register of Copyrights shall";

(II) strike "30 days of receipt by the Register of Copyrights of all" and insert "30 days after the Register of Copyrights receives all"; and

(III) in the last sentence, insert "to the Copyright Royalty Judges" after "is timely delivered";

(iii) in paragraph (1)(D)—

(I) insert after the second sentence the following: "The Register of Copyrights shall issue such written decision not later than 60 days after the date on which the final determination by the Copyright Royalty Judges is issued.";

(II) in the following sentence, insert a comma after "such written decision";

(III) strike "section 802(f)(1)(D)" and insert "this subparagraph";

(IV) strike "notification and undertakes to consult with" and insert "notification to, and undertakes to consult with,"; and

(V) strike "fails within reasonable period after receipt of such notification" and insert "fails, within a reasonable period after receiving such notification,".

(3) In section 803 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—

(A) in subsection (a)(1), strike "Librarian of Congress, copyright arbitration royalty panels," and insert "the Librarian of Congress,";

(B) in subsection (b)—

(i) in paragraph (1), amend subparagraph (A)(i) to read as follows:

"(A) CALL FOR PETITIONS TO PARTICIPATE.—(i) The Copyright Royalty Judges shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter, calling for the filing of petitions to participate in a proceeding under. this chapter for the purpose of making the relevant determination under section 111, 112, 114, 115, 116, 118, 119, 1004, or 1007, as the case may be—

"(I) promptly upon a determination made under section 804(a);

"(II) by no later than January 5 of a year specified in paragraph (2) of section 804(b) for the commencement of proceedings;

"(III) by no later than January 5 of a year specified in subparagraph (A) or (B) of paragraph (3) of section 804(b) for the commencement of proceedings, or as otherwise provided in subparagraph (A) or (C) of such paragraph for the commencement of proceedings;

"(IV) as provided under section 804(b)(8); or

"(V) by no later than January 5 of a year specified in any other provision of section 804(b) for the filing of petitions for the commencement of proceedings, if a petition has not been filed by that date.";

(ii) in clause (ii) of paragraph (1)(A)—

(I) strike "proceeding, under clause (i)" and insert "proceeding under clause (i)"; and

(II) strike "section 803(b)(3)" and insert "paragraph (3)";

(iii) in paragraph (4)(A), strike "a participant in the proceeding asserts a claim in the amount of" and insert "the contested amount of a claim is";

(iv) in paragraph (6)(C)—

(I) in clause (iv), insert a comma after "orders";

(II) in clause (v), strike "according to" and insert "in accordance with"; and

(III) in clause (vi)(I), strike "absent the discovery sought" and insert ", absent the discovery sought,";

(v) in clause (vii), strike "interrogatories and" and insert "interrogatories, and"; and

(vi) in clause (ix)—

(I) in the first sentence, insert a comma after "give testimony" and insert a comma after "inspection of documents or tangible things"; and

(II) in the last sentence, strike "subparagraph" and insert "clause";

(C) in subsection (c)—

(i) in paragraph (1), strike "(b)(3)(C)(x)" and insert "(b)(6)(C)(x)";

(ii) in paragraph (2)—

(I) in subparagraph (A)—

(aa) insert "in a proceeding" after "a participant"; and

(bb) strike "a proceeding is issued" and insert "the proceeding is issued";

(II) in subparagraph (B), strike "their initial determination concerning rates and terms to the participants in the proceeding" and insert "to the participants in the proceeding their initial determination concerning rates and terms"; and

(III) in subparagraph (C), strike "except as provided under subsection (d)(1)" and insert "except that nonparticipation may give rise to the limitations with respect to judicial review provided for in subsection (d)(1)"; and

(iii) in paragraph (6), strike "Following review of the determination by the Register of Copyrights under section 802(f)(1)(D)" and insert "By no later than the end of the 60-day period provided in section 802(f)(1)(D)"; and

(D) in the second sentence of subsection (d)(2)(A), strike "transmission service" and insert "licensee".

(4) In section 5(b)(1)—

(A) in subparagraph (A), strike "and" at the end;

(B) strike subparagraph (B); and

(C) redesignate subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(5) In the amendment made by section 5(b)(1)(A)—

(A) strike "5-year periods" and insert "5-year period"; and

(B) strike "such other periods" and insert "such other period".

(6) Strike paragraph (3) of section 5(b) and insert the following:

"(3) in paragraph (5), by striking 'determination by a copyright arbitration royalty panel or decision by the Librarian of Congress' and inserting 'decision by the Librarian of Congress or determination by the Copyright Royalty Judges' ";

(7) In the amendment made by section 5(c)(1)(A)(i)—

(A) strike "5-year periods" and insert "the 5-year period"; and

(B) strike "different transitional periods are provided in section 804(b), or such periods" and insert "a different transitional period is provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period".

(8) In the amendment made by section 5(c)(1)(B)(i), strike 'in section 804(b)" and insert "under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004".

(9) In the amendment made by section 5(c)(2)(A)—

(A) strike "5-year periods" and insert "the 5-year period"; and

(B) strike "different transitional periods are provided in section 804(b), or such periods" and insert "a different transitional period is provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period".

(10) In the amendment made by section 5(c)(2)(B)(i), strike 'in section 804(b)" and insert "under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004".

(11) Strike paragraph (3) of section 5(c) and insert the following:

"(3) in paragraph (3), by striking 'determination by a copyright arbitration royalty panel or decision by the Librarian of Congress' and inserting 'decision by the Librarian of Congress or determination by the Copyright Royalty Judges' "; and

(12) In section 5(c)(4)(B), insert "of subparagraph (A) the following:" after "by adding after the first sentence".

(13) In the amendment made by section 5(d)(3)(A), strike "during periods" and insert "during the period".

(14) In section 5(d)(4)—

(A) strike "and" at the end of subparagraph (B);

(B) add "and" after the semicolon at the end of subparagraph (C); and

(C) add after subparagraph (C) the following:

"(D) in the last sentence, by striking 'Librarian of Congress' and inserting 'Copyright Royalty Judges' ".

(15) In the amendment made by section 5(d)(5)(A)(i), strike ", Copyright Royalty Judges, or a copyright arbitration royalty panel to the extent those determinations were accepted by the Librarian of Congress" and insert "or Copyright Royalty Judges".

(16) In the amendment made by section 5(f)(1)(B)—

(A) strike ", a copyright arbitration royalty panel,"; and

(B) strike "to the extent that they were accepted by the Librarian of Congress,".

(17) In section 5, insert the following after subsection (g) and redesignate succeeding subsections accordingly:

"(h) RATEMAKING FOR SATELLITE CARRIERS.—Section 119(c) of title 17, United States Code, is amended—

"(1) in paragraph (2)—

"(A) in subparagraph (B), by striking 'Librarian of Congress' and inserting 'Copyright Royalty Judges'; and

"(B) in subparagraph (C), by striking 'Register of Copyrights shall prescribe' and inserting 'Copyright Royalty Judges shall prescribe as provided in section 803(b)(6)'; and

"(2) in paragraph (3)—

"(A) in subparagraph (A)—

"(i) by striking 'arbitration proceedings' and inserting 'proceedings'; and

"(ii) by striking 'arbitration proceeding' and inserting 'proceedings';

"(B) in subparagraph (B)—

"(i) by striking 'copyright arbitration royalty panel appointed under chapter 8' and inserting 'Copyright Royalty Judges'; and

"(ii) by striking 'panel shall base its decision' and inserting 'Copyright Royalty Judges shall base their determination'; and

"(C) in subparagraph (C)—

"(i) in the heading, by striking 'DECISION OF ARBITRATION PANEL OR ORDER OF LIBRARIAN' and inserting 'DETERMINATION UNDER CHAPTER 8'; and

"(ii) by striking clauses (i) and (ii) and inserting the following:

"(i) is made by the Copyright Royalty Judges pursuant to this paragraph and becomes final, or

"(ii) is made by the court on appeal under section 803(d)(3).'."

(18) In the first sentence of section 6(b)(1)—

(A) strike "date of enactment of this Act" and insert "effective date provided in subsection (a)"; and

(B) strike "such date of enactment" and insert "such effective date".

(19) Strike paragraph (2) of section 6(b) and insert the following:

"(2) CERTAIN ROYALTY RATE PROCEEDINGS.—Notwithstanding paragraph (1), the amendments made by this Act shall not affect proceedings to determine royalty rates pursuant to section 119(c) of title 17, United States Code, that are commenced before January 31, 2006."

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, November 17, 2004, at 3 p.m., in room 216 of the Hart Senate Office Building to conduct a business meeting on pending committee matters, to be followed immediately by an oversight hearing on the In Re Tribal Lobbying Matters, et al.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

### COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, November 18, 2004, at 10 a.m., in room 485 of the Russell Senate Office Building to conduct a business meeting on pending committee matters, to be followed immediately by an oversight hearing on the water problems on the Standing Rock Sioux Reservation.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet on Tuesday, November 16, 2004, at 9:30 a.m., on Global Climate Change: Arctic Climate Global Assessment.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Tuesday, November 16, 2004, at 9 a.m., on "Judicial Nominations" in the Dirksen Senate Office Building Room 226.

*Witness list*

Panel I: Senators.

Panel II: Thomas B. Griffith, to be U.S. Circuit Judge for the District of Columbia.

Panel III: Paul A. Crotty, to be a U.S. District Judge for the Southern District of New York; and J. Michael Seabright, to be a U.S. District Judge for the District of Hawaii.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SPECIAL COMMITTEE ON AGING

Mr. WARNER. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet today, Tuesday, November 16, 2004, from 2:30 p.m.-4:30 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON FINANCIAL MANAGEMENT, THE BUDGET, AND INTERNATIONAL SECURITY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on Financial Management, the Budget, and International Security be authorized to meet on Tuesday, November 16, 2004, at 10:30 a.m., for a hearing entitled, "Oversight Hearing on Insurance Brokerage Practices, Including Potential Conflicts of Interest and the Adequacy of the Current Regulatory Framework."

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. REED. Mr. President, I ask unanimous consent a fellow in my office, Seth Gerson, be granted the privilege of the floor for the remainder of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CHILDREN'S HOSPITALS EDUCATIONAL EQUITY AND RESEARCH ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 774, S. 2526.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2526) to reauthorize the Children's Hospitals Graduate Medical Education Program.

There being no objection, the Senate proceeded to consider the bill which was reported from the Committee on Health, Education, Labor, and Pensions, with an amendment.

(Strike the part printed in black brackets and insert the part printed in italic.)

S. 2526

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. SHORT TITLE.**

[This Act may be cited as the "Children's Hospitals Educational Equity and Research Act" or the "CHEER Act".

**[SEC. 2. REAUTHORIZATION OF CHILDREN'S HOSPITALS GRADUATE MEDICAL EDUCATION PROGRAM.**

[(a) EXTENSION OF PROGRAM.—Section 340E(a) of the Public Health Service Act (42 U.S.C. 256e(a)) is amended by striking "2005" and inserting "2010".

[(b) DESCRIPTION OF AMOUNT OF PAYMENTS.—Section 340E(b) of the Public Health Service Act (42 U.S.C. 256e(b)) is amended—

[(1) in paragraph (1)(B), by striking "relating to teaching residents in such" and inserting "associated with graduate medical residency training"; and

[(2) in paragraph (2)(A), by inserting before the period at the end ", except as provided under paragraphs (1)(A) and (2)(B) of subsection (f)".

[(c) DIRECT GRADUATE MEDICAL EDUCATION.—Section 340E(c) of the Public Health Service Act (42 U.S.C. 245e(c)) is amended—

[(1) in paragraph (1)—

[(A) in the matter preceding subparagraph (A), by striking "product" and inserting "sum";

[(B) in subparagraph (A), by striking "(A) the updated per resident" and inserting the following:

["(A) the product of—

["(i) the updated per resident".

[(C) by redesignating subparagraph (B) as clause (ii) and indenting appropriately;

[(D) in subparagraph (A)(ii) (as so redesignated)—

[(i) by inserting "but without giving effect to section 1886(h)(7) of such Act" after "section 1886(h)(4) of the Social Security Act"; and

[(ii) by striking the period and inserting "; and"; and

[(E) by inserting after subparagraph (A) the following:

["(B) amounts for other approved education programs that are provider-operated, as defined for purposes of Medicare payment, limited to not more than 30 percent of costs that would be allowed for such programs under Medicare rules for hospitals reimbursed under section 1886(d) of the Social Security Act."; and

[(2) in paragraph (2)(B), by inserting before the period at the end ", without giving effect to section 1886(d)(3)(E)(ii) of the Social Security Act".

[(d) INDIRECT GRADUATE MEDICAL EDUCATION.—Section 340E(d) of the Public Health Service Act (42 U.S.C. 256e(d)) is amended—

[(1) in paragraph (1), by striking "related to" and inserting "associated with"; and

[(2) in paragraph (2)(A)—

[(A) by inserting "ratio of the" after "hospitals and the"; and

[(B) by inserting at the end before the semicolon "to beds (but excluding beds or bassinets assigned to healthy newborn infants)".

[(e) NATURE OF PAYMENTS.—Section 340E(e) of the Public Health Service Act (42 U.S.C. 256e(e)) is amended—

[(1) in paragraph (2), by striking the first sentence;

[(2) in paragraph (3)—

[(A) by striking "made to pay" and inserting "made and pay"; and

[(B) by striking "to the extent possible" and all that follows through the end of the paragraph and inserting the following: ". To the greatest extent possible, amounts recouped from a hospital are to be distributed to other hospitals in the same fiscal year. Amounts recouped from a hospital and not disbursed to other hospitals in the same fiscal year shall remain available for distribution during the subsequent fiscal year. Unless there is fraud, amounts paid to a hospital without a demand for recoupment by the end of the fiscal year shall be final and not subject to recoupment."; and

[(3) by adding at the end the following:

["(4) APPEALS.—

["(A) IN GENERAL.—A decision affecting the amount payable to a hospital pursuant to this section shall—

["(i) be subject to review under section 1878 of the Social Security Act in the same manner as a final determination of a fiscal intermediary of the amount of payment under 1886(d) of such Act is subject to review; and

["(ii) be handled expeditiously so that the review decision is reflected in the final reconciliation for the year in which the appeal is made.

["(B) LIMITATION.—A review decision pursuant to this section shall not affect payments for a fiscal year prior to the fiscal year in which the review decision is rendered.

["(C) APPLICATION TO SUBSEQUENT FISCAL YEARS.—The Secretary shall apply a review decision in determining the amount of payment for the appealing hospital in the fiscal year in which the decision is rendered and in subsequent years, unless the law at issue in the review decision is amended or there are material differences between the facts for the fiscal year for which the review decision is rendered and the year for which payment is made. Nothing in this section shall be construed to prohibit a hospital from appealing similar determinations in subsequent periods.".

[(f) AUTHORIZATION OF APPROPRIATIONS.—Section 340E(f) of the Public Health Service Act (42 U.S.C. 256e(f)) is amended—

[(1) in paragraph (1)—

[(A) in subparagraph (A)—

[(i) in clause (ii), by striking "and";

[(ii) in clause (iii), by striking the period at the end and inserting a semicolon; and

[(iii) by adding at the end the following:

["(iv) for fiscal year 2006, $110,000,000; and

["(v) for each of fiscal years 2007 through 2010, such sums as may be necessary, including an annual adjustment to reflect increases in the Consumer Price Index."; and

[(B) in subparagraph (B), by striking "for fiscal year 2000" and all that follows and inserting "for fiscal year 2006 and each subsequent fiscal year shall remain available for obligation for the year appropriated and the subsequent fiscal year."; and

[(2) in paragraph (2)—

[(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and indenting appropriately;

[(B) by striking "There are hereby authorized" and inserting the following:

["(A) IN GENERAL.—There are authorized";

[(C) in clause (ii) (as redesignated by this paragraph), by striking "and";

[(D) in clause (iii) (as redesignated by this paragraph), by striking the period at the end and inserting a semicolon;

[(E) by adding at the end of subparagraph (A) (as designated by this paragraph), the following:

["(iv) for fiscal year 2006, $220,000,000; and

["(v) for each of fiscal years 2007 through 2010, such sums as may be necessary, including an annual adjustment to reflect increases in the Consumer Price Index."; and

[(F) at the end of paragraph (2), by adding the following:

["(B) CARRYOVER OF EXCESS.—To the extent that amounts are not expended in the year for which they are appropriated, the amounts appropriated under subparagraph (A) for fiscal year 2006 and each subsequent fiscal year shall remain available for obligation through the end of the following fiscal year.".

[(g) DEFINITIONS.—Section 340E(g)(3) of the Public Health Service Act (42 U.S.C. 256e(g)(3)) is amended by striking "has" and all that follows through the end of the sentence and inserting the following: "includes—

["(A) the meaning given such term in section 1886(h)(5)(C) of the Social Security Act; and

["(B) costs of approved educational activities, as such term is used in section 1886(a)(4) of the Social Security Act.".]

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Children's Hospitals Educational Equity and Research Act" or the "CHEER Act".*

***SEC. 2. REAUTHORIZATION OF CHILDREN'S HOSPITALS GRADUATE MEDICAL EDUCATION PROGRAM.***

*(a) EXTENSION OF PROGRAM.—Section 340E(a) of the Public Health Service Act (42 U.S.C. 256e(a)) is amended by striking "2005" and inserting "2010".*

*(b) DIRECT GRADUATE MEDICAL EDUCATION.—Section 340E(c) of the Public Health Service Act (42 U.S.C. 256e(c)) is amended—*

*(1) in paragraph (1)(B), by inserting "but without giving effect to section 1886(h)(7) of such Act)" after "section 1886(h)(4) of the Social Security Act"; and*

*(2) in paragraph (2)(E)(ii), by striking "described in subparagraph (C)(ii)" and inserting "applied under section 1886(d)(3)(E) of the Social Security Act for discharges occurring during the preceding fiscal year".*

*(c) INDIRECT GRADUATE MEDICAL EDUCATION.—Section 340E(d)(2)(A) of the Public Health Service Act (42 U.S.C. 256e(d)(2)(A)) is amended—*

*(1) by inserting "ratio of the" after "hospitals and the"; and*

*(2) by inserting before the semicolon the following: "to beds (excluding beds or bassinets assigned to healthy newborn infants)".*

*(d) NATURE OF PAYMENTS.—Section 340E(e)(3) of the Public Health Service Act (42 U.S.C. 256e(e)(3)) is amended by striking "made to pay" and inserting "made and pay".*

*(e) AUTHORIZATION OF APPROPRIATIONS.—Section 340E(f) of the Public Health Service Act (42 U.S.C. 256e(f)) is amended—*

*(1) in paragraph (1)(A)—*

*(A) in clause (ii), by striking "and";*

*(B) in clause (iii), by striking the period and inserting a semicolon; and*

*(C) by adding at the end the following:*

*"(iv) for fiscal year 2006, $110,000,000; and*

*"(v) for each of fiscal years 2007 through 2010, such sums as may be necessary."; and*

*(2) in paragraph (2)—*

*(A) in the matter preceding subparagraph (A)—*

*(i) by striking "There are hereby authorized" and inserting "There are authorized"; and*

*(ii) by striking "(b)(1)(A)" and inserting "(b)(1)(B)";*

*(B) in subparagraph (B), by striking "and";*

*(C) in subparagraph (C), by striking the period and inserting a semicolon; and*

*(D) by adding at the end the following:*

*"(D) for fiscal year 2006, $220,000,000; and*

*"(E) for each of fiscal years 2007 through 2010, such sums as may be necessary.".*

*(f) TECHNICAL AMENDMENT.—Section 340E(e)(2) of the Public Health Service Act (42 U.S.C. 256e(e)(2)) is amended by striking the first sentence.*

***SEC. 3. SENSE OF THE SENATE.***

*It is the sense of the Senate that perinatal hospitals play an important role in providing quality care and ensuring the best possible outcomes for thousands of seriously ill newborns each year, and that medical training programs at perinatal hospitals give providers essential training in treating healthy mothers and babies as well as patients in neonatal intensive care units.*

Mr. FRIST. Mr. President, I ask unanimous consent that the committee-reported amendment be agreed, the bill, as amended, be read a third time and passed, and the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2526), as amended, was passed.

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## STATE HIGH RISK POOL FUNDING EXTENSION ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of S. 2283 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2283) to extend Federal funding for operations of State high risk health insurance pools.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2283) was read the third time and passed as follows:

S. 2283

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "State High Risk Pool Funding Extension Act of 2004".

**SEC. 2. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.**

(a) EXTENSION OF SEED GRANTS.—Section 2745 of the Public Health Service Act (42 U.S.C. 300gg-45) is amended—

(1) in subsection (a), in the subsection heading by inserting "EXTENSION OF" before "SEED"; and

(2) in subsection (c)(1), by striking "$20,000,000" and all that follows through "2003" and inserting "$15,000,000 for the period of fiscal years 2004 and 2005".

(b) FUNDS FOR OPERATIONS.—Section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended—

(1) in subsection (b)—

(A) in the subsection heading by striking "MATCHING"; and

(B) by striking paragraph (2) and inserting the following:

"(2) ALLOTMENT.—The amounts appropriated under subsection (c)(2) for a fiscal year shall be made available to the States (or the entities that operate the high risk pool under applicable State law) as follows:

"(A) An amount equal to 50 percent of the appropriated amount for the fiscal year shall be allocated in equal amounts among each eligible State that applies for assistance under this subsection.

"(B) An amount equal to 25 percent of the appropriated amount for the fiscal year shall be allocated among the States so that the amount provided to a State bears the same ratio to such available amount as the number of uninsured individuals in the State bears to the total number of uninsured individuals in all States (as determined by the Secretary).

"(C) An amount equal to 25 percent of the appropriated amount for the fiscal year shall be allocated among the States so that the amount provided to a State bears the same ratio to such available amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools in all States (as determined by the Secretary)."; and

(2) in subsection (c)(2), by striking "$40,000,000" and all that follows through the period and inserting "$75,000,000 for each of fiscal years 2005 through 2009 to make allotments under subsection (b)(2).".

(c) DEFINITIONS.—Section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended—

(1) in subsection (d), by inserting after "2744(c)(2)" the following: ", except that with respect to subparagraph (A) of such section a State may elect to provide for the enrollment of eligible individuals through an acceptable alternative mechanism,"; and

(2) by adding at the end the following:

"(e) STANDARD RISK RATE.—In subsection (b)(1)(A), the term 'standard risk rate' means a rate—

"(1) determined under the State high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market served;

"(2) that is established using reasonable actuarial techniques; and

"(3) that reflects anticipated claims experience and expenses for the coverage involved.".

## COASTAL AND OCEAN MAPPING INTEGRATION ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 793, S. 2489.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2489) to establish a program within the National Oceanic and Atmospheric Administration to integrate Federal coastal and ocean mapping activities.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation with an amendment in the nature of a substitute.

[Strike the part printed in black brackets and insert the part printed in italic.]

S. 2489

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### [SECTION 1. SHORT TITLE.

[This Act may be cited as the "Coastal and Ocean Mapping Integration Act".

### [SEC. 2. INTEGRATED COASTAL AND OCEAN MAPPING PROGRAM.

[(a) IN GENERAL.—The Administrator of the National Oceanic and Atmospheric Administration shall establish a program to develop, in coordination with the Interagency Committee on Coastal and Ocean Mapping, a coordinated and comprehensive Federal ocean and coastal mapping program for the Great Lakes and Coastal State waters, the territorial sea, the exclusive economic zone, and the continental shelf of the United States that enhances conservation and management of marine resources, improves decision-making regarding research priorities and the siting of research and other platforms, and advances coastal and ocean science.

[(b) PROGRAM PARAMETERS.—In developing such a program, the Administrator shall work with the Committee to—

[(1) identify all Federal programs conducting shoreline delineation and coastal or ocean mapping, noting geographic coverage, frequency, spatial coverage, resolution, and subject matter focus of the data and location of data archives;

[(2) promote cost-effective, cooperative mapping efforts among all Federal coastal and ocean mapping agencies by increasing data sharing, developing data acquisition and metadata standards, and facilitating the interoperability of in situ data collection systems, data processing, archiving, and distribution of data products;

[(3) facilitate the adaptation of existing technologies as well as foster expertise in new coastal and ocean mapping technologies by engaging in cooperative training programs and leveraging agency expertise, nongovernmental organizations, and private sector resources to efficiently meet Federal mapping mandates;

[(4) develop standards and protocols for testing innovative experimental mapping technologies and transferring new technologies to the private sector;

[(5) centrally archive, manage, and distribute data sets as well as provide mapping products and services to the general public in service of statutory requirements; and

[(6) develop specific data presentation methods for use by Federal, State, and other entities that document locations of federally permitted activities, submerged cultural resources, undersea cables, offshore aquaculture projects, and any areas designated for the purposes of environmental protection or conservation and management of living marine resources.

### [SEC. 3. INTERAGENCY COMMITTEE ON COASTAL AND OCEAN MAPPING.

[(a) ESTABLISHMENT.—There is hereby established an Interagency Committee on Coastal and Ocean Mapping.

[(b) MEMBERSHIP.—The Committee shall be comprised of senior representatives from Federal agencies with ocean and coastal mapping and surveying responsibilities. The representatives shall be high-ranking officials of their respective agencies or departments and, whenever possible, the head of the portion of the agency or department that is most relevant to the purposes of this Act. Membership shall include senior representatives from the National Oceanic and Atmospheric Administration, the Chief of Naval Operations, the United States Geological Survey, Minerals Management Service, National Science Foundation, National Geospatial-Intelligence Agency, United States Army Corps of Engineers, United States Coast Guard, Environmental Protection Agency, Federal Emergency Management Agency and National Aeronautics and Space Administration, and other appropriate Federal agencies involved in ocean and coastal mapping.

[(c) CHAIRMAN.—The Committee shall be chaired by the representative from the National Oceanic and Atmospheric Administration. The chairman may create subcommittees chaired by any member agency of the committee. Working groups may be formed by the full Committee to address issues of short duration.

[(d) MEETINGS.—The Committee shall meet on a quarterly basis, but subcommittee or working group meetings shall meet on an as-needed basis.

[(e) COORDINATION.—The committee should coordinate activities, when appropriate, with other Federal efforts, including the Digital Coast, Geospatial One-Stop, and the Federal Geographic Data Committee.

### [SEC. 4. NOAA INTEGRATED MAPPING INITIATIVE.

[(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator, in consultation with the Committee, shall develop and submit to the Congress a plan for an integrated coastal and ocean mapping initiative within the National Oceanic and Atmospheric Administration.

[(b) PLAN REQUIREMENTS.—The plan shall—

[(1) identify and describe all coastal and ocean mapping programs within the agency, including those that conduct mapping or related activities in the course of existing missions, such as hydrographic surveys, ocean exploration projects, living marine resource conservation and management programs, coastal zone management projects, and coastal and ocean science projects;

[(2) establish geographic priorities and minimum data acquisition and metadata standards for those programs;

[(3) encourage the development of innovative coastal and ocean mapping technologies and applications through research and development cooperative agreements at joint institutes;

[(4) document available and developing technologies, best practices in data processing and distribution, and leveraging opportunities with other Federal agencies, nongovernmental organizations, and the private sector;

[(5) identify training, technology, and other resource requirements for enabling the National Oceanic and Atmospheric Administration's programs, ships, and aircraft to support a coordinated coastal and ocean mapping program;

[(6) identify a centralized mechanism for coordinating data collection, processing, archiving, and dissemination activities of all such mapping programs within the National Oceanic and Atmospheric Administration, including—

[(A) designating primary data processing centers to maximize efficiency in information technology investment, develop consistency in data processing, and meet Federal mandates for data accessibility; and

[(B) designating a repository that is responsible for archiving and managing the distribution of all coastal and ocean mapping data to simplify the provision of services to benefit Federal and State programs; and

[(7) set forth a timetable for implementation and completion of the plan, including a schedule for periodic Congressional progress reports, and recommendations for integrating approaches developed under the initiative into the interagency program.

[(c) NOAA JOINT HYDROGRAPHIC CENTERS.—The Secretary is authorized to maintain and operate up to 3 joint hydrographic centers, which shall be co-located with an institution of higher education. The centers shall serve as hydrographic centers of excellence and are authorized to conduct activities necessary to carry out the purposes of this Act, including—

[(1) research and development of innovative coastal and ocean mapping technologies, equipment, and data products;

[(2) mapping of the United States outer continental shelf;

[(3) data processing for non-traditional data and uses;

[(4) advancing the use of remote sensing technologies, for related issues, including mapping and assessment of essential fish habitat and of coral resources, ocean observations and ocean exploration; and

[(5) providing graduate education in hydrographic sciences for National Oceanic and Atmospheric Administration Commissioned Officer Corps and civilian personnel.

### [SEC. 5. INTERAGENCY PROGRAM REPORTING.

[No later than 18 months after the date of enactment of this Act, and bi-annually thereafter, the Chairman of the Committee shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources a report detailing progress made in implementing the provisions of this Act, including—

[(1) an inventory of data within the territorial seas and the exclusive economic zone and throughout the continental shelf of the United States, noting the age and source of the survey and the spatial resolution (metadata) of the data;

[(2) identification of priority areas in need of survey coverage using present technologies;

[(3) a resource plan that identifies when priority areas in need of modern coastal and ocean mapping surveys can be accomplished;

[(4) the status of efforts to produce integrated digital maps of coastal and ocean areas;

[(5) a description of any products resulting from coordinated mapping efforts under this Act that improve public understanding of the coasts, oceans, or regulatory decisionmaking;

[(6) documentation of minimum and desired standards for data acquisition and integrated metadata;

[(7) a statement of the status of Federal efforts to leverage mapping technologies, coordinate mapping activities, share expertise, and exchange data;

[(8) a statement of resource requirements for organizations to meet the goals of the program, including technology needs for data acquisition, processing and distribution systems;

[(9) a statement of the status of efforts to declassify data gathered by the Navy, the National Geospatial-Intelligence Agency and other agencies to the extent possible without jeopardizing national security, and make it available to partner agencies and the public; and

[(10) a resource plan for a digital coast integrated mapping pilot project for the northern Gulf of Mexico that will—

[(A) cover the area from the authorized coastal counties through the territorial sea; and

[(B) identify how such a pilot project will leverage public and private mapping data and resources, such as the United States Geological Survey National Map, to result in an operational coastal change assessment program for the subregion.

### [SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

[(a) In General.—In addition to the amounts authorized by section 306 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892d), there are authorized to be appropriated to the Administrator to carry out this Act—

[(1) $20,000,000 for fiscal year 2005;

[(2) $26,000,000 for fiscal year 2006;

[(3) $32,000,000 for fiscal year 2007;

[(4) $38,000,000 for fiscal year 2008; and

[(5) $45,000,000 for each of fiscal years 2009 through 2012.

[(b) Joint Hydrographic Centers.—Of the amounts appropriated pursuant to subsection (a), the following amounts shall be used to carry out section 4(c) of this Act:

[(1) $10,000,000 for fiscal year 2005.

[(2) $11,000,000 for fiscal year 2006.

[(3) $12,000,000 for fiscal year 2006.

[(4) $13,000,000 for fiscal year 2006.

[(5) $15,000,000 for each of fiscal years 2009 through 2012.

### [SEC. 7. DEFINITIONS.

[In this Act:

[(1) Administrator.—The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

[(2) Committee.—The term "Committee" means the Interagency Ocean Mapping Committee established by section 3.

[(3) Exclusive economic zone.—The term "exclusive economic zone" means the exclusive economic zone of the United States established by Presidential Proclamation No. 5030, of March 10, 1983.

[(4) Ocean and coastal mapping.—The term "ocean and coastal mapping" means the collection of physical, biological, geological, chemical, and archaeological characteristics of ocean and coastal sea beds through the use of acoustics, satellites, aerial photogrammetry, light and imaging, and direct sampling.

[(5) Territorial sea.—The term "territorial sea" means the belt of sea measured from the baseline of the United States determined in accordance with international law, as set forth in Presidential Proclamation Number 5928, dated December 27, 1988.]

### *SECTION 1. SHORT TITLE.*

*This Act may be cited as the "Ocean and Coastal Mapping Integration Act".*

### *SEC. 2. INTEGRATED OCEAN AND COASTAL MAPPING PROGRAM.*

*(a) In General.—The Administrator of the National Oceanic and Atmospheric Administration shall establish a program to develop, in coordination with the Interagency Committee on Ocean and Coastal Mapping, a coordinated and comprehensive Federal ocean and coastal mapping plan for the Great Lakes and Coastal State waters, the territorial sea, the exclusive economic zone, and the continental shelf of the United States that enhances ecosystem approaches in decision-making for conservation and management of marine resources and habitats, establishes research priorities, supports the siting of research and other platforms, and advances ocean and coastal science.*

*(b) Program Parameters.—In developing such a program, the Administrator shall work with the Committee to—*

*(1) identify all Federal and federally-funded programs conducting shoreline delineation and ocean or coastal mapping, noting geographic coverage, frequency, spatial coverage, resolution, and subject matter focus of the data and location of data archives;*

*(2) promote cost-effective, cooperative mapping efforts among all Federal agencies conducting ocean and coastal mapping agencies by increasing data sharing, developing data acquisition and metadata standards, and facilitating the interoperability of in situ data collection systems, data processing, archiving, and distribution of data products;*

*(3) facilitate the adaptation of existing technologies as well as foster expertise in new ocean and coastal mapping technologies, including through research, development, and training conducted in cooperation with the private sector, academia, and other non-Federal entities;*

*(4) develop standards and protocols for testing innovative experimental mapping technologies and transferring new technologies between the Federal government and the private sector or academia;*

*(5) centrally archive, manage, and distribute data sets as well as provide mapping products and services to the general public in service of statutory requirements;*

*(6) develop specific data presentation standards for use by Federal, State, and other entities that document locations of federally permitted activities, living and nonliving resources, marine ecosystems, sensitive habitats, submerged cultural resources, undersea cables, offshore aquaculture projects, and any areas designated for the purposes of environmental protection or conservation and management of living marine resources; and*

*(7) identify the procedures to be used for coordinating Federal data with State and local government programs.*

### *SEC. 3. INTERAGENCY COMMITTEE ON OCEAN AND COASTAL MAPPING.*

*(a) Establishment.—There is hereby established an Interagency Committee on Ocean and Coastal Mapping.*

*(b) Membership.—The Committee shall be comprised of senior representatives from Federal agencies with ocean and coastal mapping and surveying responsibilities. The representatives shall be high-ranking officials of their respective agencies or departments and, whenever possible, the head of the portion of the agency or department that is most relevant to the purposes of this Act. Membership shall include senior representatives from the National Oceanic and Atmospheric Administration, the Chief of Naval Operations, the United States Geological Survey, Minerals Management Service, National Science Foundation, National Geospatial-Intelligence Agency, United States Army Corps of Engineers, United States Coast Guard, Environmental Protection Agency, Federal Emergency Management Agency and National Aeronautics and Space Administration, and other appropriate Federal agencies involved in ocean and coastal mapping.*

*(c) Chairman.—The Committee shall be chaired by the representative from the National Oceanic and Atmospheric Administration. The chairman may create subcommittees chaired by any member agency of the committee. Working groups may be formed by the full Committee to address issues of short duration.*

*(d) Meetings.—The Committee shall meet on a quarterly basis, but subcommittee or working group meetings shall meet on an as-needed basis.*

*(e) Coordination.—The committee should coordinate activities, when appropriate, with—*

*(1) other Federal efforts, including the Digital Coast, Geospatial One-Stop, and the Federal Geographic Data Committee;*

*(2) international mapping activities; and*

*(3) States and user groups through workshops and other appropriate mechanisms.*

### *SEC. 4. NOAA INTEGRATED MAPPING INITIATIVE.*

*(a) In General.—Not later than 6 months after the date of enactment of this Act, the Administrator, in consultation with the Committee, shall develop and submit to the Congress a plan for an integrated ocean and coastal mapping initiative within the National Oceanic and Atmospheric Administration.*

*(b) Plan Requirements.—The plan shall—*

*(1) identify and describe all ocean and coastal mapping programs within the agency, including those that conduct mapping or related activities in the course of existing missions, such as hydrographic surveys, ocean exploration projects, living marine resource conservation and management programs, coastal zone management projects, and ocean and coastal science projects;*

*(2) establish priority mapping programs and establish and periodically update priorities for geographic areas in surveying and mapping, as well as minimum data acquisition and metadata standards for those programs;*

*(3) encourage the development of innovative ocean and coastal mapping technologies and applications through research and development through cooperative or other agreements at joint centers of excellence and with the private sector;*

*(4) document available and developing technologies, best practices in data processing and distribution, and leveraging opportunities with other Federal agencies, non-governmental organizations, and the private sector;*

*(5) identify training, technology, and other resource requirements for enabling the National Oceanic and Atmospheric Administration's programs, ships, and aircraft to support a coordinated ocean and coastal mapping program;*

*(6) identify a centralized mechanism or office for coordinating data collection, processing, archiving, and dissemination activities of all such mapping programs within the National Oceanic and Atmospheric Administration, including—*

*(A) designating primary data processing centers to maximize efficiency in information technology investment, develop consistency in data processing, and meet Federal mandates for data accessibility; and*

*(B) designating a repository that is responsible for archiving and managing the distribution of all ocean and coastal mapping data to*

*simplify the provision of services to benefit Federal and State programs; and*

*(7) set forth a timetable for implementation and completion of the plan, including a schedule for periodic Congressional progress reports, and recommendations for integrating approaches developed under the initiative into the interagency program.*

*(c) NOAA JOINT OCEAN AND COASTAL MAPPING CENTERS.—The Secretary is authorized to maintain and operate up to 3 joint ocean and coastal mapping centers, including a joint hydrographic center, which shall be co-located with an institution of higher education. The centers shall serve as hydrographic centers of excellence and are authorized to conduct activities necessary to carry out the purposes of this Act, including—*

*(1) research and development of innovative ocean and coastal mapping technologies, equipment, and data products;*

*(2) mapping of the United States outer continental shelf;*

*(3) data processing for non-traditional data and uses;*

*(4) advancing the use of remote sensing technologies, for related issues, including mapping and assessment of essential fish habitat and of coral resources, ocean observations and ocean exploration; and*

*(5) providing graduate education in ocean and coastal mapping sciences for National Oceanic and Atmospheric Administration Commissioned Officer Corps, personnel of other agencies with ocean and coastal mapping programs, and civilian personnel.*

***SEC. 5. INTERAGENCY PROGRAM REPORTING.***

*No later than 18 months after the date of enactment of this Act, and bi-annually thereafter, the Chairman of the Committee shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources a report detailing progress made in implementing the provisions of this Act, including—*

*(1) an inventory of ocean and coastal mapping data, noting the metadata, within the territorial seas and the exclusive economic zone and throughout the continental shelf of the United States, noting the age and source of the survey and the spatial resolution (metadata) of the data;*

*(2) identification of priority areas in need of survey coverage using present technologies;*

*(3) a resource plan that identifies when priority areas in need of modern ocean and coastal mapping surveys can be accomplished;*

*(4) the status of efforts to produce integrated digital maps of ocean and coastal areas;*

*(5) a description of any products resulting from coordinated mapping efforts under this Act that improve public understanding of the coasts, oceans, or regulatory decision-making;*

*(6) documentation of minimum and desired standards for data acquisition and integrated metadata;*

*(7) a statement of the status of Federal efforts to leverage mapping technologies, coordinate mapping activities, share expertise, and exchange data;*

*(8) a statement of resource requirements for organizations to meet the goals of the program, including technology needs for data acquisition, processing and distribution systems;*

*(9) a statement of the status of efforts to declassify data gathered by the Navy, the National Geospatial-Intelligence Agency and other agencies to the extent possible without jeopardizing national security, and make it available to partner agencies and the public; and*

*(10) a resource plan for a digital coast integrated mapping pilot project for the northern Gulf of Mexico that will—*

*(A) cover the area from the authorized coastal counties through the territorial sea;*

*(B) identify how such a pilot project will leverage public and private mapping data and resources, such as the United States Geological Survey National Map, to result in an operational coastal change assessment program for the subregion; and*

*(11) the status of efforts to coordinate Federal programs with State and local government programs and leverage those programs.*

***SEC. 6. AUTHORIZATION OF APPROPRIATIONS.***

*(a) IN GENERAL.—In addition to the amounts authorized by section 306 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892d), there are authorized to be appropriated to the Administrator to carry out this Act—*

*(1) $20,000,000 for fiscal year 2005;*

*(2) $26,000,000 for fiscal year 2006;*

*(3) $32,000,000 for fiscal year 2007;*

*(4) $38,000,000 for fiscal year 2008; and*

*(5) $45,000,000 for each of fiscal years 2009 through 2012.*

*(b) JOINT OCEAN AND COASTAL MAPPING CENTERS.—Of the amounts appropriated pursuant to subsection (a), the following amounts shall be used to carry out section 4(c) of this Act:*

*(1) $10,000,000 for fiscal year 2005.*

*(2) $11,000,000 for fiscal year 2006.*

*(3) $12,000,000 for fiscal year 2007.*

*(4) $13,000,000 for fiscal year 2008.*

*(5) $15,000,000 for each of fiscal years 2009 through 2012.*

*(c) INTERAGENCY COMMITTEE.—Notwithstanding any other provision of law, from amounts authorized to be appropriated for fiscal years 2005 through 2012 to the Department of Defense, the Department of the Interior, the Department of Homeland Security, the Environmental Protection Agency, and the National Aeronautics and Space Administration, the head of each such department or agency may make available not more than $10,000,000 per fiscal year to carry out interagency activities under section 3 of this Act.*

***SEC. 7. DEFINITIONS.***

*In this Act:*

*(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.*

*(2) COASTAL STATE.—The term "coastal state" has the meaning given that term by section 304(4) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(4).*

*(3) COMMITTEE.—The term "Committee" means the Interagency Ocean Mapping Committee established by section 3.*

*(4) EXCLUSIVE ECONOMIC ZONE.—The term "exclusive economic zone" means the exclusive economic zone of the United States established by Presidential Proclamation No. 5030, of March 10, 1983.*

*(5) OCEAN AND COASTAL MAPPING.—The term "ocean and coastal mapping" means the acquisition, processing, and management of physical, biological, geological, chemical, and archaeological characteristics and boundaries of ocean and coastal areas, resources, and sea beds through the use of acoustics, satellites, aerial photogrammetry, light and imaging, direct sampling, and other mapping technologies.*

*(6) TERRITORIAL SEA.—The term "territorial sea" means the belt of sea measured from the baseline of the United States determined in accordance with international law, as set forth in Presidential Proclamation Number 5928, dated December 27, 1988.*

Mr. INOUYE. Mr. President, I rise in support of my bill, S. 2489, the Ocean and Coastal Mapping Integration Act of 2004. which is being considered by the Senate. This bill which was reported unanimously from the Commerce Committee, addresses the nearly 90 percent of the U.S. Territorial Sea and Exclusive Economic Zone that remain unmapped by modern technologies. I am pleased to be joined by my friends and colleagues, Senators TED STEVENS, FRITZ HOLLINGS, JUDD GREGG, OLYMPIA SNOWE, TRENT LOTT, JOHN BREAUX, FRANK LAUTENBERG, and DAN AKAKA, who are cosponsors of the bill.

There was a time in the history of our Nation when our best efforts to map the seas meant lowering weights tied to piano wire over the side of a vessel, and measuring how deep they went. These efforts led to the development of rudimentary nautical charts designed to help mariners navigate safely. The rapidly increasing uses of our coastal and ocean waters, however, call for development of a new generation of ecosystem-oriented mapping and assessment products and services.

The technologies of today create richly layered mapping products that expand far beyond just charting for safe navigation. Now, by combining such information as mineral surveys of the U.S. Geological Service, habitat characterizations of the National Oceanic Atmospheric Administration, and watershed assessments of the Environmental Protection Agency into a single product, map users are able to consider the impacts of their actions on multiple facets of the marine environment.

The recent draft report of the U.S. Commission on Ocean Policy has highlighted the urgent need to modernize, improve, expand, and integrate federal mapping efforts to improve navigation, safety and resource management decision making. By employing integrated mapping approaches, urban and residential growth can be directed away from areas of high risk from ocean-based threats such as tsunami and tidal surge. The risks of maritime activities can be minimized by identifying hazards that could impact sensitive ecosystems, and devising appropriate mitigation plans. Managers of living marine resource can also gauge where and how best to focus their efforts to restore essential marine habitats.

My bill will lay the foundation for producing the ocean maps of the 21st century. It mandates coordination among the many federal agencies with mapping missions with NOAA as the lead in developing national mapping priorities and strategies. The bill will also establish national ocean and coastal mapping centers to manage comprehensively the mapping data produced by the Federal Government, encourage innovation in technologies, and authorize the funding necessary to implement this comprehensive effort.

Perhaps the most important lesson that comprehensive, integrated mapping can afford is an awareness of a web of human marine communities as rich and varied as the ocean itself. From awareness grows understanding, respect, and cooperation.

I am extremely proud to be the author of this legislation, and hope you will join me in supporting enactment of the Ocean and Coastal Mapping Integration Act of 2004. This bill will provide the United States with the programs and resources necessary to improve maritime commerce and national security, and develop healthy coastal communities across the Nation.

Mr. FRIST. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, the bill, as amended, be passed, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2489), as amended, was passed.

## RESEARCH REVIEW ACT OF 2004

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the immediate consideration of H.R. 5213.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5213) to expand research information regarding multidisciplinary research projects and epidemiological studies.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, last month we lost a great American, Christopher Reeve. Since a riding accident left him paralyzed from the neck down, Christopher Reeve has been an inspiration to all Americans, particularly to those living with paralysis as a result of spinal cord injury.

In the years following his accident, Christopher Reeve made tremendous progress. He regained sensation and movement in some parts of his body and was able to breathe for periods of time without a ventilator. Watching Christopher Reeve achieve these milestones gave hope to individuals with spinal cord injuries, their families, researchers and just about everyone.

We lost Christopher Reeve, but we cannot lose sight of his dream for a cure. We must do everything we can to ensure that Federal researchers have the tools they need to further advance paralysis research, and to ultimately find a cure.

I am pleased that today we are honoring the legacy of Christopher Reeve by passing the Research Review Act. This legislation includes a provision that will advance the goals of the Christopher Reeve Paralysis Act.

There is no stronger voice in the Senate for individuals with disabilities than Senator TOM HARKIN. And for the last several years, Senator HARKIN has worked with the Christopher Reeve Paralysis Foundation to pass legislation that would further advance the science needed to promote spinal regeneration and build quality-of-life programs for individuals with paralysis and other mobility impairments.

The Research Review Act supports the intent of the Christopher Reeve Paralysis Act by directing the National Institutes of Health to draft a report on ways they have encouraged the use of multi-disciplinary research teams to advance treatments, develop new therapies, and collaborate on clinical trials with respect to spinal cord injury and paralysis research.

The Research Review Act is an important step in the right direction, but we must do everything we can to pass and fund the Christopher Reeve Paralysis Act during the next session of Congress.

The Research Review Act also includes important provisions related to inflammatory bowel disease. I am the proud sponsor of legislation in the Senate known as the "IBD Act" which is designed to improve the quality of life for patients suffering from inflammatory bowel disease. I am pleased that 36 Members of the Senate, including Senator COCHRAN, have cosponsored this bipartisan legislation.

Inflammatory bowel disease, which includes both Crohn's disease and ulcerative colitis, is a chronic disorder of the gastrointestinal tract which afflicts approximately 1 million Americans, 100,000 or 10 percent of whom are children under the age of 18. IBD can cause severe abdominal pain, fever, and intestinal bleeding. Complications related to the disease include: Arthritis, osteoporosis, anemia, liver disease, and colon cancer. Inflammatory bowel disease represents a major cause of morbidity from digestive illness, and although it is not fatal, IBD can be devastating.

I am pleased that the Research Review Act contains three important provisions related to inflammatory bowel disease. The first provision directs the Centers for Disease Control and Prevention to report to the Congress on the status of its inflammatory bowel disease epidemiology study. This much needed study is being conducted by CDC through financial support provided by the Crohn's and Colitis Foundation of America (CCFA). Over the past 2 years, CCFA has provided the CDC with $750,000 to establish the epidemiology project. I am pleased that the Senate Labor, Health and Human Services and Education Appropriations Subcommittee has provided $800,000 for Fiscal Year 2005 to continue this important study.

The second provision of interest to the IBD community directs the Government Accountability Office to conduct a study on the coverage standards of Medicare/Medicaid for the therapies that IBD patients need to manage their disease. If there are gaps in coverage that negatively impact the health and quality of life of IBD patients on Medicare or Medicaid, we need to know about them, and take steps to address the problem.

The bill provides for a GAO study on the challenges that IBD patients encounter when applying for Social Security Disability. This study will include recommendations for improving the application process for IBD patients. This is critical to our effort to ensure that every patient who deserves disability coverage, receives it.

I am pleased to inform my colleagues that this is the first piece of authorizing legislation to pass the United States Congress that addresses inflammatory bowel disease. I would like to extend my appreciation to the Crohn's and Colitis Foundation of America for their tremendous advocacy in support of this bill and the "IBD Act" in the 108th Congress. Over the past 2 years, tens of thousands of IBD patients have made their voice heard on Capitol Hill. I am pleased that a disease that for so long has been in the shadows of our society is starting to receive much needed attention and support. We would not be here today if it wasn't for the commitment of these patients and their family members.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5213) was read the third time and passed.

## NATIONAL OCEAN EXPLORATION PROGRAM ACT

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 791, S. 2280.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2280) to establish and coordinate the national ocean exploration program with the National Oceanic and Atmospheric Administration.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed and the motion to reconsider be laid upon the table, with no intervening debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2280) was read the third time and passed, as follows:

S. 2280

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Ocean Exploration Program Act".

**SEC. 2. ESTABLISHMENT.**

The Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, shall, in consultation with the National Science Foundation and other appropriate Federal agencies, establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration.

**SEC. 3. PURPOSES.**

The purposes of the program are the following:

(1) To explore the physical, biological, chemical, geological, archaeological, temporal, and other related characteristics of the oceans to benefit, inform, and inspire the American people.

(2) To create missions and scientific activities of discovery that will improve our understanding, appreciation, and stewardship of the unique marine ecosystems, organisms, chemistry, and geology of the world's oceans, and to enhance knowledge of submerged maritime historical and archaeological sites.

(3) To facilitate discovery of marine natural products from these ecosystems that may have potential beneficial uses, including those that may help combat disease or provide therapeutic benefits.

(4) To communicate such discoveries and knowledge to policymakers, regulators, researchers, educators, and interested nongovernmental entities in order to support policy decisions and to spur additional scientific research and development.

(5) To maximize effectiveness by integrating multiple scientific disciplines, employing the diverse resources of the ocean science community, and making ocean exploration data and information available in a timely and consistent manner.

(6) To achieve heightened education, environmental literacy, public understanding and appreciation of the oceans.

**SEC. 4. AUTHORITIES.**

In carrying out the program the Administrator of the National Oceanic and Atmospheric Administration shall—

(1) conduct interdisciplinary exploration voyages or other scientific activities in conjunction with other Federal agencies or academic or educational institutions, to survey little known areas of the marine environment, inventory, observe, and assess living and nonliving marine resources, and report such findings;

(2) give priority attention to deep ocean regions, with a focus on surveying deep water marine systems that hold potential for important scientific and medical discoveries, such as hydrothermal vent communities and seamounts;

(3) conduct scientific voyages to locate, define, and document historic shipwrecks, submerged sites, and other ocean exploration activities that combine archaeology and oceanographic sciences;

(4) develop, in consultation with the National Science Foundation, a transparent process for reviewing and approving proposals for activities to be conducted under this program;

(5) enhance the technical capability of the United States marine science community by promoting the development of improved oceanographic research, communication, navigation, and data collection systems, as well as underwater platforms and sensors;

(6) conduct public education and outreach activities that improve the public understanding of ocean science, resources, and processes, in conjunction with relevant educational programs of the National Oceanic and Atmospheric Administration, the National Science Foundation, and other agencies;

(7) accept donations of property, data, and equipment to be applied for the purpose of exploring the oceans or increasing knowledge of the oceans; and

(8) establish an ocean exploration forum to encourage partnerships and promote communication among experts and other stakeholders in order to enhance the scientific and technical expertise and relevance of the national program.

**SEC. 5. EXPLORATION TECHNOLOGY AND INFRASTRUCTURE TASK FORCE.**

The National Oceanic and Atmospheric Administration, in coordination with the National Aeronautics and Space Administration, the U.S. Geological Survey, Office of Naval Research, and relevant governmental, non-governmental, academic, and other experts, shall convene an ocean technology and infrastructure task force to develop and implement a strategy—

(1) to facilitate transfer of new exploration technology to the program;

(2) to improve availability of communications infrastructure, including satellite capabilities, to the program;

(3) to develop an integrated, workable and comprehensive data management information processing system that will make information on unique and significant features obtained by the program available for research and management purposes; and

(4) to encourage cost-sharing partnerships with governmental and non-governmental entities that will assist in transferring exploration technology and technical expertise to the program.

**SEC. 6. INTERAGENCY FINANCING.**

The National Oceanic and Atmospheric Administration, the National Science Foundation, and other Federal agencies involved in the program, are authorized to participate in interagency financing and share, transfer, receive and spend funds appropriated to any federal participant the program for the purposes of carrying out any administrative or programmatic project or activity under this section. Funds may be transferred among such departments and agencies through an appropriate instrument that specifies the goods, services, or space being acquired from another Federal participant and the costs of the same.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the National Oceanic and Atmospheric Administration to carry out the program—

(1) $45,000,000 for each of fiscal years 2005 through 2010; and

(2) $55,000,000 for each of fiscal years 2011 through 2016.

## EXTENDING LIABILITY INDEMNIFICATION REGIME FOR COMMERCIAL SPACE TRANSPORTATION INDUSTRY

Mr. FRIST. I ask unanimous consent to proceed to the immediate consideration of H.R. 5245.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5245) to extend the liability indemnification regime for the commercial space transportation industry.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5245) was read for the third time and passed.

## NORMAN Y. MINETA RESEARCH AND SPECIAL PROGRAMS IMPROVEMENT ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5163.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5163) to amend title 49, United States Code, to provide the Department of Transportation a more focused research organization with an emphasis on innovative technology, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. JEFFORDS. Mr. President, H.R. 5163, the Norman Mineta Research and Special Programs Improvement Act, will be considered by the Senate today. I support H.R. 5163 and look forward to its enactment into law.

H.R. 5163 will realign the current Research and Special Programs Administration, creating two new entities; the Pipeline and Hazardous Materials Safety Administration and the Research and Innovative Technologies Administration. Each new entity will be led by an Administrator.

Section 2 of the bill provides a new Section 108 of Title 49, creating the new Pipeline and Hazardous Materials Safety Administration. In 108(c), the bill creates the Administrator position, as follows:

> (c) ADMINISTRATOR.—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with advice and consent of the Senate, and shall be an individual with professional experience in pipeline safety, hazardous materials safety, or other transportation safety . . .

By spelling out qualifications for its new Administrator, Congress is seeking to enhance the prospects for success for the new Pipeline and Hazardous Materials Safety Administration.

The new Research and Innovative Technologies Administration is created by amending Section 112 of title 49, eliminating reference to the Research and Special Programs Administration and modifying its powers and duties. Aside from adding the position to the Executive Schedule Pay Rate, H.R. 5163 does not address the new Administrator, Research and Innovative Technologies Administration.

As with the Pipeline and Hazardous Materials Safety Administration, success of the Research and Innovative

Technologies Administration will rest to a significant degree on the effectiveness of its leadership. Its Administrator should be well qualified. He or she should be an individual with professional experience in transportation research, research management, research program development, education and training in transportation and transportation-related fields and in transferring technologies into real world applications.

I hope that the President will apply these qualifications when selecting a candidate for Administrator, Research and Innovative Technologies Administration.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5163) was read the third time and passed.

## AMENDING THE TIJUANA RIVER VALLEY ESTUARY AND BEACH SEWAGE CLEANUP ACT OF 2000

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4794, received from the House.

The legislative clerk read as follows:

A bill (H.R. 4794) to amend the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 to extend the authorization of appropriations, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, and that any statements related to the matter be printed in the RECORD, with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4794) was read the third time and passed.

## MEASURE PLACED ON THE CALENDAR—S. 2986

Mr. FRIST. Mr. President, I ask unanimous consent that S. 2986 be placed directly on the calendar.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## UNANIMOUS-CONSENT AGREEMENT—S. 2986

Mr. FRIST. Mr. President, I ask unanimous consent that at a time determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to consideration of S. 2986, the debt limit extension bill; provided that there be 6 hours of debate only, equally divided between the chairman and ranking member of the Finance Committee or their designees; provided further that no amendments be in order to the measure, and following the use or yielding back of the time, the Senate proceed to a vote on passage, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## AMENDING TITLE XIX OF THE SOCIAL SECURITY ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 2618 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2618) to amend title XIX of the Social Security Act to extend medicare cost-sharing for the medicare part B premium for qualifying individuals through September 2005.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2618) was read the third time and passed, as follows:

S. 2618

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF MEDICARE COST-SHARING FOR THE MEDICARE PART B PREMIUM FOR QUALIFYING INDIVIDUALS.**

(a) IN GENERAL.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking "2004" and inserting "2005".

(b) TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of the Social Security Act (42 U.S.C. 1396u-3(g)) is amended to read as follows:

"(g) SPECIAL RULES.—

"(1) IN GENERAL.—With respect to each period described in paragraph (2), a State shall select qualifying individuals, subject to paragraph (3), and provide such individuals with assistance, in accordance with the provisions of this section as in effect with respect to calendar year 2003, except that for such purpose—

"(A) references in the preceding subsections of this section to a year, whether fiscal or calendar, shall be deemed to be references to such period; and

"(B) the total allocation amount under subsection (c) for such period shall be the amount described in paragraph (2) for that period.

"(2) PERIODS AND TOTAL ALLOCATION AMOUNTS DESCRIBED.—For purposes of this subsection—

"(A) for the period that begins on January 1, 2004, and ends on September 30, 2004, the total allocation amount is $300,000,000;

"(B) for the period that begins on October 1, 2004, and ends on December 31, 2004, the total allocation amount is $100,000,000; and

"(C) for the period that begins on January 1, 2005, and ends on September 30, 2005, the total allocation amount is $300,000,000.

"(3) RULES FOR PERIODS THAT BEGIN AFTER JANUARY 1.—For any specific period described in subparagraph (B) of paragraph (2), the following applies:

"(A) The specific period shall be treated as a continuation of the immediately preceding period in that calendar year for purposes of applying subsection (b)(2) and qualifying individuals who received assistance in the last month of such immediately preceding period shall be deemed to be selected for the specific period (without the need to complete an application for assistance for such period).

"(B) The limit to be applied under subsection (b)(3) for the specific period shall be the same as the limit applied under such subsection for the immediately preceding period.

"(C) The ratio to be applied under subsection (c)(2) for the specific period shall be the same as the ratio applied under such subsection for the immediately preceding period.".

## REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 108-27

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate November 16, 2004, by the President of the United States: Mutual Legal Assistance Treaty with Germany. Treaty Document No. 108-27. I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

[Mutual Legal Assistance Treaty with Germany Treaty Doc. 108-27]

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the United States of America and the Federal Republic of Germany on Mutual Legal Assistance in Criminal Matters, signed at Washington on October 14, 2003, and a related exchange of notes. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes:

taking the testimony or statements of persons; providing documents, records, and articles of evidence; locating or identifying persons; serving documents; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; undertaking telecommunications surveillance, undercover investigations, and controlled deliveries; assisting in proceedings related to immobilization and forfeiture of assets, restitution to the victims of crime and collection of fines; and any other form of assistance not prohibited by the laws of the State from whom the assistance is requested.

I recommend that the Senate give early and favorable consideration to the Treaty, and give its advice and consent to ratification.

GEORGE W. BUSH.
THE WHITE HOUSE, *September 13, 2004*.

## ORDERS FOR WEDNESDAY, NOVEMBER 17, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2:15 p.m. on Wednesday, November 17. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin consideration of S. 2986, the debt limit extension bill provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will begin consideration of the debt limit extension bill. Under the order, there will be up to 6 hours of debate on the measure prior to the vote. It is my expectation that we will use a portion of that debate tomorrow and the remainder of the debate on Thursday. A number of our colleagues will be attending the opening of the Clinton Presidential Library and, therefore, I expect that vote to occur when that delegation returns.

As I mentioned this morning, we have a lot of work to do prior to adjournment of this Congress. In addition to the debt limit bill, the Senate must also complete action on the remaining fiscal year 2005 spending bills, the intelligence reform conference report, if available, a number of nominations, and any other conference reports that may become available.

It is our intention to finish our work on these items this week. Therefore, Senators should make themselves available for busy days over the remainder of the week.

Mr. President, I will be happy to turn to the Democratic leader. If not, I will be putting us into a quorum call for a period of time.

Mr. DASCHLE. Mr. President, I ask if the majority leader can give us any understanding as to progress that may have been made today on the appropriations and the omnibus bill. It is my understanding it is unlikely the bill will come up before Friday, but might he share with us what he knows about the progress the negotiators made today?

Mr. FRIST. Mr. President, in response to the Democratic leader, tremendous progress has been made over the course of the weekend, yesterday, and then over the course of today. We have a number of bills that are involved, as everyone knows, and it is a monumental task that both the staff and the Senators have been asked to do. But huge progress is being made.

We will, for the convenience of Senators, not be voting on Thursday during the day. We will have a vote likely Thursday night. It would be an objective to finish the omnibus bill on Friday. I hesitate to say that because a number of Senators have come up and said exactly what is in that omnibus bill. The staff is working with the Senators on the various conferences and the appropriators, and it is very important people be able to see it and have the opportunity to comment on it and debate what is in that bill.

Tremendous progress is being made which led me to say that if we stay focused, we should be able to finish our business this week on Friday or Saturday, although, again, we have the intelligence bills to consider.

Mr. DASCHLE. I thank the majority leader. I only reiterate what I said this morning. Obviously, our ability to expedite consideration of the omnibus bill, which is very critical, will be directly related to the degree to which extraneous matters are incorporated in the bill. I hope very earnestly that people who have an inclination to want to add extraneous issues can refrain from doing so in order to complete our work and to avoid what might be an extended delay.

I know both sides are working with that in mind. I appreciate the effort made to bring this matter to a close. This is probably one of the most important remaining pieces of unfinished business. I appreciate very much the leader's report tonight.

I yield the floor.

Mr. FRIST. Mr. President, I also want to reemphasize what the Democratic leader just said. A number of people are coming forward with legislation in the hopes there is some way it can be attached to the omnibus bill because people realize it is an important bill, and it is a bill we have worked on in a bipartisan way to bring to closure, which we will. I encourage our colleagues on both sides of the aisle to understand that we are not going to be including extraneous matter on this bill. That is under mutual agreement with the Democratic leadership and the Republican leadership.

## CORRECTING THE ENROLLMENT OF H.R. 1417

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 145, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Res. 145) to correct the enrollment of H.R. 1417.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Res. 145) was agreed to, as follows:

S. CON. RES. 145

*Resolved by the Senate (the House of Representatives concurring)*, That in the enrollment of H.R. 1417, an Act to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, and for other purposes (the Copyright Royalty and Distribution Reform Act of 2004), the Clerk of the House of Representatives shall make the following corrections:

(1) In section 801 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—

(A) in subsection (b)(7)(A)—

(i) in clause (i), strike "the other participants" and insert "participants"; and

(ii) in clause (ii), strike "any other participant described in subparagraph (A)" and insert "any participant described in clause (i)";

(B) in subsection (b)(7)(B), strike "118(b) (2) or (3)" and insert "118(b)(2)";

(C) in subsection (b)(8), insert a comma after "802(g)"; and

(D) in subsection (c), strike "As provided in section 801(f)(1), the" and insert "The".

(2) In section 802 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—

(A) in subsection (a)(1), in the second sentence—

(i) strike "two Copyright" and insert "2 Copyright"; and

(ii) strike "one shall" and insert "1 shall";

(B) in subsection (c)—

(i) strike "appointed the Chief Copyright" and insert "appointed as the Chief Copyright"; and

(ii) strike "appointed Copyright" and insert "appointed as Copyright"; and

(C) in subsection (f)—

(i) in paragraph (1)(A)(ii), strike "14 days of receipt by the Register of Copyrights of all" and insert "14 days after the Register of Copyrights receives all";

(ii) in paragraph (1)(B)(i)—

(I) strike "The Register shall" and insert "The Register of Copyrights shall";

(II) strike "30 days of receipt by the Register of Copyrights of all" and insert "30 days after the Register of Copyrights receives all"; and

(III) in the last sentence, insert "to the Copyright Royalty Judges" after "is timely delivered";

(iii) in paragraph (1)(D)—

(I) insert after the second sentence the following: "The Register of Copyrights shall issue such written decision not later than 60 days after the date on which the final determination by the Copyright Royalty Judges is issued.";

(II) in the following sentence, insert a comma after "such written decision";

(III) strike "section 802(f)(1)(D)" and insert "this subparagraph";

(IV) strike "notification and undertakes to consult with" and insert "notification to, and undertakes to consult with,"; and

(V) strike "fails within reasonable period after receipt of such notification" and insert "fails, within a reasonable period after receiving such notification,".

(3) In section 803 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—

(A) in subsection (a)(1), strike "Librarian of Congress, copyright arbitration royalty panels," and insert "the Librarian of Congress,";

(B) in subsection (b)—

(i) in paragraph (1), amend subparagraph (A)(i) to read as follows:

"(A) CALL FOR PETITIONS TO PARTICIPATE.—(i) The Copyright Royalty Judges shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter, calling for the filing of petitions to participate in a proceeding under this chapter for the purpose of making the relevant determination under section 111, 112, 114, 115, 116, 118, 119, 1004, or 1007, as the case may be—

"(I) promptly upon a determination made under section 804(a);

"(II) by no later than January 5 of a year specified in paragraph (2) of section 804(b) for the commencement of proceedings;

"(III) by no later than January 5 of a year specified in subparagraph (A) or (B) of paragraph (3) of section 804(b) for the commencement of proceedings, or as otherwise provided in subparagraph (A) or (C) of such paragraph for the commencement of proceedings;

"(IV) as provided under section 804(b)(8); or

"(V) by no later than January 5 of a year specified in any other provision of section 804(b) for the filing of petitions for the commencement of proceedings, if a petition has not been filed by that date.";

(ii) in clause (ii) of paragraph (1)(A)—

(I) strike "proceeding, under clause (i)" and insert "proceeding under clause (i)"; and

(II) strike "section 803(b)(3)" and insert "paragraph (3)";

(iii) in paragraph (4)(A), strike "a participant in the proceeding asserts a claim in the amount of" and insert "the contested amount of a claim is";

(iv) in paragraph (6)(C)—

(I) in clause (iv), insert a comma after "orders";

(II) in clause (v), strike "according to" and insert "in accordance with"; and

(III) in clause (vi)(I), strike "absent the discovery sought" and insert ", absent the discovery sought,";

(v) in clause (vii), strike "interrogatories and" and insert "interrogatories, and"; and

(vi) in clause (ix)—

(I) in the first sentence, insert a comma after "give testimony" and insert a comma after "inspection of documents or tangible things"; and

(II) in the last sentence, strike "subparagraph" and insert "clause";

(C) in subsection (c)—

(i) in paragraph (1), strike "(b)(3)(C)(x)" and insert "(b)(6)(C)(x)";

(ii) in paragraph (2)—

(I) in subparagraph (A)—

(aa) insert "in a proceeding" after "a participant"; and

(bb) strike "a proceeding is issued" and insert "the proceeding is issued";

(II) in subparagraph (B), strike "their initial determination concerning rates and terms to the participants in the proceeding" and insert "to the participants in the proceeding their initial determination concerning rates and terms"; and

(III) in subparagraph (C), strike "except as provided under subsection (d)(1)" and insert "except that nonparticipation may give rise to the limitations with respect to judicial review provided for in subsection (d)(1)"; and

(iii) in paragraph (6), strike "Following review of the determination by the Register of Copyrights under section 802(f)(1)(D)" and insert "By no later than the end of the 60-day period provided in section 802(f)(1)(D)"; and

(D) in the second sentence of subsection (d)(2)(A), strike "transmission service" and insert "licensee".

(4) In section 5(b)(1)—

(A) in subparagraph (A), strike "and" at the end;

(B) strike subparagraph (B); and

(C) redesignate subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(5) In the amendment made by section 5(b)(1)(A)—

(A) strike "5-year periods" and insert "5-year period"; and

(B) strike "such other periods" and insert "such other period".

(6) Strike paragraph (3) of section 5(b) and insert the following:

(3) in paragraph (5), by striking "determination by a copyright arbitration royalty panel or decision by the Librarian of Congress" and inserting "decision by the Librarian of Congress or determination by the Copyright Royalty Judges";

(7) In the amendment made by section 5(c)(1)(A)(i)—

(A) strike "5-year periods" and insert "the 5-year period"; and

(B) strike "different transitional periods are provided in section 804(b), or such periods" and insert "a different transitional period is provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period".

(8) In the amendment made by section 5(c)(1)(B)(i), strike "in section 804(b)" and insert "under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004".

(9) In the amendment made by section 5(c)(2)(A)—

(A) strike "5-year periods" and insert "the 5-year period"; and

(B) strike "different transitional periods are provided in section 804(b), or such periods" and insert "a different transitional period is provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period".

(10) In the amendment made by section 5(c)(2)(B)(i), strike "in section 804(b)" and insert "under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004".

(11) Strike paragraph (3) of section 5(c) and insert the following:

(3) in paragraph (3), by striking "determination by a copyright arbitration royalty panel or decision by the Librarian of Congress" and inserting "decision by the Librarian of Congress or determination by the Copyright Royalty Judges"; and

(12) In section 5(c)(4)(B), insert "of subparagraph (A) the following:" after "by adding after the first sentence".

(13) In the amendment made by section 5(d)(3)(A), strike "during periods" and insert "during the period".

(14) In section 5(d)(4)—

(A) strike "and" at the end of subparagraph (B);

(B) add "and" after the semicolon at the end of subparagraph (C); and

(C) add after subparagraph (C) the following:

(D) in the last sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges".

(15) In the amendment made by section 5(d)(5)(A)(i), strike ", Copyright Royalty Judges, or a copyright arbitration royalty panel to the extent those determinations were accepted by the Librarian of Congress" and insert "or Copyright Royalty Judges".

(16) In the amendment made by section 5(f)(1)(B)—

(A) strike ", a copyright arbitration royalty panel,"; and

(B) strike "to the extent that they were accepted by the Librarian of Congress,".

(17) In section 5, insert the following after subsection (g) and redesignate succeeding subsections accordingly:

(h) RATEMAKING FOR SATELLITE CARRIERS.—Section 119(c) of title 17, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(B) in subparagraph (C), by striking "Register of Copyrights shall prescribe" and inserting "Copyright Royalty Judges shall prescribe as provided in section 803(b)(6); and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking "arbitration proceedings" and inserting "proceedings"; and

(ii) by striking "arbitration proceeding" and inserting "proceedings";

(B) in subparagraph (B)—

(i) by striking "copyright arbitration royalty panel appointed under chapter 8" and inserting "Copyright Royalty Judges"; and

(ii) by striking "panel shall base its decision" and inserting "Copyright Royalty Judges shall base their determination"; and

(C) in subparagraph (C)—

(i) in the heading, by striking "DECISION OF ARBITRATION PANEL OR ORDER OF LIBRARIAN" and inserting "DETERMINATION UNDER CHAPTER 8"; and

(ii) by striking clauses (i) and (ii) and inserting the following:

"(i) is made by the Copyright Royalty Judges pursuant to this paragraph and becomes final, or

"(ii) is made by the court on appeal under section 803(d)(3),".

(18) In the first sentence of section 6(b)(1)—

(A) strike "date of enactment of this Act" and insert "effective date provided in subsection (a)"; and

(B) strike "such date of enactment" and insert "such effective date".

(19) Strike paragraph (2) of section 6(b) and insert the following:

(2) CERTAIN ROYALTY RATE PROCEEDINGS.—Notwithstanding paragraph (1), the amendments made by this Act shall not affect proceedings to determine royalty rates pursuant to section 119(c) of title 17, United States Code, that are commenced before January 31, 2006.

## ADJOURNMENT UNTIL 2:15 P.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:31 p.m., adjourned until Wednesday, November 17, 2004, at 2:15 p.m.

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## NOMINATIONS

Executive nominations received by the Senate November 16, 2004:

### FARM CREDIT ADMINISTRATION

DALLAS TONSAGER, OF SOUTH DAKOTA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION, FOR A TERM EXPIRING MAY 21, 2010, VICE MICHAEL M. REYNA, TERM EXPIRED.

### COMMODITY FUTURES TRADING COMMISSION

MICHAEL V. DUNN, OF IOWA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 19, 2006, VICE JAMES E. NEWSOME, RESIGNED.

### CORPORATION FOR PUBLIC BROADCASTING

ERNEST J. WILSON III, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2010. (REAPPOINTMENT)

### FEDERAL MARITIME COMMISSION

HAROLD JENNINGS CREEL, JR., OF SOUTH CAROLINA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2009. (REAPPOINTMENT)

### FEDERAL COMMUNICATIONS COMMISSION

JONATHAN STEVEN ADELSTEIN, OF SOUTH DAKOTA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM EXPIRING JUNE 30, 2008. (REAPPOINTMENT)

### NUCLEAR REGULATORY COMMISSION

ALBERT HENRY KONETZNI, JR., OF NEW YORK, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR A TERM EXPIRING JUNE 30, 2009, VICE RICHARD A. MESERVE, RESIGNED.

### DEPARTMENT OF THE TREASURY

RAYMOND THOMAS WAGNER, JR., OF MISSOURI, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR A TERM EXPIRING SEPTEMBER 14, 2009. (REAPPOINTMENT)

### BROADCASTING BOARD OF GOVERNORS

KENNETH Y. TOMLINSON, OF VIRGINIA, TO BE CHAIRMAN OF THE BROADCASTING BOARD OF GOVERNORS. (REAPPOINTMENT)

KENNETH Y. TOMLINSON, OF VIRGINIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2007. (REAPPOINTMENT)

### UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

JAY T. SNYDER, OF NEW YORK, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2007. (REAPPOINTMENT)

### BROADCASTING BOARD OF GOVERNORS

D. JEFFREY HIRSCHBERG, OF WISCONSIN, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2007. (REAPPOINTMENT)

### POSTAL RATE COMMISSION

TONY HAMMOND, OF VIRGINIA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING OCTOBER 14, 2010. (REAPPOINTMENT)

### UNITED STATES POSTAL SERVICE

LOUIS J. GIULIANO, OF NEW YORK, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2009, VICE ALBERT CASEY, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

CAROLYN L. GALLAGHER, OF TEXAS, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 8, 2005, VICE ERENSTA BALLARD, RESIGNED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

### HARRY S TRUMAN SCHOLARSHIP FOUNDATION

SHARON TUCKER, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2005, VICE E. GORDON GEE, TERM EXPIRED.

### BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

CHARLES P. RUCH, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING AUGUST 11, 2010, VICE NIRANJAN SHAMALBHAI SHAH, TERM EXPIRED.

EDWARD ALTON PARRISH, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING APRIL 17, 2008, VICE HANS MARK, RESIGNED.

LAURIE STENBERG NICHOLS, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING MARCH 3, 2010, VICE DONNA DEARMAN SMITH, TERM EXPIRED.

### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

MIMI MAGER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING DECEMBER 27, 2007, VICE MARK D. GEARAN, TERM EXPIRED.

JACOB JOSEPH LEW, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2008, VICE ARTHUR J. NAPARSTEK, TERM EXPIRED.

### DEPARTMENT OF JUSTICE

ALBERTO R. GONZALES, OF TEXAS, TO BE ATTORNEY GENERAL, VICE JOHN ASHCROFT, RESIGNED.

PATRICIA CUSHWA, OF MARYLAND, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS, VICE JANIE L. JEFFERS.

### IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

#### *To be lieutenant commander*

JOEL A. AMUNDSON, 5854
EUGENIO S. ANZANO, 1658
KIMBERLY J. AVSEC, 8143
KEVIN L. BARNETTE, 8142
JOHN F. BARRESI, 0164
AMY M. BEACH, 6825
PETER L. BEAVIS, 6708
JAMES G. BELLAIRE, 1945
BENJAMIN D. BERG, 5025
JAMES R. BETZ, 5714
DANIEL P. BISHOP, 6638
KENNETH A. BISHOP, 5578
JOHN R. BITTERMAN, 0737
LUCINDA J. BOOKHAMMER, 9350
GEORGE A. BORLASE, 5310
RICHARD G. BOSTON, 2570
JOHN M. BRANCH, 6757
WILLIAM J. BROOME, 6391
BRUCE C. BROWN, 9096
ROBERT S. BROWN, 6265
SUZANNE M. BROWN, 7363
SANDRA E. BULLOCK, 7365
PHILLIP B. BURGARD, 8291
JEFFREY S. BURKE, 2674
JOHN M. BURNS, 2320
WILLIAM R. BUTLER, 3953
MARIE B. BYRD, 6856
SCOTT R. CALHOUN, 8887
WILLARD R. CALLIHAN, 9790
ROBERT J. CAMPBELL, 8473
FLIP P. CAPISTRANO, 8872
DARREN J. CAPRARA, 6350
JAY CAPUTO, 2475
KEVIN M. CARROLL, 3088
KEVIN M. CARROLL, 9172
PETER R. CARROLL, 1285
ERIC P. CARTER, 3909
HARRY W. CAULTON, 9191
MICHAEL S. CAVALLARO, 5620
MICHAEL J. CIAGLO, 7688
JOHN D. COLE, 2076
TIMOTHY J. CONNORS, 0409
BRODIE G. COWNIE, 6614
FREDERICK C. CRAWFORD, 1864
KEELI S. DARST, 4385
MICHAEL J. DAVANZO, 4100
ELLIS G. DAVIS, 2566
FELIX E. DELGADO, 7385
ERIC D. DENLEY, 3999
STEPHEN W. DEPEW, 5244
JACKY L. DEPUE, 8849
STEVEN M. DETTON, 7247
DAVID J. DIBELLA, 3482
MICHAEL B. DOLAN, 6792
ANGELIC D. DONOVAN, 6313
PATRICK R. DOZIER, 0552
MARYELLEN J. DURLEY, 4385
CHRISTINA DUTTON, 9365
CRAIG F. DYKES, 7083
MATTHEW EDWARDS, 8346
ROY J. EIDEM, 6808
FREDERICK C. ENGLISH, 2504
THOMAS S. EVANS, 5313
STEPHEN J. FABIAN, 7117
BRIAN D. FALK, 6508
MICHAEL C. FARRELL, 6912
MICHAEL A. FAZIO, 1740
ROSEMARY P. FIRESTINE, 1173
PATRICK M. FLYNN, 8581
KELLY B. FOUCH, 6662
DARCIE A. K. GAARE, 5885
DANIEL P. GAINOR, 2997
VINCENT A. GAMMA, 0197
KATHLEEN C. GARZA, 1892
TONI N. GAY, 6568
MICHAEL D. GERO, 0394
CHARLES L. GOW, 4838
STACEY A. GOW, 3347
AMY B. GRABLE, 5192
GEORGE G. GRILLS, 1696
DAVID GUDBRANDSEN, 2821
ROBERT L. HAGGERTY, 4822
JEFFREY W. HALL, 3766
MARK F. HAMMOND, 7796
MELISSA J. HARPER, 8378
THOMAS J. HARRINGTON, 6974
HOLLY R. HARRISON, 8738
EDWARD J. HAUKKALA, 2762
MICHAEL J. HAUSCHEN, 5678
MARC A. HAWKINS, 3674
RUSSELL F. HELLSTERN, 8825
ROBERT L. HELTON, 3055
ROBERT E. HEMP, 6825
BRIAN E. HIGGINS, 4709
LADONN A. HIGHTALLEN, 9704
MARK E. HIIGEL, 5378
PATRICK M. HILBERT, 4643
CARL W. HINSHAW, 9594
MONTREVILLE D. HOLCOMBE, 9533
LISA M. HOULIHAN, 3866
TODD M. HOWARD, 6242
RICHARD E. HOWES, 2015
JULIET J. HUDSON, 4935
MICHAEL A. HUDSON, 9892
HOMER D. HUEY, 4648
KEVIN L. IVEY, 8213
CHARLES T. JENNINGS, 4580
ERIK J. JENSEN, 8824
KEITH A. JERNIGAN, 8809
MARY F. JOHNSON, 3999
SCOTT L. JOHNSON, 9199
CLIFFORD T. JONES, 0992
TYRONE L. JONES, 2690
JAMES M. KAMMEL, 8623
RENEE C. KERN, 5338
KEVIN J. KERNEY, 5319
MICHAEL L. KILMER, 6832
TAE J. KIM, 6378
ERIC P. KING, 8756
LAURA E. KING, 6454
DAVID K. KIRKPATRICK, 3742
SCOTT A. KLINKE, 6617
SHAWN S. KOCH, 4518
GARY C. KOEHLER, 5388
REED H. KOHBERGER, 8989
KENNETH S. KOSTECKI, 9209
JASON M. KRAJEWSKI, 6620
DONALD O. LAJAVIC, 2514
MATTHEW W. LAKE, 3204
PAUL J. LAMCZYK, 1093
MICHAEL E. LANGSTON, 5851
ALAN G. LAPENNA, 6758
PAUL R. LATTANZI, 4101
MATTHEW F. LAVIN, 9831
RANDEL J. LAYTON, 4857
ERIK A. LEUENBERGER, 1825
WILLIAM A. LEWIN, 8098
STEFANIE A. LINCOLN, 3237
RALPH R. LITTLE, 0444
GREGORY LOISELLE, 3666
STEVEN M. LONG, 6272
MICHAEL C. MACMILLAN, 6178
EDWARD N. MADURA, 7578
JONATHAN H. MAIORINE, 5993
SUSAN M. MAITRE, 3475
MALCOLM C. MARK, 5189
JAMES D. MARQUEZ, 2757
CHRISTOPHER D. MARTIN, 1069
JORGE MARTINEZ, 5057
CRAIG J. MASSELLO, 4204
SHAWN D. MAULDIN, 5644
HARRY D. MAUTTE, 6924
PETER A. MCCAFFREY, 7630
JOHN A. MCCLAIN, 3567
JOSEPH P. MCCONNELL, 4802
JOSEPH T. MCGILLEY, 8940
ROCKLYN L. MCNAIR, 9141
BRIAN L. MELVIN, 5139
STACEY MERSEL, 0756
JOSHUA J. MICKEL, 3178
DENNIS C. MILLER, 1137
STEPHEN A. MILLER, 7400
SANDRA J. MIRACLE, 4725
PATRICIA T. MITROWSKI, 5667
MATTHEW E. MOHRMAN, 4547
RICHARD D. MOLLOY, 0842
SIMONE S. MONTGOMERY, 8016
JEFFREY R. MORGAN, 4284
CLIFFORD W. MORRIS, 7103
ADAM B. MORRISON, 2869
HEATHER L. MORRISON, 0099
PHILIP J. MOTSAY, 6565
CHRISTOPHER F. MURRAY, 4743
BETH A. NAFF, 3700
MICHAEL F. NASITKA, 8559

PRINCE A. NEAL, 0117
TIMOTHY M. NEWTON, 4113
JEFFREY W. NOVAK, 2743
JEFFREY W. NOYES, 6195
MICHAEL S. OBAR, 6641
ANNE J. ODEGAARD, 6822
CHRISTOPHER T. ONEIL, 7669
KELLY L. OSBORNE, 7103
LOUIE C. PARKS, 8873
RICHARD D. PETERSEN, 4393
ROBERT A. PHILLIPS, 9058
LAWRENCE R. PICCONI, 1231
OCTAVIA D. POOLE, 4870
CURTISS C. POTTER, 9432
ANTHONY P. POWELL, 4821
DAVID C. PROHASKA, 4825
GREGORY L. PURVIS, 0958
ROBERT J. PUTANSU, 2804
RUDYARD K. QUIACHON, 3745
KEVIN P. QUILLIAM, 5733
JOSE A. QUINONESQUINTANA, 7182
CHRISTOPHER B. RANDOLPH, 0215
MICHAEL G. REAGAN, 2005
DANA B. REID, 0438
JACK E. ROBINSON, 4078
STEPHEN A. RONCONE, 3587
GREGORY C. ROTHROCK, 1079
TRACY L. ROYCE, 5206
JASON H. RYAN, 8832
DOMINIQUE T. SAMONTE, 8907
LUIS C. SANDOVAL, 4089
BERNARD J. SANDY, 9981
JOHN A. SCHUTZENHOFER, 9442
HILLIARD W. SEAMANS, 6353
ROBYN A. SHAVERS, 4944
TOM W. SHELTON, 6951
LEONARD W. SHELTRY, 0373
DALE V. SHEPARDSON, 6033
GERALD D. SLATER, 1237
MARTIN L. SMITH, 3149
PATRICK R. SMITH, 1087
ROBERT W. SMYTH, 5640
DAVID C. SOCCI, 3701
GARY J. SPONHOLZ, 1240
PATRICIA J. SPRINGER, 4145
SAM C. STEVENS, 9548
JESSE L. STEVENSON, 1097
GLENN D. STOCKS, 4063
MARK W. STOEGBAUER, 9258
ERIC J. STORCH, 7321
KEVIN J. SULLIVAN, 7605
THOMAS P. SULLIVAN, 4261
JEFFREY S. SWANSON, 6256
MICHAEL G. TAFFE, 2964
JASON P. TAMA, 2165
ROXANNE TAMEZ, 0200
GREGORY L. THOMAS, 0621
WENDY M. TOMKO, 9850
KARRIE C. TREBBE, 6477
STEVEN J. TUCKER, 3461
MARK W. TURNER, 6053
KEVIN C. ULLRICH, 1524
PETER R. VANNESS, 0501
ROBERT B. VILLACRES, 7642
BRUCE WALKER, 6764
JOHN D. WALLINGTON, 5800
MARK B. WALSH, 2890
MICHAEL R. WASHBURN, 4428
BRIAN D. WAZLAVEK, 2956
SCOTT K. WETTER, 2351
GLENN E. WHITLOW, 8308
MICHAEL A. WILFORD, 3444
ERIC A. WILLIAMS, 4939
JOHN A. WILLIAMS, 9412
JAMES A. WILLIAMSON, 0566
PAUL H. WISNIEWSKI, 3381
JEFFERY L. WOLFE, 3509
GREGORY S. WOOD, 6872
JASON K. WOOLCOTT, 4226
CRAIG A. WYATT, 8728
JAMES T. ZAWROTNY, 6905
JOSEPH M. ZWACK, 5803

## FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF STATE

DONNA LURLINE WOOLF, OF THE DISTRICT OF COLUMBIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF STATE

NANCY E. ABELLA, OF CONNECTICUT
JOHN ALOIA, OF NEW JERSEY
ALEXANDER NEVILLE AVE LALLEMANT, OF TEXAS
KAY GILBRECH BARTON, OF TEXAS
DENA D. BROWNLOW, OF THE DISTRICT OF COLUMBIA
CATHLEEN ELIZABETH CAROTHERS, OF KANSAS
CHARLES GARDNER CHANDLER IV, OF TEXAS
PETER THOMPSON CHISHOLM, OF FLORIDA
DEREK SHANE CHRISTENSEN, OF CALIFORNIA
AMANDA BETH CRONKHITE, OF NEW YORK
MONICA LYN CUMMINGS, OF CALIFORNIA
EVAN TAIT FELSING, OF CALIFORNIA
LI GONG, OF VIRGINIA
GLENN JAMES GUIMOND, OF CALIFORNIA
KENT C. HEALY, OF CONNECTICUT
NICHOLAS J. HILGERT III, OF VIRGINIA
JOHN J. HILLMEYER, OF MISSOURI
CHARLES DAVID HILLON, OF VIRGINIA
DARREN WILLIAM HULTMAN, OF CALIFORNIA
DEBRA IRENE JOHNSON, OF VIRGINIA
DANA MICHELE LINNET, OF CALIFORNIA
STELLA C. LUTTER, OF FLORIDA
DARRYN A. MARTIN, OF VIRGINIA
KATHERINE MARIE MCGOWEN, OF ALASKA
RANDALL TODD MERIDETH, OF MINNESOTA
SUSAN MICHELLE MEYER, OF NEBRASKA
SARA LILLI MICHAEL, OF CALIFORNIA
MATTHEW CHRISTIAN MILLER, OF VIRGINIA
KIMBERLY A. MURPHY, OF FLORIDA
HECTOR NAVA, OF TEXAS
HEATHER LYNN NOSS, OF CALIFORNIA
MATTHEW E. O'CONNOR, OF TEXAS
CHRISTOPHER JAMES PANICO, OF CONNECTICUT
JOHN BENTON PARKER, OF FLORIDA
SCOTT R. RIEDMANN, OF OHIO
HUGO F. RODRIGUEZ JR., OF VIRGINIA
STEPHEN I. RUKEN, OF TEXAS
EDWIN S. SAEGER, OF MARYLAND
NOMI E. SELTZER, OF NEW YORK
MATTHEW DAVID SMITH, OF NEW HAMPSHIRE
JULIE A. STINEHART, OF WYOMING
MICHAEL D. SWEENEY, OF CALIFORNIA
CATHERINE ELIZABETH SWEET, OF WASHINGTON
MICHAEL DAVID TOYRYLA, OF CALIFORNIA
NIKOLAS MICHAEL TRENDOWSKI, OF MICHIGAN
SETH H. VAUGHN, OF NEW YORK
LUCIA CLELIA VERRIER, OF NEW HAMPSHIRE

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF COMMERCE

BRENT E. OMDAHL, OF TEXAS

### DEPARTMENT OF STATE

RALPH C. AHLERS, OF THE DISTRICT OF COLUMBIA
JACOB F. APPLETON, OF THE DISTRICT OF COLUMBIA
DANIEL VARTAN ARAKELIAN, OF MICHIGAN
TAMMY MCQUILKIN BAKER, OF FLORIDA
REGINA ANNE BATESON, OF CALIFORNIA
JEFFREY A. BEALS, OF NEW YORK
KEITH B. BEAN, OF NEW JERSEY
PHILIP M. BEEKMAN, OF MICHIGAN
MIECZYSLAW P. BODUSZYNSKI, OF CALIFORNIA
JAMES MICHAEL BONIKOWSKI, OF VIRGINIA
KATHERINE ANNE BRANDING, OF VIRGINIA
JAMAR PHILLIP BROUSSARD, OF CALIFORNIA
MARIA DEL ROSARIO RODRIGUEZ-DIAZ BUTCHER, OF WEST VIRGINIA
ANDREA MICHELLE CAMERON, OF VIRGINIA
RYAN T. CAMPBELL, OF CALIFORNIA
VINCENT M. CAMPOS, OF CALIFORNIA
JOHN L. CANADY, OF FLORIDA
LAURA ANNE CANSICIO, OF CALIFORNIA
JARED S. CAPLAN, OF FLORIDA
KENNETH PATRICK CHAVEZ, OF TEXAS
MATT BUTLER CHESSEN, OF CALIFORNIA
GRACE H. CHOI, OF CALIFORNIA
JOHN CHOI, OF CALIFORNIA
RYAN P. COOPER, OF VIRGINIA
ROBERT J. DAHLKE, OF MARYLAND
DANIEL A. DAVILA, OF TEXAS
DANIEL KENNETH DELK JR., OF GEORGIA
DAVID S. FELDMANN, OF MARYLAND
KARA VAN DE CARR FRENCH, OF LOUISIANA
BRIAN MICHAEL FRERE, OF FLORIDA
DANIEL C. GEDACHT, OF MASSACHUSETTS
LEON W. GENDIN, OF FLORIDA
TONYA WOYTOWICH GENDIN, OF FLORIDA
KEVIN EDWARD GONZALES, OF MARYLAND
NATHAN S. HALAT, OF NEW YORK
STEPHANIE LYNNE HALLETT, OF FLORIDA
THOMAS EDWARD HAMMANG JR., OF TEXAS
MICHELLE F. HARRIS, OF PUERTO RICO
BRIAN B. HIMMELSTEIB, OF NEW JERSEY
ARIEL N. HOWARD, OF LOUISIANA
DOUGLAS M. HOYT, OF THE DISTRICT OF COLUMBIA
MARGARET E. HSIANG, OF NEW JERSEY
BONNIE LEE HUNTER, OF VIRGINIA
ANTOINETTE CHRISTINE HURTADO, OF CALIFORNIA
ANNA SUNSHINE ISON, OF NORTH CAROLINA
MARY BETH KEANE, OF VIRGINIA
TERI L. KEAS, OF KANSAS
REBECCA N. KINYON, OF NEW YORK
HOLLY ANN KIRKING, OF WISCONSIN
PAYTON LUCAS KNOPF, OF THE DISTRICT OF COLUMBIA
TOMIKA KONDITI, OF MARYLAND
RACHNA SACHDEVA KORHONEN, OF NEW JERSEY
MOLLY RUTLEDGE KOSCINA, OF WASHINGTON
JON A. LARSEN, OF OREGON
ELIZABETH M. LAWRENCE, OF ILLINOIS
ANNIE S. LEE, OF CALIFORNIA
THERESA LOONG, OF NEW YORK
ANITA LYSSIKATOS, OF NEW HAMPSHIRE
PATRICK M. MACKIN, OF VIRGINIA
MICHAEL A. MAZZOCCO, OF VIRGINIA
TIMOTHY RAY MCGOWAN, OF VIRGINIA
SEAN J. MCINTOSH, OF NEW YORK
DANIEL L. MCMANUS, OF FLORIDA
LIOUDMILA MILLMAN, OF VIRGINIA
MOLLY C. MONTGOMERY, OF OREGON
JESSICA NICOLE MUNSON, OF MINNESOTA
CHAD R. NORBERG, OF FLORIDA
MARY JANE O'BRIEN, OF VIRGINIA
SADIE MARIE OKOKO, OF MARYLAND
ANGELA P. PAN, OF CALIFORNIA
SETH L.P. PATCH, OF MASSACHUSETTS
CHARLOTTE AUDREY POLONCSIK, OF VIRGINIA
SHANNON D. QUINN, OF FLORIDA
T. CLIFFORD REED, OF TEXAS
KYLE RICHARDSON, OF IOWA
SUSAN JEAN RIGGS, OF VIRGINIA
JOHN THOMAS RIVERA-DIRKS, OF NEW MEXICO
GREGG ALLEN ROBERTS, OF VIRGINIA
BRENDA C. RUTH, OF COLORADO
STETSON A. SANDERS, OF THE DISTRICT OF COLUMBIA
SHIGH LUKE SAPP, OF CALIFORNIA
CAROLINE SAVAGE, OF WISCONSIN
ADDIE B. SCHROEDER, OF KANSAS
JEFFREY A. SHELSTAD, OF VIRGINIA
DANIEL E. SLUSHER, OF KANSAS
BRIAN T. SMITH, OF INDIANA
DEBORAH BUDDINGTON SMITH, OF CONNECTICUT
TASHAWNA S. SMITH, OF NEW JERSEY
ALYS LOUISE SPENSLEY, OF MINNESOTA
ANNE MARIE STASZECKI, OF VIRGINIA
MICHAEL ANTHONY STEVENS, OF FLORIDA
TERRENCE CLARE STEVENS, OF VIRGINIA
MICHAEL STEWART, OF OREGON
NANCY ELIZABETH TALBOT, OF NEW YORK
MARK HAMILTON THORNBURG, OF THE DISTRICT OF COLUMBIA
ELAINE H. TIANGCO, OF NEVADA
DENNIS DEAN TIDWELL, OF TENNESSEE
KEVIN J. TIERNEY, OF VIRGINIA
MICHAEL J. TRAN, OF KANSAS
TINA TRAN, OF OKLAHOMA
IAN ADAM TURNER, OF MARYLAND
LINNISA JOYA WAHID, OF MARYLAND
SUSAN F. WALKE, OF VIRGINIA
MARK ALLEN WEED, OF VIRGINIA
TONIA N. WEIK, OF TEXAS
APRIL S. WELLS, OF ALABAMA
RUSSELL J. WESTERGARD, OF UTAH
DAVID L. WYCHE, OF PENNSYLVANIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

LISA BOBBIE SCHREIBER-HUGHES, OF PENNSYLVANIA

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF STATE

CYNTHIA A. HALEY, OF MARYLAND

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF STATE

DIANA J. HABERLACK, OF WASHINGTON
MICAH L. WATSON, OF MARYLAND

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF COMMERCE

JOHN F. CORONADO, OF CALIFORNIA
MARK C. O'GRADY, OF MARYLAND

### DEPARTMENT OF STATE

SARAH AHMED, OF NEW YORK
JOHN STANLEY ANTHONY, OF VIRGINIA
MARA SUNSHINE ANDERSEN, OF COLORADO
KAREN ANDRUS, OF TEXAS
MIRIAM LAILA AWAD, OF TEXAS
CYNTHIA BALAZS, OF THE DISTRICT OF COLUMBIA
JARED BANKS, OF MARYLAND
ANNE W. BENJAMINSON, OF CALIFORNIA
JOHN CHARLES BERGEMANN, OF VIRGINIA
ONI KAY BLAIR, OF TEXAS
DOUGLAS E. BLANDFORD, OF MARYLAND
CECILY R. BREWSTER, OF CALIFORNIA
KELLY W. BRIMHALL, OF UTAH
RUSSELL KENNETH BROOKS, OF NEW JERSEY
FREDERICK E. N. BRUST, OF NEW YORK
ANDREW A. BUNTROCK, OF THE DISTRICT OF COLUMBIA
ANIA BURCZYNSKA, OF WASHINGTON
BRENT BURKMAN, OF VIRGINIA
BENJAMIN CADE CANAVAN, OF FLORIDA
DONALD LEROY CARROLL, OF IDAHO
MARCUS EVAN CARY, OF WASHINGTON
ANAMIKA CHAKRAVORTY, OF CALIFORNIA
AKUNNA E. COOK, OF NEW JERSEY
KIMBERLY COULTER, OF THE DISTRICT OF COLUMBIA

CHRISTOPHER J. COVA, OF VIRGINIA
MARIO CRIFO, OF TEXAS
NIGEL A. DE COSTER, OF VIRGINIA
JACQUELINE S. DELEY, OF CALIFORNIA
BRIAN E. DENVER, OF VIRGINIA
VITO DIPAOLA, OF GEORGIA
ROBERT F. DOUGHTEN, OF MONTANA
CAROLINE GRACE DOW, OF PENNSYLVANIA
TIMOTHY W. DUBOFF, OF VIRGINIA
ROCHELLE C. EAST, OF CALIFORNIA
LINDA A. FENTON, OF KANSAS
ANDREA R. FORD, OF VIRGINIA
KEVIN M. FORD, OF VIRGINIA
SCOTT FREEMAN, OF VIRGINIA
ANDREW S. GRALNEK, OF VIRGINIA
ELAINE M. FRENCH, OF NEW YORK
DAVID HARDT GAMBLE JR., OF VIRGINIA
ALEXANDER C. GAZIS, OF NEW YORK
SUZANNE L. GORDON, OF MICHIGAN
KATHERINE ANNE GREELEY, OF CALIFORNIA
MARY KATHERINE HARDING, OF THE DISTRICT OF COLUMBIA
SCOTT M. HARNEY, OF VIRGINIA
CHRISTOPHER JAMES HARRIS, OF VIRGINIA
BARBARA ANN HARRISON, OF ARIZONA
HOLLY M. HARVEY, OF VIRGINIA
ROBERT H. HELTON III, OF VIRGINIA
GARY A. HERMAN, OF VIRGINIA
MARLA J. HEXTER, OF MASSACHUSETTS
PATRICK J. HICKEY, OF VIRGINIA
BRIAN R. HILLBERRY, OF WEST VIRGINIA
MARCUS A. HIRSCH, OF VIRGINIA
PHUONG THAO THANH HONG, OF WASHINGTON
CHRISTOPHER DREW HOSTER, OF OREGON
KAREN W. HSIAO, OF UTAH
RODNEY M. HUNTER, OF INDIANA
HEATHER LYNN JAMBROSIC, OF VIRGINIA
DONALD S. JONES, OF VIRGINIA
PAUL IVAN JUKIC, OF OHIO
HEATHER E. KALMBACH, OF PENNSYLVANIA
SEAN PETER KANUCK, OF VIRGINIA
ASHISH KATKAR, OF VIRGINIA
YOLANDA V. KERNEY, OF THE DISTRICT OF COLUMBIA
SHARON S. KETCHUM, OF ARIZONA
ANN MOONJU KIM, OF CALIFORNIA
KRISTIN LOUISE KNEEDLER, OF MARYLAND
DANIEL DAVID KOSKI, OF ILLINOIS
KENNETH A. KRESSE, OF VIRGINIA
BONNIE DEE LANGENDORFF, OF VIRGINIA
BRIAN E. KRESSIN, OF THE DISTRICT OF COLUMBIA
L. DALE LAWTON, OF NEVADA
ANDREW T. LEE, OF CALIFORNIA
BENJAMIN A. LE ROY, OF CALIFORNIA
JOHN LOMBARD, OF VIRGINIA
BRYAN P. LOPEZ, OF VIRGINIA
EDWARD PAUL LUCHESSI, OF CALIFORNIA
TODD HARRY LUNDGREN, OF WASHINGTON
KIMBERLY A. LY, OF CALIFORNIA
MATTHEW M. MARLOWE, OF VIRGINIA
LA TRANDA SHONTELL MARTIN, OF GEORGIA
LISA R. MCCUMBER, OF TEXAS
STACEY DAWN MCDONALD, OF WEST VIRGINIA
COLIN C. MCDUFFIE, OF VIRGINIA
AMY MEDEIROS, OF VIRGINIA
JESSICA MEGILL, OF CALIFORNIA
DAVID C. METZLER, OF VIRGINIA
JOHN C. MOOR, OF TEXAS
GREGORY L. NAARDEN, OF TEXAS
CHERYL L. NEELY, OF TENNESSEE
MICHAEL THOMAS NESTOR, OF VIRGINIA
LONG THUY NGUYEN, OF CALIFORNIA
MARTHA A. NICHOLSON, OF VIRGINIA
LIAM J. O'FLANAGAN, OF NEW YORK
MELINDA M. PAVEK, OF MINNESOTA
RAIMONDS PAVLOVSKIS, OF NEW YORK
JOHN C. PERNICK, OF VIRGINIA
PAUL W. PIATKOWSKI, OF PENNSYLVANIA
WYNN S. PINKSTON, OF VIRGINIA
FRANCISCO PINOL, OF VIRGINIA
KRISTYNA L. RABASSA, OF MICHIGAN
ANNA RADIVILOVA, OF CALIFORNIA
BRIAN A. RAYMOND, OF MARYLAND
CHRISTIAN W. REDMER, OF TENNESSEE
ZEBA REYAZUDDIN, OF THE DISTRICT OF COLUMBIA
CORRIE H. ROBB, OF CALIFORNIA
RANDALL ARTHUR ROBINSON, OF FLORIDA
SABAH ROTH, OF VIRGINIA
LAURA KAY RUGG, OF VIRGINIA
KIMBERLY A. RUSSELL, OF PENNSYLVANIA
DOVAS ALGIS SAULYS, OF ILLINOIS
LEAH F. SCHANDLBAUER, OF VIRGINIA
JODY K. SCHAUER, OF TEXAS
SUSAN K. SILVERS, OF VIRGINIA
MORDICA M. SIMPSON, OF VIRGINIA
SIRI LYNN SITTON, OF FLORIDA
DAVID R. SMITH, OF VIRGINIA
DEE ANNA SMITH, OF THE DISTRICT OF COLUMBIA
ROBIN DIANE SOLOMON, OF TEXAS
ERICA LEIGH STILLWELL, OF FLORIDA
M. VICTORIA STURDIVANT, OF GEORGIA
KRISTA D. TACEY, OF TEXAS
JAMES D. TELFER, OF VIRGINIA
YODCHIWAN DEW TIANTAWACH, OF OREGON
MATTHEW A. TOLLIVER, OF FLORIDA
JESSICA MARIE TORRES, OF FLORIDA
ERIC TURNER, OF VIRGINIA
RICHARD J. TYLER, OF VIRGINIA
ANDREW VADEN, OF TEXAS
JENNIFER R. VAN TRUMP, OF CALIFORNIA
RAJEEV M. WADHVANI, OF THE DISTRICT OF COLUMBIA
PETER G. WARMKA, OF FLORIDA
CARL THOMAS WATSON, OF NEW YORK
GINA M. WERTH, OF NEVADA
DIANNE KAYE WEST, OF SOUTH DAKOTA
ALEXANDER E. L. WHITTINGTON, OF TEXAS
SCOTT R. WILLIAMS, OF VIRGINIA
ALLISON YEZRIL, OF THE DISTRICT OF COLUMBIA
CHRISTINE M. YORK, OF VIRGINIA
JONATHAN E. YOUNG, OF VIRGINIA
SARA SHIRLEY YUN, OF VIRGINIA
ELISABETH F. ZENTOS, OF OHIO

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE INTERNATIONAL BROADCASTING BUREAU FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

WILFORD H. COOPER, OF VIRGINIA
WALTER D. PATTERSON, OF SOUTH CAROLINA

### IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIGADIER GENERAL VINCENT E. BOLES, 8885
BRIGADIER GENERAL THOMAS P. BOSTICK, 3680
BRIGADIER GENERAL HOWARD B. BROMBERG, 2959
BRIGADIER GENERAL SEAN J. BYRNE, 2057
BRIGADIER GENERAL CHARLES A. CARTWRIGHT, 2898
BRIGADIER GENERAL THOMAS R. CSRNKO, 1332
BRIGADIER GENERAL JOHN DEFREITAS III, 7921
BRIGADIER GENERAL ROBERT E. DURBIN, 9354
BRIGADIER GENERAL DAVID A. FASTABEND, 5081
BRIGADIER GENERAL CHARLES W. FLETCHER JR., 4165
BRIGADIER GENERAL DANIEL A. HAHN, 0301
BRIGADIER GENERAL RHETT A. HERNANDEZ, 7009
BRIGADIER GENERAL MARK P. HERTLING, 3917
BRIGADIER GENERAL JAY W. HOOD, 6271
BRIGADIER GENERAL CHARLES H. JACOBY JR., 3627
BRIGADIER GENERAL JEROME JOHNSON, 6280
BRIGADIER GENERAL GARY M. JONES, 0483
BRIGADIER GENERAL WILLIAM M. LENAERS, 8865
BRIGADIER GENERAL DOUGLAS E. LUTE, 2691
BRIGADIER GENERAL JAMES R. MYLES, 2299
BRIGADIER GENERAL ROGER A. NADEAU, 8893
BRIGADIER GENERAL DAVID M. RODRIGUEZ, 1850
BRIGADIER GENERAL RICHARD J. ROWE JR., 5346
BRIGADIER GENERAL JEFFREY J. SCHLOESSER, 3460
BRIGADIER GENERAL JEFFREY A. SORENSON, 3510
BRIGADIER GENERAL ABRAHAM J. TURNER, 5542
BRIGADIER GENERAL ROBERT M. WILLIAMS, 6304
BRIGADIER GENERAL RICHARD P. ZAHNER, 3707

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. DONNA L. DACIER, 9272

*To be brigadier general*

COL. CHARLES K. EBNER, 6011

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. JULIA A. KRAUS, 8646

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COL. JAMES O. BARCLAY III, 4493
COL. DONALD M. CAMPBELL JR., 3215
COL. DENNIS E. ROGERS, 6273

### IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

AMY V. DUNNING, 0523

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

MICHAEL AKSELRUD, 4776

### THE JUDICIARY

JENNIFER M. ANDERSON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE STEFFEN W. GRAAE, RETIRED.

NOEL ANKETELL KRAMER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF FIFTEEN YEARS, VICE JOHN MONTAGUE STEADMAN, RETIRED.

## CONFIRMATION

Executive Nomination Confirmed by the Senate November 16, 2004:

### DEPARTMENT OF DEFENSE

FRANCIS J. HARVEY, OF CALIFORNIA, TO BE SECRETARY OF THE ARMY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

## WITHDRAWALS

Executive message transmitted by the President to the Senate on November 16, 2004, withdrawing from further Senate consideration the following nominations:

ANN C. ROSENTHAL, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2003, WHICH WAS SENT TO THE SENATE ON JUNE 12, 2003.

ANN C. ROSENTHAL, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2006, WHICH WAS SENT TO THE SENATE ON JUNE 12, 2003.

LAWRENCE T. DI RITA, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF DEFENSE, WHICH WAS SENT TO THE SENATE ON NOVEMBER 21, 2003.

# HOUSE OF REPRESENTATIVES—*Tuesday, November 16, 2004*

The House met at 2 p.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God of heaven and Earth, during this time between the national election and the national celebration of Thanksgiving, this country stands humbly before You, grateful for free elections and our constitutional way of life.

Proud to be Americans, may Your people find gracious ways to express thoughtfulness for others and broaden the parameters of social inclusion into the very fabric of this Nation.

Do not allow partisan differences to deter leaders from finding ways to strengthen national unity, while always seeking equal justice and greater security for all Your people.

May Your reconciling Spirit, which first brought the 108th Congress together, now revitalize this body to complete the tasks You set before them for the common good of all.

Out of gratitude we choose to serve You humbly now and forever. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from South Carolina (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1113. An act to authorize an exchange of land at Fort Frederica National Monument, and for other purposes.

H.R. 1446. An act to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes.

H.R. 1630. An act to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes.

H.R. 1964. An act to assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3936. An act to amend title 38, United States Code, to authorize the principal office of the United States Court of Appeals for Veterans Claims to be at any location in the Washington, D.C., metropolitan area, rather than only in the District of Columbia, and expressing the sense of Congress that a dedicated Veterans Courthouse and Justice Center should be provided for that Court and those it serves and should be located, if feasible, at a site owned by the United States that is part of or proximate to the Pentagon Reservation, and for other purposes.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4516. An act to require the Secretary of Energy to carry out a program of research and development to advance high-end computing.

H.R. 4593. An act to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4548. An act to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4548) "An Act to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ROBERTS, Mr. HATCH, Mr. DEWINE, Mr. BOND, Mr. LOTT, Ms. SNOWE, Mr. HAGEL, Mr. CHAMBLISS, Mr. WARNER, Mr. ROCKEFELLER, Mr. LEVIN, Mrs. FEINSTEIN, Mr. WYDEN, Mr. DURBIN, Mr. BAYH, Mr. EDWARDS, and Ms. MIKULSKI, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed bills and concurrent resolutions of the following titles in which concurrence of the House is requested:

S. 353. An act for the relief of Denes and Gyorgi Fulop.

S. 437. An act to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes.

S. 1042. An act for the relief of Tchisou Tho.

S. 1129. An act to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1379. An act to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1433. An act to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont.

S. 1466. An act to facilitate the transfer of land in the State of Alaska, and for other purposes.

S. 1614. An act to designate a portion of the White Salmon River as a component of the National Wild and Scenic Rivers System.

S. 1678. An act to provide for the establishment of the Uinta Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes.

S. 1852. An act to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin.

S. 2012. An act for the relief of Luay Lufti Hadad.

S. 2042. An act for the relief of Rocco A. Trecosta of Fort Lauderdale, Florida.

S. 2044. An act for the relief of Alemseghed Mussie Tesfamical.

S. 2142. An act to authorize appropriations for the New Jersey Coastal Heritage Trail Route, and for other purposes.

S. 2181. An act to adjust the boundary of Rocky Mountain National Park in the State of Colorado.

S. 2302. An act to improve access to physicians in medically underserved areas.

S. 2314. An act for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan.

S. 2331. An act for the relief of Fereshteh Sani.

S. 2334. An act to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

S. 2408. An act to adjust the boundaries of the Helena, Lolo, and Beaverhead-Deerlodge National Forests in the State of Montana.

S. 2567. An act to adjust the boundary of Redwood National Park in the State of California.

S. 2571. An act to clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996.

S. 2622. An act to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico.

S. 2656. An act to establish a National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon.

S. 2668. An act for the relief of Griselda Lopez Negrete.

S. 2688. An act to provide for a report of Federal entities without annually audited financial statements.

S. 2691. An act to establish the Long Island Sound Stewardship Initiative.

S. 2693. An act to designate the facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, as the "Lieutenant John F. Finn Post Office".

S. 2839. An act to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the "Sergeant Riayan A. Tejeda Post Office".

S. 2847. An act to reauthorize the Water Resources Research Act of 1984.

S. 2856. An act to limit the transfer of certain Commodity Credit Corporation funds between conservation programs for technical assistance for the programs.

S. 2938. An act to grant a Federal charter to the National American Indian Veterans, Incorporated.

S. 2976. An act to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

S. 2979. An act to amend title 5, United States Code, to authorize appropriations for the Administrative Conference of the United States for fiscal years 2005, 2006, and 2007, and for other purposes.

S. Con. Res. 8. Concurrent resolution expressing the sense of Congress that there should be established a National Visiting Nurse Association Week.

S. Con. Res. 113. Concurrent resolution recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month.

S. Con. Res. 121. Concurrent resolution supporting the goals and ideals of the World Year of Physics.

S. Con. Res. 136. Concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, October 12, 2004.*

Hon. J. DENNIS HASTERT,
*The Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on October 12, 2004 at 3:45 p.m.:

That the Senate passed without amendment H.R. 712.

That the Senate passed without amendment H.R. 867.

That the Senate passed without amendment H.R. 2010.

That the Senate passed without amendment H.R. 2023.

That the Senate passed without amendment H.R. 2400.

That the Senate passed without amendment H.R. 2984.

That the Senate passed without amendment H.R. 3056.

That the Senate passed without amendment H.R. 3217.

That the Senate passed without amendment H.R. 3391.

That the Senate passed without amendment H.R. 3478.

That the Senate passed without amendment H.R. 3479.

That the Senate passed without amendment H.R. 3706.

That the Senate passed without amendment H.R. 3797.

That the Senate passed without amendment H.R. 3819.

That the Senate passed without amendment H.R. 4046.

That the Senate passed without amendment H.R. 4066.

That the Senate passed without amendment H.R. 4306.

That the Senate passed without amendment H.R. 4381.

That the Senate passed without amendment H.R. 4471.

That the Senate passed without amendment H.R. 4481.

That the Senate passed without amendment H.R. 4556.

That the Senate passed without amendment H.R. 4579.

That the Senate passed without amendment H.R. 4618.

That the Senate passed without amendment H.R. 4632.

That the Senate passed without amendment H.R. 4731.

That the Senate passed without amendment H.R. 4827.

That the Senate passed without amendment H.R. 4917.

That the Senate passed without amendment H.R. 5027.

That the Senate passed without amendment H.R. 5039.

That the Senate passed without amendment H.R. 5051.

That the Senate passed without amendment H.R. 5107.

That the Senate passed without amendment H.R. 5131.

That the Senate passed without amendment H.R. 5133.

That the Senate passed without amendment H.R. 5147.

That the Senate passed without amendment H.R. 5294.

That the Senate agreed to conference report H.R. 4200.

That the Senate agreed to conference report H.R. 4520.

That the Senate agreed to conference report H.R. 4567.

That the Senate agreed to conference report H.R. 4837.

That the Senate passed without amendment H.J. Res. 57.

That the Senate passed without amendment H. Con. Res. 473.

That the Senate passed without amendment H. Con. Res. 486.

That the Senate passed without amendment H. Con. Res. 514.

That the Senate passed without amendment H. Con. Res. 518.

That the Senate passed without amendment H. Con. Res. 519.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
*Clerk of the House.*

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mrs. BIGGERT) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, October 18, 2004.*

Hon. J. DENNIS HASTERT,
*The Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on October 15, 2004 at 12:00 p.m.:

That the Senate concurs in House Amendments S. 2292.

With best wishes, I am
Sincerely,

GERASIMOS C. VANS,
*Deputy Clerk of the House.*

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, October 18, 2004.*

Hon. J. DENNIS HASTERT,
*The Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on October 16, 2004 at 10:40 p.m.:

That the Senate passed S. 2845.

That the Senate agreed to conference report H.R. 1350.

With best wishes, I am
Sincerely,

GERASIMOS C. VANS,
*Deputy Clerk of the House.*

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, October 18, 2004.*

Hon. J. DENNIS HASTERT,
*The Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on October 18, 2004 at 9:58 a.m.:

That the Senate concurs in House Amendment S. 129.

That the Senate concurs in House Amendment S. 144.

That the Senate concurs in House Amendment S. 643.

That the Senate concurs in House Amendment S. 1194.

That the Senate concurs in House Amendment S. Con. Res. 135.

With best wishes, I am

Sincerely,

GERASIMOS C. VANS,
*Deputy Clerk of the House.*

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, Speaker pro tempore WOLF signed the following enrolled bills and joint resolution, which the Clerk will recite by number and, without objection, the respective titles will appear at this point in the RECORD.

There was no objection.

On Tuesday, October 12, 2004:

H.R. 1533, to amend the securities laws to permit church pension plans to be invested in collective trusts;

H.R. 2608, to reauthorize the National Earthquake Hazards Reduction program, and for other purposes;

H.R. 2714, to reauthorize the State Justice Institute;

H.R. 3858, to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation;

H.R. 4175, to increase, effective as of December 1, 2004, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes;

H.R. 4278, to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes;

H.R. 4555, to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards;

H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes;

H.R. 4837, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes;

H.R. 5185, to temporarily extend the programs under the Higher Education Act of 1965;

H.R. 5186, to reduce certain special allowance payments and provide additional teacher loan forgiveness on Federal student loans;

S. 524, to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes;

S. 1368, to authorize the President to award a Gold Medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (Posthumously) and his widow, Coretta Scott King, in recognition of their contributions to the Nation on behalf of the civil rights movement;

S. 2195, to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors;

S. 2864, to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted;

S. 2883, to amend the International Child Abduction Remedies Act to limit the tort liability of private entities or organizations that carry out responsibilities of the United States central authority under this act;

S. 2895, to authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights in honor of Breast Cancer Awareness Month;

S. 2896, to modify and extend certain privatization requirements of the Communications Satellite Act of 1962.

On Friday, October 15, 2004:

H.R. 712, for the relief of Richi James Lesley;

H.R. 867, for the relief of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan;

H.R. 2010, to protect the voting rights of members of the armed services in elections for the delegate representing American Samoa in the United States House of Representatives, and for other purposes;

H.R. 2023, to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes;

H.R. 2400, to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam;

H.R. 2984, to amend the Agricultural Adjustment Act to remove the requirement that processors be members of an agency administering a marketing order applicable to pears;

H.R. 3056, to clarify the boundaries of the John H. Chafee Coast Barrier Resources System Cedar Keys Unit P25 on otherwise protected Area P25P;

H.R. 3217, to provide for the conveyance of several small parcels of National Forest System land in the Apalachicola National Forest, Florida, to resolve boundary discrepancies involving the Mt. Trial Primitive Baptist Church of Wakulla County, Florida, and for other purposes;

H.R. 3391, to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River project;

H.R. 3478, to amend title 44, United States Code, to improve the efficiency of operations by the National Archives and Records Administration and to reauthorize the National Historical Publications and Records Commission;

H.R. 3479, to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States, and for other purposes;

H.R. 3706, to adjust the boundary of the John Muir National Historic site, and for other purposes;

H.R. 3797, to authorize improvements in the operations of the Government of the District of Columbia, and for other purposes;

H.R. 4381, to designate the facility of the United States Postal Service located at 2811 Springdale Avenue in Springdale, Arkansas, as the "Harvey and Bernice Jones Post Office Building";

H.R. 4046, to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the "Sergeant Riayan A. Tejeda Post Office";

H.R. 4066, to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes;

H.R. 4306, to amend section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment;

H.R. 4471, to clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996;

H.R. 4481, to amend Public Law 86–434 establishing Wilson's Creek National Battlefield in the State of Missouri to expand the boundaries of the park, and for other purposes;

H.R. 4556, to designate the facility of the United States Postal Service located at 1115 South Clinton Avenue in Dunn, North Carolina, as the "General William Carey Lee Post Office Building";

H.R. 4579, to modify the boundary of the Harry S Truman National Historic site in the State of Missouri, and for other purposes;

H.R. 4618, to designate the facility of the United States Postal Service located at 10 West Prospect Street in Nanuet, New York, as the "Anthony I. Lombardi Memorial Post Office Building";

H.R. 4632, to designate the facility of the United States Postal Service located at 19504 Linden Boulevard in St. Albans, New York, as the "Archie Spigner Post Office Building";

H.R. 4731, to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program;

H.R. 4827, to amend the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 to rename the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area;

H.R. 4917, to amend title 5, United States Code, to authorize appropriations for the administrative conference of the United States for fiscal years 2005, 2006, and 2007, and for other purposes;

H.R. 5027, to designate the facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, as the "Specialist Eric Ramirez Post Office";

H.R. 5039, to designate the facility of the United States Postal Service located at United States Route 1 in Ridgeway, North Carolina, as the "Eva Holtzman Post Office";

H.R. 5051, to designate the facility of the United States Postal Service located at 1001 Williams Street in Ignacio, Colorado, as the "Leonard C. Burch Post Office Building";

H.R. 5107, to protect crime victims' rights to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes;

H.R. 5131, to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes;

H.R. 5133, to designate the facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, as the "Martha Pennino Post Office Building";

H.R. 5147, to designate the facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, as the "Evan Asa Ashcraft Post Office Building";

H.R. 5294, to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes;

H.J. Res. 57, expressing the sense of the Congress in recognition of the contributions of the seven Columbia astronauts by supporting establishment of a Columbia Memorial Space Science Learning Center;

S. 1134, to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965;

S. 1721, to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes;

S. 2292, to require a report on acts of anti-Semitism around the world.

On Wednesday, October 20, 2004:

H.R. 3819, to redesignate Fort Clatsop National Memorial as the Lewis and Clark National Historical Park, to include in the park sites in the State of Washington as well as the State of Oregon, and for other purposes;

H.R. 4200, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

H.R. 4520, to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad;

S. 129, to provide for reform relating to Federal employment, and for other purposes;

S. 144, to require the Secretary of Agriculture to establish a program to provide assistance to eligible weed management entities to control or eradicate noxious weeds on public and private land;

S. 643, to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes;

S. 1194, to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems.

## CELEBRATING THE 150TH ANNIVERSARY OF THE REPUBLICAN PARTY

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Madam Speaker, this year is the 150th anniversary of the founding of the Republican Party. Over a century and a half from the abolition of slavery to the establishment of women's suffrage to the liberation of millions of people in the Soviet Union, Afghanistan, and Iraq, the Republican Party has been the most effective political organization in the history of the world in advancing the cause of freedom.

So that all of us can learn more about the achievements of this fundamentally American institution in its 150th anniversary year, the House Republican Policy Committee has published the 2005 Republican Freedom Calendar. Each day the Republican Freedom Calendar lists an important milestone in the Republican Party's history of advancing freedom and the civil rights of every American.

On this day in 1948, we mourned the death of California Republican woman from my home State, Florence Kahn, the first Jewish woman to serve in the United States House of Representatives, who paved the way by her service for many more Jewish women who have followed.

☐ 1415

She was a Member of Congress from San Francisco from 1925 to 1937.

Madam Speaker, the 2005 Republican Freedom Calendar is available on the Internet at policy.house.gov.

## TRIBUTE TO ARMY SPECIALIST RAYMOND L. WHITE

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Madam Speaker, the Bible tells us if you owe debts, pay debts; if honor, then honor; if respect, then respect. I rise humbly today to pay a debt of honor and respect to Army Specialist Raymond L. White of Elwood, Indiana.

On November 12, 2004, Ray lost his life while fighting to defend America and liberate Iraq. His convoy, with the 1st Battalion, 8th Cavalry Regiment, 1st Calvary Division, Fort Hood, Texas, was ambushed this last Friday by 30 insurgents while traveling near Baghdad to meet with local community leaders.

Ray died, according to all of his superiors and all of those present, courageously providing cover to protect his fellow soldiers. While there were injuries, there were no casualties as a result of his self-sacrifice. His bravery saved the lives of each of his men.

Ray was a hero who believed in this great Nation. As his father recounted to me yesterday, Ray recently told his mother, "It is my patriotic duty, mom. I would rather fight terrorists in their country than have them come here and have my friends, family and Americans killed on our soil."

He entered the military in April of 2003 to fulfill his duty, following in the footsteps of his father, uncle, grandfather and great-grandfather.

Madam Speaker, Specialist Raymond White is a hero, whose service and sacrifice brought freedom to 25 million Iraqis. Memory of his sacrifice will forever be emblazoned on hearts of two grateful nations.

I offer my deepest condolence to his parents, Henry and Sharon, his three brothers, Henry, Jesse and Daniel, his grandparents Clayton and Clara

Menefee, and John Francis, and all other families and friends who loved and admired this courageous American hero.

May God rest the soul of Army Specialist Raymond White.

## WHY PRESIDENT BUSH WON REELECTION

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, just 2 weeks ago today, in an historic election, a clear majority of more than 60 million Americans voted to elect President George W. Bush to a second term in office. This was an increase over President Bush's 2000 totals of more than 10 million votes, showing an astonishing growth in the support for his positive agenda to move America forward.

The President ran a campaign based on optimism and an overriding belief in the goodness and compassion of the American people. His message resonated across every demographic group in America. President Bush increased his support among Hispanics, African Americans, Jewish Americans, Asian Americans and women.

Of the 3,154 counties in America, President Bush carried 2,542 counties and Senator JOHN KERRY carried only 611. He became the first Republican President in 104 years to win reelection with increases in U.S. House and Senate seats. With a 53 percent majority in the U.S. House and a 5 percent majority in the U.S. Senate, the President clearly has won the respect of the American people.

In conclusion, may God bless our troops, and we will never forget September 11.

## TRIBUTE TO SCOTT HUDELSON

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. BURGESS. Madam Speaker, it is my sad duty today to rise and honor my friend Scott Hudelson of Flower Mound, Texas. He was a devoted philanthropist and a local dentist who died Friday, November 12, when his single engine plane developed engine trouble and crashed near Lexington, Kentucky. Scott was en route to Chicago to meet his wife Mary, a Lewisville physician, who was attending an allergy conference there.

Scott Hudelson, a Minnesota native, opened his Flower Mound dental practice after serving in the Army Reserve's Dental Corps during Operation Desert Storm. He had earned degrees in engineering and dental surgery from the University of Minnesota and is listed as a member of the American Dental Association.

In addition to running a successful practice, Scott made monthly trips in his small plane on his own time with his own finances to clean and fill the teeth of young patients at the Oklahoma School for the Deaf. The school has about 150 students and most live on campus. He talked with the patients in their own sign language to help put them at ease.

Scott Hudelson married Mary Brandt on July 4, 1992. Together, they have six children, including a grown daughter who is working as an accountant in Tikrit, Iraq.

Tomorrow, I will give the eulogy for my dear friend Scott. I cannot adequately express my sorrow to the Hudelson family, but I can say I was blessed to have him in my life. My prayers are with Mary and Scott and his family as I honor him today.

## LEARNING IMMIGRATION LESSONS FROM HOLLAND

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Madam Speaker, we recently read in the newspapers of the murder of a prominent filmmaker, a distant relative of Vincent van Gogh, in the Netherlands, or Holland.

Holland has been a very open, tolerant society for many decades. However, many immigrants just simply refuse to assimilate into the Dutch culture, and this resulted in one-sixth of the population rejecting that culture, western civilization and its values, and after the recent barbaric act, Holland has now been forced to re-think its immigration policy, the relaxed way that they viewed this whole process of letting people into their country.

I believe frankly, Madam Speaker, that there are lessons for us here in America in terms of helping to assimilate our immigrants into our culture here in the United States.

## BIPARTISANSHIP HARD TO ACHIEVE

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, the day after the election President Bush said, "So today I want to speak to every person who voted for my opponent. To make this Nation stronger and better, I will need your support, and I will work to earn it."

Regrettably, even after the election, the attacks on President Bush have continued. Leading the pack were opinion makers of the New York Times. A November 5 Times column headlined "No Surrender" described President Bush as "a radical, the leader of a coalition which deeply dislikes America."

Perhaps the most notable example of why national unity will be difficult to achieve were the words of Senator KERRY's running mate, Senator JOHN EDWARDS. In his concession speech, Senator EDWARDS used the phrase "the battle rages" four times. He described the battle as one where "the fight has just begun."

President Bush has reached out to his opponents. Unfortunately, they have turned their backs on him.

## WHAT DOES RAISING THE DEBT LIMIT MEAN FOR AMERICAN FAMILIES?

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Madam Speaker, today I rise because I am concerned about the impact of raising the debt limit on American families.

One of my constituents recently wrote to me just 2 weeks ago questioning the credibility of the U.S. Government and wondering about her Social Security benefits. The median income in my district is approximately $41,394. The average Social Security benefit is only $11,940 per year. Seniors, children and veterans depend on Federal programs like the Pell Grant program, Social Security and Medicare. Our veterans especially, many of whom are disabled and many struggling financially, deserve these benefits. Yet America's growing debt will ensure that our children and our grandchildren are overtaxed for the rest of our lives.

We need to have a plan to control the deficit. Democrats are fighting to put the budget on a pay-as-you-go system. Do not spend more than you earn. That is what our households are demanding, and we should take that advice here in the U.S. House of Representatives.

## REAPPOINTMENT AS MEMBER OF SOCIAL SECURITY ADVISORY BOARD

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to section 703 of the Social Security Act (42 U.S.C. 903 Note) the order of the House of December 8, 2003, and with the advice of the Chairman of the Committee on Ways and Means, the Chair announces that on October 9, 2004, the Speaker reappointed the following member on the part of the House to the Social Security Advisory Board for a 6-year term to fill the existing vacancy thereon:

Mrs. Dorcas R. Hardy, Spotsylvania, Virginia.

## APPOINTMENT AS MEMBERS TO LIBRARY OF CONGRESS TRUST FUND BOARD

The SPEAKER pro tempore. Pursuant to Section 1 of the Library of Congress Trust Fund Board Act (2 U.S.C.

154 Note) and the order of the House of December 8, 2004, the Chair announces that on October 19, 2004, the Speaker appointed the following members on the part of the House to the Library of Congress Trust Fund Board, each for a 5-year term:

Mr. Edwin L. Cox, Dallas Texas, reappointment;

Mr. Anthony Welters, Vienna, Virginia, appointment to fill the existing vacancy thereon.

## REAPPOINTMENT AS MEMBERS OF BOARD OF DIRECTORS OF OFFICE OF COMPLIANCE

The SPEAKER pro tempore. Pursuant to section 301 of the Congressional Accountability Act of 1995 (2 USC 1381), amended by Public Law 108-329, and the order of House of December 8, 2003, the Chair announces on behalf of the Speaker and minority leader of House of Representatives and the majority and minority leaders of the United States Senate their joint reappointment on October 27, 2004, of the following individuals to a 5-year term to the Board of Directors of the Office of Compliance:

Mr. Allen V. Friedman, Los Angeles, California.

Ms. Susan S. Robfogel, Rochester, New York.

Ms. Barbara Childs Wallace, Ridgeland, Mississippi.

## REMOVAL OF MEMBER AND APPOINTMENT OF MEMBER TO PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore. Pursuant to clause 11 of rule I, the Chair announces the Speaker's removal of the gentleman from Missouri (Mr. BLUNT) from the Permanent Select Committee on Intelligence and pursuant to clause 11 of rule X, clause 11 of rule I, and the order of the House of December 8, 2003, appoints the gentleman from New York (Mr. BOEHLERT) to fill the existing vacancy thereon.

## COMMUNICATION FROM THE HON. BART STUPAK, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable BART STUPAK, Member of Congress:

HOUSE OF REPRESENTATIVES,
*Washington, DC, October 20, 2004.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a civil subpoena for documents issued by the United States District Court for the Western District of Michigan.

After consultation with the Office of General Counsel, I have determined that partial compliance is consistent with the privileges and precedents of the House.

Sincerely,

BART STUPAK,
*Member of Congress.*

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

## SUPPORTING GOALS AND IDEALS OF PANCREATIC CANCER AWARENESS MONTH

Mr. PLATTS. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 641) supporting the goals and ideals of Pancreatic Cancer Awareness Month.

The Clerk read as follows:

### H. RES. 641

Whereas over 31,860 people will be diagnosed with pancreatic cancer this year in the United States;

Whereas the mortality rate for pancreatic cancer is 99 percent, the highest of any cancer;

Whereas pancreatic cancer is the 4th most common cause of cancer death in the United States;

Whereas there are no early detection methods and minimal treatment options for pancreatic cancer;

Whereas when symptoms of pancreatic cancer generally present themselves, it is too late for an optimistic prognosis, and the average survival rate of those diagnosed with metastasis disease is only 3 to 6 months;

Whereas pancreatic cancer does not discriminate by age, gender, or race, and only 4 percent of patients survive beyond 5 years;

Whereas the Pancreatic Cancer Action Network (PanCAN), the first national patient advocacy organization serving the pancreatic cancer community, focuses its efforts on public policy, research funding, patient services, and public awareness and education related to developing effective treatments and a cure for pancreatic cancer; and

Whereas the Pancreatic Cancer Action Network has requested that the Congress designate November as Pancreatic Cancer Awareness Month in order to educate communities across the Nation about pancreatic cancer and the need for research funding, early detection methods, effective treatments, and prevention programs: Now, therefore, be it

*Resolved*, That the House of Representatives supports the goals and ideals of Pancreatic Cancer Awareness Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. PLATTS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. PLATTS).

### GENERAL LEAVE

Mr. PLATTS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 641.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Pennsylvania?

There was no objection.

Mr. PLATTS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise to strongly support this resolution that admirably supports the goals and ideals of Pancreatic Cancer Awareness Month.

Madam Speaker, few Americans may understand that pancreatic cancer is a horrific killer. Because early detection methods are largely unsuccessful, 99 percent of those diagnosed will lose their lives, the highest mortality rate of any form of cancer. By the time the symptoms become evident in patients, it is almost always too late. Individuals diagnosed have an average life expectancy of just 3 to 6 months.

This year alone, more than 31,000 Americans will be diagnosed with pancreatic cancer. The Pancreatic Cancer Action Network, known as PANCAN, is the only national advocacy organization available for pancreatic cancer patients, their families and friends and all Americans.

PANCAN regards each November as Pancreatic Cancer Month. By adopting House Resolution 641 today, this body will offer strong support for this outstanding organization and, most importantly, help to increase awareness of pancreatic cancer so that we can help to improve detection and treatment approaches.

Madam Speaker, since all of our fellow citizens have family, friends and neighbors who are regrettably vulnerable to this dreaded disease, I urge support from my distinguished colleagues for this resolution here today.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this year, approximately 28,000 people will die from cancer of the pancreas. Most pancreatic cancers arise from the ductal cells of the pancreas. The pancreas, an organ situated deep in the abdominal cavity, serves several critical functions, including the production of enzymes that are delivered to the small intestine to aid in the digestion of food and the control of sugar levels in the body.

Unlike other types of cancer where progress is being made to treat the disease, the medical community continues to be baffled by pancreatic cancer. Close to 99 percent of those diagnosed will die from the disease.

It is imperative that we work together to raise awareness about this fatal disease. Therefore, I join with my colleague from Pennsylvania (Mr.

PLATTS) to voice my strong support for H. Res. 641, a bill supporting the goals and ideals of Pancreatic Cancer Awareness Month.

The journey to find a cure for pancreatic cancer will certainly be a long and difficult one. However, I am pleased that the Pancreatic Cancer Network, known as PANCAN, has worked diligently since 1999 to focus national attention on the need to find a cure for pancreatic cancer. This organization believes that with hard work and cooperation from government a cure for pancreatic cancer will be discovered. I share this view.

It is very important that we signal to the American people and to those struggling with this terrible disease that we are indeed serious about finding a cure. Designating November as Pancreatic Cancer Awareness Month will serve to help educate communities across the Nation about pancreatic cancer and the need for research funding, early detection methods, effective treatments and preventive programs.

So, Madam Speaker, again I want to thank the gentleman from Pennsylvania (Mr. PLATTS) for his tireless effort on this important issue and urge that we all join with him in supporting H. Res. 641.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PLATTS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I certainly appreciate and thank the gentleman for his kind words of support and his efforts to help raise awareness of this deadly disease.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. PLATTS) that the House suspend the rules and agree to the resolution, H. Res. 641.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

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## GUARDIANS OF FREEDOM MEMORIAL POST OFFICE BUILDING

Mr. PLATTS. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 2640) to designate the facility of the United States Postal Service located at 1050 North Hills Boulevard in Reno, Nevada, as the "Guardians of Freedom Memorial Post Office Building" and to authorize the installation of a plaque at such site, and for other purposes.

The Clerk read as follows:

S. 2640

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION OF GUARDIANS OF FREEDOM MEMORIAL POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Post Office located at 1050 North Hills Boulevard in Reno, Nevada, shall be known and designated as the "Guardians of Freedom Memorial Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Guardians of Freedom Memorial Post Office Building".

**SEC. 2. INSTALLATION OF PLAQUE.**

(a) AGREEMENT.—The Postmaster General may enter into an agreement with the Office of Veterans' Services of the State of Nevada under which the Office of Veterans' Services of the State of Nevada agrees—

(1) to install a plaque to be displayed at the Guardians of Freedom Memorial Post Office Building referred to in section 1(a); and

(2) to maintain and update such plaque, as appropriate and in accordance with subsections (b) and (c).

(b) INSCRIPTIONS.—

(1) DEDICATION.—The plaque installed pursuant to subsection (a) shall bear the following inscription: "This post office building is dedicated in the memory of those men and women of the State of Nevada who have lost their lives while serving in the Armed Forces of the United States in the Global War on Terrorism and in Operation Iraqi Freedom.".

(2) ADDITIONAL INFORMATION.—The plaque installed pursuant to subsection (a) shall also include with respect to the men and women of the Armed Forces referred to in paragraph (1) inscriptions containing the names, ranks, branches of service, hometowns, and dates of death of such men and women.

(c) EXPENDITURE OF COSTS.—The agreement referred to in subsection (a) shall provide that the Office of Veterans' Services of the State of Nevada shall have sole responsibility for the expenditure of all costs associated with the installation, maintenance, and updating of the plaque.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. PLATTS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. PLATTS).

### GENERAL LEAVE

Mr. PLATTS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2640.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. PLATTS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of S. 2640, a bill to designate the Reno, Nevada, Post Office as the Guardians of Freedom Memorial Post Office Building. The House version of this legislation, H.R. 4442, introduced by my esteemed colleague, the gentleman from Nevada (Mr. GIBBONS), passed this body on September 7 of this year. I now urge like support for the Senate bill here today.

I am pleased that this deserved legislative tribute to our Nation's military servicemen and women will soon be on the President's desk and become law.

As our Nation is engaged in the global war on terror, courageous American troops work and fight each day to make us all safer here at home. When President Bush accepted his nomination for the presidency this summer, he stated, "We have fought the terrorists across the Earth not for pride, not for power, but because the lives of our citizens are at stake."

☐ 1430

These words remain true today. And, thus, the sacrifices of our brave troops across the world continue to be so invaluable to all of us.

This Guardians of Freedom Post Office in Reno, Nevada, is a relatively small, but critically important and very relevant, gesture of the American people's appreciation of Nevada's veterans. We will never take their blood, sweat, and tears for granted. I thank both the gentleman from Nevada (Mr. GIBBONS) and his colleague in the Senate, Senator JOHN ENSIGN of Nevada, for their meaningful work towards establishing the Guardians of Freedom Memorial Post Office.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of S. 2640, legislation designating the postal facility in Reno, Nevada, in memory of the Guardians of Freedom. This measure, which was sponsored by Senator JOHN ENSIGN, passed the Senate unanimously on July 22, 2004. S. 2640 is closely related to H.R. 4442 which passed the House by voice vote on September 7, 2004.

The name Guardians of Freedom Memorial Post Office was chosen by the Nevada North Valley High School Air Force Junior ROTC cadets and honors the Nevada men and women who lost their lives while serving in the military on the global war on terrorism and in Operation Iraqi Freedom.

Madam Speaker, I was pleased to join last week with veterans in my hometown of Chicago at the George Giles and Dorrie Miller posts, as we all commemorated Veterans Day and we all paid tribute to the men and women who have given their lives in defense of this country. Therefore, I am pleased to support the men and women in the military, commend the young people at the Nevada high school for arriving at the name, and join with my colleague in urging swift passage of this bill.

Madam Speaker, I yield back the balance of my time.

Mr. PLATTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I thank my friend and colleague, the gentleman from Pennsylvania (Mr. PLATTS), for granting me the time.

Mr. Speaker, it is my great honor and privilege to rise today in support of Senate 2640, the Guardians of Freedom Memorial Post Office Building Designation Act. The concept of this legislation, while generated and originated in our office on the House side, was the genesis for the bill introduced by my good friend, Senator JOHN ENSIGN, as companion legislation to my bill, H.R. 4442. All five members of Nevada's congressional delegation fully support the memorial that these bills would realize.

This bill honors Nevada's military personnel who have made that ultimate sacrifice during the global war on terror and the liberation of Iraq. Nevada's families have lost precious loved ones during these conflicts, and many members of Nevada's communities have requested help in providing some form of recognition for these noble men and women.

This bill helps provide such recognition by establishing the Guardians of Freedom Memorial Post Office building in Reno, Nevada, a consecration of ground forever preserving the memories of these valiant individuals.

The name for this special memorial post office originates through a contest in a high school in the North Valleys area of Reno, Nevada, and the name Guardians of Freedom Post Office was selected from a name generated by the Junior ROTC of North Valleys High School in Reno. Those students created a name which best embodies the spirit of our recently fallen heroes.

I congratulate these young Nevadans on their achievement and thank them for their participation in this special honor that will forever recognize these fallen patriots.

To my knowledge, Mr. Speaker, no other post office in the United States honors the memories of all of those of a community who have fallen in defense of our Nation's liberty. At the Guardians of Freedom Post Office, a plaque will be placed at this site bearing the names of the Nevadans who have made the ultimate sacrifice in fighting terrorism and who have died defending America's liberties.

It is my hope that the names permanently etched into this plaque will be an enduring reminder to future generations that freedom is never free, and those who defend liberty will never be forgotten.

I urge my colleagues to vote in favor of this bill.

Mr. PLATTS. Mr. Speaker, I urge all Members to support this resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Pennsylvania (Mr. PLATTS) that the House suspend the rules and pass the Senate bill, S. 2640.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

### MIKE MANSFIELD POST OFFICE

Mr. PLATTS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2214) to designate the facility of the United States Postal Service located at 3150 Great Northern Avenue in Missoula, Montana, as the "Mike Mansfield Post Office".

The Clerk read as follows:

S. 2214

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MIKE MANSFIELD POST OFFICE, MISSOULA, MONTANA.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 3150 Great Northern Avenue in Missoula, Montana, shall be known and designated as the "Mike Mansfield Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Mike Mansfield Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. PLATTS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. PLATTS).

#### GENERAL LEAVE

Mr. PLATTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2214.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. PLATTS. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I am pleased to rise in support of this legislation that will name the postal facility in Missoula, Montana, after one of Montana's favorite sons, Senator Mike Mansfield. To put it forthrightly, Mike Mansfield was one of America's finest leaders. He was the longest-serving Senate Majority Leader ever, presiding over the other body during a critical and tumultuous time in our Nation's history from 1961 to 1977.

Before entering government service, Senator Mansfield bravely served stints in three different branches of the military. Perhaps more remarkably, he began his military service as a seaman at just the age of 14 in the United States Navy during World War I. Later, he joined the Army from 1919 to 1920, and the Marine Corps from 1920 to 1922.

Senator Mansfield became a history and political science professor at Montana State University for a decade prior to being elected to the first of his five terms in the House of Representatives in 1942. Then, in 1952 he won election to the Senate, where he would become a national household name, and the body where he would spend the next 24 years. Senator Mansfield rapidly became majority whip, the number two post in the Senate in 1957. When Senator Lyndon Baines Johnson left the Senate to become Vice President, Senator Mansfield was the natural choice to replace him. He became majority leader and held the post for an extraordinary 16 years, again from 1961 to 1977.

After retiring from the Senate, President Jimmy Carter appointed him Ambassador to Japan, an office he held through 1988. The distinguished Senator died of congestive heart failure here in Washington at the age of 98 on October 5, 2001. His body was buried at Arlington National Cemetery.

Mr. Speaker, the Nation benefited monumentally from Senator Mike Mansfield's legendary, yet humble, leadership. Therefore, I urge all Members to support this legislation that honors him.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of S. 2214, legislation designating the postal facility in Missoula, Montana, after the late Senator Mike Mansfield. This measure, which was sponsored by Senator CONRAD BURNS, passed the Senate unanimously on June 9, 2004.

Michael Joseph Mansfield was born in 1903 in New York City. In 1906 he moved with his family to Montana where he attended public schools. At the age of 14 he entered the United States Navy serving for 4 years, the U.S. Army for 1 year, and the U.S. Marine Corps for 2 years. After serving in the military, he returned to Montana to further his education, graduating from college and receiving a master's degree.

From 1943 to 1953, Mike Mansfield, a Democrat, served in the United States House of Representatives, representing Montana's First Congressional District. In 1952, Representative Mansfield was elected to the U.S. Senate where he served until 1977. During his Senate career, Senator Mansfield served as democratic whip, majority leader, Chairman of the Committee on Rules and Administration, and Select Committee on Secret and Confidential Documents.

A man of impeccable integrity, Senator Mansfield was instrumental in securing passage of the Civil Rights Bill in 1964. Although an early supporter of the Vietnam War, he later was a leading voice to end that war. After his service in the Senate, he was appointed Ambassador to Japan under Presidents Carter and Reagan.

Prior to his death in 2001, he served as senior advisor to Goldman Sachs in Washington, D.C.

Mr. Speaker, I commend my colleague for seeking to honor the memory and legacy of the late Senator Mike Mansfield, and I urge swift passage of this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PLATTS. Mr. Speaker, I urge passage of S. 2214, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. PLATTS) that the House suspend the rules and pass the Senate bill, S. 2214.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

## LIEUTENANT JOHN F. FINN POST OFFICE

Mr. PLATTS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2693) to designate the facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, as the "Lieutenant John F. Finn Post Office".

The Clerk read as follows:

S. 2693

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LIEUTENANT JOHN F. FINN POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, shall be known and designated as the "Lieutenant John F. Finn Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Lieutenant John F. Finn Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. PLATTS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. PLATTS).

### GENERAL LEAVE

Mr. PLATTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2693.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. PLATTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation designates the postal facility located at 1475 Western Avenue in Albany, New York, as the Lieutenant John F. Finn Post Office.

Lieutenant John Finn, a 12-year veteran of the Albany Police Department, was shot three times while chasing a robbery suspect on December 23, 2003.

Amazingly, he endured in spite of his wounds for nearly 7 weeks, before sadly passing away on February 12 of this year.

Last month, on October 6, the House passed H.R. 5053, an identical bill that memorialized Lieutenant Finn's service and bravery to his grateful Nation. With passage of the Senate bill here today, the House can ensure that the Lieutenant John F. Finn Post Office will soon be established in Albany.

Mr. Speaker, I commend the gentleman from New York (Mr. MCNULTY) for advancing H.R. 5053, and Senator SCHUMER of New York for shepherding today's bill, S. 2693, through both Chambers.

Lieutenant Finn and his family greatly deserve this honor, and I urge passage of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. MCNULTY), the sponsor of this legislation in the House of Representatives.

Mr. MCNULTY. Mr. Speaker, I simply want to thank Senator SCHUMER, Senator CLINTON, the gentleman from New York (Mr. SWEENEY), and all the members of the New York delegation, Albany Mayor Jerry Jennings, and all of those who worked so hard to bring this legislation to the floor today.

John Finn was a police officer who was killed in the line of duty. He literally laid down his life for his friends. Mr. Speaker, we consider this bill today in memory of all of his service through the years to the Albany Police Department, and also for his wife, Maura, his children, Clara and Molly, and all of his fellow police officers and friends.

I ask all of my colleagues to approve this legislation as a small tribute to a true American hero, Lieutenant Finn.

Mr. Speaker, I thank the gentleman for yielding me this time to comment on S. 2693, which designates the United States Post Office at 1475 Western Avenue in Albany, New York as the "Lieutenant John F. Finn Post Office."

This bill was introduced by our former colleague, my good friend from New York, Senator CHUCK SCHUMER.

I was pleased to introduce the House companion to this legislation, HR 5053, which passed the House unanimously on October 6th of this year.

I would also like to thank the gentleman from New York, Mr. SWEENEY, for his steadfast support of this legislation and his leadership on issues of importance to the law enforcement community.

And I also thank Albany Mayor Jerry Jennings for his steadfast support for the entire Finn family.

Mr. Speaker, John Francis Finn was born in Port Jefferson on Long Island. He was the son of Bill and Mary Finn, and he was a great brother to Bill, Michael, Mary and Rose. He graduated from Smithtown High School, also on Long Island, and the University of Albany.

He joined the Albany Police Department on January 31, 1991. He had a 13-year career with the Albany Police Department with many diverse assignments. He completed them all with exemplary commitment, dedication, and compassion.

He was named a detective in the juvenile unit in 1993, promoted to sergeant in 1996, and promoted to lieutenant in 2001.

Mr. Speaker, on December 23, 2003, Lt. Finn responded to an armed robbery at a convenience store. Although he was wearing a protective vest, the suspect, armed with a semiautomatic weapon, struck Lt. Finn three times in the lower abdomen and leg.

Overe the next few weeks, John underwent numerous surgeries and received exceptional care at the Albany Medical Center.

He passed away 51 days later, on February 12th of this year, becoming the ninth member of the Albany Police Department to be killed in the line of duty.

Mr. Speaker, over 5,000 officers and mourners from around the northeastern United States attended the memorial service in February at the Pepsi Arena in Albany. The service recalled John's distinguished career and life of service and sacrifice. He had received two lifesaving awards from the Albany Police Department.

In 2000, the Kiwanis Club named him Officer of the Year, and the Albany County Youth Recognition Awards have been renamed in honor of Lt. Finn.

Governor Pataki named Lt. Finn Police Officer of the Year in 2003 and presented that award to Lt. Finn's wife, Maura McNulty-Finn, and to his two daughters, Clara and Molly.

Maura was the love of his life, and Clara and Molly were his pride and joy. He brought his daughters to work with him when he volunteered, as he frequently did.

He was also instrumental in creating the Children and Family Services Unit in the Albany Police Department.

Mr. Speaker, at John's memorial service, I quoted scripture in saying, "No greater love can one man have than that he lay down his life for his friends." That is what John Finn did.

At this particular time, when we have many service personnel serving overseas, we are mindful of their sacrifice. We remember their service on a daily basis, as well we should.

We should always remember that had it not been for all the men and women who wore the uniform of the United States military, the rest of us would not have the privilege of going around bragging, as I often do, about how we live in the freest and most open democracy on the Earth. Freedom is not free. We paid a tremendous price for it.

I think we sometimes neglect to remember the sacrifices made by those protecting the homeland, who put themselves at risk every single day, just like John Finn did on December 23, 2003, when he gave his life for his friends.

So I am honored to be here today, Mr. Speaker, to recall John's life of service and sacrifice, to pay this small tribute to him, and to do what I know he would really like—to thank all police officers across the Nation who put their lives on the line for us every single day.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join with my colleagues in the consideration of S. 2693, legislation designating the postal facility in Albany, New York, after Lieutenant John F. Finn.

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This measure, which was sponsored by Senator CHARLES SCHUMER, passed the Senate unanimously on October 10, 2004. S. 2693 is identical to H.R. 5053 which passed the House by a voice vote on October 6, 2004.

A 12-year veteran of the Albany, New York, Police Department, Lieutenant John F. Finn was shot while pursuing a robbery suspect. Sadly, Lieutenant Finn passed away last year from his wounds.

Mr. Speaker, we appreciate the enormous sacrifice paid by Lieutenant Finn for protecting his community. Therefore, I join with all of those who would seek to honor his life, his work and his memory and urge swift passage of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. PLATTS. Mr. Speaker, I again urge support for passage of Senate 2693. We are blessed by the courageous service of individuals such as Lieutenant Finn who went into harm's way for the safety and security of all of us fellow citizens.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Pennsylvania (Mr. PLATTS) that the House suspend the rules and pass the Senate bill, S. 2693.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

## RECOGNIZING 130TH ANNIVERSARY OF CREATION OF LIFESAVING STATIONS ON THE GREAT LAKES

Mr. SIMMONS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 750) recognizing the 130th anniversary of the creation of lifesaving stations on the Great Lakes, which became part of the United States Life-Saving Service, and for other purposes.

The Clerk read as follows:

H. RES. 750

Whereas in 1871 Sumner Increase Kimball was appointed as the Chief of the Revenue Marine Division of the Department of the Treasury;

Whereas in overhauling the Revenue Marine Division and decentralizing the system of lifesaving stations, Mr. Kimball recommended the establishment of lifesaving stations on the Great Lakes;

Whereas in 1874 Congress authorized the organization of the Life-Saving Service into 12 districts, including 3 on the Great Lakes;

Whereas the 8th district consisted of Lakes Erie and Ontario, the 9th district consisted of Lakes Huron and Superior, and the 10th district consisted of Lake Michigan;

Whereas in 1878 these lifesaving stations were organized with others around the Nation as a separate agency of the Department of the Treasury known as the United States Life-Saving Service;

Whereas in 1854 at the direction of the Secretary of the Treasury, lifesaving capabilities were first introduced to the Great Lakes with 9 lifeboats placed on Lake Ontario, 14 lifeboats placed on Lake Erie, 23 lifeboats placed on Lake Michigan, and 1 lifeboat placed on Lake Superior;

Whereas the forgotten heroes who served at lifesaving stations contended with giant squalls, wrecked vessels, and low pay;

Whereas these men performed amazing rescues, but by far the largest amount of work for the crews revolved around drilling with the rescue equipment, patrol and lookout duty, and general station upkeep;

Whereas the United States Life-Saving Service enabled the shipping industry to rapidly grow on the Great Lakes;

Whereas when the United States Life-Saving Service ended in 1915, 63 Great Lakes stations were in operation, including one on the Mississippi River in Louisville, Kentucky;

Whereas during the years of its operation, the Great Lakes Life-Saving Service contended with 9,763 disasters, saving 55,639 people and $110,038,860 in property;

Whereas over the course of the United States Life-Saving Service, 20 brave employees gave their lives while performing their duties;

Whereas the organization that Mr. Kimball formed provided the basis for the new search and rescue organization of the Coast Guard; and

Whereas the constant attention to practice with rescue equipment and inspections employed by the United States Life-Saving Service is still in use today: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes the 130th anniversary of the creation of lifesaving stations on the Great Lakes, which became part of the United States Life-Saving Service;

(2) commends the personnel of the United States Life-Saving Service whose efforts saved lives and property on the Great Lakes; and

(3) acknowledges Sumner Increase Kimball for his foresight in the field of marine safety and commitment to maritime safety on the Great Lakes.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SIMMONS) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Res. 750, which was introduced by the gentleman from Michigan (Mr. MCCOTTER), recognizes the 130th anniversary of the creation of life-saving stations on the Great Lakes. It commends the personnel of the United States Life-Saving Service for their efforts to save lives and property on the Great Lakes and acknowledges the leadership of Sumner Increase Kimball in protecting maritime safety.

The United States Life-Saving Service was established in 1874. The Life-Saving Service operated as an independent agency within the Department of the Treasury before these operations were transferred to the newly established United States Coast Guard in 1915. The efforts by the brave heroes of the Life-Saving Service formed the basis for the Coast Guard's search and rescue functions that continue to this very day.

As part of the service, numerous life-saving and lifeboat stations were built on the Atlantic, Pacific and Gulf coasts and along the shores of the Great Lakes. Over a period of 40 years, the men of the Life-Saving Service saved the lives of more than 55,000 people, and they saved more than $110 million in property in the Great Lakes region alone. These rescues were often made in the face of dangerous storms and under treacherous conditions. Twenty brave men gave their lives while performing their duties as employees of the Life-Saving Service, and we honor their service and their sacrifice with this resolution here today.

I certainly commend my colleague, the gentleman from Michigan (Mr. MCCOTTER), for introducing this legislation, and I urge my colleagues to join me in recognizing the anniversary of the creation of life-saving stations on the Great Lakes.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Those of us who live on or along the Great Lakes or within the Great Lakes basin know what a great resource this extraordinary collection of individual bodies of fresh water is. It is 20 percent of the fresh water on the face of the earth. We think of it as a great fresh water resource, but it is also a highway of commerce, and we recognize today that in this highway of commerce there are dangers for those who ply the waterways.

The story of today's legislation begins in 1871, when a young lawyer from Maine named Sumner Kimball was appointed chief of the Treasury Department's Revenue Marine Division.

Not many people know, or if they knew recall, that the Coast Guard we know today started out as a revenue cutter service. It was the main source of revenue for the fledgling U.S. government. So the Revenue Marine Division leader began a review of the Department's life-saving network. He found equipment old, rusty, in need of replacement and that the Department's lifesaver employees were too old for life-saving missions, few were competent, and that their selection depended more on politics than qualifications in handling boats.

It was indeed a very dark time for life-saving, especially on the treacherous waters of the Great Lakes, whether it is Superior, Michigan, Huron, Erie or Ontario.

Kimball went to Congress to ask for and was successful in getting an appropriation of $200,000 to hire the necessary life-saving personnel. He instituted six-man boat crews at all stations, built new stations, set performance standards, physical standards for crews and also schedules for the life-saving stations.

Within 3 years, by 1874, Mr. Kimball's life-saving stations had been established not only across the Great Lakes but all across the country, three of those in particular on key points on the Great Lakes.

By 1878, the life-saving mission within the Department of Treasury was split off as a separate organization, named the U.S. Life-Saving Service. Sumner Kimball would be named superintendent of this service and remain there until his civilian service was merged with the revenue cutter service that I mentioned a moment ago in 1915 to create what we know today as the U.S. Coast Guard.

For over 10 years, the Life-Saving Service and the Coast Guard operating the Great Lakes have encountered over 10,000 disasters, saved 55,000 people, and over $110 million in property damage protected. Over 40 life-saving and Coast Guard personnel have sacrificed their lives in the pursuit of this service and their duties.

The legacy of Sumner Kimball and the Life-Saving Service continues in the Great Lakes. The Great Lakes region is part of the 9th Coast Guard District, with two air stations, two air facilities, five group offices, eight marine safety offices, 10 cutters and 46 small boat stations, protecting more than 6,700 miles of coastline in the eight States in the 9th Coast Guard District.

We talk a great deal about homeland security in this post-9/11 era, and that certainly is one of the missions of the Coast Guard, but far predating homeland security was that of life security, and there is no organization in the Federal Government better suited to saving lives than the U.S. Coast Guard. Its personnel are rigorously trained, highly skilled, a great sense of mission, and today we recognize a great sense of history in the carrying out of their life-saving responsibilities that we know today as the search and rescue service of the U.S. Coast Guard.

With great pleasure, we bring to the House floor from our Committee on Transportation and Infrastructure H. Res. 750 recognizing the extraordinary and valiant service of the men and women of the Life-Saving Service and the U.S. Coast Guard on our Great Lakes.

Mr. Speaker, I yield back the balance of my time.

Mr. STUPAK. Mr. Speaker, I rise today to commemorate the 130th anniversary of the creation of life-saving stations on the Great Lakes.

Congressman McCOTTER and I recently introduced House resolution 750 to recognize the heroes who paved the way in improving modern maritime safety and enabling the Great Lakes shipping industry to take hold and expand in the early part of the 20th century.

Despite facing long hours and low pay, these individuals risked their lives—tackling giant squalls and wrecked vessels to ensure the safety of individuals and property traveling on the Great Lakes. In all, the Great Lakes Life-Saving Service saved over 55,000 people and $110 million in property.

In the late 1870s while Chief of the Revenue Marine Division of the Department of Treasury, Sumner Increase Kimball played a key role in redesigning the network of life-saving stations around the country and championed the idea of establishing stations on the Great Lakes.

These life-saving stations, which became part of the United States Life-Saving Service, combined with the Revenue Cutter Service in 1915 to form the United States Coast Guard.

The organization provided in these units serving the Great Lakes provided a basis for the new United States Coast Guard's search and rescue organization for years to come.

I would like to thank Congressman McCOTTER for his efforts to acknowledge the heroic performance of the Life-Saving Service on the Great Lakes.

Please join me in recognizing the personnel of the United States Life-Saving Service, especially the 20 brave rescuers who gave their lives in duty during the Services' existence, and Mr. Kimball for his commitment to marine safety on the Great Lakes, by supporting this resolution.

Mr. SIMMONS. Mr. Speaker, seeing that there are no more speakers on this side, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. SIMMONS) that the House suspend the rules and agree to the resolution, H. Res. 750.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SIMMONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 750.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

## RECOGNIZING THE 60TH ANNIVERSARY OF THE BATTLE OF THE BULGE DURING WORLD WAR II

Mr. KING of New York. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 110) recognizing the 60th anniversary of the Battle of the Bulge during World War II.

The Clerk read as follows:

H.J. RES. 110

Whereas the battle in the European theater of operations during World War II known as the Battle of the Bulge was fought from December 16, 1944, to January 25, 1945;

Whereas the Battle of the Bulge was a major German offensive in the Ardennes forest region of Belgium and Luxembourg which took Allied forces by surprise and was intended to split the Allied forces in Europe by breaking through the Allied lines, crippling the Allied fuel supply lines, and exacerbating tensions within the alliance;

Whereas 600,000 American troops, joined by 55,000 British, Belgian, Canadian, and other soldiers, participated in the Battle of the Bulge, overcoming numerous disadvantages in the early days of the battle that included fewer numbers, treacherous terrain, and bitter weather conditions;

Whereas the Battle of the Bulge resulted in 81,000 American and 1,400 British casualties, of whom approximately 19,000 American and 200 British soldiers were killed, with the remainder wounded, captured, or listed as missing in action;

Whereas the worst atrocity involving Americans in the European theater during World War II, known as the Malmédy Massacre, occurred on December 17, 1944, when 86 unarmed American prisoners of war were gunned down by elements of the German 1st SS Panzer Division;

Whereas American, British, Belgian, Canadian, and other forces overcame great odds throughout the battle, including most famously the action of the 101st Airborne Division in holding back German forces at the key Belgian crossroads town of Bastogne, thereby preventing German forces from achieving their main objective of reaching Antwerp as well as the Meuse River line;

Whereas the success of American, British, Belgian, Canadian, and other forces in defeating the German attack made possible the defeat of Nazi Germany four months later in April 1945;

Whereas thousands of United States veterans of the Battle of the Bulge have traveled to Belgium and Luxembourg in the years since the battle to honor their fallen comrades who died during the battle;

Whereas the peoples of Belgium and Luxembourg, symbolizing their friendship and gratitude toward the American soldiers who fought to secure their freedom, have graciously hosted countless veterans groups over the years;

Whereas Luxembourg has erected over 90 monuments and plaques commemorating the liberation of Luxembourg by United States Armed Forces during World War II;

Whereas the 60th anniversary of the Battle of the Bulge in 2004 will be marked by many commemorative events by citizens of the United States, Belgium, Luxembourg, and many other nations;

Whereas the friendship between the United States and both Belgium and Luxembourg is strong today in part because of the Battle of the Bulge; and

Whereas section 204 of the Veterans Benefits Act of 2002 (38 U.S.C. 2409 note) authorized the Secretary of the Army to place in Arlington National Cemetery a memorial marker honoring those who fought in the Battle of the Bulge: Now, therefore, be it:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That Congress—

(1) recognizes the 60th anniversary of the the battle in the European theater of operations during World War II known as the Battle of the Bulge, which began with a German surprise attack in the Ardennes forest region of Belgium and Luxembourg and ended with an Allied victory that made possible the defeat of Nazi Germany four months later;

(2) honors those who gave their lives during the Battle of the Bulge;

(3) authorizes the President to issue a proclamation calling upon the people of the United States to honor the veterans of the Battle of the Bulge with appropriate programs, ceremonies, and activities; and

(4) reaffirms the bonds of friendship between the United States and both Belgium and Luxembourg.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. KING) and the gentleman from New York (Mr. CROWLEY) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. KING).

Mr. KING of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.J. Res. 110. This joint resolution recognizes the 60th anniversary of the Battle of the Bulge and honors those who sacrificed their lives in the European theater of operations during World War II. From December 16, 1944, to January 25, 1945, 600,000 American troops and 55,000 British, Belgian, Canadian and other soldiers fought honorably in this battle. The defeat of Nazi Germany 4 months after the conflict would not have been possible without the success of the Allied forces during this crucial battle.

The Battle of the Bulge was a surprise German offensive against Allied forces and was intended to permanently defeat the Allied forces. The battle began before dawn on the morning of December 16, and the soldiers faced treacherous conditions of subfreezing temperatures, snow, rough terrain, limited supplies and limited manpower, but they never ceased to fight valiantly against the Nazi Army.

During this battle, Mr. Speaker, there were 81,000 U.S. casualties, including 19,000 Americans who were killed. Additionally, 1,400 British soldiers were killed.

There were many outstanding successes during this battle. For instance, the 101st Airborne captured Bastogne before the Germans could launch a siege of the city, and this was very strategic for this battle.

Mr. Speaker, it is also to be noted, though, that this legislation was introduced by the gentleman from Illinois (Mr. HASTERT), the Speaker of the House, who has a supreme interest in all matters involving World War II. In fact, this past summer, I had the privilege of traveling to Normandy to commemorate the 60th anniversary of D-Day, and I know of the intense interest the Speaker has in honoring all the men and women of the Greatest Generation who sacrificed so much to defeat the Nazis and the Japanese during World War II.

Also, it should be noted that the Speaker's ancestors come from Luxembourg, and he has a special interest in this legislation because the Battle of the Bulge forged distinctly close relationships between the Americans and the people of Belgium and Luxembourg. In fact, to this day, Luxembourg has numerous memorials and monuments honoring the great sacrifices made by the United States during World War II and specifically after the Battle of the Bulge.

So this joint resolution recognizes the 60th anniversary of the Battle of the Bulge, authorizes the President to issue a proclamation calling upon American citizens to honor the veterans of the Battle of the Bulge with appropriate programs and ceremonies and activities.

This joint resolution not only reaffirms the bonds of friendship between the citizens of the United States, Belgium and Luxembourg, but encourages citizens of all countries to honor those who bravely fought for world peace in the Battle of the Bulge.

Mr. Speaker, I reserve the balance of my time.

□ 1500

Mr. CROWLEY. Mr. Speaker, I yield myself such time as I may consume, and I too want to rise in strong support of this resolution. I also want to thank the gentleman from New York (Mr. KING), my friend and colleague on the other side of the aisle, for speaking in favor of this resolution. I also want to thank the Speaker, the gentleman from Illinois (Mr. HASTERT), for introducing this resolution.

Mr. Speaker, the resolution before the House recognizes an important turning point in World War II, the Battle of the Bulge. With the outcome of the war uncertain, American forces proved that neither bitter winter nor enemy fire could sway the resolve in the greatest battle of that war.

I am most pleased we are moving expeditiously to recognize this critically important battle. The roughly 4 million World War II veterans who remain from the original 16 million are in the twilight of their years and 1,200 die every day. We are rapidly losing both our witnesses to history and the chance for many of us to thank them.

And so we remember that great battles are won not with rhetoric, but by our soldiers on the battlefield. While we commemorate those soldiers who left behind families and careers during World War II to fight for freedom, we also honor those for whom adult life was just beginning, the young men of the 106th Infantry, whose average age was 22 years old.

The determination, intelligence, and valor that General Eisenhower showed as military commander at the Battle of the Bulge would later be called upon in his service as President of the United States. We can only hope that our future leaders being tested today in the deserts of Iraq will have the same strength in war, but also a love for peace.

Let me just talk about a couple of statistics from the Ardennes Offensive. It was the coldest, snowiest weather in memory in the Ardennes Forest on the Belgium-German border. There were over 1 million men, 500,000 Germans, 600,000 Americans, more than who fought at Gettysburg, and 55,000 British soldiers. There were three German Armies, 10 corps, the equivalent of 29 divisions. The American Armies had three armies, six corps, the equivalent of 31 divisions. There were 100,000 German casualties, killed, wounded, or captured, and 81,000 of our own American casualties, including 23,554 captured, and as the gentleman from New York (Mr. KING) mentioned, 19,000 of our young men killed. There were 1,400 British casualties, including 200 killed, and 800 tanks lost on each side, along with 1,000 German aircraft.

I might also mention something that even I knew, and my colleague knows as well, and he was born 18 years after this incredible battle, is the story of Major General Anthony McAuliffe, whom Hitler called upon to surrender Bartongre Garrison, and his response has been lauded and made known to millions of Americans throughout history. His response to Hitler was "nuts."

The United States and Luxembourg remain steadfast allies. As common members of NATO, our countries have cooperated on many issues, including peacekeeping during the first Gulf War and recent humanitarian aid for Iraq. Our friendship is historic, and more than 5,000 American soldiers, including General George S. Patton, are buried at the American military cemetery near its capital.

Although an occasional critic of the United States, Belgium is still a solid ally and a member of NATO. The Belgian people continue to exhibit good will and gratitude for the Allied Forces that freed them from Nazi occupation. Today, they form a wealthy, prosperous nation possessing some of the highest levels of education, health, and well-being in the world today.

When we look back on World War II, we see it was a battle against tyranny, against Fascism. The United States and her allies will always stand on the side of freedom and democracy and against totalitarian regimes wherever they are.

Let this resolution and the Battle of the Bulge Memorial Marker in Arlington National Cemetery serve as a reminder for all those who gave their all, and also as a reminder that we should thank our veterans whenever we have the opportunity.

Mr. Speaker, I wish to include for the RECORD the statistics I read off, which were provided via the Internet by John Kline, who was at the Battle of the Bulge.

## Battle Experience and Related Facts: Battle of the Bulge, December 16, 1944 to January 25, 1945

(By John Kline)

On 16 December 1944 the Germans started their Ardennes Offensive. The 106th Infantry Division, in place of a salient jutting out into Germany were hit with full force. After three days of battle, two of the Regiments, the 422nd and the 423rd were surrounded. The 424th, south of the other two regiments, was able to withdraw and join with the 112th Regiment of the 28th Infantry Division. They formed a Regimental Combat Team and were successful in the oncoming days of January 1945 in helping counter the German attack driving the Germans back through the same area where the 106th had been in position in mid-December 1944. This German Offensive became known in the U.S. Forces journals as The Battle of the Bulge.

### BATTLE FACTS

The coldest, snowiest weather "in memory" in the Ardennes Forest on the German/Belgium border.

Over a million men, 500,000 Germans, 600,000 Americans (more than fought at Gettysburg) and 55,000 British.

3 German armies, 10 corps, the equivalent of 29 divisions.

3 American armies, 6 corps, the equivalent of 31 divisions.

The equivalent of 3 British divisions as well as contingents of Belgian, Canadian and French troops.

100,000 German casualties, killed, wounded or captured.

81,000 American casualties, including 23,554 captured and 19,000 killed.

1,400 British casualties 200 killed.

800 tanks lost on each side, 1,000 German aircraft.

The Malmedy Massacre, where 86 American soldiers were murdered, was the worst atrocity committed against American troops during the course of the war in Europe.

My division, the 106th Infantry Division, average age of 22 years, suffered 564 killed in action, 1,246 wounded and 7,001 missing in action at the end of the offensive. Most of these casualties occurred within the first three days of battle, when two of the division's three regiments was forced to surrender.

In it's entirety, the "Battle of the Bulge," was the worst battle—in terms of losses—to the American Forces in WWII.

### SHORT HISTORY

On a wintry mid-December day in 1944, three powerful German armies plunged into the semi-mountainous, heavily forested Ardennes region of eastern Belgium and northern Luxembourg. Their goal was to reach the sea, trap four allied armies, and impel a negotiated peace on the Western front.

Thinking the Ardennes was the least likely spot for a German offensive, American Staff Commanders chose to keep the line thin, so that the manpower might concentrate on offensives north and south of the Ardennes.

The American line was thinly held by three divisions and a part of a fourth, while the fifth was making a local attack and a sixth was in reserve. Division sectors were more than double the width of normal, defensive fronts.

Even though the German Offensive achieved total surprise, nowhere did the American troops give ground without a fight. Within three days, the determined American stand and the arrival of powerful reinforcements insured that the ambitious German goal was far beyond reach.

In snow and sub-freezing temperatures the Germans fell short of their interim objective—that of reaching the sprawling Meuse River on the fringe of the Ardennes. All the Germans accomplished was to create a Bulge in the American line. In the process they expended irreplaceable men, tanks and material. Four weeks later, after grim fighting, with heavy losses on both the American and German sides, the Bulge ceased to exist.

Battle Action Credits: The 106th Infantry Division was credited with a holding action that used much of the precious time of the German Offensive. Time was an important and vital ingredient in Hitler's plan to break through to the Meuse River and then to go for Antwerp. The first three days of battle were vital and the 106th Infantry Division slowed his advance in the St. Vith area. By doing so the 106th played a large role in the final defeat of the German Army. The delay and extended battle used so much of the precious resources of the German Army that they were never again able to recoup and fight the style of war they had in earlier days. This delay in time was a big key in the final downfall of the German plans for their Ardennes Offensive. The loss of their resources, both human and equipment accelerated their final defeat and caused an early end to the long war in Europe.

On 16 December 1944, the day the battle started, I was a 19 year old Sergeant, heavy machine gun squad leader (30 cal water cooled) turning twenty on January 10, 1945.

The 106th Infantry Division, my division, was spread over a 21 mile front. Normally a division covers five miles. We received the initial thrust of the German counter-offensive. I was captured on 19 December, 1944. I spent four months as a Prisoner of War, walking over 525 miles, with a loss of 50 pounds of "fighting" body weight. I was only in a sheltered camp for one month and one week.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KING of New York. Mr. Speaker, I yield myself such time as I may consume to thank my good friend from New York (Mr. CROWLEY) for his supporting comments and for the great work he does on behalf of our veterans, certainly World War II veterans.

Mr. HASTERT. Mr. Speaker, I rise today to pay tribute to those American heroes who fought so valiantly alongside our allies during the Battle of the Bulge in World War II. I urge the House to pass this resolution. In doing so, we're honoring the memory of those heroes who changed the course of history.

On December 16, 1944, Nazi forces launched a counter offensive through the Ardennes Forest in Belgium. Surprising the Allies, the German Army managed to force their way deep into Belgium and break through Allied lines, thus creating a territorial bulge. Six hundred thousand Americans joined the British, Belgians, Canadians and other allied forces in a month long effort to stop Nazi Germany's last-ditch attempt to save their evil regime. Nineteen thousand Americans made the ultimate sacrifice during the Battle of the Bulge. Countless others were wounded.

Among those who fought bravely and forever altered the course of history was my good friend and mentor from Illinois, our former Republican Leader, Bob Michel. Bob was awarded the Purple Heart after being injured by a merciless hail of machine gun bullets fired by enemy combatants from the Third Reich. Along with his Purple Heart, he received the Bronze Star and four battle stars for his selfless, heroic efforts. People like Bob Michel and his brothers-in-arms are great examples of why we live in a free world today. The world is better off because of those brave heroes who stood their ground in the Ardennes Forest and stopped the spread of fascism. By passing this resolution, we can forever remember those Americans and our allied friends for everything they gave.

Mr. SOUDER. Mr. Speaker, sixty years ago, the forces of the Third Reich pushed forward into the mountainous and heavily forested Ardennes region of Luxembourg and Belgium. Since the landing of Allied forces in Normandy six months before, the war had not gone well for Germany. This offensive represented the last desperate gasp of Germany to save itself from total defeat. The Nazi goal was to reach the North Sea, hamstring Allied armies, and force a negotiated peace on the western front. The offensive failed.

Although the Nazis surprised the Allied forces, American troops gave no ground without a fight. Perhaps the most famous story demonstrating American tenacity is the story of General Anthony McAuliffe. Although surrounded by German forces demanding his surrender. General McAuliffe replied with a single word: Nuts. Despite continued German attacks, McAuliffe's determination and stubbornness had been demonstrated and the American lines were not broken.

American and Allied bravery during the Battle of the Bulge cannot be doubted. Hundreds of thousands of soldiers fought during this battle bravely to bring peace and freedom to Europe. Over half a million Allied soldiers, the bulk of whom were American, took part in the battle. During the month and a half long battle 81,000 Americans were injured and 19,000 killed.

The Battle of the Bulge sealed the fate of Germany on the western front. Notwithstanding our ultimate success, we faced many obstacles, including weather and supply problems, which could have slowed our victory. December 1944 was one of the most inclement winters on record. Snow and rain had slowed the Allied advance and hampered our ability to wage war.

Fearing what would happen if the foul weather continued, General George Patton of the American Third Army, distributed the following prayer to his troops during the Battle of the Bulge:

> Almighty and most merciful Father, we humbly beseech Thee, of Thy great goodness, to restrain these immoderate rains with which we have had to contend. Grant us fair weather for Battle. Graciously hearken to us as soldiers who call upon Thee that, armed with Thy power, we may advance from victory to victory, and crush the oppression and wickedness of our enemies and establish Thy justice among men and nations.

Although some object to praying to God for victory in battle, General Patton pointed out that American troops were fighting for freedom from evil and tyranny. They were not fighting only for themselves, but also for millions of people they had never met. Their cause was right and just.

As the United States is currently engaged in a right and just battle, I cannot help but draw parallels between our brave soldiers then and now. Then, as now, the enemy was a tenacious foe determined to break our will and break our spirit. Then, as now, our troops did not give an inch without a fight. And then, as now our troops were battling to bring peace and freedom to a region that has seen so much evil, destruction, and heartache. Then, as now, our case was right and just.

On the sixtieth anniversary of the Battle of the Bulge, I will join Speaker HASTERT and other Members in Luxembourg at ceremonies honoring all of our soldiers who fought so bravely many years ago. Although many of them are no longer with us, the memory of their accomplishment and the gratitude of millions of people will never be forgotten.

Mr. KING of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from New York (Mr. KING) that the House suspend the rules and pass the joint resolution, H.J. Res. 110.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. KING of New York. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. KING of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Joint Resolution 110.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 5 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 1833

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. OSE) at 6 o'clock and 33 minutes p.m.

## RECOGNIZING THE 60TH ANNIVERSARY OF THE BATTLE OF THE BULGE DURING WORLD WAR II

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the joint resolution, H.J. Res. 110.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. KING) that the House suspend the rules and pass the joint resolution, H.J. Res. 110, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 392, nays 0, not voting 40, as follows:

[Roll No. 531]

YEAS—392

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCollum
McCotter
McCrery
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns

Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—40

Brown, Corrine
Burr
Cannon
Capps
Clay
Cox
Davis (FL)
Delahunt
DeMint
Dooley (CA)
Gephardt
Gutierrez
Hastings (FL)
Hoeffel
Houghton
Hunter
Isakson
Jackson-Lee (TX)
Jones (OH)
Langevin
Linder
Lipinski
Lowey
Lynch
McCarthy (NY)
McDermott
McInnis
Millender-McDonald
Murtha
Neal (MA)
Nethercutt
Norwood
Roybal-Allard
Schrock
Stark
Taylor (NC)
Toomey
Waters
Watson
Waxman

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1857

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. CAPPS. Mr. Speaker, on rollcall No. 531, had I been present, I would have voted "yea."

Ms. WATSON. Mr. Speaker, on rollcall No. 531, had I been present, I would have voted "yea."

## APPOINTMENT OF CONFEREES ON H.R. 4818, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005

Mr. KOLBE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona? The Chair hears none and, without objection, appoints the following conferees:

From the Subcommittee on Foreign Operations, Export Financing, and Related Programs of the Committee on Appropriations, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. KOLBE, KNOLLENBERG, LEWIS of California, WICKER, BONILLA, VITTER, KIRK, CRENSHAW, Mrs. LOWEY, Mr. JACKSON of Illinois, Ms. KILPATRICK, Mr. ROTHMAN and Ms. KAPTUR.

From the Committee on Appropriations, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. YOUNG of Florida, REGULA, HOBSON, OBEY and VISCLOSKY.

There was no objection.

□ 1900

## SPECIAL ORDERS

The SPEAKER pro tempore (Mr. OSE). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## SMART SECURITY AND PRESIDENT BUSH'S SECOND TERM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, George W. Bush will lead the United States, and the free world, for another 4 years. With the weight of the Presidential contest behind him, it is my sincere hope that he will take this opportunity to shun the aggressive, unyielding, and unilateral approach to world affairs that has bedeviled his first term and ostracized the United States from our allies. Instead, Mr. Speaker, the President must lead the country in a new, stronger and safer direction, one that makes use of aggressive diplomacy and the rule of law to accomplish what needs to be done. The point has never been clearer that, in the vast majority of situations, negotiations work; and the recent developments in Iran are a perfect example. The Bush administration's approach to Iran's pursuit of nuclear weapons has consisted of little more than saber-rattling and aggressive posturing. While the U.S. has attempted unsuccessfully to flex its muscles, three European countries have banded together to achieve real results. The United Kingdom, France, and Germany announced earlier this week that they had reached a deal to prevent the development of Iran's nuclear program for the purpose of creating nuclear weapons. In exchange, the three European powers promised that Iran would not face U.N. Security Council sanctions. The promise will be upheld because France and the U.K. are both permanent members of the Security Council and can veto any sanctions against a fully compliant Iran. To be sure, it will take months, if not years, to assure that Iran does not pose a nuclear threat to the rest of the world, but the consequences of these negotiations are significant.

By engaging Iran in direct talks, instead of a political wrestling match, three European powers were able to achieve tangible results. Negotiations worked, while U.S. aggression has not.

There has to be a better way to respond to the threats America faces, a better way than the chest-thumping aggression that was adopted by the first-term Bush administration. That is why I have introduced H. Con. Res. 392, a SMART Security Platform For the 21st Century. SMART stands for sensible, multilateral, American response to terrorism. SMART security treats war as an absolute last resort. It fights terrorism with stronger intelligence and multilateral partnerships. It controls the spread of weapons of mass destruction with uncompromising diplomacy, strong regional security arrangements, and vigorous inspection regimes. SMART security defends America by relying on the very best of America, not our nuclear capabilities but our capacity for multinational leadership and our commitment to peace and freedom around the world.

Mr. Speaker, President Bush should view the example of Iran as a lesson in how to engage so-called "rogue nations" over the next 4 years. He no longer has a reelection campaign to worry about, and there is nothing to stop him from using smarter alternatives when conducting America's foreign policy.

What kind of world will the President leave when he steps off the global stage in the year 2008? A world at war for the foreseeable future, or a world at peace, guided by the smart choices of diplomacy and engagement? The choice is in his hands.

## THE SITUATION IN IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, to find out how chaotic, how messed up the situation in Iraq is, all you need to do is read the front page of yesterday's Washington Post. The top headline said, "Trouble Spots Dot Iraqi Landscape." The subhead read: "Attacks erupting away from Fallujah."

The story says:

"The fighting started in Mosul 2 days after U.S. tanks entered Fallujah. Armed men appeared in a sudden tide on a main street in Iraq's third largest city, a wide avenue where so many American convoys had been ambushed that locals nicknamed it 'Death Street.'

"At 11 a.m. Thursday, the target was an armored SUV. Witnesses said that after its Western passengers were chased into a police station, the driver was burned alive atop the vehicle as the attackers shouted, 'Jew!' The city of 1.8 million people then devolved into chaos. Thousands of police officers abandoned their precinct houses. The governor's house was set alight. Insurgents took the police chief's brother, himself a senior officer, into his front yard and shot him dead.

"By Sunday, the dawn of a 3-day festival celebrating the end of Ramadan, control over sections of the city remained in doubt. In streets emptied by fear and gunfire, insurgents battled hundreds of Iraqi National Guard reinforcements dispatched by the interim government to quell an uprising that was at once largely expected and disquieting."

This is a story about fighting in Mosul.

U.S. troops have taken control of Fallujah, but the insurgents have simply moved out to fight alongside supporters in several other Iraqi cities. At least 38 additional U.S. troops have been killed and at least 320 more wounded in this most recent fighting.

Fortune magazine, Mr. Speaker, in its November 25, 2002 edition, a couple of months before the war started, had an article entitled "Iraq—We Win—What Then?" The Fortune article said:

"A military victory could turn into a strategic defeat. A prolonged, expensive, American-led occupation could turn U.S. troops into sitting ducks for Islamic terrorists." How right this article was.

James Webb, a hero in Vietnam and President Reagan's Secretary of the Navy, wrote in The Washington Post before the war: "The issue before us is not whether the United States should end the regime of Saddam Hussein but whether we as a Nation are prepared to occupy territory in the Middle East for the next 30 to 50 years." Secretary Webb was strongly opposed to such an occupation.

Charley Reese, the very popular conservative columnist, wrote, again before the war: "Just let the United States try to occupy the Middle East, which will be the practical result of a war against Iraq, and Americans will be bled dry by the costs both in blood and treasure."

A few months ago, our own government took a poll and found that 92 percent of Iraqis regard us as occupiers rather than liberators. These people really do not appreciate what we have done for them. No one can legitimately criticize our troops, and I certainly would not. They are simply following orders and doing a great job. But when people say we made a mistake going in there but now that we are there we have to stay, we have to get the job done, that is like saying we know we are going the wrong way down the interstate, but we have to keep going anyway. I think you get off at the next exit.

We should announce to the world that we have done far more than any other nation has done for another country in the history of the world. We have spent almost $200 billion, more than 90 percent of the money and casualties have been American, but we really cannot help any more until Iraqis stop killing our young soldiers and stop blowing each other up. That is what we should announce.

For those who say Iraq would go into chaos if we leave, they should read yesterday's Washington Post. The chaos is already there.

Columnist Georgie Anne put it best: "Critics of the war against Iraq have said since the beginning of the conflict that Americans, still strangely complacent about overseas wars being waged by a minority in their name, will inevitably come to a point where they will see they have to have a government that provides services at home or one that seeks empire across the globe."

## ORDER OF BUSINESS

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to speak out of turn on the gentleman from New York (Mr. HINCHEY'S) time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## IN PURSUIT OF SOCIAL AND ECONOMIC JUSTICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, on November 2, Ohio Democrats took our moral values to the polls. For many of us, our faith guided us, too, and our final vote for President was far too close to declare us or assail us, as some now do, as a State full of evangelical fundamentalists. For many of us, moral values are grounded in our religious faith. My Lutheran upbringing instructs me, and my fellow Christians, in the teachings of Jesus, to read and to follow as best we can the words of the Beatitudes, to try to live our lives and practice our faiths as Jesus would have wanted us to. For others of us, those moral values take the form of a faith in our country's greatness to solve our most pressing problems of racial inequality and inaccessible health care, the poverty of millions of American children, and the war in Iraq.

For 3 years I have worn a lapel pin depicting a canary in a cage. A century ago, miners took a canary into the mines to warn them of toxic gases. Miners were forced to provide for their own protection. No mine safety laws. No trade unions able to help. No real support from their government.

A baby born 100 years ago had a life expectancy of about 47 years. Today, because of public health initiatives, worker safety laws, Medicare and Social Security, we live decades longer. Every bit of progress in the struggle for economic and social justice, often rooted in our Judeo-Christian beliefs, every bit of progress prevailed over the opposition of society's most privileged and most powerful.

Today, those struggles continue. Our fight for seniors who are forced to choose between medicine and food and our fight against the large pharmaceutical companies' greed is our understanding of the Holy Word. Our opposition to tax cuts for America's most privileged adults and Head Start cuts afflicting our least privileged children follow from the teachings of Christ. Our opposition to the death penalty, George Bush approved an execution of a Texan every 2 weeks as Governor, is grounded in the Scriptures. And our belief that government programs like Medicare and Social Security, not privatized imitations of them, should serve all Americans bespeaks a faith in the greatness of our country and its ability and willingness to lift up all of God's children.

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As we have seen over the last 4 years, Republicans campaign on their religious beliefs and on their moral values, mostly opposition to abortion and gay marriage; and then they govern for and with their corporate allies and contributors.

On this floor of the House of Representatives, in the light of day, we hear much talk about moral values. But in the committee rooms and the cloakrooms, choices are made that run counter to the teachings of Christ and Mohammed and the Jewish prophets, and fly in the face of the values upon which this Nation was founded.

This Congress hurts families by underfunding Leave No Child Behind and college student loans, while giving tax cuts to the wealthiest among us. This Congress hurts the elderly by defeating legislation to bring down the price of prescription drugs and then passing a Medicare bill that further enriches the drug industry and insurance companies. This Congress hurts God's Earth when it caves to the energy and chemical companies. This Congress hurts our communities when it gives tax breaks to encourage the largest corporations, most of them big contributors to the Bush administration, to outsource our jobs. And this Congress hurts our grandchildren when it loads huge burdens of debt on future generations.

Tens of thousands of Ohioans worked feverishly for months to help change our Nation's course because of their moral values, because of their faith in God, because of their belief in our Nation's history of using the Biblical term "taking care of the least among us."

In no way do I question the faith of my political opponents. But I am weary of the far right's claim that they are the only ones guided by the hand of God. My understanding of the teachings of Christ and my religious upbringing call me to walk a different path and to express and act upon my faith in the cause of social and economic justice.

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## WELCOMING NEW REPUBLICAN MEMBERS OF CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Indiana (Mr. CHOCOLA) is recognized for 60 minutes as the designee of the majority leader.

Mr. CHOCOLA. Mr. Speaker, I have to say I am thrilled to be here tonight. Ever since Election Day, I have been very anxious to get back here to Washington and join my colleagues, in fact, the growing Republican majority. For the first time ever, the Republicans have grown their majority in two consecutive cycles, and now we have the most Republican Members we have ever elected since 1946.

Mr. Speaker, there is a lot of talk about a divided America, but I do not see a divided America. When we look at the results of the election, and this is a very historic election, we see that the President won the popular vote margin by 3½ million votes. He is the first President to win the majority vote of over 50 percent since 1988. He received the most votes of any candidate for President in our Nation's history with almost 60 million votes, and he was reelected and gained seats in both Houses of Congress, both Chambers of Congress, for the first time since 1936.

Mr. Speaker, when we look at the map of America as a result of the elections, especially when we look at the county-by-county map, it is overwhelmingly red.

So, Mr. Speaker, America spoke in a loud and united voice on Election Day and sent people here to Washington to serve in this body to express their voice, and they sent very good people. So tonight I am very pleased and honored to be joined by many of my colleagues to introduce to America those that will be serving as new freshman Members in the Republican Party in the 109th Congress.

Mr. Speaker, we have got a lot of people to introduce and an hour to do it. So we are going to get right to it. So it is my honor to yield to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, it is an honor indeed to be a part of this time tonight to introduce our new Members of the Republican majority, and it is my distinct pleasure to talk about three of them, two who are from my State of Georgia who will be representing the sixth and the eighth congressional districts.

First of all, let me talk briefly about Dr. TOM PRICE. Dr. PRICE is an orthopedic surgeon. I have known him for many years. He served in the Georgia senate for 8 years, the past 8 years, and actually was a mentor to me when I was first elected to the senate and served for 4 years. Dr. PRICE at that time was the minority whip and went on to become the first senate majority leader, Republican majority leader, in the history of the Georgia general assembly.

As I say, Dr. PRICE has practiced medicine in northwest Atlanta for over 20 years as an orthopedic surgeon. He comes to the Congress to represent the sixth district and will do an absolutely fantastic job as he did in the Georgia general assembly. And it is certainly my honor, as a physician Member, to have a fellow physician serving with me. I think that will make eight or nine physician Members, Mr. Speaker, in the United States Congress, and to have two of them from the State of Georgia and actually two who represent the same county, Cobb County, that has got to be unprecedented.

TOM PRICE is married to his wife, Elizabeth, Betty, who is also a physician: and they have a 12-year-old son, Robert. It is a great honor to be able to introduce Dr. PRICE for the very first time this evening to my colleagues in the House.

Representative LYNN WESTMORELAND will be representing the Eighth Congressional District of Georgia, the district that has been represented so effectively by the gentleman from Georgia (Mr. COLLINS) for the past 12 years. LYNN WESTMORELAND is from Sharpsburg, Georgia. He and his wife, Joan, have three children and three grandchildren. LYNN has served in the Georgia House for 12 years and 2 years ago became minority leader. LYNN led the Georgia house as minority leader and was very instrumental in this last election cycle when Georgia finally took over control of both the senate and the house.

And I think a great deal of credit goes to these two gentlemen, Dr. TOM PRICE, who will be representing the sixth congressional district, and Representative LYNN WESTMORELAND in the eighth. I share counties with both of these Members. I commend them to my colleagues. They will work tirelessly in a bipartisan fashion as we continue the leadership that we have in this great body.

Last but not least, it is my distinct honor to introduce to the Members Representative BOBBY JINDAL. BOBBY will be representing Louisiana's First Congressional District. He was born and raised in the State of Louisiana. He has served as a public servant in both health and education. Before entering politics, he served as Secretary for the Louisiana Department of Health and Hospitals. And most recently he was appointed by President Bush as a health policy adviser to the administration. BOBBY JINDAL has also served as president of the University of Louisiana system, and during his tenure, the universities there raised their graduation and retention rates, increased private donations and the number of endowed chair positions.

A graduate of Brown University and a graduate degree from Oxford. BOBBY JINDAL has received the National Jefferson Award by the American Institute for Public Service and the Christus Health Advocacy Award for Leadership. He has been married to his wife, Supriya, for 6 years and is the father of two children, Selia Elizabeth and Shaan Robert.

Mr. Speaker, as I said at the outset, it is indeed an honor to be part of this Special Order as we introduce the new Republican Members of the 109th Congress. We look forward to working with them.

Mr. CHOCOLA. Mr. Speaker, reclaiming my time, I thank the gentleman from Georgia for welcoming his new colleagues from Georgia and Louisiana, doing such a fine job.

Next it is my honor to yield to the gentleman from Pennsylvania (Mr. MURPHY), newly elected president of the soon-to-be sophomore class, to introduce two of his new colleagues from Pennsylvania.

Mr. MURPHY. Mr. Speaker, I thank the gentleman from Indiana for yielding to me.

Mr. Speaker, I rise to recognize and welcome Congressman-elect MICHAEL FITZPATRICK, who was just elected to serve in the 109th Congress from the eighth district of Pennsylvania. The eighth district, mainly to the north of Philadelphia, consists of Bucks County, parts of Montgomery County, and a small portion of Philadelphia. Mr. FITZPATRICK resides in Levittown with his wife, Kathy, and six children. He received an honors degree from St. Thomas University in Miami, Florida, and a law degree from Dickinson Law School of Pennsylvania State University.

Prior to his election in Congress, Mr. FITZPATRICK has served as a member of the Bucks County Board of Commissioners since 1995, on which he served as chairman for 5 years, and as the Commissioner, he oversaw a county budget of $385 million and a workforce of 2,600 employees. He also sought improvements in the local 9/11 system and the construction of a state-of-the-art emergency operations center.

Mr. FITZPATRICK has also received numerous honors relating to personal achievements, including the American Red Cross Citizen of the Year in the year 2000 and the Habitat for Humanity Leadership Award for 2003. I am certain all my colleagues will join in welcoming our newly elected Congressman MIKE FITZPATRICK.

I would also like to recognize a friend who I met while I served in the Pennsylvania senate, and that is Congressman-elect CHARLIE DENT, who was also elected to the 109th Congress from the fifteenth district in Pennsylvania. The fifteenth district is located in the heart of Lehigh Valley and includes the cities of Allentown, Bethlehem, and Easton. Mr. DENT's wonderful family has lived in the region for six generations, and he currently resides in Allentown with his wife, Pamela, and three children: Kathryn, William, and Jack.

CHARLIE received a BA from Penn State University in foreign service and international politics and a master's in public administration from Lehigh University. He began his political career early on as an interim for former Representative Don Ritter, who also served the fifteenth district.

He was first elected to the Pennsylvania house in 1991, representing Allentown and South Whitehall. And in 1999 Mr. DENT was elected to the Pennsylvania senate, where we served together until my election to Congress in 2002. As a State senator, CHARLIE served as chairman of the Urban Affairs and Housing Committee and vice chairman of the Veterans Affairs and Emergency Preparedness Committee. I had the pleasure, while serving with CHARLIE, of oftentimes in the evenings going jogging together along the Susquehanna River, and throughout that time CHARLIE constantly talked of policy. So I am assuming he will do the same along the banks of the Potomac as he gets here. And as my colleagues will recognize, he loves to talk about policy.

So I ask all Members of the Congress to join me in welcoming CHARLIE DENT and MICHAEL FITZPATRICK to the 109th Congress.

Mr. CHOCOLA. Mr. Speaker, reclaiming my time, I thank the gentleman for his remarks.

Mr. Speaker, this election put new meaning to the phrase "Don't mess with Texas." And to help explain that, it is my honor to yield to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Speaker, I thank the gentleman from Indiana for putting together this hour.

Mr. Speaker, it is my high honor tonight to welcome two new Members of the Texas delegation. First from out in west Texas, Texas 11, we welcome Representative MIKE CONAWAY. MIKE is an Army veteran from Fort Hood and has had a distinguished career with Price Waterhouse & Coopers. He is a native Texan, and he grew up in Odessa. He graduated from Texas A&M University-Commerce in 1970 with a BBA degree in accounting.

In 1995 Governor George W. Bush appointed MIKE to the Texas State Board of Public Accountancy, a State regulatory agency that regulates the practice of accountancy in Texas. MIKE CONAWAY has volunteered his time to serve the citizens of Texas on the board for 7 years, including more than 5 years as chairman. He has served as chairman and board member of the Family Services of Midland, Texas. He and his wife, Suzanne, have four children and four grandchildren.

Mr. Speaker, my next-door neighbor, my new next-door neighbor in Texas 24, is Representative KENNY MARCHANT. KENNY is a former Carrollton City councilman and mayor of that city. He is currently the chairman of the House State Affairs Committee and the former chairman of the House Financial Institution Committee in the Texas house of representatives. Outside of politics, KENNY is a local small businessman and a home builder in Dallas County, Denton County, and Northeast Tarrant County.

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He also serves on the Advisory Board of Children's Medical Center and heads a local nonprofit foundation which funds church-related humanitarian aid projects around the world.

KEN MARCHANT has both a bachelor's degree and an honorary doctorate degree from Southern Nazarene University. He and his wife Donna have raised their three sons and one daughter in the Twenty-Fourth Congressional District. They are also now the proud grandparents of a new granddaughter.

Madam Speaker, it is my honor to welcome these two members of the Texas delegation. We are indeed fortunate. And, as the gentleman from Indiana pointed out, "Don't mess with Texas."

Mr. CHOCOLA. Madam Speaker, continuing with the Texas tradition, it is my honor to yield time to the gentleman from Texas (Mr. CARTER).

Mr. CARTER. Madam Speaker, I want to introduce three distinguished Texans to this House.

First is Representative LOUIE GOHMERT. Judge GOHMERT is an attorney who returned to private practice this last year before being elected to Congress. Prior to that time, he was appointed Chief Justice of the Court of Appeals in Texas.

He served his country as a captain in the United States Army. He is a Fighting Texas Aggie, graduating from Texas A&M University where he was class president and Brigade Commander of the Corps of Cadets. He earned his law degree from Baylor University School of Law, where he was the class president.

Judge GOHMERT has served as the President of the South Tyler Rotary Club, on the Boy Scout District Board of Directors and as deacon in the Green Acres Baptist Church. He also has been a director of leadership in Tyler, Texas, and a director of Centrepoint Ministries, among other numerous efforts.

He and his wife Kathy have three children, Katy, Caroline and Sarah. He is going to be an asset to the State of Texas and to the United States, and I ask that we welcome him to our Congress.

Judge TED POE, another judge, we are going to form an organization of Texas judges before this is over. Judge TED POE is a native of Harris County. Before being elected to Congress, he served as a felony court judge, having been appointed in 1981 and elected six times as a felony district judge.

Before becoming a judge, Judge POE was a felony prosecutor for the District Attorney's Office in Harris County for 8 years and served in the United States Air Force Reserve. He taught criminal justice courses at the University of Houston, conducted training at the FBI National Academy in Quantico, Virginia, and at West Point.

Judge POE has received awards from the National Victim's Center, Foundation for Improvement of Justice, the Texas District Attorney's Association, Kansas Peace Officer's Association, Houston Bar Association, Houston Police Officers Association and the Harris County Deputy Sheriff's Office.

TED POE received his Bachelor of Arts degree from Abilene Christian University in political science and his J.D. degree from the University of Houston Law Center where he was a member of the Law School Honor Society.

TED POE has lived in Humble, Texas, with his wife Carol for over 24 years and has four grown children, Kim, Kara, Kurt and Kellee. He is an active member of the Church of Christ.

I ask that you welcome now Congressman TED POE to the 109th Congress.

Finally, a man who took a vast majority of my old district in Texas, the Tenth District, Representative MIKE MCCAUL.

MIKE MCCAUL was the Chief of the Terrorism and National Security Section with the Criminal Division of the U.S. Attorney's Office for the Western District of Texas before he was elected to Congress. He is a member of the Bush-Cheney transition team as well as Attorney General Greg Abbott's transition team.

MIKE MCCAUL served as Deputy Attorney General under JOHN CORNYN and was a Federal prosecutor with the Public Integrity Section of the Justice Department's Criminal Division.

MCCAUL received his BS from Trinity University in San Antonio and got a law degree from St. Mary's University School of Law. He is also a graduate of the Senior Executive Fellows Program at Harvard University's John F. Kennedy School of Government.

MIKE MCCAUL will be a great asset to this Congress, and we should all look forward to serving with him, and I ask that you welcome him to the 109th Congress.

Mr. CHOCOLA. Madam Speaker, it is my pleasure and honor to introduce the gentleman from Florida (Mr. MARIO DIAZ-BALART).

Mr. MARIO DIAZ-BALART of Florida. Madam Speaker, I thank the gentleman from Indiana.

I am so pleased today to be able to introduce three brilliant Members to the United States Congress, three brilliant additions to our conference.

The first one is a person I have had the privilege to know for a number of years. He comes from a very strong background. His name is CONNIE MACK. That is a name that is very familiar in the State of Florida. We all know that his father served with such great distinction here in the United States Congress.

This CONNIE MACK, his son, was born and raised in Southwest Florida. He is, again, the son of the former Senator Connie Mack. He will represent the Fourteenth District of Florida, which borders the district that I am honored to represent, and also the district that has been so ably represented until now by our now CIA Director Porter Goss, who was for many years the chairman of the Permanent Select Committee on Intelligence.

CONNIE, though, I got to know during his tenure, our joint tenure, in the Florida State Legislature. He was a great leader in the Florida legislature, an active member of that legislature. He helped create and chaired the Freedom Caucus in the State House of Representatives, the Florida State House of Representatives, which fought hard and successfully, I may add, through the leadership of CONNIE MACK, to keep taxes low, to cut taxes, to cut regulation, to shrink the size of government.

CONNIE comes with a wealth of experience. He will help promote President Bush's fiscally conservative agenda and tax relief and make sure that America's families are not overburdened by excessive taxation.

Again, CONNIE MACK, now Congressman-elect CONNIE MACK, has a wealth of experience coming from the Florida legislature, particularly on issues of fiscal responsibility. He has shown great leadership, and I am anxious to have him as my partner because, again, we have adjoining districts. We are going to be working very closely together, as we have in the past, and I am excited to have him as part of the team.

Another person who joins us now from the State California with just a huge wealth of experience is Congressman-elect DAN LUNGREN. He had served, by the way, here in the House between 1979 to 1989. He now returns to the House after serving as the Attorney General of California, which, by the way, he did so for 8 years until 1998.

He, along with Newt Gingrich, formed the Conservative Opportunity Society here and really laid the foundation for the Contract with America. He is a man who, again, has been tested, really tested, and has always shown great leadership qualities, the ability to lead, the ability to fight for the issues that he believes are important. It is wonderful to have his wealth of experience back now on the majority team.

The third person that I am just excited, Madam Speaker, to be able to introduce is Congressman-elect LUIS FORTUNO, La Isla Del Encanto, representing Puerto Rico.

LUIS is a brilliant lawyer who has had significant experience in the business community, including being, by the way, for example, appointed as Puerto Rico's first Secretary of the Department of Economic Development and Commerce, an area he cares so deeply about.

I am just so excited to have him in the majority party, to work on issues that are dear to his heart, including economic development and many, many other issues.

LUIS is going to be the first Republican Resident Commissioner in the history of Puerto Rico. Think what that means, Madam Speaker. LUIS FORTUNO now will be in the majority party, will be speaking from the side of the majority when he speaks for the people that he represents. What a difference that is going to make for the people of Puerto Rico.

LUIS is also going to be a member of the Congressional Hispanic Conference, a growing group here of members of the majority who are concerned about, obviously, everybody in the country, but particularly concerned about the issues that particularly affect those of Hispanic descent and Portuguese descent.

So we are excited to have LUIS FORTUNO. It is a huge deal for the Island of Puerto Rico and for the people there, and it is a huge deal for us to have now as a member of the majority party a person who will now represent the Island of Puerto Rico. It is a distinct honor.

Madam Speaker, I want to thank the gentleman from Indiana for this opportunity to introduce three extremely capable, extremely talented members now of the growing majority conference.

Mr. CHOCOLA. Madam Speaker, I thank the gentleman from Florida.

It is now my honor and privilege to introduce the gentlewoman from Florida, KATHERINE HARRIS.

Ms. HARRIS. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, 2 weeks ago today the most important election in a generation came to a close. As always, the American people cut through the heated rhetoric to render their well-considered, common-sense decision and have provided their mandate for our approach to fighting terrorists abroad and creating jobs and economic security at home.

These victories this year stem from an effective message, coupled with exceptional candidates who will quickly become extraordinary Members of Congress. I am deeply honored tonight to introduce two of these individuals.

CATHY ANNE MCMORRIS, who will replace the gentleman from Washington (Mr. NETHERCUTT) as the representative from Washington's Fifth District, understands the challenges associated with operating a small family business. For 14 years, she helped her family run the Peachcrest Fruitbasket Orchard and Produce Stand in Kettle Falls, Washington. Meanwhile, she compiled an outstanding record in the State government.

Beginning as a legislative assistant to State Representative Bob Morton, CATHY MCMORRIS was appointed to succeed Representative Morton in December 1993. She was elected to that seat in 1994 and was reelected by overwhelming margins in 1996, 1998, 2000 and 2002. Her colleagues in the Washington House of Representatives elected her as the Republican Leader in 2002.

She has been named by the National Federation of Independent Business as Outstanding Legislator and by the Washington State Farm bureau as Legislator of the Year, among numerous additional honors.

Newly elected GEOFF DAVIS has spent a lifetime serving his Nation, his community and his family. He worked as a janitor during high school to help pay for his family's bills. Then he enlisted in the United States Army and won an appointment to West Point.

He spent 6 years as an Army Ranger and assault helicopter pilot, serving in the Middle East after being chosen to run the U.S. Army Flight Operations for the Peace Enforcement mission between Israel and Egypt. He rose to the rank of captain before leaving the Army in 1987.

In 1992, GEOFF DAVIS started his own business, Capstone Inc., which specializes in consulting lean manufacturing and high technology systems integration. In 1995, this firm was named as an Outstanding Consulting Resource by The Executive Committee, a 3,500-member organization of CEOs.

GEOFF DAVIS has also served as a mentor and tutor in inner-city Cincinnati schools, as well as a volunteer chaplain for the Kentucky Corrections Cabinet. He and his wife Pat have six children.

On behalf of my colleagues, I wish to welcome these outstanding new Members to what I hope will be a long and fulfilling tenure in this House. They will join us as we continue to keep faith with the American people by making tax relief we passed during the last 2 years permanent so our economy will keep growing for them and by continuing to support our troops as they battle for freedom in Iraq, Afghanistan and around the globe.

For the sake of our children and our grandchildren, let us get to work. We will not and we cannot let them down.

Mr. CHOCOLA. Madam Speaker, it is now my pleasure to introduce the newly-elected vice president of the soon-to-be sophomore class, the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, it was not long ago I was wandering the halls of the Capitol, we call it Capitol Hill, trying to figure out what the heck was going on. But when I arrived, I found that D.C. was very warm and welcoming.

This week it is my turn to extend a warm welcome to the freshman class of the 109th Congress. And what an exciting time for all of them. I think they will find, as I did, that their classmates will fast become close and trusted friends.

Madam Speaker, it is my honor to talk tonight specifically about two new Members from my so-called neck of the woods, VIRGINIA FOXX and my dear friend BOB INGLIS.

Before I welcome this first person to Congress, though, let me make just a brief comment and give my heartfelt congratulations to her predecessor, Senator-elect RICHARD BURR. RICHARD's office has been around the corner from mine for the past 2 years, and I want to thank him personally and all his staff for all they have done for me over the last 2 years. He has become a good friend, and I look forward to continuing working with him in the future.

VIRGINIA FOXX was elected by the people of the Fifth Congressional District in North Carolina to succeed the gentleman from North Carolina (Mr. BURR).

☐ 1945

She served as a State senator for five terms. Prior to election to the State Senate she served as president and consultant at Mayland Community College. She was confirmed by the U.S. Senate to the Education Advisory Committee and has served as a consultant for the U.S. Department of Education.

As a former small business owner and running a family business myself, I am pleased to say that Representative-elect FOXX and her husband, Tom, own and operate Grandfather Mountain Nursery. I believe that the perspective that a small business owner brings to the Congress is quite unique, Madam Speaker. I look forward to working with Dr. FOXX to bring a more commonsense business approach to our everyday work here on Capitol Hill.

The next gentleman, Madam Speaker, is from my home State of South Carolina. He is a good man, and he has been a dear friend of mine for years. Mr. BOB INGLIS. BOB actually served from the Fourth Congressional District in Congress from 1993 to 1998. After leaving Congress, BOB returned to the firm where he had worked from 1986 to 1992, Leatherwood, Walker, Todd and Mann. It is a pleasure for me to welcome BOB back and his lovely wife, Mary Anne, and their children to the United States Congress.

I look forward to working closely with BOB on issues important to South Carolinians and all Americans, such as homeland security, strong national defense, individual freedom and strong families, which I know BOB is a very strong proponent of.

I would also be remiss, Madam Speaker, if I did not extend congratulations to BOB's predecessor and a dear trusted friend of mine, Senator-elect JIM DEMINT. JIM served the people of the Fourth Congressional District well, and he has always put their needs and the needs of our State and Nation ahead of politics. And I know he will continue to do the same as South Carolina's next junior Senator.

Madam Speaker, it is always humbling to walk the Halls of Congress and stand on the floor of the people's House. Again, I want to congratulate these incoming Members and I look forward to serving with them. I know they will do a fantastic job.

Mr. CHOCOLA. Madam Speaker, it is my honor and privilege to introduce the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Madam Speaker, I thank the gentleman for yielding to me. I think that message right up there says it all: "America Speaks." And America spoke very loudly and correctly on November 2, 2004. November 2, 2004, was really a great day not only for the Republican Party but for the American people in this country as well. President Bush won reelection by over 3.5 million votes on that day, becoming the first Presidential candidate to win more than 50 percent of the vote since 1988.

The Republican majority also maintained the majority in both the House and the Senate, while also gaining seats in both Chambers. For House Republicans, that means this cycle Republicans made history by increasing their majority two cycles in a row. This historic game proves the critics' claims that the House was up for grabs and there was a general discontent among American voters with the Republican leadership false. Those arguments were all wrong. Republicans won 22 of the 39 so-called hotly contested seats.

Yes, on November 2 the voters confirmed that the agenda of this Republican-led Congress is in fact best for America and what the Americans want; that the Americans are for tax relief for American families and hard-working Americans everywhere; that they realize that their economic and growth policies of these last several years are right for America; that our job creation and pro-growth policies have worked. Perhaps more importantly, they realize that America's security is best in the hands of the Republican President and this Congress.

So I want to congratulate not only the President but also these newly elected Members of Congress today that made this historic feat possible. And I look forward to working with them as they come in January to be sworn in to further the successes in the 109th Congress. Because we must deliver on the confident hope of millions of American voters across this country.

We are going to be faced with enormous challenges ahead; and in a bipartisan effort, we must really support behind this agenda. So I welcome two new Members to this Congress. JOHN R. "RANDY" KUHL, JR., of the southern tier of the western New York region was elected to the 29th Congressional District in New York, and he is one of those great new Members. Now, KUHL's past experiences will bring a wealth of information and experience to this Congress. It includes three consecutive terms in the New York State Assembly and election to the State senate in 1986. There he was appointed to the senate as assistant majority leader for house operations back in 1995. He also served as senate chairman of the senate Standing Committee on Agriculture in 1987 through 1999 when he was then appointed chairman of the senate Standing Committee on Education. He served as chairman of that committee up until 2003 when he was appointed chairman of the senate Standing Committee on Transportation.

KUHL is also a former State chairman of ALEC, a group that I am familiar with, that is the American Legislative Exchange Council, a group for States rights, and vice chairman of the National Conference of State Legislatures, that is the NCSL. In addition to this, he is a member of the senate Select Committee on Interstate Cooperation, the New York State Early Intervention Coordinating Council, the NCSL assembly on State issues, their committee on education, and their assembly on Federal issues and their committee on education, labor and workforce development. Also another national organization, the CSG, the Council of State Governments' Intergovernmental Affairs Committee, and the CSG Eastern Regional Conference Committee on Economic Affairs.

With all of this we know that he is going to be a valued addition to this Congress, and we welcome Congressman KUHL.

I would also like to welcome newly elected Representative THELMA DRAKE. Ms. DRAKE served as a delegate in the Virginia house for 9 years to represent the people of the 87th district. She is also a Realtor with RE/MAX Allegiance Realty's Hampton Roads home team, and she has worked as a Realtor in real estate for over 20 years.

DRAKE also served on the house finance, the general laws, rules and commerce and labor committees; and as a long-standing member of that committee on general laws she served as chairman of its subcommittee on housing and also as chairman of the finance tax preference committee.

In addition, she has held a leadership position in that Republican house majority. In addition to all this as well, she has served as chairman of the Virginia housing commission, is a member of the mayor's task force on ocean view, and is a board member of the Virginia Zoological Society, and also a recipient of the John Marshall Alliance for Leadership and Property Rights.

We welcome Ms. DRAKE. Her background and skills will be an asset to the House. As we have heard of all of the accomplishments of all the Members and the Members that we are about to hear as well, these accomplished individuals to the Republican freshman class of 2005 is a strong loop and will remain committed to working in the House of Representatives promoting the values of the American people, and I welcome you all.

Mr. CHOCOLA. Madam Speaker, it is my honor and pleasure to introduce the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Madam Speaker, I thank the gentleman from Indiana (Mr. CHOCOLA) for yielding to me. I appreciate the time and opportunity to say a few words to this House and to Americans.

One thing I would point out, for the first time in 20 years since the Reagan landslide in 1984, the great State of Iowa finally voted state-wide for a Republican President. It has been a long time coming. It took a lot of work to do that, and it took a lot of energy. What turned out that energy was the strongest ag economy since at least 1979. In fact, a lot of folks say the strongest ever. 2003 was a very good year; 2004 is an even better year yet. Our economy is strong. Our people care about families. They care about marriage. They care about the quality of life we have. Who in the world would vote against that is the question they were asking, especially in western Iowa where we had a tremendous turn out, and a much larger collection of votes than we had seen ever before.

I am thrilled to be here in this growing majority of conservative Republicans who will manage this budget with strict responsibility and move this Nation towards its national destiny. And people will be taking part in that in this upcoming 109th Congress. I have the privilege of introducing two of them to this Chamber. The first is Congressman-elect JOE SCHWARZ from Michigan's 7th district. JOE has served the people of Michigan in many capacities. He is a former State senator. He was considered to be a key senator on higher education and health care issues. He was elected president pro tem by his colleagues in the Michigan senate. He was chairman of the subcommittees on higher education and general government.

When I get through with his resume, you will wonder how he had time to do all these things. Congressman-elect SCHWARZ has also served as mayor and city commissioner of Battle Creek, Michigan, a sister city to Battle Creek, Iowa, I am sure. He built a medical practice around his reputation as a skilled surgeon. Prior to his political career, SCHWARZ served as a Naval officer in Vietnam and as a CIA operative. He serves on the boards of the Kellogg Community College Foundation; the Wayne State University Foundation; the University Musical Society in Ann Arbor, Artrain which is in Ann Arbor; Olivet College; and Detroit Receiving Hospital.

He was born and raised in Michigan. SCHWARZ received his bachelor's degree in history from the University of Michigan and his medical degree from Wayne State University. Quite a resume. He brings a lot to this Chamber.

I look forward to this freshman class going to work. They bring new ideas and new energy and help energize all of us.

I will tell you that I built a personal bond and a great respect and appreciation for another Member-elect, JEFF FORTENBERRY from Nebraska. I represent the 5th district of Iowa, which is the western third of Iowa, and I at one time declared it to be the eastern Nebraska district because it is isolated alone out there along western Iowa, and I found out that South Dakota wanted to be included in that. But JEFF FORTENBERRY represents the real eastern Nebraska district. He will be stepping into the very big shoes of DOUG BEREUTER who served here for 26 years and did so honorably.

After Congressman BEREUTER's retirement, JEFF FORTENBERRY stepped into a 3-way primary and demonstrated his ability. As I watched him make decisions and take stands on positions, I watched him around his colleagues and the campaign staff and in the communities, and I watched him with his wife, Celeste, and his family, it built more and more respect for the man who is JEFF FORTENBERRY. He served on the Lincoln City Council, and he has been involved in a number of things. Economic development issues, urban revitalization projects, transition of a major public hospital, and a new baseball stadium. Maybe his skills here in Washington, D.C. could be utilized as we figure out how we are going to place a professional team here in this city.

Prior to his congressional campaign, JEFF FORTENBERRY had worked in the publishing industry for Sandhills Publishing; he has worked for the United States Senate with the Subcommittee on Intergovernmental Relations. He is currently a member of the Nebraska National Guard Civilian Leadership Council, and a member of Lincoln Independent Business Association. He has a bachelor's degree in economics, which will come in useful, from Louisiana State, a masters in public policy from Georgetown, and also a masters of theology from Franciscan University of Steubenville.

So both of these gentlemen's credentials are tremendous. They have proven in their life before they arrive here in Congress their ability. It is a tremendous venue for them to continue to develop their skills and develop those skills here and contribute to all of the people in this country. I look forward to working with them and the other Members of this class. I welcome both of these men to the 109th Congress.

Mr. CHOCOLA. Madam Speaker, it is my honor and pleasure to introduce the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Madam Speaker, I thank the gentleman from Indiana (Mr. CHOCOLA) and want to say that this was a resounding majority for the President of the United States. Unlike previous elections for the White House where a plurality of voters supported the candidate, this candidate won a solid majority of the American people.

When we look to who else won the majority, we look at some of the new stars that have come into the Congress to take their places as Members-elect: like DAVE REICHERT from Washington's 8th district, an expert on both domestic and international security. He brings with him a wealth of experience in law enforcement where he delivered a remarkable record of service to the citizens of King County, Washington. Prior to his election to Congress, REICHERT served as King County Sheriff since 1997, and he work within the sheriff's office since 1972 after serving in the United States Air Force.

I will say that DAVE REICHERT joins a very small number of veterans still serving in the Congress. There was a time when three-quarters of us had military backgrounds. Now we are down to just one in five, but DAVE REICHERT will be one of those advocates for Americans in uniform. During his leadership as sheriff, REICHERT brought national recognition to the sheriff's office as head of a task force that solved one of the largest serial murder cases in U.S. history, apprehending the infamous Green River Killer. The people of Washington are safer because DAVE REICHERT chose public service.

He is the recipient of the prestigious 2004 National Sheriff's Association Sheriff of the Year Award and is a two-time Medal of Valor Award recipient from the King County sheriff's office.

□ 2000

DAVE is a graduate of Concordia Lutheran College in Portland, where he played football and met his wife of now 34 years, Julie Reichert.

The Reicherts currently have three grown children, Angela, Tabitha and Daniel, and no less than five grandchildren. He is a family man and expert on international security and especially domestic law enforcement.

Now joining him is another star of our class, PATRICK McHENRY from North Carolina, an expert on the Internet, someone who knows about labor issues and is a key to building the ownership society as a real estate broker.

Prior to his election, he was a State legislator in North Carolina, worked as an executive with DCI/New Media, Incorporated, and served as a director of the Bush for 2000 Presidential Campaign.

He served his country and the United States Department of Labor and, yes, is a licensed real estate broker and owner of his own real estate company, someone who brings that service to the Congress who can help Americans take part in the ownership society that the President has talked about.

PATRICK McHENRY also knows to those that are given great abilities much is expected, and PATRICK McHENRY sits on the board of directors of the United Way's Success By 6 youth program.

He brings these skills in real estate for ownership, in Internet-based economy, in making sure that we know how to support charities and how to make sure that we give back to the community.

For all of these reasons, we are thrilled that PATRICK McHENRY joins us as well as DAVE REICHERT, with other stars, to join in the Republican ranks here in the House, and I thank the gentleman from Indiana for yielding.

Mr. CHOCOLA. Madam Speaker, I thank the gentleman and I thank all of my colleagues who have joined me this evening in welcoming this very impressive freshman Republican class that will be sworn in on January 4, 2005, and we all look forward to that day.

There is still one Member of the freshman class to introduce, Madam Speaker. I am a little biased. It happens to be my favorite Member of the freshman class. He is a Hoosier. That is not the only reason that he is my favorite Member. He is also a businessperson, someone that has actually created jobs, has actually learned how to seize the opportunities of economic growth and has contributed greatly to his local community before being elected to Congress.

He also ran for Congress in 2002 and was unsuccessful and ran again in 2004 and proved that persistence pays off, and that is a very admirable quality.

I am talking about MIKE SODREL. MIKE SODREL comes from his small business, his family business, called Sodrel Trucking. I see his trucks on the roads of Indiana every single day. He expanded that business in 2000 when he founded Sodrel Logistics.

He has served as a past chairman for the Southern Indiana Chamber of Commerce. He has also been recognized as the Southern Indiana Small Businessperson of the Year.

Service to his Nation is nothing new for MIKE SODREL. He served in the Army National Guard and continues service as a member of the American Legion. He is a community leader in many respects, and he leads many organizations, including the Boy Scouts of America, his Rotary Club, Junior Achievement, the Chamber of Commerce, the National Federation of Independent Businesses and the Boys and Girls Club.

MIKE is a native of New Albany, Indiana. He lives there today, and he has been married to his wife Marquita for 36 years. Together, they have two children, Noah and Keesha, and they are the proud grandparents of six grandchildren.

I know that MIKE will serve this body well, and I certainly look forward to working with him and all of his colleagues of the freshman class to serve Hoosiers and every citizen of this country.

Madam Speaker, we have just introduced a great class, and this great class will take the oath in the next coming months, and they will become part of the 109th Congress. I fully expect that the 109th Congress will be an historic Congress because it was the result of an historic election and, indeed, is an historic time for our Nation.

We did more than just keep our majority. We received a mandate from the American people. In the last 2 years, we delivered on health care, we delivered on security, cutting taxes and much, much more.

Our constituents recognized that. As the NRCC chairman, the gentleman from New York (Mr. REYNOLDS), stated, "The only people that think the GOP needs to be repudiated are two Democrat leaders from California, while the whole United States obviously disagrees."

What the United States wants and what the people of this country want is a Congress that keeps working on their behalf, and as we have seen from the headlines, America has spoken. What America has said is they want Members of Congress that will get over the bickering and work on their behalf and do things like have budget process reform to make sure that we have more clarity and responsibility in how we spend the taxpayers' money and reduce the deficit.

America has spoken that says we want to have lawsuit abuse reform, to make sure we lift the burden of frivolous lawsuits off of our economy, which really hurts the creation of jobs and economic growth.

We have also heard from the American people that we need to have things like tax reform, to make sure we have a fair and flatter tax system that helps grow our economy as well.

We have also heard that we need to make sure that every generation of American gets the Social Security benefits they have earned and they deserve; and, most of all, we have heard from the American people that we have to make sure that we keep this Nation and our families and our communities safe and secure.

So, Madam Speaker, this has been an extraordinary hour where we have met an extraordinary class of incoming freshmen to the Republican-controlled Congress. So it has been my honor to have my colleagues join me. I thank them and I look forward to working with them in the 109th Congress, as well as all of the Members of this body.

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 4794. An act to amend the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 to extend the authorization of appropriations, and for other purposes.

H.R. 5163. An act to amend title 49, United States Code, to provide the Department of Transportation a more focused research organization with an emphasis on innovative technology, and for other purposes.

H.R. 5213. An act to expand research information regarding multi-disciplinary research projects and epidemiological studies.

H.R. 5245. An act to extend the liability indemnification regime for the commercial space transportation industry.

The message also announced that the Senate has passed bills and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 2280. An act to establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration.

S. 2283. An act to extend Federal funding for operation of State high risk health insurance pools.

S. 2489. An act to establish a program within the National Oceanic and Atmospheric Administration to integrate Federal coastal and ocean mapping activities.

S. 2526. An act to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 2618. An act to amend title XIX of the Social Security Act to extend medicare cost-sharing for the medicare part B premium for qualifying individuals through September 2005.

S. Con. Res. 145. Concurrent resolution to correct the enrollment of H.R. 1417.

## INCREASING THE DEBT LIMIT

The SPEAKER pro tempore (Mrs. MUSGRAVE). Under the Speaker's announced policy of January 7, 2003, the gentleman from South Carolina (Mr. SPRATT) is recognized for 60 minutes as the designee of the minority leader.

Mr. SPRATT. Madam Speaker, 4 years ago, the Bush administration was just getting started. They sent us their first budget, then told us, based upon a projected $5.6 trillion in surpluses over the next 10 years, that there could be huge tax cuts, between a trillion five and $2 trillion, huge tax cuts and still a budget surplus, and that they would not have to even come back to Congress to ask again for an increase in what we call the debt ceiling until the year 2008, 7 years later.

The debt ceiling is a statutory limit, a limit that we impose by law on the total amount of debt that the United States of America can incur. It currently stands at a level of $7.384 trillion.

We did not buy into this argument. We did not vote for the tax cuts, and we on this side of the aisle were not surprised, disappointed, bitterly disappointed, because we had strived mightily to put the budget in surplus for the first time in 30 years during the 1990s. We did not vote for it, but we were not surprised when in the year 2002, not 2008 as predicted, but in the year 2002, the Bush administration came back to Congress and said that the statutory debt ceiling is about to be hit. In other words, we have run up so much debt that we are right at the ceiling of the total amount of debt that the government of the United States can incur, and, therefore, we need a $450 billion increase in the debt this year, 2002.

The next year they were back asking for more, and now they are back asking for still more, this time $800 billion. It is phenomenal when you consider that the last increase occurred 18 months ago and amounted to $984 billion. That was the largest increase at any one given time in the fiscal history of this country. As a matter of fact, $984 billion, the amount by which the debt ceiling was increased in May of 2003, $984 billion is more than the total indebtedness of the United States when Ronald Reagan came to office in 1981, and how long has it lasted, this $984 billion increase in the debt service? Eighteen months.

In fact, right now, this administration, under its fiscal policy of the budgets passed by the Republican majorities in this House and the Senate, has run up a debt of $1 trillion over the last 18 months. That is a rate at which we are accumulating debt right now, $1 trillion every 18 months.

If we add together the increases to date since 2001, it was $450 billion in 2002; $984 billion, May 26, 2003; and then a request which must come to the floor sometime this week in one form or another, because the Treasury Department tells us they cannot continue to incur debt or meet their obligations unless we raise the debt ceiling, allowing them to borrow still more money, $800 billion will have to be passed some time this week. Those three increases for the last 4 fiscal years total $2.234 trillion. That is the amount of indebtedness that has to be accommodated by increases in the debt ceiling in order to allow room for the Bush budgets over the last 3 fiscal years.

We think at the very least an increase of this magnitude, $800 billion, requires an unambiguous yes or no vote, a straight up and down vote under a clean bill that only deals with the debt ceiling, with one exception. We believe that it is unconscionable to continue incurring debt at this rate, $2.3 trillion over 4 years, without doing something to stop this juggernaut, this headlong descent into debt.

So we propose that at least we be offered an amendment on the House floor to amend the debt ceiling increase to reinstate something we call the pay-as-you-go rule. The pay-as-you-go rule provides, quite simply, that if you want to increase an entitlement, liberalize an entitlement payment, you have to identify new revenues to pay for the increase or decrease another entitlement by a commensurate amount. On the other hand, if you want to cut taxes, you have to raise revenues elsewhere or cut an entitlement by the same amount so that the effect is neutral, has no effect on the bottom line of the deficit.

That rule was in play in this House for at least 12 years during the 1990s, and it accounted for a phenomenal effect upon other measures we took up and the deficit of the United States.

As this chart shows, when President Clinton came to office in 1993, the deficit the previous year was $290 billion. We passed a Deficit Reduction Act here sent to us by the President on February 17, passed it within 3 months. Every year thereafter the bottom line of the budget got better, until the year 2000 when we had a surplus of $236 billion. Four short years ago, we had a surplus of $236 billion.

Every year since the onset of the Bush administration, the bottom line of the budget has gotten worse and worse, to the point where in the year 2002 we were back in deficit by $158 billion, and the year 2003 we had a record deficit, $377 billion, and this past year, which ended September 30, 2004, we booked a deficit of $413 billion in the Federal budget, $413 billion.

Now, what happened? I mentioned earlier the big tax cuts passed by the Bush administration passed in 2001. There were more in 2002, still more in 2003.

□ 2015

And instead of having a rebounding effect, a sort of supply-side effect so that the pick-up in the economy resulting from the tax cuts sort of replenished the lost revenues, instead of that happening, as projected, this was the curve that was projected, that there would be barely any loss of revenues, instead taxes have followed this particular actual curve, dropping from $1.73 trillion back in the year 2001 to $811 billion this year.

Now, there are other sources of the problem. Terrorism is taking its toll on the budget. The war in Iraq and Afghanistan has cost over $150 billion thus far. No question they have had an effect on the bottom line. But the tax cuts, based on this miscalculation, have had a substantial impact, and this is a course that was chosen by those who voted for it.

Here is where we were in the year 2001 when President Bush came to office. This was the statutory debt ceiling, the limit on the total indebtedness the government could incur, $5.950 trillion. It was raised to $6.4 trillion, then raised again May 2003 to $7.384 trillion. It will now be raised again to $8.200 trillion, by $800 billion. And, folks, that is not the end of it. That is the hard part of it. That is what has happened thus far.

Let me just summarize, though, where we are right now with the debt ceiling increases that have had to be adopted to accommodate the fiscal policies of this administration. Here we see it. In the year 2002, $450 billion, the next year $984 billion, now $800 billion, it comes to an increase, the amount I mentioned just a while ago, $2.234 trillion. That is the amount in 4 years by which the debt ceiling of the United States has had to be raised in order to accommodate the budgets and fiscal policy of this administration.

As I said, the last increase, $985 billion, was the largest in our history. Not only that, that amount, $984 billion, exceeded the total indebtedness of the United States in 1980–81, when Ronald Reagan came to office. The total debt of the United States then was $908 billion. We had one increase that has lasted 18 months, that is all. We have already run through $984 billion on the watch and under the policies of this administration.

As I said, it does not stop here. It would be bad enough if it did, but it does not stop here. This is what we really have to be concerned about and why we think at the very least there should be one single solid step taken in this debt ceiling increase to slow down this head-long descent into debt. This is the level of the debt ceiling in 2001 when President Bush came to office.

The Congressional Budget Office, at our request on the Committee on the Budget last year, projected the Bush budget through the year 2014, from 2005 through 2014, for 10 years, and came back and told us if we follow this course, by 2014 the United States will have accumulated $14.545 trillion in debt. This is where the Bush administration started, this is where they would end in 2014, projecting forward on a current services basis, the tax cuts and other policies that they have.

Let me make one final observation about this. As serious as it is, and anyone can look at this and realize the gravity of it, everybody understands the economics, everybody understands the fiscal effects, but the real issue here is the moral question. Is this the kind of legacy we are going to leave our children: $14.545 trillion? Because that is the course we are on right now.

And let me give one other aspect with this second poster here. One other aspect of this problem, before turning to my colleagues, that everybody knows simply cannot be sustained. This lower line, the black line, is the gross domestic product of the United States from 1980 through 2014, slowly rising, growing every year. That is the GDP. This is the debt of the United States during the same period of time. And you can see that the debt of the United States is growing faster than our income.

Everybody, every household, every business, and every government, State, Federal, or local, knows that you simply cannot sustain that kind of increase in your debt over and above your annual income for a prolonged period of time. But that is the course we are on right now.

Madam Speaker, I wish to recognize at this point the distinguished gentleman from New York (Mr. RANGEL), the ranking Democrat on the Committee on Ways and Means, who will be our floor person on this issue when and if the debt ceiling increase comes to the floor.

Mr. RANGEL. Madam Speaker, let me thank the gentleman from South Carolina (Mr. SPRATT) not for what he does for our party or for the Congress, but what he does for our great country.

I would like to talk about the question of morality, the responsibility of government. And some may say, well, what has that got to do with the debt ceiling? Well, it would seem to me that if people would look at the responsibility of our government as relates to spending, to believe that we have a credit card, because that is what we do, we are borrowing money, and that the head of our household was borrowing money but not letting anybody know what he was doing, that would be irresponsible and immoral.

It seems to me that if we had a head of a company that inherited a $5.6 trillion surplus and then when we went to look at the books found out that he wasted $9 trillion and had a $2.6 trillion indebtedness, that that person may not be impeached but certainly would be fired from the job.

Some might say that they do not really feel the pain of borrowing. And I guess irresponsible heads of households really do not feel the pain of borrowing. Imagine how good it might feel to somebody to be given a credit card and to be told they do not have a limit on what they spend; or to feel that they do not have to tell the American people what they are spending and what they are borrowing; or to be able to say, well, it does not make any difference. I will hide it in a bill and they will not ask me any questions; or to believe that the best way to run the country is to give a $1 trillion or a $2 trillion decrease in taxes to those people who are in the highest income tax bracket. Suppose those people knew that in order to do this that you would have to borrow the money in order to please a small group of people?

To get back to the questions of moral values, is it morally right to spend money, to give tax cuts, knowing that the Social Security System, where we made a moral and political and legal contract with the American people, promising that if they lived long enough or if they had disabilities or if they survived a tragedy that that system would be there for them? Is it fair to leave that system so insecure that young people now have no idea whether it is going to be there for them, when that money could have been used to shore up the Social Security System so that we would be fulfilling a moral promise to these people rather than fulfilling a political obligation to supporters?

To talk about moral values, if you knew that 45 million Americans, most of whom work every day and had no health insurance, what would be more important morally, to provide for the health care of human beings, Americans, or to give a tax cut?

Let us talk about moral values in terms of education, to make a person more productive, to make a person have self-esteem, to make a person want to get married and have a family. Is that not moral values? Is it more important to give a tax cut and to borrow money to do that than to make certain that every kid in America has a chance to fulfill whatever their brains would allow them to do because they had access to education?

What about our old folks? Getting old is getting to be a problem just in maintaining one's health because of the cost of prescription drugs. They let you get to a doctor, but you cannot even afford to do what the doctor is suggesting that you do. You do not have to be religious to understand that if you had the money to provide national health care prescription drugs, the moral thing to do is to help those who have not got and to say God already blessed the wealthy. Those are moral values, to be able to do that.

It just seems to me that the most irresponsible thing to do is to borrow the money and to know that you will never pay for it, to borrow the money and to know that the interest rates are going to fall on your children, not you. You will enjoy the benefit of supporting the war and giving the tax cuts and rewarding all of the lobbyists, but the people who pay for it are not just today's taxpayers, not just today's children, but the unborn are born with this debt on their heads. It will be hard to explain to them what happened in this Congress, what happened in this Presidency, what happened in this era that caused us to believe that we knew so much about the economy that we could go into debt $14 trillion and say, let our kids pay for it. Is that the moral thing to do?

Madam Speaker, it is not the political thing to do, it is not the moral thing to do, but that seems to be what is so important. The President would have us believe that he may not be right all the time, but we know where he stands. How are we going to know where he stands if his party does business in the middle of the night? How are we going to know where he stands if we cannot even find out what the interest on the debt is going to be?

And let me say this. Every household plans for what they have to spend, and it is difficult to explain this in terms of trillions of dollars, but what if you knew as the head of a household that you had this credit card, that you could buy anything that you wanted on this credit card and not pay for it? But every month the credit company will be sending you a bill, and it will show you what the service charge is going to be, what the penalty is going to be, or in our case what the interest is going to be.

And what would happen in this household, I ask the gentleman from South Carolina (Mr. SPRATT), if you looked at your bill and you looked at what you had to pay and you found out that in 10 years the interest that you are paying on the money that you borrowed exceeded all of your budgetary responsibility for clothing, for health care, for rent or mortgage, except for one issue?

And that is where in 10 years this great country of ours will be; that the interest that we are paying on the debt that grows 50 percent faster than the economy will reach the point that it would exceed all of our discretionary expenditures, with the exception of defense.

□ 2030

Which means what? It means that Republicans and others can say I supported Social Security, but the money was not there. I wanted to do more with education, but the money was not there. I want health to be improved, but the money is not there. And at the end of the day they may have succeeded in breaking our responsibility as a government for every social program that we have and the only item that would receive priority would be defense and supporting the war.

Madam Speaker, I think that this type of thinking really violates our national security because Americans should know who are we borrowing the money from, who do we owe this money to, and how mean can we be in disagreements we have with people whom we owe money to. How angry can we get with the bank if we know they can foreclose? And the people who are lending this money are foreigners. It is not as though in the last 4 years we have made a lot of friends with foreigners, but they thought they were making a lot of money off our interest. And as the interest goes up, we would like to believe that we can borrow more money from them.

But, guess what, one of the biggest purchasers of our debt is the People's Republic of China. A large chunk of the money that we owe to foreigners is to China. And whom do we have a problem with in terms of trade? The People's Republic of China. So what do we say as a great nation and lead organization of the World Trade Organization? We told China if they do not do what we tell them to do in terms of fairness and equity as relates to international trade, we will not do business with them. We want them to reevaluate how they deal with their currency. We want them to be fair and not dump their goods and have us lose jobs.

And China would say to us, suppose we do not do any of those things? What are you going to do? What are you going to do to the bank that you owe money to? Suppose they unload that debt and let it flow out in the market, suppose we cannot borrow any more money, then we have to appease the people that we owe.

Madam Speaker, it would be ironic that because of our hunger and our thirst to borrow, our irresponsible need to support tax cuts for the rich, our complete disregard for the health, education and welfare of our people, who brings us to our feet is the communists, not because of their guns, weapons and power but because they understood the capitalist system so well that they defeated the strongest capitalistic country that God has ever seen.

Madam Speaker, I thank the gentleman from South Carolina (Mr. SPRATT) for just sharing with the American people the economic and fiscal policy that we are directing. I hope that some of the people who are as concerned as we are with moral values would recognize that far more important than just fiscal policy is how do we treat the American people that have needs. We owe them an education, a place to live, aspirations and health care, and it would be a shame if we are paying China more than we are paying for health care.

Madam Speaker, I thank the gentleman from South Carolina (Mr. SPRATT) for giving me this opportunity to say what a moral pleasure it is for me, with the Committee on Ways and Means, in working with you in trying to get the people to understand that we are not trying to beat up on Republicans. We just want them to tell the American people what they intend to do, not in the middle of the night, not locked up in some omnibus bill, but to come here and challenge anything that has been said tonight. We will not see them, because too many people are watching. I hate to believe this will follow the pattern where at 2 in the morning they will have a bill and it will pass by one vote.

Mr. SPRATT. Madam Speaker, I thank the gentleman for eloquently expressing the moral dimensions of a swelling debt, $8 trillion today, growing to $14 trillion in just 10 years.

Madam Speaker, I yield to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Madam Speaker, I thank the gentleman from South Carolina (Mr. SPRATT) for yielding me this time and for organizing this Special Order to highlight the outrageousness of the administration's demand that Congress raise the debt limit for the third time.

Remember, my colleagues, when President Bush took office, the administration said that the debt ceiling would not be reached until 2008. But, instead, the majority has led the country so far into debt that we have had three huge increases in 4 years. The last raise, only a year ago, of $984 billion was far greater than any in United States history.

Remember, in February of 2001, the Bush administration was predicting that the publicly held public debt would be paid down to $1.2 trillion by 2008. In its latest midsession review this summer, the administration itself was now projecting that the debt would be $5.5 trillion in 2008. In fact, the $800 billion increase the administration now demands under threat of default would raise the debt ceiling to $8.2 trillion and give the administration the greatest increase in debt of any administration ever. What a terrible distinction. What an appalling legacy for future generations. And under President Bush's policies, the CBO and other economists predict that the debt will continue to rise to at least $14 trillion and as much as $14.5 trillion in the next 10 years. What have the Republicans done to our economy?

Remember, when President Bush took office, the CBO was projecting a 10-year baseline budget surplus of $5.6 trillion. A surplus. That was the result of President Clinton's policies that paid down the deficits and reduced the public debt. But after only 4 years of Republican leadership CBO is now projecting a cumulative 10-year deficit of $2.3 trillion. That is a swing of almost $8 trillion after only one term. Dare we ask my colleagues how bad will the next term be?

The budget deficit reached a record 3.5 percent of GDP this year. As a share of GDP, the deficit is larger than it has been at any time since 1993. And let us not blame the war on terrorism. This is the direct product of their fiscal policies, the President's tax cuts that have left this Nation reeling.

In the private sector, there is a bipartisan consensus that the deficit is killing the U.S. economy. Last week, the Wall Street Journal released a November survey of 55 prominent economists on what the top priorities of the President should be in his new terms. These are conservative folks, financial leaders in our country. Their top item was narrowing the budget deficit.

I quote from Peter Hooper, a former economist with the Federal Reserve Board, "If we do not get a narrowing of the budget deficit, it will slow the rate of the growth of the economy."

It is not just our financial leaders in this country that are worried. This morning, the Associated Press reported that a pressing concern of the EU finance ministers at their meeting this week is the U.S. budget deficit and the resulting weakness of the dollar, which was at a record low today against the Euro. The ministers called on the U.S. to reduce its deficit and said that action, not just words, were what is needed. But what do we get from the administration? An increase in the debt ceiling, the largest ever in the history of the country.

Secretary Snow responded that the deficit was, "unwelcome." Unwelcome? We are not talking about an unexpected dinner guest but a monster of this administration's making that our children and our grandchildren will have to suffer under and will have to pay for.

Where has the administration been as the deficit has continued to mount? A recent paper by William Gale and Peter Orzag of the Brookings Institute put the situation very clearly: "The United States has never before experienced such large, long-term financial imbalances. Sustained chronic deficits will gradually reduce national income and living standards and carry with them the risk of a financial crisis."

A recent New York Times editorial spelled out what this financial crisis might be.

This is extremely troubling, and the gentleman from New York (Mr. RANGEL) touched on this very eloquently earlier. Almost all, 92 percent, of the huge increase in publicly held debt that has occurred in this administration is held by foreign nations, with Japan and communist China the two largest shareholders. In particular, China has almost tripled its holdings since Bush took office and now holds almost $175 billion in United States treasuries.

The Treasury figures which came out this morning show that China is one of only four nations that is buying significant amounts of U.S. debt, increasing its holdings by close to $20 billion since the beginning of this year alone. The Chinese are not buying our debt to advance freedom and democracy. They are buying it to advance themselves at a competitive advantage. By maintaining the dollar at an artificially high rate against the Chinese currency, they keep the price of their products low in the U.S. In other words, our budget deficit enables the Chinese to hold down prices of Chinese goods and makes them more competitive in the U.S., at the expense of U.S. companies.

In short, the American taxpayer is subsidizing Chinese manufacturers, and the American worker is paying the salary of a Chinese employee.

But what if the Chinese changed their minds? What if they dumped those Treasuries? Perhaps because, as the Times suggests, and I quote, of "dismay over the United States' long-term fiscal disarray" or for whatever reason they feel would advantage them.

That is not an unrealistic scenario. Recent articles note that the Chinese policy of pegging its currency at a fixed rate to the dollar has been creating great imbalances in that country's economy and putting pressure on the Chinese government to let the dollar fall. Then we would have a crisis. Dumping dollars would almost certainly cause an abrupt spike in inflation and interest rates.

All I can say is that these economic policies are dangerous. I came to Congress in 1992 and we had a $290 billion deficit, as the gentleman from South Carolina (Mr. SPRATT) pointed out. In 6 years, we had what was projected to be a huge surplus. Under this administration, we have lost that surplus. They have created the largest deficit in history, and they are now calling to increase the debt ceiling to the largest amount it has ever been in the history of this country. And who is buying that debt? China is the prime purchaser of that debt. This is not a valid policy. It is wrong-headed.

Madam Speaker, I thank the gentleman for his leadership on this issue.

□ 2045

Mr. SPRATT. I thank the gentlewoman from New York.

I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. I thank the gentleman from South Carolina for yielding, and I thank him for his leadership.

We have heard that we have had to increase the debt limit. This chart shows why the debt ceiling had to be increased. It shows the deficit from the Johnson, Nixon, Ford and Carter administrations, the Reagan and Bush administrations, the deficit changing into a surplus, and then the massive red ink in this administration. It shows that it may get a little better for a couple of years, but unless there is a profound change in direction, it just keeps getting worse.

When you run up this kind of deficit, we talk about increasing the debt limit, but one thing you have to do is pay interest on all of that debt. We have heard that the surplus projected at the end of the Clinton administration would have virtually paid off the debt held by the public by 2008. Instead, by 2008 we will have almost a $300 billion additional interest on the debt that has been run up. $300 billion increased interest to be paid.

We talk about No Child Left Behind underfunded by $9 billion, veterans' health care underfunded by a couple of billion dollars. We have got other things, a couple of billion dollars here and there. We are squeezing here and there. By 2008, interest on the national debt, money just down the drain, $300 billion additional because of the fiscal irresponsibility.

We hear that they want to privatize Social Security. This is the Social Security cash flow which my colleagues will notice, in 2017, instead of a surplus, we are going to be starting to run a deficit, huge deficits approaching, by 2037, $1 trillion. One wonders how could we ever have paid this surplus and why we should be running up as much of a surplus as possible now to be able to accommodate this.

This chart shows that if you look at the tax cuts that this administration has enacted and has in store, the present value of all of those tax cuts is $14.2 trillion. We could have paid all of the Social Security benefits without increasing the age of retirement, without reducing benefits, for $3.7 trillion in present value.

Medicare's deficit, the same kind of chart, $8.2 trillion. $11.9 trillion is what it would have cost to make Social Security and Medicare both financially solvent for the next 75 years. $14.2 trillion in tax cuts. We had a choice: Tax cuts or make Social Security and Medicare solvent for 75 years. We made the wrong choice.

This chart responds to the adage, if you don't change directions, you might end up where you are headed. This chart shows where we are headed at our present rate and present policies. This shows that right now we are borrowing money to pay for some of the green which is Federal spending. Unfortunately, by 2040, unless there is a profound change in direction, we will be able to pay interest on the national debt and a little bit of Social Security and have to borrow the rest of the money for Social Security. We will have no money for Medicare and Medicaid and no money for government spending like defense, education, transportation.

Obviously, there has to be a profound change in direction. Otherwise, interest on the national debt will start eating up virtually every penny that we have.

We are going in the wrong direction. We have to change directions back to the period of time when we made the tough choices, eliminated the deficit and created the surplus. We can go back to that era if we make the tough choices, make the right choices, but we are not doing that now. When we start talking about increasing the debt ceiling, this is one of the symptoms and one of the consequences of all of this red ink.

I thank the gentleman from South Carolina for yielding, and I thank him for his leadership on fiscal responsibility.

Mr. SPRATT. I thank the gentleman from Virginia.

I yield to the gentleman from North Carolina.

Mr. ETHERIDGE. I thank my friend from South Carolina for yielding.

Let me thank the gentleman from South Carolina for his leadership on this issue because, as the gentleman from Virginia has just shared with us, this is an issue that deserves more than just an hour Special Order in the evenings. This is an issue that deserves the attention of every Member of this Congress, and it deserves the attention of the administration.

We had a wedding this weekend in our family. Our last child got married. Come January, we are expecting to be grandparents. I am looking forward to that with a great deal of anticipation. But after what we have heard tonight, I am sorry to say that when that child is born he will inherit the largest debt and his generation of any group of young people in the history of this country. That is wrong, and this Congress and this administration has an obligation to do something about it. That is wrong.

I heard today on the radio, I do not have it in writing, that the inflation increase that we are just facing, and they announced it today, is the largest we have seen in 14 years. That means we have to go back to 1990 to see the inflation increases now being built in the economy. If this is correct, what this is going to mean is the cost of that debt is going up, because interest rates will go up with inflation and it will start to squeeze everything. Sure, it has something to do with the price of oil, but the price of oil is going to keep going up if we keep devaluing the dollar. And the dollar gets devalued because we have a huge debt, and the cycle gets worse and worse.

That is basic economics. You do not need to know a lot. You just need to understand that we have got to get our house in order to pay our bills and turn that red back to green. It can be done, but it cannot be done under current policies.

Let me ask my friend from South Carolina a question, because he knows an awful lot about this when we are talking about budgets. When we are spending the dollars for the debt, and we have seen the numbers this evening, of how that is continuing to expand with no solution in sight, share with me what this does for our squeeze on the need to invest in education and in research and development, to grow our economy to get out of this problem.

Mr. SPRATT. There are certain items in the budget that are obligatory. Clearly, one of those obligatory items is interest on the national debt. We have a sovereign responsibility to pay it, and if we do not pay it or if we ever default in payment of it, the cost of credit for the United States of America would skyrocket. Consequently, that comes first, has to be paid, and when it has to be paid, then other things have to yield to it, education, the environment, the basic operation of the government. These other things have to yield to the payment of interest. Obviously, the more debt you stack on top of debt, the more interest we will have to pay.

Mr. ETHERIDGE. Let me ask this question as if I am sitting at my kitchen table and I get my credit card. In effect, I am paying only the interest on that credit card month after month. That is what we are doing. We are not paying any on the principal. I keep building that principal larger and larger, so it goes on my credit card from $1,000 to $5,000, to $10,000. It stands to reason my interest is going up.

Mr. SPRATT. Surely. If the principal is going up, your interest is going up.

Mr. ETHERIDGE. Here is my question. If I keep building this big enough, pretty soon the bankers are going say to me, "Mr. ETHERIDGE, if you can't pay some of the principal, we're going to have to sit down and work out a plan for you." Normally, people do not do that with a country, but I think earlier the gentleman from New York touched on this when he was talking about the challenge we face with our international friends owning our debt. How do we deal with them diplomatically when we owe them so much money?

Mr. SPRATT. It narrows our options, that is for sure. If we put too much pressure on them at the WTO, for example, trying to get them to unpeg their currency so that their exports are much more fairly priced vis-a-vis our imports, then they could get stroppy. They could simply retaliate by not buying any more debt and by making it difficult for us to sell our debt at a higher price.

Let me yield to the gentleman from Tennessee because he is bringing us back to this whole question of principal accumulation, how much debt in a short period of time this administration has amassed.

Mr. COOPER. I thank the ranking member for yielding.

It is a shocking amount of debt that the administration has accumulated in a relatively short period of time. As this chart illustrates, three times in the last 4 years we have had to increase our national credit card limit, as the gentleman from North Carolina pointed out. Three times in the last 4 years. We have increased the debt limit by a staggering amount. In the year 2002, we increased it by $450 billion. In the year 2003, by $984 billion. Now we are being asked to increase it by an estimated $800 billion, for a $2.2 trillion total just in 3 or 4 years. That is a burden placed on the backs of our families, on our kids and our grandkids, as the gentleman was describing. These are truly astronomical numbers.

To put them in perspective, look at this chart. What is $984 billion? That is more than our Nation borrowed from the years 1776 through 1980. Through all those years of our Nation's history, 200 years, we only borrowed $908 billion. Here in the last few years, 1 year to be exact, $984 billion extra. That shows how out of whack our finances have become.

I thank the gentleman for raising this important question.

Mr. KIND. My colleague from Tennessee has been a real voice of reason on the committee as well as the ranking member of the Committee on the Budget for trying to inject a little voice of reason in this whole fiscal responsibility debate that we need to have in this Congress and throughout this Nation. Because it is staggering, looking at these numbers and what the administration is coming back to Congress and asking for this week, another huge increase in the debt ceiling limit.

There are a lot of ramifications to what the President is requesting us to do this week in increasing the debt by addressing the symptom but not addressing the cure that we need to get out of the fiscal mess that has been created in this Nation over the last few years. It is a mess that is spiraling out of control. We see the increased costs and what is happening in Iraq and Afghanistan right now. We are also butting up against an aging population in this country, the so-called baby boomers who are about to begin their massive retirement in a few short years, putting in jeopardy Social Security and Medicare solvency for future generations. And we are not addressing a cure to the solution, one of which the ranking member and those of us on the Committee on the Budget here tonight have been advocating for the last 4 years, and that is reinstituting the budget tools that were in effect in the 1990s, the pay-as-you-go rules, so we maintain balance in the budgeting decisions.

If you are advocating a spending increase or a tax cut somewhere, you have got to find an offset to pay for it to maintain that balance. It worked well in the nineties. It gave us 4 years of budget surpluses, a couple of years in which we were not even touching the Social Security and Medicare trust funds, and all that has been reversed under the current administration and with the leadership of the current Congress.

One of the more disturbing aspects about this whole debt ceiling limit and the fiscal irresponsibility is who we owe it to. Right now, a majority of the debt is owed to foreign interests, Japan being the largest purchaser of government debt today, soon to be surpassed by China as the number one purchaser of our debt in this Nation. I do not believe it is in our best long-term economic interest to be so dependent on China, to be financing our red ink in this country for years to come, because it can wreak havoc on the financial markets in this country if they decide to take their investments somewhere else. That really has not received the attention I think it deserves, given the long-term implications of our dependency now on foreign countries in order to finance the debt that is being accumulated because the current administration is not willing to make the tough decisions to maintain fiscal responsibility around here.

It is going to be an important debate we have this week. There is going to be an increase in the debt ceiling at the end of the day. Those of us who want to reinstitute these rules do not have the votes to do it today, but hopefully with the help of the American people, some who are watching perhaps tonight, we are going to create this synergy that is necessary in this Congress in order to start making these tough decisions again that worked very well in the 1990s and gave us incredible economic prosperity and job growth and an incredible dynamic to help grow the economy which is being lost now based on the decisions that we are seeing.

I thank the gentleman for yielding.

Mr. COOPER. I appreciate the gentleman's excellent points.

I think most Americans want to hear a solution to the problem. It is one thing to know the dimensions of the problem. They want to know an answer; and pay-as-you-go, as the gentleman described, is not only an answer that we think will work, it is proven to work. It was in place, and I think the ranking member of the committee would know better than I, I think it was in place from 1990 to 2002.

Mr. SPRATT. The Budget Enforcement Act of 1990.

□ 2100

Mr. COOPER. Madam Speaker, so it was in place while we had Republican Presidents, the first President Bush, Democratic Presidents, and the Republican Presidents. It was in place when we had a Democratic majority in Congress and a Republican majority in Congress. And above all, it worked. It enabled us to build the surplus that we enjoyed in the Clinton years. It enabled us to reverse the flood of red ink that we saw in the Reagan-Bush years, to completely reverse our Nation's fiscal policy, only, sadly, to have it plunge back into an even deeper sea of red ink. So pay-as-you-go, the policy of only allowing new spending or new tax cuts if we can find the savings somewhere else, that is a proven remedy to our problems; and that is really what we are asking for.

The Blue Dogs have a policy statement that was issued today encouraging Members to only vote for the debt ceiling increase if it contains the essential budget reforms of pay-as-you-go.

So I hope all Americans will watch this debate carefully. Sadly, as the Members know, this debate is only taking place after the election when it is too late for many of our fellow citizens to cast their vote based on these facts, and they will probably have this vote not as a separate vote but rolled into a larger issue.

Mr. KIND. Madam Speaker, if the gentleman would yield for one final point.

Mr. SPRATT. I yield to the gentleman from Wisconsin.

Mr. KIND. Madam Speaker, this literally is the ticking time bomb sitting beneath Social Security and Medicare. They do not want to talk about it. They do not want to talk about fiscal solvency and fiscal responsibility that will help shore up Social Security and Medicare for the next 75 years. But this really gets to the crux of it. And later, next year perhaps, in the next session of Congress, we are going to have a serious discussion about Social Security reform. I think the best reform measures we can start taking today is instilling a little more fiscal discipline in the budgetary decisions so that this $160 billion annual raid on the Social Security trust fund stops and we have that ability to deal with the baby boom generation's retirement, which is about to explode in future years. But, again, it is the lack of leadership right now that we are seeing from the administration and here in Congress that is preventing us from really shoring up Social Security and Medicare as viable programs for many generations to come.

Mr. COOPER. Madam Speaker, if the gentleman would continue to yield, I agree with the gentleman. It is essential to prepare for the pending retirement of the baby boom generation and for all of our seniors so that Social Security and Medicare that they count on will in fact be there for them.

The gentleman made a point earlier about the Chinese becoming our largest creditors. That is an amazing situation for the average American back home to realize because not too long ago we referred to the Chinese as the Communist Chinese, and I remember a statement made by a Russian leader years ago, Nikita Khrushchev, who claimed that Americans would one day sell them the rope by which they would hang us. That is a pretty tough statement. But right now we are in effect selling the Chinese the notes by which they could hang us financially because we are asking them to lend us so much money to finance our spending habits.

Mr. SPRATT. Madam Speaker, reclaiming my time, let me just wrap up by saying that this is our concern: $2.2 trillion of additional debt in 3 fiscal years, and what is waiting in the wings is a reform in Social Security which is likely to propose that a person not on Social Security can take 2 percentage points or 3 percentage points off his payroll tax and put it in a private account. If that happens, that will increase the debt by another trillion dollars over the next 10 years, and that is our great concern that this will be followed with policies that will actually worsen rather, than improve, this.

Madam Speaker, I yield to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Madam Speaker, I thank the gentleman for yielding to me and appreciate the chance to join my colleagues.

The voters have spoken. They have elected us to return to Washington to get the job done. And one of the first things we are getting ready to do is exactly the opposite of what we should be doing. We are getting ready to charge to future generations this massive expenditure that we are enjoying the benefits of and ought to be paying for ourselves.

One of the things I would like to add to what has been discussed here tonight is folks at home say to me, Jim, what does this mean to me? These are a lot of numbers. This sounds like a fight about people in Washington. Where do I fit into this?

And one of the ways, I think, to sum this up is that today, because of the reckless spending habits and reckless decisions on tax cuts without regard to the debt and deficit, each American's share of the Federal debt today is $25,000. $25,000. Every American in this country, Democrat, Republican, man, woman, child, grandfather, grandchild, $25,000 each. So instead of facing up to this fact and having a debate about how we develop a roadmap to pay-as-you-go as the gentleman from South Carolina (Mr. SPRATT) has been advocating with the gentleman from Tennessee (Mr. COOPER) and the gentleman from Wisconsin (Mr. KIND), we are going to bury deep in a bill, try to hide from the public, try to pretend this does not exist. And in my State, Florida, and in the States we all represent, these historically low interest rates are going to come to a screeching halt. We have been warned by all the experts that it is inevitable that interest rates are going to begin to rise. In my community where people have a mortgage on a home, they are trying to pay a student loan, they have got credit card debt, this is going to be taking money out of their pockets, not to mention the horrific interest payments we are now paying, I think $157 billion in interest we have paid in the last fiscal year or so, money that we could be spending for tax cuts to help everybody, money we could be spending to make sure our troops are better armed in Iraq and we take care of them and their families when they come home.

So I want to salute my colleagues for calling attention to this compelling detail. It is our job to make sure that the country knows that even if someone tries to hide this in a bill, this debt limit is going up to historic proportions and we need to stop it as soon as we can.

Madam Speaker, as this body considers another federal debt limit increase, I rise with a warning for my colleagues and the people we represent back at home. For the third time since President Bush took office, Congress is preparing to drive our country further into debt with no road map to get our nation back on track to balanced budgets.

If Congress doesn't change course, this fiscal recklessness will begin to eat away at America's economic prosperity and leave a legacy of financial hardship for future generations.

Madam Speaker, this Congress has talked a lot about family values, but where I grew up, bankrupting our children and grandchildren's future doesn't count as a family value.

Today, as parents across our nation are working hard to save money for their children's college education, the federal government has run up a $7.4 trillion bill, and they are expecting our kids to pick up the tab. That's more than $25,000 worth of debt per American resident—a tremendous burden to place on the backs of future generations.

According to the Congressional Budget Office, if we stay on this path, the debt held by the public will reach $13 trillion by 2014.

The figure doesn't even take into account the financial troubles we will face when the first of 77 million baby boomers begin to collect Social Security in 2011. So while we baby boomers are enjoying our Social Security benefits, our kids will be paying for our irresponsible financial choices.

Madam Speaker, my mother taught me at an early age that if you make a mess, you have to clean it up yourself. Well this federal debt is a disaster, and I'm not about to tell my kids that they should clean up their mess when Congress can't even clean up its own.

What kind of example will we be setting for our kids if we don't take steps to pay down the debt? How can we teach our kids about the negative consequences of running up a credit card debt and at the same time ignore the consequences of running up the federal debt?

The truth is Americans are already beginning to see the effects of their government's poor fiscal policy decisions. Peter Hooper, chief U.S. economist with Deutsche Bank Securities Inc. notes, "The bottom line here is, if we don't get a significant narrowing of the budget deficit, you're going to have increasing upward pressure on interest rates. (WSJournal 11/12/04)"

In fact, according to Freddie Mac, just this week the 30-year mortgage rate came in at 5.76 percent, an increase from 5.7 percent a week earlier. Rates on 15-year mortgages, meanwhile, climbed to 5.26 percent from 5.08 percent over the same time span. Finally, the one-year adjustable mortgage rate rose to 4.16 percent this week, up from 4 percent a week ago.

Higher interest rates hurt more than just the economy—they take money right out of the pockets of young people struggling with student loan and credit card debt. And for families buying a house, higher interest rates could add literally thousands of dollars a year to their mortgage.

Furthermore, the federal debt drains funds away from investment in a better future, better education, a better environment, or scientific research. In 2004 alone, U.S. taxpayers wasted $159 billion on interest payments on the federal debt—thats more than two times the amount the government provided in financial aid for college students.

The $159 billion in interest payments combined with $163 billion in interest paid to the Social Security Trust Fund and other government trust accounts averages out to a staggering $1,100 "debt tax" for each American. For Americans facing lower paying jobs, higher housing costs, and mounting student loan and credit car debt, federal fiscal mismanagement just adds to their burdens.

And this problem will only get worse. By 2014, the interest alone on the public debt will reach $348 billion under current law (that's $1,081 per person), and will reach $418 billion under the President's policies.

It is shameful for Congress to even consider increasing this limit once again without including some sort of plan, such as enacting Pay-As-You-Go (PAYGO) rules, to ensure a brighter future for our children.

The road to fiscal responsibility is paved with sacrifice and tough choices, but the reward—a stronger, healthier economy for Americans of all ages—is well worth the journey.

I urge my colleagues to take up the responsibility thrown off by our leadership and vote against this debt limit increase.

Mr. COOPER. Madam Speaker, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Tennessee.

Mr. COOPER. Madam Speaker, if I could just clarify one of the gentleman's points, we are not trying to bury this in any other bill. We are not trying to hide anything. The Democrats would like a clear up-or-down vote on this issue so that the American people can see what is at stake. And that is what the Republican majority here is jeopardizing. We do not know for sure yet, but it is extremely unlikely that there will be a clear up-or-down vote because really we should have voted on this before the election, not now.

Mr. MORAN of Virginia. Madam Speaker, the Republicans have once again squandered opportunities, from international goodwill following the terrorist attacks on our soil, to managing the federal budget. The House leadership has compiled an abysmal record in the 108th Congress. Their fiscal performance, I regret to say, is the worse in recent memory.

This Republican leadership has presided over an historical reversal from record surpluses to now record deficits. Their lack of fiscal discipline has placed our economy in a precarious position and straight-jacketed future policy options.

The most troubling aspect of this policy is that we are giving the current generation a free lunch and running up debts that must be paid for by our children. Each newborn child now inherits $85,000 in debt. This so-called "baby-tax" will rapidly increase unless we restore some sanity to our budgetary policies and practices.

The lack of a surplus makes it even more difficult to solve the impending bankruptcy of Social Security and Medicare, or even to enact a Republican tax reform agenda.

### PATTERN OF FISCAL MISMANAGEMENT

Time and time again, this leadership has chosen to disregard its fiscal responsibilities and ignore signs of impending fiscal crisis in the hope that the problem will fix itself, or disappear altogether.

Clearly a policy of avoidance doesn't work, and it's certainly not what the American people expect from its elected leaders. You can't simply stick your head in the sand and expect market forces to balance the national budget. That's the Congress' responsibility. I can cite example after example illustrating how this leadership does not care about our nation's fiscal state of affairs.

The pay-as-you-go rule, the budget enforcement mechanism devised to reign in deficits, worked very effectively in the nineties to bring the budget into balance and restore surpluses.

Then the 108th Congress is sworn in, PAYGO expires, and the House leadership makes no serious attempt to restore it. It's no coincidence that we've seen record high deficits in the last two years.

And now this Congress is backed into a corner and forced to take action to raise the debt ceiling for the third time, another record.

### WORRISOME SIGNS IN THE INTERNATIONAL CURRENCY & DEBT MARKETS

The Bush administration and leadership in the House say deficits don't matter, but in truth they do matter, and we are now staring crisis in the face. There is near unanimity among economists that our Nation's fiscal imbalance could put us in real economic peril.

In a study published just 2 weeks ago, well-known economists Maurice Obstfeld and Kenneth Rogoff warned of what they called "current account collapse" sparked by withdrawal of funds from international investors. They said that this issue should be "problem number one on the President's international financial agenda."

We must heed these warnings and get our financial house in order or the delicate house of cards constructed by this administration and congressional leadership will come tumbling to the ground, and all Americans will pay a hefty price.

Already there are signs that the dollar's value is declining and other currencies, primarily the Euro, are slowly replacing the dollar as the favored currency among international investors. This week, the dollar reached an all time low against the Euro—one Euro is now worth $1.30.

Our Nation needs to borrow around $2 billion a day, and 92 percent of debt sold over the last 4 years has gone to foreign countries. So obviously we rely heavily on foreign investment. The question is what happens if those countries abandon the dollar for another currency?

If foreign governments like China decide to divest its U.S. currency holdings; the consequences would be serious, especially considering the massive purchases by the Chinese Central Bank over the last few years. In 2003, the dollar purchases by foreign central banks were $617 billion, compared to $352 billion the year before. Total reserves of the emerging Asia countries rose by more than $350 billion between March 2003 and March 2004. Japan and China alone currently hold close to a trillion dollars of U.S. debt.

Many countries are now beginning to favor the Euro, which puts us in a major dilemma and raises national security concerns. Foreign governments are now our largest creditors. We may be the most powerful nation in the world, but China, as the largest investor, has genuine financial leverage. This poses a real threat to our national security because the American economy now depends on the financial decisions of foreign governments.

Unlike in years past, we cannot assume that no other currency comes close to rivaling the dollar's strength. The emergence of the Euro substantially changes the international currency market, because, despite the relative soundness of the dollar, the Euro has become a true alternative, backed by reasonably sound monetary policies. So the largest holders of foreign currencies in Asia could change their preference purely on the basis of financial, not political considerations.

This scenario is unraveling right now. Asian countries believe that our exceedingly high deficits are untenable and threaten the American economy. They worry that more buying could in turn destabilize their own economy. Another very real concern is that their financial leverage could translate into political and diplomatic leverage.

Consequently, we increasingly find ourselves in a precarious negotiating position. We have to convince these foreign governments that the dollar is relatively strong and they should continue their purchasing.

I would conclude by saying that in tonight's special order my colleagues have discussed issues that need to be addressed in an honest debate on the floor of the House. The election is over. It's time to put aside wedge issues and start talking about fiscal problems that could have a devastating effect on the American economy for years to come.

The leadership has apparently backed away from its initial plan to include the debt ceiling increase in an omnibus appropriations bill. Hiding the debt ceiling increase in a larger bill would be a mistake because it would undermine the purpose of the statutory requirement—accountability. Members of Congress should explain their decision to increase the national debt. The American people deserve to know what's going on.

We've heard plenty about cultural values in the last few weeks, and I think we get it now. But Congress cannot continue to simply ignore mounting fiscal problems, and expect they will go away. Because they will not. And I promise you that when the "you know what" hits the fan and we're facing a crisis, the American people will put aside their cultural differences in favor of one overriding value: economic security.

## GENERAL LEAVE

Mr. SPRATT. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the subject of my Special Order.

The SPEAKER pro tempore (Mrs. MUSGRAVE). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

## GLOBAL CLIMATE CHANGE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. INSLEE) is recognized for 60 minutes.

Mr. INSLEE. Madam Speaker, I come to address the House this evening on an issue that has some similarities to the issue my colleagues, my Democratic colleagues, just addressed on the Federal deficit. The Federal deficit is this long-term, rather insidious challenge to our Nation that sort of is something that can sneak up on us and over the long term can cause us great grief. And the issue that I am compelled to address the House on tonight is a similar issue with even larger global concerns that has the capability of causing major changes to the way we live and our kids live and our grandchildren live, and that is the issue of global climate change, which is being precipitated by our enormous contributions of carbon dioxide and methane into our atmosphere.

And as I come here tonight, this is the first night we have been in session since the election, and a couple things have changed relatively dramatically actually since the election. And one of the things that has changed when it comes to the atmosphere we are going to leave to our kids and our grandkids is that there was a major scientific announcement made last week that basically should send off red lights, alarm bells, and whistles in the United States Congress which indicated that the problem of global warming is much more acute and is happening much more quickly than many of us anticipated. So tonight I would like to address the science that has now become available to this body in the House of Representatives, which I hope that we would act on fairly shortly.

Unfortunately, the U.S. House has been somnambulant when it comes to global warming to date. This Chamber, for all its virtues, basically has not acted at all in the face of what has been very rapidly accumulating scientific evidence about this problem. But after the report came out last week, which I am going to address, there really is no longer any excuse for inaction by the House; and that is why this evening I would like to address the scientific report that became available to us.

Last week, eight nations that have been working for 4 years now to try to get a handle on the scientific information that is now available to us issued a report called the "Impacts of a Warming Arctic," and this was a report issued by the Arctic Climate Impact Assessment. This is a group that has been working of the best scientists in the United States, nonpartisan, no ax to grind. These people, a diverse group from the National Oceanographic Administration, from the University of Fairbanks have been working in conjunction with seven other nations on this report. Those other countries are Denmark, Finland, Iceland, Norway, Russia, Sweden, Canada, and six indigenous groups in Canada.

And this group basically for the last several years has been taking a very acute and sensitive look as to what is going on in the Arctic to determine whether or not there is evidence that can guide us policymakers and whether we should or should not treat global warming as a serious issue. And I have to say that when I read this report, I was blown away. And I was blown away because it is the most concrete, cemented, and alarming report that I have read about an environmental issue in the last 10 years. And this report, which is about 120 pages, one can get online. If I can get the site here, they can read it on line at acia.uaf.edu. That is acia.uaf.edu. They can also get it through the Cambridge University Press at cambridge.org.

Basically what this report concluded is that global warming is, number one, a fact; number two, likely caused by significant human activity; and, third, that the rate of global warming in the Arctic regions surpasses anything that we really would have assessed or predicted even 2 years ago and that that rate has the capacity to cause significant changes not only in the Arctic but where we live in our homes and towns where we expect our grandchildren to have a life like we do.

And what I would like to do is go through this report. And basically this report synthesized scores of scientific assessments that have been done on the Arctic. For reasons that are quite complex, what we have found is that the changes that are happening in global warming are even faster in the Arctic than other places. So I would like to go through some of the findings of this scientific report.

First, the report found that Arctic climate is now warming rapidly and much larger changes are projected. The annual average Arctic temperatures have increased at almost twice the rate of the rest of the world and over the past few decades with some variation. And additional evidence comes from widespread melting of glaciers and sea ice and a shortening of the snow season. We are seeing actual changes in our climactic systems now due to global warming.

□ 2115

This is not a hypothetical. This is not a "Chicken Little." This is not a bunch of theoreticians. What the science has shown is that we are seeing significant changes already. The Arctic is where science looked. There are other changes as well, but they are occurring.

The numbers that this report came up with are really quite startling. They are not talking about one-tenth of a degree or half a degree in changes, changes that we may not notice in our daily lives. What this report concluded was that because of increasing concentrations of carbon dioxide and other greenhouse gasses due to human activities, primarily fossil fuel burning, Arctic warming is expected to be 4 to 7 degrees centigrade over the next 100 years. That is at least 8 or 9 to 14 or 15 degrees Fahrenheit during our grandchildren's lifetime.

Think about the significant changes in a region of the world where you have 8, 9, 10 to 15 to 17 degree temperature increases. You are talking about major changes in the planet that God created. And whatever our political stripe in this Chamber, I dare say that none of us would believe that there is a moral value to change 8 to 9 to 14 to 15 degree changes in the climatic system designed by the Creator.

That is a moral value that is violated. We now have evidence that is occurring, and we need to act on it, and we need to act on it now. This is the most alarming evidence that we have in humans that I am aware of to date of about how significant this problem is.

So we know we have seen changes in the Arctic, and we now have compelling scientific evidence. And I want to make sure people understand this is not evidence from some pointy-headed group that just has an ax to grind. This is the best scientists in our Federal Government on a nonpartisan basis in alliance with scientists from around the world who are associated with the Arctic.

Now, what this is also showing in the Arctic is that we have had shorter and warmer winters, which perhaps is not rocket science but is true, with substantial decreases in snow and ice cover, and these are expected to continue. We can look forward to unexpected and even larger shifts and fluctuations in climate. The reason for that is we do not fully understand all of the climatic systems to date.

So what we have is finding number one, which is that the Arctic is changing rapidly, and that it is likely over our grandchildren's lifetimes to have increases in the 8 to 16 to 17 degree Fahrenheit realm, huge changes in the biosphere in the Arctic, and we are already seeing changes.

The second finding that this group has found relates perhaps to our lives as we live them here. I live just north of Seattle, and I kind of like it. A lot of people do not like some of the rain in Seattle, but I think it is a great place to live. I have become accustomed to having a spring, when we get it, and having the glaciers and having snow to ski on and having salmon in the rivers.

All of those things are now put into question because of the existence of global warming. That has been suggested by finding number two of this group, that basically found in their conclusion, and I will read from it, "Arctic warming and its consequences have worldwide implications. Melting of highly reflective Arctic snow and ice reveals darker land and ocean surfaces. It increases the absorption of the sun's heat, further warming the planet."

Now, maybe this is intuitive, but it bears thinking about it.

One of the things scientists are concerned about is that we are dramatically increasing the percentage of carbon dioxide in our atmosphere. As you may know, carbon dioxide traps infrared radiation. The way this works is just like a greenhouse. Light can come through the atmosphere, because when light comes from the sun it comes through an ultraviolet wavelength. But when it bounces back, it bounces back at a different wavelength, at infrared spectrum in the wavelengths.

Carbon dioxide, methane, a few other gasses, are impermeable to infrared radiation. So it traps that radiation in the Earth. That is a really, really good thing. If we did not have some carbon dioxide, we would be a frozen ball in space. It is important to have that as a blanket to a certain degree to keep us warm.

But, unfortunately, those rates of carbon dioxide are up 20 to 30 percent in the industrial period of time and are expected to double, double, the highest carbon dioxide rate in our atmosphere in several millions years in the planet Earth's history, if we do not act.

So the science is compelling that this material traps heat in the Earth.

But the thing that is disturbing to a lot of scientists is that there are also what are called feedback effects. Feedback effects means that when you change the atmosphere you warm the planet due to this trapping mechanism like greenhouse panes in a greenhouse, but you also set up a phenomena called feedback effects.

One of those is, if you melt more ice, you effectively warm the planet through a doubling effect or an increased effect, because ice is more reflective. It reflects back more energy than dark ground or the oceans. So you have this kind of reflective barrier up there in the north and in the Antarctic and the Greenland ice cap, and if you lose that reflective barrier, you absorb more heat and increase the rate of increase in temperature.

That is what we are seeing right now. This report concluded that is likely to happen, and it will have implications not only in the Arctic but where we live down in the 50 States.

It also says that increases in glacial melt and river runoff add more fresh water to the ocean, which will raise the global sea level, possibly slowing the ocean's circulation that brings heat from the tropics to the poles, affecting global and regional climate.

If you go on-line and look at this map, you will see there are significant areas in the United States which could be affected during our grandchildren's lifetime of raising sea levels due to global warming.

I am familiar with a lot of beaches. We like the breaches. Frankly, I do not like them being underwater. But that is the circumstance our kids have to look forward to if we do not act.

It works in two ways: One, warming sea water expands simply because it is a warmer temperature. But we also have additional volume from additional melt. So we have that phenomena.

But the report also had this disturbing line, and you can read about this in detail, which says that this could possibly slow the ocean's circulation that brings heat from the tropics to the poles. This is something when I went on a tour of some of the regions that could be affected by global warming, some of the countries in Northern Europe are very concerned that because we have more fresh water melt off of the Greenland cap and Arctic, we can reduce the salinity of the North Atlantic, reducing the action of the current which drives the Gulf Stream which really warms Northern Europe. This has the capacity of altering or shutting down that Gulf Stream, because, paradoxically, you could end up with a little ice age in northern Europe due to global warming. It is an interesting phenomena you would not think of intuitively. But this report indicated that is something we need to be concerned about.

The third conclusion, Arctic vegetation zones are very likely to shift, causing wide-ranging impact. What they are finding is that the tree line is moving northward into higher elevations, with the forest replacing an existing fraction of tundra and tundra vegetation moving into polar deserts.

Now, this may sound a little esoteric, but it has meaning to us in the 50 States as we start to see northern movement of these biospheres, if you will, as well. You can basically, this is a little simplistic, but look to the south of you and assume that is what is going to happen. Frankly, that may look okay to me and from Northern California, moving north, but to folks in the south, having a Mexican climate moving north into California and Oregon may not be a prospect folks really look forward to.

The fourth conclusion, animal species diversity and ranges and distribution will change. This is one that those who are fond of polar bears and seals, and I think a lot of folks are, they are threatened. They are threatened because reductions in sea ice will drastically shrink marine habitat for polar bears, ice-inhabiting seals and some sea birds, pushing some species towards extinction.

Whatever you think, I believe that we have an obligation to our grandkids not to leave a planet barren of some of the animals and critters we grew up with. I do not think that is too outrageous a statement.

There was an instruction by the Creator to Noah to bring two of every animal and to keep them alive, and "to keep them alive" was the operative word. If that was the instruction to Noah, perhaps we ought to have an instruction to the U.S. Congress to pull our heads out of the sand and do something that does not result in huge extinctions on this planet, which unfortunately is the scientific fact that is now occurring.

This report is just one more factor that ought to lead us to conclude that we need to act to avoid significant extinction so that we cannot say that we are the generation that took away polar bears, seals, Orcas, you name it, from our grandkids, to enjoy in their lifetime. According to this report, that is a risk we should be concerned about.

The fifth conclusion, many coastal communities and facilities face increasing exposure to storms. We are already seeing some of our communities in northern Alaska are having to actually move their villages that have been there for centuries away from the encroaching wave action that is occurring. It is predicted that will occur in part because thawing permafrost weakens coastal lands, adding to the vulnerability.

This is a real kind of interesting thing that is going on. If you look at this report, you will see the pictures of the buildings that are collapsing in the Arctic because the permafrost is melting. The permafrost, as the name would suggest, is permanently frozen ground, and people build their buildings on it, they build their roads on it. But that is melting now because of the increasing temperatures. You will see pictures of these cracks running through buildings, cracked roads.

It is interesting, because you know folks who want to drill in the Arctic, in the Wildlife Refuge, something I vigorously oppose, ought to take into consideration that, because of global warming, it is going to be more difficult if that were to happen. Because the days in which you can drive over frozen tundra and not sink up to your hubcaps are being reduced by about 10 days to 2 weeks in the last several decades, and that has created havoc up there in the oil drilling fields, even in Prudo Bay. So we have melting permafrost, something that has been there for eons, now occurring.

In fact, it is interesting, up in the villages up in the northern Alaska area, you have birds that are appearing that the folks up there do not even have words for. They do not have language for them, because they have never seen these birds before, as they are moving north because of this melting that is occurring.

Sixth, reducing the ice is very likely to increase marine transport and access to resources. This is an interesting phenomena. If you want to look at this on the plus side you can say, well, we will be able to have shipping through the Arctic during the summer.

There are some changes that might be useful to our economy, but I question whether we want to radically change the climatic system which we have grown accustomed to during the entire period of human evolution in the hopes that we might have a couple of upsides in that regard. I would suggest that we not.

I have been joined by a great visionary on this issue and others, the gentleman from Wisconsin (Mr. KIND). I yield to him.

Mr. KIND. Madam Speaker, I thank my good friend, the gentleman from Washington State, for yielding me a little bit of time for this very important discussion.

First of all, I commend him for it, his leadership throughout Congress and the Nation, in trying to draw attention to and highlight an incredibly important issue not only for the current generation but future generations. That is, how are we going to, as the world's most powerful Nation, economically, militarily, culturally, our influence throughout the world is going to address one of the seminal issues of our generation, and that is global climate change and warming, what we can do policy-wise to try to effectuate the needed changes in order to stem the terrible results that might occur if we do not start acting today on it.

The science is in. My colleague from Washington has cited the scientific studies. In fact, even the current administration now is releasing recent reports indicating that climate change is real, that global warming is occurring, that it is heavily influenced by man-made objects and that it is something we cannot ignore any longer.

The problem we have, however, with the administration is lack of leadership and a lack of ideas and a solution on how to address it. They have the science before them. The President during an initial report that said, hey, this stuff is real, it is happening, we have got to take corrective action, excused the record as the work of bureaucrats within the EPA and various agencies that was putting the science together. But a more recent study that just came out in August highlighted the very real effects and the tracking data of climate change and the fact that it is heavily influenced by man's action on this globe.

□ 2130

The question is now what are we going to do with the science. It was interesting to note and see that Russia has been the latest signatory to the Kyoto treaty which now puts the treaties into effect because they had to have a certain number of nations that produced a certain amount of these greenhouse gasses to first sign the treaty before it would be implemented. Russia now puts them over the top. Granted there are some problems with Kyoto, issues that need to be addressed and cleaned up and further corrected; and that is why there was an overwhelming vote against the Kyoto ratification in the Senate about a year ago. But what has been lacking in this debate on a global basis is U.S. leadership and what are we going to do about it.

I know the gentleman from Washington (Mr. INSLEE) has been one of the champions of a new Apollo energy program, one that makes sense for us not only addressing the global climate changes that is occurring now but makes sense for us economically in regards to our long term energy needs as a Nation. If we do not get our energy policy right, we will not be very successful in growing the economy and creating jobs.

We have seen what the dependence and addiction to foreign oil has done to us economically. We have been looking at $2 a gallon for gas prices for too long. It is a hidden tax on working families that are paying more out of their pocket at the pump in order to pay for these increased energy costs. Gas prices this winter will be 30 to sometimes 40 percent more in the upper Midwest and in the northern regions that will be relying on heating bills to get through the winter season. And we see the implications foreign policy-wise of our addiction to oil in the Middle East and why we are so heavily involved there right now. There is something we can do about it.

I guess what is so frustrating, serving on the Committee on Resources, as my friend from Washington and I do, is there are certain steps that we can be taking in order to wean ourselves off from this dependence on foreign oil in order to move to a new energy policy that emphasizes alternative and renewable energy sources: the wind, the solar, the geothermal, the biofuels, the ethanol. And also a major investment in the energy source of the future, fuel cell development, so we become a hydrogen-based energy society as opposed to a carbon fossil fuel base that we are currently dependent upon and that is creating these greenhouse gases.

So the question now becomes what are we going to do about the science that is staring us in the face. Are we going to continue to ignore it, claim we cannot do both, grow the economy and address global climate change at the same time? I believe we can. And I believe there is job creation involved if we do start bringing these new technologies online, creating new businesses and new industries to deal with the new Apollo energy program for this country.

We should see the leadership from the White House setting dates certain for certain goals of achieving greater alliance on alternative and renewable energy sources, but we are not. In fact, the energy bill that is currently pending before Congress is better suited for the 1950s as opposed to the 21st century. There is a lot of new technology that can be developed that will spur economic growth and jobs if we have the political will to do it. And I believe at the end of the day this can be a win-win scenario, not only for job creation in this country but in addressing the root causes of global climate change, something that the rest of the world is waking up and realizing and starting to take action on their own.

But if the world's largest economy and the world's greatest consumer of fossil fuels remains on the sidelines, as this administration has decided to do, we will not see tremendous progress being made on this front regardless of what other countries throughout the globe are trying to do right now. That is why I commend my good friend from Washington State for getting up here on a late evening here, Tuesday night, to continue talking about this very important issue. And it is an issue that the younger generation gets. I do not know if it is intuitive or if they have just gotten enough information themselves, but they know the problems we are facing ecologically and environmentally.

They also believe in this whole global warming science that is out there right now. I believe they also believe that it is their generation that will pay the highest price if action is not taken today with the policymakers we have right now. I believe it was one of the more important issues in the last Presidential campaign that did not receive the attention that it deserved. I pledge tonight to continue working with my friend from Washington State to continue to draw attention on this important issue, to see what we can do working in a bipartisan fashion, because this is going to be an issue that we will have to lock arms together and jump into the icy waters on if we will have significant progress on it.

And there can be a lot of different areas of the sensible center that we can pursue in this Congress in the upcoming session, and hopefully being able to work with the administration even though they are doing new personnel changes right now, to address one of the more pressing and important issues changes of our day, that is, global warming. And what this generation is going to leave as a legacy for the next generation to inherit.

Unfortunately, there has been too much dithering. There has been study after study and scientific report after scientific report, all pointing in the same direction; but it is falling on deaf ears right now. And we do not have the luxury of time on our side. The longer we delay in taking affirmative action on this, the harder it will be to address this at the end of the day. So the clock is ticking.

We will continue speaking out on this. We will continue working amongst ourselves trying to form these bipartisan coalitions, trying to develop a greater consensus in our country to address this. I think the American people are there as well. I think given the option, they want to see us moving to a more sustainable energy policy that is more ecologically and environmentally friendly for their children and grandchildren as well. Lord knows the rest of the world is waking up to the possibilities that exist out there. And there is so much potential with the creativity and the innovation that this country has, that the American workers and with the science that we are developing in this country.

What is lacking and what the missing ingredient I believe is is the political leadership and the will to get it done. That is really what is at stake. And I thank my colleague for having this Special Order this evening talking about this issue and for his leadership on it as well.

Mr. INSLEE. I really appreciate two messages the gentleman had. One was why this needs to be a bipartisan effort. This should be a totally bipartisan effort. Now we have a start on that. Senator MCCAIN, if I am allowed to use that name, and another, Senator LIEBERMAN, in the Senate have a bill that will help us put a modest cap on the amount of $CO_2$ we put in the atmosphere. We have a similar bill with some of our Republican colleagues that we have co-sponsored here in the House.

When our grandchildren look back at us when polar bears are extinct and there is no summer ice cap, and Western Nile Virus and malaria have moved south up into the Midwest, and we have lost some of the birds we are used to having around our houses, and your air conditioning billing goes through the roof in Seattle, Washington, and Wisconsin in March or April, they will not look back and say oh those pesky Republicans or pesky Democrats. They will curse us all for being so shortsighted.

So we need to be bipartisan on this.

Second message that I appreciate is one of optimism that we can deal with this problem. That is a fundamental thing that we need to have confidence in ourselves to do that. I think you have to ask yourself, why when the science is so overwhelming, why when the science is just absolutely certain that carbon dioxide has increased by 30 percent in the atmosphere, there is absolutely no doubt whatsoever of that and there is no doubt that it acts as a greenhouse gas, and why when you see the summer ice in the Arctic already being decreased by 15 percent by area and almost 40 percent, almost half as thick, we have almost lost half the thickness already in the polar ice cap, when you already see the changes in animal life? We had these squid off the coast of Washington. We have never seen these squid off the coast of Washington. For a hundred years nobody had ever caught a squid. Now they are up there because we have warmer water temperatures.

So after all of these efforts, why do some people sort of want to blind themselves to do this? I think the answer is human nature. If you do not think you can deal with it, you just do not think about it. If you put it in that little box of things, maybe like our own mortality that we cannot do anything about it, you just do not think about it. We need to spread the gospel that we can handle this problem and the reason we can handle this problem is we are the most creative people on Earth. We went to the Moon in 10 years when John F. Kennedy challenged us to do it. We can do the same thing now with the Apollo energy project that we are working on here in the House which will unleash the technological can-do spirit of Americans.

There is no reason the Danish have to be ahead of us. We went together to Denmark and saw the wind turbines. Denmark will have 50 percent of their energy produced by wind turbines in the next 10 years. There is no reason we cannot do that. There is no reason we cannot be competing with the Germans on solar technology, which has now come down in price 20 percent, every time you increase it by a factor of ten.

We need to make a buck off of global warming and this is one of the great economic opportunities for America because we are the smartest, greatest tinkerers the world has ever seen if we have that challenge.

Mr. KIND. Madam Speaker, I think the gentleman is right. I think this really comes down to two different visions, two different camps of what we can and cannot do. The optimist versus the pessimist. The optimist which we are members of happily really do believe we have the innovation, the creativity, technological know-how to lead the rest of the world in developing the changes that have to be made in regards to energy use and new energy technologies coming on line.

Conservation could be a big part of what we are talking about as well. It is something that unfortunately the Vice President poo-poos every time someone tries to bring it up, is the things we could be doing to develop more energy-efficient machines that we rely on for our quality of life.

It was interesting that when California just a couple of years ago was going through their energy crisis, energy consumption dropped 11 percent within the first month through increased energy conservation practices. So conservation can also be a part of this. What does this mean for the average person back home in western Wisconsin, the district that I represent?

We have a very good manufacturing company called the Trane Company. It is one of the largest employers in western Wisconsin, over 2,000 workers. They manufacture high-efficiency commercial heating and cooling units to be sold. They are so efficient and so good at what they do that those machines are already in full compliance of what the Kyoto treaty calls for. If we unleash this potential, that means creating more jobs in districts like the third congressional in western Wisconsin, with new companies being able to expand by developing a market share with these new machines, these new technologies that are crying out to be developed.

But again it is a question of political leadership and whether or not we have enough visionary people to see where we can take it and what steps we have to do and what each of our roles is going to be as consumers, as manufacturers, as producers, as policymakers because there is going to be a role for all of us to play, but it will require a buy-in.

The gentleman mentioned the Apollo program of the 1960s. When President Kennedy first announced the goal to put a man on the Moon by the end of the decade, most of the scientific experts did not think it was possible. We were experimenting with Saturn and Jupiter II missiles that if they were not exploding on the launch pad at the time, quickly exploded after launch or dovetailed into the oceans off the launch pad. And for the President at the time to conceive of putting a live human being on top of these flying bombs that were blowing up typically on the launch pad, and safely launching them out into outerspace and then landing them softly on the Moon, and then relaunching them from the Moon and landing them softly on the Earth's surface so that we do not lose anyone, was a vision that very few people in the scientific community in the early 1960s thought could be achieved by the end of the decade.

But it was that political leadership and vision and marshaling the resources and the best and the brightest that our Nation had to offer that enabled us to achieve that dynamic mission by 1969.

It was an incredible technological achievement, and it was spurred by a vision that President Kennedy had for our Nation at the time.

Mr. INSLEE. Many of us think that is simply what we need again is that same type of vision.

We can only do so much with even our existing technology. A report by the U.S. Department of Energy concluded that we could basically reduce our fossil fuel use and have the same economic productivity by 20 percent with existing technology if we just made the right policy decisions. But there is so much excitement for job creation out in the State of Washington right now about the prospects of creating jobs.

Let me give you an example. We just built the largest wind turbine farm in the southeastern corner of the State of Washington; 10,000 homes essentially get their energy from wind turbines. These are jobs, and for rural America I might add. It is not bad getting a lease payment just sitting there putting your feet up on the couch and getting a lease payment from the power company to lease a couple of acres of your farm. That works pretty well.

In southwestern Washington we have one of the largest manufacturers of solar cell panels for North America. It had been previously owned by a German company. We are employing American workers to make solar panels, and those numbers are going up significantly. The reason is that there is a tremendous trend, we can report to Americans, when it comes to new energy sources, and that is they get cheaper every year. And the reason they get cheaper every year is when we make more of them there is a scale of production.

☐ 2145

On solar, every time we make 10 times the solar panels that we made before, the price comes down 20 percent. It is a curve. I actually have a graph somewhere that has been a straight line curve for the last 20 years. They used to have the potential to be market-based in a very, very short period of time.

Mr. KIND. Madam Speaker, if the gentleman would yield, we are seeing a very exciting development. In Wisconsin, people think the Dairy State, a lot of farms. There are still a lot of family farms in that. The operations are getting better. The livestock herds are getting larger.

One of the grant programs that I and others were able to include in the last farm bill was a methane digester grant program going to these family farmers to start developing methane digesters. That is using the waste that these livestock herds are producing and converting it into energy.

Again, it is another small piece of the energy puzzle that we need to be looking at in further developing as this Nation, because there is not going to be a silver bullet that is going to provide the cure-all for all of this, but it is finding out where the pieces need to fit in, whether it is solar, whether it is the wind turbine farms, whether it is methane digesters, whether it is the further development of hydrogen fuels in this society.

Thomas Friedman of the New York Times wrote a really interesting article just a couple of months ago in regards to the weapons of mass destruction in Iraq, and he said that that is not our only intelligence failure in Iraq, not being able to find these weapons of mass destruction. If we do not learn from this, that our dependence on their oil in that region is a large cause of what is happening over there right now, and that, too, will be another intelligence failure on our part if we do not derive the lessons of our dependence on the oil in the Middle East and start converting to a new energy policy for a new century and wean ourselves off from that dependence, which would then start forcing those regimes in the Middle East instead of basing their whole economic model on the natural resources that are being extracted from their soil and instead forcing them to diversify their economic base, and have them start drilling their human capital more than their natural resources, that is going to lead to the type of transformations and reforms that we desperately need throughout the Muslim and the Arab world right now.

But so long as we, the largest consumer of these fossil fuels, remain the supply line for those regimes and their economic base, as long as we remain addicted to what they have got, we are not going to see the type of economic and political and the cultural reforms that that region of the world desperately needs right now.

That, too, is something that we have got to wake up and realize, in light of what is happening in the Middle East today, that a lot of this stems from our dependence on their energy that they are producing and our inability to start pivoting now and seeing the long-term ramifications that this has and the national security implications that I believe it holds for our Nation in future years.

Mr. INSLEE. Madam Speaker, the gentleman's pointed out something that is very important.

When you go to the horse races, you want to hit the trifecta. You want to win all three races. It is a big thing, and this certainly is a trifecta of an energy policy because it solves three problems we have. Number 1, it helps us reduce our addiction to Middle Eastern oil; number 2, it helps us reduce global warming; and number 3, it grows jobs in this country. It does not get much better than that, you can solve three problems with one program, which we intend to introduce during the next Congress, early in January or February, we hope on a bipartisan basis.

So we intend to have real concrete legislation. We have the cap on carbon dioxide which is now pending in the Senate. There was a hearing today in the Senate on that. We have a similar bill in the house, and we have a comprehensive energy bill, or the new Apollo energy bill, which will encourage the adoption of these new technologies.

Both of these are important. One, we have to stop treating the atmosphere just like a global junkyard where we can just dump our junk into it willy-nilly. We have got to stop that. We just cannot do that anymore when we have got the arctic ice cap disappearing on us.

Two, we need to inspire these new technological systems that we intend to do, and unfortunately, we are going to give a report card here in a few minutes for Congress. It is kind of an F minus, because at the moment that the arctic ice is melting, at the moment that salinity is changing at the oceans, the moment you have these huge global changes going on, this chamber incredibly has not passed a single energy bill in the last 2 years, and here we are coming down to the last 72 hours of this Congress, with an abject failure to pass an energy bill.

Now, that is something I do not think any of us should be proud of in light particularly of this new scientific report that came out that ought to ring alarm bells. There ought to be like fire bells going off in this building about what is going out there in the globe, and there are a lot of environmental challenges we have.

Mercury in the air. Of course, the administration wanted to allow more mercury in the air or water. We thought that was a bad idea. Soot in the air. The administration wanted to allow more soot in the air. We thought that was a bad idea. Issues about cutting down and clear cutting our national forests, we thought that was a bad idea and the roadless area policy.

There are a lot of things that are contentious about the environment, but this issue I think Americans of all political stripe ought to understand, when you fool with the whole basic climactic system of the globe, which is the only one we have got right now, you are messing around with something, number one, we do not fully understand, and two, we have got nowhere else to go. If the climate system goes south, we just cannot hop off earth to another lifeboat, and that is indeed what is happening right now before our eyes if we will open our eyes and look at this and look at this report. I encourage people to look at this report. It is about 120 pages long but it is pretty interesting.

Mr. KIND. Madam Speaker, if the gentleman would yield, it is one of the fascinating conversations I like to have with our astronauts. We are very proud of Mark Lee who is an astronaut who grew up in Viroqua, Wisconsin, Western Wisconsin. Of course, Deke Slayton was from the Sparta area in Western Wisconsin. I had a meeting with one of the Shuttle astronauts down at Cape Canaveral about a year-and-a-half ago, and I asked them all, what is the one thing that really leaves an impression upon you when you are out in space and looking back. They all say it is the greater respect for our environment and our ecosystem on this planet because, from their perspective, out in space looking back, I think they see intuitively how fragile our environment really is and the atmosphere and this planet that we all share together, and I think they all understand that much more work needs to be done on this front.

The fact that we have had an energy bill now pending for the last couple of years I think speaks more to the dysfunctional nature of this Congress recently that has become so polarizing, so partisan, and there is not enough outreach, not enough effort to find that sensible center on policy, to try to come together and work in crafting truly bipartisan bills where we understand it is going to be a process of give and take and that compromise should not be a four letter word in trying to make our democracy function.

But unfortunately, there is this 218 strategy where the leadership on the other side just wants the minimum number of votes, and more Republicans, the better, in order to get anything passed around here that it makes great achievements virtually impossible today.

On issues like the environment and energy policy, it is something that is going to require the Nation coming together if we are going to be make significant strides.

It is going to be interesting that later this week we are going to be dealing with another vastly important issue, and it is not one that is really short term, but it has long-term implications, raising the national debt ceiling limit. This is not something that we are going to see tangible results tomorrow if we start addressing it, but it does have future long-term implications about economic growth, and it is the same thing in regards to global warming. It is something people are hearing about now, and they are starting to see the science come in, but it is not something that is going to a direct and immediate impact on their lives tomorrow.

What we are talking about is what this means for the next generation and the generation after that and why it is incumbent upon us to start worrying about this today rather than punting it for future generations. I am concerned that the same attitude is being taken with the huge accumulation of debt in this country today, that all we have to do this week is jam another $900 billion increase in the debt ceiling in a bill that has to pass in order to keep the government functioning, and there is very little thought about the long-term implications of what these decisions mean in the future.

Again, this is a classic issue, and I have enjoyed working with my colleague from Washington State and look forward to working with him on this in the future because it is an issue that obviously is not going to go away anytime soon, and it is going to require a lot of hard work.

Mr. INSLEE. Madam Speaker, the good news is that our kids' generation gets this. I have got three boys, 27 through 18, and they get this. I think they understand a little bit of the science, but they also see the world changing right in front of them.

This is again not an esoteric issue. The glaciers in Glacier National Park are disappearing. In 75 to 100 years there will not be any glaciers in Glacier National Park. The Committee on Resources will have to change the name to the park formerly known as Glacier because there will not be any glaciers in Glacier National Park. Now, it is just something we kind of grew up with, and we will not all die because the glaciers disappear, but it will be something that is different than what we grew up with. When you take your kids to Glacier National Park, they will have a little sign there, and it will say this used to be called Glacier National Park and it used to have glaciers on it until the Congress in 2004 stuck their heads in the sand and their tail feathers in the air and refused to do anything about global warming. That is what the sign is going to say. Maybe we should put our names on it just so we will be sort of appropriately chastised about doing nothing on this.

But you look at the other things that are going on, these are not just a ascetic issues. There are things important to life.

One of the conclusions of this report is that climate warming would increase forest fires and insect-caused tree death, further reducing this valuable habitat which is already declining due to other human activities. Well, we have seen some of the worst fire years in the last several years due in part to the horrendous drought we have had in the Western United States, changes that are consistent with global warming. We have had this huge outbreak of insect devastation in our forests in the West and in Alaska, systems that are consistent with trees that are stressed due to change in climate. Now, you cannot pinpoint any single one fire or any single one's day's precipitation pattern to global warming, but these changes are consistent, the scientists are telling us, with what global warming would occur.

You know what, people die fighting forest fires, and I know a family who lost a young man fighting a fire up in north Washington. Those are not esoteric changes to me when I fly over the Cascade Mountains and the Rockies and see these burn patches and insect devastation. Fortunately, it is not that terrible at the moment on the route I fly, but I know how bad it is up in Alaska.

These are real changes that are happening in our lifetime, and I just question whether we are acting as good a stewards from the creators of the earth as we should be given the mind that we are given. Maybe the highest creation in the universe is the human mind. So maybe we ought to use it.

We are suggesting that the U.S. Congress needs to open its eyes and read the science a little bit because right now we are sort of just got the hands over our eyes and we refuse to recognize this report. Now let me give you some other bad news here.

November 24, these eight Nations will meet in Reykjavik, Iceland, and the reason for this meeting is to conclude the formal national report for this arctic assessment. This was done under the auspices of eight national governments that wring the arctic, and the scientists want to include a report that says something that is not rocket science.

They want to put a conclusion on the report that we need to do something about global warming; that we need to reduce or at least put some limit on the carbon dioxide and the gases that are causing the arctic ice to disappear; causing polar bears to possibly go extinct; causing the lack of habitat for a bunch of critters that we like; causing potentially shutting down the gulf stream that warms northern Europe and a little bit New York city I suppose; causing the Greenland ice sheet to be melting now 15 percent. There has been a huge increase in the melt, 15 percent, in the last several years of the Greenland ice cap.

The science says all of those things are happening so they want to take the radical step of putting in this report, we need to cap or limit the amount of carbon dioxide we put in the atmosphere.

So what did this administration do, the President of the United States, in the face of this overwhelming science that is absolutely consensus? There was not a single scientist in this group, anybody from any country, including the United States of America who contested these conclusions. So what does the President of the United States want to do and what has he instructed his negotiators to do I am told? He has instructed them to not allow this report to suggest that we put some limit on carbon dioxide.

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Now, if you consider the President of the United States the world's potentially most effective steward of God's creation, does it make sense for him, in the face of science that says God's creation is at risk, to shut his eyes and do absolutely nothing about this problem? I believe that is not consistent with the moral values that this country of any faith shares, and this President has dropped the ball when it comes to this major effort. He has dropped the ball considering one of the greatest risks really that we have had in global environmental history.

He has told, I am told this, and if anyone can show I am wrong I would be happy to be disabused of this notion, but we read that he has told his negotiators not to allow anything in this report that say that humans need to act as good stewards to reduce $CO_2$ and limit $CO_2$. Now, I think that is very, very disturbing, particularly given the fact we have the technology to deal with this issue today, and that we can make a buck on. It is very, very shortsighted, and I hope my colleagues, anyone who might be listening tonight, will chime in with this administration and urge them to take a more responsible pattern.

Now, maybe the President could get away with this 10 years ago, 6 years ago, 3 years ago, or 2 years ago, when science was not so sure; but the verdict is in. The guilt is there. The glove fits. The DNA evidence is there. There is no doubt about this. And once the verdict is in, we need to act.

Mr. KIND. Madam Speaker, if the gentleman will yield for one final point, this has been a consistent pattern with this administration. Even with their own agencies producing reports on global warming, the President on down has kind of pooh-poohed the findings. And in fact at one time the President commented on one of the global warming studies that came out of the EPA that it was just the work of a bunch of career bureaucrats, as if to discount the findings of that report. But the most recent one, just released in August, was signed off on by the agency heads of those departments, so it is a little more difficult then for the President, with these political appointees, to claim they are just a bunch of bureaucrats doing what bureaucrats supposedly do, in his eyes, and that is producing a bunch of invalid, nonscientific-based reports, when in fact the information out there is just to the contrary.

This administration has tended to base policy more on faith-based initiatives rather than science-based findings and studies, and that is very disturbing. Because if your instinct is wrong on something as important as this, it could lead this Nation down a disastrous course that could take decades to try to reverse and change, if it is not too late already.

That is why during the course of the election there were so many scientists around the Nation writing letters and indicating their concerns and displeasure in regards to the administration's practice of discounting scientific research and findings on the important topics of the day, and that pattern has been consistent from day one.

Now we have a second term that is about to begin. We have new political appointees that will be made. Many of the Secretaries have submitted their resignations, so there will be a turnover in leadership, and what will be very interesting and I think very important in the days and weeks to come is who the President is deciding to head up these very agencies that will have so much influence and so much say in the future course of the policy that this Nation will follow which will have implications not only for us here at home but on a global basis. So these appointments are going to be very important in the days to come.

When my colleague and I were in Norway, studying their alternatives and renewable energy plan, we received a briefing on the global circulatory system and how that could be impacted from global warming. I do not know if too many people watching tonight realize our oceans have this circulatory pattern to it with the water flow.

The gentleman from Washington mentioned the gulf stream a little earlier that warms in the southern climates and goes up north and keeps the Northern Hemisphere warm and the shoreline free of ice accumulation. The fear with global warming is that as the water goes to the north, it will not cool. And if it does not cool, it will not drop. And if it does not drop, it will not continue the circulatory pattern in the other oceans throughout the world and so the whole system could shut down. Like the blood that rushes through our body, if it stops pumping and stops circulating through our body, you can imagine the disastrous consequences.

The Earth's environment and ecosystem is based on that ocean circulatory system that would be adversely affected if global warming continues at the pace that it currently is. It could potentially shut down, creating an environmental havoc that perhaps is only realized in the imagination of Hollywood producers right now in the movies they are starting to produce but which may not be that far off from reality. This too I think is a huge implication that we have to start studying more and taking seriously in the policy decisions that we face in the upcoming session of Congress.

Again, Madam Speaker, I thank my colleague for his leadership on the issue and for garnering some time this evening.

Mr. INSLEE. Well, Madam Speaker, I thank the gentleman for joining me this evening, and I want to make some concluding remarks basically to summarize what the science shows. And I will not be judgmental; I will just conclude with what the science is tonight as we stand here in 2004, in the concluding days of this Congress.

In those concluding days we now know, according to the best science the country has to offer, that temperatures have increased 3 to 4 degrees Centigrade, which is 6 to 7½ or 8 degrees already. In the Arctic, they will probably increase in the next century another 8 to 15 degrees Fahrenheit. Very dramatic global warming.

The glaciers are melting at an increasing rate, contributing fresh water to the North Atlantic. That has the capacity to perhaps shut down the currents that our current climactic situation depends on. There is diminishing lake and river ice. There is retreating and disappearing summer ice, with a 15 to 20 percent decline over the last 30 years. And the actual elimination of the summer ice cap that we have had since humans crawled out of their caves will disappear in this century.

There are rising sea levels that could raise half a meter in this century. There are ocean salinity changes which have already occurred, and those ocean salinity changes have the capacity of shutting down the halcine cycle, which drives the currents we all depend on.

There has been increasing ultraviolet ray exposure to our children, particularly in the Arctic, for at least several decades as a result of this. Exposing them to this ultraviolet radiation can cause an increase in cancer by as much as 30 percent as a result of this phenomena. There is old-growth forest loss, and there are long-term carbon cycle changes which are too esoteric to get into.

But the bottom line is this: the Arctic climactic assessment that our government represents is the best scientific information we can possibly get has given us a wake-up call. It comes late in this congressional session, but it is a wake-up call and should be to the administration and to this Congress, to act, and to act in a way that

America historically has acted when we are challenged.

In World War II, when we were challenged, we responded with the greatest burst of technological achievement perhaps in human history in the armament sector. When we were challenged in the space race, President Kennedy challenged us to go to the Moon in 10 years and bring a man home safely, and we did it. That was the second great technological innovation burst. And now we are poised for a third revolutionary burst of new technologies that can lead us out of this potentially very, very, if disastrous is too strong a word, it may be one that our grandchildren will use when they have to deal with a climactic system that is changing before their eyes, the beginning of which we are going to see now.

We are optimistic in the belief we can deal with this problem if people here in Washington, D.C. will accept the science, read it, and act. That is the American way.

## OMISSION FROM THE CONGRESSIONAL RECORD OF SATURDAY, OCTOBER 9, 2004 AT PAGE 22936

### SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2486. An act to amend title 38, United States Code, to improve and extend housing, education, and other benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

S. 2965. An act to amend the Livestock Mandatory Price Reporting Act of 1999 to modify the termination date for mandatory price reporting; to the Committee on Agriculture.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCDERMOTT (at the request of Ms. PELOSI) for today and the balance of the week on account of medical reasons.

Ms. JACKSON-LEE of Texas (at the request of Ms. PELOSI) for today on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ETHERIDGE) to revise and extend their remarks and include extraneous material:)

Mr. EMANUEL, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. LUCAS of Oklahoma) to revise and extend their remarks and include extraneous material:)

Mr. COLE, for 5 minutes, today.

Mr. BURTON, for 5 minutes, today and November 17, 18, and 19.

Mr. PAUL, for 5 minutes, November 18 and 19.

Mr. SMITH of Michigan, for 5 minutes, November 17.

Mr. PEARCE, for 5 minutes, November 17.

Mr. DUNCAN, for 5 minutes, today and November 17.

## SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 353. An act for the relief of Denes and Gyorgyi·Fulop; to the Committee on the Judiciary.

S. 1042. An act for the relief of Tchisom Tho; to the Committee on the Judiciary.

S. 1129. An act to provide for the protection of unaccompanied alien children, and for other purposes, to the Committee on the Judiciary.

S. 1379. An act to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United Sates, to the Committee on Financial Services.

S. 1433. An act to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont; to the Committee on Resources.

S. 1466. An act to facilitate the transfer of land in the State of Alaska, and for other purposes; to the Committee on Resources.

S. 1614. An act to designate a portion of the While Salmon River as a component of the National Wild and Scenic Rivers System; to the Committee on Resources.

S. 1678. An act to provide for the establishment of the Uinta Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes; to the Committee on Resources.

S. 1852. An act to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin; to the Committee on Resources.

S. 2012. An act for the relief of Luay Lufti Hadad; to the Committee on the Judiciary.

S. 2044. An act for the relief of Alemseghed Mussie Tesfamical; to the Committee on the Judiciary.

S. 2142. An act to authorize appropriations for the New Jersey Coastal Heritage Trail Route, and for other purposes, to the Committee on Resources.

S. 2181. An act to adjust the boundary of Rocky Mountain National Park in the State of Colorado; to the Committee on Resources.

S. 2283. An act to extend Federal funding for operation of State high risk health insurance pools; to the Committee on Energy and Commerce.

S. 2314. An act for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan; to the Committee on the Judiciary.

S. 2331. An act for the relief of Fereshteh Sani; to the Committee on the Judiciary.

S. 2334. An act to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System; to the Committee on Resources.

S. 2408. An act to adjust the boundaries of the Helena, Lolo, and Beaverhead-Deerlodge National Forests in the State of Montana; to the Committee on Resources.

S. 2526. An act to reauthorize the Children's Hospitals Graduate Medical Education Program; to the Committee on Energy and Commerce.

S. 2567. An act to adjust the boundary of Redwood National Park in the State of California; to the Committee on Resources.

S. 2618. An act to amend title XIX of the Social Security Act to extend medicare cost-sharing for the medicare part B premium for qualifying individuals through September 2005; to the Committee on Energy and Commerce.

S. 2622. An act to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico; to the Committee on Resources.

S. 2656. An act to establish a National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon; to the Committee on Government Reform.

S. 2668. An act for the relief of Griselda Lopez Negrete; to the Committee on the Judiciary.

S. 2688. An act to provide for a report of Federal entities without annually audited financial statements; to the Committee on Government Reform.

S. 2691. An act to establish the Long Island Sound Stewardship Initiative; to the Committee on Resources; in addition to the Committee on Transportation and Infrastructure for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 2693. An act to designate the facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, as the "Lieutenant John F. Finn Post Office"; to the Committee on Government Reform.

S. 2847. An act to reauthorize the Water Resources Research Act of 1984; to the Committee on Resources.

S. 2856. An act to limit the transfer of certain Commodity Credit Corporation funds between conservation programs for technical assistance for the programs; to the Committee on Agriculture.

S. 2938. An act to grant a Federal charter to the National American Indian Veterans Incorporated; to the Committee on the Judiciary.

S. 2976. An act to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes; to the Committee on Energy and Commerce; in addition to the Committee on the Judiciary for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. Con. Res. 113. Concurrent resolution recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month; to the Committee on Energy and Commerce.

S. Con. Res. 136. Concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93; to the Committee on Transportation and Infrastructure.

## ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker pro tempore, Mr. WOLF:

H.R. 712. An act for the relief of Richi James Lesley.

H.R. 867. An act for the relief of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan.

H.R. 1533. An act to amend the securities laws to permit church pension plans to be invested in collective trusts.

H.R. 2010. An act to protect the voting rights of members of the Armed Services in elections for the Delegate representing American Samoa in the United States House of Representatives, and for other purposes.

H.R. 2023. An act to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

H.R. 2400. An act to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam.

H.R. 2068. An act to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes.

H.R. 2714. An act to reauthorize the State Justice Institute.

H.R. 2984. An act to amend the Agricultural Adjustment Act to remove the requirement that processors be members of an agency administering a marketing order applicable to pears.

H.R. 3056. An act to clarify the boundaries of the John H. Chafee Coast Barrier Resources System Cedar Keys Unit P25 on Otherwise Protected Area P25P.

H.R. 3217. An act to provide for the conveyance of several small parcels of National Forest System land in the Apalachicola National Forest, Florida, to resolve boundary discrepancies involving the Mt. Trial Primitive Baptist Church of Wakulla County, Florida, and for other purposes.

H.R. 3391. An act to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project.

H.R. 3478. An act to amend title 44, United States Code, to improve the efficiency of operations by the National Archives and Records Administration and to reauthorize the National Historical Publications and Records Commission.

H.R. 3479. An act to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States, and for other purposes.

H.R. 3706. An act to adjust the boundary of the John Muir National Historic Site, and for other purposes.

H.R. 3797. An act to authorize improvements in the improvements in the operations of the government of the District of Columbia, and for other purposes.

H.R. 3819. An act to redesignate Fort Clatsop National Memorial as the Lewis and Clark National Historical Park, to include in the park sites in the State of Washington as well as the State of Oregon, and for other purposes.

H.R. 3858. An act to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

H.R. 4046. An act to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the "Sergeant Riayan A. Tejeda Post Office".

H.R. 4066. An act to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes.

H.R. 4175. An act to increase, effective as of December 1, 2004, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes.

H.R. 4200. An act to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

H.R. 4278. An act to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

H.R. 4306. An act to amend section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment.

H.R. 4381. An act to designate the facility of the United States Postal Service located at 2811 Springdale Avenue in Springdale, Arkansas, as the "Harvey and Bernice Jones Post Office Building".

H.R. 4471. An act to clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996.

H.R. 4481. An act to amend Public Law 86–434 establishing Wilson's Creek National Battlefield in the State of Missouri to expand the boundaries of the park, and for other purposes.

H.R. 4520. An act to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad.

H.R. 4555. An act to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards.

H.R. 4556. An act to designate the facility of the United States Postal Service located at 1115 South Clinton Avenue in Dunn, North Carolina, as the "General William Carey Lee Post Office Building".

H.R. 4567. An act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.

H.R. 4579. An act to modify the boundary of the Harry S Truman National Historic Site in the State of Missouri, and for other purposes.

H.R. 4618. An act to designate the facility of the United States Postal Service located at 10 West Prospect Street in Nanuet, New York, as the "Anthony I. Lombardi Memorial Post Office Building".

H.R. 4632. An act to designate the facility of the United States Postal Service located at 19504 Linden Boulevard in St. Albans, New York, as the "Archie Spigner Post Office Building".

H.R. 4731. An act to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program.

H.R. 4827. An act to amend the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 to rename the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area.

H.R. 4837. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

H.R. 4917. An act to amend title 5, United States Code, to authorize appropriations for the Administrative Conference of the United States for fiscal years 2005, 2006, and 2007, and for other purposes.

H.R. 5027. An act to designate the facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, as the "Specialist Eric Ramirez Post Office".

H.R. 5039. An act to designate the facility of the United States Postal Service located at United States Route 1 in Ridgeway, North Carolina, as the "Eva Holtzman Post Office".

H.R. 5051. An act to designate the facility of the United States Postal Service located at 1001 Williams Street in Ignacio, Colorado, as the "Leonard C. Burch Post Office Building."

H.R. 5107. An act to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

H.R. 5131. An act to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

H.R. 5133. An act to designate the facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, as the "Martha Pennino Post Office Building".

H.R. 5147. An act to designate the facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, as the "Evan Asa Ashcraft Post Office Building".

H.R. 5185. An act to temporarily extend the programs under the Higher Education Act of 1965.

H.R. 5186. An act to reduce certain special allowance payments and provide additional teacher loan forgiveness on Federal student loans.

H.R. 5294. An act to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes.

H.J. Res. 57. Joint resolution expressing the sense of the Congress in recognition of the contributions of the seven Columbia astronauts by supporting establishment of a Columbia Memorial Space Science Learning Center.

## SENATE ENROLLED BILLS SIGNED

The SPEAKER pro tempore, Mr. WOLF, announced his signature to enrolled bills of the Senate of the following titles:

S. 129. An act to provide for reform relating to Federal employment, and for other purposes.

S. 144. An act to require the Secretary of Agriculture to establish a program to provide assistance to eligible weed management entities to control or eradicate noxious weeds on public and private land.

S. 524. An act to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes.

S. 643. An act to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes.

S. 1134. An act to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965.

S. 1194. An act to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems.

S. 1368. An act to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1721. An act to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes.

S. 2195. An act to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

S. 2292. An act to require a report on acts of anti-Semitism around the world.

S. 2864. An act to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted.

S. 2883. An act to amend the International Child Abduction Remedies Act to limit the tort liability of private entities or organizations that carry out responsibilities of the United States Central Authority under that Act.

S. 2895. An act to authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights in honor of breast cancer awareness month.

S. 2896. An act to modify and extend certain privatization requirements of the Communications Satellite Act of 1962.

## BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on October 12, 2004 he presented to the President of the United States, for his approval, the following bills.

H.R. 854. To provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.

H.R. 5122. To amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms.

Jeff Trandahl, Clerk of the House, also reports that on October 13, 2004 he presented to the President of the United States, for his approval, the following bills.

H.R. 1533. To amend the securities laws to permit church pension plans to be invested in collective trusts.

H.R. 2608. To reauthorize the National Earthquake Hazards Reduction Program, and for other purposes.

H.R. 2714. To reauthorize the State Justice Institute.

H.R. 2828. To authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

H.R. 3858. To amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

H.R. 4175. To increase, effective as of December 1, 2004, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes.

H.R. 4278. To amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

H.R. 4555. To amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards.

H.R. 4567. Making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.

H.R. 4837. Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

H.R. 5185. To temporarily extend the programs under the Higher Education Act of 1965.

Jeff Trandahl, Clerk of the House, also reports that on October 19, 2004 he presented to the President of the United States, for his approval, the following bills.

H.J. Res. 57. Expressing the sense of the Congress in recognition of the contributions of the seven Columbia astronauts by supporting establishment of a Columbia Memorial Space Science Learning Center.

H.R. 712. For the relief of Richi James Lesley.

H.R. 867. For the relief of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan.

H.R. 2010. To protect the voting rights of members of the Armed Services in elections for the Delegate representing American Samoa in the United States House of Representatives, and for other purposes.

H.R. 2023. To give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

H.R. 2400. To amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam.

H.R. 2984. To amend the Agricultural Adjustment Act to remove the requirements that processors be members of an agency administering a marketing order applicable to pears.

H.R. 3056. To clarify the boundaries of the John H. Chafee Coast Barrier Resources System Cedar Keys Unit P25 on Otherwise Protected Area P25P.

H.R. 3217. To provide for the conveyance of several small parcels of National Forest System land in the Apalachicola National Forest, Florida, to resolve boundary discrepancies involving the Mt. Trial Primitive Baptist Church of Wakulla County, Florida, and for other purposes.

H.R. 3391. To authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project.

H.R. 3478. To amend title 44, United States Code, to improve the efficiency of operations by the National Archives and Records Administration and to reauthorize the National Historical Publications and Records Commission.

H.R. 3479. To provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States, and for other purposes.

H.R. 3706. To adjust the boundary of the John Muir National Historic Site, and for other purposes.

H.R. 3797. To authorize improvements in the operations of the government of the District of Columbia, and for other purposes.

H.R. 4046. To designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the "Sergeant Riayan A. Tejeda Post Office".

H.R. 4066. To provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes.

H.R. 4306. To amend section 27A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment.

H.R. 4381. To designate the facility of the United States Postal Service located at 2811 Springdale Avenue in Springdale, Arkansas, as the "Harvey and Bernice Jones Post Office Building".

H.R. 4471. To clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996.

H.R. 4481. To amend Public Law 86-434 establishing Wilson's Creek National Battlefield in the State of Missouri to expand the boundaries of the park, and for other purposes.

H.R. 4556. To designate the facility of the United States Postal Service located at 1115 South Clinton Avenue in Dunn, North Carolina, as the "General William Carey Lee Post Office Building".

H.R. 4579. To modify the boundary of the Harry S Truman National Historic Site in the State of Missouri, and for other purposes.

H.R. 4618. To designate the facility of the United States Postal Service located at 10 West Prospect Street in Nanuet, New York, as the "Anthony I. Lombardi Memorial Post Office Building".

H.R. 4632. To designate the facility of the United States Postal Service located at 19504

Linden Boulevard in St. Albans, New York, as the "Archie Spigner Post Office Building".

H.R. 4731. To amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program.

H.R. 4827. To amend the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 to rename the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area.

H.R. 4917. To amend title 5, United States Code, to authorize appropriations for the Administrative Conference of the United States for fiscal years 2005, 2006, and 2007, and for other purposes.

H.R. 5027. To designate the facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, as the "Specialist Eric Ramirez Post Office".

H.R. 5039. To designate the facility of the United States Postal Service located at United States Route 1 in Ridgeway, North Carolina, as the "Eva Holtzman Post Office".

H.R. 5051. To designate the facility of the United States Postal Service located at 1001 Williams Street in Ignacio, Colorado, as the "Leonard C. Burch Post Office Building".

H.R. 5107. To protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

H.R. 5131. To provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

H.R. 5133. To designate the facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, as the "Martha Pennino Post Office Building".

H.R. 5147. To designate the facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, as the "Evan Asa Ashcraft Post Office Building".

H.R. 5294. To amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes.

Jeff Trandahl, Clerk of the House, also reports that on October 21, 2004 he presented to the President of the United States, for his approval, the following bills.

H.R. 3819. To redesignate Fort Clatsop National Memorial as the Lewis and Clark National Historical Park, to include in the park sites in the State of Washington as well as the State of Oregon, and for other purposes.

H.R. 4200. To authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

H.R. 4520. To amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad.

H.R. 5186. To reduce certain special allowance payments and provide additional teacher loan forgiveness on Federal student loans.

## ADJOURNMENT

Mr. INSLEE. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 8 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 17, 2004, at 10 a.m.

## EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for Speaker-authorized official travel during the second quarter of 2003 and the third quarter of 2004, pursuant to Public Law 95–384 are as follows:

### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. DANIEL SCANDLING, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 25 AND JUNE 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Daniel Scandling | | 6/25 | United States | | 478.00 | | 7,742.34 | | | | 8,220.34 |
| | 6/26 | 6/29 | Sudan | | | | | | | | |
| | 6/30 | | United States | | | | | | | | |
| Committee total | | | | | 478.00 | | 7,742.34 | | | | 8,220.34 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DANIEL SCANDLING, July 22, 2004.

### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. FRANK WOLF, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 25 AND JUNE 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Frank Wolf | | 6/25 | United States | | 478.00 | | 7,742.34 | | | | 8,220.34 |
| | 6/26 | 6/29 | Sudan | | | | | | | | |
| | 6/30 | | United States | | | | [3] –400.00 | | | | –400.00 |
| Committee total | | | | | 478.00 | | 7,342.34 | | | | 7,820.34 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Unused per diem.

FRANK WOLF, Sept. 1, 2004.

### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. JONATHAN ROBILOTTO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 4 AND AUG. 1, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Jonathan Robilotto | 7/24 | 8/1 | China | 11,109 RMB | 1,344.00 | | 7,221.00 | | | | 8,565.00 |
| Committee total | | | | 11,109 RMB | 1,344.00 | | 7,221.00 | | | | 8,565.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JONATHAN ROBILOTTO, Aug. 31, 2004.

### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. SAMUEL LANGHOLZ, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 24 AND AUG. 1, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Samuel Paul Langholz | 7/24 | 8/1 | China | 11,709 RMB | 1,417.00 | | 7,221.00 | | | | 8,638.00 |
| Committee total | | | | 11,709 RMB | 1,417.00 | | 7,221.00 | | | | 8,638.00 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

SAMUEL P. LANGHOLZ, Aug. 27, 2004.

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### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. JACQUELINE MORAN, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 12 AND AUG. 15, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Jacqueline Moran | 8/12 | 8/15 | Poland | | 917.00 | | 6,026.32 | | | | 6,943.32 |
| | 8/15 | 8/19 | Russia | | 1,806.00 | | 137.50 | | 63.75 | | 2,007.25 |
| Committee total | | | | | 2,723.00 | | 6,163.82 | | 63.75 | | 8,950.57 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JACQUELINE MORAN, Sept. 20, 2004.

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### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. WILLIAM KOETZLE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 12 AND AUG. 19, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| William Koetzle | 8/12 | 8/15 | Poland | | 917.00 | | 6,026.32 | | | | 6,943.00 |
| | 8/15 | 8/19 | Russia | | 1,806.00 | | 137.00 | | 63.00 | | 2,006.00 |
| Committee total | | | | | 2,723.00 | | 6,163.00 | | 63.00 | | 8,949.00 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM KOETZLE, Sept. 21, 2004.

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### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. DEANA FUNDERBURK, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 12 AND AUG. 20, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Deana Funderburk | 8/12 | 8/15 | Poland | | 917.00 | | 6,163.82 | | | | 7,080.82 |
| | 8/15 | 8/20 | Russia | | 1,806.00 | | | | 63.75 | | 1,869.75 |
| Committee total | | | | | 2,723.00 | | 6,163.82 | | 63.75 | | 8,950.57 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DEANA FUNDERBURK, Sept. 24, 2004.

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### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. KENNETH KRAFT, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 24 AND AUG. 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Kenneth A. Kraft | 8/24 | 8/30 | France | | 2,652.00 | | (3) | | | | 2,652.00 |
| | 8/26 | 8/26 | Czech Republic | | | | (3) | | | | |
| | 8/27 | 8/27 | Germany | | | | (3) | | | | |
| Committee total | | | | | 2,652.00 | | | | | | 2,652.00 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

KENNETH A. KRAFT, Sept. 23, 2004.

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### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. BERNARD RAIMO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 24 AND AUG. 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Bernard Raimo | 8/24 | 8/30 | France | | 442.00 | | | | | | 2,652.00 |
| | 8/27 | 8/27 | Czech Republic | | | | | | | | |
| | 8/28 | 8/28 | Germany | | | | | | | | |
| Committee total | | | | | 442.00 | | | | | | 2,652.00 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BERNARD RAIMO, Sept. 14, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. VANESSA GRIDDINE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 11 AND SEPT. 14, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Vanessa Griddine | 9/11 | 9/14 | Belgium | | 1,322.00 | | 5,700.72 | | | | 7,022.72 |
| Committee total | | | | | 1,322.00 | | 5,700.72 | | | | 7,022.72 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

VANESSA GRIDDINE, Sept. 24, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. ALCEE HASTINGS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 11 AND SEPT. 14, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Alcee Hastings | 9/11 | 9/14 | Belgium | | 1,470.00 | | 5,700.72 | | | | 7,170.72 |
| Committee total | | | | | 1,470.00 | | 5,700.72 | | | | 7,170.72 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ALCEE HASTINGS, Oct. 7, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. KURT CONRAD, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 23 AND SEPT. 28, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Kurt Conrad | 9/24 | 9/27 | Jordan | 505.51 | 714.00 | | (3) | | | 505.51 | 714.00 |
| | 9/25 | 9/26 | Iraq | | | | (3) | | | | |
| | 9/27 | 9/28 | France | 142.91 | 176.00 | | (3) | | | 142.91 | 176.00 |
| Committee total | | | | 648.42 | 890.00 | | | | | 648.42 | 890.00 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

KURT M. CONRAD, Oct. 13, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO COLOMBIA AND GUATEMALA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 11 AND JUNE 14, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Roy Blunt | 6/11 | 6/12 | Colombia | | 2,652.00 | | 1,577.04 | | 10,353.00 | | 14,582.04 |
| | 6/12 | 6/14 | Guatemala | | 4,176.00 | | 739.20 | | 5,817.12 | | 10,732.32 |
| Hon. Mark Foley | | | | | | | | | | | |
| Hon. Jerry Weller | | | | | | | | | | | |
| Hon. Mike McIntyre | | | | | | | | | | | |
| Hon. Melissa Hart | | | | | | | | | | | |
| Brian Gaston | | | | | | | | | | | |
| Mildred Webber | | | | | | | | | | | |
| Bill Hughes | | | | | | | | | | | |
| Brian Diffell | | | | | | | | | | | |
| Jessica Boulanger | | | | | | | | | | | |
| April Ponnuru | | | | | | | | | | | |
| John Eisold | | | | | | | | | | | |
| Committee total | | | | | 6,828.00 | | 2,316.24 | | 16,170.12 | | 25,314.36 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ROY BLUNT, July 10, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO LATVIA, DENMARK, POLAND AND CZECH REPUBLIC, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 26 AND JULY 3, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Roy Blunt | 6/26 | 6/27 | Latvia | | 3,393.00 | | 1,931.15 | | 5,439.33 | | 10,763.48 |
| Hon. Edward Whitfield | 6/27 | 6/29 | Denmark | | 10,244.00 | | 13,406.25 | | 12,261.47 | | 35,911.72 |
| Hon. Roger Wicker | 6/29 | 7/1 | Poland | | 7,027.99 | | | | 428.30 | | 7,456.29 |
| Hon. Ander Crenshaw | 7/1 | 7/3 | Czech Republic | | 9,256.00 | | 2,523.63 | | 6,373.78 | | 18,153.41 |
| Hon. Bud Cramer | | | | | | | | | | | |
| Scott Palmer | | | | | | | | | | | |
| Brian Gaston | | | | | | | | | | | |
| Kathryn Lehmann | | | | | | | | | | | |
| Amy Field | | | | | | | | | | | |

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO LATVIA, DENMARK, POLAND AND CZECH REPUBLIC, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 26 AND JULY 3, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Burson Taylor | | | | | | | | | | | |
| Brian Diffell | | | | | | | | | | | |
| Richard Eddings | | | | | | | | | | | |
| Committee total | | | | | 29,920.99 | | 17,861.03 | | 24,502.88 | | 72,284.90 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ROY BLUNT, July 30, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO HOUSE NATO PARLIAMENTARY ASSEMBLY MEETING, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 26 AND JULY 3, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Doug Bereuter | 6/26 | 6/27 | Germany | | | | 5,399.11 | | | | 5,399.11 |
| | 6/27 | 6/29 | Turkey | | 902.00 | (3) | | | | | 902.00 |
| | 6/29 | 6/30 | Macedonia—FYROM | | | (3) | | | | | |
| | 6/30 | 7/1 | Albania | | | (3) | | | | | |
| | 7/1 | 7/3 | Croatia | | | (3) | | | | | |
| | 7/3 | 7/3 | Germany | | | (3) | | | | | |
| Committee total | | | | | 902.00 | | 5,399.11 | | | | 6,301.11 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

DOUG BEREUTER, Aug. 25, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE PARLIAMENTARY ASSEMBLY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 3 AND JULY 10, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Christopher Smith | 7/4 | 7/7 | United Kingdom | | 1,478.10 | | (3) | | | | 1,478.10 |
| Hon. Robert B. Aderholt | 7/6 | 7/7 | United Kingdom | | 492.70 | | [3] 4,416.42 | | | | 4,909.12 |
| Hon. Benjamin Cardin | 7/5 | 7/7 | United Kingdom | | 823.70 | | [3] 5,427.52 | | | | 6,250.92 |
| Hon. James Clyburn | 7/5 | 7/7 | United Kingdom | | 784.40 | | [3] 6,536.05 | | | | 7,320.45 |
| Hon. Alcee Hastings | 7/4 | 7/10 | United Kingdom | | 2,956.20 | | 8,795.17 | | | | 11,751.37 |
| Hon. Steny Hoyer | 7/4 | 7/7 | United Kingdom | | 1,478.10 | | (3) | | | | 1,478.10 |
| Hon. Mike McIntyre | 7/4 | 7/7 | United Kingdom | | 1,478.10 | | (3) | | | | 1,478.10 |
| Hon. Donald Payne | 7/4 | 7/7 | United Kingdom | | 1,328.10 | | (3) | | | | 1,328.10 |
| Hon. Joseph Pitts | 7/4 | 7/7 | United Kingdom | | 1,478.10 | | (3) | | | | 1,478.10 |
| Hon. Louise Slaughter | 7/4 | 7/7 | United Kingdom | | 1,478.10 | | (3) | | | | 1,478.10 |
| Hon. Hilda Solis | 7/4 | 7/7 | United Kingdom | | 1,478.10 | | (3) | | | | 1,478.10 |
| Hon. Thomas Tancredo | 7/4 | 7/7 | United Kingdom | | 1,478.10 | | (3) | | | | 1,478.10 |
| Hon. Bennie Thompson | 7/5 | 7/7 | United Kingdom | | 784.40 | | [3] 6,736.27 | | | | 7,520.67 |
| Dorothy D. Taft | 7/4 | 7/10 | United Kingdom | | 2,956.20 | | 2,188.81 | | | | 5,145.01 |
| Ronald McNamara | 7/4 | 7/7 | United Kingdom | | 1,478.10 | | (3) | | | | 1,478.10 |
| Chadwick Gore | 7/4 | 7/8 | United Kingdom | | 1,970.80 | | [3] 4,924.22 | | | | 6,895.02 |
| Janice Helwig | 7/3 | 7/9 | United Kingdom | | 2,154.50 | | 1,399.00 | | | | 3,553.50 |
| Elizabeth Pryor | 7/4 | 7/7 | United Kingdom | | 1,144.10 | | (3) | | | | 1,144.10 |
| Marlene Kaufman | 7/4 | 7/9 | United Kingdom | | 2,536.50 | | [3] 1,121.22 | | | | 3,657.72 |
| Maureen Walsh | 7/4 | 7/8 | United Kingdom | | 1,670.80 | | [3] 4,924.22 | | | | 6,595.02 |
| Bill Van Horne | 7/4 | 7/9 | United Kingdom | | 2,463.50 | | 5,643.08 | | | | 8,106.58 |
| Fred Turner | 7/4 | 7/10 | United Kingdom | | 2,956.20 | | 8,183.50 | | | | 11,139.70 |
| Linda Solomon | 7/4 | 7/9 | United Kingdom | | 2,463.50 | | 8,971.63 | | | | 11,435.13 |
| Patrick Prisco | 7/4 | 7/10 | United Kingdom | | 2,956.20 | | 5,538.29 | | | | 8,494.49 |
| Elizabeth Singleton | 7/4 | 7/7 | United Kingdom | | 1,478.10 | | (3) | | | | 1,478.10 |
| Martha Morrison | 7/4 | 7/9 | United Kingdom | | 2,463.50 | | 4,924.22 | | | | 7,387.72 |
| Janice McKinney | 7/4 | 7/9 | United Kingdom | | 2,463.50 | | 4,924.22 | | | | 7,387.72 |
| Don Kellaher | 7/4 | 7/9 | United Kingdom | | 2,463.50 | | 4,924.22 | | | | 7,387.72 |
| Delegation expenses | 7/4 | 7/9 | | | | | | | 43,622.89 | | 43,622.89 |
| Committee total | | | | | 51,134.90 | | 89,578.06 | | 43,622.89 | | 184,335.85 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

CHRIS SMITH, Sept. 30, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO JORDAN, IRAQ AND GERMANY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 15 AND SEPT. 20, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Robert W. Van Wicklin | 9/16 | 9/19 | Jordan/Iraq | JD505.51 | 714.00 | | | | | | 714.00 |
| | 9/19 | 9/20 | Germany | | 253.00 | | | | | | 253.00 |
| Committee total | | | | JD505.51 | 967.00 | | | | | | 967.00 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ROBERT W. VAN WICKLIN, Oct. 15, 2004

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 20, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. George Miller | 4/02 | 4/13 | Cambodia, Laos and Vietnam | | 1,264.01 | | 5,979.50 | | 947.41 | | 8,190.92 |
| John Lawrence | 4/02 | 4/13 | Cambodia, Laos and Vietnam | | 1,264.00 | | 7,080.12 | | 947.41 | | 9,291.53 |
| Hon. Max Burns | | 6/08 | United States, Savannah, Georgia | | | | | | | | 0 |
| Committee total | | | | | 3,528.01 | | 13,059.62 | | 1,894.82 | | 17,482.45 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

JOHN BOEHNER, Sept. 24, 2004

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Ed Whitfield | 4/2 | 4/3 | Hawaii | | | | | | 179.33 | | 179.33 |
| | 4/4 | 4/11 | People's Rep. China | | 1,949.00 | | 280.50 | | | | 2,229.50 |
| | 4/11 | 4/12 | Hawaii | | | | | | 184.38 | | 184.38 |
| Hon. Darrell Issa | 3/19 | 3/31 | Jordan | | 238.00 | | | | | | 238.00 |
| | 3/21 | 3/22 | Kuwait/Iraq | | | | | | | | |
| | 3/22 | 3/23 | Germany | | 250.00 | | | | | | 250.00 |
| | 4/3 | 4/6 | Ireland | | 1,377.00 | | | | | | 1,377.00 |
| | 4/6 | 4/9 | Hungary | | 762.00 | | | | | | 762.00 |
| | 4/9 | 4/9 | Saudi Arabia | | 256.00 | | | | | | 256.00 |
| | 4/13 | 4/16 | Bahrain/Israel | | 1,810.00 | | | | | | 1,810.00 |
| | 4/16 | 4/18 | United Kingdom | | 914.00 | | | | | | 914.00 |
| Hon. Cliff Stearns | 4/3 | 4/6 | Ireland | | 1,377.00 | | | | | | 1,377.00 |
| | 4/6 | 4/9 | Hungary | | 762.00 | | | | | | 762.00 |
| | 4/9 | 4/13 | Spain | | 620.00 | | | | | | 620.00 |
| | 4/13 | 4/16 | Italy | | 462.00 | | | | | | 462.00 |
| | 4/16 | 4/19 | Croatia | | 435.00 | | | | | | 435.00 |
| | 4/19 | 4/20 | Ireland | | 157.00 | | | | | | 157.00 |
| Hon. Mike Rogers | 6/19 | 6/21 | Jordan/Iraq | | 476.00 | | | | | | 476.00 |
| | 4/3 | 4/4 | Qatar | | 148.00 | | | | | | 148.00 |
| | 4/4 | 4/7 | Jordan | | 718.00 | | | | | | 718.00 |
| | 4/7 | 4/9 | Hungary | | 508.00 | | | | | | 508.00 |
| Hon. Karen McCarthy | 4/3 | 4/4 | Italy | | 136.00 | | | | | | 136.00 |
| | 4/4 | 4/5 | Uzbekistan | | 456.00 | | | | | | 456.00 |
| | 4/5 | 4/6 | Pakistan | | 113.00 | | | | | | 113.00 |
| | 4/6 | 4/8 | India | | | | | | | | |
| | 4/8 | 4/10 | Nepal | | 476.00 | | | | | | 476.00 |
| | 4/10 | 4/12 | Sri Lanka | | 388.00 | | | | | | 388.00 |
| | 4/12 | 4/14 | Greece | | 698.00 | | | | | | 698.00 |
| Hon. Mike Rogers | 4/3 | 4/4 | Qatar | | 148.00 | | | | | | 148.00 |
| | 4/5 | 4/6 | Iraq | | | | | | | | |
| | 4/4 | 4/7 | Jordan | | 718.00 | | | | | | 718.00 |
| | 4/7 | 4/9 | Hungary | | 508.00 | | | | | | 508.00 |
| | 6/19 | 6/21 | Jordan | | 476.00 | | | | | | 476.00 |
| | 6/20 | 6/20 | Iraq | | | | | | | | |
| Committee total | | | | | 17,337.00 | | 280.50 | | 363.71 | | 17,981.21 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent, if U.S. currency is used, enter amount expended.

JOE BARTON, Sept. 7, 2004

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Thomas Bezas | 5/22 | 5/28 | Korea | | | | 4,832.00 | | 1,218.00 | | 6,050.00 |
| | 5/28 | 5/30 | Taiwan | | | | | | 632.00 | | 632.00 |
| | | | | | | | | | (3) | | |
| Sean Deverey | 5/22 | 5/28 | Korea | | | | 4,832.00 | | 1,218.00 | | 6,050.00 |
| | 5/28 | 5/30 | Taiwan | | | | | | 632.00 | | 632.00 |
| | | | | | | | | | (3) | | |
| Matthew Szymanski | 5/22 | 5/28 | Korea | | | | 4,832.00 | | 1,218.00 | | 6,050.00 |
| | 5/28 | 5/30 | Taiwan | | | | | | 632.00 | | 632.00 |
| | | | | | | | | | (3) | | |
| Committee total | | | | | | | 14,496.00 | | 5,550.00 | | 20,046.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent, if U.S. currency is used, enter amount expended.
[3] $688.00 returned

DONALD A. MANZULLO, Sept. 13, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Bob Goodlatte | 7/25 | 7/27 | Morocco | | 570.00 | | (3) | | | | 570.00 |
| | 7/27 | 7/29 | Namibia | | 418.00 | | (3) | | | | 418.00 |
| | 7/29 | 7/31 | Botswana | | 444.00 | | (3) | | | | 444.00 |
| | 7/31 | 8/5 | South Africa | | 1197.00 | | (3) | | | | 1197.00 |
| | 8/5 | 8/6 | Spain | | 354.00 | | (3) | | | | 354.00 |
| Hon. Steve King | 7/25 | 7/27 | Morocco | | 570.00 | | (3) | | | | 570.00 |
| | 7/27 | 7/29 | Namibia | | 418.00 | | (3) | | | | 418.00 |
| | 7/29 | 7/31 | Botswana | | 444.00 | | (3) | | | | 444.00 |
| | 7/31 | 8/5 | South Africa | | 1,197.00 | | (3) | | | | 1,197.00 |
| | 8/5 | 8/6 | Spain | | 354.00 | | (3) | | | | 354.00 |
| Hon. Mike Ross | 8/10 | 8/12 | Jordan | | 476.00 | | (3) | | | | 476.00 |
| | 8/11 | 8/11 | Iraq | | | | (3) | | | | |
| | 8/12 | 8/13 | Germany | | 203.00 | | (3) | | | | 203.00 |
| Lynn Gallagher | 7/25 | 7/27 | Morocco | | 570.00 | | (3) | | | | 570.00 |
| | 7/27 | 7/29 | Namibia | | 418.00 | | (3) | | | | 418.00 |
| | 7/29 | 7/31 | Botswana | | 444.00 | | (3) | | | | 444.00 |
| | 7/31 | 8/5 | South Africa | | 1,197.00 | | (3) | | | | 1,197.00 |
| | 8/5 | 8/6 | Spain | | 354.00 | | (3) | | | | 354.00 |
| Jason Vaillancourt | 7/25 | 7/27 | Morocco | | 570.00 | | (3) | | | | 570.00 |
| | 7/27 | 7/29 | Namibia | | 418.00 | | (3) | | | | 418.00 |
| | 7/29 | 7/31 | Botswana | | 444.00 | | (3) | | | | 444.00 |
| | 7/31 | 8/5 | South Africa | | 1,197.00 | | (3) | | | | 1,197.00 |
| | 8/5 | 8/6 | Spain | | 354.00 | | (3) | | | | 354.00 |
| Committee total | | | | | 12,611.00 | | | | | | 12,611.00 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

BOB GOODLATTE, Chairman, Oct: 14, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Visit to the United Kingdom with Codel Young, July 16–19, 2004: | | | | | | | | | | | |
| Hon. Jim Ryun | 7/16 | 7/19 | United Kingdom | | 2,862.15 | | | | | | 2,862.15 |
| Visit to Macedonia and the Netherlands, July 27–30, 2004: | | | | | | | | | | | |
| Hon. John Kline | 7/27 | 7/29 | Macedonia | | 300.00 | | | | | | 300.00 |
| | 7/29 | 7/30 | Netherlands | | 324.76 | | | | | | 324.76 |
| Commercial airfare | | | | | | | 4,104.39 | | | | 4,104.39 |
| Visit to Jordan, Iraq and Germany, Aug. 10–13, 2004: | | | | | | | | | | | |
| Hon. Vic Snyder | 8/10 | 8/12 | Jordan | | 476.00 | | | | | | 476.00 |
| | 8/11 | 8/11 | Iraq | | | | | | | | |
| | 8/12 | 8/13 | Germany | | 203.00 | | | | | | 203.00 |
| Visit to Canada, Hungary, Latvia, Estonia, Lithuania and Germany with Codel Duncan, Aug. 14–24, 2004: | | | | | | | | | | | |
| Hon. Solomon P. Ortiz | 8/14 | 8/16 | Canada | | 227.00 | | | | | | 227.00 |
| | 8/16 | 8/18 | Hungary | | 743.00 | | | | | | 743.00 |
| | 8/18 | 8/19 | Latvia | | 395.00 | | | | | | 395.00 |
| | 8/19 | 8/19 | Estonia | | | | | | | | |
| | 8/19 | 8/19 | Lithuania | | 470.00 | | | | | | 470.00 |
| | 8/21 | 8/24 | Germany | | 1,227.00 | | | | | | 1,227.00 |
| Visit to Germany, Finland, Denmark and Italy, Aug. 22–28, 2004: | | | | | | | | | | | |
| Hon. Roscoe G. Bartlett | 8/23 | 8/26 | Germany | | 636.00 | | | | | | 636.00 |
| | 8/25 | 8/25 | Finland | | | | | | | | |
| | 8/26 | 8/26 | Denmark | | | | | | | | |
| | 8/26 | 8/28 | Italy | | 544.38 | | | | | | 544.38 |
| Commercial airfare | | | | | | | 3,734.80 | | | | 3,734.80 |
| Hon. Gene Taylor | 8/23 | 8/26 | Germany | | 636.00 | | | | | | 636.00 |
| | 8/25 | 8/25 | Finland | | | | | | | | |
| | 8/26 | 8/26 | Denmark | | | | | | | | |
| | 8/26 | 8/28 | Italy | | 544.38 | | | | | | 544.38 |
| Commercial airfare | | | | | | | 3,715.73 | | | | 3,715.73 |
| Robert W. Lautrup | 8/22 | 8/23 | United Kingdom | | 450.00 | | | | | | 450.00 |
| | 8/23 | 8/26 | Germany | | 636.00 | | | | | | 636.00 |
| | 8/25 | 8/25 | Finland | | | | | | | | |
| | 8/26 | 8/26 | Denmark | | | | | | | | |
| | 8/26 | 8/28 | Italy | | 544.38 | | | | | | 544.38 |
| Commercial airfare | | | | | | | 4,398.46 | | | | 4,398.46 |
| I.J. Gertler | 8/23 | 8/26 | Germany | | 636.00 | | | | | | 636.00 |
| | 8/25 | 8/25 | Finland | | | | | | | | |
| | 8/26 | 8/26 | Denmark | | | | | | | | |
| | 8/26 | 8/28 | Italy | | 544.38 | | | | | | 544.38 |
| Commercial airfare | | | | | | | 3,715.73 | | | | 3,715.73 |
| Visit to Jordan, Iraq, Pakistan, Afghanistan, Bahrain, Djibouti, Egypt and Spain, Aug. 19–25, 2004: | | | | | | | | | | | |
| Hon. Jeff Miller | 8/19 | 8/20 | Jordan | | 238.00 | | | | | | 238.00 |
| | 8/19 | 8/19 | Iraq | | | | | | | | |
| | 8/20 | 8/22 | Pakistan | | 526.00 | | | | | | 526.00 |
| | 8/21 | 8/21 | Afghanistan | | | | | | | | |
| | 8/22 | 8/22 | Bahrain | | | | | | | | |
| | 8/22 | 8/23 | USS Kennedy | | | | | | | | |
| | 8/23 | 8/23 | Djibouti | | | | | | | | |
| | 8/23 | 8/24 | Egypt | | 217.00 | | | | | | 217.00 |
| | 8/24 | 8/25 | Spain | | 84.00 | | | | | | 84.00 |
| Hon. Tom Cole | 8/19 | 8/20 | Jordan | | 238.00 | | | | | | 238.00 |
| | 8/19 | 8/19 | Iraq | | | | | | | | |
| | 8/20 | 8/22 | Pakistan | | 526.00 | | | | | | 526.00 |
| | 8/21 | 8/21 | Afghanistan | | | | | | | | |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| | 8/22 | 8/22 | Bahrain | | | | | | | | |
| | 8/22 | 8/23 | USS Kennedy | | | | | | | | |
| | 8/23 | 8/23 | Djibouti | | | | | | | | |
| | 8/23 | 8/24 | Egypt | | 217.00 | | | | | | 217.00 |
| | 8/24 | 8/25 | Spain | | 84.00 | | | | | | 84.00 |
| Hon. Madeleine Bordallo | 8/19 | 8/20 | Jordan | | 238.00 | | | | | | 238.00 |
| | 8/19 | 8/19 | Iraq | | | | | | | | |
| | 8/20 | 8/22 | Pakistan | | 526.00 | | | | | | 526.00 |
| | 8/21 | 8/21 | Afghanistan | | | | | | | | |
| | 8/22 | 8/22 | Bahrain | | | | | | | | |
| | 8/22 | 8/23 | USS Kennedy | | | | | | | | |
| | 8/23 | 8/23 | Djibouti | | | | | | | | |
| | 8/23 | 8/24 | Egypt | | 217.00 | | | | | | 217.00 |
| | 8/24 | 8/25 | Spain | | 84.00 | | | | | | 84.00 |
| Hon. Jim Marshall | 8/19 | 8/20 | Jordan | | 238.00 | | | | | | 238.00 |
| | 8/19 | 8/19 | Iraq | | | | | | | | |
| | 8/20 | 8/22 | Pakistan | | 526.00 | | | | | | 526.00 |
| | 8/21 | 8/21 | Afghanistan | | | | | | | | |
| | 8/22 | 8/22 | Bahrain | | | | | | | | |
| | 8/22 | 8/23 | USS Kennedy | | | | | | | | |
| Commercial airfare | | | | | | | 4,992.66 | | | | 4,992.66 |
| Michael R. Higgins | 8/19 | 8/20 | Jordan | | 238.00 | | | | | | 238.00 |
| | 8/19 | 8/19 | Iraq | | | | | | | | |
| | 8/20 | 8/22 | Pakistan | | 526.00 | | | | | | 526.00 |
| | 8/21 | 8/21 | Afghanistan | | | | | | | | |
| | 8/22 | 8/22 | Bahrain | | | | | | | | |
| | 8/22 | 8/23 | USS Kennedy | | | | | | | | |
| | 8/23 | 8/23 | Djibouti | | | | | | | | |
| | 8/23 | 8/24 | Egypt | | 217.00 | | | | | | 217.00 |
| | 8/24 | 8/25 | Spain | | 84.00 | | | | | | 84.00 |
| Mark R. Lewis | 8/19 | 8/20 | Jordan | | 238.00 | | | | | | 238.00 |
| | 8/19 | 8/19 | Iraq | | | | | | | | |
| | 8/20 | 8/22 | Pakistan | | 526.00 | | | | | | 526.00 |
| | 8/21 | 8/21 | Afghanistan | | | | | | | | |
| | 8/22 | 8/22 | Bahrain | | | | | | | | |
| | 8/22 | 8/23 | USS Kennedy | | | | | | | | |
| | 8/23 | 8/23 | Djibouti | | | | | | | | |
| | 8/23 | 8/24 | Egypt | | 217.00 | | | | | | 217.00 |
| | 8/24 | 8/25 | Spain | | 84.00 | | | | | | 84.00 |
| Visit to Germany, Aug. 23–26, 2004: | | | | | | | | | | | |
| Mr. James William Godwin, Jr. | 8/24 | 8/26 | Germany | | 406.00 | | | | | | 406.00 |
| Commercial airfare | | | | | | | 5,399.76 | | | | 5,399.76 |
| Visit to Jordan, Iraq and Germany with Codel Houghton, Sept. 16–20, 2004: | | | | | | | | | | | |
| Hon. Ellen O. Tauscher | 9/16 | 9/17 | Jordan | | 342.00 | | | | | | 342.00 |
| | 9/17 | 9/18 | Iraq (day trips) | | | | | | | | |
| | 9/19 | 9/20 | Germany | | 129.00 | | | | | | 129.00 |
| Visit to Russia, Sept. 16–19, 2004: | | | | | | | | | | | |
| Hon. Curt Weldon | 9/16 | 9/19 | Russia | | 1,092.00 | | | | | | 1,092.00 |
| Commercial airfare | | | | | | | 6,793.00 | | | | 6,793.00 |
| Hon. Trent Franks | 9/16 | 9/20 | Russia | | 1,456.00 | | | | | | 1,456.00 |
| Commercial airfare | | | | | | | 7,131.06 | | | | 7,131.06 |
| Douglas C. Roach | 9/16 | 9/19 | Russia | | 1,092.00 | | | | | | 1,092.00 |
| Commercial airfare | | | | | | | 8,105.06 | | | | 8,105.06 |
| Committee total | | | | | 23,005.43 | | 52,090.65 | | | | 75,096.08 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DUNCAN HUNTER, Chairman, Oct. 20, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BUDGET, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Ron Kind | 9/16 | 9/19 | Jordan and Iraq | | 714.00 | | (3) | | | | 714.00 |
| | 9/19 | 9/20 | Germany | | 253.00 | | (3) | | | | 253.00 |
| Hon. Scott Garrett | 9/24 | 9/27 | Jordan and Iraq | | 714.00 | | (3) | | | | 714.00 |
| | 9/27 | 9/28 | France | | 176.00 | | (3) | | | | 176.00 |
| Committee total | | | | | 1,857.00 | | | | | | 1,857.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

JIM NUSSLE, Chairman, Oct. 28, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Cliff Stearns | 8/16 | 8/17 | Hungary | | 216.00 | | | | | | 216.00 |
| | 8/18 | 8/18 | Latvia | | 127.00 | | | | | | 127.00 |
| | 8/19 | 8/20 | Lithuania | | 470.00 | | | | | | 470.00 |
| | 8/21 | 8/23 | Germany | | 1,227.00 | | | | | | 1,227.00 |
| Hon. Vito Fossella | 8/9 | 8/15 | Italy | | 2,158.00 | | 5,510.60 | | | | 7,668.60 |
| Chris Knauer | 8/7 | 8/11 | Hong Kong | | 1,516.00 | | | | | | 1,516.00 |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| | 8/11 | 8/14 | Singapore | | 1,787.30<br>[3](336.0) | | 7,039.07 | | | | 8,826.37<br>(336.00) |
| Committee total | | | | | 7,165.30 | | 12,549.67 | | | | 19,714.97 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Unused per diem.

JOE BARTON, Oct. 27, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FINANCIAL SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Spencer Bachus | 7/25 | 7/27 | Morocco | | 570.00 | | (3) | | | | 570.00 |
| | 7/27 | 7/29 | Nambia | | 418.00 | | (3) | | | | 418.00 |
| | 7/29 | 7/31 | Botswana | | 444.00 | | (3) | | | | 444.00 |
| | 7/31 | 8/05 | South Africa | | 1,197.00 | | (3) | | | | 1,197.00 |
| | 8/05 | 8/06 | Spain | | 354.00 | | (3) | | | | 354.00 |
| Hon. J. Gresham Barrett | 8/14 | 8/16 | Venezuela | | 516.00 | | (3) | | | | 516.00 |
| | 8/16 | 8/17 | Ecuador | | 238.00 | | (3) | | | | 238.00 |
| | 8/17 | 8/19 | Bolivia | | 312.00 | | (3) | | | | 312.00 |
| | 8/19 | 8/22 | Peru | | 739.00 | | (3) | | | | 739.00 |
| Committee total | | | | | 4,788.00 | | | | | | 4,788.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

MICHAEL G. OXLEY, Chairman, Oct. 22, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT REFORM, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Robert Borden | 7/24 | 8/1 | China | | 1,937.00 | | 7,577.50 | | | | |
| Lawrence Halloran | 7/31 | 8/4 | United Kingdom | | 1,935.00 | | 5,876.31 | | 296.00 | | |
| Hon. Bernard Sanders | 8/4 | 8/4 | United Kingdom | | | | 29.42 | | | | |
| John Cuaderes | 8/5 | 8/7 | Korea | | 652.00 | | | | | | |
| | 8/7 | 8/9 | China | | 554.00 | | | | | | |
| | 8/9 | 8/10 | Hong Kong | | 379.00 | | | | 430.00 | | |
| | 8/10 | 8/11 | Vietnam | | 193.00 | | | | | | |
| | 8/12 | 8/14 | Australia | | 776.00 | | 443.00 | | 1,840.00 | | |
| Susie Schulte | 8/5 | 8/7 | Korea | | 652.00 | | | | | | |
| | 8/7 | 8/9 | China | | 554.00 | | | | | | |
| | 8/9 | 8/10 | Hong Kong | | 379.00 | | | | 430.00 | | |
| | 8/10 | 8/11 | Vietnam | | 193.00 | | | | | | |
| | 8/12 | 8/14 | Australia | | 776.00 | | 443.00 | | 1,840.00 | | |
| Shalley Kim | 8/5 | 8/7 | Korea | | 652.00 | | | | | | |
| | 8/7 | 8/9 | China | | 554.00 | | | | | | |
| | 8/9 | 8/10 | Hong Kong | | 379.00 | | | | 430.00 | | |
| | 8/10 | 8/11 | Vietnam | | 193.00 | | 443.00 | | | | |
| | 8/12 | 8/14 | Australia | | 776.00 | | | | 1,840.00 | | |
| Ron Martinson | 8/5 | 8/7 | Korea | | 652.00 | | | | | | |
| | 8/7 | 8/9 | China | | 554.00 | | | | | | |
| | 8/9 | 8/10 | Hong Kong | | 379.00 | | | | 430.00 | | |
| | 8/10 | 8/11 | Vietnam | | 193.00 | | | | | | |
| | 8/12 | 8/14 | Australia | | 776.00 | | 443.00 | | 1,840.00 | | |
| Gabriele Forsythe | 8/5 | 8/7 | Korea | | 652.00 | | | | | | |
| | 8/7 | 8/9 | China | | 554.00 | | | | | | |
| | 8/9 | 8/10 | Hong Kong | | 379.00 | | | | 430.00 | | |
| | 8/10 | 8/11 | Vietnam | | 193.00 | | | | | | |
| | 8/12 | 8/14 | Australia | | 776.00 | | 443.00 | | 1,840.00 | | |
| Michelle Ash | 8/5 | 8/7 | Korea | | 652.00 | | | | | | |
| | 8/7 | 8/9 | China | | 554.00 | | | | | | |
| | 8/9 | 8/10 | Hong Kong | | 379.00 | | | | 430.00 | | |
| | 8/10 | 8/11 | Vietnam | | 193.00 | | | | | | |
| | 8/12 | 8/14 | Australia | | 776.00 | | 443.00 | | 1,840.00 | | |
| Marc Wheat | 8/5 | 8/7 | Korea | | 652.00 | | | | | | |
| | 8/7 | 8/9 | China | | 554.00 | | | | | | |
| | 8/9 | 8/10 | Hong Kong | | 379.00 | | | | 430.00 | | |
| | 8/10 | 8/11 | Vietnam | | 193.00 | | | | | | |
| | 8/12 | 8/14 | Australia | | 776.00 | | 443.00 | | 1,840.00 | | |
| Hon. Tom Davis | 8/5 | 8/7 | Korea | | 652.00 | | | | | | |
| | 8/7 | 8/9 | China | | 554.00 | | | | | | |
| | 8/9 | 8/10 | Hong Kong | | 379.00 | | | | 430.00 | | |
| | 8/10 | 8/11 | Vietnam | | 193.00 | | | | | | |
| | 8/12 | 8/14 | Australia | | 776.00 | | 443.00 | | 1,840.00 | | |
| Hon. Marsha Blackburn | 8/5 | 8/7 | Korea | | 652.00 | | | | | | |
| | 8/7 | 8/9 | China | | 554.00 | | | | | | |
| | 8/9 | 8/10 | Hong Kong | | 379.00 | | | | 430.00 | | |
| | 8/10 | 8/11 | Vietnam | | 193.00 | | | | | | |
| | 8/12 | 8/14 | Australia | | 776.00 | | 443.00 | | 1,840.00 | | |
| Hon. James Moran | 8/5 | 8/7 | Korea | | 652.00 | | | | | | |
| | 8/7 | 8/9 | China | | 554.00 | | | | | | |
| | 8/9 | 8/10 | Hong Kong | | 379.00 | | | | 430.00 | | |
| | 8/10 | 8/11 | Vietnam | | 193.00 | | | | | | |
| | 8/12 | 8/14 | Australia | | 776.00 | | 443.00 | | 1,840.00 | | |
| Hon. Nathan Deal | 8/5 | 8/7 | Korea | | 652.00 | | | | | | |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT REFORM, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| | 8/7 | 8/9 | China | | 554.00 | | | | | | |
| | 8/9 | 8/10 | Hong Kong | | 379.00 | | | | 430.00 | | |
| | 8/10 | 8/11 | Vietnam | | 193.00 | | | | | | |
| | 8/12 | 8/14 | Australia | | 776.00 | | 443.00 | | 1,840.00 | | |
| Hon. Carolyn Maloney | 8/5 | 8/7 | Korea | | 652.00 | | | | | | |
| | 8/7 | 8/9 | China | | 554.00 | | | | | | |
| | 8/9 | 8/10 | Hong Kong | | 379.00 | | | | 430.00 | | |
| | 8/10 | 8/11 | Vietnam | | 193.00 | | | | | | |
| | 8/12 | 8/14 | Australia | | 776.00 | | 443.00 | | 1,840.00 | | |
| Hon. Dutch Ruppersberger | 8/5 | 8/7 | Korea | | 652.00 | | | | | | |
| | 8/7 | 8/9 | China | | 554.00 | | | | | | |
| | 8/9 | 8/10 | Hong Kong | | 379.00 | | | | 430.00 | | |
| | 8/10 | 8/11 | Vietnam | | 193.00 | | | | | | |
| | 8/12 | 8/14 | Australia | | 776.00 | | 443.00 | | 1,840.00 | | |
| David Young | 8/12 | 8/15 | Poland | | 917.00 | | 5,944.54 | | | | |
| | 8/15 | 8/20 | Russia | | 1,806.00 | | 138.00 | | 64.00 | | |
| James Moore | 8/12 | 8/15 | Poland | | 917.00 | | 6,026.32 | | | | |
| | 8/15 | 8/20 | Russia | | 1,806.00 | | 138.00 | | 64.00 | | |
| Victoria Proctor | 8/12 | 8/15 | Poland | | 917.00 | | 6,026.32 | | | | |
| | 8/15 | 8/20 | Russia | | 1,806.00 | | 138.00 | | 64.00 | | |
| Jaime Hjort | 8/12 | 8/15 | Poland | | 917.00 | | 6,026.32 | | | | |
| | 8/15 | 8/20 | Russia | | 1,806.00 | | 138.00 | | 64.00 | | |
| John Hunter | 8/12 | 8/15 | Poland | | 917.00 | | 6,026.32 | | | | |
| | 8/15 | 8/20 | Russia | | 1,806.00 | | 138.00 | | 64.00 | | |
| Thomas Costa | 8/8 | 8/10 | Jordan | | 476.00 | | | | | | |
| | 8/10 | 8/12 | Israel | | 678.00 | | | | | | |
| | 8/12 | 8/13 | Lebanon | | 0.00 | | | | | | |
| | 8/13 | 8/14 | Syria | | 268.00 | | | | | | |
| | 8/14 | 8/15 | Spain | | 380.00 | | | | | | |
| R.N. Patarino | 8/8 | 8/10 | Jordan | | 476.00 | | | | | | |
| | 8/10 | 8/12 | Israel | | 678.00 | | | | | | |
| | 8/12 | 8/13 | Lebanon | | | | | | | | |
| | 8/13 | 8/14 | Syria | | 268.00 | | | | | | |
| | 8/14 | 8/15 | Spain | | 380.00 | | | | | | |
| Hon. Christopher Shays | 8/8 | 8/10 | Jordan | | 476.00 | | | | | | |
| | 8/10 | 8/12 | Israel | | 678.00 | | | | | | |
| | 8/12 | 8/13 | Lebanon | | | | | | | | |
| | 8/13 | 8/14 | Syria | | 268.00 | | | | | | |
| | 8/14 | 8/15 | Spain | | 380.00 | | | | | | |
| Karen Lightfoot | 8/8 | 8/10 | Jordan | | 476.00 | | | | | | |
| | 8/10 | 8/12 | Israel | | 678.00 | | | | | | |
| | 8/12 | 8/13 | Lebanon | | | | | | | | |
| | 8/13 | 8/14 | Syria | | 268.00 | | | | | | |
| | 8/14 | 8/15 | Spain | | 380.00 | | | | | | |
| Committee total | | | | | 57,897.00 | | 49,982.05 | | 30,126.00 | | 138,005.05 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

TOM DAVIS, Chairman, Oct. 25, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON HOUSE ADMINISTRATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☑

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BOB NEY, Chairman, Oct. 29, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Douglas Anderson | 8/12 | 8/24 | Indonesia | | 1.980.90 | | 6,904.50 | | | | 8,885.40 |
| Renee Austell | 8/11 | 8/17 | Chad | | 1,650.00 | | 6,753.04 | | | | 8,403.04 |
| | 9/19 | 9/21 | Russia | | 1,100.00 | | | | | | 1,100.00 |
| | 9/21 | 9/22 | United Kingdom | | 457.00 | | | | | | 457.00 |
| | 9/19 | 9/22 | (4) | | | | 7,075.93 | | | | 7,075.93 |
| Hon. Cass Ballenger | 8/3 | 8/4 | Venezuela | | 150.00 | | (3) | | | | 150.00 |
| Patrick Brennan | 7/18 | 7/19 | Canada | | 259.00 | | 1,052.00 | | | | 1,311.00 |
| | 8/1 | 8/4 | Venezuela | | 549.00 | | 2,616.54 | | | | 3,165.54 |
| | 8/14 | 8/16 | Venezuela | | 416.00 | | | | | | 416.00 |
| | 8/16 | 8/17 | Ecuador | | 238.00 | | | | | | 238.00 |
| | 8/17 | 8/19 | Bolivia | | 312.00 | | | | | | 312.00 |
| | 8/19 | 8/22 | Peru | | 539.00 | | (3) | | | | 539.00 |
| Candace Bryan | 6/26 | 6/30 | South Korea | | 980.00 | | | | | | 980.00 |
| | 6/30 | 7/3 | Hong Kong | | 961.00 | | | | | | 961.00 |
| | 6/26 | 7/3 | (4) | | | | 7,240.45 | | | | 7,240.45 |
| Jean Carroll | 8/14 | 8/16 | Venezuela | | 491.00 | | | | | | 491.00 |
| | 8/16 | 8/17 | Ecuador | | 213.00 | | | | | | 213.00 |
| | 8/17 | 8/19 | Bolivia | | 287.00 | | | | | | 287.00 |
| | 8/19 | 8/22 | Peru | | 694..00 | | (3) | | | | 694.00 |
| Malik Chaka | 6/26 | 6/30 | DRV | | 1,132.00 | | | | | | 1,132.00 |
| | 6/30 | 7/5 | Tanzania | | 1,415.00 | | | | | | 1,415.00 |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| | 6/26 | 7/5 | (4) | | | | 8,600.59 | | | | 8,600.59 |
| | 8/10 | 8/15 | Togo | | 786.00 | | | | | | 786.00 |
| | 8/15 | 8/20 | Benin | | 703.00 | | | | | | 703.00 |
| | 8/20 | 8/23 | Niger | | 763.00 | | | | | | 763.00 |
| | 8/10 | 8/23 | (4) | | | | 6,544.12 | | | | 6,544.12 |
| Joan Condon | 6/29 | 7/5 | Zimbabwe | | 942.00 | | 8,907.84 | | | | 9,849.84 |
| | 8/11 | 8/18 | Chad | | 1,350.00 | | 6,753.04 | | | | 8,103.04 |
| Ted Dagne | 7/31 | 8/2 | Kenya | | 590.00 | | | | | | 590.00 |
| | 8/2 | 8/4 | Ethiopia | | 708.00 | | | | | | 708.00 |
| | 8/4 | 8/6 | Chad | | 552.00 | | | | | | 552.00 |
| | 8/6 | 8/8 | Ethiopia | | 202.00 | | | | | | 202.00 |
| | 8/8 | 8/10 | Djibouti | | 566.00 | | | | | | 566.00 |
| | 8/10 | 8/11 | Eritrea | | 430.00 | | | | | | 430.00 |
| | 7/31 | 8/11 | (4) | | | | 11,024.85 | | | | 11,024.85 |
| Hon. Eni Faleomavaega | 7/10 | 7/12 | French Polynesia | | 571.00 | | | | | | 571.00 |
| | 7/12 | 7/13 | Samoa, Apia | | 129.00 | | | | | | 129.00 |
| | 7/12 | 7/13 | (4) | | | | 4,240.21 | | | | 4,240.21 |
| | 8/9 | 8/11 | Western Samoa | | 267.21 | | 62.68 | | | | 329.89 |
| Kristen Gilley | 6/26 | 6/30 | South Korea | | 1,080.00 | | | | | | 1,080.00 |
| | 6/30 | 7/3 | Hong Kong | | 987.00 | | | | | | 987.00 |
| | 6/26 | 7/3 | (4) | | | | 7,449.55 | | | | 7,449.55 |
| Dennis Halpin | 6/26 | 6/30 | South Korea | | 1,062.00 | | | | | | 1,062.00 |
| | 6/30 | 7/3 | Hong Kong | | 866.00 | | | | | | 866.00 |
| | 6/26 | 7/3 | (4) | | | | 7,240.45 | | | | 7,240.45 |
| | 8/3 | 8/12 | India | | 1,532.00 | | | | | | 1,532.00 |
| | 8/9 | 8/10 | Nepal | | 188.00 | | | | | | 188.00 |
| | 8/3 | 8/12 | (4) | | | | 7,652.10 | | | | 7,652.10 |
| Hans Hogrefe | 8/12 | 8/20 | Indonesia | | 1,270.00 | | 7,521.81 | | | | 8,791.81 |
| Hon. Amo Houghton | 9/16 | 9/19 | Jordan | | 635.00 | | | | | | 635.00 |
| | 9/19 | 9/20 | Germany | | 44.00 | | (3) | | | | 44.00 |
| Jonathan Katz | 6/30 | 7/4 | Israel | | 2,896.00 | | 5,963.34 | | | | 8,859.34 |
| David Killion | 6/26 | 6/28 | Italy | | 420.00 | | | | | | 420.00 |
| | 6/28 | 7/1 | UAE | | 1,045.00 | | | | | | 1,045.00 |
| | 6/26 | 7/1 | (4) | | | | 9,631.72 | | | | 9,631.72 |
| | 7/24 | 7/27 | Jordan | | 564.00 | | | | | | 564.00 |
| | 7/27 | 8/2 | Turkey | | 1,438.00 | | | | | | 1,438.00 |
| | 7/24 | 8/2 | (4) | | | | 5,706.47 | | | | 5,706.47 |
| | 8/13 | 8/16 | Libya | | 1,038.00 | | | | | | 1,038.00 |
| | 8/16 | 8/17 | Egypt | | 217.00 | | | | | | 217.00 |
| | 8/17 | 8/19 | Syria | | 536.00 | | | | | | 536.00 |
| | 8/19 | 8/25 | Israel | | 2,184.00 | | | | | | 2,184.00 |
| | 8/13 | 8/25 | (4) | | | | 5,856.58 | | | | 5,856.58 |
| Young Kim | 6/26 | 6/30 | South Korea | | 1,080.00 | | | | | | 1,080.00 |
| | 6/30 | 7/3 | Hong Kong | | 987.00 | | | | | | 987.00 |
| | 6/26 | 7/3 | (4) | | | | 6,110.45 | | | | 6,110.45 |
| Hon. Thomas Lantos | 8/13 | 8/16 | Libya | | 1,038.00 | | | | | | 1,038.00 |
| | 8/16 | 8/17 | Egypt | | 217.00 | | | | | | 217.00 |
| | 8/17 | 8/19 | Syria | | 536.00 | | | | | | 536.00 |
| | 8/19 | 8/22 | Israel | | 728.00 | | | | | | 728.00 |
| | 8/13 | 8/22 | (4) | | | | 5,830.00 | | | | 5,830.00 |
| Jessica Lewis | 8/2 | 8/4 | Venezuela | | 680.00 | | 2,494.54 | | | | 3,174.54 |
| Noelle LuSane | 7/10 | 7/12 | Netherlands | | 327.00 | | 6,296.61 | | | | 6,623.61 |
| | 7/31 | 8/2 | Kenya | | 295.00 | | | | | | 295.00 |
| | 8/2 | 8/4 | Ethiopia | | 708.00 | | | | | | 708.00 |
| | 8/4 | 8/6 | Chad | | 552.00 | | | | | | 552.00 |
| | 8/6 | 8/8 | Ethiopia | | 202.00 | | | | | | 202.00 |
| | 7/31 | 8/8 | (4) | | | | 10,996.28 | | | | 10,996.28 |
| | 9/16 | 9/19 | Jordan | | 714.00 | | | | | | 714.00 |
| | 9/19 | 9/20 | Germany | | 154.00 | | (3) | | | | 154.00 |
| John Mackey | 8/25 | 9/2 | Colombia | | 1,800.00 | | 1,710.50 | | | | 3,510.50 |
| Alan Makovsky | 7/24 | 7/27 | Jordan | | 564.00 | | | | | | 564.00 |
| | 7/27 | 8/2 | Turkey | | 1,479.00 | | | | | | 1,479.00 |
| | 7/24 | 8/2 | (4) | | | | 6,136.40 | | | | 6,136.40 |
| | 8/13 | 8/16 | Libya | | 1,038.00 | | | | | | 1,038.00 |
| | 8/16 | 8/17 | Egypt | | 217.00 | | | | | | 217.00 |
| | 8/17 | 8/19 | Syria | | 536.00 | | | | | | 536.00 |
| | 8/19 | 8/25 | Israel | | 2,184.00 | | | | | | 2,184.00 |
| | 8/13 | 8/25 | (4) | | | | 5,856.58 | | | | 5,856.58 |
| Pearl-Alice Marsh | 6/29 | 7/6 | Zimbabwe | | 942.00 | | 8,907.84 | | | | 9,849.84 |
| | 8/10 | 8/14 | Togo | | 825.00 | | | | | | 825.00 |
| | 8/15 | 8/18 | Benin | | 517.00 | | | | | | 517.00 |
| | 8/10 | 8/18 | (4) | | | | 5,088.30 | | | | 5,088.30 |
| Hon. Gregory Meeks | 8/14 | 8/16 | Venezuela | | 516.00 | | | | | | 516.00 |
| | 8/16 | 8/17 | Ecuador | | 238.00 | | 1,186.30 | | | | 1,424.30 |
| Caleb McCarry | 8/1 | 8/4 | Venezuela | | 649.00 | | 2,616.54 | | | | 3,265.54 |
| James McCormick | 8/8 | 8/12 | Philippines | | 693.00 | | | | | | 693.00 |
| | 8/12 | 8/15 | Malaysia | | 490.20 | | | | [5] 278.25 | | 768.45 |
| | 8/8 | 8/12 | (4) | | | | 5,542.00 | | | | 5,542.00 |
| Paul Oostburg Sanz | 8/25 | 9/1 | Colombia | | 1,237.00 | | 2,557.54 | | | | 3,794.54 |
| Hon. Donald Payne | 7/10 | 7/12 | Netherlands | | 367.00 | | 5,916.11 | | | | 6,283.11 |
| | 8/2 | 8/4 | Ethiopia | | 708.00 | | | | | | 708.00 |
| | 8/4 | 8/6 | Chad | | 552.00 | | | | | | 552.00 |
| | 8/6 | 8/8 | Ethiopia | | 202.00 | | | | | | 202.00 |
| | 8/8 | 8/10 | Djibouti | | 566.00 | | | | | | 566.00 |
| | 8/10 | 8/11 | Eritrea | | 430.00 | | | | | | 430.00 |
| | 8/2 | 8/11 | (4) | | | | 11,007.65 | | | | 11,007.65 |
| | 9/16 | 9/19 | Jordan | | 714.00 | | | | | | 714.00 |
| | 9/19 | 9/20 | Germany | | 154.00 | | (3) | | | | 154.00 |
| Gregg Rickman | 6/26 | 6/28 | Italy | | 770.00 | | | | | | 770.00 |
| | 6/28 | 7/1 | United Arab Emirates | | 836.00 | | | | | | 836.00 |
| | 6/26 | 7/1 | (4) | | | | 8,824.93 | | | | 8,824.93 |
| | 7/24 | 7/27 | Jordan | | 564.00 | | | | | | 564.00 |
| | 7/27 | 7/29 | Turkey | | 1,212.00 | | | | | | 1,212.00 |
| | 7/24 | 7/29 | (4) | | | | 6,136.40 | | | | 6,136.40 |
| Robin Roizman | 7/25 | 8/1 | China | | 1,477.00 | | 7,221.00 | | | | 8,698.00 |
| Hon. Edward Royce | 6/26 | 6/30 | Democratic Republic of the Congo | | 1,132.00 | | | | | | 1,132.00 |
| | 6/30 | 7/5 | Tanzania | | 1,415.00 | | | | | | 1,415.00 |
| | 6/26 | 7/5 | (4) | | | | 8,600.59 | | | | 8,600.59 |
| Jonathan Scharfen | 6/26 | 6/28 | Italy | | 840.00 | | | | | | 840.00 |
| | 6/28 | 7/1 | United Arab Emirates | | 836.00 | | | | | | 836.00 |
| | 6/26 | 7/1 | (4) | | | | 8,824.93 | | | | 8,824.93 |

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| | 7/26 | 7/27 | Jordan | | 376.00 | | | | [5]693.59 | | 1,069.59 |
| | 7/27 | 7/31 | Turkey | | 991.00 | | | | | | 991.00 |
| | 7/26 | 7/31 | (4) | | | | 6,978.26 | | | | 6,978.26 |
| Hon. Adam Schiff | 8/20 | 8/21 | Pakistan | | 227.00 | | | | | | 227.00 |
| | 8/21 | 8/22 | Bahrain | | 99.00 | | 3,684.09 | | | | 3,783.09 |
| Thomas Sheehy | 6/26 | 6/30 | Democratic Republic of the Congo | | 1,132.00 | | | | | | 1,132.00 |
| | 6/30 | 7/05 | Tanzania | | 1,415.00 | | | | | | 1,415.00 |
| | 6/26 | 7/5 | (4) | | | | 8,600.59 | | | | 8,600.59 |
| Hon. Thomas Tancredo | 9/18 | 9/21 | Russia | | 1,100.00 | | | | | | 1,100.00 |
| | 9/21 | 9/22 | United Kingdom | | 457.00 | | | | | | 457.00 |
| | 9/18 | 9/22 | (4) | | | | 7,075.93 | | | | 7,075.93 |
| Sarah Tillemann | 6/26 | 6/30 | South Korea | | 980.00 | | | | | | 980.00 |
| | 6/30 | 7/3 | Hong Kong | | 767.00 | | | | | | 767.00 |
| | 6/26 | 7/3 | (4) | | | | 7,240.45 | | | | 7,240.45 |
| | 8/3 | 8/12 | India | | 646.00 | | | | | | 646.00 |
| | 8/9 | 8/10 | Nepal | | 188.00 | | | | | | 188.00 |
| | 8/3 | 8/12 | (4) | | | | 7,652.10 | | | | 7,652.10 |
| Lynne Weil | 6/26 | 6/30 | South Korea | | 937.00 | | | | | | 937.00 |
| | 6/30 | 7/3 | Hong Kong | | 816.00 | | | | | | 816.00 |
| | 6/26 | 7/3 | (4) | | | | 8,095.55 | | | | 8,095.55 |
| Hon. Jerry Weller | 7/18 | 7/19 | Canada | | 259.00 | | 1,016.58 | | | | 1,275.58 |
| | 8/14 | 8/16 | Venezuela | | 516.00 | | | | | | 516.00 |
| | 8/16 | 8/17 | Ecuador | | 238.00 | | | | | | 238.00 |
| | 8/17 | 8/19 | Bolivia | | 312.00 | | | | | | 312.00 |
| | 8/19 | 8/21 | Peru | | 739.00 | | (3) | | | | 739.00 |
| Hon. Robert Wexler | 6/30 | 7/4 | Israel | | 2,896.00 | | 5,963.34 | | | | 8,859.34 |
| Committee total | | | | | 90,394.31 | | 318,966.19 | | 971.84 | | 410,332.34 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

[4] Round trip airfare.

[5] Indicates delegation costs.

HENRY HYDE, Chairman, Oct. 25, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Brian Zimmer | 8/9 | 8/9 | Canada | | 270.00 | | | | | | 270.00 |
| Art Arthur | 8/9 | 8/9 | Canada | | 270.00 | | | | | | 270.00 |
| Hon. Howard Coble | 8/14 | 8/16 | Venezuela | | 516.00 | | (3) | | | | 516.00 |
| | 8/16 | 8/17 | Ecuador | | 238.00 | | | | | | 238.00 |
| | 8/17 | 8/19 | Bolivia | | 312.00 | | | | | | 312.00 |
| | 8/19 | 8/21 | Peru | | 739.00 | | | | | | 739.00 |
| Committee total | | | | | 2,345.00 | | | | | | 2,345.00 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

F. JAMES SENSENBRENNER, Jr., Chairman, Oct. 20, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RESOURCES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Dave Whaley | 7/17 | 7/25 | Italy | | 3,231.00 | | 5,609.58 | | | | 8,840.58 |
| Kurt Christensen | 9/15 | 9/17 | Canada | | 1,430.00 | | 1,959.46 | | | | 3,389.46 |
| Hon. Mark Udall | 9/24 | 9/27 | Jordan | | 714.00 | | (3) | | | | 714.00 |
| | 9/27 | 9/28 | France | | 176.00 | | (3) | | | | 176.00 |
| Committee total | | | | | 5,551.00 | | 7,569.04 | | | | 13,120.04 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

RICHARD POMBO, Chairman, Oct. 11, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RULES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |

HOUSE COMMITTEES

Please Note: If there were not expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAVID DREIER, Chairman, Oct. 19, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Robert Palmer | 7/31 | 8/7 | China | | 1,734.00 | | 7,056.50 | | | | 8,790.50 |
| John Mimikakis | 7/31 | 8/7 | China | | 1,734.00 | | 7,056.50 | | | | 8,790.50 |
| Chris Shank | 7/31 | 8/7 | China | | 1,734.00 | | 7,056.50 | | | | 8,790.50 |
| Dick Obermann | 7/31 | 8/7 | China | | 1,734.00 | | 7,056.50 | | | | 8,790.50 |
| Jim Wilson | 7/27 | 7/29 | United Kingdom | | 914.00 | | 1,911.80 | | | | 2,825.80 |
| Kara Haas | 7/27 | 7/29 | United Kingdom | | 914.00 | | 1,911.80 | | | | 2,825.80 |
| Hon. Jo Bonner | 7/15 | 7/19 | United Kingdom | | 555.00 | | (3) | | | | 555.00 |
| Committee total | | | | | 9,319.00 | | 32,049.60 | | | | 41,368.60 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

SHERWOOD BOEHLERT, Chairman, Oct. 5, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOEL HEFLEY, Chairman, Oct. 21, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Wayne Gilchrest | 8/8 | 8/10 | Jordan | | 476.00 | | (3) | | | | 476.00 |
| Hon. Mark Kennedy | 8/8 | 8/10 | Jordan | | 476.00 | | (3) | | | | 476.00 |
| Hon. Wayne Gilchrest | 8/10 | 8/12 | Israel | | 678.00 | | (3) | | | | 678.00 |
| Hon. Mark Kennedy | 8/10 | 8/12 | Israel | | 678.00 | | (3) | | | | 678.00 |
| Hon. Wayne Gilchrest | 8/12 | 8/13 | Lebanon | | | | (3) | | | | |
| Hon. Mark Kennedy | 8/12 | 8/13 | Lebanon | | | | (3) | | | | |
| Hon. Wayne Gilchrest | 8/13 | 8/14 | Syria | | 268.00 | | (3) | | | | 268.00 |
| Hon. Mark Kennedy | 8/13 | 8/14 | Syria | | 268.00 | | (3) | | | | 268.00 |
| Hon. Wayne Gilchrest | 8/14 | 8/15 | Spain | | 380.00 | | (3) | | | | 380.00 |
| Hon. Mark Kennedy | 8/14 | 8/15 | Spain | | 380.00 | | (3) | | | | 380.00 |
| Hon. John Duncan | 8/14 | 8/16 | Newfoundland | | | | (3) | | 228.57 | | 228.57 |
| Hon. Jerry Costello | 8/14 | 8/16 | Newfoundland | | | | (3) | | 228.57 | | 228.57 |
| Hon. E.B. Johnson | 8/14 | 8/16 | Newfoundland | | | | (3) | | 228.57 | | 228.57 |
| Hon. John Mica | 8/14 | 8/16 | Newfoundland | | | | (3) | | 228.57 | | 228.57 |
| Hon. Michael Capuano | 8/14 | 8/16 | Newfoundland | | | | (3) | | 228.57 | | 228.57 |
| Hon. Henry Brown | 8/14 | 8/16 | Newfoundland | | | | (3) | | 228.57 | | 228.57 |
| Charles Ziegler | 8/14 | 8/16 | Newfoundland | | | | (3) | | 228.57 | | 228.57 |
| Kathie Zern | 8/14 | 8/16 | Newfoundland | | | | (3) | | 228.57 | | 228.57 |
| Fraser Verrusio | 8/14 | 8/16 | Newfoundland | | | | (3) | | 228.57 | | 228.57 |
| Jimmy Miller | 8/14 | 8/16 | Newfoundland | | | | (3) | | 228.57 | | 228.57 |
| Jonathan Pawlow | 8/14 | 8/16 | Newfoundland | | | | (3) | | 228.57 | | 228.57 |
| John Cullather | 8/14 | 8/16 | Newfoundland | | | | (3) | | 228.57 | | 228.57 |
| Hon. John Duncan | 8/16 | 8/18 | Hungary | | 743.00 | | (3) | | | | 743.00 |
| Hon. Jerry Costello | 8/16 | 8/18 | Hungary | | 743.00 | | (3) | | | | 743.00 |
| Hon. E.B. Johnson | 8/16 | 8/18 | Hungary | | 743.00 | | (3) | | | | 743.00 |
| Hon. John Mica | 8/16 | 8/18 | Hungary | | 743.00 | | (3) | | | | 743.00 |
| Hon. Michael Capuano | 8/16 | 8/18 | Hungary | | 743.00 | | (3) | | | | 743.00 |
| Hon. Henry Brown | 8/16 | 8/18 | Hungary | | 743.00 | | (3) | | | | 743.00 |
| Charles Ziegler | 8/16 | 8/18 | Hungary | | 743.00 | | (3) | | | | 743.00 |
| Kathie Zern | 8/16 | 8/18 | Hungary | | 743.00 | | (3) | | | | 743.00 |
| Fraser Verrusio | 8/16 | 8/18 | Hungary | | 743.00 | | (3) | | | | 743.00 |
| Jimmy Miller | 8/16 | 8/18 | Hungary | | 743.00 | | (3) | | | | 743.00 |
| Jonathan Pawlow | 8/16 | 8/18 | Hungary | | 743.00 | | (3) | | | | 743.00 |
| John Cullather | 8/16 | 8/18 | Hungary | | 743.00 | | (3) | | | | 743.00 |
| Hon. John Duncan | 8/18 | 8/19 | Latvia | | 395.00 | | (3) | | | | 395.00 |
| Hon. Jerry Costello | 8/18 | 8/19 | Latvia | | 395.00 | | (3) | | | | 395.00 |
| Hon. E.B. Johnson | 8/18 | 8/19 | Latvia | | 395.00 | | (3) | | | | 395.00 |
| Hon. John Mica | 8/18 | 8/19 | Latvia | | 395.00 | | (3) | | | | 395.00 |
| Hon. Michael Capuano | 8/18 | 8/19 | Latvia | | 395.00 | | (3) | | | | 395.00 |
| Hon. Henry Brown | 8/18 | 8/19 | Latvia | | 395.00 | | (3) | | | | 395.00 |
| Charles Ziegler | 8/18 | 8/19 | Latvia | | 395.00 | | (3) | | | | 395.00 |
| Kathie Zern | 8/18 | 8/19 | Latvia | | 395.00 | | (3) | | | | 395.00 |
| Fraser Verrusio | 8/18 | 8/19 | Latvia | | 395.00 | | (3) | | | | 395.00 |
| Jimmy Miller | 8/18 | 8/19 | Latvia | | 395.00 | | (3) | | | | 395.00 |
| Jonathan Pawlow | 8/18 | 8/19 | Latvia | | 395.00 | | (3) | | | | 395.00 |
| John Cullather | 8/18 | 8/19 | Latvia | | 395.00 | | (3) | | | | 395.00 |
| Hon. John Duncan | 8/19 | 8/21 | Lithuania | | 470.00 | | (3) | | | | 470.00 |
| Hon. Jerry Costello | 8/19 | 8/21 | Lithuania | | 470.00 | | (3) | | | | 470.00 |
| Hon. E.B. Johnson | 8/19 | 8/21 | Lithuania | | 470.00 | | (3) | | | | 470.00 |
| Hon. John Mica | 8/19 | 8/21 | Lithuania | | 470.00 | | (3) | | | | 470.00 |
| Hon. Michael Capuano | 8/19 | 8/21 | Lithuania | | 470.00 | | 3,618.91 | | | | 4,088.91 |
| Hon. Henry Brown | 8/19 | 8/21 | Lithuania | | 470.00 | | (3) | | | | 470.00 |
| Charles Ziegler | 8/19 | 8/21 | Lithuania | | 470.00 | | (3) | | | | 470.00 |
| Kathie Zern | 8/19 | 8/21 | Lithuania | | 470.00 | | (3) | | | | 470.00 |
| Fraser Verrusio | 8/19 | 8/21 | Lithuania | | 470.00 | | (3) | | | | 470.00 |
| Jimmy Miller | 8/19 | 8/21 | Lithuania | | 470.00 | | (3) | | | | 470.00 |
| Jonathan Pawlow | 8/19 | 8/21 | Lithuania | | 470.00 | | (3) | | | | 470.00 |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| John Cullather | 8/19 | 8/21 | Lithuania | | 470.00 | | (3) | | | | 470.00 |
| Hon. John Duncan | 8/21 | 8/24 | Germany | | 1,227.00 | | (3) | | | | 1,227.00 |
| Hon. Jerry Costello | 8/21 | 8/24 | Germany | | 1,227.00 | | (3) | | | | 1,227.00 |
| Hon. E.B. Johnson | 8/21 | 8/24 | Germany | | 1,227.00 | | (3) | | | | 1,227.00 |
| Hon. John Mica | 8/21 | 8/24 | Germany | | 1,227.00 | | (3) | | | | 1,227.00 |
| Hon. Henry Brown | 8/21 | 8/24 | Germany | | 1,227.00 | | (3) | | | | 1,227.00 |
| Charles Ziegler | 8/21 | 8/24 | Germany | | 1,227.00 | | (3) | | | | 1,227.00 |
| Kathie Zern | 8/21 | 8/24 | Germany | | 1,227.00 | | (3) | | | | 1,227.00 |
| Fraser Verrusio | 8/21 | 8/24 | Germany | | 1,227.00 | | (3) | | | | 1,227.00 |
| Jimmy Miller | 8/21 | 8/24 | Germany | | 1,227.00 | | (3) | | | | 1,227.00 |
| Jonathan Pawlow | 8/21 | 8/24 | Germany | | 1,227.00 | | (3) | | | | 1,227.00 |
| John Cullather | 8/21 | 8/24 | Germany | | 1,227.00 | | (3) | | | | 1,227.00 |
| Hon. Michael Burgess | 9/18 | 9/21 | Moscow | | 1,100.00 | | 4,508.88 | | | | 5,608.88 |
| Committee total | | | | | 37,497.00 | | 8,127.79 | | 2,742.84 | | 48,367.63 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent, if U.S. currency is used, enter amount expended.
[3] Military air transportation.

DON YOUNG, Chairman, Oct. 27, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Phil English | 9/16 | 9/19 | Jordan | | 714.00 | | (3) | | | | 714.00 |
| | 9/19 | 9/20 | Germany | | 253.00 | | (3) | | | | 253.00 |
| Wally Herger | 9/16 | 9/19 | Jordan | | 714.00 | | (3) | | | | 714.00 |
| | 9/19 | 9/20 | Germany | | 253.00 | | (3) | | | | 253.00 |
| Committee total | | | | | 1,934.00 | | | | | | 1,934.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BILL THOMAS, Chairman, Oct. 19, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON PRINTING, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |

HOUSE COMMITTEES
Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BOB NEY, Chairman, Oct. 29, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON TAXATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |

HOUSE COMMITTEES
Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHUCK GRASSLEY, Oct. 13, 2004.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

10552. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on U.S. military personnel and U.S. individual civilians retained as contractors involved in supporting Plan Colombia, pursuant to Public Law 106-246, section 3204 (f) (114 Stat. 577); to the Committee on Armed Services.

10553. A letter from the Acting, Under Secretary, Acquisition, Technology and Logistics, Department of Defense, transmitting the Selected Acquisition Reports (SARs) for the quarter ending September 30, 2004, pursuant to 10 U.S.C. 2432; to the Committee on Armed Services.

10554. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's "Major" final rule—HUD's Housing for the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) for the Years 2005-2008 and Amendments to HUD's Regulation of Fannie Mae and Freddie Mac [Docket No. FR-4790-F-03] (RIN: 2501-AC92) received November 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

10555. A letter from the Regulations Coordinator, Centers for Medicare & Medicaid Services, Department of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program; Prospective Payment System for Inpatient Psychiatric Facilites [CMS-1213-F] (RIN: 0938-AL50) received November 3, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10556. A letter from the Legal Adv./Chief, Wireless Telecom. Bureau, Federal Communications Commission, transmitting the Commission's “Major” final rule—Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services [WT Docket No. 02–381] 2000 Biennial Regulatory Review Spectrum Aggregation Limits For Commercial Mobile Radio Services [WT Docket No. 01–14] Increasing Flexibility To Promote Access to and the Efficient and Intensive Use of Spectrum and the Widespread Deployment of Wireless Services, and To Facilitate Capital Formation [WT Docket No. 03-202] Received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10557. A communication from the President of the United States, transmitting notification that the national emergency declared with respect to the proliferation of weapons of mass destruction and their delivery systems declared by Executive Order 12938 on November 14, 1994, as amended, is to continue in effect beyond November 14, 2004, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 108–229); to the Committee on International Relations and ordered to be printed.

10558. A communication from the President of the United States, transmitting notification that the national emergency declared with respect to Sudan by Executive Order 13067, is to continue in effect beyond November 3, 2004, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 108–230); to the Committee on International Relations and ordered to be printed.

10559. A communication from the President of the United States, transmitting notification that the national emergency with respect to Iran, as declared by Executive Order 12170 on November 14, 1979, is to continue in effect beyond November 14, 2004, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 108–233); to the Committee on International Relations and ordered to be printed.

10560. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Russia, France, Spain, Kazakhstan, and Sweden (Transmittal No. DDTC 079–04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

10561. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

10562. A communication from the President of the United States, transmitting a report, consistent with the War Powers Resolution, Public Law 107–243, and Public Law 102–1, to help ensure that the Congress is kept informed on the status of United States efforts in the global war on terrorism; (H. Doc. No. 108–231); to the Committee on International Relations and ordered to be printed.

10563. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to the Cooperative Threat Reduction Act of 1993 and the FREEDOM Support Act, pursuant to Public Law 103–160; to the Committee on International Relations.

10564. A letter from the Assistant Sectretary of Legislative Affairs, Department of State, transmitting transmitting the 2004 Report on CFE Compliance pursuant to the resolution of advice and consent to ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe of November 19, 1990, (“the CFE Flank Document”); to the Committee on International Relations.

10565. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to the Arms Export Control Act on the export of goods or technology; to the Committee on International Relations.

10566. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–571, “Contract No. DCFJ–2004–B–0031 (Delivery of Electrical Power and Ancillary Services) Exemption Temporary Amendment Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10567. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–573, “Unclaimed Property Demutualization Proceeds Technical Correction Amendment Temporary Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10568. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–574, “Fiscal Year 2004 Year-End State Aid Re-Allocation Temporary Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10569. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–575, “Unemployment Compensation Funds Appropriation Authorization Temporary Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10570. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–576, “Housing and Community Development Reform Advisory Commission Extension Temporary Amendment Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10571. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–572, “Distracted Driving Safety Revised Temporary Amendment Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10572. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–577, “Anesthesiologist Assistant Licensure Amendment Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10573. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–578, “Property Management Reform Amendment Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10574. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–563, “Pedestrian Protection Right-of-Way at Crosswalks Amendment Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10575. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–564, “Miscellaneous Vehicles Helmet Safety Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10576. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–565, “District of Columbia Statehood Delegation Fund Commission Establishment and Tax Check-Off Amendment Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10577. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–566, “Prevention of Premature Release of Mentally Incompetent Defendants Amendment Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10578. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–567, “Retail Natural Gas Supplier Licensing and Consumer Protection Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10579. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–568, “Historic Preservation Process for Public Safety Facilities Amendment Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10580. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–569, “Public Assistance Confidentiality of Information Temporary Amendment Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10581. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15–570. “Low-Income Housing Tax Credit Fund Temporary Act of 2004,” pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

10582. A letter from the Senior Attorney, Regulations Division, Office of General Counsel, Department of Homeland Security, transmitting the Department's “Major” final rule—United States Visitor and Immigrant Status Indicator Technology Program (“US–VISIT”); Authority to Collect Biometric Data From Additional Travelers and Expansion to the 50 Most Highly Trafficked Land Border Ports of Entry [DHS–2007–0002] (RIN: 1650–AA00) received October 12, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10583. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the designation as “foreign terrorist organization ” pursuant to Section 219 of the Immigration and Nationality Act, pursuant to 8 U.S.C. 1189; to the Committee on the Judiciary.

10584. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the designation as “foreign terrorist organization ” pursuant to Section 219 of the Immigration and Nationality Act, pursuant to 8 U.S.C. 1189; to the Committee on the Judiciary.

10585. A letter from the Chief, Regulations and Administrative Law, USCG, Deparment of Homeland Security, transmitting the Department's final rule—Safety Zone; Sailing Vessels HMS BOUNTY, WINDY II, DENIS SULLIVAN, U.S. BRIG NIAGARA, and the HIGHLANDER SEA, Kenosha, Wisconsin [CGD09–04–113] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10586. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; U.S. Navy Underwater Detonation Operation Outer Apra Harbor, Guam [COTP Guam 04–

006] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10587. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone for Vessels Carrying U.S. Department of Energy Cargoes; Charleston COTP Zone [COTP Charleston 04-111] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10588. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Tow of M/V Astro Antares, Tampa Bay, Tampa, Florida [COTP Tampa 04-110] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10589. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Kenosha Fireworks, Lake Michigan, Milwaukee, WI [CGD09-04-077] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10590. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; U.S. Navy Underwater Detonation Operation North of Glass Breakwater, Guam. [COTP Guam 04–007] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10591. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Harrisville Fireworks, Lake Huron, Oscoda, MI [CGD09–04–078] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10592. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Unexploded ordnance, South of Orote Peninsula, Guam. [COTP Guam 04–008] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10593. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Catawaba Island Club Fireworks, Lake Erie, Port Clinton, OH [CGD09–04–080] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10594. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Banana River, Patrick AFB, FL [COTP Jacksonville 04–051] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10595. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; US Bank Fireworks, Lake Michigan, Milwaukee, WI [CGD09–04–081] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10596. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Manitowoc 4th of July Fireworks, Manitowoc River, Manitowoc, WI [CGD09–04–082] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10597. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lake Eustis, Eustis, FL [COTP Jacksonville 04–052] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10598. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; St. Johns River, Orange Park Jacksonville, FL. [COTP Jacksonville 04–053] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10599. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Seneca River Days Fireworks Display, Seneca River, Baldwinsville, NY [CGD 09-04-083] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10600. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Power Boat Races on Buffalo Outer Harbor, Lake Erie, Buffalo, NY [CGD09-04-084] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10601. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; City of Huron Fireworks, Huron Harbor, Lake Erie [CGD09–04–085] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10602. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone—Luna Pier, MI, Lake Erie [CGD09-04-377] (RIN: 2115-AA97) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10603. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Atlantic Ocean, Daytona Beach, FL. [COTP Jacksonville 04–054] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10604. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone Regulation; City of Coos Bay Fireworks Display, Isthmus Slough, Coos Bay, Oregon [CGD13–04–030] (RIN: 2115–AA97) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10605. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Indian River, 4th of July Celebration, Cocoa, FL. [COTP Jacksonville 04–055] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10606. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone Regulations: Atlantic Ocean, Cocoa Beach, FL. [COTP Jacksonville 04–056] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10607. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Sanford Marina, Lake Monroe Harbor, Sanford, FL. [COTP Jacksonville 04–057] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10608. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zones: Fireworks displays in the Captain of the Port Portland Zone [CGD13–04–032] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10609. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Indian River, Titusville, FL [COTP Jacksonville 04–058] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10610. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone Regulations, Budd Inlet, West Bay, Olympia, Washington and SS CAPE ORLANDO [CGD13–04–035] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10611. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone Regulations; Medina, Lake Washington, WA [CGD 13-04-036] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10612. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Intracoastal Waterway, Melbourne, FL. [COTP Jacksonville 04–062] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10613. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone Regulations; Columbia and Willamette Rivers, Portland, OR [CGD 13-04-037] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10614. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Amelia River, Fernandina Beach, FL. [COTP Jacksonville 04-064] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10615. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone Regulations; Columbia River, OR, in the vicinity of Hood River, OR [CGD 13-04-038] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10616. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; St Johns River, Palatka, FL. [COTP Jacksonville 04-067] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10617. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Fireworks Displays, Potomac River, Arlington County, VA and Charles County, MD [CGD05-04-130] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10618. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Halifax River, Ormond Beach, FL. [COTP Jacksonville 04-068] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10619. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: York River, Yorktown, VA [CGD05-04-132] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10620. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Delaware Bay [CGD05-04-140] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10621. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lake Dora, Mount Dora, FL. [COTP Jacksonville 04-069] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10622. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; West Lake Tohopekaliga, Kissimmee Lakefront Park, Kissimmee, FL. [COTP Jacksonville 04-070] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10623. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulations for Marine Events; Atlantic Ocean, Alantic City, NJ [CGD05-04-141] (RIN: 1625-AA08) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10624. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulation for Marine Events; Choptank River, Cambridge, MD [CGD05-04-147] (RIN: 1625-AA08) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10625. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; St. Johns River, Orange Park, FL. [COTP Jacksonville 04-078] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10626. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; All waters within the Captain of the Port (COTP) Wilmington, North Carolina Area of Responsibility (AOR) as defined by 33 CFR 3.25-20 [CGD 05-04-151] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10627. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Atlantic Ocean, Jacksonville Beach, FL [COTP Jacksonville 04-079] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10628. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulations for Marine Events; Martins Creek, Tullytown, PA [CGD05-04-154] (RIN: 1625-AA08) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10629. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Matanzas River, St. Augustine, FL. [COTP Jacksonville 04-086] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10630. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Delaware River [CGD05-04-159] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10631. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; St. Mary's River, St. Mary's, GA. [COTP Jacksonville 04-088] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10632. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Atlantic Ocean, Virginia Beach, VA [CGD05-04-185] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10633. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Chesapeake Bay, Hampton Roads, James River, VA [CGD05-04-186] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10634. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Regulation: Port Canaveral, FL. [COTP Jacksonville 04-102] (RIN: 1625-AA97) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10635. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone Regulation: Port Canaveral, FL. [COTP Jacksonville 04-122] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10636. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone Regulation: Ports of Jacksonville and Fernandina, FL. [COTP Jacksonville 04-123] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10637. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Ohio River, Mile 537.0 to Mile 545.0, Carrollton, KY [COTP Louisville-04-006] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10638. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; City of West Palm Beach 4th of July Fireworks Display, West Palm Beach, FL. [COTP Miami 04-071] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10639. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Lantana 4th of July Fireworks, Lantana, FL. [COTP Miami 04-072] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10640. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Delaware River [CGD05-04-188] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10641. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulations; Dania Beach/Hollywood Super Boat Race, Dania Beach/Hollywood, FL [CGD07-04-043] (RIN: 1625-AA08) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10642. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Boynton Beach 4th of July Celebration Fireworks, Intracoastal Waterway, Boynton Beach, FL. [COTP Miami 04-073] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10643. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Regulated Navigation Area; Ohio River Mile Marker 531.5 to Mile Marker 720.7 [CGD08-04-029] (RIN: 1625-AA11) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10644. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lauderdale Yacht Club 4th of July Fireworks Display, Ft. Lauderdale, FL [COTP Miami 04-074] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10645. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Belle Maer Harbor Fireworks, Lake St. Clair, Harrison Township, MI [CGD09-04-070] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10646. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; City of Stuart 4th of July Fireworks Display, Stuart, FL [COTP Miami 04-075] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10647. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Grosse Isle Yacht Club Fireworks, Detroit River, Grosse Isle, MI [CGD09-04-071] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10648. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Bayside Park 4th of July Fireworks, Miami, FL [COTP Maimi 04-076] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10649. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Grosse Pointe Yacht Club Fireworks, Lake St. Clair, Grosse Pointe Shores, MI [CGD09-04-072] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10650. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Rivera Beach 4th of July Fireworks Display, Rivera Beach, FL [COTP Miami 04-077] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10651. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; St. Clair Fireworks, St. Clair River, St. Clair, MI [CGD09-04-073] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10652. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Florida's Salute to Heroes at Bayside Park Fireworks, Miami, FL [COTP Miami 04-081] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10653. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lexington Independence Festival Fireworks, Lake Huron [CGD09-04-074] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10654. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone: Florida's Salute to Heroes, Bay Front Park, Miami, FL [COTP Miami 04-085] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10655. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulations; CSI Miami Movie Filming, Miami, FL [COTP Miami-04-098] (RIN: 1625-AA08) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10656. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Grosse Pointe Farms Fireworks, Lake St. Clair, Grosse Pointe Farms, MI [CGD09-04-075] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10657. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Ecorse Water Festival Fireworks, Ecorse Channel, Ecorse, MI [CGD09-04-076] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10658. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Bayou Chico, Pensacola, FL [COTP Mobile-04-021] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10659. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Regulated Navigation Area, Anchorage Grounds, Safety and Security Zones; Tall Ships Environmental Festival, New London, Port of New London, CT [CGD01-04-006] (RIN: 1625-AA00, AA87, AA08) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10660. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Bayou Chico, Pensacola, FL [COTP Mobile-04-022] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10661. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; St. Andrew Bay, Panama City, FL [COTP Mobile-04-028] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10662. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; UBS Trophy America's Cup Class Regatta, Rhode Island Sound and Narragansett Bay, Rhode Island [CGD01-04-038] (RIN: 1625-AA00, AA01, AA08) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10663. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Powell Lake, Inlet Beach, FL [COTP Mobile-04-029] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10664. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Beverly Homecoming Fireworks—Beverly, Massachusetts [CGD01-04-044] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10665. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: City of Lynn Fourth of July Celebration—Lynn, Massachusetts [CGD01-04-045] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10666. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; St. Andrews Bay, Panama City, FL [COTP Mobile-04-030] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10667. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Fourth of July Celebration—Beverly, Massachusetts [CGD01-04-061] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10668. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Watson Bayou, Panama City, FL [COTP Mobile-04-031] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10669. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Celebrate the 4th—Salem, Massachusetts [CGD01–04–062] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10670. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Boston 4th of July Fireworks—Charles River, Boston, Massachusetts [CGD01–04–085] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10671. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: 4th of July Parade Committee Fireworks—Singing Beach, Manchester, Massachusetts [CGD01–04–086] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10672. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zones; Department of Homeland Security (DHS) Secretary Ridge Visit, Boston, Massachusetts [CGD01–04–094] (RIN: 1625–AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10673. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety and Security Zones: Boston Pops Concert and Fireworks—Boston, Massachusetts [CGD01–04–097] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10674. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; St. Andrew Bay, East Bay, Panama City, FL [COTP Mobile–04–032] (RIN: 1625–AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10675. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Bayou Portage, Mile Marker 2, St. Louis Bay, MS [COTP New Orleans–04–008] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10676. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Southwest Pass, Mile Markers 0 to 26 Below Head of Passes [COTP New Orleans–04–009] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10677. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Inner Harbor Navigational Canal, New Orleans, LA [COTP New Orleans–04–010] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10678. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zones; Democratic National Convention Events, Boston, MA [CGD01–04–101] (RIN: 1625–AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10679. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Inner Harbor Navigational Canal, New Orleans, LA [COTP New Orleans–04–011] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10680. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zones; Kennebukport, ME, Presidential Visit [CGD01–04–110] (RIN: 1625–AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10681. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Southwest Pass, Mile 9 to Mile 11, Below Head of Passes, LA [COTP New Orleans–04–012] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10682. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone: Marine Safety Office Boston Change of Command, Boston, Massachusetts [CGD01–04–112] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10683. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Portland, ME, Captain of the Port Zone, Presidential Visit [CGD01–04–120] (RIN: 1625–AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10684. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lower Mississippi River, Mile Marker 94.0 to 96.0, Above Head of Passes, New Orleans, LA [COTP New Orleans–04–013] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10685. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Potomac and Anacostia River, Washington, D.C. and Arlington and Fairfax Counties, Virginia [CGD05–04–108] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10686. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone Chickahominy River, Williamsburg, VA [CGD05–04–124] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10687. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Mississippi River Gulf Outlet (MRGO), Mile Marker 25 to Mile Marker 40, Hopedale, LA [COTP New Orleans–04–014] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10688. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Linkhorn Bay, Virginia Beach, VA [CGD05–04–125] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10689. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lower Mississippi River, Mile Marker 19.0 to 21.0, Above Head of Passes, Port Sulphur, LA [COTP New Orleans–04–016] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10690. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Atlantic Ocean, Ocean City, MD [CGD05–04–126] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10691. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Newport News, VA [CGD05–04–127] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10692. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Morgan City—Port Allen Alternate Route (Intracoastal Waterway), Miles 30.0 to 45.0, Bayou Sorrel, LA [COTP New Orleans–04–017] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10693. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Atlantic Ocean, Virginia Beach, VA [CGD05–04–128] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10694. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lower Mississippi River, Miles 435.8 to 433.8, Vicksburg, MS [COTP New Orleans–04–018] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10695. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lower Mississippi River Mile 136.0 to Mile 138.0, Laplace, LA [COTP New Orleans–04–019] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10696. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Lake Pontchartrain, Kenner, LA [COTP New Orleans–04–020] (RIN: 1625–AA00) received October

28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10697. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lake Pontchartrain, Metairie, LA [COTP New Orleans–04–021] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10698. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Gary Air and Water Show, Lake Michigan, Gary, IN [CGD09–04–014] received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10699. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Southwest Pass Anchorage, Position 28–53.02N 089–20.4W [COTP New Orleans–04–022] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10700. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Muskegon Air Fair, Mona Lake, Muskegon, MI [CGD09–04–049] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10701. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lower Mississippi River, Miles 91.5 to 88.1, Chalmette, LA [COTP New Orleans–04–023] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10702. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Western Fleet, Miles 225 Lower Mississippi River (LMR), Right Descending Bank (RDB), Baton Rouge, LA [COTP New Orleans–04–024] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10703. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lower Mississippi River, Mile 94.0 to 95.0, Algiers Point, New Orleans, LA [COTP New Orleans–04–025] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10704. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lake Erie, Brownstown, MI [CGD09–04–050] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10705. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lake Ontario, Olcott Harbor, Olcott, NY [CGD09–04–051] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10706. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Port Bay, Lake Ontario, Wolcott, NY [CGD09–04–052] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10707. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Village of Sodus Bay, Sodus Bay, NY [CGD09–04–053] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10708. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lake Huron, Harrisville, MI [CGD09–04–054] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10709. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lower Mississippi River (LMR), Left Descending Bank (LBD), Miles 209 to 209.8, Plaquemine, LA [COTP New Orleans–04–026] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10710. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Mississippi River Gulf Outlet (MRGO), Mile Marker −8 to Mile Marker 59, New Orleans, LA [COTP New Orleans–04–031] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10711. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Fireworks, Tonowanda/North Tonowanda, NY [CGD09–04–055] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10712. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Allegheny River Mile Marker 12.1 to Mile Marker 12.3, Oakmont, PA. [COTP Pittsburgh–04–015] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10713. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Allegheny River Mile Marker 0.0 to Mile Marker 0.5, Pittsburgh, PA [COTP Pittsburgh–04–020] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10714. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lake Ontario, Oswego Independence Day Fireworks, Oswego, NY [CGD09–04–056] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10715. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Perrysburg Fireworks, Maumee River, Perrysburg, OH [CGD09–04–057] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10716. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Monongahela River Mile Marker 23.2 to Mile Marker 23.6, Elizabeth, PA [COTP Pittsburgh–04–021] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10717. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Monongahela River, Mile Marker 0.0 to Mile Marker 1.0; Allegheny River, Mile Marker 0.5 to Mile Marker 1.5, Pittsburgh, PA [COTP Pittsburgh–04–022] (RIN: 1625–AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10718. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; City of Huron Fireworks, Huron Harbor, Lake Erie [CGD09–04–058] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10719. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Wyandotte Fireworks, Detroit River, Wyandotte, MI [CGD09–04–059] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10720. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Allegheny River Mile Marker 1.0 to Mile Marker 1.6, Pittsburgh, PA [COTP Pittsburgh–04–023] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10721. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Caseville Fireworks, Saginaw River, Caseville, MI [CGD09–04–060] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10722. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Trenton Fireworks, Trenton Channel, Trenton, MI [CGD09–04–061] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10723. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; entrance of Orange Cut Off Intracoastal Waterway, Mile 259.8 South to Intracoastal with Black

Bayou, Hackberry, LA [COTP Port Arthur-04-006] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10724. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Port Sanilac Fireworks, Lake Huron, Port Sanilac, MI [CGD09-04-062] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10725. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Neches River, Port Neches, TX [COTP Port Arthur-04-007] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10726. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Port Austin Fireworks, Lake Huron, Port Austin, MI [CGD09-04-065] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10727. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Neches River, Beaumont, TX [COTP Port Arthur-04-010] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10728. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Tawas City Pier Fireworks, Lake Huron, Tawas City, MI [CGD09-04-066] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10729. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Sabine-Neches Canal, Port Arthur, TX [COTP Port Arthur-04-012] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10730. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Taste of Chicago Fireworks, Lake Michigan, Chicago, IL [CGD09-04-067] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10731. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Sabine River, Orange, TX [COTP Port Arthur-04-013] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10732. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; City of Toledo Fireworks, Maumee River, Toledo, OH [CGD09-04-068] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10733. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Colorado River, Laughlin, Nevada [COTP San Diego 04-016] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10734. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Algonac Pickerel Tournament Fireworks, St. Clair River, Algonac, MI [CGD09-04-069] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10735. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Laughlin, Nevada [COTP San Diego 04-017] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10736. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; North San Diego Bay, CA [COTP San Diego 04-018] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10737. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Senator John Kerry Rally, Milwakee River, Milwaukee, Wisconsin [CGD09-04-114] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10738. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; San Diego Bay, San Diego, CA [COTP San Diego 04-020] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10739. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; TCF Air and Water Show Milwaukee, Wisconsin [CGD09-04-115] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10740. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Crazy Horse Campground, Lake Havasu, Arizona. [COTP San Diego 04-022] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10741. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; TCF Air and Water Show Milwaukee, Wisconsin [CGD09-04-116] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10742. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; North San Diego Bay, CA [COTP San Diego 04-023] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10743. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Civic Center, Saginaw River, Saginaw, MI [CGD09-04-117] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10744. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lake Michigan, Muskegon, MI [CGD09-04-118] received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10745. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Laughlin, Nevada [COTP San Diego 04-024] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10746. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lake Erie, Bay Village, Ohio [CGD09-04-119] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10747. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zones; Fireworks Displays in the Captain of the Port, San Francisco Bay Zone [COTP San Francisco 04-014] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10748. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Seneca River, Baldwinsville N.Y. [CGD 09-04-120] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10749. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Grand Haven Silver Cup, Lake Michigan, Grand Haven, MI [CGD09-04-121] received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10750. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Fairport Harbor, Grand River, Ohio [CGD09-04-122] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10751. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Cleveland Harbor, Cleveland, Ohio [CGD09-04-124] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10752. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Blue Water International Hydrofest, St. Clair River, St. Clair, MI [CGD09–04–126] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10753. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lakeview Park, Lorain, Ohio [CGD09-04-128] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10754. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; First Lady's campaign visit, Duluth Harbor, Lake Superior, Duluth, MN [CGD09–04–132] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10755. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lake Michigan, Chicago, IL [CGD09-04-133] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10756. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Antique Boat Show, Buffalo, NY [CGD09-04-134] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10757. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Sacramento River, Sacramento, CA [COTP San Francisco Bay 04-019] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10758. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Chicago River, South Branch, Chicago, Illinois [CGD09-04-135] received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10759. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Cleveland Harbor, Cleveland, Ohio [CGD09–04–136] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10760. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; San Francisco Bay, CA [COTP San Francisco 04–021] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10761. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Milwaukee River Challenge, Milwaukee River, Milwaukee, WI [CGD09-04-137] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10762. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Swimming Across San Juan Harbor, San Juan, Puerto Rico [COTP San Juan-04-081] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10763. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Celebrate Baldwinsville N.Y. [CGD 09–04–139] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10764. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Savannah River, Savannah, GA [COTP Savannah–04-089] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10765. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; President Bush, Racine WI Rally [CGD09–04–141] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10766. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Peril Strait, Cozian Reef, Motor vessel LeConte, Southeast Alaska. [COTP Southeast Alaska 04-001] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10767. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Tugboat Chahunta and Motor vessel LeConte, Southeast Alaska [COTP Southeast Alaska 04–002] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10768. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 403.5 to Mile 404.5, Burlington, IA [COTP St. Louis–04–001] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10769. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Upper Mississippi River Mile Marker 578.5 to Mile Marker 583.0, Dubuque, IA [COTP St. Louis–04-002] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10770. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Grand Glaize Arm Mile 3.0, Lake of the Ozarks, MO [COTP St Louis–04-003] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10771. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Fireworks display, Kewaunee Harbor, Lake Michigan [CGD09-04-086] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10772. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Presidential campaign visit, Duluth Harbor, Lake Superior, Duluth, MN [CGD09-04-087] (RIN: 1625–AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10773. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Thunder on Wheathouse Bay Hy droplane Races, St. Lawrence River, Ogdensburg, NY [CGD09-04-088] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10774. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Fair St. Louis 2004, Upper Mississippi River Mile 179.2 to Mile 180.0, St. Louis, MO [COTP St. Louis–04–004] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10775. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; U.S. Grand National Watercross Tour Race, Lake Huron, MI [CGD09–04–089] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10776. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; APBA Gold Cup Race, Detroit River, Belle Isle, MI [CGD09–04–090] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10777. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Harbor Beach Fireworks, Lake Huron, MI [CGD09–04–091] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10778. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Port Washington Fish Day Fireworks, Port Washington, WI [CGD09–04–092] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10779. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Presque Isle Harbor, Lake Superior, Marquette, Michigan [CGD09–04–093] (RIN: 1625–

AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10780. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Harbor Beach Fireworks, Lake Huron, MI [CGD09–04-094] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10781. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Renaissance Center, Cobo Hall, Detroit River, Detroit, MI [CGD09–04–098] (RIN: 1625–AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10782. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Oswego Harbor Fest Air Show, Oswego, NY [CGD09-04-099] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10783. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Renaissance Center, Cobo Hall, Detroit River, Detroit, MI [CGD09-04-100] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10784. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 482, Davenport, IA [COTP St Louis–04–005] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10785. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Regatta Trenton Race, Detroit River, Trenton, MI [CGD09–04-101] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10786. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 485.8, Moline, IL [COTP St Louis-04-006] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10787. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Tug Salvor and Barge KTC115 Marine Casualty, Alexandria Bay, New York [CGD09–04–102] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10788. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; St. Clair River Classic, St. Clair River, St. Clair, MI [CGD09–04–103] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10789. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 482.5, Davenport, IA [COTP St Louis–04–007] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10790. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Cleveland Harbor, Cleveland, Ohio [CGD09-04-106] (RIN: 1625–AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10791. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 481.3 to Mile 483.0, Davenport, IA [COTP St Louis–04–008] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10792. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Offshore Power Boat Races Milwaukee Harbor, Milwaukee, Wisconsin [CGD09–04–110] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10793. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Port Washington Fish Day, Port Washington, WI [CGD09–04–111] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10794. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Missouri River, Mile 366.0 to Mile 370.0, Kansas City, MO [COTP St Louis–04–009] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10795. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; High Speed Ferry Vessel LAKE EXPRESS, from Muskegon, Michigan to Milwaukee, Wisconsin [CGD09-04-112] (RIN: 1625-AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10796. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Upper Mississippi River, Mile 335.5 to Mile 336.5, LaGrange, MO [COTP St. Louis-04-010] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10797. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River, Mile 308.4 to Mile 308.9, Hannibal, MO [COTP St. Louis-04-011] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10798. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Missouri River Mile 364.7 to Mile 365.5, Kansas City, MO [COTP St. Louis-04-012] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10799. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Missouri River Mile 422.2 to Mile 422.8, Atchison, KS [COTP St. Louis-04-013] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10800. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Missouri River Mile 366.1 to Mile 367.5, Kansas City, KS [COTP St. Louis-04-014] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10801. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 179.2 to Mile 180.0, St. Louis, MO [COTP St. Louis-04-015] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10802. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 835.7 to Mile 841.2, St. Paul, MN [COTP St. Louis -04-016] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10803. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 556.7–557, Bellevue, IA [COTP St. Louis-04–017] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10804. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 518.4–519, Clinton, IA [COTP St. Louis-04-018] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10805. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 581–583, Dubuque, IA [COTP St. Louis-04-019] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10806. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 489.7–490.1, East Moline, IL [COTP St. Louis-04-020] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10807. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 383–384, FT. Madison, IA [COTP St. Louis-04-021] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10808. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Illinois River Mile 157.6 to 166.6, Peoria, IL [COTP St Louis-04-022] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10809. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Illinois River Mile 179.0 to 181.0, Chillicothe, IL [COTP St Louis-04-023] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10810. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Missouri River Mile 615.2 to Mile 616.8, Omaha, NE [COTP St. Louis-04-025] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10811. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Missouri River Mile 422.0 to Mile 423.0, Atchison, KS [COTP St. Louis-04-026] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10812. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 497.2–498.2, LeClaire, IA [COTP St. Louis-04-027] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10813. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Kaskaskia River, Mile 10.0 to Mile 11.0, Evansville, IL [COTP St. Louis-04-028] (RIN: AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10814. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 215.6 to Mile 216.0, Chautauqua, IL [COTP St. Louis-04-029] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10815. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Upper Mississippi River Mile 477.5 to Mile 483.0, Davenport, IA [COTP St. Louis-04-030] (RIN: 1625–AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10816. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Osage River Arm, Mile 20.0 to Mile 22.0, Lake of the Ozarks, MO [COTP St. Louis-04-034] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10817. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Missouri River Mile 373.5 to Mile 374.1, Riverside, MO [COTP St. Louis-04-037] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10818. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Missouri River Mile 364.7 to Mile 365.3, Kansas City, MO. [COTP St. Louis-04-038] (RIN: 1625-AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10819. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Mississippi River Mile 634.2 to Mile 634.8, Marquette, IA [COTP St. Louis-04-039] (RIN: 1625–AA00) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10820. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Upper Mississippi River Mile 838.8 to Mile 839.0, St. Paul, MN. [COTP St. Louis-04-040] (RIN: 1625–AA87) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10821. A letter from the Chief, Office of Regulations and Admin. Law, USCG, Department of Homeland Security, transmitting the Department's "Major" final rule—Mandatoy Ballast Water Management Program for U.S. Waters [USCG-2003-14273] (RIN: 1625–AA52) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10822. A letter from the National Adjutant, Disabled American Veterans, transmitting 2004 National Convention Proceedings Of The Disabled American Veterans, pursuant to 36 U.S.C. 901 and 44 U.S.C. 1332; (H. Doc. No. 108—232); to the Committee on Veterans' Affairs and ordered to be printed.

10823. A letter from the Regulations Coordinator, Centers for Medicare & Medicaid Services, Department of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program: Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005 [CMS–1429–FC] (RIN: 0938–AM90) received November 3, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

10824. A letter from the Regulations Coordinator, Centers for Medicare & Medicaid Services, Department of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program: Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2005 Payment Rates [CMS–1427–FC] (RIN: 0938–AM75) received November 4, 2004, pursuant to 5 U.S:C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

10825. A letter from the Regulations Coordinator, Medicare & Medicaid Services, Department of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program; Coverage and Payment of Ambulance Services; Recalibration of Conversion Factor; Inflation Update for CY 2005 [CMS–1267–N] (RIN: 0938–AN20) received November 3, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

10826. A letter from the Regulations Coordinator, Centers for Medicare & Medicaid Services, Department of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program; Home Health Prospective Payment System Rate Update for Calendar Year 2005 [CMS-1265-F] (RIN: 0938-AM93) received October 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

*[Omitted from the Record of October 9, 2004]*

Mr. KNOLLENBERG: Committee of Conference. Conference report on H.R. 4837. A bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108-773). Ordered to be printed.

*[Filed on November 16, 2004]*

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3143. A bill to enhance Federal Trade Commission enforcement against cross-border fraud and deception; with an amendment (Rept. 108–635 Pt. 2). Ordered to be printed.

Mr. SENSENBRENNER: Committee on the Judiciary. Supplemental report on H.R. 10. A bill to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes (Rept. 108-724 Pt. 6). Ordered to be printed.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 4251. A bill to amend various laws relating to maritime transportation, and for other purposes, with an amendment (Rept. 108-775). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. WICKER:

H.R. 5360. A bill to authorize grants to establish academies for teachers and students of American history and civics, and for other purposes; to the Committee on Education and the Workforce.

By Mr. RAHALL (for himself and Mr. POMBO):

H.R. 5361. A bill to require the Secretary of the Interior to provide public access to Navassa National Wildlife Refuge and Desecheo National Wildlife Refuge; to the Committee on Resources.

By Mr. MCCRERY:

H.R. 5362. A bill to ensure that a former Federal building in Shreveport, Louisiana, is no longer known as the "Joe Waggoner Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. SENSENBRENNER (for himself and Mr. CONYERS):

H.R. 5363. A bill to authorize salary adjustments for Justices and judges of the United States for fiscal year 2005; to the Committee on the Judiciary.

By Mr. FILNER (for himself, Mr. BACA, Mr. BECERRA, Mr. BERMAN, Mrs. BONO, Mr. CALVERT, Mrs. CAPPS, Mr. CARDOZA, Mr. COX, Mr. CUNNINGHAM, Mr. DOOLEY of California, Mrs. DAVIS of California, Mr. DOOLITTLE, Mr. DREIER, Ms. ESHOO, Mr. FARR, Mr. GALLEGLY, Ms. HARMAN, Mr. HERGER, Mr. HONDA, Mr. ISSA, Mr. LANTOS, Ms. LEE, Mr. LEWIS of California, Ms. LOFGREN, Mr. MATSUI, Mr. MCKEON, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mrs. NAPOLITANO, Mr. NUNES, Mr. OSE, Ms. PELOSI, Mr. POMBO, Mr. RADANOVICH, Mr. ROHRABACHER, Ms. ROYBAL-ALLARD, Mr. ROYCE, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. SCHIFF, Mr. SHERMAN, Ms. SOLIS, Mr. STARK, Mrs. TAUSCHER, Mr. THOMAS, Mr. THOMPSON of California, Mr. WAXMAN, Ms. WATERS, Ms. WATSON, and Ms. WOOLSEY):

H.R. 5364. A bill to designate the facility of the United States Postal Service located at 5505 Stevens Way in San Diego, California, as the "Earl B. Gilliam/Imperial Avenue Post Office Building"; to the Committee on Government Reform.

By Mr. ENGLISH (for himself and Mr. POMEROY):

H.R. 5365. A bill to treat certain arrangements maintained by the YMCA Retirement Fund as church plans for the purposes of certain provisions of the Internal Revenue Code of 1986, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOLEY:

H.R. 5366. A bill to amend the Internal Revenue Code of 1986 to provide employers a double deduction of certain employee training expenses; to the Committee on Ways and Means.

By Mr. ISRAEL:

H.R. 5367. A bill to amend the Harmonized Tariff Schedule of the United States with respect to rattan webbing; to the Committee on Ways and Means.

By Mr. PORTMAN:

H.R. 5368. A bill to suspend temporarily the duty on ACRYPET UT100; to the Committee on Ways and Means.

By Mr. SHERWOOD:

H.R. 5369. A bill to authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area; to the Committee on Resources.

By Mr. UDALL of Colorado (for himself, Mr. HEFLEY, Mr. MCINNIS, Ms. DEGETTE, Mr. TANCREDO, Mrs. MUSGRAVE, and Mr. BEAUPREZ):

H.R. 5370. A bill to designate the facility of the United States Postal Service located at 4985 Moorhead Avenue in Boulder, Colorado, as the "Donald G. Brotzman Post Office Building"; to the Committee on Government Reform.

By Mr. UDALL of New Mexico (for himself, Mr. WILSON of South Carolina, Mr. CROWLEY, Mr. MCNULTY, Mr. LANTOS, Mr. PALLONE, Mr. PAYNE, Mr. BROWN of South Carolina, Ms. MCCARTHY of Missouri, Mr. FRANK of Massachusetts, Ms. ROS-LEHTINEN, Mr. ACKERMAN, Ms. LORETTA SANCHEZ of California, Mr. DAVIS of Illinois, Mr. LARSEN of Washington, Ms. LINDA T. SÁNCHEZ of California, Mr. FALEOMAVAEGA, Mr. WEINER, Mr. MCCOTTER, Mrs. WILSON of New Mexico, Mr. ENGEL, Mr. PEARCE, Mr. BURTON of Indiana, Mr. ROTHMAN, and Mr. HYDE):

H. Con. Res. 521. Concurrent resolution honoring the life and contributions of Yogi Bhajan, a leader of Sikhs, and expressing condolences to the Sikh community on his passing; to the Committee on International Relations.

By Mr. ISSA:

H. Res. 853. A resolution recognizing the Boy Scouts of America for the public service the organization performs for neighborhoods and communities across the United States; to the Committee on the Judiciary.

By Mr. CAPUANO (for himself, Mr. MARKEY, Mr. FRANK of Massachusetts, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. MEEHAN, Mr. TIERNEY, Mr. MCGOVERN, Mr. DELAHUNT, Mr. LYNCH, Mr. BASS, Mr. BRADLEY of New Hampshire, Mr. MICHAUD, Mr. ALLEN, Mr. LANGEVIN, Mr. LARSON of Connecticut, Mrs. JOHNSON of Connecticut, Mr. SHAYS, and Mr. SIMMONS):

H. Res. 854. A resolution congratulating the Boston Red Sox on winning the 2004 World Series; to the Committee on Government Reform.

By Mr. HOUGHTON:

H. Res. 855. A resolution commending the "Trust in the Lives of Older Women" program and encouraging community organizations to participate in the program; to the Committee on Education and the Workforce.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. DAVIS of Illinois:

H.R. 5371. A bill for the relief of David Adekoya; to the Committee on the Judiciary.

By Mr. PENCE:

H.R. 5372. A bill for the relief of Fatuka Kaikumba Flake; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 219: Mr. CHABOT.

H.R. 220: Mr. MILLER of Florida.

H.R. 348: Mr. SHAW.

H.R. 463: Mr. WOLF.

H.R. 671: Mr. FILNER.

H.R. 742: Mr. SULLIVAN.

H.R. 756: Mr. RAMSTAD.

H.R. 1034: Mr. MORAN of Virginia.

H.R. 1117: Mr. PAYNE.

H.R. 1197: Mr. FRANK of Massachusetts.

H.R. 1231: Mr. WATT.

H.R. 1236: Mr. BISHOP of Utah and Mr. KING of Iowa.

H.R. 1258: Mr. DICKS and Mr. BUTTERFIELD.

H.R. 1322: Mr. STRICKLAND.

H.R. 1430: Mr. MEEHAN and Ms. PELOSI.

H.R. 1508: Mr. UDALL of New Mexico.

H.R. 1563: Ms. LINDA T. SÁNCHEZ of California, Mr. TANCREDO, Mr. DEFAZIO, Mr. NEAL of Massachusetts, Mr. KOLBE, Mr. SIMMONS, Mr. MEEHAN, Ms. NORTON, Mr. DELAHUNT, Ms. DELAURO, Mr. JACKSON of Illinois, and Mr. MOORE.

H.R. 1600: Mr. RYAN of Ohio.

H.R. 1660: Mr. PICKERING.

H.R. 1684: Mr. JEFFERSON.

H.R. 1726: Mr. TERRY.

H.R. 1783: Mr. STEARNS.

H.R. 1886: Mr. SCOTT of Virginia.

H.R. 1958: Mr. ACKERMAN, Mr. SHIMKUS, and Mr. MENENDEZ.

H.R. 2062: Ms. LEE and Mr. ANDREWS.

H.R. 2133: Mr. BOSWELL.

H.R. 2286: Mr. ANDREWS.

H.R. 2318: Mr. LEVIN.

H.R. 2339: Mr. PAYNE.

H.R. 2475: Mr. MCHUGH.

H.R. 2513: Mr. CRAMER.

H.R. 2790: Mr. NADLER.

H.R. 2823: Mr. BURGESS, Mr. KUCINICH, Mr. REYES, Mr. ANDREWS, Mr. LYNCH, Mr. CARDIN, Mrs. DAVIS of California, Mr. BISHOP of Georgia, and Mr. ROTHMAN.

H.R. 2957: Mr. PLATTS.

H.R. 2971: Mr. BROWN of Ohio.

H.R. 3192: Mr. PAYNE.

H.R. 3201: Mr. HONDA.

H.R. 3243: Mr. PAYNE.

H.R. 3352: Mr. BRADY of Pennsylvania.

H.R. 3459: Mr. BOUCHER, Mrs. MALONEY, and Mr. WEINER.

H.R. 3485: Mr. PETERSON of Minnesota.

H.R. 3558: Mr. MCCOTTER.

H.R. 3619: Mr. BOEHLERT.

H.R. 3701: Mr. GRIJALVA.

H.R. 3758: Mr. WEXLER, Mr. SIMMONS, Ms. HARMAN, Mrs. LOWEY, Mr. FRANK of Massachusetts, Mr. REYES, Mr. DOYLE, Mr. PAYNE, Ms. KAPTUR, Mr. GUTIERREZ, Mr. ACKERMAN, Mr. NADLER, and Mr. FILNER.

H.R. 3803: Mr. JEFFERSON, Mr. PAYNE, and Mr. RANGEL.

H.R. 3834: Mr. ABERCROMBIE.

H.R. 3847: Ms. LOFGREN.

H.R. 3950: Mr. SMITH of Washington.

H.R. 3956: Ms. VELÁZQUEZ.

H.R. 3965: Mr. ETHERIDGE.

H.R. 4016: Mr. PAYNE.

H.R. 4035: Mr. NADLER.

H.R. 4082: Mr. WEXLER.

H.R. 4117: Mr. ETHERIDGE.

H.R. 4149: Mr. BAIRD.

H.R. 4283: Mr. HALL.

H.R. 4370: Mr. OBERSTAR, Mr. PAYNE, and Mr. RYAN of Ohio.

H.R. 4491: Mr. MARKEY, Mr. MORAN of Kansas, Mr. NEAL of Massachusetts, Mr. MCCOTTER, Mr. GREENWOOD, and Mr. BOOZMAN.

H.R. 4493: Mr. PAYNE.

H.R. 4502: Mr. WILSON of South Carolina.

H.R. 4547: Mr. SOUDER.

H.R. 4595: Mr. LOBIONDO, Mr. JEFFERSON, and Mrs. CHRISTENSEN.

H.R. 4610: Mr. MATHESON, Mr. BUTTERFIELD, Mr. FRANK of Massachusetts, Mr. UPTON, Mr. PAYNE, and Mr. NADLER.

H.R. 4616: Mr. PASCRELL.

H.R. 4687: Mr. OBERSTAR and Mr. PAYNE.

H.R. 4740: Mr. RYAN of Ohio.

H.R. 4776: Mr. ANDREWS and Mr. FILNER.

H.R. 4792: Mr. CAPUANO.

H.R. 4798: Mr. MCDERMOTT, Ms. SCHAKOWSKY, Mr. COOPER, Mr. CARSON of Oklahoma, Mr. ANDREWS, Mr. ROTHMAN, Mr. LYNCH, Mr. FRANK of Massachusetts, Mr. ETHERIDGE, and Mr. PAYNE.

H.R. 4849: Mr. LARSON of Connecticut and Mr. GOODLATTE.

H.R. 4856: Mr. JOHNSON of Illinois.

H.R. 4875: Mr. MARSHALL.

H.R. 4882: Mr. RAMSTAD.

H.R. 4888: Ms. ESHOO and Mr. PAYNE.

H.R. 4936: Mr. FARR, Mr. PAYNE, Mr. NADLER, Mr. MCINTYRE, Mrs. TAUSCHER, and Mrs. DAVIS of California.

H.R. 4943: Mr. PASTOR.

H.R. 4961: Mr. RYAN of Ohio.

H.R. 5043: Mr. PAYNE.

H.R. 5073: Mr. LYNCH.

H.R. 5110: Mr. PAYNE and Mr. JEFFERSON.

H.R. 5144: Mr. JONES of North Carolina, Mr. CRAMER, Mr. WOLF, Mr. SIMMONS, Mr. SAXTON, and Mr. HASTINGS of Florida.

H.R. 5174: Mr. NADLER.

H.R. 5182: Mr. LANGEVIN.

H.R. 5188: Mr. WICKER and Mr. ETHERIDGE.

H.R. 5197: Mr. PAYNE and Mr. MICHAUD.

H.R. 5206: Mr. VITTER, Mr. BACHUS, Ms. HARRIS, Ms. ROS-LEHTINEN, and Mr. FEENEY.

H.R. 5229: Mr. CUMMINGS, Ms. MILLENDER-MCDONALD, Mr. MCCOTTER, Mr. MCGOVERN, Mr. PAYNE, and Mr. TERRY.

H.R. 5242: Mr. DEFAZIO, Mr. RANGEL, Mr. ROTHMAN, Mr. ENGEL, Mr. MCDERMOTT, Mrs. CAPPS, Mr. WEINER, Ms. WOOLSEY, and Mr. FILNER.

H.R. 5244: Mr. FRANK of Massachusetts, Mr. HOLDEN, Mr. TIERNEY, and Ms. SCHAKOWSKY.

H.R. 5246: Mr. SANDLIN and Mr. OWENS.

H.R. 5276: Mr. MARKEY, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 5277: Mr. MCHUGH.

H.R. 5292: Ms. SCHAKOWSKY, Mr. SANDERS, Ms. LEE, and Mr. GUTIERREZ.

H.R. 5302: Mr. RENZI and Mr. MCHUGH.

H.R. 5312: Mr. FARR.

H.R. 5329: Mr. PAYNE and Ms. JACKSON-LEE of Texas.

H.J. Res. 110: Mr. KING of New York, Mr. SMITH of New Jersey, Mr. EVANS, Mr. LEWIS of California, Mr. SKELTON, Mr. DREIER, Mr. HAYES, Mr. DUNCAN, Mr. UPTON, Mr. DOOLITTLE, Mr. WILSON of South Carolina, Mr. SHIMKUS, Mr. COSTELLO, Mr. KNOLLENBERG, Mr. HOBSON, Mr. CALVERT, Mr. KIRK, Mr. GUTKNECHT, Mr. BAKER, Mr. MURPHY, Mr. LAHOOD, Mr. MORAN of Kansas, Mr. AKIN, Mr. ROGERS of Alabama, Mr. CONYERS, Mr. FORBES, Mrs. MYRICK, Ms. HART, Mr. MILLER of Florida, Mr. SOUDER, Mr. RAMSTAD, Mr. LOBIONDO, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MCCOTTER, Mr. GOODE, Mr. FRANKS of Arizona, Mr. PITTS, Mr. MCHUGH, Mr. SAM JOHNSON of Texas, Mr. BROWN of South Carolina, Mr. QUINN, Mr. RENZI, Mr. BILIRAKIS, Mrs. BIGGERT, Mr. BONILLA, Mr. WELDON of Pennsylvania, Mr. MCKEON, Mr. SAXTON, Mr. FILNER, Mr. JONES of North Carolina, Mr. BARTLETT of Maryland, Mr. STEARNS, Mr. PICKERING, Ms. BORDALLO, Mr. PUTNAM, Mr. EHLERS, Mr. MANZULLO, Mr. BURGESS, Mr. BRADLEY of New Hampshire, Mr. DEMINT, Ms. CORRINE BROWN of Florida, Mr. JOHNSON of Illinois, Mr. OSBORNE, Mr. FOSSELLA, Mr. BEAUPREZ, Mr. STENHOLM, and Mr. BOOZMAN.

H. Con. Res. 175: Mr. FILNER.

H. Con. Res. 247: Mr. DUNCAN.

H. Con. Res. 416: Mr. COSTELLO, Mr. JOHNSON of Illinois, and Mr. GUTIERREZ.

H. Con. Res. 457: Mr. GEORGE MILLER of California.

H. Res. 144: Mr. STRICKLAND.

H. Res. 272: Ms. SCHAKOWSKY.

H. Res. 532: Mr. MOORE.

H. Res. 758: Mr. KUCINICH and Mr. TIERNEY.

H. Res. 799: Ms. LOFGREN and Mr. COX.

H. Res. 812: Ms. BERKLEY.

# EXTENSIONS OF REMARKS

## A PROCLAMATION RECOGNIZING GARY JENTES

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. NEY. Mr. Speaker:

Whereas, Gary Jentes is a resident of Tuscarawas County, Ohio; and

Whereas, Gary Jentes has devoted his love to his wife, Margie, their son, and grandchildren; and

Whereas, Gary Jentes demonstrated a commitment to his country while serving in the Vietnam War; and

Whereas, Gary Jentes is active with his community and is appreciated by all who know him.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in recognizing Gary Jentes for his dedication to the United States, his community, family, and friends.

## A TRIBUTE TO W. DON CORNWELL

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. TOWNS. Mr. Speaker, I rise in honor of W. Don Cornwell for his dedication to Interfaith Medical Center and continued community efforts.

Don is the founder of Granite Broadcasting Corporation and has been chairman of the board and chief executive officer since 1988. Prior to founding Granite, Mr. Cornwell served as a vice president in the Investment Banking Division of Goldman, Sachs & Co. Granite Broadcasting Corporation owns and operates nine television stations in geographically diverse markets.

Don is also the chairman of the board of the Telecommunications Development Fund, which provides financial capital for small and minority telecommunications businesses. Additionally, he serves on the board of directors of Avon Products, Inc.; Pfizer, Inc.; CVS Corporation; and the Wallace Foundation. He is also a trustee of Big Brothers/Big Sisters of NYC.

Most recently, for his humanitarian efforts and contributions to the Interfaith Medical Center, Don is receiving the Spirit Award for Excellence in Humanitarian Service from the center.

Mr. Speaker, W. Don Cornwell has used his position as a national leader in the investment and telecommunications industries to strengthen and improve our community. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

## CONGRATULATING RABBI SAMUEL K. SANDHAUS AS HE IS HONORED BY B'NAI B'RITH

### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Rabbi Samuel Sandhaus as he is honored today by B'nai B'rith.

Rabbi Sandhaus has an impressive educational and work background. He has been the executive director of the Jewish Home of eastern Pennsylvania since 1983. He graduated from Yeshiva University in 1968, where he received his bachelor of arts degree in economics. He went on to attain his master's degree in Bible and was ordained. In 1976 he received his MBA in Finance and Management from Boston University and in 1979 was licensed as a nursing home administrator by the Commonwealth of Pennsylvania. In 1984 and in 1987, he received post-graduate certificates in Health Services Administration and Gerontology from Marywood University.

From 1971 through 1979, Rabbi Sandhaus served as a Chaplain and Pastoral Counselor for the United States Army. Rabbi Sandhaus has served in Fort Carson, CO; Nuremberg, Germany; Staten Island, NY; and with the 101st Airborne in Fort Campbell, KY. Rabbi Sandhaus was awarded the Army Commendation Medal with two Oak Leaf Clusters for his service.

Rabbi Sandhaus is a past president of the Scranton chapter of Sigma Phi Omega, National Gerontology Academic and Professional Honor Society. He is a past president of the Pennsylvania chapter of the Association of Non-Profit Homes for the Aging. In addition, Rabbi Sandhaus has served as past Co-chairman of the Quality Assurance Committee of the Association of Jewish Aging Services.

Within the Scranton community, Rabbi Sandhaus has served as a division cochairman in multiple United Jewish Campaigns. He is a member of the board of directors of the Scranton Hebrew Day School, where he served as Chairman of the Scholarship Committee. He has also served on the board of directors of the Scranton Counseling Center as a member of its Finance Committee.

Rabbi Sandhaus is currently the Chaplain of the Sandy Weissberger/Leon Kaplan Post 165 Jewish War Veterans and he is the secretary/treasurer of the Webster Towers high-rise for the aging. He is an instructor at Marywood University's School of Continuing Education and is a Management Consultant for the Elan Gardens for the Assisted Living Facility. Rabbi Sandhaus is a member of the board of directors of the United Way.

In addition to his civic service, Rabbi Sandhaus is, above all, a devoted husband and father. He is married to Sonia, and the couple is blessed with 8 lovely children and 11 wonderful grandchildren.

Mr. Speaker, it is a privilege and an honor to represent a man who is so dedicated to serving his community. I ask that my colleagues pay tribute to Rabbi Sandhaus as he receives this well-deserved honor.

## HONORING RICHARD J. BADOLATO

### HON. MIKE FERGUSON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. FERGUSON. Mr. Speaker, I rise today to honor Richard J. Badolato of Essex County, NJ.

For more than 35 years, Richard Badolato has been a leader in our community and a tireless advocate of protecting the integrity of the professional law practice.

After attending Fairfield University and Rutgers Law School in Newark, Richard began practicing law in 1965 and has remained a leading figure in New Jersey's legal society. All his life he has advocated an approach to law that takes ethics and honesty into account.

Richard served as president of the Essex County Bar Association in 1977 and was a member of the New Jersey State Bar Association for over 20 years before becoming president in 2002. As a member of the New Jersey Supreme Court Advisory Committee on Professional Ethics he has worked to shape New Jersey's current legal landscape. After founding the New Jersey Fairfield University Area Club and serving on the Fairfield University Advisory Council he was awarded the Alumni Service Award by his alma mater in 1997.

The hard work and dedication of Richard Badolato has not only strengthened the legal field in New Jersey but also the local community. It is in his honor that I stand before you today.

## HONORING THE MEMORY OF ARMY STAFF SERGEANT OMER T. HAWKINS II OF ADAMS COUNTY, OH, WHO DIED IN IRAQ

### HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. PORTMAN. Mr. Speaker, I rise today to honor the memory of Army Staff Sergeant Omer T. Hawkins II, a brave soldier who died Thursday, October 14, 2004 in Ar Ramadi, Iraq, in support of Operation Iraqi Freedom. Sgt. Hawkins died when his military convoy was hit by a roadside explosive device.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Sgt. Hawkins was from Cherry Fork, Ohio, in Adams County, an area I represent. He was, people have said, the epitome of an all around great guy—polite, intelligent, and outgoing. At 10 years old, he first told people he wanted to enlist in the Army. At North Adams High School near Seaman, Ohio, Sgt. Hawkins was popular with his peers, and voted "Most Likely to Succeed" in his graduating class. An academic standout, he was active in citizenship and Ohio history competitions. He also served on the debate team and played basketball.

After graduation in 1991, Sgt. Hawkins enlisted in the Army. He was a noncommissioned officer in the Army assigned to the 44th Engineer Battalion stationed in Camp Howze in Korea.

Sgt. Hawkins was the son of Lisa Christman of Hillsboro, Ohio. His late father, William Hawkins, was an engineer in the Marines who passed away in 1977. Sgt. Hawkins is also survived by a sister, Cherry Hawkins, of Cincinnati. His younger brother, Sgt. James Hawkins, is in the Missouri National Guard and stationed at Ft. Leonard Wood in Missouri.

There was a celebration of Sgt. Hawkins' life in Adams County, and he was buried next to his father at Locust Grove Cemetery in Peebles, Ohio. All of us in Southern Ohio are grateful for Sgt. Hawkins' service to our country, and express our deepest sympathy to his family and many friends.

## TRIBUTE TO JUDGE RICHARD D. KUHN

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. KNOLLENBERG. Mr. Speaker, I rise today to pay tribute to Judge Richard D. Kuhn recognize his civic duty and 32 years of judicial service in Oakland County, Michigan.

Judge Kuhn learned of law early in life as a Congressional Page in the U.S. Congress. Later, after completing an undergraduate degree from Michigan State University he received his Juris Doctor from the Detroit College of Law.

He was a successful small businessman and quickly found himself immersed in local politics. He was a Republican nominee for offices at the local, county, state and federal level. He contributed to the writing of the state constitution as a delegate to the Michigan Constitutional Convention.

Highly respected by his colleagues, Judge Kuhn's 32 years of service on the bench include three terms as Chief Judge in addition to working as the supervising judge of a Citizens Grand Jury. In both of these positions he was elected by his contemporaries, showing his valued opinion and expertise.

Judge Kuhn led both community and professional organizations. He was a past director of both the Optimist and Kiwanis Clubs of Pontiac, Michigan. He was Chairman of the Board of the Central United Methodist Church in Waterford, Michigan. He is the past president of the Detroit College of Law Alumni Association. In addition, he has led numerous local Bar Associations. In service to the state of Michigan, he served on former governor John Engler's Criminal Justice Advisory Council.

Judge Kuhn is a member of the State Bar of Michigan, Oakland County Bar Association, and both the Michigan and American Judges Association. He is also a loving husband, father and grandfather.

Mr. Speaker, Judge Richard D. Kuhn, highly regarded for his judicial integrity, is deserving of this recognition for his professional and dedicated service as Oakland County, Michigan's Circuit Court Judge.

## IN RECOGNITION OF CHARLES JOSEPH WEBB

### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. ROGERS of Alabama. Mr. Speaker, SGT Charles Joseph Webb, 22, of Hamilton, Ohio, died on November 3, 2004 in Iraq. Sergeant Webb was an engineer with the A Company, 82nd Engineer Battalion, 1st Infantry Division of Bamberg, Germany, and was killed when the armored personnel carrier he was riding in was struck by an explosive device. He is survived by his wife Stephanie, as well as his parents Joe and Barbara Webb of Alexandria, Alabama.

Sergeant Webb was eager to serve his country, Mr. Speaker, and dreamed of one day becoming an elementary school teacher. He attended school in the Saks area as a young boy and married his high school sweetheart after moving to Ohio. Like every other soldier, he dutifully left behind his family and loved ones to serve our country overseas.

Words cannot express the sense of sadness we have for his family, and for the gratitude our country feels for his service. Sergeant Webb died serving not just the United States, but the entire cause of liberty, on a mission to help spread the cause of freedom in Iraq and liberate an oppressed people from tyrannical rule.

We will forever hold him closely in our hearts, and remember his sacrifice and that of his family as a remembrance of his bravery and willingness to serve.

Thank you, Mr. Speaker, for the House's remembrance on this mournful day.

## PROVIDING CBO COST ESTIMATE FOR H.R. 775

### HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. SENSENBRENNER. Mr. Speaker, on October 6, 2004, the Committee on the Judiciary filed its report on H.R. 775, the "Security and Fairness Enhancement for America Act of 2003." At that time, the Committee had not received a Congressional Budget Office cost estimate for the bill, and it filed the report with a committee cost estimate as provided in clause 3(d)(2) of rule XIII of the Rules of the House of Representatives. Subsequently, the Committee received the CBO cost estimate on H.R 775, and I am submitting it here for the RECORD.

OCTOBER 27, 2004.

Hon. F. JAMES SENSENBRENNER JR.,
*Chairman, Committee on the Judiciary,*
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 775, the Security and Fairness Enhancement Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Joseph C. Whitehill, who can be reached at 226–2840.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure

*H.R. 775—Security and Fairness Enhancement Act of 2003*

Summary: H.R. 775 would eliminate the diversity immigrant program. The costs of implementing that program are covered by fees charged to winning applicants in a lottery for a limited number of immigrant visas. The fees are credited to State Department and Bureau of Citizenship and Immigration Services (CIS) accounts as offsetting collections and offsetting receipts, respectively. (Offsetting collections are a credit against discretionary spending, while offsetting receipts are a credit against direct spending.)

CBO estimates that enacting the bill would decrease collections and spending by the Department of State and the CIS; however, changes in net spending by those agencies would not be significant. Enacting H.R. 775 would lower the number of persons eligible for food stamps and Medicaid benefits. CBO estimates spending for those programs would be reduced by $164 million over the 2005–2014 period. Enacting the bill would not affect revenues.

Each year, the Department of State issues about 50,000 immigrant visas under the diversity immigrant program to natives of foreign states which the U.S. Attorney General determines have had a low ratio of immigrants admitted under the other sections of the immigration law. The immigrants are selected randomly by the Secretary of State from among persons who submit applications in a special lottery for the visas. Persons apply in one fiscal year for visas to be issued in the coming fiscal year. Applicants must meet minimum requirements for education or work experience and otherwise be eligible for immigrant visas as specified in the Immigration and Nationality Act. Those selected in the diversity lottery must obtain their visas by the end of the fiscal year covered by the lottery.

H.R. 775 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA); CBO estimates that states would save about $45 million in Medicaid costs over the 2005-2014 period.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 775 is shown in the following table. The costs of this legislation fall within budget functions 550 (health) and function 600 (income security). In addition, the bill would have an insignificant effect on net spending in budget function 150 (international affairs) and budget function 750 (administration of justice).

| | By fiscal year, in millions of dollars— | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
| CHANGES IN DIRECT SPENDING | | | | | | | | | | |
| Estimated Budget Authority | * | −1 | −3 | −4 | −5 | −9 | −18 | −29 | −41 | −54 |
| Estimated Outlays | * | −1 | −3 | −4 | −5 | −9 | −18 | −29 | −41 | −54 |

Note.—* = less than $500,000.

Basis of estimate: For this estimate, CBO assumes the bill will be enacted before the end of the calendar year 2004 and that the restrictions on issuing new visas will take effect immediately. By eliminating the diversity visa lottery, H.R. 775 would decrease the number of immigrants who become legal permanent residents by about 44,000 each year—not all persons selected immigrate to the United States within the period in which the visas are valid. Fewer permanent legal residents would, over time, lower the enrollment for benefits under the Food Stamp and Medicaid programs and thus lower estimated spending for those programs.

*Food Stamps*

While adult immigrants have a five-year waiting period for benefits, legal permanent residents under the age of 18 are automatically eligible for food stamps. CBO estimates that there will be about 440,000 fewer legal permanent residents over the 10-year period. Based on data from the Current Population Survey on participation by noncitizens before the changes in eligibility that were enacted in 1996, CBO estimates that by 2009, 4,000 fewer children would receive food stamps. Overall, CBO estimates that by 2014 about 23,000 fewer people would receive food stamps. Food Stamp program costs would decrease by $13 million over the 2005–2009 period and $105 million over the 2009–2014 period.

*Medicaid*

By decreasing the number of legal permanent residents, H.R. 775 would reduce the number of individuals enrolling in the Medicaid program. Under Medicaid law, immigrants entering the United States after August 22, 1996, are subject to a five-year ban from receiving Medicaid coverage. CBO expects that certain participants in the diversity visa program (mainly children, pregnant women, and some disabled people) will qualify for Medicaid five years after entering the United States. CBO estimates that by 2014, about 9,000 fewer people would receive Medicaid than under current law and that federal Medicaid spending would decrease by about $59 million over the 2010–2014 period.

*State Department*

Applicants pay no fee for submitting an application to the Department of State for the special lottery; however, there is a $100 special processing fee payable to the Department of State by persons whose entries are selected and processed at a U.S. consulate. The applicants must also pay the regular visa fees at the time of visa issuance. The special processing fee generates about $5 million in offsetting collections for the Department of State each year. The bill would lower collections by the Department of State, but spending would also decline by the amount of forgone collections.

*Bureau of Citizenship and Immigration Services*

The CIS currently charges fees totaling $385 to register each selected applicant as a permanent U.S. resident. CBO estimates that CIS collects and spends about $20 million annually in fees from diversity immigrants—a small fraction of more than $1 billion in fees the agency collects and spends each year to administer programs relating to the entry of aliens. CBO estimates that eliminating the diversity visa program would reduce fee collections by about $20 million annually, but that spending would also decrease by an equivalent amount, so there would be no significant net budgetary effect.

Estimated impact on State, local, and tribal governments: H.R. 775 contains no intergovernmental mandates as defined in UMRA. By decreasing the number of legal permanent residents in the United States, the bill would reduce the number of individuals enrolling in the Medicaid program. CBO estimates that the change would result in a savings for states of about $45 million over the 2005–2014 period.

Estimated impact on the private sector: The bill contains no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: State Department: Joseph C. Whitehill (226-2840). Citizen and Immigration Services: Mark Grabowicz (226-2860). Food Stamps: Kathleen FitzGerald (226-2820). Medicaid: Jeanne De Sa (226-9010). Impact on State, Local, and Tribal Governments: Melissa Merrell (225-3220). Impact on the Private Sector: Amina Masood (226-2940).

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

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## IN RECOGNITION OF THE PRINCETON TOWNSHIP AFFORDABLE HOUSING PROGRAM

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. HOLT. Mr. Speaker, I rise today to commemorate the twentieth anniversary of the Princeton Township Affordable Housing Program, formed on November 18, 1984, by the adoption of Ordinance No. 84–31. This program began well before the New Jersey Supreme Court mandated affordable housing in each municipality throughout the State, and preceded the establishment of the New Jersey Council on Affordable Housing. The program has shown over the years Princeton Townships' commitment to maintaining a diverse population, and has been consistent in its dedication to provide housing opportunities for low and moderate income individuals who reside within the Princeton community. Princeton was far ahead of other towns.

To oversee the implementation of the Affordable Housing Program, the Princeton Township Housing Board was created. Since its inception, the Housing Board has developed hundreds of housing units in and around the greater Princeton area, the largest of which are the Princeton Community Village, Reading Circle, Griggs Farm, and Washington Oaks. In addition to the creation of a great number of housing units, the board has also established and funded a municipal Downpayment Assistance Program and Condominium Fee Assistance Program; these programs aim to assist those with low or moderate incomes in either initially purchasing or continuing to afford low and moderate income housing units. The Housing Board has also explored housing for developmentally disabled individuals and seniors of low income. They have also partnered with Habitat for Humanity in building two units of affordable housing.

For the past 20 years, the program has never wavered in its commitment to affordable housing, and has continued to provide housing opportunities for a wide range of people from diverse economic and social backgrounds.

Mr. Speaker, I would like to congratulate the Princeton Township Affordable Housing Program for its commendable and exemplary work in ensuring affordable housing exists in New Jersey and wish it many years of continued success.

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## A PROCLAMATION HONORING MR. AND MRS. ROBISON

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. NEY. Mr. Speaker:

Whereas, Walter and Virginia Robison were united in marriage on August 26, 1944; and

Whereas, Walter and Virginia Robison are celebrating 60 years of marriage; and

Whereas, Walter and Virginia Robison have demonstrated love and commitment to each other; and

Whereas, Walter and Virginia Robison must be commended for their loyalty and dedication to their family; and

Whereas, Walter and Virginia Robison have proven, by their example, to be a model for all married couples.

Therefore, I join with Walter and Virginia Robison's family, friends, and the residents of the 18th Congressional District of Ohio in congratulating Walter and Virginia Robison as they celebrate their 60th wedding anniversary.

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## A TRIBUTE TO REVEREND DAVID K. BRAWLEY

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. TOWNS. Mr. Speaker, I rise in honor of Reverend David K. Brawley for his spiritual guidance and dedication to improving our community.

Rev. Brawley cultivated a relationship with God's Word when he was quite young. At the age of sixteen, he responded to God's will and was ordained by Rev. Winfred Pippen. He became the youth minister at First Baptist

Church of Deer Park, New York, where he maintained his membership for thirteen years.

Rev. Brawley began his full time career in the ministry in 1994 at St. Paul Community Baptist Church in Brooklyn, New York. An integral part of church leadership, Rev. Brawley is the coordinator for the Men-in-Training for the Board of Elders, and an on-call teacher to the congregation. Currently serving as the assistant pastor, Rev. Brawley is the principal assistant to senior pastor Rev. Dr. Johnny Ray Youngblood in a variety of capacities such as pastoral counseling, officiating at sacred events such as weddings, baby dedications and funerals, leading worship services, teaching and community organizing.

In particular, Rev. Brawley's organizing efforts play a dynamic role in the church's community development activities. He is a member of the Governance Board of East Brooklyn Congregations (EBC) and the EBC Strategy Team. In his position at EBC, Rev. Brawley has been an outspoken advocate for public school reform, and has addressed issues such as public safety, housing and quality of life concerns on behalf of neighborhood residents. Rev. Brawley's community involvement also encompasses his role as Vice President of EDIFY Communities of East New York. EDIFY seeks to increase the vitality and value of urban communities by pooling resources and charitable funds.

In October 2004, Rev. Brawley joined the ranks of distinguished alumni of the Faith Seminary in Tacoma, Washington, having earned his Master's degree in Theological Studies. Rev. Brawley plans to continue his studies at Faith and plans to obtain a Doctor of Ministry degree.

As Rev. Brawley contemplates the growth of ministry, his four priorities are creating a vibrant worship experience, edifying God's people, community organizing, and economic development. As a pastor, Rev. Brawley possesses the gifts of exhortation, inspiration, motivation and encouragement. He shares these gifts not only in worship services, but also with the community in a variety of venues, such as men's conferences, revivals and youth groups. Rev. Brawley resides in Brooklyn, New York with his wife Debra and their two children, Rhonesha and Michael.

Mr. Speaker, Reverend David K. Brawley has been a leader in our community through his spiritual guidance at St. Paul Community Baptist Church and consistent efforts to improve the schools, housing and overall quality of life in Brooklyn. As such, he is more than worthy of receiving our recognition today, and I urge my colleagues to join me in honoring this truly remarkable person.

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## CONGRATULATING THE TAYLOR LIONS CLUB ON THE OCCASION OF ITS 50TH ANNIVERSARY

### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my respected colleagues in the House of Representatives to pay tribute to the Taylor Lions Club as it celebrates its 50th Anniversary at St. George's Hall in Taylor.

The Lions Club of Taylor began its charter on Nov. 15, 1954. Sponsored by the Old Forge Lions Club, the Taylor Club chose Jay Fahringer as its Inaugural President. Over the next 46 years, the Club would have two members, Lion Dominic DeAngelo and Lion Joseph Canjar, serve in the esteemed position of Area District Governor.

Canjar and Lion Francis Scott received the Melvin Jones Fellowship Award for Dedicated Humanitarian Service from the Lions Club International Foundation, the highest award that a member can receive.

The Lions Club has a long-standing tradition of civic duty and pride. I cannot think of a better example for our young people than business people taking responsibility for their communities and neighbors. Lions Club members have been dedicated to giving their time, talent and resources to help our world become a better place since 1917. The Lions Club is one of the largest service organizations worldwide.

Lions Clubs are best known for their work with sight conservation, taking on the challenge after Helen Keller proposed it in 1925. Lions Clubs raise money for a variety of sight-preserving activities, from providing eyeglasses to paying for cataract surgery for needy people.

The District 14–H Lions Eye Bank was initiated by then-District Governor Dominic DeAngelo in 1958. Lion Merwyn Howells was instrumental with the inception of the Sergeant Seymore Program, sponsored by the Lackawanna Blind Association. The program educates third-graders about sight conservation and eye safety, and it concludes with a poster contest.

The District 14–H Lions Eye Bank Banner Patch for the most Cornea Eye Pledge Cards in a year was achieved in 1992, during Lion President John Souter's term. The Taylor Lions Club has continually provided eyeglasses to senior citizens and other members of the community throughout the years.

The District 14–H Hearing Committee's annual donation to the Scranton School for the Deaf began during Lion Joe Canjar's term in 1980. This tradition continues today.

Since the Club's beginning, members have provided wheelchairs, commodes, walkers, crutches, canes and personal safety items for all citizens of the community.

Over the past 15 years, the Taylor Lions Club's principal fundraiser has been a Holiday Basketball Tournament that features both girls' and boys' high school teams from Riverside School District and the surrounding area. This annual tournament is the only one of its kind to feature both a girls' and a boys' division. Eugene Evanish, Ted Evanish and Joseph Roberts have co-chaired the event since it began.

The Taylor Lions Club is also the first club in the history of District 14–H to have its Club Pin voted No. 1 in the state of Pennsylvania. Member Francis Scott designed the winning emblem.

The Taylor Lions Club has also taken an active role in District 14–H with members Joe Canjar (as past District Governor), Mike Cole, Gene King, Fran DeAngelo, Gene Evanish, Ted Evanish, Neil DeAngelo, Robert Thomas, Lisa Mekilo and Francis Scott all serving in the District Cabinet in recent years.

The Taylor Lions Club has sponsored teams in the Taylor Little League, Taylor Girls' Softball Association, Boys Biddy Basketball League, T.C.C. Girls Basketball League, Boy Scout Troop 85 and Cub Scout Troop 90.

The Taylor Lions Junior Football Organization was even named after the club, which sponsored it from 1970 through 2000. Lion Frank Messoline was one of the primary organizers of the program, while Lion Mike Krypel was primarily responsible for its present complex.

The Taylor Lions Club, in conjunction with the R&L Civic Club, American Legion Post 306 and the Taylor Borough Council, organized an Easter Egg Hunt in 1985 that has become an annual event for the area's children.

Lion J. Dennis Kryzanowski began the Taylor Lions Scholarship Award at Riverside Junior/Senior High School.

Two hundred and fifty-seven residents of Taylor have been past or present members of the Lions Club since its beginning in 1954. Lion Lisa Scott Mekilo was the first woman to join the Taylor Lions Club and became the Club's first female president in 2003.

Mr. Speaker, I ask that you join me today in paying tribute to such a wonderful service organization. It is my honor to represent the members of the Taylor Lions Club in the United States Congress.

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## HONORING FRANCIS J. LOMBARDI

### HON. MIKE FERGUSON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. FERGUSON. Mr. Speaker, I rise today to honor Francis J. Lombardi of Essex County, New Jersey.

For more than 30 years, Francis Lombardi has been a leader in one of the most vital aspects of our community. While raising a family, he has been a tireless advocate of protecting and fostering the transportation relationship between New York and New Jersey.

Francis began his work with the Port Authority of New York and New Jersey in 1971 as an engineering trainee and has risen through the ranks to his current position as Chief Engineer for The Port Authority.

Always making safety his top priority, his work with the Port Authority gained him recognition and reputation for continued safe and efficient operating. Richard's work affects the daily lives of millions of residents of New York and New Jersey and with the turbulent world we live in it has never been more vital to ensure the safety and security of our citizens in every aspect of their lives. His contributions continue into the realm of education. His hands on approach and dedication to our youth over the years has earned him a position on the Board of Directors of the Salvadori Educational Center, a non profit educational center dedicated to helping inner-city youth appreciate science and mathematics.

Francis Lombardi has been a tremendous asset to both New Jersey and New York. His work over the years has unquestionably made New Jersey and New York safer places to live and commute. It is in his honor that I stand before you today.

## A PROCLAMATION RECOGNIZING COLLIER DILL

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. NEY. Mr. Speaker:

Whereas, Collier Dill is a resident of New Philadelphia, Tuscarawas County; and

Whereas, Collier Dill has devoted his love to his wife, Nancy, and their son, Joseph; and

Whereas, Collier Dill demonstrated a commitment to his country while serving in the Vietnam War; and

Whereas, Collier Dill is active with his church and community and is appreciated by all who know him.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in recognizing Collier Dill for his dedication to the United States, his community, family, and friends.

## HONORING THE MEMORY OF ERNEST J. WAITS SR., A CINCINNATI CIVIL RIGHTS PIONEER

### HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. PORTMAN. Mr. Speaker, I rise today to honor the memory of a friend and hero, Ernest J. Waits Sr. of Cincinnati, who passed away on October 19, 2004.

Mr. Waits was a pioneering civil rights activist. He worked his whole lifetime for desegregation and to open doors for African Americans. Born in Flat Rock, Georgia in 1920, he moved to Cincinnati with his family in 1922 and grew up in Cincinnati's West End. Mr. Waits was known to say that he became a civil rights fighter one day when school textbooks at Sands School were in short supply, and he was told he could not share a textbook with a white student. He challenged injustice, as he put it, "I've been challenging things all the way through."

And he has. At Woodward High School in 1935, Mr. Waits called for integration of the swimming pool and the prom. In 1939, at age 19, he wanted to see comedian Eddie "Rochester" Anderson at Cincinnati's Schubert Theater. He insisted on being admitted, employing a strategy of civil disobedience later embraced by others in the civil rights movement. From that point on, Mr. Waits joined with others in Cincinnati who pushed for desegregation and civil rights.

In breaking race barriers, Mr. Waits held many Cincinnati "firsts." In 1947, he became the first African American Cincinnati radio disc jockey. For twelve years, he played jazz for a number of local stations, and was known for his creative programming in an era when there were few alternatives for African Americans. From 1958 to 1960, he was the first African American in Cincinnati to be an assistant sales manager for two auto dealerships. In 1960, he attended Northwestern University to study investment banking, and returned to Cincinnati to become the first African American New York Stock Exchange registered broker. He was the first African American to work for Cincinnati & Suburban Bell Telephone Company, and in the 1970s, he pioneered the concept of magnet schools to encourage inclusiveness and voluntary school desegregation.

He received many honors for his volunteer and community service, including a key to the city of Cincinnati and the "Mayor's Hometown Hero" award; a Cincinnati City Council resolution recognizing him as a leader in the ongoing campaign for racial equality; the Black Male Coalition's 1993 Living Hero Award; the 1992 Broadcasting Hall of Fame Award; the Cincinnati Historical Society's Best in Broadcasting Hall of Fame Award; and an Amistad Foundation Award. He served in the U.S. Army as a mechanic based in Biloxi, Mississippi.

Mr. Waits' wife of 37 years, Betty, died in 1986, and a son, Eric Wilson Waits, died in March 2004. He is survived by a son, Ernest J. Waits, Jr.; three daughters, Kym Zimmers of North Avondale and Diane "Taffi" Weaver of Forest Park, and Shelley Moon of Los Angeles; nine grandchildren and five great-grandchildren.

All of us in Cincinnati are grateful for the gift of Ernest Waits' life and his inspiration.

## IN RECOGNITION OF BILL AND GLADYS JENNINGS

### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. ROGERS of Alabama. Mr. Speaker, on October 30, 2004, Bill and Gladys Jennings, of Calhoun County, Alabama, will celebrate their 50th anniversary.

Members of Saks Baptist Church in Saks, Alabama, for over 25 years, Mr. and Mrs. Jennings met through mutual friends and have always resided in the Calhoun community. They have one son, Jeff.

The Jennings love gardening and landscaping, and after long careers in the community have retired to enjoy their outdoor activities and spend time with their family and friends. Mr. Jennings is also an avid golfer.

Mr. Speaker, it's not often we have the opportunity to honor a distinguished couple like the Jennings. Thank you for the House's attention on this proud occasion.

## TRIBUTE TO THE OAKLAND LIVINGSTON HUMAN SERVICE AGENCY

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. KNOLLENBERG. Mr. Speaker, I would like to recognize the Oakland Livingston Human Service Agency as it celebrates its 40th anniversary as a community action agency. I commend their years of service and dedication to improving our community.

In 1964, the Economic Opportunity Act was enacted into law and provided stimulation and incentive for urban and rural communities to mobilize their resources to combat poverty through community action programs. That same year, Judge Carl F. Ingraham, Oakland County Executive Daniel T. Murphy, and James P. Dickerson created the nonprofit agency, the Oakland County Commission of Economic Opportunity (OCCEO) to serve Oakland County, Michigan. In 1965, the new agency received its first Federal grant, $77,000 from the Office of Economic Opportunity. This money allowed the opening of OCCEO's central office in Pontiac, Michigan and the hiring of James M. McNeely as its first executive officer.

During its first 10 years, OCCEO served the Oakland County community in an effort to eliminate the causes and consequences of poverty. In 1975, OCCEO began serving Livingston County and the agency's name was changed to the Oakland Livingston Human Service Agency (OLHSA).

Today, OLHSA's mission is to enable the low income, elderly, and people with disabilities living in Oakland and Livingston Counties to become self-sufficient. Over the years, OLHSA has worked to reduce poverty by focusing all available resources toward helping low income individuals and families acquire the skills and knowledge they need to improve their personal quality of life. Today, the agency operates 74 programs, employs 575 people, and has an annual budget of more than $30 million.

The work OLHSA has done for our community is truly remarkable. I had the opportunity to see their good work first-hand last year when I celebrated National Homeownership Month with families that OLHSA had helped. Through OLHSA's sponsored home-buying counseling classes, families participated in eight weeks of counseling and education designed to deal with budget and credit issues. This led them to their ability to qualify for an affordable mortgage and make their homeownership dreams come true. This is just one example of the many programs that OLHSA provides to our citizens.

Mr. Speaker, I commend the contributions that OLHSA has made over the past 40 years to our community and wish them continued success.

## A PROCLAMATION RECOGNIZING JOHN LELAND HALEY

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. NEY. Mr. Speaker:

Whereas, John Leland Haley has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, John Leland Haley has shared his time and talent with the community in which he resides; and

Whereas, John Leland Haley has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, John Leland Haley must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award.

Therefore, I join with the residents of Crooksville, the entire 18th Congressional District of Ohio, John's family and friends in congratulating John Leland Haley as he receives the Eagle Scout Award.

## A TRIBUTE TO MILTON MARSHALL

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. TOWNS. Mr. Speaker, I rise in honor of Milton Marshall in recognition of his service to New York City and his country.

Milton was born and raised in Harlem, New York; he is the brother of two younger sisters Arnelle, a New York City police officer, and Patricia. After graduating high school, Milton served 4 years in the United States Air Force. Milton married his wife, Marjorie and became the proud father of three beautiful children: Eric, Cheryl, and Deborah. He is also the grandfather of Kimberly, Gregory, Cherenia, and Kortaney. He received his associate degree in applied science from New York University.

Milton has proudly served his country and has been recognized accordingly for his efforts. He worked for 22 years with the New York State Labor Department as a veterans service representative. In recognition of his work, Milton received an award from Mayor James Garner of the Village of Hempstead for dedicated service to veterans. He also received a certificate of appreciation from Governor Mario Cuomo, and a certificate from the United States Department of Labor for completing the NVTI Veterans Benefits Training Course at the University of Denver.

Milton is a valuable community activist. He served as a Prince Hall Mason in 1980 and Senior Warden of Lebanon Lodge #54. He is a Past High Priest of Royal Eagle Chapter #27 Holy Royal Arch Mason. He served as Illustrious Commander in Chief for 2 years (L.I. Consistory #61). Milton served as the Past Illustrious Potentate of Abu Bekr Temple #91, and as the Past President of the Long Island Shrine Club.

Mr. Speaker, Milton Marshall has dedicated his life to serving his country and his community through his active participation in a vast array of civic organizations. As such, he is more than worthy of receiving our recognition today, and I urge my colleagues to join me in honoring this truly remarkable person.

## CONGRATULATING GEORGE VITANOVEC AS HE CELEBRATES HIS RETIREMENT

### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to my good friend George Vitanovec, who is retiring from the Teamsters Local 401. He was honored at the Greater Wilkes-Barre Labor Council Dinner at Pittston Convention Hall on October 29, 2004.

George Vitanovec has been a dedicated Teamster since 1968. He worked for Acme Warehouse in Forty Fort for 22 years and represented the members as their shop steward. George was first elected as Vice President of Local 401 in 1990 and then elected President of Local 401 in 1993. He was elected for five consecutive terms and retired on June 30, 2004.

George was a veteran of the United States Army and served a tour of duty in Vietnam from 1965–1966. He was honorably discharged in 1967.

George has been involved with many organizations such as the Greater Wilkes-Barre Labor Council, Teamsters Joint Council, Teamsters International and also the United Way just to name a few. He has been dedicated to many organizations within the community. He was a coach for St. Therese Little League, South Wilkes-Barre Mini Mohawks, Founder and President for the YMCA wrestling program and was also a baseball coach for Meyers High School. He is a member of the St. Nicholas Church, Holy Name Society, North End Slovak Club and the Brookside American Legion. He is also an avid fisherman and hunter.

George is above all a dedicated husband, father and grandfather. He is married to Shirley Morio Vitanovec. He has a daughter Kerry Ann, a son George Jr., a son-in-law Kevin and a daughter-in-law Susan. He has twin grandsons Michael and Patrick Flaherty.

Mr. Speaker, I ask that you and my esteemed colleagues in the House of Representatives please join me in congratulating George Vitanovec and wish him all the best for a well deserved retirement.

## HONORING THE CENTRAL NEW JERSEY CHAPTER OF THE AMERICAN SOCIETY FOR INDUSTRIAL SECURITY

### HON. MIKE FERGUSON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. FERGUSON. Mr. Speaker, I rise today to honor the Central New Jersey Chapter of the American Society for Industrial Security on their 25th Anniversary. In 1979 a group of ASIS members chaired by Douglas Goode convened to form the Central New Jersey Chapter which has now grown to include over 300 members who represent the public and private sectors of the Security Industry.

ASIS is the preeminent organization for security professionals, with more than 33,000 members worldwide. Founded in 1955, the organization is dedicated to increasing the effectiveness and productivity of security professionals by developing educational programs on broad and specific security concerns. ASIS also advocates the role and value of the security management profession to business, the media, government entities, and the public.

I commend all the members of the Central New Jersey Chapter of ASIS for their tireless work concerning the state of security in Central New Jersey. Their efforts are an excellent reflection on ASIS international and make Central New Jersey a safer place for those who live and work there.

## A PROCLAMATION IN MEMORY OF SERGEANT RICHARD MORGAN

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. NEY. Mr. Speaker:

Whereas, I hereby offer my heartfelt condolences to the family, friends, and community of Sgt. Richard Morgan upon the death of this outstanding soldier; and

Whereas, Sgt. Richard Morgan was a member of the 660th Transportation Company out of Cadiz, serving his great nation in the country of Iraq; and

Whereas, Sgt. Richard Morgan was a loving son to his parents, Donna and Harold Arnold, as well as a caring husband to his wife, Diana; and

Whereas, Sgt. Richard Morgan was an active citizen in his community and did his best to make his country a better place to live; and

Whereas, Sgt. Richard Morgan will be remembered for his unsurpassed sacrifice of self while protecting others. His example of strength and fortitude will be remembered by all those who knew him.

While words cannot express our grief during the loss of such a courageous Marine, I offer this token of profound sympathy to the family, friends, and colleagues of Sgt. Richard Morgan.

## SPECIALIST KEITH MATTHEW MAUPIN OF BATAVIA, OH, IS HONORED IN PENTAGON'S PRESTIGIOUS WARRIOR ETHOS EXHIBIT

### HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. PORTMAN. Mr. Speaker, I rise to honor Specialist Keith Matthew "Matt" Maupin of Batavia, Ohio, whose name was added last

Wednesday to the Pentagon's prestigious Warrior Ethos Exhibit.

Spc. Maupin, 21, has been missing in action in Iraq since April 9, 2004, when his convoy came under attack outside Baghdad by rocket-propelled grenades and small arms fire. He was the first known U.S. serviceman to be captured by insurgents and is now the longest held military hostage in wartime since the end of the Vietnam War. Spec. Maupin is an Army Reservist with the 724th Transport Company stationed in Bartonville, Illinois.

Spc. Maupin went to Iraq to fight for freedom for the Iraqi people and for a safer world without the brutal dictatorship of Saddam Hussein. Spc. Maupin is an American hero, and we are grateful for his bravery and courage.

In our area of southern Ohio, there has been an outpouring of support for Spc. Maupin and for the Maupin family. Matt's parents, Carolyn and Keith Maupin, have set a tremendous example of hope and faith, and unqualified support for our troops. Spc. Maupin's father is a veteran, and his brother, Lance Corporal Micah Maupin, is a Marine stationed in Miramar, California. Spc. Maupin is one of the best and brightest. A scholar athlete in high school, he is viewed by his fellow soldiers as a skilled, professional and compassionate soldier.

Last Wednesday, Spc. Matt Maupin's name was added to the Pentagon's prestigious Warrior Ethos Exhibit. This display honors the service and sacrifice of soldiers living the Warrior Ethos, including Spc. Maupin. Composed of three diagonal LCD panels, it features the Army Star; a sampling of the more than 30,000 "To Our Troops" virtual notes sent to service men and women by the American people; and images of faces of soldiers everywhere. The words, "We Honor and Appreciate;" "We Remember;" and "We Take Care of Our Soldiers" are inscribed on the panels. Above all, this tribute is an enduring legacy to soldiers, like Spc. Maupin, who are keeping us safe and free today.

Perhaps the Army's "Soldiers Creed" states the commitment of these outstanding young men and women best: ". . . I always place the mission first. I will never accept defeat. I will never quit. I am a guardian of freedom and the American way of life. . . . I am an American Soldier." This is Spc. Matt Maupin.

All of us are proud of Matt Maupin and his family, and we pray for his safe return.

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## A TRIBUTE TO NEW LOTS COMMUNITY CHURCH

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. TOWNS. Mr. Speaker, I rise in honor of New Lots Community Church in Brooklyn, NY, in commemoration of its 180th anniversary and spiritual leadership in the community.

Around 1667, the area of New Lots, originally known as Eastwoods, was reportedly purchased by the Dutch from the Canarsie or the Rockaway Indians. The town of New Lots extended from what is now Highland Park on the north to Jamaica Bay on the south and from Rockaway Avenue on the west to Elderts Lane on the east. During the early years of the settlement, the most important highway in the area was the New Lots Road frequently noted in historical accounts of the Revolutionary War. In all this vast acreage of New Lots, there was no church. The residents had to travel by horse and wagon to Flatlands or Flatbush churches for services, marriages, and baptisms.

New Lots was part of a collegium of six churches sharing a ministry: Flatbush, Flatlands, Brooklyn, New Utrech, Bushwick, and Gravesend. These churches are still part of the Brooklyn Classis. An elder and deacon from New Lots served on the Collegiate Consistory. Consistory meetings consisted of one minister serving six churches with a widely scattered membership. Rev. Malcom Evens in his historical sketch written for the 140th Anniversary Celebration retells how New Lots was built. In 1821 an "Act of God," as hurricanes are often called, hastened a decision by the residents of New Lots to build their own church. The hurricane toppled many oak trees. The Dutch, noted for being a frugal and prudent people, accepted God's gift of lumber. After the wood had seasoned for about a year and a half, they began to cut, hew and saw the trees in preparation for building their house of worship. Abraham and Cornelia Van Siclen deeded over to the building committee one-quarter acre of land on New Lots and Schenck Avenue. In 1832 a fundraiser was held and volunteer workers and well wishers came from near and far. Through the united efforts of the congregation, this House of God was reportedly built for somewhere between $25 to $35. This small colonial clapboard structure, unique in New York, was designated an official city landmark in 1966.

Wooden pegs secure this building of colonial architecture with timber notched and joined. It stands today as a tribute to the soundness of the craftsmanship of the Dutch people. In 1972, in order to meet the growing needs of the community, the church built the educational complex next door—The New Lots Family Center. Within the last year and a half an entire renovation of the Family Center was undertaken. Over the years, the church building began to lean and a large wooden truss broke in the ceiling. In 1990, the congregation was compelled to vacate the sanctuary and have worship in the New Lots Family Center until repairs could be made. Upon completion of the renovations, the sanctuary was rededicated in 1991.

The original and official name is the Reformed Protestant Dutch Church in the town of New Lots. However over the years, the church has gone through several name changes. In the early 1980s, the church obtained the current name of the New Lots Community Church, R.C.A. to be used as an assumed name. Today within these hallow walls, sons and daughters of slaves boldly bear witness to God's Amazing Grace. In 1975, the Rev. Dennis A. Westbrook became the first African American pastor of New Lots Community Church, R.C.A. In 1979, the Rev. Dr. William T. Coles became the second African American pastor of this great historic church. He labored in the vineyard for 20 years ministering to members, friends, and the community of New Lots Community Church. In 2002, the Rev. De'Lafayette Awkward became the third African American pastor. Under his leadership, the church is currently embarking on new and exciting ministries. New Lots Community Church has always been a beacon of hope in the community and remains actively involved in the community as they continue to strive for excellence in their mission to win souls.

Mr. Speaker, New Lots Community Church has been a source of community and spiritual leadership in Brooklyn for 180 years. As such, it is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable church and its congregation.

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## CONGRATULATING DAVID SCHWAGER, AS HE IS HONORED UPON COMPLETION OF HIS TERM AS PRESIDENT OF TEMPLE ISRAEL

### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to my good friend David Schwager as he is honored upon the completion of his term as president of Temple Israel in Wilkes-Barre, PA.

David is a partner in the law firm of Chariton and Schwager. He is the past president of the Luzerne County Bar Association Young Lawyers Division and a member of the Pennsylvania Bar Association House of Delegates. He chairs the Association's Statutory Law Committee. He is a past vice-chairman of the Business Law and Real Property Law Sections of the American Bar Association Young Lawyers Division. A past Assistant District Attorney, David is treasurer of the Middle District Bankruptcy Bar Association. David also serves as solicitor to District 16 Little League and The Music Box Players.

David graduated from Lafayette College in 1984 and received his J.D. from the Dickinson School of Law in 1988. David is married to the former Laurie Mersay, assistant vice president of First National Community Bank. They have two children, Max and Melissa.

Among his many civic activities, David serves as vice president of the JCC, vice president of the American Cancer Society Wyoming Valley Unit, vice president of the S.J. Strauss Lodge of B'nai B'rith Housing Foundation and secretary of the UHI School Board. A past president of the Wyoming Seminary Alumni Association and a past president of B'nai B'rith Lodge No. 139, David serves on the Wyoming Valley Sanitary Authority, a past director and officer of Jewish Family Service, and a past director of Junior Leadership Wilkes-Barre. David serves as a class fund manager and alumni admissions representative for Lafayette College.

Mr. Speaker, it is a privilege and honor to represent a man who is so dedicated to serving his community. I ask that my colleagues pay tribute to David Schwager as he receives this well-deserved honor.

## A PROCLAMATION HONORING OFFICER BILL CLEVELAND ON THE OCCASION OF HIS RETIREMENT FROM THE U.S. CAPITOL POLICE

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. NEY. Mr. Speaker:

Whereas, Officer Bill Cleveland is retiring from the United States Capitol Police after 30 years of exemplary service;

Whereas, Officer Cleveland served his country in the Armed Forces during the Vietnam War and served his community of Alexandria as a respected member of the City Council for over 10 years;

Whereas, Officer Cleveland has been among the most well-liked and well-respected officers of the United States Capitol Police for his good humor and dedication to his job;

Whereas, Officer Cleveland will be deeply missed by many Members of Congress, their staffs, and his fellow officers.

Therefore, I join with my fellow Members of Congress, their staffs, and his fellow officers at the United States Capitol Police in thanking Officer Bill Cleveland for his 30 years of service to the Capitol Hill community and wish him the very best on the occasion of his retirement.

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## PROVIDING CBO COST ESTIMATE FOR H.R. 4453

### HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. SENSENBRENNER. Mr. Speaker, on October 5, 2004, the Committee on the Judiciary filed its report on H.R. 4453, the "Access to Rural Physicians Improvement Act of 2004." At that time, the Committee had not received a Congressional Budget Office cost estimate for the bill, and it filed the report with a committee cost estimate as provided in clause 3(d)(2) of Rule XIII of the Rules of the House of Representatives. Subsequently, the Committee received the CBO cost estimate on H.R. 4453, and I am submitting it here for the record.

OCTOBER 15, 2004.

Hon. F. JAMES SENSENBRENNER, Jr.,
*Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4453, the Access to Rural Physicians Improvement Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE H.R. 4453, ACCESS TO RURAL PHYSICIANS IMPROVEMENT ACT OF 2004, AS PASSED BY THE HOUSE OF REPRESENTATIVES ON OCTOBER 6, 2004

CBO estimates that implementing H.R. 4453 would result in no significant net cost to the federal government. The act would affect direct spending, but we estimate that any effects would be insignificant. H.R. 4453 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Until June 1, 2004, foreign students attending medical school in the United States were permitted to remain here after graduation if they agreed to work for at least three years in certain regions considered to be underserved by physicians or if they accepted employment with certain federal agencies. That program was limited to 30 individuals a year for each state that participated in the program. Under current law, such individuals must return to their native countries. H.R. 4453 would make several changes to that program and would reestablish it through June 1, 2006.

Based on the participation of foreign medical students in those employment programs in recent years, CBO expects that the act's provisions would affect no more than 2,000 persons annually. The Bureau of Citizenship and Immigration Services (CIS) would collect fees to provide work permits for those individuals. CIS fees are classified as offsetting receipts (a credit against direct spending). The agency is authorized to spend such fees without further appropriation, so the net impact on CIS spending would be insignificant.

The CBO staff contact for this estimate is Mark Grabowicz, who may be reached at 226 2860. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

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## HONORING NEW JERSEY BLOOD SERVICE

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. HOLT. Mr. Speaker, today I rise to honor New Jersey Blood Services for its thirty years of dedication to blood collection and services. As the first regional division of the New York Blood Center, New Jersey Blood Services (NJBS) is a non-profit corporation whose mission is to "provide the safest, best quality transfusion-related products and services at a reasonable cost to those who will benefit, and to increase the body and availability of knowledge in transfusion medicine." Since its founding in 1973, NJBS has collaborated with companies, labor unions and community organizations in New Jersey to collect over 2.2 million units of blood, thus improving and even saving the lives of countless residents of New Jersey.

In its thirty years of existence, New Jersey Blood Services has developed a strong and valuable relationship with many New Jersey based American Red Cross chapters. These organizations have partnered together in scheduling blood drives, recruiting donors and providing necessary services to donors during blood drives. NJBS has also been a leader in efforts to ensure the safety of the region's blood supply by piloting the "Safeblood" computer system and opening the Nucleic Acid Test Lab in 1999, to screen all blood donated for HIV and HCV. Moreover, NJBS has been a forerunner in the development of pheresis blood donation procedures, which allows for the separation of different blood components and is particularly helpful in treating cancer.

New Jersey Blood Service has made remarkable and lasting contributions to our society through its efforts to increase both the quantity and the quality of our blood supply. Again, I rise today to honor the New Jersey Blood Service for its distinguished achievements in helping to enhance or save the lives of millions of patients in New Jersey over the past thirty years and I look forward to their continued good work over the next thirty years.

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## A PROCLAMATION RECOGNIZING BELMONT COUNTY SHERIFF TOM McCORT

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. NEY. Mr. Speaker:

Whereas, Sheriff Tom McCort has provided outstanding service and contributions while serving as the Sheriff of Belmont County for twenty years; and

Whereas, Sheriff Tom McCort began his law enforcement career by serving as a felony investigator for the Belmont County Prosecutor's Office and then as a part time officer in Richland Township; and

Whereas, Sheriff Tom McCort worked tirelessly to improve and expand the Belmont County jail; and

Whereas, Sheriff Tom McCort's diligent service to Belmont County resulted in several remarkable achievements such as an officer training program and an expanded motorcycle patrol service; and

Whereas, Sheriff Tom McCort will be greatly missed by Belmont County and the Belmont County Sheriff's Department.

Therefore, I join the residents of Belmont County, and the entire Eighteenth Congressional District of Ohio, in recognizing Sheriff Tom McCort for his exceptional work and immense contributions, and wish him the very best in his future endeavors.

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## RECOGNIZING THE OHIO STATE UNIVERSITY'S 2004 BUCKEYE BULLET TEAM

### HON. DEBORAH PRYCE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Ms. PRYCE of Ohio. Mr. Speaker, I rise today to congratulate The Ohio State University 2004 Buckeye Bullet electric land speed vehicle team. This group of 11 undergraduate engineering students now holds the national and international land speed records for electric vehicles.

The Buckeye Bullet is a streamlined electric vehicle over 31 feet long, standing 3 feet high and 2 feet wide. It is powered by more than 900 batteries and contains a 400-plus horsepower engine. The most impressive fact about the Buckeye Bullet is that it was designed, built and is maintained by Ohio State students, giving undergraduates a unique opportunity for a hands-on learning experience.

This fall, the team traveled to the Bonneville Salt Flats in Utah where they challenged the international land speed record of 245 mph. On October 13, 2004 the Buckeye Bullet set a new official international record time of 272 mph. However, the international record just wasn't enough for the Buckeye Bullet Team. On October 15, the team challenged its own 257 mph national speed record from the previous year, which conforms to a different set of requirements, successfully setting a new national land speed record at 315 mph. This makes the Buckeye Bullet the first electric race car to officially exceed 300 mph.

I would like to recognize the 2004 Buckeye Bullet team members from Ohio State for their dedication and hard work, including team leaders Isaac S. Harper, Andrew L. Marquand, and Benjamin J. Sinsheimer; team members Kevin C. Sze, Sean M. MacGregor, Aaron M. Haliena, Joseph H. Gorse, Andrea J. Barger, Michael B. Quade, Kimberly A. Stevens and Kevin Ponziani; faculty adviser Giorgio Rizzoni, staff adviser Maria Soliman, and of course the vehicle's driver, Roger Schroer of TRC, Inc. Congratulations to all of you for building the fastest electric vehicle on the planet!

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## HONORING MARGARET PARKER FRETWELL

**HON. JON C. PORTER**

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. PORTER. Mr. Speaker, I stand today to honor Margaret Parker Fretwell. Mrs. Fretwell just recently celebrated her ninetieth birthday and it is my great pleasure to note that she is still working hard to better her community. Through her enjoyment of community service and a love for her family, Margaret Fretwell has made sure that her ninety years here on this earth have been spent in the service of others.

As an active member in her family, church, and community, she has become a symbol of service and charity. Those around her have been able to rely on her hard work and giving nature to promote charitable programs and educational events that benefit everyone in her hometown of Anderson, South Carolina.

Mr. Speaker, it is my great privilege to stand here and honor Margaret Fretwell with my deepest thanks for her continued service and contributions to her local community. It is my hope that those that have been touched by her generosity will remember her example and use it in their own lives.

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## 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

SPEECH OF

**HON. SAM FARR**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes:

Mr. FARR. Mr. Chairman, I rise in opposition to the Ose amendment.

My friend and colleague from California has indicated that Navy facilities in San Diego are at risk if his amendment is not passed.

I have a Navy facility in my district so I can appreciate his concern. In fact, after September 11th, the Navy constructed a force protection barrier around their facility in Monterey.

But, I disagree with my colleague over his efforts to exempt the construction of portions of a 14-mile immigration barrier south of San Diego from most of the Nation's environmental laws.

A society is judged by how it reacts to adversity, and after 9/11 this Chamber and this country were galvanized into action in the wake of that tragic day.

There is not a single member in this Chamber that isn't willing to fight terrorism or to protect our country and its citizens. Let's get that straight.

The amendment we have before us now is more about immigration control than it is about national security. P.L. 104–208 authorized the construction of fencing and road improvements in the border area near San Diego, CA.

In short, the border improvements were pursued, planned, and construction started before 9/11.

So, we know there will be improvements to the barriers at the border. I don't question the importance of completing the fence—that's not what this is about.

What this amendment is about is ignoring—worse, circumventing—an ongoing process.

Mr. OSE's ill-conceived amendment attempts to fix a problem that doesn't exist.

This amendment undermines and overturns efforts made by local communities, civic groups, State agencies, and elected representatives who have been working to come to consensus with the Bureau of Customs and Border Protection.

This amendment even exempts from protection the Bald Eagle, a symbol of America's freedom that is surpassed only by our American Flag.

My colleagues should be aware that the California Coastal Commission continues to work hard to complete the Southwest Border Fence, in compliance with the regulatory process established by 16 of our most essential public health, environmental, and cultural heritage laws and executive orders.

In fact, a meeting is scheduled for the 26th of October to work out the concerns between the Coastal Commission and the Department of Homeland Security's office of Homeland Security, Customs and Border Protection in charge of construction to resolve this issue.

We are a country built on laws. Our laws are in place not only to protect us today but also to protect this great nation for future generations.

There is no good reason why this project requires such a sweeping free ride.

By shirking the process and simply giving this project a blanket exemption from 16 of our most essential environmental laws, we are submitting that we can't do more than one thing at a time—and I don't, and won't, accept this.

I have more faith in our country, our laws, and the process.

This amendment will set a horrible precedent on multiple levels and I encourage all of my colleagues to vote "no."

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## A PROCLAMATION IN MEMORY OF WILLIAM HINIG

**HON. ROBERT W. NEY**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. NEY. Mr. Speaker:

Whereas, I hereby offer my heartfelt condolences to the family and friends of William Hinig; and

Whereas, William Hinig was a highly esteemed legislator who served in the Ohio House of Representatives for twenty-five years; and

Whereas, William Hinig worked tirelessly as Chairman of both the House Ways and Means Committee and the House Finance and Appropriations Committee to promote bipartisanship and help the people of Ohio; and

Whereas, William Hinig honorably fought for his country during World War II, receiving a Purple Heart for injuries received at Normandy; and

Whereas, William Hinig worked in and contributed to the financial industry by aiding in the founding of the accounting firm of Hinig and Miller; and

Whereas, the integrity William Hinig possessed, and the compassion he showed towards others, will stand as reminders to a truly remarkable person. His life and love gave joy to all who knew him.

Therefore, while I understand how words cannot express our grief at this most trying of times, I offer this token of profound sympathy to the family and friends of William Hinig.

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## CONFERENCE REPORT ON H.R. 4200, RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

SPEECH OF

**HON. HENRY A. WAXMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 8, 2004*

Mr. WAXMAN. Mr. Speaker, I want to discuss a number of provisions included in the conference report for H.R. 4200, the Defense Authorization bill for fiscal year 2005.

The conference report includes a provision that restricts from access under the Freedom of Information Act (FOIA), "data that are collected by land remote sensing and are prohibited from sale to customers other than the United States and its affiliated users." The effect of this language is that non-confidential commercial satellite imagery, which the government has purchased, would be restricted from disclosure to the public. This section extends this restriction to products that are derived from those data. That would mean that maps, reports, and any other analyses or communications that are derived from the exempted satellite image would also be inaccessible through FOIA. This section also preempts State and local public disclosure laws that would provide access to these data.

Public access to these data and products derived from these data is essential for effective participation in governmental actions, especially those by local governments that affect their daily lives. Government agencies use licensed and/or purchased imagery data in regulatory proceedings and numerous other mandated activities. The public requires access to this imagery in order to participate in these proceedings and importantly, to be informed about the activities of Government. This point was emphasized by the National Academy of Sciences in its recent report, Licensing Geographic Data and Services:

> When geographic data are used to design or administer regulatory schemes or formulate policy, affect the rights and obligations of citizens, or have likely value for the broader society as indicated by a legislative or regulatory mandate, the agency should evaluate whether the data should be acquired under terms that permit unlimited public access or whether more limited access may suffice to support the agency's mandates and missions and the agency's actions in judicial and other review. (page 229).

The bill's sweeping exemption is even contradictory to the advice the administration has solicited on access to geospatial information. In a report prepared for the National Geospatial-Intelligence Agency, the RAND National Defense Research Institute recommends that Federal agencies and other organizations use an analytical process to assess the potential homeland security sensitivity of specific pieces of publicly available geospatial information and to determine if restricting access to these specific pieces would enhance security. They recommend that such a process include analysis of the usefulness of the information to an attacker; its uniqueness; and the expected societal benefits of access and the costs of restricting the information.

The process through which this section was developed is contrary to the fundamental principles represented by the Freedom of Information Act. FOIA is a tool for protecting public access to their government's actions. This amendment was developed behind closed doors. Laws that limit the use of FOIA for public oversight of government actions should only be enacted after wide public consultation and discussion, which has not occurred with this provision.

Mr. Speaker, I am also disappointed with a provision of this conference report affecting OMB Circular A–76, which lays out the procedures used when the government privatizes work currently performed by federal employees. Under existing law, the private sector has the legal right to protest the results of such a public/private competition, but the public sector employees do not. This is fundamentally unfair.

The Senate bill would have addressed this inequity by granting both the official who submits the agency's bid, and a person representing a majority of the affected federal employees legal standing to protest at both the GAO and in the Court of Federal Claims. Instead of adopting this approach, the conference report gives standing only to the agency official, and only at the GAO. The report also requires the agency official to file a protest if a majority of the affected federal employees request that he do so, unless the official determines there is no reasonable basis to protest. While this limited approach is an improvement over existing law, I would have preferred the original Senate language, and will continue working to ensure that federal employees have all the legal rights currently afforded to contractors.

Finally, I strongly oppose section 3116, a provision that reverses an important aspect of the nation's nuclear waste cleanup policy. Specifically, it allows the Department of Energy to abandon millions of gallons of highly radioactive waste in leaking tanks in South Carolina and Idaho. It also sets a dangerous precedent for the cleanup of radioactive waste in Washington. This provision has not been adequately considered in either chamber of Congress.

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## THE LIBERATION OF NAVASSA AND DESECHEO ISLANDS BEGINS

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. RAHALL. Mr. Speaker, in my capacity as the ranking Democratic member on the Committee on Resources, it has been both a pleasure and an honor to oversee the management of our Federal public lands and resources.

It is not an exaggeration to say that our system of public lands—our parks, forests, refuges and wilderness areas—is second to none when it comes to providing world-class opportunities for Americans to enjoy outdoor recreation. That is, of course, when the general public is actually allowed to access and use their public lands.

Regardless of the fact that the Federal Government holds land in trust for the American people, sadly it appears that what the people own, the people may not necessarily ever get to use.

This is the case with two tiny islands in the Western Caribbean. Navassa and Desecheo islands have interesting histories, but I doubt most Americans even know they exist, let alone that the islands are, in fact, part of our very own country.

The story of Navassa Island is a classic tale of American capitalism. It came to be part of America in the late 1800's through the mining and sale of petrified bird guano—yes, guano—as fertilizer. It is also the site of one of our Nation's early, ugly labor disputes. Over time, guano went out of fashion, but the outpost served a new purpose for 80 years, as a light source to guide ships through the islands of the Caribbean. In 1996, with the advent of new technologies, the lighthouse went dark. The property, however, remained part of the U.S.

Eventually that island and Desecheo Island, a former military training range, were incorporated into the National Wildlife Refuge system. The designation rightfully recognizes the unique qualities of the two islands, which are rich in uncommon plant and animal life. But, in turn, it has also led to their being essentially fenced off from the people who own them—the American public. For in fact, today, the Fish & Wildlife Service bars legal access to these two islands apparently under any circumstance.

That might be the end of the story, were it not for a group of Ham radio operators, who, after having been granted special use access to these public lands for twenty years, were suddenly denied permission to visit the islands to broadcast

Indeed, for no sensible reason, the Fish and Wildlife Service—the same agency that had been granting access to these radio operators—arbitrarily reversed course and denied permits for a non-controversial recreational activity that had been approved for two decades of responsible and uneventful public use.

Not only did the agency cut off these broadcasters, it did so even after they agreed to assume all liability, to submit to any regulation or permit condition, and even to pay all administrative, management and travel costs for the Federal agency to remove all financial and logistical hurdles.

This is an instance of outrageous administrative arrogance to deny a permit for a recreational use that has been shown to be harmless to fish and wildlife. Public recreation at our National Wildlife Refuges is as much a part of the history of Refuge System as the critters themselves.

The Secretary of the Interior has been given congressional authority to grant special use permits for just such circumstances, when a public use is not incompatible with the purpose of the refuge. Yet, for some reason that escapes me, this Secretary will not budge. In the case of these two islands, the Secretary's discretionary powers amount to guano.

Such hubris cannot be allowed to stand unchallenged. Along with my colleague, the Chairman of the Resources Committee, RICHARD POMBO, I am introducing today legislation to address this deplorable situation and to restore the public's right of access to its Federal public lands. The liberation of Navassa and Desecheo Islands begins today.

This legislation would accomplish two main goals. First, it would require the Fish and Wildlife Service to issue regulations within 120 days after the bill's enactment to resolve this particular dispute. Second, to ensure access at both refuges the legislation would require the Service to establish at least one period of time each year for public access for each island.

Language authorizing the Service to specify use periods and to attach reasonable permit restrictions in order to protect resources and public safety should provide adequate flexibility to balance the competing interests of resource protection and public recreation.

Also important, this legislation will help to harmonize existing use policies in regard to Navassa and Desecheo Refuges with three other remote refuges in the Pacific—Baker Island, Johnson Island and Jarvis Island. These three refuges, all accessible by way of special use permits, show plainly that controlled public recreational access is possible even at extremely remote and fragile refuges. In fact, the ham radio operators were successful in securing a permit to visit Baker Island as recently as 2002. In fairness, the same access should be provided to Navassa Island and Desecheo.

I am fully aware of the Service's need to balance public access with the Refuge System's overall "wildlife first" mission.

The Service cannot, however, be allowed to selectively choose to implement those parts of its authority it favors but ignore those requirements to provide for public recreation which are clearly stated in existing law.

I urge members to support this important legislation.

## PERSONAL EXPLANATION

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. GALLEGLY. Mr. Speaker, on October 8, 2004, I was unable to vote on ordering the previous question on H. Res. 843, waiving points of order against the conference report to accompany H.R. 4200, the National Defense Authorization Act for fiscal year 2005 (rollcall 524); had I been present I would have voted "yea." Also, I was unable to vote on a motion to instruct conferees on S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States government (rollcall 525); had I been present I would have voted "nay." Additionally, I was unable to vote on the motion to table H. Res 845 (rollcall 526); had I been present I would have voted "aye."

Mr. Speaker, on October 9, 2004, I was unable to vote on several measures before the House: H. Con. Res. 518, providing for an adjournment of the two Houses (rollcall 527); had I been present, I would have voted "yea"; On agreeing to the conference report on H.R. 4200, the DOD Authorization for fiscal year 2005 (rollcall 528); had I been present, I would have voted "yea"; on agreeing to the conference report on H.R. 4837, the Military Construction Appropriations bill for fiscal year 2005 (rollcall 529); had I been present, I would have voted "yea"; and on agreeing to the conference report on H.R. 4567, the Homeland Security Appropriations bill for fiscal year 2005 (rollcall 530); had I been present, I would have voted "yea."

## A PROCLAMATION HONORING PETER AND SYLVIA MANASSE ON THEIR 60TH WEDDING ANNIVERSARY

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. NEY. Mr. Speaker:

Whereas, Peter and Sylvia Manasse were married in New York City on November 11, 1944; and

Whereas, Peter and Sylvia Manasse have shown the love and commitment necessary to live a long and beautiful life together; and

Whereas, Peter and Sylvia Manasse must be commended for their loyalty and dedication to their 3 sons, 8 grandchildren, 3 great-grandchildren, and extended family ; and

Whereas, Peter and Sylvia Manasse have both served their community. Mr. Manasse represented an American trading company in Milan, Italy and was always active in issues of U.S./European trade as a vice president for some 25 years of the American Chamber of Commerce in Italy. Mr. Manasse helped businesses in the Italian textile and steel industries re-establish their export markets to the United States and elsewhere after World War II. For his work in the export markets, he received the Gold Medal of the Milan Chamber of Commerce on December 22, 1977. Mrs. Manasse co-founded Milan's first International School in the late 1950's and then went on to have a successful career as a journalist for Italian magazines. Both Mr. and Mrs. Manasse have received the distinction of being named Chevalier in the Order of St. Charles for their services to the Principality of Monaco.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in congratulating Peter and Sylvia Manasse as they celebrate their 60th Wedding anniversary.

## HONORING JACK AND CARTER HARDESTY

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. WOLF. Mr. Speaker, it is my pleasure to draw the attention of the House to a noble couple on the occasion of the dedication of the Jack and Carter Hardesty Bridge in Clarke County, VA. The Hardestys have been a vital part of the Clarke County community for over half a century, and now their name will be honored and associated with the bridge over U.S. Route 340 which crosses the Norfolk Southern Railroad line about a mile from the West Virginia border.

State Senator Russ Potts sponsored the legislation in the Virginia General Assembly to dedicate the bridge in their name. I was honored to join him; Virginia Governor Mark Warner; the Honorable Al Smith, former member of the Virginia House of Delegates; the Honorable Jack Marsh, former Virginia Congressman and former Secretary of the Army; members of the Hardesty family and their friends and neighbors at the dedication ceremony and unveiling of the bridge marker on October 4. The Clarke County High School Band and school Concert Choir provided music for the event.

Carter, who passed away last year, was a special woman. She sent literally hundreds of cards each year to county residents that she personally picked out and wrote notes in for every occasion. These cards were often just pick-me-ups for friends that were down. Apparently, even a flat tire didn't escape her notice. The cards she sent made her an irreplaceable part of the community that is dearly missed.

Carter was also an active member of the Crums United Methodist Church. She spent 25 years teaching numerous Sunday school classes. Pastor Sandra Stamey of Crums UMC gave the invocation at the dedication ceremony.

However, I remember Carter best for her service at the Lord's Acre Booth at the Clarke County Fair. She was cochairman of the booth.

Carter was only one half of this dynamic duo. A dairy farmer by profession, Jack has served Clarke County as a member of the board of supervisors and his long list of community, civic, and public service activities is unparalleled. We all share with him and his family in the grief of Carter's loss. She left a great legacy behind for the husband and family and community that she dearly loved.

I want to share with our colleagues an article about the dedication ceremony from The Winchester Star.

[From the Winchester Star, Oct. 5, 2004]

CEREMONY CELEBRATES HARDESTY INFLUENCE

(By Jessica Sabbath)

BERRYVILLE.—Gov. Mark R. Warner visited Clarke County Monday to honor a husband known for his lifelong service to the county and a wife known for her heartfelt cards.

More than 200 people joined the governor, area politicians, and the extended Hardesty family at the dedication of a county bridge to John D. "Jack" Hardesty and his late wife, Carter.

The bridge, on U.S. 340, crosses over the Norfolk Southern Railroad line about a mile from the West Virginia border.

The couple is part of eight generations of Hardestys that have been prominent in the county. Speakers praised the couple for the couple's commitment to faith, family, and the county.

"Jack Hardesty and his family represent not only the best of public service, but the best of what it means to be a Virginian," Warner said against the backdrop of rolling green hills.

The ceremony was held at Oakland Orchard by state Sen. H. Russell Potts Jr., R-Winchester, and the Virginia Department of Transportation.

It wasn't the first time a Hardesty family ceremony brought the governor to Clarke County. In March 2002, Warner declared Virginia Agriculture Week at Harvue Farms, the dairy farm Jack Hardesty and his father established in 1949.

Jack Hardesty served on the county Board of Supervisors for 30 years, and was its chairman for 18 years.

He was named "Dairyman of the Year" in 1992 and has been president of the Maryland-Virginia Milk Producers Association for the past five years. He served five gubernatorial appointments and has been on the board of the Bank of Clarke County for 40 years.

Carter Hardesty, who died last October, was known as the "Card Lady" of Clarke County. She sent out between 15 and 20 cards each week to county residents for just about any occasion.

During the ceremony, Potts, who sponsored the legislation in the Virginia General Assembly to dedicate the bridge, held up a stack of cards he had received from Carter Hardesty.

"She would even send a card out when somebody's car broke down," Potts said.

Carter Hardesty taught Sunday School at Crums United Methodist Church for 25 years. She was the co-chair of the Lord's Acre booth in the Clarke County Fair for 35 years.

U.S. Rep. Frank R. Wolf, R-10th, praised the couple's service to the county and family.

"They have played a vital part of this community in a unique way," Wolf said, adding he hopes future generations of Hardestys would carry on the tradition.

Danny Hardesty, grandson of Jack Hardesty and a senior at Clarke County High School, said the ceremony and his grandfather's service had done just that.

"He laid down the roadwork for us all to follow," Danny said.

The governor made a late, but rather striking entrance. A few minutes into the ceremony, a helicopter carrying the governor approached while the Clarke County High School Band played "The Star Spangled Banner."

A mix-up in the location of the helicopter caused the governor to make a last-minute sprint to Richmond International Airport to catch a flight into Winchester.

There, Warner jumped on the helicopter that flew him into Clarke.

"I was not trying to interfere with the band's wonderful rendition," Warner said at the dedication. "Neither sleet, nor rain, nor snow, nor hail nor misplaced helicopter could keep me away." Warner recalled receiving a card from Carter Hardesty when he began his term and found the state's budget in worse-than-expected shape.

"'Don't worry, Mark,'" Warner recalled the card saying. "'You'll get through it all right.'"

Potts, Wolf, former Del. Alson H. Smith Jr., former Congressman and former Secretary of the U.S. Army John O. Marsh all spoke at the event, held on a warm and sunny fall day.

"My wife arranged the weather," Jack Hardesty told the crowd. "I know Carter's looking down and enjoying this."

During an emotional high point of the ceremony, tears welled in the eyes of the family and many members of the audience as Alexandra Masters, a junior at Clarke County High School, sang pop singer Sarah McLachlan's "Angel."

The Hardesty family stood with politicians as Warner and Jack Hardesty unveiled a green highway sign that read "Jack and Carter Hardesty Bridge."

Potts said it would be fitting that after crossing over the Virginia border, people would first see the bridge.

"The bridge that represents that 'Highway to Heaven' that the Hardestys tried to make Clarke County," Potts said.

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## TRIBUTE TO FATHER SPENCER T. KEZIOS

### HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Father Spencer T. Kezios for his leadership and service to the community. The San Fernando Valley, and indeed the entire world community, is truly fortunate to benefit from his unyielding dedication to promoting education, religious tolerance, and peace. Father Kezios has consistently demonstrated selfless devotion to his countrymen and his faith for over forty years at the Parish of Saint Nicholas in Northridge, California.

In his years of service, Father Kezios has been at the forefront of many community service organizations and efforts. Under Father Kezios's guidance, the Parish of Saint Nicholas has grown from a mission parish to a community institution offering spiritual and community-based services for over 1,200 families. Father Kezios founded the Saint Nicholas Parochial School in 1977, and over time oversaw the expansion of the school which now boasts an enrollment of almost 400 students. He was also one of the three original incorporators of the Guadalupe Home for Boys and he established the first two Greek Orthodox senior citizens housing developments in the Archdiocese. He was also assigned as Chaplain for the Los Angeles Police Department.

Father Kezios had the foresight to bring several liturgical services to the English speaking community. In 1994, he translated the complete Orthros services from Greek into contemporary English and made it available for wide publication. He continues to provide liturgical translation of these texts for English speaking congregations through the Narthex Press.

Some of Father Kezios's greatest achievements were attained by educating and influencing local and international communities on issues of global importance, such as religious and cultural tolerance. Archbishop Iakovos tapped Father Kezios to assist with the efforts of the Greek Orthodox Church in Albania shortly after the fall of communism in that country. Here in the United States, and at the direction of Archbishop Iakovos, Father Kezios also produced a series of five educational films, including "A Boy Named Panatiotis," which exposed the American public to the hardship and suffering of the people of Cyprus after the Turkish invasion. He also produced and directed a Cyprian cultural program of music and dance that toured the United States, donating all net proceeds from these performances to refugees from Cyprus.

Mr. Speaker, please join me in recognizing Father Spencer T. Kezios for dedicating his life to spreading knowledge and compassion. He is an example to us all.

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## TRIBUTE TO PROFESSOR DAVID E. VOCKE, PH.D.

### HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to Professor David E. Vocke, Ph.D. of Towson University for his dedication and commitment to training future teachers. Professor Vocke has been selected for his work by the Carnegie Foundation for the Advancement of Teaching and the Council for Advancement of Support Education as one of this year's U.S. Professors of the Year.

Professor Vocke has been a full professor at Towson University since 1997. Towson University is nationally recognized for its rigorous and demanding education program. As a professor of secondary education at Towson, he has dedicated himself to developing several successful precollegiate intervention programs with the Baltimore City Public School system. These programs bring middle and high school students from diverse, low-income schools to the Towson University campus for experiences that are designed to inspire them to attend college. At the same time, these programs have provided his students majoring in education with unique and valuable experiences.

Professor Vocke has spent his professional career preparing undergraduates for careers in education. Since 1981, the U.S. Professors of the Year Program has rewarded outstanding professors for their dedication to teaching and commitment to students. The program seeks to increase awareness of the importance of excellent undergraduate instruction at all colleges and universities.

I hope my colleagues in the U.S. House of Representatives will join me in saluting Professor David E. Vocke for his dedication to undergraduate education and his desire to instill a love of teaching in all his students.

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## PERSONAL EXPLANATION

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. NEY. Mr. Speaker, on October 9, 2004, I was unable to be present for rollcall vote No. 527, on agreeing to H. Con. Res. 218; for rollcall vote No. 528, on agreeing to the Conference Report to H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005; for rollcall vote No. 529, on agreeing to the Conference Report to H.R. 4837, the Military Construction Appropriations Act, 2005; and for rollcall vote No. 530, on agreeing to the Conference Report to H.R. 4567, the Department of Homeland Security Appropriations Act, 2005. Had I been present I would have voted "yes" on rollcall vote No. 527, "yes" on rollcall vote No. 528, "yes" on rollcall vote No. 529, and "yes" on rollcall vote No. 530.

## IN RECOGNITION OF HENRY KUCZINSKI, FOR FIFTY YEARS OF FIRE SERVICE

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### HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mrs. McCARTHY of New York. Mr. Speaker, I rise today on behalf of the people of the 4th Congressional District to recognize Henry Kuczinski of New Hyde Park, New York.

I am extremely honored to congratulate Mr. Kuczinski as he celebrates fifty years of dedicated service to the New Hyde Park Fire Department. Such an achievement is testament to his impressive record of five decades of commitment to the department and the local community.

Henry began his service to the country as a young man in the U.S. Army, receiving an Honorable Discharge in 1951. He continued to serve others by becoming a member of the New Hyde Park Fire Department in November 1954. Through the years he has gained the admiration and respect of the entire department by responding to emergency calls with the greatest diligence and speed. His most outstanding accomplishment came in 1967, when he performed an extremely difficult rescue during the collapse of a building's foundation, garnering both the praise of his colleagues and a formal department honor.

Henry let his actions speak for him and became a leader and a role model within the department. Because of his outstanding achievements in fire service and his exemplary record of service to the community, Henry has been named New Hyde Park's Fireman of the Year five times in the past fifty years. During Henry's tenure at the New Hyde Park Fire Department, he has held the offices of Second Lieutenant, First Lieutenant, and Captain.

Today, Henry is a member of the Fire-Police unit and has earned the title of Honorary Department Chief. He also has been a leader on the Department's Memorial Committee since the very beginning of his career as a firefighter. No matter what capacity he has served in over the past fifty years, Henry has always performed with distinction and inspired others to achieve their full potential.

Mr. Kuczinski's tireless commitment to his job has made a difference in the lives of many. Once again, I would like to offer my congratulations to him on this well-deserved recognition and wish him the best of luck in his future endeavors.

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## HONORING JUNIOR ACHIEVEMENT OF NEW YORK FOR 75 YEARS OF INSPIRING YOUNG PEOPLE TO BE SUCCESSFUL

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### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mrs. MALONEY. Mr. Speaker, I rise today to recognize Junior Achievement of New York as it celebrates its 75th anniversary of educating young people about business, economics, and free enterprise. On October 18, 1929, ten visionary women and men created an original organization exclusively dedicated to providing a broad appreciation of business to young boys and girls throughout New York City. Since its inception, Junior Achievement of New York has worked vigorously to help every student in the five boroughs of New York and on Long Island appreciate the value of education, and understand the free enterprise system.

In its distinguished history, Junior Achievement of New York has inspired nearly two million kindergarten through twelfth grade students. This inspiration has been achieved through the dedication and energy of more than 65,000 volunteers from the corporate, education, and civic sectors of the New York community. Junior Achievement volunteers are amazing individuals from large, medium, and small businesses, from high schools, colleges, and graduate school programs. They are devoted parents, accomplished retirees, and caring members of the communities where the students they teach live and learn.

Junior Achievement of New York has facilitated and continues to create business-to-school partnerships. These relationships create meaningful experiences that bring the real world into the classroom and forge valuable relationships between successful professionals and future business and social leaders. Thanks to volunteers' educational consulting, Junior Achievement of New York has been able to deliver dynamic, innovative educational programs that motivate, inspire, and equip young people to succeed.

Junior Achievement of New York's programs prepare students for the workplace by encouraging exceptional academic performance, developing employability skills and providing career education. The programs are designed to foster students' desire to complete their education and instill in them an understanding of the vital link between staying in school and becoming productive citizens. Furthermore, the programs enhance students' abilities to attain the core skills and competencies necessary for success in today's workplace and marketplace. Junior Achievement of New York's curriculum serves as a building block to help achieve the goals of the New York City and State education systems and produce bright, motivated entrepreneurs to build a better future for the city and State.

I salute Junior Achievement of New York, its mission and the commendable volunteers, teachers, and students who have been a part of its 27-year history. On its platinum anniversary, I applaud the impact this educational organization has had on the students of New York. Moreover, I confidently endorse the future success Junior Achievement of New York will have as it continues to inspire young people to be successful.

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## TRIBUTE TO CARL AND MARILYN BAKER-MADSEN

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### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. STARK. Mr. Speaker, I rise to pay tribute to two of Hayward, California's outstanding citizens, Carl and Marilyn Baker-Madsen. Marilyn and Carl are celebrating 50 years of service as they retire from their employment in the city of Hayward.

Marilyn has been the Library Director of the Hayward Public Library since October 1985. During her tenure, the Library has implemented a number of programs and services with outstanding demonstrable outcomes that are models for libraries in other cities. In the fall of 1996, Marilyn was recognized at the California Library Association Annual Conference as Librarian of the Year for outstanding service to libraries. In January 2000, she received the Dr. Martin Luther King, Jr. Celebration Committee Annual Community Service Award which honors individuals who have contributed substantially to keeping Dr. King's work alive and active in the Hayward community. In October 2001, she received the Hayward City Employee Award for volunteering in the community beyond work commitments. In November 2003, Marilyn received the HEARTS of Service Award for demonstrating commitment to the organizational values of the city of Hayward.

Carl is retiring from his position as equipment manager for the city of Hayward. He is described as an employee who goes beyond the call of duty to serve his community and stands tall in his field. He has volunteered over many years, in many capacities to benefit Hayward. He was named Hayward City Employee Volunteer of the Year.

Carl and Marilyn have been very active supporters of the Hayward Arts Council and its projects. Both have been tireless volunteers on behalf of the arts programs and services at events, such as Cinco de Mayo, Youth Pride fairs, Kids' Art Day and Farmer's Market and police department neighborhood events where Carl has helped set up and staff booths that provided free art projects for children.

Carl describes himself as "a Friend of the Library . . . Director." Through the years, he has given more and more of his own time to ease the work of the Library staff. He has been active at Literacy Plus receptions, the Celebrating Cultures in Harmony Festival and major outdoor book sales. Friends of the Library know they can count on Carl to contribute to the success of Library events.

The Baker-Madsen's have worked with exemplary commitment to enhance the quality of life in Hayward, California. Their contributions have been felt at the Hayward Public Library, the Hayward Arts Council, in City Hall, as well as in the many community venues in which they participate.

I join their friends and admirers in expressing appreciation and a hearty thank you for exemplifying the "Heart of the Bay" at its very best.

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## HONORING JUDY LICHTMAN FOR THIRTY YEARS OF LEADERSHIP

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### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Ms. DELAURO. Mr. Speaker, I rise today to honor my friend and a Washington legend, Judith Lichtman, who recently stepped down as president of the National Partnership of Women & Families after 30 years at its helm.

Judy has been at the forefront of the women's movement for more than 30 years, and used her considerable talents as a lawyer and a strategic mind to transform the National Partnership, originally the Women's Legal Defense Fund, from a small volunteer group to a national organization with thousands of members and a reputation for taking on the tough issues and delivering results.

Judy's vision, and the National Partnership's strength and direct leadership, led to the passage of some of the most important legal protections for American women and families, including the Pregnancy Discrimination Act of 1978 and the Family and Medical Leave Act, FMLA, of 1993. In 1996, the National Partnership helped shape key provisions of the Health Insurance Portability and Accountability Act, HIPAA, that make it easier for women and their families to get and keep health coverage. More recently, Judy led efforts to promote patient protections and to bring paid family and medical leave to California. I am proud to have worked with her in drafting the Healthy Families Act, which will ensure that Americans have at least seven days of sick leave a year.

Judy has been recognized by civic and legal organizations, business and labor leaders, and others for her strategic abilities, political savvy, effectiveness in creating powerful and diverse coalitions, and most importantly, her tireless commitment to building a truly just society. Judy has always been a great support to me in drafting legislation to improve women's economic security, and I could also rely on her for creative ideas and sage advice.

The National Partnership for Women & Families will now be in the very able hands of Debra Ness, with Judy serving as a Senior Advisor. The lives of men, women and children across this nation have been enriched by Judy's work over the last three decades, and I know her change in title will not change her commitment to the cause. I wish Judy the best of luck in this new phase of life, and thank her for her dedication over the years.

## IN RECOGNITION OF SERGEANT KEVIN WISE FOR HIS 29 YEARS OF SERVICE TO THE CONCORD POLICE DEPARTMENT

### HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mrs. TAUSCHER. Mr. Speaker, I rise to pay tribute to Sergeant Kevin Wise, who is retiring from the City of Concord Police Department after 29 years of serving the residents of Concord as well as the larger community.

Sergeant Wise is a life-long resident of California. He married his wife Maggie in 1988 and he has two daughters, Kristen and Kelsey.

Kevin Wise's career began when he worked as Police Assistant for the Concord Police Department in 1976. He was hired as a sworn Police Officer in 1977, and faithfully served the department, holding many specialty positions until he retired in October of 2004 as a Provisional Patrol Sergeant in the Field Operations Division.

The distinguished career of Kevin Wise includes serving on the Board of the Concord Police Officers' Association, and in 2002 he served as the Association's President for eighteen months.

Mr. Wise's work also includes several recognitions, including a Blue Knight award which Sergeant Wise received in 1996 from the Knights of Columbus for his exceptional work as a career member of the community's emergency services. He also received a Peace Makers Award in 1997 from the Conflict Resolution Panel of Contra Costa County for his outstanding service "keeping the peace" in the community while working as a Gang Investigator.

Sergeant Wise has demonstrated outstanding leadership throughout his career including co-founding the Concord Police Department's GANG Unit in 1996. This unit is still in existence and continues to increase gang awareness and suppression. Furthermore, he was selected in 2002 to provide peer support counseling to NYPD officers struggling with the aftermath of the 9/11 tragedy because of his highly regarded work as a Peer Support Counselor within the Concord Police Department.

For 29 years, Sergeant Wise has served the Concord Police Department and surrounding community. His hard work has improved the safety of the City and provided important support to his peers. Today, I am proud to commend him for his service, dedication and commitment to the people—and entire community—of Concord.

## REMEMBERING JUDGE BRATTON DAVIS

### HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. WILSON of South Carolina. Mr. Speaker, South Carolina recently recognized the extraordinary life of the late Judge J. Bratton Davis. Judge Davis will always be remembered as the embodiment of a Southern Gentleman.

Multiple generations of my family knew and respected Judge Davis. My grandparents Bill and Joe Graves were close friends and my parents Wray and Hugh Wilson became admiring friends as fellow students at the University of South Carolina. I will always cherish working with him in 1962 as he managed the successful campaign of Donald S. Russell for Governor of South Carolina. He honored me to be a Youth Manager in the June 1962 primary for the Lowcountry which inspired me to seek a similar career in public service.

I would like to insert in the RECORD the following obituary from the State newspaper:

[From the State, Oct. 31, 2004]

JUDGE BRATTON DAVIS

COLUMBIA.—Funeral service for The Honorable J. Bratton Davis will be held Monday at 11 a.m. at Trinity Episcopal Cathedral with burial in Elmwood Memorial Gardens. Serving as pallbearers will be Michael M. Beal, John B. Butler III, George B. Cauthen, Todd R. Ellis, Robert C. Kelly, R. Geoffrey Levy, William Bratton Riley, and W. Keenan Stephenson. Dunbar Funeral Home, Devine Street Chapel, is in charge.

Judge Davis died Friday, October 29, 2004. Born in Hartsville on October 27, 1917, he was the elder son of the late John Bratton Davis and Sarah Causey "Dee" Davis. A 1938 graduate of the University of South Carolina and 1940 graduate of the University of South Carolina School of Law, he continued graduate study at Harvard Law School in 1941. He was commissioned as a line officer in the United States Navy serving during WW II principally in the South Pacific Theater of Operations.

From WW II until 1969, Judge Davis practiced law with the firm of Graydon, Davis and Suber. He was admitted to practice in all of the South Carolina courts, all of the federal courts and the High Court of American Samoa.

In 1948, the Junior Chamber of Commerce named Judge Davis "Columbia's Young Man of the Year." He has served as: U.S. Bankruptcy Judge for the District of South Carolina (1969–2000); Chief Judge of the U.S. Bankruptcy Court for the District of S.C. (1986–2000); Chairman, State of South Carolina Development Board; Columbia Board of Directors of the South Carolina National Bank; Board of Directors of Security Federal Savings and Loan Association; President of the Columbia Museum of Art; Vestryman, Trinity Cathedral; member of the Judicial Conference of the Circuit Court of Appeals for the Fourth Circuit; member of the Security and Facilities Committee of the Judicial Conference of the United States; member of the Board of Directors of the University of South Carolina Educational Foundation; member of the Board of Directors of the University of South Carolina Law School Partnership Board; member of the Board of Directors of the Virginia and Donald S. Russell Symposium Committee; member of the Board of Governors of the National Conference of Bankruptcy Judges; President of the Columbia Kiwanis Club; member of the Board of Directors of the Columbia Chapter of the American Red Cross; member of the Board of Directors of the National Foundation for Infantile Paralysis; Chairman of the Donald Russell Gubernatorial Inauguration Committee; member of the Board of Directors of the Byrnes Foundation; and member of the Board of Directors of the James F. Bynes Centennial Committee.

In 2000, Judge Davis was awarded the Order of the Palmetto, the highest honor conferred by the State of South Carolina.

The J. Bratton Davis U.S. Bankruptcy Courthouse was so named in his honor upon his retirement from the bench in 2000.

He held memberships in: Forest Lake Club; Palmetto Club; Centurion Society; South Caroliniana Society; Kappa Alpha Order; Omicron Delta Phi; The Columbia Ball; and South Carolina Historical Society.

Judge Davis is survived by his wife, Margaret Smyth McKissick Davis; sons, Sherwood McKissick Cleveland and his wife, Kathleen of Camden, and William Choice Cleveland and his wife, Anne of Charleston; daughter, Jean Davis Bruton and her husband, John C. Bruton, Jr. of Columbia; brother, John Thorne Davis of Charleston; and grandchildren, Sherwood McKissick Cleveland Jr., Samuel Henry Edmunds Cleveland, John Connor Cleveland, Braden Cleveland Bergan, Margaret Cleveland Pitts, William Choice Cleveland IV, Margaret

McKissick Bruton and John Calvin Bruton III.

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## IN HONOR OF DR. SCOTT HUDELSON

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. BURGESS. Mr. Speaker, my remarks today are to honor my friend, Scott Hudelson of Flower Mound, Texas, a devoted philanthropist and local dentist who died Friday, November 12, when the Cessna plane he was piloting crashed near Lexington, Kentucky. Scott was en route to Chicago to meet his wife, Lewisville physician Mary Brandt Hudelson, who was attending an allergy conference.

Scott Hudelson, a Minnesota native, opened his Flower Mound practice after serving in the Army Reserve's dental corps during Operation Desert Storm.

He earned degrees in engineering and dental surgery from the University of Minnesota and is listed as a member of the American Dental Association, Texas Dental Association, Denton County Dental Society and Academy of Cosmetic Dentistry.

In addition to running a successful practice, Family DentalCARE, Scott made monthly trips in his small plane, on his own time and with his own finances, to clean and fill the teeth of young patients at the Oklahoma School for the Deaf. The school has about 150 students—from toddlers to teen-agers—and most live on campus. He talked with the patients in sign language and put them at ease.

Scott Hudelson married Mary Brandt on the Fourth of July in 1992. Together, Scott and Mary have three young children, as well as three older children from a previous marriage—including a grown daughter who is working as an accountant in Tikrit, Iraq.

Tomorrow, I will give the eulogy for my dear friend Scott. I cannot adequately express my sorrow to the Hudelson family, but I can say I was blessed to have him in my life. My prayers are with the family and Scott, and I honor his life here today.

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## HONORING BUSINESS WOMEN OF THE YEAR AWARD RECIPIENTS

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize Sylvia Disney, M. Margaret Hadcock MD, Teena N. Hagerman, Heidi Horton, Linda Penner, Ruth F. Quinto, Minne Santillian, Patty Scroggins, Cynthia A. Sterling, and Carmen Villegas on the occasion of their being awarded the 2004 Business Women of the Year Award. The award is given to women, who in their professional fields, have become leaders and have invested in their communities through community service and philanthropy. The Marjaree Mason Center, a 24-hour domestic-violence center that offers shelter and supportive services for women and children victimized by abuse and homelessness, is the main sponsor of the awards program.

Sylvia Disney. Sylvia is the CEO of Valley Healthy Team, a non-profit organization that offers outpatient services to the rural communities of Fresno County, California. As the owner of Thyme for Tea, Sylvia enchants her patrons with exceptional service and delicacies. Sylvia volunteers her time to rehabilitate animals for the Chaffee Zoo and offers her expertise as a Master Gardner to conduct horticultural programs for youths and adults.

M. Margaret Hadcock MD. As a physician with Fresno Breast Surgeons, Dr. Hadcock dedicates her practice to the treatment and research of all medical facets of breast cancer. Dr. Hadcock established and heads the St. Agnes Weekly Breast Cancer Conference and contributes time as a mentoring physician in Girl Scout projects, which illuminates various career opportunities to young women.

Teena N. Hagerman. Owner and Director of Coarsegold Performing Arts Center, Teena brings over 20 years of experience as a dance instructor and musical and drama actor/director. Teena is committed to the preservation of our surrounding communities and has collaborated with PG&E to develop and perform educational plays aimed to promote energy conservation. Teena plans to build an outdoor theater that will support children's and adult production for the community of Coarsegold.

Heidi Horton. Heidi is an Executive Recruiter at BennettFrost Personnel Services whose diligent marketing and networking skills rebuilt the DirectHire department. Heidi is a compassionate professional and athlete. She voluntarily helps nonprofit organizations with their recruiting and staff sharing and raises funds as a triathlete for the Leukemia and Lymphoma Society. Heidi is an active supporter of local community organizations such as: United Way, Fig Garden Rotary, Leadership Fresno, Fresno Women's Network and many others.

Linda Penner. Protecting the citizens of Fresno County, Linda is the current Director of Juvenile Probation and Adult Field Services for the Fresno County Probation Department. During her 27 year career she has worked to assist victims of crime in our community as a Victims' Advocate and Deputy Probation Officer. She has been recognized for her work with child sexual assault victims by the Sexual Assault Investigators Association and Fresno County District Attorney's Office. Linda's unprecedented commitment to the children of Fresno County is further demonstrated by her service to our schools as she serves on boards, commissions and committees serving both Clovis Unified and Fresno Unified School Districts.

Ruth F. Quinto. Ruth is the City of Fresno's Finance Director and City Controller. Some of Ruth's many accomplishments include decreasing citywide debt by $23 million and laboring alongside Mayor Alan Autry in an effort to have the Governor's Office recognize the revenue needs of California's cities and counties. In 2001, Ruth achieved the status of "highest ranking Latina administrator" as Controller for the City of Fresno and received the "Latina's Achiever for Government" award in 2002.

Minnie Santillian. As the District Director for Assemblymember Sarah Reyes' 31st Assembly District Office, Minnie champions her work in the political sphere by proposing legislative ideas on issues such as Health Care, Education, Public Safety and many others. Minnie is dedicated to her community by serving as Board President of the Downtown Association of Fresno and spends her free time teaching tennis to underprivileged youths.

Patty Scroggins. Patty's efforts to establish Early Childhood Education Centers in the West Hills Community College District has created dependable childcare for children from birth to 5 years of age in the cities of Firebaugh, San Joaquin, Lemoore and several others. Her strong relationship with the State Department of Education has allowed her to offer free childcare to low-income families and she works relentlessly to provide engoing parent education.

Cynthia A. Sterling. Fresno City Councilmember Cynthia A. Sterling made history in 2002 by becoming the first elected African-American woman to serve on that City Council. Since her inauguration, she has raised $20,000 with her Hope for the Holidays turkey distribution and serves on Fresno's Interagency Housing Taskforce, which focuses on creating quality housing for all income levels and homeownership opportunities.

Carmen Villegas. Carmen is Director of Administrative Service for the Central Valley Regional Center and serves on numerous committees with the Department of Developmental Services. As a breast cancer survivor, Carmen annually travels to Washington, D.C. to review breast cancer research proposals and mentors newly diagnosed minority women who lack a much needed support system.

Mr. Speaker, I rise today to recognize Sylvia Disney, M. Margaret Hadcock MD, Teena N. Hagerman, Heidi Horton, Linda Penner, Ruth F. Quinto, Minnie Santillian, Patty Scroggins, Cynthia A. Sterling, and Carmen Villegas for receiving the 2004 Business Women of the Year Award. I invite my colleagues to join me in commending these outstanding women for their desire to improve the community around them and in wishing them many years of continued success.

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## IN MEMORY OF MARGARET S. BROTHERS

### HON. J. RANDY FORBES

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. FORBES. Mr. Speaker, I rise today to remember my dear friend, Margaret Brothers.

Margaret was a loving wife to David, mother to Jessica and Gray, and servant of God, but to me she was first and foremost a trusted and loving friend. If I can convey but one overriding memory of Margaret, it is that she was always there for my wife Shirley and myself and for our family from the earliest days onward. As I embarked on my career in law, she was by my side. As I began my career in public service, she continued to serve in my law office and made the transition to my congressional office after my special election in 2001.

During my legal career and in each of my campaigns, Margaret was always near, encouraging me and strengthening me with her God given abilities to comfort and guide.

Although her time with us was all too brief, I have a great sense of comfort knowing that she directly changed the lives of all she touched for the better both in and out of the office. Always the servant, Margaret worked tirelessly for the citizens of the 4th Congressional District of Virginia. Even when her own strength was diminishing and her own personal needs were increasing, Margaret fought to overcome her physical obstacles to be with her coworkers and to concentrate on serving others in need.

I will always remember her graceful presence, calm manner, warm smile, and joyful laugh, the qualities that enabled her to touch so many. Her witness to others has unquestionably impacted countless people who were fortunate enough to know her. Margaret's faith was a beacon of light shining out of the darkness to those in need searching to find their way. Her ability to touch the souls of others and show them the light was her calling and I thank God that she was a part of my life. While Margaret's loss to our office family and to me personally will be considerable, her never faltering faith and commitment to her Lord and Savior will continue to inspire all who knew her and serve as an inspiration and example to the next generation who must pick up her mission and carry it forward.

## DANIEL CIRCELLI: SCHOLAR, ATHLETE, MERCHANT MARINE

### HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. BOEHLERT. Mr. Speaker, I would like to take this opportunity to congratulate one of my constituents from Oneida County, Daniel J. Circelli, on his graduation from the United States Merchant Marine Academy, in Kings Point, NY. Mr. Circelli is the epitome of the Merchant Marine Academy's motto "Acta Non Verba"—"Deeds Not Words". He has excelled in both academics and athletics, and has left a legacy at the Academy that will not soon be forgotten.

Mr. Circelli earned a bachelor of science degree with a major in Logistics & Intermodal Transportation. He is USCG licensed as a Third Mate, Unlimited Horsepower, and holds additional certifications in Advanced Firefighting, Dangerous Liquids, Marine Electronics/Communications/Radar, Chemical Biological Radiological Defense, CPR and First Aid. Mr. Circelli was awarded the Michael Ricciardi Memorial Scholarship in 2004. He also received a Class of 2004 recognition for exhibiting exceptional leadership and outstanding character as a member of the Regiment.

Mr. Circelli's collegiate achievements extend beyond the classroom and onto the football field where he led the Mariners as a 4-year starting quarterback and 2-year Varsity team captain. He holds three school records, and was named First Team All Conference in 2002 and ECAC and FCC Rookie of the Year in 2000. Mr. Circelli was lauded by head football coach, Tim McNulty, as "the type of competitor that raises the level of play of those around him by his mere presence."

The Superintendent of the Academy, Vice Admiral Joseph Stewart, said that Mr. Circelli "represents all that is good about the U.S. Merchant Marine Academy and he is an outstanding example for our regimental values of integrity, service, courage and respect." As a student at the Academy, Mr. Circelli served aboard bulk carriers, naval auxiliaries, and containerships. He was involved in delivering humanitarian aid to Pakistan and China and in supporting the U.S. Sixth Fleet in the Mediterranean theater of operations. He also made numerous North Atlantic crossings to Europe and voyages to the Far East from California. Throughout his time at the Academy, Mr. Circelli proved that he is industrious, conscientious, highly motivated, and interested only in exemplifying the highest standards of moral integrity and leadership. Academy Training Representative, Commander J.C. Flumignan, described Mr. Circelli as "the best this Nation has to offer."

## TRIBUTE TO EDWARD A. KELLY, JR.

### HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to my long-time friend, Edward A. "Ed" Kelly as he is honored as the recipient of this year's Lloyd Ritter Community Service Award by the Volunteer Center of Burlington County.

Involved in more than 70 different service clubs, professional organizations and fraternal and charitable nonprofits through the years, Ed Kelly is a man of accomplishment, one who "gets things done."

During the past decade much of his effort has been in the area of veterans service and assistance to active-duty military at nearby McGuire Air Force Base and Fort Dix. Spending much time as a volunteer in Burlington County's Veterans Service Office, Ed continues to serve on Save McGuire and Fort Dix Committees, is a member of Burlington County's Military Affairs Committee, and is a past State Chairman of the Employers Support of the Guard and Reserve organization.

Ed also has been active in the Burlington County Chapter of the Boy Scouts of America; the Congressional Medal of Honor Society; the Chapel of the Four Chaplains, who honored him with their Legion of Honor Award; and, the Knights of Columbus, who selected him for their Distinguished Citizen Award.

It is obvious to all who come in contact with Ed Kelly that he is a special individual, one whose caring and commitment to the community have led him through a life of volunteering his time and energies for the betterment of others.

For these reasons, it is fitting that he receive this prestigious honor. I thank his loving wife, Millie, for sharing Ed with the community.

## CHANGING THE HOUSE RULE GOVERNING USE OF THE CONGRESSIONAL FRANK DURING THE PERIOD PRECEDING ELECTIONS

### HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. LARSON. Mr. Speaker, I introduced H. Res. 848 in order to conform the pertinent House Rule with the underlying statutory provision governing use of the congressional frank during the period preceding elections.

When the pertinent predecessor provisions of House Rule XXIV, clause 8, were originally adopted, the pre-election cut off was statutorily set at 60 days. However when the pre-election cut off was changed in 1966 to 90 days in the underlying statute, the House did not amend its rules to conform with that change. Thus the House Rule today is out of date.

39 U.S.C. 3210(a)(6)(A) currently reads, in pertinent part:

> (6)(A) It is the intent of Congress that a Member of, or Member-elect to, Congress may not mail any mass mailing as franked mail—
>
> (i) if the mass mailing is postmarked fewer than 60 days (or, in the case of a Member of the House, fewer than 90 days) immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the Member is a candidate for reelection; or
>
> (ii) in the case of a Member of, or Member-elect to, the House who is a candidate for any other public office, if the mass mailing—
>
> (I) is prepared for delivery within any portion of the jurisdiction of or the area covered by the public office which is outside the area constituting the congressional district from which the Member or Member-elect was elected; or
>
> (II) is postmarked fewer than 90 days immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the Member or Member-elect is a candidate for any other public office.

H. Res. 848 provides a conforming amendment to make Rule XXIV, clause 8, consistent with the underlying statute. What follows is the pertinent language of the statutory change:

> Amendment to the 60 day rule—1996—Subsection (a)(6)(A)(i). Pub. L. 104–197, Sec. 102(a)(1), inserted "(or, in the case of a Member of the House, fewer than 90 days)" after "60 days". Subsection (a)(6)(A)(ii)(II). Pub. L. 104–197, Sec. 102(a)(2), substituted "90 days" for "60 days".

The text of H. Res. 848 follows:

H. RES. 848

*Resolved*, That clause 8 of rule XXIV of the Rules of the House of Representatives is amended by striking "60" and inserting "90".

## REDUCING CERTAIN SPECIAL ALLOWANCE PAYMENTS AND PROVIDING ADDITIONAL TEACHER LOAN FORGIVENESS ON FEDERAL STUDENT LOANS

### HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. BOEHNER. Mr. Speaker, the Taxpayer-Teacher Protection Act is the right thing to do at the right time. As I said, this closes the loophole for lenders billing the 9.5 percent floor on special allowance by prohibiting this billing on loans from bonds that have been refunded, refinanced, extended, matured, retired, or defeased, on or after October 1, 2004 and before January 1, 2006. Also prohibited is the billing of 9.5 percent floor special allowance by the holder for all loans sold or otherwise pledged, refinanced or transferred to another holder as defined in the Higher Education Act (HEA) on or after October 1, 2004 and before January 1, 2006. While it does allow for limited billing on recycled loans, that billing is permitted only on loans financed by pre-1993 tax-exempt bonds, or within such tax-exempt refunded bonds done prior to October 1, 2004, and only for the duration of these bonds. These prospective changes take a major step in closing the window to these subsidies for loan providers. This bill redirects the savings realized from this change to one of this country's greatest resources—highly qualified teachers. This bill also allows Congress to continue its work on the reauthorization of the Higher Education Act to ensure any permanent changes made to this issue are done so with open debate and clear consideration of the students we want to assist in reaching their higher education goals.

## A TRIBUTE TO WALTER D. KREUTZEN ON HIS RETIREMENT

### HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. COX. Mr. Speaker, I rise today to pay tribute to a Californian whose dedication to the betterment of southern California has never wavered. Wally Kreutzen, retiring this month, will leave behind a remarkable legacy: A 51-mile network of toll roads he helped to propose, finance and build.

Wally has over 30 years of combined public and private sector experience. He started his professional career working for a major U.S. oil company, and transitioned to the public sector where he worked for the citizens of Costa Mesa and Irvine.

In 1989, Wally began as executive vice president—Finance and Administration for the Transportation Corridor Agencies, TCA, joint powers agencies charged with building new urban toll roads in Orange County. In that role, he coordinated the development of the initial plans of finance for the Foothill/Eastern and San Joaquin Hills Transportation Corridors, which resulted in the issuance of over $2.7 billion in toll revenue bonds. Wally made it a priority to rely on alternative financing methods to build highways instead of relying on State and Federal gasoline taxes—the first time such innovative methods had ever been used in California.

In 1997, Wally was appointed chief operating officer of the TCA, and in January 1999, he became chief executive officer. He has been responsible for all planning, construction, financing, and operations associated with the Foothill, Eastern and San Joaquin Hills toll roads, used by 290,000 drivers every day—and saving them an estimated 21 minutes per trip.

Wally has an undergraduate degree in Political Science and a masters degree in Public Administration from California State University, Fullerton. He is a former instructor for the University of California Irvine. He is active in a number of organizations dealing with public/private transportation partnerships and with the funding and maintenance of public infrastructure.

On behalf of my colleagues, let me join the many friends, coworkers and admirers in wishing Wally Kreutzen nothing but the best in his retirement. He leaves behind an enormously positive legacy for Orange County's residents.

## HONORING MR. RONALD VOORHEIS

### HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. MCCOTTER. Mr. Speaker, I rise today to acknowledge and honor Mr. Ronald Voorheis upon his retirement after 48 years of service to the citizens of the Charter Township of White Lake, Michigan.

Ron's roots in White Lake date back to 1840 when his great-great grandfather bought more than 300 acres of land. The Voorheis family farmed the land until the 1970s when Ron's father retired from farming. Nineteen acres remain in the Voorheis family today.

Ron was appointed Township Treasurer in 1956, a period when White Lake Township had a population of 4,000 and was governed by a five-member, part-time board. The fire department was volunteer, the chiefs were part-time, and there was no central dispatch. The wives of the firemen took turns in answering the fire calls from their houses. The police officers were paid just $1 per year.

Since then, the population of the township has grown to more than 30,000 citizens. Many of the farms are gone, and the main two-lane highway is a now a four-lane highway with a beautiful boulevard. The fire department and the police department are staffed with full-time professional firefighters and police officers. Ron has been a member of the leadership team guiding the growth of the township, helping to ensure the quality of life for all of the residents.

While Ron will be admired for his leadership and contributions to White Lake Township far into the future, he should also be recognized for his service to the Michigan Townships Association where he served as a board member since 1968 and as the organization's president in 1978. Even though he will be leaving public service, Ron intends to remain active in the White Lake Historical Society and his church.

Mr. Speaker, I extend my sincere appreciation to Mr. Ronald Voorheis upon his retirement, and thank him for his fine service to our community and our country, and wish him the best.

## HONORING CLARENCE EDWARD STANFORD, SR., ON HIS 80TH BIRTHDAY

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. MILLER of Florida. Mr. Speaker, I rise today to wish a happy birthday to one of Northwest Florida's true patriarchs, Clarence Edward Stanford, Sr., who celebrated his 80th birthday on November 13, 2004.

Ed Stanford has led a distinguished life beginning with his service to the U.S. Armed Forces in World War II. After his tour of duty Ed moved to Pensacola in 1953 and has continued to share his patriotism with the citizens of Northwest Florida. In 1961, Ed successfully developed a million dollar general insurance agency, where he worked full-time until his retirement in 1979.

Those who really know Ed have elected him President of the Pensacola Kiwanis Club, Christian Business Men's Committee, his local PTA, the Easter Seal Society of Northwest Florida, the Independent Insurance Agent of Pensacola, and the Industrial Toastmasters. He also served as a Commissioner to the NW Florida Housing Authority, as a Trustee to Florida Baptist Children's Home, served on the Board of Directors for the Waterfront Rescue Mission, and on the Board of Missions for Southern Baptist of Florida. As an active member of the community, Ed earned the respect of citizens and had a new found love for Northwest Florida.

In addition to giving of himself and his time in the interest of the greater good, Ed served 12 years on the Escambia County School Board, for 2 years as Vice-Chairman and 2 years as Chairman. As a school board member, Ed gave over a thousand motivational talks to Escambia County students. During his last 10 years in office, he visited every sixth grade class in the county. The students listened and responded to his lessons of achievement. Ed's sense of humor and ability to motivate young people made these visits a true success.

During his distinguished career, Ed has received a number of recognitions for service to his community. He was honored with the 1988 "God in Government" award, and in the same year also received a special award from the Escambia Search and Rescue for 10 years of fund raising. Additionally, the Parent Teacher Association of six local schools honored him in 1988 with a PTA lifetime Membership award. He continues to serve his community by sitting on the Board of Directors of the West Florida Blood Bank and on the Board for the Foundation for Excellence in Education. Ed is deserving of these awards because of his dedication, hard work, and positive attitude he brings to everyone he meets.

Mr. Speaker, on behalf of the U.S. Congress, I extend to this special man warm birthday greetings and wishes of many more to come. I offer my sincere thanks for all he has done for Northwest Florida.

## IN MEMORY AND TRIBUTE TO THE LATE WILLIAM M. BURKE

### HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. BACA. Mr. Speaker, I rise in memory and tribute to the late William M. Burke, who passed away recently after a brief illness. Mr. Burke was Founder and President of the Washington Center for Internships and Academic Seminars, established in 1975 as a nonprofit, nonpartisan, nonsectarian educational organization that allows college students from all around the country and the world to have access to academic internships in Washington, D.C.

To those who knew him on and off the Hill, Mr. Burke was an indefatigable leader, brimming with vision and ideals—a mentor, a teacher, a friend, and, most importantly, the source of inspiration to countless young leaders. The institution that he built and nurtured has earned a lasting and enduring place in experiential education. Under Bill Burke's leadership, the Washington Center educated thousands of young people from the United States and abroad, and achieved great respect in the academic, business, nonprofit, and legislative communities in its 30 years of existence.

Bill Burke shaped the Washington Center into an institution to mentor, nurture, and develop leaders in politics, the nonprofit sector, media, business, and other fields. It was Bill's desire that our young people learn those values that are important in our future leaders: self-respect, selflessness, dedication, ethics, courage, teamwork, and the highest standards of work.

He believed that it is important for young people to discover that they are already leaders, and that they inherently possess qualities that they can take back to their communities and college campuses, whether they are from a village in Mexico, a small town in our heartland, or a big city. He saw that the world was full of possibility and promise, opportunity and optimism, and that we can change it, one person, and one neighborhood, at a time.

Mr. Burke passionately believed that an interchange between our young people is essential in furthering understanding, here and abroad, and in giving people the tools to develop their communities, block by block. He said that it was important for a kid from Kansas to meet a student from Kenya, and a student from Mexico to meet peers from Canada and California, and see that our differences are not that vast, and it is our great commonality of purpose that unites us. He grasped the importance of experiential education in international development, and at the time of his death, the Center was well on its way to establishing programs where students go back to their communities with the skills and contacts to better people's lives.

Mr. Burke was a master presenter and motivator. He used to look at a sea of young people, and proclaim that they should get to know the person sitting on their right and the person on their left, because, Washington is a small town, brimming with former interns, and you can never tell for whom you will be working, and who will make a difference in the world! He had an encyclopedic knowledge of all of the personalities of Washington, and he could inspire students with his vast knowledge of who, at one time, had served an internship. He was known to name some important leader, and finish the comment with: "And they were an intern!"

Mr. Burke tirelessly championed the involvement of members of Congress and the executive branch, corporate CEOs, foreign dignitaries, media luminaries, leaders in philanthropy, nonprofit leaders, state legislators, and college and university presidents, and the Center's 33,000 alumni in various aspects of the Washington Center.

Bill Burke's innovation and singular belief in the importance of providing college students equal access to the Washington Center led to the development of such programs as Women as Leaders, Minority Leaders Fellowship Program, Diversity in Congress Program, NAFTA Internship Program, Internship Initiative for Students with Disabilities, Native American Program, Americas Program and the Washington Center's growing international programs. In addition, in order to assure accessibility of programs regardless of the students' economic background, Bill Burke perseveringly sought philanthropic partnerships for scholarship support for the students who participate in these programs.

A native of Norwood, Massachusetts, Mr. Burke earned a Master's in Education from the University of Massachusetts, his Bachelor of Science in Management from American International College in Springfield, Massachusetts, and an Associate's degree in Accounting from Norwalk Community College, Norwalk, Connecticut. He also received an honorary Doctorate of Law from Richard Stockton State College. He once remarked that he loved every job he had ever held.

Mr. Burke is survived by his wife, Sheila McRevey Burke, and two children, Barry and Reavey. We offer our condolences to Sheila, Barry, and Reavey, and to his colleagues, friends, and the thousands of former students who were touched by this good man's life and example. And so, Mr. Speaker, we say: in the loving memory of Bill Burke, we salute him. May the Lord bless and keep him close, and may his family and numerous friends find comfort in the knowledge that his legacy and life's work go on.

## COMMEMORATING THE 50TH ANNIVERSARY OF THE DEATH OF ARISTIDES DE SOUSA MENDES, HUMANITARIAN AND WORLD WAR II HERO

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. LANTOS. Mr. Speaker, I rise today in commemoration of the 50th anniversary of the death of World War II hero, Aristides de Sousa Mendes. Mr. Sousa Mendes, the defamed Consul General of Portugal to Bordeaux, France, spared more than 30,000 lives from the perils of Hitler's Nazi regime.

In May of 1940, the Nazis broke through French defense's in Sedan and Hitler's blitzkrieg exploded over the French borders. In a matter of days, a deluge of refugees from Paris, Warsaw, Berlin and Riga headed towards Southern France hoping to flee to neutral Portugal or Spain via Bordeaux. Using pushcarts, trucks, wagons and any other ramshackle mode of transportation, thousands of Jewish refugees and others of "ill-defined nationality," according to the Nazis, stormed the city of Bordeaux in hopes of obtaining the transit visa needed to exit France. Homeless and laden with their salvaged belongings, men, women and children slept in the streets and on the park benches of Bordeaux. The Jewish refugees sought out the Bordeaux synagogue in seek of shelter and care.

Kindled by Nazi propaganda, rampant anti-Semitism plagued Bordeaux as the flood of Jewish refugees spread through the streets. The situation for the thousands of refugees became more desperate day by day. The wealthier refugees managed to book sea passage and left Europe for safer shores. The remaining helpless masses became increasingly despairing as Spanish General Franco, indebted to Hitler, was determined not to allow refugees to infiltrate the Spanish borders. Unless refugees held a Portuguese issued transit visa on their person, they were unable to flee to Portugal via Spain.

In November of 1939, Portuguese Premier Antonio de Oliveira Salazar issued a directive, which forbade his diplomats in Europe from granting transit visas to categories of people without explicit permission from Lisbon. Included in these categories were "Jews expelled from the countries of their nationality or those from whence they issue", "stateless persons," and "all those who cannot safely return to the countries from whence they came." Subsequently, on May 17, 1940, days after the Nazis invaded France; Salazar declared that under no circumstances was any visa to be granted unless previously authorized by Lisbon, and only on a case-by-case basis.

Serving as the Portuguese Consul-General, Aristides de Sousa Mendes witnessed the clamoring throngs of refugees at the gates of the Portuguese Consulate in Bordeaux. Disregarding the Premier, Sousa Mendes declared, "I will grant a visa to whoever needs it, whether they can afford it or not. I will act in accordance to what my Christian conscience tells me."

Indiscriminately, Sousa Mendes distributed transit visas in Bordeaux, Bayonne and

Hendaye near the Franco-Spanish border. Sousa Mendes issued 30,000 transit visas and opened up a refugee escape route assumed to have saved the lives of over one million World War II refugees. Ten thousand of these refugees were Jews certain to have perished at the hands of the Nazis in extermination camps. The other 20,000 visas appeared in the passports of artists, writers, intellectuals, journalists, priests, nuns and others whose beliefs did not embody those of the fascist regime of Hitler's Nazi empire.

Sousa Mendes became known as the "Angel of Bordeaux." He and his beloved wife Angelina welcomed refugees into their own home. The halls, chambers and grounds of the Portuguese Consulate were filled with hungry, exhausted and terrorized individuals awaiting visas that promised them life.

By June 17, 1940, an arbitrary system of gathering stacks and stacks of passports, stamping them with the coveted visas, and redistributing the documents without fee, record or count became Sousa Mendes' unceasing mission.

As conditions worsened in France, more and more refugees fled to the South of France in hopes of fleeing to Portugal. On June 19, 1940, Sousa Mendes left his family in Bordeaux to assist more refugees in the Franco-Spanish border city of Bayonne. Overtaking the Consul General in Bayonne, he began to distribute exit visas to the thousands lined up all around the Consulate. In Bayonne, a telegram was sent to Lisbon from the actual Bayonne Consul General, Mr. Machado, informing Salazar of Sousa Mendes' activities.

Two telegrams were sent to Sousa Mendes. One telegram demanded that Sousa Mendes cease his visa production and the second informed Sousa Mendes of his dismissal. Neither telegram was received, as Sousa Mendes had already moved to the border city Hendaye, to continue distribution. However, on June 24, 1940, he returned to Bordeaux and received the telegram with orders to leave France. Sousa Mendes disregarded the notice and thought of a method to keep the trapped refugees out of concentration camps: he began to issue Portuguese passports. Again he was rebuked by Lisbon and ordered to depart from France.

Due to the group of prestigious individuals Sousa-Mendes saved, including Otto Habsburg, members of the Rothschilds family and members of the Belgian cabinet, Premier Salazar initially acknowledged the good press resulting from Sousa-Mendes' disobedience. Regardless, shortly thereafter, Salazar shunned Sousa Mendes, rendering this hero a disgraced, persona non grata.

Closely monitored by Portuguese authorities, Sousa Mendes and his family were condemned to humiliation, destitution and infamy. Merely weeks before the end of the war, Sousa Mendes suffered a stroke and was left paralyzed. Eight years later his wife, Angelina, who served with Sousa Mendes tirelessly throughout the insanity of their days in Bordeaux issuing exit visas and passports, suffered a cerebral hemorrhage in 1948 and perished six months later.

On April 3, 1954, Aristides de Sousa Mendes died at the Franciscan Hospital of the Tertiary Order in Lisbon. The Portuguese government never pardoned him while he still lived. Finally, in 1987, President Mario Soares granted Sousa Mendes the Portuguese Order of Freedom and publicly apologized to his surviving family for the injustices their family endured.

Mr. Speaker, as you know my wife Annette and I were saved from death by Raoul Wallenberg. Aristides de Sousa Mendes action's were equally valiant, as Ben Macintyre said, "Like Raoul Wallenberg, the Swedish diplomat who saved thousands of Hungarian Jews from Auschwitz in 1944 and 1945 by issuing them with diplomatic documents, de Sousa Mendes risked his life and destroyed his career by following his conscience."

Despite Sousa Mendes' noble sacrifice, the public at large is not aware of the courage and bravery of this man. However, one organization that does honor this man's life, and recognizes the importance of acknowledging the power of one to make a difference, is the International Raoul Wallenberg Foundation.

In recognition of those who strive to emulate the courageous and selfless acts of Wallenberg and de Sousa Mendes, the International Raoul Wallenberg Foundation minted a commemorative Aristides de Sousa Mendes medal. This Medal is presented yearly to individuals from all walks of life whose lives exhibit an unwavering commitment to humanitarian values, and a willingness to risk one's own life for fellow human beings, as Wallenberg and Sousa Mendes did in World War II.

This year marks the 50th anniversary of this great humanitarian's death. It is imperative to me and my wife, that this unsung hero's legacy is recognized and celebrated. Thank you, Mr. Speaker, for the opportunity to pay tribute to Mr. Aristides de Sousa Mendes.

## IN RECOGNITION OF THE 23RD STREET ASSOCIATION ON THE OCCASION OF ITS ANNUAL AWARD LUNCHEON

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mrs. MALONEY. Mr. Speaker, I rise to recognize the achievements of the 23rd Street Association, its president, Sharon L. Ullman and the Association's 2004 honoree, North Fork Bank, on the occasion of the Association's 75th anniversary celebration and award luncheon. The 23rd Street Association is an outstanding organization that addresses community concerns and fosters a wholesome environment for those who live and work between 18th and 28th Streets in Manhattan.

The 23rd Street Association was formed in 1929 by 22 local businesspeople to improve environmental conditions and promote economic development in Manhattan. Today, the Association addresses a broad range of citizen complaints and concerns by working closely with local community boards as well as city, state and federal government agencies. The Association is also actively involved with local police precincts to improve area security and prevent drug sales, theft and other crimes. Whether purchasing and planting over 200 trees from the City Parks Department or working with the New York Department of Transportation to improve traffic conditions, the Association's commitment to community service has been exceptional.

One of the Association's most notable achievements is its Campaign for the New Madison Square Park, which raised more than $11 million to revitalize the park with art shows, music, children's programming and improved grounds maintenance. I am proud to say that with the Association's help, Madison Square Park has truly become an oasis in the heart of Manhattan and a source of pride for those who live nearby.

The 23rd Street Association's president of 10 years, Sharon L. Ullman, has been an instrumental part of the Association's success. Her dedication to public service is truly inspiring: Ms. Ullman served as the Warden of Madison Square Park for four years, has been a longtime board member of the Associated Blind and the Gramercy Park Block Association and has received community service awards from Concerned Citizens Speak and New York Mayor Rudolph Guiliani. Ms. Ullman was also named one of the top 100 New Yorkers by New York Resident magazine.

The Association's 2004 honoree is North Fork Bank, which will be represented by North Fork's Senior Vice President, Carl M. Gambino. The Bank's 15 New York City branches are vital elements of our community, employing more than 250 New Yorkers and managing more than $1.5 billion in assets. Mr. Gambino, who was born and raised in Greenwich Village, has served as the director of the 23rd Street Association, the New York City Council of the Boy Scouts of America and the East Village Business Association. Mr. Gambino is an inspiring humanitarian and business leader whose Christmas Toy Drive and financial counseling initiatives have greatly benefitted New York City children.

Mr. Speaker, I request that my colleagues join me in paying tribute to the 23rd Street Association, its president, Sharon L. Ullman, and its honoree, North Fork Bank.

## REMEMBERING ORVILLE G. BENTLEY

### HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. JOHNSON of Illinois. Mr. Speaker, on October 10, 2004 the University of Illinois College of Agriculture lost one of the most influential leaders in its history. Orville G. Bentley served as Dean of the College from 1965–1982. When Mr. Bentley took the helm, the facilities of the College were below par, making it hard to retain graduate students and faculty. However, he quickly became the College's champion for improving research and teaching facilities and as a result, the College of Agriculture, is today among the best in the country.

Apart from improvements on campus, Orville was most proud of the vital international work the University of Illinois provided during his tenure. Under his stewardship the University of Illinois made substantial contributions to creating new agricultural institutions in Africa and the Asian sub-continent.

Dean Bentley left the University of Illinois in 1982 to join the U.S. Department of Agriculture, but he will be remembered as someone who always made time for his colleagues and thoroughly enjoyed welcoming visitors from different parts of the world. In his 17 years of service to the University of Illinois, Orville G. Bentley was instrumental in improving the College's facilities and in making Illinois a leader in the international agricultural arena. His contributions will be treasured and his character will be missed.

## COMMEMORATING THE LIFE OF TERRI ANN SIMMS GRIER

### HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mrs. JONES of Ohio. Mr. Speaker, I rise today to celebrate the life of Terri Ann Simms Grier a great citizen and dedicated public servant who recently passed away at the age of 42.

Terri Ann Simms Grier was born July 12, 1962 in Cleveland, Ohio to Emmet and Evelyn Simms. Upon graduation from high school she went on to pursue her education at Smith College and would later graduate from Howard University in Washington, D.C.

Employed for 13 years with the American Transport Association as a legislative analyst, Terri represented ATA at both the federal and state level on legislative matters. Additionally, she served as President of the Employee Association and was well respected in the field of government relations.

Terri was an active member of the Washington Government Relations Group, a non partisan organization of African-American lobbyists and government relations professionals, where she held the office of secretary through two administrations spanning four years (1998–2001).

Terri enjoyed traveling and had visited such countries as France, Spain, Egypt, Amsterdam, Iceland, Brazil, Mexico, Jamaica, Portugal and the Bahamas. She was also fluent in both French and Spanish. A devoted wife and mother to her husband Glen and son Jamir Langston Grier, here greatest joy was her family.

May Terri Ann Simms Grier's legacy of love live on in the hearts, minds and deeds of everyone who knew her.

## HONORING LEE ROSENBERG

### HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. EMANUEL. Mr. Speaker, I rise to congratulate Lee Rosenberg and Rabbi Kudan for winning the Humanitarian Award of the Holocaust Memorial Foundation of Illinois.

I am proud to call Lee a good friend and to recognize his achievements today on the House floor. Affectionately known by his many friends as "Rosy," Lee Rosenberg has dedicated a lifetime toward advancing the cause of human rights and social equality in Israel and for the Jewish people around the world. I have often discussed foreign policy matters with Lee and benefited from his impressive knowledge, insight, and advocacy for state of Israel and humanitarian affairs.

I was honored to attend the Humanitarian Award Dinner, which recognized Lee's outstanding contributions on November 11th. The ceremony was hosted by the Holocaust Memorial Foundation of Illinois—an organization working to preserve the value and dignity of human life through remembrance of the events surrounding the Holocaust.

Since 1986, the Foundation has presented its Humanitarian Award to honor distinguished citizens who have helped embody the ideals of the organization. Lee Rosenberg's contributions over the past twenty years have reflected these ideals and his impeccable reputation as one of Chicago's most active leaders in the Jewish philanthropic community.

In addition, Lee has worked tirelessly to improve his community through active membership in the Jewish Federation of Metropolitan Chicago, the Jewish Community Relations Council, AIPAC, and as a board member for several private sector and not-for-profit corporations.

Mr. Speaker, I congratulate Lee Rosenberg for receiving the Humanitarian Award bestowed by the Holocaust Memorial Foundation of Illinois. The Fifth Congressional District of Illinois, and indeed the city of Chicago, are proud of Lee's achievements and for winning this prestigious award. On behalf of a grateful Nation, I thank Lee for his contributions to community service and wish him continued success in the future.

## TRIBUTE TO SGT CLAY PEACOCK

### HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. CRAMER. Mr. Speaker, I rise today to recognize SGT Jay C. Peacock who was awarded the Bronze Star with Valor for his actions of heroism during the Vietnam War. SGT Peacock, known as Clay, received the Bronze Star during a special ceremony on Veterans Day, November 11, 2004.

During the Vietnam War, SGT Peacock was a Ground Radio Operator for the 21st Tactical Air Support Squadron. On October 26, 1969, during an attack by the North Vietnamese Army, SGT Peacock was deployed by helicopter into the Special Forces Camp at Bu Prang. Heavy fighting with constant artillery, mortar, and small arms fire continued through October 28th.

Mr. Speaker, SGT Peacock distinguished himself during the attack by dividing his time between his radio operator duties and taking care of the Officer in Charge who was wounded on the second day of the North Vietnamese siege.

At dusk on the second night, supporting aircraft were called to help prevent the North Vietnamese from overrunning the camp. Knowing that their friendly position had to be marked for supporting aircraft, SGT Peacock put himself in the line of fire to successfully mark their position with strobe lights from his survival vest. Because of his unselfish actions, the aircraft were able to force the North Vietnamese army to retreat.

Mr. Speaker, although his heroic actions took place over 30 years ago, SGT Peacock received his long overdue and much deserved medal surrounded by family and friends on Veterans Day. With great pleasure, I rise today to congratulate this wonderful achievement.

## IN RECOGNITION OF EMPIRE CITY IRON WORKS ON THE OCCASION OF ITS 100TH ANNIVERSARY

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mrs. MALONEY. Mr. Speaker, I rise to acknowledge the achievements of Empire City Iron Works, the oldest and largest steelmaker in New York City. For the past 100 years, Empire City Iron Works has played an integral role in developing New York's distinctive urban landscape. At a time when many of its competitors are struggling, Empire City's specialized service and ability to adapt to changing market conditions make it a model for new businesses in the region.

Empire City Iron Works was established in 1904 by Leopold Heffner, an ironworker who immigrated to the United States from Austria. Early in its history, Empire City produced cast iron frames and covers for coal-delivery holes installed in New York City sidewalks, some of which remain to this day. During World War II, Empire City's employees worked diligently to provide supplies to the U.S. Navy, constructing ammunition boxes and gun racks, as well as watertight doors for ships produced in the Brooklyn Navy Yard. In later years, Empire City made enormous contributions to New York City's power grid, one of the most reliable networks in the country. In cooperation with Consolidated Edison, the company built almost every power plant in the New York metropolitan area.

Today, Empire City Iron Works furnishes and installs a wide range of metal products including steel pan and ornamental stairs, structural steel, railings and walkways. On occasion, it works directly with artists, cutting and fitting pieces to create sculptures according to the artist's specifications. The company has also undertaken a number of high-profile projects in recent years, such as the extensive renovation of the Museum of Modern Art and the construction of the first new building at the World Trade Center site. With projects ranging from the Time Warner Center in Manhattan to the Atlantic Center Mall in Brooklyn, Empire Iron Works continues to thrive; at present, it has more than 75 employees at its factory in Long Island City, Queens.

Mr. Speaker, I respectfully request that my distinguished colleagues join me in paying tribute to this fine company and its exceptional work in New York City. I wish the management and employees of Empire City Iron Works another 100 years of success.

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## REMEMBERING WILLARD T. "BILL" HODGE

### HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. JOHNSON of Illinois. Mr. Speaker, on September 21, 2004, Willard T. "Bill" Hodge got on his tractor to clear some brush and weeds from his farm. It would be the last time this prolific farmer would tend to his historic and treasured land, but his contributions to agriculture in Illinois will be remembered for many harvests to come.

Bill Hodge started farming in Champaign County in 1956 on his farm in Seymour, Illinois, which to this day remains one of the oldest farms in the county. In the 1970's, Bill served on the Champaign County Zoning Board where he had the opportunity to venture from township to township listening to the concerns of area farmers. Mr. Hodge used this experience to come to Washington, DC to tell agriculture's story to members of Congress. He also served on former Representative Ed Madigan's Farm Advisory Committee.

In 1981, The News Gazette named Bill Hodge Farm Leader of the Year. He served on the Champaign County Forest Preserve District from 1987 to 1993 during which he was credited for leading the district stably and successfully.

Bill Hodge cared deeply about what was good for his fellow farmer. This intertwined with his interest in local politics as he made successful efforts to get his colleagues involved in the process.

While many in Champaign County feel the loss of Bill Hodge, comfort can be taken in the fact that he passed away on a gorgeous Tuesday in September doing what he loved the most. Whether it was tending to his own farm or helping the agriculture community in Champaign County, Bill Hodge always left the land in better shape than he found it.

He will truly be missed.

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## IN CELEBRATION OF NATIONAL BIBLE WEEK NOVEMBER 21–28, 2004

### HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mrs. JONES of Ohio. Mr. Speaker, I rise today in celebration of National Bible Week. I am honored and pleased to serve as Congressional Co-chair for National Bible Week, November 21–28, 2004. It is my hope and expectation that people of faith throughout the United States will join together to celebrate the Bible's core messages of fellowship, justice, peace, righteousness and love. I am proud to be a part of this annual event.

I congratulate the National Bible Association for its dedication to encouraging people to read and take interest in the Holy Bible. Indeed, it is a special privilege to have the opportunity to be guided and inspired daily by words, phrases and stories some of which are 3,000 years old. These ancient writings have been an extraordinary source of strength, guidance and wisdom to persons across this nation and around the world.

The Holy Bible is an extraordinary living document—like our Constitution—which continues to inform our thinking as well as our national conversation on both moral and ethical issues. I'm delighted to join in this celebration of National Bible Week.

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## HONORING BILL AND SHEILA LAMBERT AND RABBI PETER J. RUBINSTEIN

### HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. EMANUEL. Mr. Speaker, I rise to congratulate Sheila and Bill Lambert, as well as Rabbi Peter J. Rubinstein, for receiving the International Humanitarian Award, which is the highest honor that the World Union for Progressive Judaism can bestow. These three distinguished individuals have worked diligently and selflessly to advance the cause of human rights and social equality, and I am proud to recognize their many achievements on the floor of the U.S. House of Representatives.

I was honored to be invited to attend the International Humanitarian Awards Dinner hosted by the World Union for Progressive Judaism, which represents over 2,000,000 progressive Jewish congregations in over 41 countries. This respected organization seeks to strengthen modern Jewish life through supporting congregations; integrating Jewish religious traditions with inclusiveness and gender equality; and advancing social justice in the spirit of tikkun olam, which means repairing the world.

Sheila Lambert's professional experience includes twenty years at The Dun & Bradstreet Corporation. Her extensive volunteer experience focuses on Jewish continuity and helping underserved and disadvantaged populations, particularly women and children.

A member of the board of Project Kesher, Sheila is the Founder and Board President of Bottomless Closet, and is a member of the Board of Governors and Overseers of Hebrew Union College Jewish Institute of Religion. In addition, Sheila is a Founder and Board Chair of Summerbridge, is on the Board of Directors of the Jewish Children's Learning Lab, which is a children's museum, and is the former Vice President of the Board at Congregation Rodeph Sholom, a major Reform congregation in Manhattan. She is also a member of the Advocacy Council for the Citizen's Committee for Children.

Sheila's husband, Bill, has always shared her devotion to the mission of the World Union for Progressive Judaism. He is currently the Vice Chairman for Dresdner Kleinwort Wasserstein and is one of the four founding partners of Wasserstein Parella Group, Inc. I have tremendous respect for their selfless dedication to peace and their impressive record of accomplishments in advancing humanitarian goals. They are shining examples of leadership and commitment to a more humane society, and I am proud to call them good friends.

Mr. Speaker, I congratulate Sheila and Bill Lambert, and Rabbi Rubinstein for receiving the International Humanitarian Award. On behalf of a grateful Nation, I thank them for their contributions to community service and wish them continued success well into the future.

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## TRIBUTE TO REDSTONE-HUNTSVILLE CHAPTER OF THE ASSOCIATION OF THE U.S. ARMY

### HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. CRAMER. Mr. Speaker, I rise today to congratulate the members of the Redstone-Huntsville Chapter of the Association of the U.S. Army for being named the "Best Overall" AUSA Chapter in the country. Chapter President Joe Fitzgerald accepted the award on behalf of chapter members during the AUSA National Convention in Washington.

AUSA is dedicated to supporting the U.S. Army and maintaining a strong national defense. AUSA achieves its goals by supporting the needs and interests of soldiers, retirees, and family members.

As the home of Redstone Arsenal, the U.S. Army Aviation and Missile Command, and numerous defense partners, North Alabama has earned an excellent reputation for its role protecting the warfighter and defending our national security.

The Redstone-Huntsville Chapter of AUSA, which was founded in 1959, has been a strong advocate and voice for North Alabama's warfighters. All of us in North Alabama are very proud of the hard work and commitment AUSA has always exhibited.

Mr. Speaker, this award is wonderful news for our community and I rise on behalf of everyone in North Alabama to express our sincere congratulations to the members of the Redstone-Huntsville Chapter of AUSA.

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## IN RECOGNITION OF ABRAHAM LAZAR ON THE OCCASION OF HIS 80TH BIRTHDAY CELEBRATION

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mrs. MALONEY. Mr. Speaker, I rise to acknowledge the achievements of Abraham Lazar, a great American and longtime resident of New York. On Sunday, November 7, 2004, Abraham's many friends, family and colleagues gathered in his current hometown of Lake Worth, Florida to celebrate his 80th birthday. Birthdays are a time for reflection, and I feel that it is fitting to pay tribute to this truly remarkable man. Abraham Lazar served his country with distinction, both in the U.S. naval service and in civilian life. I am privileged to be able to share some of his more memorable exploits with you.

Mr. Lazar and his ten brothers and sisters were born and raised in Brooklyn, New York. He attended Brooklyn Technical High School and graduated shortly after the United States entered World War II. At the age of seventeen, Abe enlisted in the Navy and quickly established a distinguished service record.

Abe served in both the Pacific and Atlantic theaters of battle. Mr. Lazar participated in the Battle of Peleliu, a struggle for a tiny airstrip amid the Palau Islands of the Western Pacific. Despite the island's small size, the battle for Peleliu lasted nearly two months and claimed more than 12,000 lives. Allied forces ultimately prevailed and captured the island, but Mr. Lazar was severely wounded in the battle. He was awarded the Purple Heart for his sacrifice.

Abe received another Purple Heart during the war, this time for his service in the Atlantic. I understand that Mr. Lazar's landing craft was sunk in the North Atlantic by a German U-Boat. Abe was forced overboard, and the fleeing submarine strafed his life raft with gunfire; despite these incredible dangers, Abe managed to survive, spending nearly twelve hours in open water before he was rescued. For his heroic service, Abe was promoted to Chief Motor Machinist's Mate, one of the highest ranks to which an enlisted sailor can be named.

After the war, Abe attended New York University and received a bachelor's degree, with honors, in engineering. In civilian life, Mr. Lazar worked with noted scientist Wernher von Braun to develop the Pershing missile system and was also employed by the Bulova Corporation to design and manufacture missile timing devices. Mr. Lazar is currently enjoying a well-deserved retirement in Florida, where he lives with his wife of 56 years, Anita.

Mr. Speaker, I request that my colleagues join me in honoring Abraham Lazar's lifetime of service to our nation. I'm sure that Abe's family, longtime friends and colleagues will join me in wishing him many more years of happiness. Happy birthday, Mr. Lazar.

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## CELEBRATING THE LIFE OF ANDRE MARIE CROOKE DYAR

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. MILLER of Florida. Mr. Speaker, it is with a sad but rejoicing heart that I speak today about an extraordinary woman, Andre Marie Crooke Dyar, who was taken to her eternal home in Heaven on October 8, 2004.

I became friends with Andre when I first ran for State Representative in 1998. She was one of the most loyal people I knew. I am a better person for knowing Andre and the world is a better place because of her life.

Andre had a special love for children both born and in the womb. For a number of years she worked in the neonatal intensive care nursery at Sacred Heart Hospital, helping premature newborn babies get a non-compromised start in life. Continuing to have a positive influence on children's lives, Andre could always be found volunteering at Sunday school on Wednesday nights and at Vacation Bible School during the summer.

From the moment the law allowed the taking of innocent life, Andre's faith in God incited her passion for politics. Her first political campaign was in 1976, helping Ronald Reagan move from the California Governor's Mansion to 1600 Pennsylvania Avenue, Washington, D.C. Unfortunately, her disabling disease made the 2002 elections her last.

In our local community of Northwest Florida, Andre was active in numerous civic organizations, from participating as an active member to Chairman of the Board. She spent many hours serving on the Board of the Northwest Florida Water Management District, the Escambia County Republican Executive Committee, the Center for Independent Living, and Escambia Federated Republican Women's Club. Last year, the Federated Women's Club presented Andre with an Honorary Lifetime Membership award, the first of its kind ever presented.

Andre was overflowing with life and had the drive and dedication to move a mountain despite her physical challenges. The vast majority of people would have given up and turned resentful, but she kept going and always wanted to do something more, to help somebody else.

May God rest her soul and continue to bless her family.

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## ON THE RETIREMENT OF MICHAEL P. DEVINE

### HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. FRELINGHUYSEN. Mr. Speaker, I would like to bring to the attention of my colleagues the recent retirement of an accomplished administrator, skilled scientist, and true patriot. Michael P. Devine of Sparta, New Jersey ended 36 years of dedicated service to our Nation on November 4 as he retired as Director of the United States Army Research, Development and Engineering Command ARDEC, headquartered at Picatinny Arsenal.

Situated on a 6,500-acre military installation, located in Rockaway Township, New Jersey, Picatinny Arsenal plays a unique role in the United States' ability to wage war. There is no other comprehensive armaments facility like it in the country. The base is a one-of-a-kind facility that provides virtually all of the lethal mechanisms used in Army weapon systems and those of the other military services. This unique facility requires special leadership.

Mike Devine became ARDEC Director in June 2004. As director, he exercised complete responsibility for all the activities at ARDEC. From September 2000 to June 2004, he was Technical Director of ARDEC, responsible for all technical matters. He managed an annual budget in excess of $600 million dollars and supervised a technical staff of approximately 1,700 scientists and engineers and 900 support personnel.

As ARDEC Technical Director, and later as Director of ARDEC, Mike Devine provided critically important leadership—leadership that provided our joint warfighters with the tools they need to prosecute the international war on terrorism, to fight and win the war in Iraq and Afghanistan and protect and secure our homeland. During his tenure alone, 103 separate new armament products were released to soldiers and other services members. So far in 2004, 17 urgent fieldings of military equipment for use by forces in Iraq and Afghanistan were approved by Devine.

These fieldings have broad scope and include weapon systems, fire control and munitions for artillery, mortars, tanks and infantry, as well as alternatives to anti-personnel land mines, non lethal munitions and environmental research and development.

Mr. Devine worked as a research physicist prior to assuming significant management responsibility. Over the course of his career, his experience in the Army and Office of the Secretary of Defense spanned virtually all Army weapons systems and associated ammunition. He has been the recipient of numerous awards including two Army Research and Development Achievement Awards, the Army Meritorious Civilian Service Award, Association of the United States Army Citation for Exceptional Service in Support of National Defense, the American Defense Preparedness Association Firepower Award for Management. He has also been inducted into the Honorable Order of Saint Barbara. He holds two patents and has authored numerous open literature technical publications.

While he built a long and valuable career in service to our warfighters, Mike Devine still found time to give back to his home community. In 1992, he was elected to a four year term on the Sparta, New Jersey, Township Council and was reelected in 1996. He also served as Mayor in 1994 and 2000.

Mr. Speaker, I have just outlined a public service career of exceptional quality. I ask my colleagues to join me in thanking Mike Devine for his many contributions to our national security. We wish Mike and his family "Godspeed" in the months and years ahead.

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## IN RECOGNITION OF COLONEL THOMAS D. BUTLER, JR.

### HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. ENGEL. Mr. Speaker, I rise today to honor a man that has dedicated his life to protecting our country. Colonel Thomas D. Butler, Jr. After 35 years fulfilling vital support functions in the United States Army, Colonel Butler is retiring.

Thomas Butler joined the Army Reserve as a private in 1969 and served at the Engineering and Plans Section of the 411th Engineer Brigade at Fort Tilden, New York until his commission as a Second Lieutenant in 1974, upon which he commanded a platoon at the 306th Engineer Company in Amityville, New York. In July 1977, Butler was assigned to the New York District, U.S. Army Corps of Engineers as an Assistant Military Area Engineer.

In 1987, he returned to the 411th Engineer Brigade and was called to active duty when the Brigade was deployed to Saudi Arabia during Operation Desert Shield/Storm. Upon returning to reserve status in 1991, Butler assumed command of the 305th Engineer Detachment. During his command, this unit was awarded the U.S. Army Superior Unit Citation and Butler conducted numerous missions in the Republic of Korea and Germany. In 1995 he joined the 77th Regional Support Command as the chief, Plans Division, in the DCS ENGINEER section. In 2001, Butler became Acting Commander of the 8th Brigade (SROTC), 98th Division, and then Assistant Deputy Chief of Staff-Operations, ADCSOPS-OPS of the 77th RSC. In 2002, Butler was reassigned as Deputy Chief of Staff-engineers, DCS-ENGINEER, and then as the first Deputy Chief of Staff—Army Reserve Installation Management.

Colonel Butler is a highly-decorated soldier. His citations include the Meritorious Service Medal, the Army Commendation Medal with one oak leaf cluster, the Army Achievement Medal with two oak leaf clusters, the Army Reserve Components Achievement Medal with four oak leaf clusters, the National Defense Service Medal with Service Star, the Kuwait Liberation Medal from both Saudi Arabia and Kuwait, and the New York State Conspicuous Service medal.

In his civilian capacity, Butler is a Senior Project Manager for the Tishman Interiors Construction Corporation and the former Commissioner of Buildings for the City of Mount Vernon, New York. Butler resides in Tarrytown. I would like to join his wife Cheryl and their children Brent, Kimberly, Blake, Ashley, and all his relatives and friends in congratulating him and wishing him well in his retirement.

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## HONORING ALVIN BENJAMIN

### HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. ACKERMAN. Mr. Speaker, I rise today to join the Coalition on Child Abuse & Neglect in honoring Alvin Benjamin for his strong commitment to assisting and advocating for victims of child abuse.

Al has been a dedicated supporter of the Coalition on Child Abuse & Neglect, helping them carry out their mission of being a voice for all children. This non-profit organization is devoted to preventing child abuse and expanding services to children and their families. In achieving these goals, the Coalition on Child Abuse & Neglect educates the community about the issues surrounding child abuse and works with them to find adequate solutions to the problems.

In addition to providing aid for child abuse victims, Al is also the Founder and President of the Benjamin Companies, a nationally acclaimed real estate development and management company. The guiding force behind the Benjamin Companies is developing communities that are in harmony with both the residents and the environment. Al started this organization in the early 1960's by building luxury apartment complexes on Long Island, and meeting the needs of the increased number of Long Island residents. Today, the Benjamin Companies has greatly expanded its activities to include projects in New York City (and the surrounding metropolitan areas), New Jersey, Pennsylvania, and even Florida, while continuing to service the residents of Long Island.

Mr. Speaker, I commend Alvin Benjamin for his support for and dedication to victims of child abuse. As the Coalition on Child Abuse & Neglect celebrates 25 years of service to children, they chose to recognize Al's important contributions at their annual Voice for All Children Gala. I ask my colleagues in the House of Representatives to please join me in honoring Alvin Benjamin and the Coalition on Child Abuse & Neglect for their efforts in preventing child abuse and wishing them both many more years of success.

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## PAYING TRIBUTE TO THE BOVARD FAMILY

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. McINNIS. Mr. Speaker, I rise to recognize to the Bovard Family and their distinguished tradition in the horse industry. Their dedication and success in the industry is due to the contributions of four generations of Bovard family members working on the farm. It is my privilege today in recognizing their achievements before this body of Congress and this Nation.

The Bovard legacy began forty-three years ago when Larry Bovard went out to the race track to look for work after admiring his older brother's work as a horse trainer. He landed a job as a horse groomer for a horse racing tycoon and continued there until he moved onto other work before joining the army in 1969. Upon his return from service, Larry settled in Ridgeway, Colorado with his wife Roma, raising cattle. Roma's family had raised Percheron horses for years and in 1984, the Bovards got their chance to raise their own team. The Bovard family gave sleigh rides, wagon rides, and drove newlyweds about in stage coaches until they acquired ranch property of their own in Montrose. Currently the Bovards have 30 head of award-winning Percheron horses that placed in nine out of twelve class competitions at the National Western Stock Show.

Mr. Speaker, the Bovard family has demonstrated a love for horses that has transcended four generations and their success today is due to the dedication that the entire family puts in day after day from dawn to dusk. I am honored to recognize their accomplishments before this body of Congress and this Nation.

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## HONORING ROBERT POIROT

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to thank and honor Robert Poirot for his exemplary public service as Clear Creek County Commissioner for the past twelve years. I would also like to thank him on behalf of all Coloradans for the in-depth and diverse philanthropic work he has contributed to the community. He is a dedicated public servant who has devoted himself to ensuring that Colorado remains a very special place to live.

Throughout his life, Bob has demonstrated time and time again that he excels in all of his endeavors. Whether it is in the Armed Forces, education, or government, Bob has shown that he can apply his leadership skills effectively in any arena. He has received numerous awards during his long and extensive career, most recently the prestigious Distinguished Service Award of Colorado Counties, Inc. . . . This award is a true testament to Bob's abilities to work together with all interests for the common good.

Between 1959 and 1992, Bob achieved the rank of Brigadier General in the Colorado Army National Guard. During this time, he also served for thirty-two years as a school teacher, including four years on the Board of Education. At the same time, he found time to coach both football and track. Upon retirement, he was awarded the Distinguished Service Award by the Jefferson County School District.

Using his extensive command of the issues, Bob participated in and offered advice to almost every steering committee throughout his twelve years serving as County Commissioner. Building upon this, he also testified here at the nation's Capital in support of legislation to preserve and maintain public lands in Clear Creek County which are important for wildlife and the quality of life in Colorado. During this time, I was able to personally work at length with Bob in mutual support of the environment, an issue that remains high on the agenda of all Coloradans. Thanks to his leadership, more than 6,000 acres of land were properly distributed to public and private land owners, ensuring that the Front Range population will continue to enjoy this cherished and pristine land for many years.

Along these same lines, Bob has worked tirelessly on local issues in the state. As a member of the Board of Directors for the Denver Regional Council of Governments (DRCOG), Bob spearheaded many regional policies. Working on transportation issues has proved to be one of his strong suits, as he has emphasized the creation of a new bus service to connect adjacent Clear Creek and Jefferson Counties. Another of Bob's transportation successes occurred when he helped gain approval of the Guanella Pass Road Project from the Federal Highway Administration's federal lands program. The result will be to improve this important and scenic roadway affecting numerous jurisdictions including Park County, the Town of Georgetown, and the U.S. Forest Service.

Mr. Speaker, I ask my colleagues to join me in expressing our gratitude to Robert Poirot for his many years of public service and his contributions to the people of Colorado. Robert has displayed exceptional moral fiber throughout his life, and for that I believe we should acknowledge and celebrate his work and accomplishments. Bob's tireless dedication to his community and country stands as a model for what can be accomplished when citizens participate in our democracy. Although he is leaving his service as a county commissioner, I am sure that he will remain active and involved in the community. I wish him and his family good health and happiness for many years to come.

## HONORING BILLY "TINY" RUTTER FOR HIS SERVICE AS A COUNTY COMMISSIONER OF SUMTER COUNTY

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise to honor Billy "Tiny" Rutter for his service as a County Commissioner for Sumter County.

On behalf of the residents of Sumter County, I applaud Mr. Rutter for his years of dedication as a public servant. Since 1992, he has worked tirelessly to provide the residents of Sumter County with excellent leadership and vision. Tiny, as he is affectionately known, can without a doubt say he has raised the level of expectation for future County Commissioners. He not only made Sumter County his home; he made it better. His longtime presence on the board will be greatly missed.

Tiny Rutter is my friend, advisor and mentor. Even when we were from different political parties, he helped me to make inroads with the Sumter County residents. he was such a passionate "Lobbyist" for the needs of Sumter County that no one could decline his ever expanding list of funding requests for the County.

Tiny's devotion to the residents of Sumter County demonstrates the intensity of virtue and selflessness that a public official should aspire to attain. Sumter County is truly saddened by Mr. Rutter's departure; nevertheless, we are immensely grateful for all his years of commitment and hard work.

I wish Mr. Rutter the best in the future and hope he fully enjoys the pleasures of retirement.

## 90TH ANNIVERSARY OF ST. SAVA SERBIAN ORTHODOX CHURCH IN MERRILLVILLE, INDIANA

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and enthusiasm that I congratulate the members of St. Sava Serbian Orthodox Church in Merrillville, Indiana as they celebrate their 90th anniversary. The festivities will begin on Sunday, November 14, 2004 with a special service, followed by a banquet to celebrate this momentous occasion.

Beckoning visitors who are traveling on Interstate 65, the golden domes of St. Sava offer an amazing spectacle. However, it is the interior of the church that the parishioners hold sacred. Built from Indiana limestone in a five-year construction project, the present sanctuary located at 9191 Mississippi Street in Merrillville replaced the original St. Sava Church, built in 1914 in Gary, Indiana, after that church was destroyed by fire. The dedicated members of the church came together to worship at the St. Sava "small hall" in Hobart, Indiana while plans were made for their new sanctuary. Undeterred by the loss of their church building, the congregation demonstrated their commitment to each other and to their faith by carrying on with their services at the "small hall" for 13 years.

Mr. Speaker, St. Sava Serbian Orthodox Church is led in its faith by the Very Reverend Jovan Todorovich. He has been the priest at the church for 35 of its 90 years, and the proud parishioners are thankful for the spiritual and emotional leadership he has provided during that time. Church President Michael Gallich has attended St. Sava since 1946 and is proud that the church has been able to maintain the Serbian traditions and customs that make their church unique. Father Todorovich believes the anniversary can be used to connect the new generation of the church with its past. Because the congregation has been blessed with tremendous leadership and good fortune throughout its history, it is appropriate that the celebration of the church's anniversary will be held near the Thanksgiving holiday.

His Grace Bishop Longin, along with the Very Reverend Todorovich, will serve the Holy Hierarchical Liturgy the morning of November 14, which will be followed by a memorial service to be conducted by representatives of a local American Legion at the adjacent Memorial Park to commemorate the fallen soldiers of all wars. The celebration banquet will conclude the festivities, which will feature St. Sava's folklore group and choir, as well as tamburitza orchestras and kolo bands.

Mr. Speaker, at this time I ask that you and my other distinguished colleagues join me in congratulating the congregation of St. Sava Serbian Orthodox Church as they celebrate the 90th anniversary of their parish. Blessed with outstanding leadership and unwavering faith, the congregation of St. Sava has enriched Northwest Indiana by bringing the proud and historic Serbian traditions to our community. May God continue to bless the parishioners and the church leaders for many years to come.

## RECOGNIZING MR. PAUL SALAZ

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Ms. SOLIS. Mr. Speaker, I rise today to pay tribute to one of El Sereno's finest citizens, Mr. Paul Salaz. Even in the last years of his life Mr. Salaz continued to work on behalf of the people in his beloved home of El Sereno. However, on Friday, November 5, 2004 the community lost a great asset when Mr. Salaz passed away.

Mr. Salaz was originally from Santa Paula, California. He married his wife Julia in 1934 and the couple celebrated their 70th wedding anniversary just this year.

It was after his retirement as an upholstery salesman that Mr. Salaz dedicated his life to community service and helping the people of El Sereno. After 40 years in sales he became an active leader in Los Angeles City Council District 14, most importantly as a member of the Citizens Unit for Participation in Housing and Community Development.

I was fortunate to get to know Mr. Salaz while I was a member of the California State Senate. Mr. Salaz's ability to work with all members of the community was remarkable. He was able to work with the El Sereno Coordinating Council and elected officials of the city of Los Angeles in order to advocate an improved quality of life for all residents.

He also worked with local elected officials on numerous community improvement projects. Some of his accomplishments included the installation of new stop signs at dangerous intersections and the opening of the new Public Library in El Sereno.

Though he was involved with the community all year long, Mr. Salaz always did a little extra for special occasions. During the holiday season Mr. Salaz made sure that impoverished families received food, and gifts for children. He also personally ensured a U.S. flag would be present at the Dr. Donald Newman Memorial every year. And in addition, he encouraged neighbors and schools to participate in the annual Christmas tree lighting ceremony on Huntington Drive.

And while he did so much for others, never once did he seek any personal reward. Fortunately, Mr. Salaz's efforts did not go unnoticed. As a result of his extensive community involvement, he won the title of Honorary Mayor of El Sereno from 1998–2002.

I can truly say that Mr. Salaz was a wonderful example of community activism, and he found a true reward in helping others. Though he is no longer with us, his memory will live on through his wife, Julia, their 5 children, 13 grandchildren, and 30 great grandchildren.

## RECOGNIZING THE EFFORTS OF PERSONNEL INVOLVED IN THE RESCUE OF DA'JOUR McMILLIAN OF FRISCO CITY, ALABAMA

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. BONNER. Mr. Speaker, the family of Da'Jour McMillian and the residents of the small town of Frisco City, Alabama, have reason to be exceedingly grateful this holiday season. Through the combined efforts of emergency rescue personnel, physicians, and industrial workers from Monroe and Mobile Counties, 22-month-old Da'Jour was saved.

from a situation that is certainly one of the greatest nightmares that could be experienced by any parent.

On Monday, November 1, 2004, Da'Jour was playing with his brother and sister off Central Street in Frisco City when he fell into an abandoned well measuring 14 feet deep. Almost immediately, the community went to work trying to recover him, an operation that took 13 hours and required the assistance of dozens of personnel. Because of the location of the well in relation to hidden power lines and potential unmarked water lines, the recovery operation was extremely dangerous and required a great deal of careful work and planning.

Through the entire ordeal, Da'Jour demonstrated a calm not usually found in a child of such a young age. In fact, he reassured the rescue workers with waves and smiles and by often telling those at the mouth of the well, "I love you." Of the many reasons this story had a happy ending, none was more important than the positive attitude and playful nature of this little boy.

Mr. Speaker, in the difficult circumstances facing our world today, both here at home and abroad, it is important that Americans should be able to depend on their friends and neighbors in their hour of need. As the rescue of little Da'Jour McMillian clearly demonstrates, there is no obstacle that cannot be overcome without a strong sense of community and cooperation. I ask my colleagues to join with me in saluting not only Da'Jour and his family for their courage, but for the following individuals and organizations who played such an important role in his rescue: Chuck Murph, Rita Smith, Rennie Raines, and J. T. Johnson with the Monroe County Emergency Management Agency; Pastor Freddie Lindsey of the Monroeville Church of the Nazarene; Tom Lindsey of Simmons Ambulance Service; Frisco City Mayor Jim Cave; the Frisco City Volunteer Fire Department; Chief James Maples and the Frisco City Police Department; Dr. David Stallworth of Monroe County Hospital; Allen Nall of Roto-Rooter; Sam Covert of Alabama Power Company; William Snyder of Monroeville Water Works; Chief Eddie Everette and the Monroeville Fire Department; David Coggins with the Alabama Emergency Management Agency; Chief Mike Dean and the personnel of both the City of Mobile Fire Department and USAR Task Force 1; and Ronnie Wright, Bo Bosarge, and Michael Gates with Smith Industrial Services of Mobile.

Because of their efforts, this little boy and his family will indeed have a very bright holiday season.

## NATIONAL ASSOCIATION OF REALTORS SUPPORT FOR "VETERANS' BENEFITS IMPROVEMENT ACT OF 2004"

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. SMITH of New Jersey. Mr. Speaker, I rise to request that a letter from Al Mansell, the President of the National Association of Realtors, regarding his organization's strong support for the immediate passage of the "Veterans' Benefits Improvement Act of 2004," be placed in the RECORD.

As Chairman of the House Veterans' Affairs Committee, and as someone who has spearheaded the effort in Congress to raise the VA's home loan guaranty level so that veterans in high cost areas like New Jersey can purchase houses, I am very pleased to have the support of the National Association of Realtors for this important piece of legislation. In fact, I have enjoyed working closely with the National Association of Realtors to improve the VA's home loan guaranty limit.

Mr. Mansell's letter demonstrates his organization's strong commitment to ensuring that the men and women who have honorably served our nation in the military can obtain affordable housing. It has often been said by historians and economists—and accurately, I believe—that the development of America's modern middle class was largely facilitated by two post World War II programs: The G.I. education bill, and the VA's home loan program. A college education, combined with opportunities for home ownership, gave tens of millions of Americans a real stake in our society, and transformed it in positive ways for generations to come.

I am very grateful for the National Association of Realtors' support and hope the House moves expeditiously to pass a final version of the "Veterans' Benefits Improvement Act of 2004," when it is scheduled for floor consideration tomorrow.

NATIONAL ASSOCIATION OF REALTORS®,
*Washington, DC, November 15, 2004.*
Hon. CHRISTOPHER SMITH,
*Chairman, House Veterans' Affairs Committee, House of Representatives, Cannon House Office Building, Washington, DC.*

DEAR CHAIRMAN SMITH: On behalf of the one million members of the National Association of Realtors®, I am writing to urge the immediate passage of S. 2486, the "Veterans' Benefits Improvements Act of 2004." This legislation passed the Senate under unanimous consent in October, and similar legislation passed the House in June. S. 2486 includes language to increase the veterans' maximum guaranty from $60,000 to $83,425; effectively permitting veterans to purchase homes up to $333,700. The legislation would also index the loan guarantee limit to 25% of the conforming loan limit. These changes are sorely needed to maintain the VA Home Loan Guarantee program as a vital homeownership tool that provides veterans with a centralized, affordable, and accessible method of purchasing homes in return for their service to our nation.

Under current law, the Department of Veterans Affairs will guarantee loans up to $60,000 for a total home purchase price up to $240,000. Because of this limitation the VA loan guarantee is not fully useful in a growing number of areas—especially in high-cost states. In states such as California, New York, New Jersey, Connecticut and Massachusetts, the median price of housing in certain areas of these states far exceeds this limit. Due to the high price appreciation being experienced in many states, combined with a relatively slow pace of income growth, many veterans residing in high-cost housing markets have found homeownership unattainable. S. 2486 would address this anomaly and make this important entitlement available to many more qualified veterans regardless of where they chose to live.

The National Association of Realtors® thanks you, Chairman Smith, for your leadership in this area. With your help our veterans will receive the gratitude and assistance they well deserve. We strongly support S. 2486, and urge its quick passage.

Sincerely,

AL MANSELL,
*2005 President.*

## HONORING THE 150TH ANNIVERSARY OF THE NORMANDY UNITED METHODIST CHURCH

### HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. GORDON. Mr. Speaker, I rise to recognize the 150th year of existence of the Normandy United Methodist Church of Normandy, Tennessee. The congregation will celebrate the church's 150th anniversary on Sunday, November 7, 2004, with a special homecoming and luncheon.

Changing its name from the Methodist Episcopal Church South to Normandy United Methodist Church in 1968 is only one way the church has changed in order to positively serve its members and its surrounding community. My parents, Robert and Margaret Gordon, were married at this church in 1947, and the church has fostered ongoing relationships with several others within the community and its congregation since its beginning.

Normandy United Methodist Church has served the community and its congregation for well over a century and a half. Just as the church has renovated and expanded its physical structure, so have they also renovated people's lives by expanding their ministry throughout the neighborhood and around the world.

Normandy is a better place because of the work of Normandy United Methodist Church and its congregation. I am sure the church will continue to make a positive difference in the community for the next 150 years and congratulate the congregation and Reverend De Hennessy for all the good they have done.

## PAYING TRIBUTE TO SUE SHELTON

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. MCINNIS. Mr. Speaker, I rise to pay tribute to Sue Shelton, a talented and respected teacher at Rocky Ford High School in Rocky Ford, Colorado. Sue has diligently worked to educate the region's youth for 21 years and is considered a strong leader in her community. It is a privilege to recognize her impeccable service before this body of Congress and this Nation.

Teaching is a family tradition in Sue's family that has involved her mother, grandmother, and most recently, her sister. Sue teaches Language Arts and English at Rocky Ford High School, winning several awards for her excellence in teaching including honors by her fellow faculty members and the student body. Sue makes learning fun for her students and encourages patriotism in the classroom by implementing the Voice of Democracy essay contest into the curriculum. The contest requires students to keep research logs about patriotism and write speeches about what patriotism means to them before submitting their essays to the local Veterans of Foreign Wars Post that annually chooses a winner.

Mr. Speaker, Sue is a devoted and compassionate teacher that has made learning an exciting and rewarding experience for her students. I am honored to recognize her commitment to teaching Colorado's children for 21 years before this body of Congress and this Nation. Thank you for your service, Sue, and I wish you all the best in your future endeavors.

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## INTRODUCTION OF LEGISLATION TO NAME THE DONALD G. BROTZMAN POST OFFICE BUILDING

**HON. MARK UDALL**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to introduce a bill which will name the post office at 4985 Moorhead Ave. in Boulder, Colorado the Donald G. Brotzman Post Office Building.

Mr. Brotzman served in this body during the Vietnam War and the Nixon era. Even though our country was highly divided, he rose above partisan politics and reached across the aisle to work in a bipartisan manner. He was the kind of public official I admire.

Don Brotzman died in September at the age of 82. During his lifetime he admirably served both his country and the state of Colorado. Born in Sterling, Colorado, he was an All Conference lineman at the University of Colorado in the 1930s. While attending the CU-Boulder he joined the military and served as a first lieutenant with the 81st Infantry Division in the South Pacific.

When he returned to the United States he finished his degree in both business and law and opened a law firm in Boulder, Colorado. Between 1945 and 1954 he served in both the Colorado State House of Representatives and Senate. In 1959 he was appointed by President Eisenhower as U.S. Attorney.

In 1963, as the nominee for the Republican Party, he was elected to serve the 2nd Congressional District of Colorado in the U.S. House of Representatives. During his five terms in office he served on the House Interstate and Foreign Commerce Committee. He was instrumental in the passing of the Indian Peaks Wilderness Act, a national program to help runaway youths and establishing a tax credit for higher education expenses. He also helped shape the Clean Air Act and the Public Broadcasting Act. Mr. Brotzman was an early champion of stronger environmental oversight at the Rocky Mountain Arsenal, and due to his efforts, the Johnson administration commissioned a scientific study which led to the eventual cleanup and closure of this site.

He was also one of the first members to call for an all-volunteer Army and the end of the draft during the Vietnam War. After serving in Congress, Mr. Brotzman was able to assist in the establishment of the all-volunteer Army when he was named Assistant Secretary to the Army for Manpower and Reserve Affairs by President Ford. He served in this position for 2 years and explained his job as making "the all-volunteer army work."

In the Colorado State Legislature, Congress and two Republican administrations, Mr. Brotzman served our country and Colorado well. His dedication to acting on his conscience and working on both sides of the aisle to better serve Colorado made him a leader in Congress. I hope my colleagues will join me and the Colorado delegation in honoring this outstanding Coloradan and support the naming of the Donald G. Brotzman Post Office Building.

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## HONORING ROBIN COX FOR HIS SERVICE AS A COUNTY COMMISSIONER OF SUMTER COUNTY

**HON. GINNY BROWN-WAITE**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise to honor Robin Cox for his service as a County Commissioner for Sumter County.

Mr. Cox has served the residents of Sumter County with distinction and devotion since 1996. He has tirelessly worked to the fullest of his abilities to provide county residents with the best possible representation. He can without a doubt say that he has raised the level of service provided by the board. Robin's commitment and vision have made Sumter County a better place. We will all miss him greatly. I wish Robin the best in the future and hope that he succeeds in all his endeavors.

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## RECOGNIZING THE ACCOMPLISHMENTS OF THE GIRL SCOUTS OF THE CALUMET COUNCIL

**HON. PETER J. VISCLOSKY**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and pleasure that I stand before you today to recognize the many accomplishments of the Girl Scouts of the Calumet Council throughout its 50 years of service to the Northwest Indiana community. The special black tie gala celebration and fundraiser will be held on Saturday, November 13, 2004 at the Ville Cesare in Schererville, Indiana.

The Girl Scouts is an informal educational organization of more than three million girls. The organization was founded in the United States by Juliette Gordon Low in 1912. The Girl Scouts of the Calumet Council is one of 319 councils nationwide whose sole mission is to help all girls reach their fullest potential. This group emphasizes the values of fairness, self-respect, community service, high standards of conduct, and appreciation for diversity, which contribute to the girls becoming successful citizens and future leaders in their communities. Through a value based informal education and recreation program, the Girl Scouts of the Calumet Council also teaches girls how to set and reach goals, improve decision making skills, become leaders, develop values, and contribute to society.

The Calumet Council currently serves over 4,800 girls with an additional 1,700 adult volunteers in Dyer, East Chicago, Griffith, Hammond, Highland, Munster, St. John, Schererville, and Whiting, Indiana and Burnham, Calumet City, Lansing, and Lynwood, Illinois. With the help of the many adult volunteers, girls in the Calumet Council participate in a variety of activities and programs. Over the last 50 years, Girl Scouts of the Calumet Council has helped mold thousands of young women in Indiana's First Congressional District into responsible, dynamic, and successful leaders in the community. The Girl Scouts of the Calumet Council has achieved success in inspiring and enabling young females to realize their full potential as productive, responsible, and caring citizens.

Mr. Speaker, at this time, I ask that you and my other distinguished colleagues join me in honoring and congratulating the Girl Scouts of the Calumet Council, as well as its staff and community leaders, on their 50th anniversary. Their many accomplishments and service to Lake County, Indiana will forever be cherished and commended.

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## RECOGNIZING THE IMPORTANCE OF THE NEW EAST LOS ANGELES CIVIC CENTER LIBRARY

**HON. HILDA L. SOLIS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Ms. SOLIS. Mr. Speaker, I rise today to recognize the importance of the East Los Angeles Civic Center Library. For too long the East Los Angeles community has been deprived of a quality library.

The 28,000 square foot library facility will provide a state of the art computer lab, a children's learning center and a Chicano Resource Center to extend educational and cultural services to children, families, and the entire community.

The East Los Angeles Civic Center Library was made possible through the leadership efforts of Supervisor Gloria Molina and collaboration between local merchants, community leaders, the Los Angeles County Library Foundation, and the County of Los Angeles Public Library.

It is with great pleasure that I recognize the vision and commitment of communities who care about our future generations.

## HONORING THE TOWN OF ELBERTA, ALABAMA, ON THE OCCASION OF ITS 100TH ANNIVERSARY

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. BONNER. Mr. Speaker, today I rise to honor the community of Elberta, Alabama, on the occasion of the 100th anniversary of its founding.

The site for Elberta was initially chosen by three German businessmen—Alexander Klappenback, F.W. Herdrick, and Henry Bartling—who had journeyed to Baldwin County from Chicago, Illinois, for the purpose of creating a German settlement. The Baldwin County Colonization Company was created in November, 1903, to develop this settlement in an area along Perdido Bay known as the "Elberta District." The town originally consisted of ten miles of roads and land that was divided into plots of 20- and 40 acres and sold to families moving into that area.

The first families arrived in the new settlement of Elberta in January 1904, and the area began to grow and prosper. Nearly five decades later, the Elberta Lions Club started a movement within the community to push for the incorporation of the area. The incorporation effort was successful, and one year later the first mayor and city council were elected for the newly created town of Elberta.

During its 100 years in existence, the members of this community have created a very rich and diverse history, and have worked tirelessly to provide the best benefits possible for themselves and their county. In the five decades that have passed since the incorporation of the town, the citizens and leaders of Elberta have done extensive work to put into place the resources that could be used to attract outside industry and lead to an increase in the population base.

Mr. Speaker, the residents of Elberta, Alabama, are firmly rooted in their proud past, and at the same time are keeping a careful and optimistic eye on the road ahead. The vision displayed by their community leaders during the past 100 years has led to the creation of a stable community and an anchor for all of Baldwin County, and I have no doubt that the continued inspired leadership and vision of today's residents and leaders will lead to even greater successes in the years ahead. It is my hope the Town of Elberta continues its story of success for another 100 years.

## PAYING TRIBUTE TO MARJORIE LONG

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. MCINNIS. Mr. Speaker, I rise to pay tribute to Marjorie Long, a retired teacher from Delta, Colorado who recently celebrated her ninety-ninth birthday. A lifelong teacher, Marjorie has compiled a long record of service and dedication to her fellow Coloradans. It is my privilege to recognize her service today before this body of Congress and this Nation.

Marjorie taught her students more than just English and Mathematics, instilling in them a desire to do their very best. She was a commanding presence in the classroom whose lessons were the foundation of students that went on to become doctors, lawyers, teachers, businessmen, and judges. Her students respected and admired her; several of them continue to demonstrate their respect by calling, writing and looking her up when they pass through the area. Upon retirement Marjorie took up cooking for the ranch hands that worked the family farm and became an active and distinguished member of the Retired Teachers Association.

Mr. Speaker, Marjorie Long is a dedicated public servant who has bettered her community by enriching the lives of Colorado students. I am honored to stand before this body of Congress and this Nation today to recognize her many years of service and hard work. Thank you for your devotion to education, Marjorie, and I wish you a happy ninety-ninth birthday.

## HONORING BARBARA MARTIG

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to thank and honor my compassionate and caring constituent, Ms. Barbara Martig. Barb's efforts have greatly impacted the lives of senior citizens for many years, and she deserves recognition for the many contributions she has made to our community.

Throughout her life, Barb has demonstrated time and again that she is dedicated to advancing the cause of seniors. While working for the Boulder County Aging Services, she also volunteered her time to numerous committees and councils relating to the advancement of the senior agenda. Due to this unwavering devotion to her work, she was recently chosen to receive the "Women Who Light Up The Community" award. This honor, given by the Boulder Chamber of Commerce, is presented to people who volunteer their time and talents to make Boulder County a better place to live, work and play.

In addition to her work with the elderly, Barb has worked tirelessly on transportation issues. By participating in the City of Boulder's Future Search Project, she contributed to the creation of a new bus line for our community and helped in finding solutions to many public transit problems that arose.

Mr. Speaker, I ask my colleagues to join with me in expressing our gratitude to Ms. Martig for touching our community in far-reaching ways. In a time when we still face insurmountable odds regarding the welfare of our senior citizens, we must recognize that there are people such as Barb who have an innate devotion to our elderly citizens. I'm proud to offer warm congratulations to Barb on her award, honor her achievements, and wish her continued success in all her future endeavors. She stands out as a beacon of our community, who truly lights up many of our lives.

## RECOGNIZING ARMY RANGER TIM ANTONSON

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to recognize and praise an intrepid soldier dedicated to defending his country. Tim Antonson has dutifully served as an Army Ranger in numerous war zones around the world.

Tim Antonson was born in Robinsdale, Minnesota on April 3, 1979 and graduated from Springstead High School in Spring Hill, Florida. After graduation, Tim joined the National Guard and then attended Army Ranger School. Soon, he was commissioned to serve as part of the United Nations Peacekeeping Force in Kosovo. Tim's next mission was with the 10th Mountain Division Army infantry battalion to Iskandariyah, about 30 miles south of Baghdad.

During his service in Baghdad, Tim helped rebuild hospitals, reopen schools, and secure energy facilities. He was awarded a Bronze Star for his heroism in the face of hostile enemy forces. Tim has shown invaluable bravery and admirable selflessness in his mission to protect the United States of America.

Mr. Speaker, Tim Antonson represents the future of our country and should be honored for his service and dedication. It is my privilege to represent Tim Antonson of the Fifth Congressional District, and I am proud to praise him on the floor of this House.

## 28TH ANNUAL ASIAN-AMERICAN CHARITY BALL

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to announce that the Asian-American Medical Association will be hosting the 28th Annual Asian-American Charity Ball on Saturday, November 13, 2004, at the Avalon Manor in Hobart, Indiana. Each year, the Asian-American Medical Association honors prominent, extraordinary citizens for their contributions to the community. In recognition of their tremendous efforts, they are honored at a banquet and awarded the prestigious Crystal Globe Award.

The Asian-American Medical Association is a great asset to Northwest Indiana. This organization has dedicated itself to providing quality service to the residents of Indiana's First Congressional District in the medical community and has demonstrated exemplary service in its cultural, scholastic, and charitable endeavors.

At this year's annual charity gala, the Asian-American Medical Association will present Mr.

Feisal Istrabadi with the Crystal Globe award. Feisal is a resident of Valparaiso, Indiana. He was born in Iraq and he has spent almost 16 years as an Attorney in Valparaiso. Feisal was recently chosen as Iraq's interim ambassador to the United Nations. He was nominated in January 2004 by the President of the Iraqi Governing Council. In June 2004 he was renominated, and he was then appointed by the President of Iraq. Feisal returned to Iraq within the past two years at the request of the government, to help rebuild the country. He helped write the interim constitution that is now in place and he also helped author the interim bill of rights. I am honored to commend Feisal for his commitment and dedication to the well being of those who seek his knowledge and leadership. His efforts and hard work are worthy of the highest recognition.

Although Feisal's career consumes much of his time, Feisal has never limited the time he gives to his most important interest, his family. He and his wife, Juliet have two daughters.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in commending the Asian-American Medical Society and Feisal Istrabadi for their outstanding contributions. Their commitment to improving the quality of life for the people of Northwest Indiana and throughout the world is truly inspirational and should be recognized and commended.

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## RECOGNIZING THE 10TH ANNIVERSARY OF THE VETERANS OF FOREIGN WARS POST 10218—NOVEMBER 17, 2004

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Ms. SOLIS. Mr. Speaker, I rise today to recognize the 10th anniversary of the Veterans of Foreign Wars Post 10218. For the past decade my district has been fortunate to be home to these veterans who served in World War II, Desert Storm and conflicts in Korea, Vietnam, Afghanistan, Bosnia and Iraq.

The service of these veterans did not end with their tour of duty. V.F.W. Post 10218 continues to serve our community in El Monte and South El Monte. Under the leadership of their commander, Mr. Michael Felix, a decorated former Army Sergeant who served in Vietnam, I expect the V.F.W. Post 10218 will continue to be a great asset to our community.

I wish to offer the V.F.W. Post 10218 my sincerest congratulations on their 10th anniversary. This country and the community are deeply indebted to them for the service they have performed both at home and abroad.

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## CONGRATULATING MR. JOHN SAINT ON RECEIPT OF THE MOBILE CIVITAN CLUB'S MOBILIAN OF THE YEAR AWARD

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor Mr. John Saint, President and Chief Executive Officer of the Mitchell Corporation in Mobile, Alabama, on the occasion of his being honored by the Mobile Civitan Club with its 56th Mobilian of the Year Award.

A native of Sand Mountain, Alabama, and a veteran of the Vietnam War, John Saint has been actively involved in the life of the Mobile community for many years. The Mitchell Company is one of the leading real estate and development companies in the southern United States, and its official work in the community is matched by its dedication to the families of Mobile and their needs. Under the guidance and inspiration of John Saint, the company has become one of the leaders in the area of charitable giving in south Alabama.

Each year, the Mitchell Company sponsors a "Giving Tree" fundraiser, in which area students contribute hand-made Christmas ornaments to decorate a tree in the company's offices. For each ornament received, the company makes a contribution to charity, and the success of this program has been tremendous. Under John Saint's leadership, the company in 2003 donated over $18,000 to Saint Mary's Home, a facility in Mobile that provides temporary shelter and residential treatment for abused and neglected children. Additionally, Mobile County schools which participated in the "Giving Tree" program received $20,500 in donations. All told, the "Giving Tree" program has over the years contributed a total of $70,000 to Saint Mary's Home and $113,500 to area public, private, and parochial schools.

Along with the "Giving Tree" program, the Mitchell Company provides free meals at Camp Smile, a summer program for adults with disabilities, and Camp Rap-A-Hope, a summer program for children battling cancer. The company also makes its corporate jet available to transport cancer patients to their chemotherapy appointments in states outside of Alabama and serves as the corporate sponsor for the Lady's Professional Golf Association.

The Civitan Club received numerous worthy nominations for men and women from throughout Mobile who in their own way also make significant contributions to their friends and neighbors on a daily basis. I am certain it is difficult to make the final selection for the Mobilian of the Year Award, but as in the past, this year's winner has shown a level of community support and charitable giving in the Mobile area which is, in my opinion, unmatched anywhere else in the state. John Saint gives as much as he does to his community, and inspires many other friends and coworkers to do likewise, simply because he says such a spirit of generosity comes naturally to him. There are hundreds of families in Mobile, Alabama, whose lives are richer because of his natural desire to support his fellow man.

Along with his many family, friends, and colleagues, both in Mobile and throughout the State of Alabama, I wish to extend to Mr. John Saint my warmest congratulations on the receipt of the Mobile Civitan Club's Mobilian of the Year Award.

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## THE CASE OF MIKHAIL TREPASHKIN

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. SMITH of New Jersey. Mr. Speaker, there is reason to fear for the fate of rule of law in Russia. I want to present one relevant example.

Mikhail Trepashkin, an attorney and former Federal Security Service, FSB, officer was arrested on October 24, 2003, a week before he was scheduled to represent in legal proceedings the relatives of one of the victims of a terrorist attack in Moscow. Mr. Trepashkin's American client is Tatyana Morozova of Milwaukee, Wisconsin. In September 1999, Ms. Morozova's mother was killed and her sister barely survived the bombing of an apartment house in Moscow. Officially, the crime was blamed on Chechen separatists, but Mr. Trepashkin was expected to present the findings of his investigation which suggested involvement of elements of the FSB in the 1999 apartment bombings in Moscow as well as an aborted attempted bombing in the city of Ryazan.

Mr. Trepashkin had been a consultant to the public commission set up by prominent human rights activist and former Duma Deputy Sergei Kovalev to investigate the 1999 bombings. The Kovalev commission asked many unpleasant questions but got precious few answers from the authorities. Meanwhile, in the course of his investigation Trepashkin discovered evidence that didn't track with the official version of the bombing incidents. This included events in Ryazan, where a bomb in an apartment basement was discovered by local police and safely detonated hours before it was due to explode. The two suspects in that case were released after presenting FSB identification documents. The whole incident was later declared a "readiness exercise" by Russian authorities.

Several months later, the co-chairman of the Kovalev Commission, Duma Deputy Sergei Yushenkov, was assassinated in front of his home. Four persons were convicted of the murder. Another member of the Commission died of food poisoning in a hospital, another was severely beaten by thugs, and two members lost their seats in the Duma. The activities of the decimated commission came to an abrupt halt.

A week before the October 24, 2003 trial opened, the police just happened to pull Trepashkin over on the highway, and just happened to find a revolver in his car. Trepashkin claims the gun was planted. Three weeks later, he was put on trial and sentenced to 4 years labor camp by a closed court for allegedly divulging state secrets to a foreign journalist.

Mr. Speaker, I don't know all the details of this case, but it looks very much like Mr. Trepashkin was prosecuted in order to prevent him from releasing potentially damaging information regarding the activities of the FSB. The U.S. State Department has commented diplomatically: "The arrest and trial of Mikhail Trepashkin raised concerns about the undue influence of the FSB and arbitrary use of the judicial system."

Today Mr. Trepashkin is held in a Volokolamsk city jail in a 130-square foot, lice-infested cell, which he shares with six other prisoners. He suffers from asthma but reportedly has been denied health care or even medicine. These arduous conditions may be retaliation for Mr. Trepashkin's filing a complaint to the European Court of Human Rights in Strasbourg.

It is difficult to believe that President Putin, given his KGB and FSB background, is unaware of the controversy surrounding the bombing investigations and the possibility that elements of the security services were involved. He must realize that corruption and personal vendettas within the FSB are dangerous commodities not only for the people of Russia, but for an entire civilized world that relies on the combined efforts of the intelligence community in the war against terrorism.

I urge President Putin to order a thorough and honest investigation of Mikhail Trepashkin's jailing and full cooperation with the Kovalev Commission. While the jury is still out on the 1999 bombings, persecution of those who want to find out the truth does not add to Mr. Putin's credibility among those in the West who so far have been willing to give him the benefit of the doubt.

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## HONORING ANNIE COX'S DEDICATION TO CANNON COUNTY'S CHILDREN

### HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. GORDON. Mr. Speaker, I rise today to honor Annie Cox for her remarkable career as an educator. Mrs. Cox has been teaching Middle Tennessee's children for an astounding 56 years. Generations of families have had the privilege of being her students.

Mrs. Cox began her extraordinary teaching career by spending a year in the Nashville Public School System. She then took a position with Cannon County Schools, where she has remained for the past 55 years. She has been honored nine times as a local Teacher of the Year. Middle Tennessee State University has inducted her into its Tennessee Teacher Hall of Fame. And three different governors have recognized her outstanding service.

While earning these accolades, Mrs. Cox has found time to coach girls' basketball for the past three decades. Her players have learned more than just on-the-court skills; they have learned character traits that last a lifetime.

The students and teachers of West Side School in Readyville, Tennesseee, will honor their beloved Mrs. Cox on Sunday, November 21, with the dedication of the "Dr." Annie Cox Pavilion. The pavilion, which was funded entirely by generous donations, will serve as a gathering point for future generations of Cannon County residents.

Annie Cox's devotion to her students can inspire us all. I commend her for her unselfish service and wish her all the best in the future.

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## PAYING TRIBUTE TO PALISADE LIONS CLUB STILT WALKERS

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. McINNIS. Mr. Speaker, I rise to pay tribute to the Palisade Lions Club stilt walkers who have walked in parades all over the country, to bring attention to the Colorado peach industry and the benevolent goals of the Colorado Lions Club. Their efforts continue to distinguish the heritage of Palisade, Colorado and a statue to commemorate the walkers was recently dedicated to the town on its centennial anniversary. It is my privilege in recognizing their accomplishments before this body of Congress and this Nation.

The original five stilt walkers included Gene Taylor, Ray Denison, Bob Ames, and Hampton and Lyndon Granat. The stilts were functionally used to prune the higher sections of fruit trees, but after their first appearance in a parade in 1955 they became the symbol of the Lions Club International and the Colorado peach industry. Together the stilt walkers and their wives made their own costumes and traveled to parades in Chicago, New York City, and numerous local Colorado events, grabbing the attention of newspapers all across the country.

Mr. Speaker, the original stilt walkers of the Palisade Lions Club have since passed away, but their memory lives on in the community and the peach industry as the town of Palisade celebrates its centennial this year. I am honored to stand before this body of Congress and this Nation and recognize their unique heritage.

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## HONORING JO ANN SORENSEN

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to thank and honor Jo Ann Sorensen for her exemplary public service as Clear Creek County Commissioner for almost eight years. I would also like to thank her on behalf of all Coloradans for the in-depth and diverse philanthropic work that she has contributed to the community. She has ensured that our great state remains a very special place to live and has innately displayed the qualities of a dedicated public servant.

Throughout her life, Jo Ann has demonstrated time and time again that she excels in all of her endeavors. She has served on almost every possible steering committee to represent not only Clear Creek County's interests, but also those of the I–70 corridor communities. It has been through this committee work that Jo Ann has achieved her numerous successes. Putting local and regional issues at the forefront of her agenda, she has systematically made it her cause to learn and understand the problems that plague our community. Through the wealth of knowledge that she has acquired, she has been able to help address these issues with her fellow County Commissioners, allowing her to volunteer her time for various other projects. Recently, Jo Ann was selected to receive the prestigious Colorado Counties, Inc., CCI, Commissioner of the Year Award. This award is a true testament to Jo Ann's long and distinguished list of achievements.

Jo Ann's work spans many areas. Aside from serving as Vice Chairman of the CCI Mountain District, she has spearheaded many reforms to better the lives of Colorado citizens. Working with her colleague Clear Creek County Commissioners, Jo Ann has greatly contributed to many transportation initiatives for the I–70 Corridor Counties, while at the same time helping to revamp the Emergency Services in her area by pushing for the Reverse 911 Programs. It is this type of multi-faceted focus that has allowed Jo Ann to direct her energies into numerous projects and reforms.

But if one was to look at her many accomplishments, they would notice that her strengths reside squarely in her efforts to maintain the environment. Not only has Jo Ann testified at the Colorado Water Conservation Board on watershed development impacts, she has led the fight to protect the Beaver Brook Watershed property and participated in the establishment of the James Peak Wilderness. Her emphasis on preservation has allowed all Coloradans to enjoy the ridgeline beauty and pristine lakes that Colorado has to offer.

Mr. Speaker, I ask that my colleagues join me in expressing our gratitude to Jo Ann Sorensen for her many years of public service and her contributions to the people of Colorado. I have only touched on a small fraction of Jo Ann's work, and I believe that she has displayed numerous times why she is deserving of our recognition. Although she is leaving her post as a county commissioner, I am sure, given her energy, dedication and passion for maintaining and improving the quality of life for all Coloradans that she will remain active in community issues. I wish her and her family good health and happiness for many years to come.

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## HONORING TECHNICIAN 5TH CLASS JUSTICE LAWSON

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Technician 5th Class Justice Lawson of the United States Army, a World War II veteran from Florida. His sister lives in Zephyrhills, Florida.

It is my pleasure to recognize Mr. Lawson for his heroism and bravery as a United States soldier who fought in the Second World War. He served in the 3rd Tank Battalion of the 10th Armored Division.

I presented Justice Lawson's sister with the Purple Heart, the oldest military decoration in the world.

In the Second World War an astounding 292,000 soldiers never came home. Their loss leaves a void in the hearts of families and in the soul of a generation. The heroism and dedication of these young men is what has made our military the greatest fighting force in the world. The courage they displayed during their service in World War II is exemplary of the American spirit. Their bravery will not be forgotten as Americans and freedom loving people all over the world remain indebted to their service.

Though he earned this honor, Justice never received it from the Defense Department and I am pleased to have the opportunity to present to his family the Purple Heart for his selfless devotion to duty and service to the United States.

## COMMENDING RICHARD MALIS, DAVID WHITE, AND TONI'S DANCE ACADEMY

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to commend a few dedicated individuals who have made significant contributions to Northwest Indiana. Richard Malis, David White, and Toni's Dance Academy, will be recognized by the Greater Portage Chamber of Commerce at the Annual Fall Dinner/Dance and Recognition Ceremony awards, on Saturday, November 20, 2004.

These loyal and dedicated individuals will share this prestigious honor. Each one of these individuals has played a key role in enriching the quality of life in Northwest Indiana. These individuals are being honored for their tireless efforts and dedication to the Portage community.

Richard Malis will be honored with the Humanitarian of the Year Award. Richard actively promotes and provides humanitarian services to the Portage community without regard to monetary gain. His outstanding service and donation of time represents the epitome of what a dedicated public servant should be.

David White will be honored with the Outstanding Public Citizen Award. David is recognized for his commitment to the Portage community. He is a well respected individual who volunteers his time and abilities to improve the quality of life for the residents in Portage. David has given his time and efforts selflessly to his community to enhance the image of Portage.

Further, Toni's Dance Academy will be recognized with the Putting Portage on the Map Award. This award recognizes those individuals, teams, or organizations whose achievements bring state or national recognition to the Portage community. Toni's Dance Academy has achieved success in inspiring and enabling individuals to realize their full potential as productive, responsible, and caring citizens.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending these individuals for their outstanding contributions to Indiana's First Congressional District. Their commitment to improving the quality of life for the people of Northwest Indiana is truly inspirational and should be recognized and commended.

## RECOGNIZING UNIVISIÓN'S SALUD ES VIDA...¡ENTÉRATE! CAMPAIGN

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Ms. SOLIS. Mr. Speaker, I stand before you today to recognize and applaud the efforts of Univisión Communications Inc. for their successful health initiative campaign, "Salud es Vida...Entérate!" As the leading Spanish-language media company in the United States, Univisión's health education initiative was launched on November 19, 2003, to raise awareness, increase knowledge and encourage positive decision-making concerning health care issues in the Latino community.

The groundbreaking health initiative has successfully promoted wellness among U.S. Latinos through news programs, public service announcements, literature and an on-line campaign. The Entérate! campaign has featured nationally recognized Latino celebrities and medical experts who educate Univisión's audience on health issues and promote habits of healthy living, access to care and disease-specific prevention and treatment.

The interactive website, Univisión.com, provides information on nutrition, exercise, stress, and alcohol use, empowering users to take control of their health. These programs have proven to be a critical health resource in helping Latinos break health access barriers and change attitudes for healthy living.

Univisión's Entérate! campaign has reached millions of Latinos, improving overall knowledge and understanding of diseases such as diabetes, cancer, heart disease, asthma, and HIV/AIDS which disproportionately impact Latino communities. I am particularly impressed with the campaign's inclusion of dental health—an issue that is too often overlooked in our community, where more than 40 percent of Latino children have untreated dental decay.

Univisión's health initiative is testament to the genuine dedication of the company to improving the well-being of its audience. I applaud the efforts of Univisión and look forward to the continued success of "Salud es Vida...Entérate!"

## BRING PAUL KLEBNIKOV'S KILLERS TO JUSTICE

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. SMITH of New Jersey. Mr. Speaker, I want to call the attention of my colleagues to the death of journalist Paul Klebnikov, who was murdered on July 9 of this year outside his Moscow office. An American citizen of Russian lineage, Mr. Klebnikov was editor of the Russian edition of Forbes magazine. According to the Committee to Protect Journalists, he was the 11th journalist killed in Russia in a contract-style murder in the past four and a half years.

Mr. Klebnikov had achieved prominence as a result of his investigative journalism which often focused on the connections between business, politics and crime in Russia. Mr. Klebnikov's investigations resulted in his writing two books, both devoted to exposing corruption within Russia's business and political sectors. Clearly, he made powerful enemies. There has been speculation that his murder was connected to a Forbes article that focused on Moscow's 100 wealthiest people. Someone, goes the theory, did not care for the publicity. Another suggestion is that Mr. Klebnikov's book Conversation with a Barbarian: Interview with a Chechen Field Commander on Banditry and Islam may have sparked a motive for the murder.

It was Mr. Klebnikov's love of Russia and his belief that reforms were advancing the nation toward a greater transparency in business and politics that motivated him to launch the Russian edition of Forbes magazine in April 2004. Mr. Klebnikov was committed to exposing and confronting corruption in the hope that such work would contribute to a brighter future for the people of Russia. He believed that accountability was an essential element to achieve lasting reforms.

Unfortunately, this hope for a better future in Russia has been dealt a serious blow by the murder of Paul Klebnikov. As I and ten other Members of the Helsinki Commission wrote to President Putin on October 5th of this year, much more is at stake than determining who killed Paul Klebnikov. The fear and self-censorship arising from the murders of journalists in Russia only serves to add to the corruption of government officials and businessmen. A cowed press cannot be the effective instrument for building the free and prosperous society that Mr. Putin purports to seek.

Mr. Speaker, according to the Russian news agency ITAR–TASS, on the occasion of "Militia Day," November 10, President Vladimir Putin told police officials that protecting the economy from crime and fighting corruption is a priority task in Russia. I would urge Mr. Putin to back up these words with action. Russian authorities should investigate to the fullest extent possible the murder of Mr. Klebnikov, no matter where the trail leads.

Only through rule of law and accountability can Russia achieve the safe, free and comfortable future that Mr. Klebnikov believed was possible.

## PAYING TRIBUTE TO KRIS GARDNER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. McINNIS. Mr. Speaker, I rise to pay tribute to Kris Gardner, a skillful business manager and dedicated member of her Glenwood

Springs, Colorado community. Kris has devoted over thirty years to Alpine Bank and I am proud to stand here with my colleagues before this body of Congress and this Nation today to recognize her many years of service.

The first female bank president of Alpine Bank, Kris' talent and dedication has made much of Alpine Bank's success possible through the years. Over the course of her career she has been named Businesswoman of the Year and received the Distinguished Service Award from the Glenwood Springs Chamber of Commerce from 1980 through 1983. She has served on the Glenwood Springs Chamber of Commerce, is the past director of the Colorado Bankers Association, and is an appointee of Colorado Governor Bill Owens as a member of the Fire and Police Pension Association. Kris is a strong role model for her peers and colleagues, leading by example in her community.

Mr. Speaker, Kris Gardner has persistently worked to better her community through service and hard work for over 30 years with Alpine Bank. I am honored to recognize her contributions to the town of Glenwood Springs before this body of Congress and this nation. Thanks for all your hard work, Kris, and I wish you and your family all the best in your future endeavors.

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## CELEBRATING THE 100TH ANNIVERSARY OF THE INCORPORATION OF THE TOWN OF MINTURN, COLORADO

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to commemorate the 100th Anniversary of the town of Minturn, Colorado.

Minturn is a small town on the Western Slope of Colorado, with a population of a little over 1,000. Despite its size, Minturn holds an important place within Colorado's history. It began in 1887 as a railroad crew-changing station and was named in honor of Robert B. Miniturn, who helped secure funds to build the Denver & Rio Grande westward down the Eagle and Colorado Rivers. The town quickly grew as more people began to make Colorado their home. Some established homesteads to farm in this area at the confluence of Gore Creek and the Eagle River, while others sought riches mining for silver in the mountains high above the town site.

On November 15, 1904, the first Town Council met and Minturn officially became an incorporated part of Colorado. This date became synonymous with the town's birth and was therefore marked as a day of celebration. In the years to come, Minturn became especially indicative of the Colorado experience.

After its vital infrastructures were in place, Minturn attracted people from all walks of life. Historic hotels that still exist today were erected to accommodate the influx of travelers passing through Colorado. And even the military became interested in Minturn, constructing a temporary training camp there for the 10th Mountain Division in 1942—a division that helped train soldiers to fight in high alpine conditions.

As the years passed, Minturn became a favorite stop amongst snow sports enthusiasts, due to its close location to some of Colorado's largest ski resorts, Vail and Beaver Creek. Recently, the town's beauty was on display in movies such as Walt Disney's "Tall Tales", and during the Winter Olympics of 2002, when the Olympic torch passed through the town en route to Salt Lake City, Utah.

I also have great pride in stating that one of my district offices is located in Minturn. Because of this connection—as well as the town's respect for it's western rural roots—I have developed an affinity with this town and appreciate the friendliness and communal spirit of its residents. This community has welcomed me to their town in a manner that greatly reflects the essence of Colorado.

Mr. Speaker, I ask that my colleagues join me today in commemorating the historic 100th anniversary of Minturn, Colorado. I believe that by honoring Minturn and all the other historic small towns of this vast Nation, we keep the great tradition of the American spirit alive for future generations. We must not forget about the many places that molded this nation into what it is today. Centennial celebrations are few and far between, and Minturn's is deserving of our recognition.

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## HONORING BENNY STRICKLAND FOR HIS SERVICE AS A COUNTY COMMISSIONER OF SUMTER COUNTY

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise to honor Benny Strickland for his service as a County Commissioner of Sumter County in the Fifth Congressional District of Florida.

On behalf of the residents of Sumter County, I applaud Mr. Strickland for his years of dedication as a public servant. Since 1994, he has worked tirelessly to provide the residents of Sumter County with excellent leadership and vision. His presence on the board will be dearly missed. Benny's devotion to the residents of Sumter County is a testament to the virtue and selflessness that a public official should aspire to attain.

Sumter County is truly saddened by Mr. Strickland's departure; nevertheless, we are immensely grateful for all his years of commitment and hard work. I wish Mr. Strickland the best in the future and hope he enjoys the pleasures of retirement.

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## THE CALUMET COMMUNITY HERO AWARD

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to commend five dedicated individuals who have made significant contributions to Northwest Indiana. These loyal and dedicated individuals, Rosa Vega, Valeta Brannon, John Bakota, Daniel Lowery, and Leonard Tomaszewski, will be honored for their dedication to justice and to the people of Northwest Indiana by the Calumet Project at an awards luncheon at the Social Hall of Our Lady of Perpetual Help Parish in Hammond, Indiana on Friday, November 19, 2004.

The Calumet Community Hero Award is being presented to three individuals for their tireless efforts in promoting justice in Northwest Indiana. This year's first honoree is Rosa Vega, a graduate of Gary West Side High School. She has been a member of the executive board of SEIU Local 73 Division 208 since 1979 and has been employed by the Gary School Corporation since 1971. Rosa is also very active in the Cub Scouts and is a past recipient of the George Meany Scouting Award.

Also receiving a Calumet Community Hero Award is the youngest of this year's award recipients, Valetta Brannon. Valetta is a 1999 graduate of Bishop Noll Institute, where she organized the Black History Club, and a 2004 graduate of Purdue University Calumet, where she earned her B.A. in Psychology. She is employed by the Family & Youth Services Bureau as a Residential Counselor and with Porter-Starke Children Services as a Behavioral Specialist. Her future plans include pursuing an MSW and continuing to fight for social justice for the people of Northwest Indiana.

The third Calumet Community Hero Award is being presented to John Bakota. John is a graduate of East Chicago Roosevelt High School and is a veteran of the United States Army. John spent 38 years as a millwright at LTV Steel, and he has always been extremely active in promoting the enrichment of his community. John is a compassionate activist with the Coalition for a Clean Environment, and he is being honored for his ongoing quest to see to it that justice prevails.

This year's Unity Award is being presented to Daniel Lowery, Ph.D. Dr. Lowery is a graduate of Valparaiso University, holds a Master's Degree in Business Administration from Indiana University Northwest, and received a Ph.D. in Public Administration from the University of Illinois at Chicago in 2001. He is currently Executive Director of the Northwest Indiana Quality of Life Council and has received numerous awards for his outstanding performance throughout his career.

The final award, the Lifetime Achievement Award, is being presented to Leonard Tomaszewski for his outstanding service to the Northwest Indiana Community. Leonard is a graduate of Emerson High School and a veteran of the Korean War. Prior to his retirement in 1996, Leonard was employed by U.S. Steel and Gary Works Sheet and Tin for over 46 years. Since his retirement, Leonard has been an active member of the Steelworkers Organization Active Retirees (SOAR). He has led the fight on behalf of retirees for healthcare, prescription drugs, social security, and other issues of concern to retirees. Leonard's lifetime of service continues as he is a member of the Board of Directors of the Northwest Indiana Community Action Corporation, whose mission is to change lives and build communities. For his lifetime of commitment to fairness and justice, Leonard Tomaszewski is being commended with this prestigious award.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in commending these individuals for their outstanding contributions to Indiana's First Congressional District. Their commitment to improving the quality of life for the people of Northwest Indiana is truly inspirational and should be recognized and commended.

## TRIBUTE TO MS. TAMMY CARNRIKE

### HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. BOEHLERT. Mr. Speaker, I rise today to recognize the appointment of Ms. Tammy Carnrike as the new Chairman of the Board of Directors of the American Chamber of Commerce Executives (ACCE). Ms. Carnrike is a leader at the local and State level whose commitment to economic development and job creation has been a vital asset to the State of New York.

For the last eighteen years, she has been a member of the Chenango County Chamber of Commerce, and its President for the previous eight. During her tenure, Ms. Carnrike has been instrumental in improving the quality of life and promoting further economic growth. This appointment is a well-deserved honor for her achievements within Chenango County and across New York State.

I have had the privilege of working with Ms. Carnrike for the last eight years. Together we have been able to secure over $12 million in Federal funds for improvements to New York State Route 12—improving access between the cities of Utica and Binghamton, and all points in between. These improvements will greatly benefit the employers located along the Route 12 corridor, stimulating further economic and business growth.

Ms. Carnrike has demonstrated the qualities that the ACCE was founded upon in 1914 in her dedication, excellent leadership and managerial expertise. I also congratulate her for becoming only the third woman to hold this organization's highest office in its 90-year history. She will no doubt continue the fine work begun by her predecessor Carroll Gray of the Charlotte, NC Chamber of Commerce.

I wish her the best of luck and look forward to continuing a positive working relationship to increase opportunities and strengthen the Chenango County economy.

## HONORING REVEREND WROTEN McQUIRTER, SR.

### HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. THOMPSON of Mississippi. Mr. Speaker, I would like to recognize a distinguished religious educator with over 50 years of dedicated service to the Clinton, Jackson, Bolton, and Terry communities in the State of Mississippi, the Reverend Wroten McQuirter, Sr.

Rev. Wroten McQuirter, Sr., is known throughout the State as more than just a pastor, but as a social activist, counselor, supporter, leader, and most importantly as a friend. In 1970, he began his religious training at the Mississippi Baptist Seminary, Jackson, Mississippi, and in 1973, Reverend McQuirter received his bachelor of theology degree from Natchez College.

Throughout Reverend McQuirter's pastoral tenure from 1957 to 2004, he has served in various positions including the dean and moderator of the Original J.M.B. District Association; president of the Hinds County Council for Church and Social Action; president of the Clinton Ministerial Workers Council, dean of the Congress of Christian Education; board member of the National Baptist Convention U.S.A., Inc., president of the Terry Ministerial Fellowship, and member of the Moderator Department of the National Baptist Convention, U.S.A., Inc.

In addition to his pastoral duties and responsibilities, Reverend McQuirter has been a great asset to the communities in Mississippi. He has served as an active leader and organizer for Hinds County Communities in the fight for equality. He has been an activist with the National Association for the Advancement of Colored People, NAACP, for more than four decades. He led the movement for desegregation in the Clinton Public School District in 1968, whereby his two younger children were among the first six black students to enroll in Clinton Park Elementary School.

Although retired, he is not retired. Reverend McQuirter, who recently celebrated his 82nd birthday on October 23, remains actively involved in Christian education ministering to the needs of others. He teaches bible class at the Clinton Community Christian Corporation as well as bible study at Pleasant Green Church. He also teaches several courses in church leadership schools offered by various churches.

Please join me in congratulating Rev. Wroten McQuirter, Sr., on 50 years of distinguished service. It is in achievement that brings pride not only to his local community, but to the whole State of Mississippi and the Nation. .

## RECOGNIZING INTELLIGENCE SPECIALIST SENIOR CHIEF PETTY OFFICER STEPHANIE A. STORCH

### HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. HUNTER. Mr. Speaker, I rise today to recognize a constituent, Intelligence Specialist Senior Chief Petty Officer Stephanie A. Storch. Senior Chief Storch is retiring after twenty-one years of dedicated service to the nation.

Senior Chief Storch began her career in 1983 as a Mess Specialist. During her initial assignment to Naval Radio Receiving Facility (NRRF) Kami Seya, Japan, her professionalism was first recognized when she was selected a 1985 Junior Sailor of the Quarter. In 1986 she joined the Intelligence field and reported to Fleet Air Reconnaissance Squadron THREE (VQ–3), Naval Air Station Barbers Point, Hawaii.

Senior Chief Storch served throughout the Pacific Theater and the Middle East in a career that focused on Intelligence training and Naval Special Warfare operations. Her leadership and academic accolades are numerous from her 1993 Navy League Woman of the Year selection to the distinction of graduating in the top 1 percent of her Berlitz Language School Arabic class. Senior Chief Storch's Special Operations and Training expertise merged in March 2000, when she was assigned to Commander, Naval Special Warfare Command as the Force Intelligence Specialist for Naval Special Warfare.

Senior Chief Storch culminates her service at the Joint Intelligence Training Activity Pacific (JITAP) where she is the Asymmetric Warfare Branch Head and Senior Enlisted Advisor. She is an Intelligence professional and leader who always put the welfare of her sailors first. Senior Chief Storch's performance reflects greatly on herself, the United States Navy, and our country. I extend my deepest appreciation to Intelligence Specialist Senior Chief Petty Officer Stephanie A. Storch for her 21 years of dedicated military service and wish her and her family all the best in the years to follow. I am glad to hear that upon retirement, Senior Chief Storch and her family, CWO3 Ernest J. Storch, USN and two sons, Adam and Daniel will continue to make San Diego County their home.

## PAYING TRIBUTE TO KRISTI KNOWLES

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a tremendous public servant from my hometown of Grand Junction, Colorado. Kristi Knowles was recently nominated as Grand Junction, Colorado's "Officer of the Year"; it is my honor to call her heroic service to the attention of this body of Congress and this Nation.

Kristi began her service to the City of Grand Junction in July of 1999, signing on as a telecommunicator with the Regional Communication Center. She rose quickly through the ranks eventually earning a position as a sworn police officer in the Grand Junction Police Department's Patrol Section. Since assuming this role, Kristi has continually exhibited a unique commitment to the job and people she is sworn to protect and defend.

Overtime, Kristi has distinguished herself in cases involving domestic violence. Kristi always goes above and beyond the call of duty by comforting victims of domestic violence and ensuring they have access to community resources. Kristi even went so far as to reach out to the staff at the Latimer House to ensure that she was doing everything she could to help the victim.

Community policing is truly a community effort, and Kristi Knowles has certainly done her part. She is a shining example to officers throughout the nation of the passion and concern, which is so vital to accomplishing the mission given to our law enforcement officials each day. It is my honor to congratulate Kristi before my colleagues in the Congress. Her recognition is well-deserved, and I wish her nothing but the best as she continues to serve the Grand Junction community. Thank you for your service, Kristi!

## TRIBUTE TO CHARLES S. "CHARLEY" SHIMANSKI

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to Charles "Charley" Shimanski, an accomplished mountain climber who served as Executive Director of the American Alpine Club from 1993 until his retirement in October of this year.

Charley grew up in Madison, Wisconsin, and graduated from the University of Wisconsin in 1981 with a degree in Economics. He worked in the financial services sector for 12 years both in Europe and in Denver, including at Oppenheimer Funds, United Bank and Darlington Asset Management of Geneva, Switzerland. But a big part of his heart was always in the mountains.

Charley's love of climbing has taken him throughout Colorado's mountainous landscape, especially the backcountry peaks in Rocky Mountain National Park. He also climbed in the Swiss Alps and the Cascades along the Pacific Northwest.

Raised with a belief that volunteer service is the price one pays for living on this planet, it did not take long before his love of the mountains and his passion to serve the community combined into an almost 20-year commitment to the mountain rescue community.

In 1985, Charley joined the Alpine Rescue Team, a volunteer mountain rescue group that provides rescue services in portions of the Front Range and Summit County, including 4 of Colorado's Fourteeners (peaks with elevations over 14,000 feet, for those unfamiliar with the term). Within 4 years he was president of Alpine Rescue Team, and over the years he has served as the team's mission leader, public information officer and helicopter specialist.

In 1997, Charley was honored by the Colorado Search and Rescue Board with the Hunter Holloway Spirit Award for his work developing Colorado's "Avalanche Awareness Week." Avalanches are a serious issue in Colorado and other mountainous western states. Sadly, lives are lost every year to avalanches and western states frequently encounter road closures due to avalanches, which affects local economies and tourism. As a result, Charley's contributions here are very significant and worthy of such recognition.

Eventually Charley's focus expanded from the Alpine Rescue Team and Colorado search and rescue activities to the national Mountain Rescue Association (MRA) and international rescue consulting. He has served as chair of the MRA's Rocky Mountain Region and continues to serve as chair of the organization's Education Committee. Charley is the author of several national MRA manuals, including "Accidents in Mountain Rescue Operations," "Search and Rescue for Outdoor Leaders," "Helicopters in Search and Rescue Operations," and "Avalanche Rescue Operations." He is a frequent lecturer at meetings of the Wilderness Medical Society, the Mountain Rescue Association and the International Technical Rescue Symposium, and has consulted with government agencies and rescue groups throughout the world.

Despite these awards and accomplishments, Charley's most personally rewarding search and rescue mission was the 1990 rescue of a lost hiker in which he served as incident commander. The hiker was found after 12 hours, but, more importantly, the "reporting party" was a woman who later became Charley's wife. It was the only instance anyone in the mountain rescue community can recall in which a person who reported a search eventually married one of the rescuers.

In May 1993, Charley left the corporate world to work full time on climbing and mountaineering issues as the executive director of the American Alpine Club (AAC), a national association of climbers and mountaineers dedicated to promoting climbing knowledge, conserving mountain environments and representing the American climbing community. At that time, the AAC had a membership base of 1,700 members, annual operating revenue of $300,000 and net assets of $2.8 million.

Charley often remarked that the AAC's greatest asset was its potential. Over his 11-year tenure as executive director, he spurred the Club into action on a number of fronts. The AAC, in partnership with the Colorado Mountain Club, bought and renovated the historic (and then vacant) Junior High School building in Golden, Colorado at the foot of the Front Range, turning it from a public eyesore into the American Mountaineering Center, a facility housing several regional and national climbing organizations and hosting climbing-related conferences and events. He oversaw a transformation in the Club's library from an obscure collection of unorganized mountaineering books into arguably the finest mountaineering library in the world, fully cataloged and electronically searchable by any Internet user in the world. He expanded the AAC's advocacy efforts on behalf of climbers so that the Club was a leading voice on such issues as mountain rescue, climbing ethics, conservation of alpine regions, and management of climbing destinations both domestically and abroad. Charley was an enthusiastic advocate of the AAC Press, the Club's publishing arm, which documented world climbing and published award winning historical guidebooks to several climbing disciplines.

In October, Charley resigned from the AAC and accepted a position as Executive Director of the Colorado Association of Nonprofit Organizations. When he left the AAC, it had grown to 7,500 members, an annual operating budget of $1.3 million and net assets of $7 million—an almost four-fold increase in most categories. The organization's staff grew in both size and professional capability during his tenure. Though his leadership will be missed by American climbers, he looks forward to new challenges rallying the Colorado nonprofit community to similar gains.

## HONORING PRIVATE FIRST CLASS HARLOW E. KENDIG FOR HIS SERVICE IN WORLD WAR II

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise to honor Private First Class Harlow E. Kendig for his valiant deeds during military service in World War II.

As a member of the Headquarters Battery, 448th Anti-Aircraft Artillery Automatic Weapons Battalion, Mr. Kendig fought against the scourge of Nazism that threatened to overtake the globe. On November 23, 1944, while in Morhange, France, Mr. Kendig's battery was attacked by enemy artillery. During this attack, an ammunition truck was struck and a fire ensued. Disregarding the impending dangers, Private Kendig heroically took command of the situation, jumped into the nearest fuel truck, and drove it to a safer location. As the salvos rained down, Private Kendig remained undaunted in evacuating the remaining vehicles and labored in the thick of battle until the fire was contained.

For his heroic actions, Mr. Kendig was awarded the Purple Heart and the Bronze Star. It is my pleasure to present to him these medals after nearly sixty years of waiting.

The heroism and dedication of Private First Class Harlow E. Kendig is what makes our military the greatest fighting force in the world. The courage he displayed during his service in World War II is exemplary of the American spirit. Mr. Kendig's bravery will not be forgotten as Americans and freedom loving people all over the world remain forever indebted to his service.

## H.R. 4518, THE SATELLITE HOME VIEWER EXTENSION AND REAUTHORIZATION ACT OF 2004

### HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. UPTON. Mr. Speaker, I would like to submit the following Remarks for the Record. We have before us H.R. 4518, the "Satellite Home Viewer Extension and Reauthorization Act of 2004" (SHVERA). H.R. 4518 reauthorizes certain expiring communications and copyright act provisions that govern the retransmission of broadcast television signals by direct broadcast satellite (DBS) providers such as DirecTV and EchoStar. It also modernizes other provisions to enhance consumer choice, increase parity between satellite and cable operators, and further promote competition. Because the bill implicates both communications and copyright issues, the House Energy and

Commerce Committee and the House Judiciary Committee have worked closely in drafting the legislation.

Indeed, pursuant to a compromise between the House Energy and Commerce Committee and the House Judiciary Committee, H.R. 4518 has now been amended to combine its copyright provisions with the Communications Act provisions of H.R. 4501. H.R. 4501 resulted from an extensive examination of satellite television issues in the House Energy and Commerce Committee. The Subcommittee on Telecommunications and the Internet held an oversight hearing on March 10, 2004, and a legislative hearing on April 1, 2004. The Subcommittee then marked up legislation on April 28, 2004, and the full Committee marked up legislation on June 3, 2004. That legislation became H.R. 4501. The Committee filed a report on H.R. 4501 (H. Rept. 108–634) on July 22, 2004.

What follows is a section-by-section analysis of some of the Communications provisions in Title II of H.R. 4518, as amended, that have changed from the provisions that originated in H.R. 4501. Mr. BARTON, Chairman of the House Energy and Commerce Committee, has also addressed some of the changes.

SECTION 202. CABLE/SATELLITE COMPARABILITY

Section 340(f) creates a mechanism to enforce the new provisions regarding satellite delivery of significantly viewed signals. Under section 340(f)(1), the FCC may issue a cease and desist order if it finds in response to a complaint that satellite operators are carrying broadcast signals in violation of Section 340. If a broadcast station seeks damages, section 340(f)(1)(A) authorizes the FCC to award the station up to $50 per subscriber illegally served, per station illegally carried, per day of the violation if the FCC finds that the satellite operator did not have a good-faith belief that provision of the signal was lawful. Conversely, if a broadcaster seeks damages and the FCC finds that the broadcaster's claims were made in bad faith, section 340(f)(1)(B) allows the FCC to award the satellite operator up to $50 per subscriber, per station, per day that the broadcaster alleged the satellite operator was serving in violation of Section 340. If the broadcaster does not seek damages, however, the FCC may not grant damages to either the broadcaster or the satellite operator. Section 340(f)(2) gives the FCC 180 days from the submission of a complaint to render a decision. If the pleadings indicate that material facts underlying the case are subject to genuine dispute, the FCC may—but is not required—to hear witnesses. Section 340(f)(3) makes clear that an FCC proceeding under Section 340 is available in addition to any remedies that may be available under the Copyright Act. For example, a broadcaster who also holds copyrights in the programming it carries might bring a claim before the FCC if it believes a satellite operator has carried a signal in a way that violates the Communications Act conditions for providing significantly viewed signals, as well as a suit in court if it believes that the same carriage also violates the terms under which a compulsory license is available under the Copyright Act. Section 340(f)(4) makes clear that any action or inaction by the FCC in response to a section 340 complaint shall have no bearing on a copyright suit, and that filing a section 340 complaint with the FCC is not a prerequisite for filing a suit in court alleging that carriage of a purportedly significantly viewed signal has violated a copyright.

Section 340(g) requires satellite operators to give local broadcasters 60 days notice before retransmitting into a market the signal of distant stations that are significantly viewed over the air in the local market, and to list on their web sites the significantly viewed signals they carry. This provision is intended to help make consumers aware of what signals the satellite operators are offering. It is also intended to help local broadcasters monitor satellite compliance with the conditions SHVERA creates for the provision of significantly viewed signals.

Section 340(h)(1) gives the FCC until April 30, 2005, to revise its rules so that a network station may elect "carry-one, carry-all status" from a satellite operator on a community-by-community basis within a local market. Under current law, when a satellite operator offers local-into-local service in a market, the local broadcasters may choose between carry-one, carry-all status and retransmission consent. If the local broadcaster elects carry-one, carry-all status, the satellite operator must carry the station, but the station is not entitled to compensation. If the station chooses retransmission consent, the broadcaster can try to negotiate for compensation, but runs the risk of not getting carried at all.

Because cable systems are subject to local franchising, each community within a local market generally has a separate cable system. If a cable system is carrying a significantly viewed signal in a community, a local broadcaster of the same network can elect must-carry for that system, but still negotiate retransmission consent for cable systems elsewhere in the local market where no significantly viewed signal for the same network is being carried.

Because satellite operators have a nationwide—rather than local-franchise-based—service area, however, local broadcasters ordinarily must choose between carry-one, carry-all status and retransmission consent as an all-or-nothing proposition throughout the entire local market. To accommodate the new significantly viewed authority for satellite operators and to recreate, as best as possible, a similar bargaining framework for local broadcasters as exists with cable systems, section 340(h)(1) allows a local broadcaster to elect carry-one, carry-all status in communities with a significantly viewed signal from the same network, while continuing to negotiate retransmission consent in other communities in the market.

To ease the administrative burden on the satellite operator, section 340(h)(2) specifies that the community-by-community elections within a local market shall take place in a unified negotiation between each satellite operator and broadcaster. There is no particular time limit on the negotiation. Nor must it take place in one sitting. The broadcaster shall, however, "lay all its elections on the table at once" so that the satellite operator can see the entire picture in anticipation of any retransmission consent negotiations that may be necessary in the communities where the broadcaster does not elect "carry one, carry all."

To facilitate the community-by-community election process, section 340(h)(3)(A) gives the FCC until April 30, 2005, to revise its rules to require satellite operators to notify broadcasters in advance of any communities in which they intend to carry significantly viewed signals. The satellite operators are permitted to carry significantly viewed signals only in communities for which the satellite operators provide such notice. Section 340(h)(3)(B) recognizes that a satellite carrier could begin importing a "significantly viewed" signal after the expiration of a long-term retransmission consent contract but before the next three-year election cycle would allow the television station to choose between retransmission consent and carry one, carry all on a community-by-community basis. Consequently, section 340(h)(3)(B) allows a broadcaster to choose between retransmission consent and carry one, carry all on a community-by-community basis for any portion of the three-year cycle not covered by an existing retransmission consent agreement.

One way the FCC might implement section 340(h)(3) for a station that entered into a retransmission consent agreement before the effective date of the Act, and that expires before the end of 2005, would be to require the satellite operator to send the station, by certified mail, at least 60 days before the agreement expires, the required notification for any period between the date of expiration of that agreement and December 31, 2005. If the satellite carrier gives that notice, the station could then, within 30 days of receipt, choose retransmission consent or mandatory carriage for those communities covered by the notification for the period between the date of expiration of the agreement and the end of 2005. For existing retransmission contracts that expire later but between election periods under 47 C.F.R. 76.66, the FCC could require the satellite carrier to provide the station by certified mail, at least 60 days before the election date under section 76.66 that immediately precedes the expiration date of the contract, the required notification for any period between the date of expiration of the agreement and the end of the next three-year election cycle under section 76.66. If the satellite carrier gives that notice, the station could then, on the same schedule provided under section 76.66, elect retransmission consent or mandatory carriage for those communities covered by the satellite carrier's notification for the period between the date of expiration of the agreement and the date of expiration of the next three-year election cycle. Retransmission consent contracts entered into after the effective date of the Act will not be affected by this harmonization provision, because negotiators will be able to take into account the possible importation of significantly-viewed stations in the future.

SECTION 203. CARRIAGE OF LOCAL STATIONS ON A SINGLE DISH

Section 203(b)(1) of the bill amends sections 338(a)(1) and (a)(2) of the Communications Act (47 U.S.C. 338(a)(1)–(2)) to make clear that the FCC may enforce satellite operators' carry-one, carry-all obligations. The Communications Act currently grants the FCC authority to enforce cable operator's must-carry obligations to carry all local broadcast stations upon request. There apparently is some ambiguity regarding the FCC's authority to enforce satellite operators' analogous carry-one, carry-all obligations. Section 203(b)(1) of the bill is intended to remove any doubt that a carrier can seek enforcement from the FCC under the Communications Act, in addition to any remedies it may have in court under the Copyright Act.

Section 203(b)(1) of the bill also adds section 338(a)(3) of the Communications Act (47 U.S.C. § 338(a)(3)) to clarify that satellite carriage of low-power television stations is permissive, not mandatory. Section 104 of the bill grants satellite operators a compulsory copyright license to carry low-power stations. Section 338(a)(3) of the Act, as amended, makes clear that carriage of such stations does not fall within the carry-one, carry-all requirements of Section 338.

Sections 203(b)(2) and (b)(3) of the bill make conforming changes to the Act to implement section 203(b)(1) of the bill, and to define "low power television station" for purposes of that section.

SECTION 204. REPLACEMENT OF DISTANT SIGNALS WITH LOCAL SIGNALS

Section 204 of the bill amends section 339 of the Communications Act (47 U.S.C. § 339) to require a satellite operator to stop providing distant signals of a network to certain subscribers in a market once the operator begins providing local signals of that network in that market, absent a waiver from the affected network station. It does, however, permit certain subscribers to continue receiving distant signals, and allows future distant signal subscribers in non-local-into-local markets to continue receiving such signals under certain circumstances. Section 204 does not apply to carriage of distant signals from non-network stations.

New section 339(a)(2)(A) requires certain grandfathered subscribers to choose between receiving a distant and a local signal of a network. Under SHVIA, some households that can receive a "Grade B" intensity over-the-air signal from a local network affiliate but not a "Grade A" signal qualify as "unserved" by that network because of a grandfathering provision in the Copyright Act (17 U.S.C. § 119(e)). These grandfathered customers are sometimes referred to as "Grade B doughnut" households. The grandfathered status of these subscribers is set to expire at the end of this year. Under section 339(a)(2)(A), once a satellite operator makes the local signal of a network available under section 338 to customers receiving the distant signal under the Grade B doughnut provisions, the customers must choose between the local signal and the distant signal. They may continue to receive the distant signal if they elect to do so, but the subscribers may not receive both the distant and local signals of the network. Customers who were eligible for distant signals under the Grade B doughnut provisions but were not receiving such signals under those provisions on October 1, 2004, will no longer be eligible for such grandfathering. Thus, the universe of grandfathered households is fixed as of that day and cannot be expanded thereafter.

New section 339(a)(2)(B) allows a satellite operator to provide both a local and a distant signal of a network to a subscriber who is unserved over-the-air by a Grade B signal of the network's local affiliate, so long as the satellite operator was offering the local signal of the network pursuant to section 338 by Jan. 1, 2005, and complies with certain notice obligations. If the satellite operator was not offering the local signal of the network pursuant to section 338 by Jan. 1, 2005, the satellite operator may provide both the distant and local signals to the subscriber only if the subscriber sought to subscribe to the distant signal before the satellite operator made the local signal available, and the satellite operator meets certain notice obligations.

New section 339(a)(2)(C) provides that a satellite operator may not provide a signal of a distant affiliate of a network to a consumer if the consumer is not lawfully receiving the signal from the satellite operator on the date of enactment of SHVERA and the consumer seeks to receive the distant signal after the satellite operator began making the local signal of that network available in the market.

New section 339(a)(2)(D) allows a local affiliate to waive any of the limitations in section 339(a)(2) as they apply to the retransmission, into the local affiliate's local market, of the distant signals of a station affiliated with the same network. The waiver can be as broad or as narrow as the affiliate wants. For example, a local affiliate can waive the application of section 339(a)(2) to one or more consumers in the local market, with respect to one or more specific distant affiliates of the same network, and with respect to one or more satellite operators. The broadcaster may do so as part of a negotiated agreement and for any reason, including common ownership among the stations. This is intended to be a private negotiation, not one over which the FCC or any other governmental body must preside; nor must any governmental body grant or approve the waiver. Whether to grant a waiver is a decision to be made solely based on the broadcaster's own business judgment, although a broadcaster may grant a waiver as part of an agreement made with a satellite operator or other parties. A broadcaster is also not required to execute any particular document as part of the waiver process, although parties who intend to rely on such a waiver or any attendant agreement will likely want to reduce the waiver and the agreement to writing, so that they have something to refer to should any dispute arise in the future. Such waivers are distinct from the waivers referred to in section 339(c)(2) of the Communications Act, although broadcasters are free to execute both types of waivers in tandem or with a single document. Unlike the section 339(c)(2) waivers, broadcasters must affirmatively grant section 339(a)(2)(D) waivers; they shall not be deemed granted by the broadcaster just because the broadcaster has not responded to a request within a certain amount of time. Nor are section 339(a)(2)(D) waivers or agreements subject to the section 325 good-faith negotiation requirement. Section 339(a)(2)(D) will facilitate agreements that provide consumers with more viewing choices.

New section 339(a)(2)(E) requires satellite operators to provide networks, within 60 days after enactment of SHVERA, with lists of certain subscribers to whom they offer distant signals. It also requires satellite operators, within 60 days after commencing in a market local-into-local service under section 338, to provide networks with lists of the subscribers to whom they offer certain distant signals. The notice obligations are designed to help networks monitor compliance with the new "no-distant-where-local" requirements that SHVERA creates.

New section 339(a)(2)(F) makes clear that the distant-signal limitations of section 339(a)(2) do not apply to the provision of significantly viewed signals under new section 340, or to the provision of distant signals to trucks and recreational vehicles.

Nothing in section 204 of the bill is intended to affect any existing waivers under section 339(c)(2) of the Communications Act.

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## H.R. 4518, THE SATELLITE HOME VIEWER EXTENSION AND REAUTHORIZATION ACT OF 2004

**HON. JOE BARTON**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. BARTON of Texas. Mr. Speaker, I would like to submit the following remarks for the Record.

We have before us H.R. 4518, the "Satellite Home Viewer Extension and Reauthorization Act of 2004" (SHVERA). The bill will also be known as "The W.J. 'Billy' Tauzin Satellite Television Act of 2004," in honor of our former House Energy and Commerce Committee chairman. Naming this bill after Chairman Tauzin is only fitting, as he has done so much to foster the growth of satellite television, increase television service competition, and improve choices for consumers. Chairman Tauzin is currently recovering from a bout with cancer. My understanding is that he is doing so with his characteristic vigor and good humor, and is faring well. I am sure all join me in wishing him a speedy recovery.

H.R. 4518 reauthorizes certain expiring communications and copyright act provisions that govern the retransmission of broadcast television signals by direct broadcast satellite (DBS) providers such as DirecTV and EchoStar. It also modernizes other provisions to enhance consumer choice, increase parity between satellite and cable operators, and further promote competition. Because the bill implicates both communications and copyright issues, the House Energy and Commerce Committee and the House Judiciary Committee have worked closely in drafting the legislation.

Indeed, pursuant to a compromise between the House Energy and Commerce Committee and the House Judiciary Committee, H.R. 4518 has now been amended to combine its copyright provisions with the Communications Act provisions of H.R. 4501. H.R. 4501 resulted from an extensive examination of satellite television issues in the House Energy and Commerce Committee. The Subcommittee on Telecommunications and the Internet held an oversight hearing on March 10, 2004, and a legislative hearing on April 1, 2004. The Subcommittee then marked up legislation on April 28, 2004, and the full Committee marked up legislation on June 3, 2004.

That legislation became H.R. 4501. The Committee filed a report on H.R. 4501 (H. Rept. 108–634) on July 22, 2004.

What follows is a section-by-section analysis of some of the Communications provisions in Title II of H.R. 4518, as amended, that have changed from the provisions that originated in H.R. 4501. Mr. Upton, Chairman of the House Energy and Commerce Subcommittee on Telecommunications and the Internet, also will address some of the changes.

SECTION 202. CABLE/SATELLITE COMPARABILITY

Section 340(a) authorizes a satellite operator to retransmit an out-of-market signal to a subscriber in a community if the signal is significantly viewed over the air in the community. A satellite operator may carry such a signal whether or not the station is affiliated with a network, as evidenced by section 340(a)'s reference to the carriage of "the signal of any station located outside the local market" that is significantly viewed, as opposed to any "network station" (emphasis added). In the cable context, the FCC allows a cable operator to carry the digital signal of a broadcast station as significantly viewed once the FCC has ruled that the analog signal of the station is significantly viewed. In re Carriage of Digital Television Broadcast Signals, CS Docket No. 98–120, First Report and Order & Further Notice of Proposed Rulemaking, FCC 01–22, at ¶ 100. In implementing Section 340, the FCC should treat satellite operators in a comparable fashion to cable operators to the greatest extent possible with respect to carriage of significantly viewed stations, in terms of both current and future significantly viewed rulings.

Section 340(a) also provides that a satellite operator may carry an unlimited number of significantly viewed signals, just as a cable operator may. Section 340(a) does so by explicitly stating that satellite operators may retransmit such signals "[i]n addition to the broadcast signals that subscribers may receive under section 338 [governing carriage of local signals] and 339 [governing carriage of distant signals]." This clarification for significantly viewed signals is necessary because section 339 of the Communications Act (47 U.S.C. § 339) prohibits a satellite carrier from providing a household with the signals of more than two distant affiliates of a particular network per day.

Section 340(a)(1) provides that satellite operators are allowed to carry as significantly viewed any signal that the FCC has previously determined to be significantly viewed for purposes of cable carriage subject, however, to the FCC's network non-duplication and syndicated exclusivity rules. Satellite carriers are authorized upon enactment of SHVERA to carry such signals.

Section 340(a)(2) provides that satellite operators may also carry as significantly viewed any signals that the FCC determines in the future to be significantly viewed, so long as the FCC applies the same criteria to determine whether a signal is significantly viewed for purposes of both cable and satellite carriage. The FCC may also make significantly viewed determinations in areas without cable service, again, so long as it uses the same criteria as it applies in determining whether a signal is significantly viewed for purposes of cable carriage. Because current regulations provide only for cable carriage of significantly viewed signals, the FCC now bases significantly-viewed determinations on cable communities. In areas of the country that do not have cable service, there is no cable community. Section 340(a)(2) is intended to allow satellite operators to carry a significantly viewed signal in a community where no cable franchise exists so long as the signal is significantly viewed in the community based on the same quantitative criteria as currently apply to cable operators. See 47 C.F.R. §§ 76.5(i), 76.54. Section 340(i)(3) authorizes the FCC to define what constitutes a satellite community for these purposes. Any signal the FCC determines to be significantly viewed for purposes of satellite carriage in an area where cable is not present would also be significantly viewed for cable carriage should a cable operator enter the community in the future. The FCC shall maintain a unified list of significantly viewed stations and communities, which will apply to both cable and satellite operators.

Section 340(b)(1) provides that a satellite operator may retransmit a significantly viewed analog signal of a distant network station to a subscriber in a local market only if the subscriber also receives local-into-local service under section 338 of the Communications Act. Similarly, section 340(b)(2)(A) conditions retransmission to a subscriber of a significantly viewed digital signal of a distant network broadcast station on retransmission to that subscriber of a digital signal broadcast by a local affiliate of the same network.

Section 340(b)(2)(B) prevents the satellite operator from retransmitting a local affiliate's digital signal in a less robust format than a significantly viewed digital signal of a distant affiliate of the same network, such as by down-converting the local affiliate's signal but not the distant affiliate's signal from high-definition digital format to analog or standard definition digital format. Section 340(b)(2)(B)(i) requires carriage of the "equivalent bandwidth" to recognize, for example, that a local affiliate may be multicasting while a distant affiliate of the same network may be broadcasting in high-definition, and to ensure that the local affiliate's choice to multicast does not prevent the satellite operator from retransmitting a significantly viewed signal of a distant affiliate of the network that chooses to broadcast in high-definition. Section 340(b)(2)(B)(ii) requires carriage of the "entire bandwidth" to ensure that a satellite operator may still retransmit a distant significantly viewed digital signal of a network affiliate in a more robust format than a digital signal of a local broadcaster of the same network so long as the satellite operator is carrying the digital signal of the local affiliate in its original format. For example, if a local broadcaster chooses to transmit only a single, standard definition digital broadcast stream, the satellite operator may still retransmit multicast or high-definition streams from a distant affiliate of the same network if the satellite operator carries the local broadcaster's standard definition stream and meets the other conditions for the provision of significantly viewed signals. Section 340(i)(4) directs the FCC to define "equivalent bandwidth" and "entire bandwidth" by regulation. Section 340(b)(2)(B) is not intended to prevent a satellite operator from using compression technology; to require a satellite operator to use the identical bandwidth or bit rate as that used by the local or distant broadcaster whose signal it is retransmitting; or to require a satellite operator to use the identical bandwidth or bit rate for a local broadcaster as it does for a distant broadcaster. Nor is section 340(b)(2)(B) intended to affect a satellite operator's carry-one, carry-all obligations, or the definitions of "program related" and "primary video."

The limitations of section 340(b)(1) and section 340(b)(2) specifically apply only to carriage of "network stations." Non-network broadcast stations by definition do not belong to a network. Thus, the limitations in section 340(b)(1) and section 340(b)(2) do not restrict a satellite operator's carriage of a significantly viewed signal of a non-network broadcast station.

Section 340(b)(3) provides that the absence of an affiliate of a particular network in a local market does not prevent a satellite operator from retransmitting a significantly viewed signal of a distant broadcast station from that network. Many markets do not have a full complement of network affiliates. This provision allows a satellite provider to retransmit into such a market a distant significantly viewed analog signal of a network broadcast station even though the market does not have a local affiliate from the same network. Similarly, it allows a satellite operator to retransmit into a market a distant significantly viewed digital signal of a network broadcast station if the market does not have a local affiliate from the same network.

Section 340(b)(4) allows a local network affiliate to waive the limitations in sections 340(b)(1) or 340(b)(2) as they apply to the retransmission, into the local affiliate's local market, of a significantly viewed signal of a distant station affiliated with the same network. The waiver can be as broad or as narrow as the affiliate wants. For example, a local affiliate can waive the application of sections 340(b)(1) or 340(b)(2) to one or more consumers in the local market, with respect to one or more specific distant affiliates of the same network, and with respect to one or more satellite operators. The broadcaster may do so as part of a negotiated agreement and for any reason, including common ownership among the stations. This is intended to be a private negotiation, not one over which the FCC or any other governmental body must preside; nor must any governmental body grant or approve the waiver. Whether to grant a waiver is a decision to be made solely based on the broadcaster's own business judgment, although a broadcaster may grant a waiver as part of an agreement made with a satellite operator or other parties. A broadcaster is also not required to execute any particular document as part of the waiver process, although parties who intend to rely on such a waiver or any attendant agreement will likely want to reduce the waiver and the agreement to writing, so that they have something to refer to should any dispute arise in the future. Such waivers are distinct from the waivers referred to in section 339(c)(2) of the Communications Act, although broadcasters are free to execute both types of waivers in tandem or with a single document. Unlike the section 339(c)(2) waivers, broadcasters must affirmatively grant section 340(b)(4) waivers; they shall not be deemed granted by the broadcaster just because the broadcaster has not responded to a request within a certain amount of time. Nor are section 340(b)(4) waivers or agreements subject to the section 325 good-faith negotiation requirement. Section 340(b)(4) will facilitate agreements that provide consumers with more viewing choices.

Section 340(c)(1) gives the FCC 60 days from enactment of SHVERA to publish a consolidated list of the current stations and the communities in which they are significantly viewed, as well as to commence a rulemaking proceeding to implement new section 340. The FCC will have one year from enactment of SHVERA to complete the rulemaking.

Section 340(c)(2) requires the FCC to make the significantly-viewed list publicly available in electronic form, and to update it within 10 business days of any modifications. Ways it may do so include posting the list on the Internet or making an electronic file of the list available for download.

Section 340(c)(3) makes clear that satellite operators may petition the FCC to add stations or communities to the significantly-viewed list as well as to have the network nonduplication or syndicated exclusivity rules applied in certain communities to stations on the list.

Section 340(d)(1) makes clear that carriage in a local market of a distant significantly viewed signal is not mandatory. Cable operators are under no obligation to carry in a local market a distant significantly viewed signal, and satellite carriage of such a distant signal in a local market is to be similarly voluntary. Section 340(d)(1) also makes clear that any right of a station to have its signal carried in a local market under the carry-one, carry-all provisions of section 338 is not affected by the significantly viewed status of the signal in another market.

Section 340(d)(2) provides that the status of a distant signal as significantly viewed does not affect whether a satellite operator must get retransmission consent to carry that signal into a local market. Cable operators must obtain retransmission consent to carry distant significantly viewed signals into a local market and the same obligation shall apply to satellite operators. If the satellite operator is exempt from having to obtain retransmission consent for other reasons, however, then retransmission consent would not be necessary. For example, a satellite operator is exempt under section 325(b) (47 U.S.C. § 325(b)) from having to obtain retransmission consent when providing a distant signal of a network to an unserved subscriber who cannot receive an adequate over-the-air signal from an affiliate of the same network. The satellite operator would still be exempt from having to negotiate retransmission consent when providing a significantly viewed signal if it was providing it as a distant signal to an unserved consumer.

Section 340(e) allows the FCC to apply its network non-duplication and syndicated exclusivity rules to "remove" stations from the significantly viewed list as applied to satellite operators in a similar manner as it currently does with cable operators. Many, if not all, broadcast stations enter into contracts to be the sole providers of particular network or syndicated programming within a certain geographic radius. See 47 C.F.R. §§ 76.93, 76.103. When broadcast stations do so, the FCC's network non-duplication and syndicated exclusivity rules generally require cable operators to black out the duplicative programming when they retransmit signals from distant stations into the protected areas. See 47 C.F.R. §§ 76.92, 76.101. If the FCC determines that a distant signal is significantly viewed in a community, the FCC exempts the signal from the network non-duplication and syndicated exclusivity rules so that the cable operator can carry the distant signal, including the duplicative programming, into the local market. See 47 C.F.R. §§ 76.92(1), 76.106(a). If the signal ever loses viewership such that it no longer qualifies as significantly viewed, the FCC does not literally remove the signal from the significantly viewed list, but parties can petition the FCC to re-impose the blackout obligations.

In the satellite context, however, the network non-duplication and syndicated exclusivity rules ordinarily apply only to retransmission of nationally distributed superstations. See 47 C.F.R. 76.120(b), §§ 76.122, 76.123. They do not currently apply to retransmission of distant signals of network stations or non-network stations that are not superstations. Section 340(e)(1) is intended to give the FCC authority to apply the network non-duplication and syndicated exclusivity rules to distant signals of network or non-network stations in a way that replicates, where and when appropriate, the way the FCC "removes" signals from the significantly viewed list for cable. Section 340(e)(2) makes clear that section 340(e)(1) does not authorize the FCC to apply the network non-duplication and syndicated exclusivity rules to other lawful retransmissions of distant signals of network or non-network stations, such as when a consumer is unserved over the air.

## TRIBUTE TO THE LATE MEREDITH DOCKING

## HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. MOORE. Mr. Speaker, I rise today to pay tribute to the late Meredith Docking, widow of former Kansas Governor Robert Docking, who served as First Lady of Kansas from 1967 to 1975. Meredith Docking passed away on October 27th, at her home in Lawrence, Kansas, after a valiant struggle with pancreatic cancer. Earlier, she lived in Arkansas City, where the Docking family owned Union State Bank.

Meredith Gear Docking was born July 15, 1926, in Elkhart, Kansas, the daughter of George Russell and Irene Griffith Gear. She graduated from the University of Kansas in 1947 with a bachelor's degree in business. She married Robert Docking on June 17, 1950. His father, George Docking, was elected governor of Kansas in 1956 and 1950, ushering into Kansas its current era of two-party politics. Robert Docking, the only Kansan elected governor of the state four times—in 1966, 1968, 1970 and 1972—died in 1983. Their son, Tom, served as lieutenant governor of Kansas from 1983–1987, under Governor John Carlin. Another son, Bill, now serves as a member of the Kansas Board of Regents.

A woman of grace and dignity, Meredith Docking represented her state during the turbulent times of the late 1960s and early 1970s, served charitable and civic organizations, and participated in Democratic Party political activities with her husband and father-in-law. I enclose in the RECORD as a part of this tribute two articles carried by the local press upon Meredith Docking's death, from The Wichita Eagle and The Lawrence Journal-World, which summarize her activities and impact upon our state. It is fitting that Meredith Docking had named in her honor the "Meredith Rose", a pink rose that is now found in parks and arrangements in Arkansas City, Wichita and Lawrence, Kansas. All Kansans mourn her passing, but as her family members have done, we find inspiration in her life and legacy.

[From the Wichita Eagle, Oct. 28, 2004]

### MEREDITH DOCKING, FORMER FIRST LADY OF KANSAS, DIES

(By Beccy Tanner)

Meredith Docking—the first lady of Kansas from 1967 through 1975 and for whom a pink rose is named—died Wednesday at her home in Lawrence. She was 78.

Mrs. Docking was the wife of Robert Docking and the daughter-in-law to George Docking, both Kansas governors. Her son, Tom, was lieutenant governor. "From my perspective, she was a great mother, very supportive of the family and tried to help each family member do what was important to them," said William Docking of Arkansas City. "But personally, she didn't care much for politics. She recognized how important the political process is and was for so many of our family members—but she was a private person and did not care for politics."

Services will be at 10 a.m. Friday at the First Christian Church in Lawrence.

Meredith Gear was born July 15, 1926, in Elkhart. She received her bachelor's degree in business from the University of Kansas in 1947. Her husband, Robert, graduated from KU in 1948. They married in 1950 and lived in Arkansas City, where he was president of Union State Bank. Robert Docking also served Arkansas City as a city commissioner and mayor until 1966, when he was elected governor. "She fit nicely in the mold of first ladies of that era—who were more traditional," said her son, Tom Docking of Wichita.

Mrs. Docking was first lady of Kansas at a time when national politics and world events were volatile—the United States was caught up in the Vietnam War, university students throughout the nation were holding protests, and race riots were breaking out in major cities.

Mrs. Docking's role as first lady was to entertain dignitaries and conduct tours of the governor's mansion. When Bobby and Ethel Kennedy came to Kansas, they stayed with the Dockings.

After her husband's four terms as governor, Mrs. Docking helped establish the Docking Faculty Scholar Program at KU. She also served on several boards throughout the state. Her husband died in 1983. In January, Mrs. Docking learned that she had pancreatic cancer. "My mother always believed that if you had 75 good years you ought to consider yourself fortunate," Bill Docking said. "She was 77 when she was diagnosed and died when she was 78. There was no hand-wringing or asking 'Why me?' She was not fearful of death in any way."

April 30 of this year was designated "Meredith Docking Day" and Arbor Day in Arkansas City. The cities of Lawrence, Wichita and Arkansas City have planted hundreds of pink "Meredith" roses named in her honor.

She is survived by her sons, William, Arkansas City, and Tom, Wichita; a sister, Virginia Winslow, Bradbury, Calif.; and three grandchildren.

[From the Lawrence Journal-World, Oct. 28, 2004]

### Former First Lady Docking Dies

(By Mike Belt)

Former first lady of Kansas and longtime Kansas University benefactor Meredith Docking died Wednesday at her home in Lawrence. "She was a wonderful mother and grandmother, and she had great relationships with so many friends," said her son, Bill Docking. "She lived an interesting life."

Meredith Docking, 78, the wife of the late governor Robert Docking, died a few minutes after 6 a.m. with her family around her. Bill Docking said she had been diagnosed last winter with terminal pancreatic cancer. "Throughout her illness she was so brave," said close friend Kittye Hagen, of Lawrence. "She was a great wit and a lot of fun."

Robert Docking served as governor from 1967 to 1975. But while the family lived in the governor's Cedar Crest mansion in Topeka, Meredith never lost her simple ways, Hagen said. "She was one of the first ladies who didn't go over her budget," Hagen said. "She was very thrifty. She was as thrifty with the state's money as she was with her own."

At the same time, Meredith Docking often donated money to worthy causes anonymously, Hagen said. "She did a lot of things people, including her family, didn't know about," Hagen said. "She never failed to do what she could to help."

Meredith Docking was a longtime supporter of KU, a member of the KU Alumni Association and the Outlook Society, which honors donors of $500,000 or more through the Chancellor's Club, KU Endowment's major-donor organization.

In 1999, she donated $1 million to KU to create the Docking Faculty Scholars Award to honor and keep exceptional KU teachers and scholars. "Meredith Docking's gifts to the university, as a volunteer, a donor and an inspiration, were felt throughout the campus," KU Chancellor Robert Hemenway said.

She graduated in 1947 from KU, where she met her husband, the future governor who graduated in 1948. Gov. Kathleen Sebelius noted Meredith Docking's civic contributions and "quiet strength." "For eight years Meredith Docking represented Kansas with grace, dignity and warmth as our first lady," Sebelius said. "After leaving Cedar Crest, she maintained a respected presence throughout the state and was always a great booster of the state of Kansas."

Meredith Docking was well-known for her fondness for roses and was involved in beautification efforts in Arkansas City and in Lawrence, where she had lived. For her 75th birthday her family commissioned a California company to create a rose in her honor, Bill Docking said. They named it the Meredith Rose, and many of them can be found in Arkansas City parks and in Wichita. In Lawrence the Meredith Rose is in front of the Lawrence Visitor Center, 402 N. Second St., and in the Audio-Reader Garden next to the Behr Audio-Reader Center at KU. "It's really a lovely pink rose and very fragrant," Bill Docking said.

Meredith Docking loved watching the TV show "Jeopardy," which once featured a question about the Kansas governor, and host Art Fleming mentioned that the governor's wife was a big fan of the show, Bill Docking said. Fleming signed the card with the question on it and sent it to the Dockings. Margaret Gilliland, of Arkansas City, and Meredith Docking were Chi Omega sorority sisters at KU in the 1940s. "She absolutely loved to play bridge," Gilliland said. "And as long as Bob was alive, she was definitely a Democrat."

Former Arkansas City state Rep. Jack Shriver joked that Meredith Docking kept her husband in line. "The whole time she was in politics, I don't think she made a single enemy, and that's saying a lot," Shriver said.

Kansas Democratic Party Chairman Larry Gates called her death a big loss to the state. "She was really one of the few left from that era," Gates said. "We are losing some really wonderful, colorful people."

Meredith Docking, however, didn't enjoy the limelight of politics, Bill Docking said. "She knew how important it was for several members of the family, and she was always supportive of their efforts, as she was supportive to all of her family," he said.

Memorial services for Meredith Docking will be 10 a.m. Friday at First Christian Church.

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## HONORING KATHRYN A. HEIN ON HER RETIREMENT AFTER 27 YEARS OF DEDICATED FEDERAL SERVICE

### HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. KLECZKA. Mr. Speaker, at the end of the 108th Congress, my Chief of Staff and loyal friend, Kathy Hein, will be retiring from federal government service after a twenty-seven year career as a dedicated and distinguished public servant.

Growing up in DePere, Wisconsin, Kathy found political inspiration at an early age when in high school she volunteered to help Eugene McCarthy's efforts to win the Democratic nomination for President. Four years later, she volunteered again for George McGovern's campaign.

Graduating with a degree from the University of Wisconsin-Oshkosh, she began her professional political career managing Fr. Robert Cornell's successful congressional bid. After being employed in the office of Governor Pat Lucey and Governor Marty Schreiber, she moved to Washington D.C. to work in the congressional office of my late colleague, Representative Les Aspin.

Following the unexpected passing in 1984 of my predecessor, Representative Clem Zablocki, Kathy became an invaluable asset in my successful campaign to win the Wisconsin Fourth Congressional District Democratic Primary. Since that time she has shown tremendous dedication to me and the people of Wisconsin's Fourth Congressional District. Whether it was responding to constituent requests, managing the office, or catering to my needs, over the last twenty years she has given her all to provide the best possible service to our constituents.

When Kathy is not working in the office, she can often be found at home creating culinary delicacies, and is especially famous for her amazing desserts which my staff and constituents have benefited from over the years. She has an abiding love for dogs, and has made several wonderful canines part of her family over the years, the latest of which is her Josie. And she enjoys spending time with her loving husband of twenty-three years, Gordon Werner.

The great labor leader Walter Reuther once said, "There is no greater calling than to serve your fellow men. There is no greater contribution than to help the weak. There is no greater satisfaction than to have done it well."

Mr. Speaker, colleagues, and fellow Wisconsinites, my friend Kathryn A. Hein has "done it well." She heard the call to public service and responded with enthusiasm, commitment, and perseverance. Please join me in congratulating her on an illustrious career in federal service and wish her well as she embarks on new adventures.

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## PAYING TRIBUTE TO ANDY FAUTHEREE

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. MCINNIS. Mr. Speaker, I rise to pay tribute to Andy Fautheree, a dedicated Veterans Service officer from Archuleta County, Colorado. He has made a difference in the lives of Colorado veterans and I have the privilege of standing before this body of Congress and this Nation to recognize his impeccable record of service.

Andy began working for the veterans service three years ago, and in that short time has made numerous strides in improving the lives of veterans in Archuleta County. He has increased the number of enrolled veterans receiving compensation and pension claims from 750 to 1,300 and has streamlined many of the procedural hassles of paperwork by entering the data in computer programs that are now utilized throughout the state. Andy helps veterans to go after lost medals, acquire life and health insurance, education benefits, and income-based pensions. For his efforts Andy received the 2004 Outstanding Veterans Service Officer award from the Colorado Department of Veterans Affairs for his outstanding commitment and improved service to the veterans of Archuleta County.

Mr. Speaker, Andy Fautheree has shown an amazing dedication in helping Colorado's veterans. He has improved the lives of members of his community and I am honored to recognize his accomplishments before this body of Congress and this Nation today. Keep up the good work, Andy, and I wish you all the best in your future endeavors.

## A TRIBUTE TO GLENN E. PORZAK

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to Glenn Porzak, a world-renowned mountain climber who has remained an active climber and contributor to the climbing community even into his 50s. Glenn has not only excelled at the physically challenging ascents of the world's tallest peaks, he has also developed a distinguished reputation as a staunch legal defender of his client's water rights as well as a contributing member of his community.

Glenn recently returned to his home in Boulder, Colorado, from successfully reaching the summit of Cho Oyu, the world's sixth-highest peak in the Himalayas. Like all of the high peaks in the world, the 26,940-foot Cho Oyu is a challenging peak, and his ascent is a noteworthy achievement. This achievement is even more impressive given that it marks his fifth successful ascent of one of the world's 14 peaks higher than 8,000 meters (26,250 feet). With the ascent of Cho Oyu, Glenn has now reached the summit of one of these high peaks in each of the past three decades. He previously summited Mt. Everest, Makalu (the fifth highest in the world), Mount Shisha Pangma (the thirteenth highest) on which he made the first American ascent, and Lhotse (the fourth highest) on which he also led the first American ascent.

For those who climb high peaks and know of the physical demands, logistical complications and harsh environmental conditions involved, having the stamina and wherewithal to continue these climbs is remarkable. And he did it with the help of his expedition team, which was made up of members who were each over 50. As Glenn put it in a recent news story in the Boulder Camera about this ascent, "Many people are familiar with the adventure book 'Into Thin Air' [the Jon Krakauer book about the illfated Everest expedition in 1996 when five people lost their lives]. Well, we referred to our 50-something expedition as 'Into Gray Hair.' "

Glenn carries his energy and enthusiasm for climbing into his law practice and his other activities. He is very dedicated to his law practice, where he works to further Colorado's environmental causes on issues such as water rights, conservation and real property law. Glenn somehow also finds time to lead and work for numerous community efforts such as a Board of Trustee of the University of Colorado, past chairman of the board for the Colorado Outward Bound School, and president of the American Alpine Club and the Colorado Mountain Club. Anyone that knows Glenn can attest to his incredible stamina and enduring perseverance. .

Glenn is a lifelong resident of the State of Colorado. He graduated from the University of Colorado at Boulder, receiving a Bachelor of Arts with distinction in 1970 and a Juris Doctorate from the University of Colorado School of Law in 1973. After completing his education, he quickly became a member of one of the oldest and largest law firms in the Rocky Mountain West, Holme Roberts & Owen LLC. Glenn went on to become a partner with this firm in 1980 and remained so until 1996, when he became the managing partner of Porzak Browning & Bushong LLP. It was during this time that he began to specialize in environmental law.

Over the course of Glenn's 31-year career, he has worked tirelessly to provide all Coloradans with sound legal counsel on many issues. His focus on conservation and water litigation has been the key to his many successes. Some of his notable achievements include: Obtaining the first federal contracts for water from Green Mountain and Ruedi Reservoirs; negotiating the wide-ranging agreement between the Denver Water Department and Summit County to secure water for residents; successfully adjudicating over 125 applications for water rights, changes of water rights, and plans for augmentation and exchange; and negotiating major conservation easements and open space acquisitions for the Meadowdale Ranch, Lily Lake, Caribou Ranch, and Cal-Wood Ranch, all important open space projects in Colorado.

Most likely due to his extensive knowledge of and love for the environment, Glenn has taken it upon himself to become an elite and avid mountain climber. He completed over 1,100 summer and winter ascents of peaks over 11,000 feet and climbed numerous other mountains around the world. Because of these experiences, Glenn has been asked numerous times to contribute written pieces for outdoors publications. He has also led various mountaineering clubs and organizations.

Mr. Speaker, I ask my colleagues to join me in acknowledging the ongoing achievements of Glenn Porzak in mountaineering and in conservation law. Following his ascent of Cho Oyu, Glenn has been quoted as saying that it's time that he started acting his age and suggesting that his expeditions to summit peaks higher than 26,250 feet are over. As those who know Glenn are aware, he has said this before. So, I would not be surprised to see Glenn back on the mountain making yet more climbs. The allure of the outdoors and the majestic peaks are that strong. It is the same allure that calls me to the outdoors and the adventurous challenges that they present. Glenn's passion for the outdoors and his legal work are an inspiring reminder of the determination of the human spirit to surmount any obstacle and meet any challenge—and especially that age needs not be a limiting factor. I'm sure that Glenn will remain active in these and other important endeavors.

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## DEATH OF RAUL BESTEIRO, "MR. B"

### HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. ORTIZ. Mr. Speaker, this week my heart is heavy with the sad news of the passing of a unique and beloved patriot, Raul A. Besteiro Jr., known affectionately throughout South Texas, and around the world, as "Mr. B." His death has devastated the Rio Grande Valley of Texas, where he was simply a legend.

Mr. B was just an exceptional human being. He did in the course of his life what all of us want to do, he literally changed people's lives . . . locally, nationally and internationally. His name was so synonymous with Brownsville that many people actually thought that "Mr. B" meant "Mr. Brownsville."

He touched the lives of thousands of young people in Brownsville as an educator and school administrator in his early years. He was their role model, surrogate parent, teacher, inspiration, motivator and champion.

He was a force within the national business community in persuading the Congress to pass NAFTA, giving South Texas the economic opportunity and the development tools to attract more commerce—and better jobs—to Brownsville. He was my powerful ally in working to improve the economic circumstances and vitality of the Rio Grande Valley.

Over the last decade, with NAFTA in place, he turned his attention to harnessing global trade routes to the Valley and the Port of Brownsville, a task now only partially complete.

He remained an important part of improving the lives of young people in South Texas—and the Nation—through his work with the University of Texas at Brownsville, and with the Congressional Hispanic Caucus Institute's intern and fellowship programs.

I loved Mr. B so much, and relied heavily on his counsel and his friendship. He loved trains; whenever I see a train, I think of Mr. B. I will miss him personally and professionally. Yet it is the Rio Grande Valley of Texas and the Port of Brownsville that will miss the presence of his sweet soul most profoundly.

Brownsville has lost three legends in 2004: Senior U.S. District Judge Filemon B. Vela, U.S. Circuit Judge Reynaldo G. Garza, and now Mr. B. Brownsville Public Utilities Board member Cris Valadez offered a beautiful tribute when he said, "In Spanish there's an old saying that we don't bury men like Mr. B; we plant them in hopes that others like him will grow and be here with us because it will be a better world."

Mr. B gave so much of himself to his community; he was a principled example to all those around him. He was the principal of Brownsville High School; he was superintendent of the Brownsville Independent School District; he was elected president of the Southern Association of Colleges and Schools; he became director of the Port of Brownsville; he was the University of Texas at Brownsville and Texas Southmost College Distinguished Alumnus in 2000; he was named to the Legends of Texas Hall of Fame; he served as Chairman of the Board of the International Bank of Commerce for Cameron County; he was vice chair of the Brownsville & Rio Grande Railroad; he was a member of the Institutional Development Board at the University of Texas at Brownsville; he was a member of the Rio Grande Valley Partnership; he was board president of the Historical Brownsville Museum; he was elected vice-chairman of the Brownsville Public Utilities Board in 2004; and he was a leader in the local Salvation Army, Red Cross, United Way of South Texas and the American Cancer Society.

Mr. Speaker and colleagues, I hope when you say your prayers tonight, you will ask God to bless Mr. B's family—his beloved wife Mina and their children—as they learn to live without him; and pray for the community of Brownsville which has lost such a dear pioneer of our city.

## TRIBUTE TO CLANCY LYALL

### HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. HOYER. Mr. Speaker, I rise today to acknowledge and pay tribute to the service of a valued friend of mine and a courageous veteran from Maryland, Clancy Lyall.

Just last week we observed Veterans Day, where we honored the bravery and sacrifice of our veterans and their families and all of the men and women who make up our Nation's armed forces.

On June 6, 1944, U.S. Army General Dwight D. Eisenhower sent our troops on a mission to confront one of the world's most tyrannical dictatorships with some notable words of inspiration. "You are about to embark on a great crusade, the eyes of the world are upon you, the hopes and prayers of liberty-loving people everywhere march with you."

Despite a tragic number of casualties, the allied forces were ultimately triumphant in liberating Europe and in defending the world from further oppression by ending the control of the brutal and bigoted Nazi regime.

As a member of the E Company, 506th Parachute Infantry Regiment, 101st Airborne Division, known as the "Band of Brothers" during World War II, Clancy Lyall jumped onto the beaches at Normandy on D-Day, fought at the Battle of the Bulge and helped capture Hitler's "Eagles Nest" retreat.

Sixty years later, on June 6, 2004, Clancy was able to return to Normandy with hundreds of WWII veterans where he participated in the "Normandy Mémoire 60th Anniversary", and was awarded by the French Government with a chest badge in Carenton where his unit distinguished themselves in battle.

Southern Maryland is fortunate to have Clancy Lyall in our midst. He has served our community as a loud voice for Veterans and has organized Memorial Day and Veterans Day parades for many years, privileging our community with an opportunity to honor these important observances.

He has also served as the Past Commander of the Veterans of Foreign Wars Veterans Service Organization, meaning he has made a choice to not only be a member of the veterans' community, but to take part in the organization and work to further the causes of veterans. And, Clancy has worked to preserve stories of the war through presentations at area high schools so that students are able to begin to truly know and understand the human experiences of World War II.

I know that all my colleagues join me in saluting my friend and representative of one of the true heroes of the "Greatest Generation," Clancy Lyall, for his unwavering devotion to our country, and his uncompromising dedication to our community. Clancy, a grateful Nation is indebted to you for your extraordinary service in war and in peace.

## HONORING HOWARD LEIBOWITZ FOR HIS SERVICE TO THE CITY OF BOSTON

### HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. CAPUANO. Mr. Speaker, it is with great pleasure that I rise today to honor Howard Leibowitz as he completes his service with the City of Boston. Howard served as the director of the Office of Intergovernmental Relations for Mayor Thomas M. Menino since 1994, creating strong relationships with members of the Massachusetts Congressional delegation and their staff. Howard began his service with the City of Boston in 1987, first as the director of federal relations for Mayor Raymond Flynn and then as the first press secretary in Mayor Menino's administration.

Howard Leibowitz is a life-long resident of the City of Boston. He grew up in Brighton and Mattapan, attended Boston Technical High School, and currently lives in the Jamaica Plain neighborhood. Howard graduated from Brandeis University and worked in his first political campaign as a teenager.

He served the people of City of Boston and the administration of Mayor Thomas M. Menino admirably. His many accomplishments include authoring the Boston Neighborhood Investment through Capital Expenditures program and the Senior Home Repair Program, helping to draft the federal Community Housing Partnership Act, and providing national leadership through the city's participation with the U.S. Conference of Mayors and the National League of Cities. Howard served as part of the teams that brought the Democratic National Convention, two annual meetings of the U.S. Conference of Mayors and the National League of Cities' Congress of Cities to Boston. Howard is an active member of his community and is particularly committed to affordable housing and economic growth and development. He was a champion for city's legislative efforts to raise new monies through the Municipal Revenue Package.

Mr. Speaker, Howard was a tenacious and effective advocate for the City of Boston and its constituents during his tenure, developing and fighting for legislation and policies to improve the lives of Boston residents, at the federal, state and local level. I am extremely grateful for his efforts on behalf of many of my constituents and appreciate his hard work and dedication. He will be sorely missed. Howard, congratulations on a job well done.

## REMEMBERING U.S. ARMY PFC. JACOB S. FLETCHER

### HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. ISRAEL. Mr. Speaker, U.S. Army Pfc. Jacob S. Fletcher died on November 13, 2003, from wounds he suffered when the vehicle he was riding in was hit by an improvised explosive device. Throughout our nation's history we have triumphed over adversity because of the bravery of people like Pfc. Fletcher. In recognition of his sacrifice, I would like to have his mother's touching account of his life read into the CONGRESSIONAL RECORD:

> My son, Jacob Samuel Fletcher, was born in Mineola, New York on November 25, 1974. He spent his childhood in Babylon, where he grew up with me, his stepfather Ray, stepbrother Scott and stepsister Tara. He graduated from Babylon High School in 1992. He played lacrosse in his younger years and varsity wrestling in his last year of high school. Jacob always drew and sketched, which was his natural talent. He was gifted with words and wrote eloquently. His passion for music eventually led him to play drums. Jacob gave great love to his family and was known as a loyal and caring friend. He would be there for anyone in need to listen to or help in any way he could. He loved children dearly and was moved by animals of all kinds.
>
> Jacob first tried to join the Army when he was 8 years old by filling out applications in a magazine. He tried twice, but I sent the officers away when they called for Private Fletcher. He was about to be sworn into the Army when he was 23, but hurt his knee, keeping him out of the service. At 27 he finally joined the Army, with 9/11 being the catalyst to once again fulfill his calling to serve his country. Jacob's training in the Army was completed in Ft. Benning, GA. After his basic training he trained for his paratrooper wings, which he also received at Ft. Benning. He was originally stationed in Vicenza, Italy, where he stayed for 3 months before deploying to Iraq.
>
> He parachuted into Iraq along with 999 other paratroopers in the dark of night. On March 26, 2003, he and the others seized an airfield in Northern Iraq and then went with the Kurds to Kirkuk, Iraq, where he patrolled and went on many missions. He was given 3 days of rest and relaxation in Qatar on November 9. On November 13, on the way back from Qatar, on Highway 1 in Samarra, a bomb hit the bus he was on. My beloved son, along with Joe Manucci was airlifted to a hospital where doctors tried to save him, but he soon died from his injuries.
>
> I know that Jacob had a deep feel for the Iraqi children. He was saddened by the condition that the Iraqis were made to live in. It broke his heart to see the injustice. He had a strong sense of fairness and duty to serve his country. He truly understood what freedom is about and the choices we have to make as Americans.
>
> Jacob is buried at Long Island National Cemetery. The words courage and compassion, which grace his headstone, will tell those who glance his way, that he was a passionate and brave young hero. He takes with him the essence of the Purple Heart, Bronze star, Combat Infantry Badge, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, National Service Ribbon and Army Service Ribbon.

## RESEARCH REVIEW ACT OF 2004

SPEECH OF

### HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 6, 2004*

Mr. THOMAS. Mr. Speaker, I submit the following correspondence for the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
*Washington, DC, October 6, 2004.*

Hon. JOE BARTON,
*Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC*

DEAR CHAIRMAN BARTON: I am writing concerning H.R. 5213, the "Research Review Act of 2004," which is scheduled for floor consideration today.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning title XVIII of the Social Security Act. Section 4 of the bill requires the Comptroller General of the United States to conduct a study on the coverage standards that, under Medicare, apply to patients with inflammatory bowel disease, and thus falls within the jurisdiction of the Committee on Ways and Means.

However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 5213, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
*Washington, DC, October 6, 2004.*

Hon. BILL THOMAS,
*Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, DC.*

DEAR CHAIRMAN THOMAS: Thank you for your letter regarding H.R. 5213, the "Research Review Act of 2004," on which the Committee on Ways and Means received a named additional referral upon introduction.

I appreciate your willingness not to exercise your referral on H.R. 5213. I agree that your decision to forego action on the bill will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this or similar legislation.

I will include a copy of your letter and this response in the Congressional Record during consideration of H.R. 5213 on the House floor.

Sincerely,

JOE BARTON,
*Chairman.*

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## PAYING TRIBUTE TO J.D. LUNSFORD

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. McINNIS. Mr. Speaker, I would like to commend J.D. Lunsford from my district as he embarks on a well-deserved retirement from the plumbing and heating business. Lunsford Brothers Mechanical Contractors of Grand Junction, Colorado, stands as a tribute to its founder and his 35 years of dedication to his community. It is my pleasure to congratulate J.D. before this body of Congress and this Nation on a job well done.

A devout member of the First Assembly of God Church, J.D. began his family business with a skill and a prayer. After almost a decade as an employee for another mechanical contractor, J.D. received his master plumber's license and began looking for an opportunity to go out on his own in the plumbing and heating business. With only $2,000 saved for supplies and materials, J.D. founded Lunsford Brothers Mechanical Contractors. J.D. immediately went to work on a 42–unit condominium in the Colorado Mountains shortly before the beginning of the ski season, coming through in the clutch and firmly establishing a reputation for solid workmanship. Growing Lunsford Brothers into a successful business is the realization of a powerful dream and the beginning of a family tradition of service to the Grand Junction community.

Mr. Speaker, it is my honor to bring J.D. Lunsford to the attention of my colleagues before this venerable body. I would like to join Lunsford Brothers' 45 employees in wishing J.D. luck in what hopes to be a happy and productive retirement. Small businesses like Lunsford Brothers are the backbone of our Nation and encompass the spirit of American enterprise. Congratulations, J.D., and I wish you all the best in your future endeavors.

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## IN RECOGNITION OF THE 75TH (AND 95TH) ANNIVERSARY OF THE GRAND RAPIDS JAYCEES

### HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. EHLERS. Mr. Speaker, I would like to take this opportunity to honor and recognize an organization in my hometown, the Grand Rapids Junior Chamber of Commerce. The Jaycees, as they are known, will celebrate both their 75th and 95th anniversaries this Saturday, November 20, 2004.

First, allow me to explain this apparent contradiction. The Jaycees were born as the Grand Rapids Junior Board of Trade Club at Grand Rapids Central High School 95 years ago in 1909 as a training program sponsored by the Grand Rapids Board of Trade and the Grand Rapids Public Schools. The Junior Board of Trade became the Jaycees in 1929 when the program affiliated with the U.S. Junior Chamber of Commerce.

Since its creation, the club has been an engine of training and community service. In its earliest years, its members raised funds for local orphan newsboys, flu victims and soldiers, and provided chauffeur services at the annual Furniture Market when Grand Rapids was known as the Furniture Capital of the World. In the 1930s, the Jaycees helped lead the campaign to build the Grand Rapids Civic Auditorium and a "bigger, better" county airport.

The 1940s saw the Jaycees move Grand Rapids onto the professional sports scene by raising funds to purchase a franchise in the All-American Girls Baseball League (popularized in the movie "A League of Their Own") named the Grand Rapids Chicks. In the 1950s, the club operated what has become an enduring symbol of holiday spirit, the city's Santa Claus Parade, while also starting the area's Junior Achievement program, which today continues to foster the entrepreneurial spirit among local youngsters.

The City of Grand Rapids sought assistance in 1966 to fund city governmental programs and the Jaycees were there to lead a non-partisan campaign to implement a city income tax. In the 1970s and 1980s, the Jaycees showed leadership by helping to form the West Michigan Environmental Action Council and the West Michigan Burn Unit. It also brought professional golf to the area by starting the Charity Golf Classic, an event that later grew into an official PGA Seniors Tour event. Most recently known as the Farmers Charity Classic, the tournament has raised more than $3.5 million for local charities since its inception.

The Jaycees' civic involvement continues today. In the last decade, the group built one of the city's finest parks, the Mackay/Grand Rapids Jaycees Family Park and raised funds for the VanAndel Arena, one of the area's premier sports and entertainment venues. Even more recently, Jaycees raised funds for the new DeVos Place convention center and provides school supplies for area children.

Mr. Speaker, it is clear that the Grand Rapids Jaycees is a remarkable organization that has provided invaluable leadership in making the Grand Rapids community a better place to live. I hope you will join me in celebrating its 75th and 95th anniversaries and wishing its members many, many more in the future.

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## TRIBUTE TO LYNN VICTOR

### HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Lynn Victor of Santa Rosa, California, who retires after a remarkable 30-year career of creative and innovative work to improve the lives of low-income Americans.

Beginning at the Community Action Council of San Joaquin County in the 1970's, Lynn created innovative solutions to the needs of low-income communities. As energy costs rose, she helped to develop and then administered the Nation's first home weatherization programs funded by state regulated utility companies. Based on its great success, regulated utility companies in 22 states now provide weatherization services to millions of their low-income customers around the Nation. These programs not only help disadvantaged families reduce their energy costs, they also conserve energy for America, helping toward energy self-sufficiency and reduced dependence on foreign oil.

Lynn then went on to design the Nation's first education program to help low-income and non-English speaking communities understand the deregulation of the telephone industry, enabling them to obtain and keep vital telephone service at the lowest possible cost. She designed a program to help millions of low-income people understand the privacy and security implications of new telephone technology. In this effort, she created education materials in 32 languages and Braille so that, for the first time, major telephone companies were able to reach California's huge immigrant populations through community action agencies, domestic violence shelters and other community based organizations. Once again, this program became a model for utility companies throughout the Nation to understand and address the needs of their hard-to-reach customers and bring them important consumer protection information.

Lynn's work has always featured collaborations with Community Action Agencies (CAA's), our Nation's network of over 1,000 anti-poverty agencies that serve millions of low-income Americans. CAA's operate Head Start, Energy Assistance Programs, Community Services Block Grant (CSBG) and other services that reach millions of disadvantaged Americans. For the past 4 years, Lynn has worked as Executive Director of the California/Nevada Community Action Partnership, helping this two state association of CAA's address the causes and symptoms of poverty in their communities.

An immigrant born in England, Lynn grew up in New Zealand, arriving in America in 1963. As a single parent of Michael, Lizabeth and Kristina Victor, Lynn had many hardships to face with no family to turn to. However, she found her new family in her community.

Mr. Speaker, as innovator, organizer and inspiration, this remarkable woman exemplifies the spirit of American immigrants who contribute so much to the vibrancy of our Nation. She is leaving her post having set a new standard for all who will follow after her, and she has put into place programs that will serve the neediest of us well in the future. Thank you, Lynn.

# SENATE—*Wednesday, November 17, 2004*

The Senate met at 2:15 p.m. and was called to order by the Honorable CRAIG THOMAS, a Senator from the State of Wyoming.

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord God Almighty, who remembers the weary, lift up Your hand and we shall live. You are king forever. You hear the desires of the afflicted and encourage them. Sustain us with Your might through all the days of our lives. Keep us from the pride of self-sufficiency and remind us that we borrow our heartbeats.

Today, lead our Senators and may their labors honor You. Help them to use their talents to bring unity. Feed them with the bread of kindness and use them as instruments of Your providence.

Lord, let Your image be seen in our Nation that America will be truly great. Make Your face shine upon our land that we may know peace, even in the midst of storms. All of this we ask for Your love's sake. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable CRAIG THOMAS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, November 17, 2004.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CRAIG THOMAS, a Senator from the State of Wyoming, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Mr. THOMAS thereupon assumed the chair as Acting President pro tempore.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## INCREASING THE PUBLIC DEBT LIMIT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to consideration of S. 2986, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 2986) to amend title 31 of the United States Code to increase the public debt limit.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 6 hours of debate equally divided between the chairman and the ranking member of the Committee on Finance or their designees.

The majority leader.

### SCHEDULE

Mr. FRIST. Mr. President, today the Senate will begin consideration of the debt limit extension bill. Last night we were able to lock in the time agreement of up to 6 hours on the measure with no amendments in order. I do not believe all the debate time will be required and therefore would like to vote on that measure, if at all possible, this evening. I will talk to the Democratic leadership about that possibility. I remind all Members that the House has to consider this after we act. Initially we thought about possibly doing it tomorrow night, but we have come to the general agreement to move ahead today because the House is waiting for us to act. Therefore, I appreciate everyone's consideration to go ahead and debate this afternoon and bring this to a vote.

I also announce that we want to set aside some time tomorrow to pay tribute to our departing Members. We want to let our colleagues know, as we look further in the day, what time tomorrow that will occur.

Finally, I remind Members we are still trying to close out other business. I was talking to the Democratic leader about the other items. One is the intelligence bill, the 9/11 Commission. Under our leadership, we set out a plan in late July. I hope we will be able to complete that over the course of today and tomorrow.

Of course, we have the omnibus bill, and we have tremendous cooperation on all parts. It is a large bill. It is a complicated bill. The good news is that in a bipartisan way the subcommittees have been able to address all of these issues over the last several months. It is a matter of packaging it, bringing it to the floor, and making sure our Senate colleagues have the appropriate opportunity to review that bill.

We have a lot of work to do. I continue to ask for everyone's assistance and patience as we proceed along these final days and this legislative and executive session and address calendar items.

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I share the views just expressed by the majority leader that we are at a point where we may be able to collapse the time that has been originally requested on the debt limit. I know there are a number of Senators who have expressed a great deal of interest in addressing the issue. The distinguished ranking member of the Budget Committee is here and prepared to speak. But it would be my hope, and I would share it with all my colleagues, especially on this side of aisle, we could complete the debate today rather than tomorrow and have a vote sometime prior to the time we leave for the evening. That, I think, is now doable, and I hope that with both sides of the aisle cognizant of our expectation we could complete our work this evening rather than tomorrow, people might take that into account as they consider the amount of time they may want to request.

I understand we are taking up the tax bill, and I am very pleased we have reached an agreement on that. I compliment particularly the distinguished Senator from Oregon for his work in that regard.

I share the cautious optimism just expressed by the majority leader with regard to appropriations. I think we are still making substantial progress, and it would be our hope that prior to the end of the week we will have an opportunity to address the conference report on that as well, in addition to other matters.

It is shaping up to be a reasonably productive week and I look forward to completing our work sometime before the end of this week.

I yield the floor.

## CORRECTING THE ENROLLMENT OF S. 150

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. ALLEN. Mr. President, on behalf of myself and also Senator WYDEN of Oregon, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 146 which was submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Con. Res. 146) to direct the Secretary of the Senate to make corrections in the enrollment of the bill S. 150.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALLEN. Mr. President. I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

The resolution (S. Con. Res. 146) was agreed to, as follows:

S. CON. RES. 146

*Resolved by the Senate (the House of Representatives concurring)*, That, in the enrollment of the bill (S. 150) to extend the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act, the Secretary of the Senate shall make the following corrections:

(1) Amend subsection (a) of section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note), as added by section 3 of the bill, to read as follows:

"(a) PRE-OCTOBER 1998 TAXES.—

"(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, if, before that date—

"(A) the tax was authorized by statute; and

"(B) either—

"(i) a provider of Internet access services had a reasonable opportunity to know, by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

"(ii) a State or political subdivision thereof generally collected such tax on charges for Internet access.

"(2) TERMINATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection shall not apply after November 1, 2007.

"(B) STATE TELECOMMUNICATIONS SERVICE TAX.—

"(i) DATE FOR TERMINATION.—This subsection shall not apply after November 1, 2006, with respect to a State telecommunications service tax described in clause (ii).

"(ii) DESCRIPTION OF TAX.—A State telecommunications service tax referred to in subclause (i) is a State tax—

"(I) enacted by State law on or after October 1, 1991, and imposing a tax on telecommunications service; and

"(II) applied to Internet access through administrative code or regulation issued on or after December 1, 2002.".

(2) Insert after section 6 of the bill the following:

**SEC. 6A. EXCEPTION FOR TEXAS MUNICIPAL ACCESS LINE FEE.**

The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 6, is amended by adding at the end the following:

**"SEC. 1109. EXCEPTION FOR TEXAS MUNICIPAL ACCESS LINE FEE.**

"Nothing in this Act shall prohibit Texas or a political subdivision thereof from imposing or collecting the Texas municipal access line fee pursuant to Texas Local Govt. Code Ann. ch. 283 (Vernon 2005) and the definition of access line as determined by the Public Utility Commission of Texas in its 'Order Adopting Amendments to Section 26.465 As Approved At The February 13, 2003 Public Hearing', issued March 5, 2003, in Project No. 26412.".

## AGREEING TO THE REQUEST OF THE HOUSE—S. 1301

Mr. ALLEN. Finally, Mr. President, I ask unanimous consent that the Senate agree to the request of the House regarding the papers relating to S. 1301.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## INCREASING THE PUBLIC DEBT LIMIT—Continued

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise to discuss the extension of the debt limit. First of all, I thank my colleague from Montana for his great courtesy in allowing me to go first, because we have a hearing in the Indian Affairs Committee, so I thank my colleague from Montana for this courtesy.

Before us is a proposal to extend the debt limit by $800 billion. I will oppose that expansion of the debt limit because there is no plan to reduce the deficits and the increase in the debt we are now facing.

I think it is a mistake for this body to extend the debt limit by $800 billion without a plan to get the deficits under control, to get the debt under control. Instead, what we are doing here is writing another blank check and saying to this administration: Go ahead, continue to run record budget deficits. Continue to increase the national debt. Do not worry about a plan to reduce this increasing dependency on foreign governments, on foreign citizens. Forget about fiscal responsibility.

An $800 billion increase in the debt. Now, make no mistake, we need to extend the debt limit. We have to pay the bills of the United States. So there is no question that we need to extend the debt limit. The question is, by how much. The question is, should we not only do it with a plan to reduce this dependency on borrowing.

I believe the answer to those questions is absolutely. We ought to insist that there is a plan to get the deficit under control. We ought to insist there is a plan to reduce the buildup of debt. We ought to insist that this administration and this Congress face up to the mounting challenges facing this Nation.

To review the dramatic change in our fiscal condition, in January of 2001, we were told we could expect over the next 10 years nearly $6 trillion in surpluses. Now we are told, just 3 years later, nearly 4 years later, instead of trillions of dollars of surpluses, we can expect trillions of dollars of deficits, over $3 trillion deficits. That is a change in our fiscal condition in 4 years of $9 trillion. If that does not cry out for a response, if that does not cry out for this Congress and this administration to come up with a plan to address these burgeoning deficits and debt, I do not know what would require a response.

If we look at the last 4 years, we can see that in 2001 the Federal Government ran a surplus of $127 billion. In 2002, that had turned to a $158 billion deficit. In 2003, that deficit had exploded to $377 billion—the biggest deficit in dollar terms in our Nation's history—and now in 2004, another record deficit, a deficit of $413 billion—record red ink and no plan to address it.

The President has told us, told us repeatedly, that he has a plan to cut the deficit in half over the next 5 years. Do not believe it. Do not believe it any more than the claims the President made that there would be no deficit if we adopted his fiscal plan. The President told us—in fact, the President assured us—that we could count on a record paydown of the debt if we adopted his fiscal plan. Well, we did, and he was wrong because not only have we not had record paydown of the debt; what we have had is a dramatic increase in the debt. As we look ahead, here is what we see the deficit looking like over the next 10 years. I do not see any cutting of the deficit in half. The only way the President gets to his claim that he is going to cut the deficit in half is he leaves out things. He leaves out war costs. He leaves out the need to address the alternative minimum tax. He leaves out the effect of his own tax proposals.

If we take all of those into account—making the tax cut permanent, which the President has recommended; his defense buildup; the alternative minimum tax reform; and ongoing war costs—this is what we see, as the deficits going forward, in the amount that is actually going to get added to the debt every year. This is an ocean of red ink facing this country. Part of the reason, as I have indicated, is that the President, I am afraid, hid from the American people the true effects of his policies.

One way he has hidden it is he has changed from 10-year budgeting to 5-year budgeting. Here is why I believe he did that. This shows the cost of extending the tax cuts as the President has proposed. This dotted line on this chart shows the end of 5 years. But beyond the 5 years, the effect of the President's tax proposals explode in cost. That is the nature of the President's tax proposal. The cost explodes outside the 5-year budget window, just beyond the view of those who are responsible for making budgets for this country. The result is that the red ink the President has promised to reduce will explode right beyond the 5-year budget window.

It is not just with respect to the tax cut proposal, but we see the exact same pattern with the alternative minimum tax. The alternative minimum tax is the old millionaire's tax, which is now affecting 3 million taxpayers. In the next 10 years, it will affect 30 to 40 million taxpayers. It has to be dealt with. The President only provides funding to address this crisis for 1 year.

But look at the pattern of cost. Again, right beyond the 5-year budget window, right beyond this dotted line, which represents the next 5 years, the cost of fixing the alternative minimum tax absolutely explodes, at a cost of over $600 billion. The President does not have that in his budget.

Nor does he have the true cost of the war effort. We have had $25 billion put in a contingent reserve for fiscal year 2005, but we know that is a fraction of the cost. The Congressional Budget Office tells us that the true ongoing cost of war is over $315 billion. None of it is in the budget, other than the $25 billion. None of this $315 billion, other than the $25 billion down payment, is reflected in these numbers in which the President assures us he is going to cut the deficit in half.

I am told the Pentagon is about to propose, the administration is about to propose an additional $70 to $75 billion in a war cost supplemental some time early next year.

I think this hiding of the true financial condition of the country is wrong, and I think it is reckless.

The President told us when we adopted his fiscal plan: I can fully protect Social Security. I won't be taking Social Security money and using it for other purposes. Wrong again. The President is taking every dime that is available to take from Social Security over the next decade—$2.4 trillion—and using it to pay for other things. Mr. President, $2.4 trillion, every dime of which has to be repaid, and the President has no plan to do so.

It is not just there that we see the problem. We also see that the President has a plan to privatize parts of Social Security. Most of the estimates are they would cost some $2 trillion in transition costs. Again, the President has no plan to pay for it other than to borrow the money to do it. More borrowing, more deficits, more debt: no plan to address the issue. These decisions have real consequences.

We can see all of this is happening at the worst possible time, right before the baby boomers start to retire. The baby boom generation is out there. It is not a projection. They have been born. They are alive today. They are going to retire. They are going to be eligible for Social Security and Medicare.

This is what it looks like when you plot the increase on a graph of those who are going to be eligible for Federal benefits. Right now, we have around 40 million people who are eligible, but over these next years the number is going to double. This is the dramatic demographic timebomb that is out there with the baby boom generation.

When we look at the long-term implications—this is not a projection by this Senator or a projection by the Democrats; this is a projection by the Congressional Budget Office—the long-term budget outlook in terms of the effect on deficits, what they show is some improvement over the next couple of years but then an explosion of deficits and debt if the President's proposals are adopted.

We have record deficits now, the biggest in dollar terms in our history, and they pale in comparison as to what is to come if the President's proposals are adopted. There is no response. There is no response from the Congress of the United States. There is no response by this administration to these growing deficits and debt. It is just more of the same, business as usual, steady as she goes. That is a risky course for this country.

We remember so well the President telling us there would be maximum paydown of the debt if we adopted his fiscal plan. Instead of maximum paydown of the debt, we see the debt exploding.

The gross debt of the United States was less than $6 trillion when he took office. We now see, by 2014, that debt will approach $15 trillion—a stunning reversal in the fiscal condition of the country. In just these 3 years, there is an increase in the debt limit of $2.2 trillion under President Bush; an increase, in 2002, of the debt limit of $450 billion; in 2003, of $984 billion; and now another $800 billion. Mr. President, $2.2 trillion, after we had, from 1998 to 2001, no increase in the debt limit, none.

Now, the President describes these policies as compassionate conservatism. I do not know where the conservatism comes in. I do not know what is conservative about exploding the debt of the Nation. I do not know what is conservative about running up record deficits—and not just at a time of economic slowdown but even now, as the economy is recovering, deficits as far as the eye can see.

The result of these policies, the result of this increase in deficit and debt is soaring Federal interest costs. From the estimate in January of 2001 that the interest cost over the next 10 years would be some $600 billion, now estimates are that the interest cost to the Federal Government over that same period will be $2.4 trillion, from an interest cost projection of $600 billion to $2.4 trillion. That interest does not build a bridge, does not construct a highway, does not finance an aircraft carrier or a tank. That is money just to service the debt.

These massive increases in deficits have enormous implications, not only for our finances but for our economic strength. Deficits and debt will ultimately slow economic growth. This is a quote from the CBO Director, Douglas Holtz-Eakin, before the Senate Budget Committee last year.

Mr. Holtz-Eakin is an appointee of the Republican majority in the Congress. He came from the President's own economic advisory staff. He said this:

> To the extent that going forward we run large sustained deficits in the face of full employment, it will in fact crowd out capital accumulation and otherwise slow economic growth.

Mr. President, that is why these decisions matter. This is not just numbers on a page. This isn't just graphs. This is not just pictures on a chartboard. These decisions have a real impact on the economic health of this Nation, on the creation of jobs, on the development of economic opportunity, on the future economic prospects of our Nation and, fundamentally, of the economic strength of America.

I don't believe we can be militarily strong if we are financially weak. This President has us on a course to financial weakness. Make no mistake about it, these higher interest rates will burden families. For the typical American family, a 1-percent increase in interest rates will raise the payment on a 30-year home mortgage of $150,000 by $1,200 per year. When the Federal Government has to borrow more money, that puts it in competition with the private sector for borrowed funds. When that happens, that forces up the cost of borrowing. The more demand for money, the more interest costs have to go up. That is true especially at a time of economic recovery.

Mr. President, these decisions have real consequences in the lives of real people. I believe paying down debt is also a moral values issue. The President said himself in 2001:

> Future generations shouldn't be forced to pay back money that we have borrowed. We owe this kind of responsibility to our children and grandchildren.

On this issue, the President was right. We should not pass on these debts to future generations. But that is now precisely what the President is doing—again, not at a time just of economic slowdown; we have now got a resumption of economic growth. Yet the President proposes more and more deficit, more and more debt. I think it is a mistake. I think it is a mistake for this body to extend the debt limit in an almost unlimited way, by $800 billion, without any requirement for a plan to address these burgeoning deficits and debt.

The deficits we are running are not just budget deficits, they are also trade deficits—approaching over $650 billion in the most recent year. Not only are we running a budget deficit of over $400 billion, we are also running a trade deficit of over $650 billion, or in that range.

Where is the money coming from in these massive deficits? Well, we are borrowing the money, as I indicated, from the Social Security trust fund—some $2.4 trillion over the next 10 years. We are also borrowing from countries all around the world. We have borrowed over $700 billion from Japan. We have borrowed over $170 billion from China. We have borrowed $100 billion from the so-called Caribbean banking centers. I think many in America would wonder what is going on here. We are borrowing money from Caribbean banking centers? We have borrowed over $60 billion from South Korea. Who would have believed it? Growing up in North Dakota, I would never have believed we would be out with a tin cup borrowing money from countries such as South Korea.

Mr. President, here is what has happened under this President in terms of foreign holdings of our debt. They have increased by 83 percent in just less than 4 years of this administration. Prior to this administration, total foreign holdings of U.S. debt were just over a trillion dollars. In less than 4 years, that has now increased by over 80 percent. We are now approaching $2 trillion of foreign-held debt.

Mr. President, who cares? What difference does it make? I have had a chance to go and teach classes in my home State at the universities and colleges. I have asked them what difference does it make if we are deeper and deeper in debt to other countries? Well, the response of those students has been overwhelming and clear. They have said: Of course, it makes a difference. How does it change any relationship if you are borrowing money from people? It makes you dependent on those people. It means you are less able to challenge them on unfair trade practices. It means you are less able to confront them if we are faced with a military confrontation.

I noticed with great interest a New York Times article of Tuesday, October 19, headlined, "Private Investors Abroad Cut Their Investments in the U.S." It indicated that "Asian central banks bail out America, a nation of spenders rather than savers."

The U.S. economy is now increasingly dependent on a handful of foreign central banks for our economic stability and security. This is a vulnerability for our country. To more and more owe money to foreign nations and foreign central banks puts them in a stronger position with respect to America's economic future and puts us in a weaker position.

In that article, it indicated:

> New data accentuated how dependent the United States has become on purchases of dollar securities by the Chinese and other Asian governments with links to the dollar. "Foreign central banks saved the dollar from disaster," said Akhraf Laidi, chief currency analyst of the MG financial group. He said, "The stability of the bond market is at the mercy of the Asian purchases of U.S. treasuries."

We are at the mercy of foreign central banks, of Asian central banks. I don't think that is where we want to be. I don't think that is where we want to be as a nation, dependent on foreign central banks. In that same article, the New York Times indicated that a large amount of foreign-held debt could lead to economic turmoil. Here is what it said:

> A disorderly situation would occur if foreign money dried up suddenly when the United States still needed it.

Let's think about where we are headed here.

> Then, the adjustment in the American savings might happen involuntarily. Interest rates would rise sharply, and the dollar could fall abruptly. This could induce a sharp economic contraction, even stagnation.

Mr. President, what are we doing here? There is absolutely no response from this Congress or this administration to this gathering financial threat. No response. The only response is: Let's go borrow more money. Let's increase the debt more.

This article appeared in the Wall Street Journal on November 8, headlined, "Dollar Lacks Backers as Deficit Worries Dominate."

This article asks the question:

> What is going to prop up the sliding dollar?

It went on to say:

> Despite unexpectedly strong job creation and another jump in the stock market, the dollar dropped against key currencies . . . breaking through the record low against the euro set nine months ago.
>
> Currency strategists say the dollar's inability to capitalize on news of 337,000 jobs created in October reveals the market's skepticism about whether a second term for President Bush will reverse deficit spending and a reported current-account deficit—

That is our trade deficit—

> the broadest gauge of the nation's balance of payments.

We are here, steady as she goes, headed right for a potential fiscal crisis, and there is no response.

Here is what happened to the value of the dollar against the Euro since 2002: The dollar has dropped 30 percent against the Euro in that time. This is a warning. This is a warning, I say to my friends. People are losing confidence in the fiscal policy of the United States. This has potentially ominous consequences that I think we all understand.

The CBO Director believes deficits can no longer be blamed on just a weak economy. He said:

> Policy choices will determine where we go. We will not grow our way out of this. It is no longer the case that we can blame everything on the economy.

I talked about the budget deficit. Here is the U.S. trade deficit. Same pattern: explosive growth in our deficits, both budget and trade, requiring more and more foreign borrowing, making us more and more dependent on the decisions of foreigners as to our economic stability and strength.

Today in the Washington Post, Robert Samuelson, an economist, wrote an article headlined, "The Dangerous Dollar." He points out the risks to our country of what could happen if there was continuing flight from the dollar and a collapse in its value. He points out the risk to this country and says:

> No one knows what will happen. The massive U.S. payments deficits could continue for years, with foreigners investing surplus dollars in American stocks and bonds. Gradual shifts in currency values might reduce the world's addiction to exporting to the United States. Or something might cause a dollar crash tomorrow. In that case, massive intervention by government central banks . . . might avert a calamity. Or it might not. We're in uncharted waters. If we hit a shoal, it will be bad for everyone.

The warning is clear. The risks are there. The question is: Do we just stay on this current course, or do we respond to this growing threat? I think it is inappropriate to extend the debt of the United States by $800 billion without a plan to reduce this dependency on foreign capital.

I thank the Chair and yield the floor.

Again, I thank my colleague, Senator BAUCUS, the ranking member of the Finance Committee, for his courtesy in allowing me to speak first so that I may make a hearing going on in the Capitol complex.

The PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senate is here today to respond to the administration's request once again to increase the statutory limit on the Federal debt. More fundamentally, we are here in response to a warning. Like a proximity alert on an aircraft, the debt limit warns the Government is headed for a crash. We need to change course.

Unless we change course, the administration's fiscal policy will consign American families to a lower standard of living. Unless we change course, American workers will have lower incomes than they would otherwise have, and the dollars they earn will be worth less than they otherwise would have been worth.

Unless we change course, millions of Americans will live poorer lives. That is what we are really debating today when we debate the debt limit, and that is why I shall vote against the bill, to signal that we must change course.

Narrowly speaking today, we are considering the ceiling on Federal debt, the cap that the law places on borrowing by the Federal Government. The legislation before us would raise the debt ceiling to $8.184 trillion. It would increase the debt ceiling by $800 billion.

As this chart to my left shows, it will be the third largest increase in the history of the country. This chart indicates debt limit increases since 1982, and in roughly 1990, it was $915 billion, and then the highest was $984 billion, and this $800 billion is the third highest increase in the debt ceiling. Unfortunately, this large debt ceiling increase, and particularly the recent increases, are becoming all too common.

Just last year we were forced to raise the debt ceiling by a record $984 billion. Almost $1 trillion in additional Federal borrowing, that limit was raised in 1 year. In just the year before that, the debt ceiling had to be increased by $450 billion. That is more than $2.2 trillion in debt in just 3 years. In contrast, prior to those 3 years, there had been no increase in the debt ceiling for 5 years.

An increase of $800 billion of debt that is requested in this legislation before us means $2,700 more debt for every man, woman, and child in America, and a total of $8 trillion in total debt means about $25,000 of debt for every man, woman, and child. That is a $25,000 burden on each of us, our children, and our grandchildren.

I believe that each of us who runs for public office and serves has a moral obligation, and that obligation is to leave this place in as good a shape or better shape than we found it. It is that simple. As this President and this Congress keeps piling up more and more debt, clearly we are leaving this place in worse shape than we found it. We are putting a huge additional obligation and burden on our successors and upon, more importantly, the people we represent and, even more importantly, those who follow the people we represent. That is not the moral, correct thing to do. My judgment is that it is not only not responsible, it is irresponsible.

This chart shows per capita total Federal debt outstanding. This is per capita, on a per person basis in America. It has steadily been rising from 1997 from close to $20,000 to more than double, to $25,000 being asked for today.

Today's increase also will not be the end of large increases in the debt ceiling. It will not be the end because before the next year runs out, we will need to raise the debt ceiling once again.

The reason for these record increases in the debt ceiling is the record Federal budget deficits that our Government is running.

To clarify for those who may be unsure about the terminology here, the term "deficits" obviously means annual deficits that this Government runs, and the term "debt" means the accumulation of all the deficits. That is why the deficits sound a little less. It is some $400 billion, whereas the total publicly held debt is over $8 trillion.

I must add to this, I don't want to lay the blame totally in the hands of the President, but the President submits budgets to the Congress. Congress tends to work with the budgets that the President submits. Every year the President submits a budget and Congress does work around the edges, maybe add a little, subtract a little, but it is Presidents, not Congress, in the main, who actually determine the amount of either surplus or the amount of deficits that are actually enacted. It is primarily the Presidents.

Since the current administration took office, there have been record annual surpluses that have turned into record annual deficits. In the fiscal year 2001—that is the transition year between the two administrations—the Federal Government ran a surplus of $127 billion, a surplus. We actually ran a surplus of $127 billion in fiscal year 2001. For the next year, 2002, the first full fiscal year in the current administration, the Government ran a deficit—not a surplus but a deficit—of $158 billion. In the next fiscal year, the Federal Government ran a record deficit of $377 billion. Last year, in fiscal year 2004, there was yet another record deficit of $413 billion.

This chart basically outlines what I just said; namely, we start with a reduction in Federal debt. That is the total. Beginning about 2001 it starts skyrocketing back up again.

These record deficits are even more painful when they are compared with the record annual budget surpluses that preceded them. In fiscal year 1998, the Government ran a surplus of $69 billion. This was a record budget surplus at the time and the first budget surplus since fiscal year 1969.

In fiscal year 1999, this was another record surplus, $126 billion. That was followed by yet a third record surplus of $236 billion in fiscal year 2000. So we had 3 years of growing surpluses. So in just 4 years, the Government has moved from a record surplus of $236 billion to a record deficit of $413 billion, which is quite a dramatic swing of about $650 billion in our annual Federal budget outcome just over a 4-year period of time.

That is why we are here today. That is why we have to, in a technical level, raise the debt ceiling. It is because we are running record budget deficits. It is that simple.

In contrast, when we were running budget surpluses, the Government was doing what it should do. It was beginning to pay off the debt held by the public. That is what took place the second half of the previous administration. So between 1998 and 2001, our Government paid off about $450 billion worth of debt. Indeed, when the current administration took office, there was serious talk that all debt held by the public would be paid off within about 10 years or so. I think we all remember that. Gosh, if we totally pay off our national debt—is that possible? People were saying it would be bad if we paid off our total national debt. But we were on the glidepath at that time, a few years ago, to pay off the national debt, and there was very serious talk about what would we do when we got down to zero national debt. How soon we forget.

What a sad turnaround we experienced. The turnaround can clearly be seen in this chart here which outlines the dramatic change. Our national debt was steadily coming down as we had annual deficits and we were using the deficits to pay off the national debt. That is what happened in 2001. Then in 2002 and 2003 and beyond it is just the opposite.

Is this going to continue, this trend? Unfortunately, if we are objective about this, I think the answer is yes. The President claims he will cut the deficit in half in 5 years. Indeed, Senator KERRY campaigned for the Presidency and said he would cut the deficit in half in 5 years. But I must say, to be totally candid, those estimates are a little rosy. That is not going to happen.

For example, the independent nonpartisan Concord Coalition projects a deficit of about $450 billion 5 years from now. That will be higher than last year's record. Don't forget the Concord Coalition is known by most Members of Congress as being a fair, objective, nonpartisan organization looking at these matters very closely and very fairly and accurately.

Ten years from now the Concord Coalition projects the deficit will be an astronomical $734 billion. The Concord Coalition says it is going to get worse, much worse, with each passing year and the total deficit, they say, for the next 10 years will be almost $5 trillion. That means the Federal borrowing for the public will be $5 trillion in 10 years, and the debt ceiling will have to be raised by $5 trillion as well just to accommodate that increase.

Some may ask, Does it matter if Federal Government borrowing increases by $5 trillion? Does it really matter? Mr. President, it does. It really matters.

When the Federal Government borrows money from the public, it threatens two bad results. First, the Federal borrowing could compete with borrowing by businesses and consumers. What does that mean? That means that interest rates would go up. They have to go up. They are competing for the supply of money. Borrowing by businesses for new investments would have to go down. Borrowing would have to go down, all things being equal, and with fewer business investments, economic growth would, therefore, decline relative to what it could be.

High interest rates are killers. High interest rates, more than almost anything else, are a drag on the economy. It really slows the economy down and could deepen any recession that might occur.

Conversely, very low interest rates help businesses borrow, help homeowners buy homes, et cetera. It is very good for economic growth. In addition, because of this crowding out effect, our future standard of living could be lower than otherwise it would be.

Moreover, the rise in interest rates caused by increased Federal borrowing would make household purchases by credit more expensive. The increased costs would cause households to have less purchasing power and, therefore, would have to buy less. You may have to postpone or maybe not be at all able to buy that new refrigerator, to buy that new stove, that TV set, whether it is a plasma TV or regular TV, whatever it might be. The increased cost would cause households to have much less purchasing power.

For example, an increase in mortgage rates of just 2 percentage points would increase home buyers' annual payments on a $200,000 home by about $1,700. Potential home buyers would decide whether to buy these homes or, in the alternative, reduce other purchases. In either case, the home buyer's standard of living would be lower.

The second bad outcome that the additional Federal borrowing could cause is that Americans would owe more to foreigners. Foreigners would increase their holdings of U.S. assets. What does this mean? This would lower our future standard of living, as the earnings from American assets would have to go to foreigners, not to Americans. Thus, when the Federal Government borrows more, the standard of living of the American families suffers. It is zero sum, axiomatic; it by definition has to happen.

There is another danger from added Federal borrowing as well. If foreigners, especially foreign central banks—that is the governments, foreign governments—buy a significant portion of our debt, our U.S. economy will be subject to serious jolts, particularly if these lenders decided to sell off that debt precipitously. At the very least, they will have a little hold on us as they increase their holdings of American Treasurys, American securities—which is what they buy mostly these days, partly because it is more liquid, which means they could get rid of them much more easily, more quickly. But they have a little hold on us, a little leverage on us in any trade negotiation, any political negotiation, any foreign policy negotiation with these countries. Whether it is China or Japan or wherever, there would be a little edge because this country might hint that, gee, maybe we might start pulling out our purchases, sell the U.S. Treasurys we have unless you Americans go along with something we want. I am not saying it will be a huge factor. It may be a huge factor. I am saying it will be a factor we would not want to have to deal with.

Suppose the U.S. dollar declines further. It has come down about 30 percent in the last couple of years against the Euro. When the Euro was first announced, the dollar was fairly strong compared to the Euro. Now it has fallen about 30 percent. As Federal debt and interest payments from our national debt are denominated in U.S. dollars, what happens? The value of those assets starts to drop. That is what is happening. The U.S. dollar, compared with other currencies, is starting to fall significantly.

What happens then? Foreigners, including foreign central banks, might be afraid the dollar will go further. That is the trend. It is going down. Why is it going down? Because of the huge deficits and debts. A little less confidence in America. The more it goes down, then central banks in other countries will ask, do they want their dollar-denominated assets, as U.S. Treasury, to decline further? Probably not. So what are they going to do about that? Sell. Sell before they fall. Once they start to sell, what happens? The fall is greater.

That is the danger we are facing. I am not saying this is actually going to happen. Nobody knows if this is going to happen. There is a school of thought that there is so much savings in the world this will not happen. But we all know it is getting more and more risky and more likely this will happen.

If we exercise a little common sense as we run our household, we know there comes a point we cannot continue to borrow. There comes a point when the bank says no. There comes a point when we have to be more responsible as a household. The same is true here. There comes a point when the bank says—in this case it is foreign banks, or in this case the taxpayers—Enough is enough.

We do not know there will be a huge, precipitous decline. We do not want there to be a precipitous, huge decline. If there is, we do not want to know when it is because we do not want it to happen, but we do know if we are irresponsible and turn a blind eye to all of this, it is much more likely to happen and we will pay the consequences and rue the day when we, at an earlier date, did not take the necessary steps to correct this.

There is a real danger that foreign banks, as they look at their hole card, may sell off some of the Federal debt they now hold. Half of the foreign holdings are held by central banks. That would cause a spike in interest rates. Why? Because as they begin to sell, what does the U.S. Government have to do? It has to raise interest rates to keep the companies in America securities. Raise interest rates, and we will have all the other consequences I mentioned earlier—higher mortgage interest rates, consumer interest rates go up, companies cannot borrow as much because the banks are charging them much more. This is not some fringe possibility; this is real.

Why do I say it is real? Why am I very concerned about this? Let me quote the former Chairman of the Federal Reserve, Paul Volcker. He said quite recently he thought there is a 75-percent chance of a currency crisis in the United States within 5 years. Those are odds we do not want to have to deal with.

One of the hardest things to do is managing economic affairs early before you get in real trouble. It is so easy to postpone and put off. It is a bit of an abstraction right now. We do not know what will happen. It does not hit Americans right in the gut. It is not like raising taxes or lowering taxes which people feel immediately in their household budgets. I can guarantee if these problems do occur, and all the evidence indicates it is very likely to occur unless we take some very serious steps today, it is going to hit Americans so hard in the gut, it will have such an impact on Americans that this country is going to have a very serious problem.

Something else we should consider is the international competitiveness we Americans face with other countries worldwide, irrespective of our current deficits and trade deficit—which is humongous, which we will have to pay for sooner rather than later—with other countries. Take China, for example. We graduate in the United States of America about 65,000 engineers a year. Engineers can build new products and help make America strong. Guess how many engineers China graduates each year. Over 300,000 yearly. Are they brighter or dumber than our engineers? No, they are smart, progressive young men and women. And they are hungry. For those who have been to China recently, it is stunning to see the degree to which the Chinese people are hungry. They are going to compete very aggressively on the world market.

We are in a sense almost fiddling while Rome is burning. That is, not only not paying attention to our fiscal problems but also not paying attention to the competitiveness we have around the world; that is, not making sure we have more trained engineers who can do better worldwide. We will find ourselves not too many years from now in a real pickle. I am saying, right now, start taking measures so we do not have huge problems we otherwise would have.

I mentioned earlier central banks, if this trend continues, might decide to change their holdings and Federal debt for political reasons. Not only economic, but also for political reasons. For example, a foreign government might be involved in a trade dispute with the United States. This foreign government would know it could roil markets for the U.S. Federal debt and U.S. economy if a central bank sold a large portion of its holdings of U.S. Federal debt. It knows that. So what does it do? That government or country might hint around or might threaten to sell off, roil international markets, with an adverse effect on U.S. currencies, undercutting the United States' position in that trade dispute.

At the end of September this year, foreigners held about $1.9 trillion of our debt, close to $2 trillion of the total. Japan alone held $720 billion. China was next with $174 billion. Moreover, of $1.9 trillion of total debt held by foreigners, foreign central banks held $1.1 trillion. That is significantly more than half owned and controlled by central government banks. That is the government banks in those countries which, therefore, are in a great position of control. Those total amounts are nearly double the totals of 3 years ago. This has accelerated dramatically, almost double, over the last 3 years. Total debt held by foreigners is now 43 percent of all debt held by the public. Pretty close to half of all our national debt is held by foreigners—not by Americans, but by foreigners—and foreign central banks hold a full 30 percent of all such debt, one-third.

That is significant. Before I got in the Government, I worked for the Securities and Exchange Commission and I can remember back then the controlling interest was 10 percent. We are talking about 30 percent here. That is much more than a controlling interest in an entity's financial position.

The forecast for future Federal deficits and borrowing does not look good. I must add, this is not the worst of it. It gets worse. President Bush, for example, has made it clear he wants to pursue a plan for partial privatization of Social Security. Under that plan, part of a worker's and employer's Social Security payroll taxes we divert into new private savings accounts for the workers. That sounds good, but what does that mean? That means there would be less revenue left in the Federal budget for other spending. The Federal Government would have to borrow more money to cover the difference. That adds even greater pressure on the Federal debt and greater upward pressure on interest rates.

For many of the various partial privatization plans being proposed, these revenue losses would not be small. They would be more than significant, between $150 and $200 billion a year in each of the next 10 years. The losses would be even larger in subsequent years. These revenue losses, these additional revenue losses, and the associated increases in interest costs on top of that, would raise annual deficits to previously unimaginable heights. For example, the annual deficit projected by the Concord Coalition for 10 years from now would rise to over $1 trillion. That is in addition. Federal debt would rise by an additional $2 to $3 trillion in the next 10 years to a total of about $7 to $8 trillion of new borrowing during that period. That is on top—that is in addition—$8 trillion today, double in 10 years.

So we should take two lessons from this dismal picture. The first is we need to exercise true fiscal discipline. That is just common sense. Americans sit around that kitchen table very often—maybe it is weekly, maybe it is monthly—trying to make ends meet. Some cannot keep spending more than they take in each year. Most cannot. No one can continue that indefinitely because at some point the banks just won't lend people any more money. They will insist that existing loans be paid off.

We have bankruptcies. We have chapter 11. We have chapter 7. The point of all that is to stop the hemorrhaging, to pay off creditors to try to get the economic houses of Americans and companies back in order. I am not saying we have to declare bankruptcy. That would be something else, wouldn't it, if the United States of America declared chapter 11 and tried to reorder all the creditors. It is unimaginable, but if that were to happen, just think what would happen to the value of the dollar, what the value of the U.S. dollar would be then.

In the world of borrowing China and Japan now play the role of the banks. They are our bankers. They hold 30 percent of our debt and foreign individuals own another, what, roughly 23 percent of our debt. All of this will force the United States at some point to begin to live within its means—at some point. And it could happen suddenly.

Remember not too many years ago when the financial markets just collapsed. The first was in 1987, I remember, and the stock market just went whoosh. Back in the Asian currency crisis not too many years ago things went haywire immediately. The deck of cards totally collapsed. It doesn't take much, and it is usually unforeseeable. It is usually some little event which is not predictable but which happens which triggers this selloff and collapse.

We do not want that to happen, and it will not happen, it is less likely to happen if we today begin constructing a path where we do live within our means. This increase in the national debt today obviously signals just the opposite. There is no plan at this point.

So I say we would be far better if we were to eliminate our annual deficits on our own rather than having foreigners force us to that point. We can take concrete steps to reduce our Federal budget deficits. We can enact tough but reasonable caps in spending, renewed each year, and we can institute a requirement that all new tax cuts and new permanent spending be fully paid for. We can do that if we have the common sense and if we have the moral courage to do so as we are expected to do by the people who elect us. We could do all this without resorting to gimmicks.

This town, this country, this Government has been full of too many gimmicks—the lockbox for Social Security. There are a lot of gimmicks this President has proposed. We have almost reached the end of our string of gimmicks. We have reached the point of reality. We have to do what is right. We can enact a tough requirement that new tax cuts and new permanent spending be fully paid for. That was in place actually, as you recall, from 1990 until the spring of 2003. This requirement helped the budget turn from deficit into surplus. We should restore that. We should restore that quickly.

The second lesson we need to learn is that we should not enact the partial privatization of Social Security. There are a number of important reasons to stay clear of this. For example, these plans would likely cut total retirement income for many beneficiaries, have the effect of cutting income, not increasing it. Even this lowered income would be subject to great risk in the private market. Social Security, it may not pay hugely but it is stable. It is there. You can count on it.

I know a lot of young people say it won't be there. I disagree with that. I say it is going to be there. Why do I say that? I say that because with each passing year there are more and more voters who are seniors. There are more and more people who are age 55 up to 60 who really care about Social Security. I have forgotten the exact date. I saw one estimate that by about the year 2030 half of all voters will be age 60 or over. I do not know if that estimate is true. It was made by a reputable person—I won't mention his name today but it is someone we all know who is quite reputable.

But in addition to that, partial privatization would dramatically increase Federal borrowing. It would increase annual Federal budget deficits and it would increase the Federal debt. This would further lower both our current and our future standard of living. It would also make the U.S. economy even more vulnerable to recession and it could put the U.S. Government in a vulnerable position, even more so in its relationships with foreign governments. These fiscal dangers alone are sufficient reason to reject the partial privatization of Social Security.

Clearly, we should look for new vehicles to increase savings. We should look for more ways to assure that our seniors are more secure in their retirement. We could bolster Social Security. We could find more private savings vehicles. We could help our pension system. But the partial privatization of Social Security will have the effect of lowering the benefits to those currently 50, 60, 62, or 63, unless there is a massive enough additional borrowing by the Federal Government. And that is the low estimate, $1 trillion over 10 years, and the higher estimate is $2 trillion. That is in addition.

I ask from where is that money going to come? Can we really borrow that much more compared to what we have already borrowed? We cannot.

So we need to respond to the debt limit. I started out saying really technically this is an increase in the debt limit, which is required by statute, but more fundamentally the issue being raised today is how much more can this Government go into hock? That is really the question. And how quickly can we get ourselves out of it?

We need to respond to the warning of the debt limit increase. We need to change course. We need to prevent that crash. We still have time. We should heed Paul Volcker's warning of a 75-percent chance of a currency crisis in the United States in 5 years. I think I know what he is talking about. He may not be right, but if Paul Volcker says that, we should listen. We should take his warning very seriously. We should, obviously, act with a sense of urgency and do what we can to avoid that dangerous result. We should change course now. We should wait no longer. With next year's budget, we have an opportunity.

The President, in his submission to Congress this January, February, whenever it is, in working with the Congress, can begin to chart a proper course, begin to chart a course or begin to actually honestly get our Federal budget deficit under control. We have that opportunity. We have that obligation. The time is now. The time is January when the President submits his budget and the next months when the Congress works with the President as we begin to get our Federal fiscal house in order.

We have to change course so American families can hope for a better standard of living in the future, so American workers can have good jobs with good incomes and we have a strong dollar with real value in the international trade. We need to change course to make all that happen so future generations of Americans lead richer lives.

I will end with the statement I mentioned in the beginning. We have a moral obligation to leave this place in as good shape or better than we found it. It is an obligation we have—I assert whether environmental matters, whether Federal budget—to inspire confidence and togetherness in our people. I urge us very much to take the course of action that we well know is correct.

Mr. President, I now yield 10 minutes to the Senator from Wisconsin, Mr. FEINGOLD, who is a real leader in the fight for fiscal responsibility.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senator from Montana not only for his leadership in the body but for his words about the fiscal situation our country faces. I particularly thank him for his emphasis on the need to return to those important fiscal budget rules, the pay-go rules that guided us so well for so many years. I hope and trust this will be the first of many times he will address the body about the need to get back to that discipline. I intend to do the same here today. I think very few things are more important to our country than to return to the fiscal discipline we actually accomplished on a bipartisan basis during the 1990s after the very reckless policies of the 1980s.

Today we are again forced to consider legislation to raise the Nation's debt limit. It is obvious to anyone but those who refuse to see that we are here because of the grossly reckless fiscal policies that have been advanced by the administration and Congress over the past 4 years.

The last 4 years have seen a dramatic deterioration in the Government's ability to perform one of its most important and fundamental jobs, and that I do not need to tell the Presiding Officer about because he is a stalwart on this issue: and that is, the balancing of the Nation's fiscal books.

We are all familiar with the history. In January of 2001, the Congressional Budget Office projected that in the 10 years thereafter, the Government would run a unified budget surplus—surplus—of more than $5 trillion. Almost 4 years later, we are staring at almost a mirror image of that estimate—a 10-year, $5 trillion surplus—except that instead of healthy surpluses, under any reasonable set of assumptions, we are now facing immense deficits.

We absolutely cannot afford to continue to run up these massive deficits. Doing so causes the Government to use the surpluses of the Social Security trust fund, and use them for other Government purposes, rather than to pay down the debt and to help our Nation prepare for the coming retirement of the baby-boom generation.

Every dollar we add to the Federal debt is another dollar we are forcing our children to pay back in higher taxes or fewer Government benefits. So today's vote to raise the debt limit basically ratifies the actions taken by the administration and the Congress to stick future generations with an immense credit card bill.

That is what we are doing when the Government, in this generation, chooses to spend on current consumption and to accumulate debt for our children's generation to pay. It does nothing less than rob our children of their own choices. We make our choices to spend on our wants, but we saddle them with the debts they must pay from their tax dollars and their hard work.

Obviously that is not right. This has to stop. We have to rein in the fiscal policies that have forced today's vote. That means making some tough spending cuts. It means putting a stop to the inexcusably reckless tax policies of the past 4 years. And it means putting some meaningful, tough, and sustainable budget enforcement mechanisms in place that return us to what the Senator from Montana was talking about and what I mentioned at the beginning of my remarks.

Earlier this year a bipartisan majority in this body supported just such a mechanism. The amendment I offered during the Senate's consideration of the budget resolution would have reinstated the pay-as-you-go rule for taxes and mandatory spending that served our Nation so well during the 1990s. It was adopted by a bipartisan majority. I salute the Presiding Officer for his courage in siding with me and others across party lines to try to institute—actually reinstitute—those pay-as-you-go rules that we had a pretty good bipartisan consensus about during the 1990s.

I actually believe it would have passed the other body but for some heavyhanded maneuvers by House leadership. Instead, the administration's election year agenda steamrolled over efforts to return some fiscal sanity to our budget process.

I also believe there are many in this body who did not support my amendment but who know, in their heart of hearts, that reinstating the pay-go rule is simply the right thing to do. They know how essential it is to impose some self-restraint on congressional appetites. I suspect we would have gotten an even bigger majority vote if not for the exertion of some of the strong pressure on Members that is more common more often in the other body.

We need a strong budget process. We need to exert fiscal discipline. This Congress failed to do so, and left the Nation worse off for their failure.

When we look at this fiscal mess, it boils down to a lack of restraint and a lack of judgment. Wisconsin families face tough choices about their budgets every day, and they shoulder tough financial burdens. But they do not throw up their hands and keep spending. They have to make the choices that need to be made; and they do it. They do not do it because it is easy. They do it because they have to. They have to; and so do we.

We have to get our house in order, like so many Americans do every day. Reinstating pay-go and adopting some other strong budget reforms should be among the highest priorities of the next Congress. We should return to the rules by which Congress played for the decade of the 1990s. We should eliminate the loopholes carved in the pay-go rule as part of the budget resolution adopted in 2003. Those loopholes only facilitated more damage to the Federal budget bottom line.

Reinstating the pay-go rule by itself will not balance the books. But it will make it harder for this body to make the deficit worse. It does not make it impossible, it just makes it harder, and that is exactly as it should be.

Given our current budget position, we ought to make it harder to make the deficit worse. We ought to require 60 votes if we are to pursue tax policies or new mandatory spending that is not fully paid for. I do not think that is too much to ask. And those rules worked well just a few years back.

We know this debt limit bill is going to pass. It was made necessary by irresponsible budget policies that were pushed by the administration and aided and abetted by Congress. This ought to be the last debt limit bill we ever consider, but unless we change things, it won't be. We have to change things on this pay-go rule and beyond or we will simply be in the same position time and time again.

Mr. President, I thank my colleagues and I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we all owe a debt of gratitude to the Senator from Wisconsin for his long-time concern about budget deficits. I can think of no one in the Senate who has been a more articulate advocate of getting our house in order.

Mr. President, I yield 5 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I ask unanimous consent to speak as in morning business for the 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. JOHNSON are printed in today's RECORD under "Morning Business.")

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. There is not a lot of time left on the debt limit for debate. I urge Senators who want to speak to come over now because, otherwise, I will yield back the remainder of our time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. I see the Senator from Florida on the floor. I yield 5 minutes to him.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I thank the distinguished former chairman, now ranking member, of the Finance Committee, my friend, the Senator from Montana, for the time.

I wanted to share with the Senate that, for the third time in as many years, I find myself wondering how in the world can we continue to be in such a fiscal posture that we find ourselves in. We are constantly reminded by the administration how rosy our economic outlook is, and there are some economic indicators that say that. On the other hand, we hear from the Department of the Treasury that if the debt ceiling is not raised, the Government is in danger of defaulting on our loans.

By the way, where are a number of those loans? A huge amount of those loans to the U.S. Government are from the banks of Japan and China, of all places. In the 108th Congress alone, we have had to increase the statutory maximum debt the Government can carry by over $2.2 trillion.

The last time we engaged in this exercise a year or year and a half ago, in May of 2003, we needed the single largest increase to the debt limit in U.S. history. That was almost a trillion dollars—$945 billion. That lasted us only until today. Now the Treasury is explaining that they have resorted to "extraordinary measures" just so they can meet their current obligations.

So here we go again. Three times we have done this in 3 years. Let me put it in context. From 1996 to 2001, the debt limit was increased by a total of only $400 billion, in relative terms. Today, we are asking that be doubled in the increase of the debt limit.

There certainly are new expenses we are now facing, such as terrorism and the war in Iraq, which have put a tremendous strain on our budget. But these are not new expenses. We ought to be doing a better job of anticipating those needs and budgeting accordingly and not digging ourselves deeper into debt.

Instead, the huge budget deficits year after year have put us on a reckless fiscal path that will take us decades to undo. And guess who is going to pay off that debt we keep adding to the tune of half a trillion dollars a year. It is going to be our children and our grandchildren who are going to have to pay off that debt.

I keep hearing a lot of folks here who want this to happen. They keep claiming they have a conservative fiscal record, but I think the truth is that the "tax cuts and spend" mantra is not fiscally conservative. It is fiscally reckless.

There will undoubtedly be more expenses that we face—emergencies from natural disasters, such as the four hurricanes that hit my State, and the floods in the Midwest. That is part of the reason for having a Federal Government, to respond to those emergencies. There are going to be necessities, such as the imminent retirement of the baby boomers, the unstable situation in trying to stabilize Iraq, and the terrorist threats all across the globe. We cannot continue to ignore those needs on our balance sheet.

Today's debt limit increase is something I have a great problem with simply because of the way of the fiscal policy that has been thrust into the running of our Government. I do not want to see this as an annual exercise.

Mr. President, I yield the floor.

Mr. BAUCUS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I yield to the distinguished Senator from Delaware, Mr. CARPER, such time as he might consume.

Mr. CARPER. Mr. President, I thank my friend from Montana for yielding.

There was a lot of talk before the election about potential October surprises. Perhaps there should have been more talk about potential November surprises, for that is what we are presented with this afternoon.

There was a great deal of rhetoric during the campaign about cutting our Nation's budget deficit in half. There was too little straight talk, however, about the reality that our debt continues to rise.

We have heard a good deal of talk since the election about mandates, voters' mandates and fulfilling campaign promises. If the majority in Congress is seeking a mandate for its economic policies, they would not have withheld the results of those policies until after the election.

As far as campaign promises go, I do not recall anyone promising in this year's campaign that Congress's first act after the election would be to approve an increase in our Nation's indebtedness to more than $8 trillion. That is exactly what Congress is about to do this afternoon before the sun sets in Washington, DC.

As the most profligate Presidential term and the most profligate session of Congress in our Nation's history draw to a close, the bills, meanwhile, are coming due. Bills, like facts, are very stubborn things. No amount of rhetoric can make them go away. While it was inappropriate to hide from the public the true extent of our Nation's growing indebtedness until after the election, it is somehow fitting this vote would come today. There is a symbolism in the fact that one of the last acts of the 108th Congress will be to place this country deeper in hock to our creditors around the world. There is also significance in the fact that this act will be undertaken just a day before the opening of the Clinton Presidential Library in Arkansas.

The opening of the Clinton Library reminds us that when Bill Clinton left office 4 years ago, America had a budget surplus. That surplus was sufficient to secure the future solvency of Social Security and Medicare and to put our country on course to be completely debt-free for the first time in any living person's memory.

That is the legacy of President Clinton. I am sorry to say the legacy of the 108th and the 109th Congresses will be one of undoing in 4 short years the decade of work and sacrifice that went into balancing our Nation's books and strengthening our Nation's finances for the 21st century.

Let me say, credit for the budget surpluses that we were beginning to generate as a country 4 years ago is not entirely due to one President or to one party. But the fact is that he did provide a strong measure of the leadership that helped get us to the place we were just 4 short years ago.

As a result of that rapid unraveling of fiscal restraint, our financial position is far more precarious than it was just 4 years ago. With a large and growing budget deficit, we are stretched thin in our capacity to meet the great challenges that inevitably confront us as a great people. New terms and new Congresses are times for new beginnings—and for those of you who know me, I am an eternal optimist. I have no desire to dwell on the past. I, like most of us, am determined to look forward. My hope is that given the opportunity for a new beginning, we will chart a new course in the new year to come.

In truth, we have no other choice, at least no other good choice. Sustaining a protracted global war on terrorism requires discipline. Keeping the promise of Social Security and Medicare entails responsibility. Ensuring that these challenges do not exhaust our capacity so that we are still in a position to improve our schools and invest in our children and their future demands sacrifice. Discipline, responsibility, sacrifice—these are values that are familiar to families in small towns across Delaware and across America and, frankly, in big towns, too. They are the values by which our families live each and every day, or at least attempt to. Our State and local governments share the values of our people when it comes to handling their people's money because, unlike the Congress, our State and local governments are required to share those values. Our State and local governments are required to live by two simple rules: Live within your means and pay as you go. We used to live by those rules here in Congress, but we have literally let those rules expire.

In hindsight, it is clear that by letting these simple rules expire, and with them the values of discipline, responsibility and sacrifice, we have unleashed a frenzy of spending and borrowing. It is equally clear that this laxity in Congress now threatens America's economic vitality and even our national security.

Personally, I do not believe pundits who say fiscal recklessness is inevitable. Nor do I believe those who say bitter and polarizing partisanship is inevitable. They may be inevitable, but I don't believe it. I am ready to meet in the middle with anyone from the other side who is interested in bringing responsibility and discipline to the Halls of Congress and the part of America outside the Congress that is within this beltway. I am interested in working with any and all of my colleagues who want to work to reform and to improve the budget process in a way by going back to the future, going back to some of those values and some of the practices that got us to a place where we had a balanced budget, including the notion that if a Senator wants to increase spending, he has to come up with an offset—lower spending someplace or to raise revenues someplace.

If we want to cut the revenues from the Treasury, we have to come up with an offset. Either raise revenues someplace else or cut spending to offset the loss to our Treasury from our tax cuts. Surely we can find a common cause and make sure the decisions we make in Congress truly represent the values by which those we represent live their lives. We can do this. We should begin by restoring the old rules that require us to live within our means and, as I said earlier, pay as we go.

If we do that, perhaps we can save ourselves the embarrassment we feel today. Perhaps we can save ourselves from standing once again on the precipice of adding another billion, another hundred billion, or another trillion dollars to the debt we are loading on the backs of our children and on future generations of Americans.

Sitting here before me today are young people. They are pages. They come here to this Capitol when they are juniors in high school. They are the same as our oldest son. Someday somebody is going to have to pay for the debt we, the Congress, are accumulating at the request of the administration, the debt load whose ceiling we will raise later today. We do not just print money when we run deficits around here, we borrow money. We don't just borrow money from people who buy savings bonds, we don't just borrow money from people who buy Treasury securities, notes and bonds, we borrow money from people all over the world.

We have become a huge debtor to some unlikely nations: China, Japan, South Korea, and a number of others. I am not talking about deficits of a couple of billion dollars or even tens of billions of dollars, but hundreds of billions of dollars. They expect to be paid interest on that debt. We have to pay interest on that debt or default. Eventually they are going to want to be repaid the principal of the money they have loaned to us.

My friends, if we are not careful, we are going to reach a tipping point where the amount of our indebtedness becomes so great, so significant, so alarming to other nations around the world they are going to be reluctant to loan us more money unless we show some ability to better manage our finances.

When they see the threat to our ability to repay our debt go up and we become a riskier investment, those other countries around the world are going to ask us, if we want to be able to get credit, to pay more interest on our debt and to raise the interest rates. If we don't want to do that, we are not going to be able to roll over—renew—our debt.

On the other hand, if we pay the higher interest rates which we are going to be inevitably faced with, that has a dampening effect on our economic recovery.

Someday these young pages, along with my children and their generation, are going to have to repay these debts. It is not fair to them.

I will close with this. Does anybody in the Chamber have an idea of what the interest payment on our national debt is today? About $1 billion. Just 1 day—not 1 week, 1 month—just 1 day. It is not principal, it is just interest. And we have to pay it today, tomorrow, and the day after that. In raising our debt ceiling today, that $1 billion interest payment is not going to go down, it is going to go up.

We can do better than this. Beginning in January we have to. With that having been said, I yield my time and thank my colleague from Montana for yielding to me.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 10 minutes to the distinguished Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator. I thank the Senator from Montana for the opportunity to use a few minutes to describe what I see as the latest in a series that is rather discouraging for America. It is fair to say, using that expression that has been coined around the country over a number of years: Mr. President, there we go again. For the third time in 3 years, President Bush has gone over the limit on our Nation's credit card. So now the President is asking Congress to raise his limit. That is often an expression used at gaming tables in Las Vegas and Atlantic City and other casino establishments. I don't know whether that is what we have here. Is this a casino where we are willing to bet table-stakes, everything that we have, because we are out of control?

I want to say to President Bush that this solution may work for you, but everyday Americans don't have the luxury of simply saying: You know what, give me a little more credit so I can continue to deal with this so irresponsibly. Banks simply will not agree to increase people's credit limits when they rack up dollars and debt on their card. That is what President Bush is asking members to do today. We are the bank's chief lending officers and he wants us to raise his credit limit.

Simply put, what we are seeing in this administration is credit card economics. It is totally irresponsible and among the most reckless administrations in the history of this country with their fiscal management.

Why are we in this mess? Because President Bush and the Republican majority in the Congress decided they wanted to give the wealthiest in America a big tax cut. A portion of the President's tax cut goes to people like myself who are in the highest percentage of wage earners.

I had a successful business career. I was lucky I did what I did in the computer industry many years ago when America presented all kinds of opportunities for me to work and create something of lasting value.

The top 1 percent of the wage earners are receiving this tax cut that equals $100 billion every single year. That is almost a third of the total cost of operating. The worst part about this mountain of debt we are being asked to authorize is it is going to be on the backs of our children and grandchildren. Who among us would say, I want to live high on the hog, so here, kids, here grandchildren, you pay the bill while we go ahead on this spending kick?

President Bush simply wants to leave this debt burden to future generations. I don't want to do it.

If colleagues vote to raise this debt limit, they are voting to saddle every child in this country with an immediate debt burden of $27,764.

I look at the wonderful young people we have, known as pages, who get a taste of government from their experience here, spending a term in their high school years. Each page will owe $27,000 as a result of what we are doing here today. It raises the debt limit above $8 trillion for the first time ever in our history.

It is sometimes hard to get a grasp on numbers like that, so let me try to put that in perspective. I cannot imagine what $8 trillion is like. We are not talking about stacks of $1 bills. It is two-thirds of the value of the entire New York Stock Exchange. That is how much we are in debt. If we want to pay it off right now, we have to hand over two-thirds of our stock market. It is irresponsible. It is impossible to comprehend.

The deficit is a real problem that affects our lives and our Nation's economy. When President Bush took over and got a resounding endorsement from people across the country for his second term, we were in a position of surplus. I was on the Budget Committee. I was fairly senior on the Budget Committee on the Democratic side. We struggled and we pushed and President Clinton encouraged us and he twisted arms of both parties—not just the Democrats, but the Republicans—and we got a balanced budget in place. We had over $200 billion in surplus in the year 2002.

Now we are looking at a debt just for this year that could be somewhere in the $600 billion range; $488 billion. But including the cost for the extra borrowing, it will be somewhere around $600 billion in debt. When President Bush took over we had an almost $300 billion surplus. That is quite a change.

Tomorrow, there is an official dedication ceremony for the Clinton Presidential Center. What a difference between the economic policies of those days and current times. President Clinton understood the importance of fiscal discipline. Right now, there is no concept of it whatever. What we have now is a deficit attention disorder. We look at this credit card and we see what has been asked: Through November of 2004, $7.384 trillion.

I was the ranking member of the Senate Budget Committee in 1997 when we negotiated the historic Balanced Budget Act that produced surpluses for the first time in three decades. What we were looking for was a $5 to $7 trillion surplus in 10 years.

There is no fiscal discipline. We are running the biggest deficit in history. Because of the 1997 balanced budget agreement, the surpluses it produced, we were able to pay down $600 billion in debt. We were on a path to pay off public debt by the year 2008. Now, because of the reckless tax cuts that President Bush and the Republican controlled Congress have pushed through, instead of being debt free, we are going to be at least $10 trillion in debt by 2008. No one on the other side can seriously argue that we will be better off $10 trillion in debt.

The Republican plan is to borrow and spend, saddle future generations with the responsibility for paying the bills. That is a terrible abuse of the financial future of our country. I don't think responsibility of our children should be just a Democrat or Republican value. It should be an American value. We cannot abandon it.

We all know in our homes and families, if we spend more than we take in, if we spend more than our salaries, we have to be able to borrow to keep our families afloat. That is what the United States of America is doing right now, borrowing to keep us afloat, putting us ever deeper in debt, and transferring that obligation from ourselves to future generations. My children, my grandchildren, and other people's children and grandchildren will have to shoulder part of that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, elections obviously are an extraordinary opportunity to listen to the American people, to learn, to debate, and to test ourselves and our ideas. This election was no different. It was an honor to live out a great debate in our country in which we talked about the kind of nation we want to live in and what our responsibilities are to each other and, of course, to future generations.

Whatever lessons you learn about a campaign—and there were many—at the core, obviously, are issues. Those issues did not go away on November 3 no matter the results.

We are here in the Congress with fundamental responsibilities to continue the fight for those things Americans care about and that matter to the long-term health and welfare of our Nation. I intend to continue to fight on those issues as hard as I did in crisscrossing this great country of ours.

At the heart of every issue I heard about from Oregon to Florida, Iowa to Ohio, and every State in between, whether it was affordable health care or good jobs or taxes or energy independence or America's role in the world and her respect, above all, Americans continually expressed their understanding that our ability to meet all of those needs rises and falls with our economy, with the strength of our economy, the quality of the jobs that we create in America, the kind of investments we make in the lives of our children, and the quality of the jobs of the future. All of those choices ride on the fiscal choices we make as a government.

Those are lessons we have learned the hard way over the course of the last century or more. That is why I believe, as do others who have spoken in this Chamber during the course of the day, we need to deal candidly and immediately with some sense of urgency with the debt and the debt limit of the United States. We have a fundamental responsibility to restore fiscal responsibility rather than merely voting again to raise the debt limit as if there is an endless credit card at the expense of the American people.

Americans struggle to balance their budget. I heard about those struggles all across this country, people who can barely afford to pay their bills, people who have seen their health care go up 64 percent, their tuition go up 35 percent, gasoline prices go up, cost of purchasing drugs go up, and their wages are down. The American people are struggling to be able to pay their bills. Congress is not exhibiting the similar kind of struggle or even effort. The American people sit down at their kitchen tables and they try to play by the rules every single day. Congress seems ready to write new rules whenever it wants. We used to understand the responsibility to future generations. In the 1980s, Washington dug an enormous hole, a deficit hole, and it became apparent to all on Wall Street and all of the corridors of fiscal responsibility and power in America that we needed to make a better set of choices. So we made tough choices in the 1990s to dig ourselves out of that hole. And now here we are again, in 2004, back again with a new hole, deeper, with more grave consequences than at any time in American history. Neither Congress nor the administration has been willing to face up to that reality, even as the consequences grow and stare us in the face.

Let me put that in perspective. In less than 4 years, a 10-year $5.6 billion budget surplus was turned into a $2.4 trillion debt. That is the worst fiscal turnaround in our Nation's entire history. Since raising the debt limit last year, the Government has run up more debt than all of the Presidents from George Washington through Ronald Reagan. In fact, almost three-quarters of the entire debt of the United States of America in our 228-year history has been run up during the course of the last three Republican administrations. Taxpayers have been left with a record deficit in both of the past 2 years, up to a record $413 billion for 2004. According to the Congressional Budget Office, we are going to run $300 billion deficits every single year for the next decade, and that is without including one of the President's new proposals made in the course of the last year of the campaign. So the United States is operating a borrow-and-spend Government, continuously stretched by demands for more tax cuts and by more spending. When there is not enough money to pay for those choices, which are voluntary choices, they simply go into debt and put the tab on the national credit card and they send the bill to our kids. It is an economic policy of borrow and spend, and it simply cannot be sustained. After the new debt limit passes this week, and it will, the administration will have added $2.1 trillion to the debt limit in less than 4 years. That amounts to more than $7,200 for every man, woman, and child in the United States, and all of that money must eventually be paid back, or at least partially paid back in significant amounts with interest.

The interest payments alone are staggering and depriving us of choices that we ought to be making for long-term investment in our country itself. The Government may spend it today, but Americans ultimately will pay the bill. That means a child born today is going to enter the world owing more than $17,000 when our last and expected debt is totaled up. As everybody knows, our children grow up with a set of expectations about their future that are now impacted extraordinarily by the choices we are making on their behalf, and whether it is a choice to buy a car or home or save for their own families or save for college, all of those are going to be impacted negatively by the unwillingness of Congress to be responsible at that moment. Their ability to save will be eaten away by their share of what this Government is going to have already spent in debt. This could be called a birth tax, a birth tax that is dumped on the back of every American child unwillingly.

I think, and I think most persons believe, to saddle our children with this debt is wrong. As Republican Pete Peterson said, the ultimate test of a moral society is the kind of world it leaves to its children. And I think about that concept as we are about to slip our own kids and grandkids a check for our free lunch. I say we are failing the moral test. That is Republican Pete Peterson speaking.

And it is not just the mountain of debt that is the problem. It is also where the money comes from. To pay our bills, America now goes cup in hand to nations such as China, Korea, Taiwan, and the Caribbean banking centers. China now holds $172 billion of our Nation's debt. Korea holds $63 billion, Taiwan holds $56 billion, and the Caribbean banking centers hold more than $191 billion. Since 2001 alone, the share of U.S. Treasury debt held by foreigners has risen to 42 percent from 30 percent. It is increasingly dangerous for so much of our Government and our standard of living to be dependent on foreign capital. If foreign investors were to suddenly decide to stop financing our borrowing habits or to see weakness in the American economy, it could have a spiraling impact on our own economy, international currency markets would be shaken, and our economy would quickly follow. If those investors began to withdraw their capital, our financial markets would plummet and interest rates would climb. That will make everything American families need, from a home, to a car, to appliances, to education, all of it, more expensive. It will make it harder for businesses, and especially small businesses, to raise capital and invest in jobs and economic growth.

What is more, with so much of our debt owned by other nations, U.S. diplomatic and trade negotiators face increased difficulty in making demands of major creditor nations. How do you go to a country that holds so much of your debt while your economy is closely linked to theirs and start to make the powerful argument about nuclear proliferation or human rights, democratization, and other issues that are of importance and great consequence to our country?

It is only a matter of time before America learns the hard way that debt is more than a financial liability, it weakens America's security, and it weakens our diplomacy and our trade. Our budget mismanagement, the negligence of borrow-and-spend policies, leaves us vulnerable to the priorities of foreign creditors. And that is unhealthy and irresponsible.

So what do we do about that? Well, we can argue over the cause of the problem, of what made this borrow-and-spend institutionalized approach the reality it is today. But I think it is more important for us now to try to find a solution; that is, to work to find economic policies that are going to create opportunity and demand responsibility.

When I first came to the Senate in 1985, the Federal deficit was soaring, out of control, just like it is today. And in the 1980s, the National Debt Clock in New York City became a symbol for a Federal deficit and a debt that were out of control. Back then, many Democrats thought we could continue to spend and to spend without having to pay the bill. And back then most Republicans claimed that if you gave huge tax cuts to the wealthy, they were somehow going to pay for themselves.

At the same time, we were lucky to have leadership from a group of reformers on both sides of the aisle, people such as Republican Senators Warren Rudman and Phil Gramm, and Senator FRITZ HOLLINGS on the Democratic side. They pushed for a deficit reduction plan that had real teeth in it. They continued that fight until it was finally won.

The choice was tough. Fiscal sanity was won by exactly one vote in both Houses of Congress. But finally, in 1997, we finished the job by passing a historic bipartisan balanced budget agreement. It not only balanced the budget for the first time since 1969, but it extended the life of Medicare, it expanded health care for children, and it cut taxes for middle class Americans.

Four years ago, the numbers on the National Debt Clock were spinning backwards. Today, in New York, the National Debt Clock has now been turned back on, and the numbers are rising faster than you and I can follow. As Senator HOLLINGS retires from the Senate, I think we need more of that kind of effort that was offered in the 1980s and 1990s in order to find the common ground that he and Senator Rudman brought to this debate almost 20 years ago. It is time again to follow that example.

There are a lot of ideas out there. We can end tax cuts that do not create jobs but do create enormous debt. We can find incremental savings by streamlining Government itself. We can reduce or eliminate programs that we simply cannot afford. We could establish a commission to independently evaluate and eliminate corporate subsidies. But more important than any individual proposal is that the White House and Congress make a fundamental commitment to end this policy of borrow-and-spend economics.

We need to make economic opportunity and fiscal responsibility a common goal. And we have to live by some rules, rules such as a budget that requires us to pay for what we spend, rules that give the debt limit meaning. Today the debt limit is fanciful. It is just a number on a piece of paper, and Congress raises it any time it wishes. It is no limit at all. I believe we can do these other things. We could make these other choices if we set clear national priorities, if we make the tough decisions, not just about the programs of others but about our own proposals.

We have to do this because it is critical to any credible economic plan and to the creation of new, good-paying jobs. An America that ignores our national debt and the deficit will be an America that invites inflation and recession. An America that pays for new initiatives and follows real budget rules will be an America that creates a new era of prosperity and opportunity for all Americans. We know how to do this. We did it in the 1990s. Now it is time to return our Government to that fiscal responsibility and to invest in the future and to create new jobs in America that pay more than the jobs we are losing overseas, and to raise the standard of living for American workers.

I will not vote for a borrow-and-spend economic policy when there are better alternatives.

Over the last year, in the cities and towns that I was privileged to travel in all across our Nation, I have been reminded again and again of the hopes of the American people and of families that play by the rules and do what is right for their kids and try to do what is right for aging parents and for a Social Security system and a Medicare system that are under increasing pressure and strain.

Those Americans are faced with tough choices every day. They expect us, similarly, to make tough choices. I think Washington ought to live by the same rules they do. None of these choices are about numbers and about dollars and statistics alone. They are really about the responsibility we have as one generation to another and, most importantly, the responsibility we have vested in us as Members of the Congress and the need to try to work together and find the unity, as we did in the 1990s, to come up with a solution that acts in the interests of Americans and that does not avoid that fundamental responsibility.

Mr. President, I ask unanimous consent that we reserve whatever time there is for the leadership. I do not know if the Senator from Michigan wants to speak now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I ask unanimous consent that I be allowed to proceed for up to 15 minutes from the time under the control of the Democratic manager.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Thank you very much.

Mr. President, I rise to join my colleagues and I appreciate the eloquence of the Senator from Massachusetts in speaking about the serious challenges that face our country. And I rise today to oppose the legislation in front of us that would raise the debt limit.

This bill will enable this Congress to incur the largest national debt in the history of our country. I remember in 1997 coming to the U.S. House of Representatives. I was in my first term, and I had the opportunity, within 6 months of being elected, to vote on balancing the budget for the first time in 30 years. That was one of my proudest votes as a Member of the House and remains one of my proudest votes as a Member of Congress.

When it comes to fiscal irresponsibility, though, at this time, this administration has broken all records and turned the clock back from that historic moment in 1997 when we balanced the budget for the first time in 30 years. They have rolled back the clock now to a huge fiscal mess with redtape and red ink as far as the eye can see.

Despite inheriting the largest 10-year surplus in the history of our country, this administration turned a $5.6 trillion surplus into a $3.5 trillion deficit. That is a lot of money. This $9.1 trillion turnaround is the largest we have ever seen. It is absolutely historic and extremely disturbing to all of us.

Also, in fiscal year 2004, this administration was responsible for the largest deficit in the history of the country—$413 billion, the largest deficit in the history of the country.

To make matters worse, the President is proposing even more debt over the next 10 years. So we have in front of us an effort to raise the debt ceiling instead of efforts to, in fact, lower the debt. And there are proposals on the horizon that will increase the debt even more. Proposals to make tax breaks for the privileged few permanent will add approximately $1.2 trillion more to the debt.

The administration's Social Security privatization scheme would cost somewhere between $1 trillion and $2 trillion more.

We need to take heed and the administration needs to take heed of the old saying that when you are in a hole, the first thing you need to do to get out of it is to stop digging.

We are in the middle of a war in Afghanistan and in Iraq. We must provide our troops with whatever they need. Unfortunately, every time Congress has considered proposals to pay for these war costs, the leadership and the administration has pulled out all the stops to defeat them, preferring not to budget for the war, still incurring the costs; and we have the resulting deficit, rather than planning and budgeting to make sure our troops have what they need.

Congress now has no budget discipline requirement. There has been a bipartisan proposal pending in Congress, which I support, to enact the pay-as-you-go system of budget discipline. This passed earlier this year as an amendment to the Senate budget resolution. It was dropped then in conference committee and, as a result, this Congress never passed a final budget resolution. Therefore, Congress can go on cutting revenue, having spending increases that are not budgeted, with no discipline whatsoever.

These massive deficits are pushing interest rates higher. This means that American families will have to pay more for mortgage payments and car payments and student loans. Talk about a hidden tax. Every time we see increases in interest rates, we are taking more money out of the pockets of our middle-income taxpayers, working families, those who are trying to have the American dream, to have a home for their families, send kids to college, buy a new automobile, and pay for other costs that involve borrowing. Those interest rates are a direct tax on our families, and particularly hit hard are those in middle America.

If we don't have the fiscal discipline to be able to bring this deficit down and bring this budget back into balance, as we did in 1997, we will continue to see the hidden tax of interest rates hitting our families and our businesses.

Worst of all, fiscal recklessness means that, as adults, our children will be hit with the needed tax increase to pay our bills. In fact, every child born in America today effectively has over a $20,000 bill handed to them to pay for the country's national debt. Our national debt really ought to be called a birth tax on our children and grandchildren.

These large deficits are bad for our economy and they do not represent real American values. American families know they need to pay their bills. We need to pay our bills. We all do. We sit down with our families to figure out how to pay the bills. They cannot pass an increase in their own personal debt limit every time they want to spend more, which is what the Senate is doing today.

Families have to live within a budget. They must make tough choices every month. They often must decide between things such as new school clothes for the children, saving for a college education, or buying the medicine they desperately need for their families. Parents are responsible for their household budgets. They pay mortgages and tuition either by working another job or doing without something. In other words, families must borrow responsibly, live within their means. In other words, they must play by the rules. We should be doing the same.

Unfortunately, the Republican majority does not think the Congress should have to play by the same rules as families. This is dead wrong. I believe it is hypocritical for us to talk about families needing to make tough choices in balancing their budgets if we are not willing to balance our own.

An increasing national debt also violates one of our most important values—that we want our children to be better off than we were. We want to leave them a better country than we inherited. Parents all over America care about this and do this every day. They work hard to pay for their children's college so they can be successful, to build a business so they can pass it on to their children; they build a little nest egg so that when they pass on, their children will get a small inheritance to help raise their own children and be able to have the American dream.

These are true American values. They are our responsibility, playing by the rules, thinking about others other than yourself.

Instead of making life better for our children, we are doing just the opposite by focusing on raising the debt limit rather than paying down the debt. We are leaving them a country that is worse off financially, and we are saddling them with a debt that will have consequences for them throughout their lifetimes. Again, they will have to pay our bills. That is not the way it should be in the greatest country in the world.

Our President talks about an ownership society, where Americans are financially independent and responsible. We need this same principle applied to this administration's fiscal policies.

Unfortunately, what the President's ownership society really means is that our children will own all of the national debt. This is immoral, I believe. I believe it does not reflect our values as Americans. I urge my colleagues to oppose this legislation. You know, it is kind of like a "get out of jail free" card for a fiscally irresponsible situation here, led by our colleagues on the other side of the aisle and this administration.

I believe we need to stay and take whatever time it takes in order to make the tough decisions to deal with the budget and spending priorities. We need to focus on the real values and real priorities of the people we represent, the families who are out there trying to balance their budgets and make ends meet and provide for their families every single day. They are making tough choices. They are making even tougher choices because of the decisions that are made here. I believe that continuing a situation that will only raise interest rates on families and on businesses, which is really a tax, is not what we ought to be doing in the Senate.

I yield the floor.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mrs. CLINTON. Mr. President, last year, I stood with several of my colleagues in the Senate and voiced concerns that the effort to increase the debt limit by nearly $1 trillion was the wrong fiscal course to take this Nation. Indeed, I did not oppose the debt limit increase because of any ideological opposition to doing so. In fact, during my husband's administration, we raised the debt limit permanently on two separate occasions.

But what was different then was that we had a solid plan to balance the budget, and thereby begin paying down our Nation's debt. That plan worked. We had the largest budget surpluses in the history of this Nation and we retired nearly half a trillion dollars of our Nation's debt while creating jobs, growing our economy and lifting millions of Americans out of poverty.

With the current administration's agenda, there is no plan for restraint or moderation, nor is there any solid framework for paying down our Nation's debt. During these next four years, we know we will be making a huge investment for the war in Iraq and Afghanistan and we know that we will continue to make significant and increased investments in homeland security, education and health care. Faced with these growing budgetary pressures, I am amazed that the same passion used to champion and implement this administration's agenda over the last four years has been entirely muted when it comes to fiscal restraint or responsible choices to balance the budget or pay down our national debt.

This certainly wasn't the case during the 90's when, even though we were making solid progress in reducing the deficit and the national debt, we were warned that our national debt would "threaten future generations, threaten the future of our children, threaten our Social Security system and threaten our ability to lead the way in the global economy of the 21st century."

Last year, when I opposed the last debt limit increase, I said that absent any plan from this administration to address the growing deficit and exploding debt, we would be here again. Here we are one year later, about to pass the third increase in 4 years, having permanently increased the debt ceiling by over $2.2 trillion or $8,100 for every man, woman and child in the United States. However nothing from the administration in terms of a plan to reduce the debt or making responsible choices has changed. Indeed, the only thing that has changed since the last debt increase is that our budget deficit has deteriorated by $50 billion.

Given the reckless fiscal course taken over the last several years, and little evidence to indicate a shift from that course, I cannot, in good conscience support another step that passes along the burdens of this generation to the next because of our failure to address these problems today. Raising this debt limit while embracing policies that further exacerbate the deficit is in essence a "children's tax," a burden borne not by this administration or this Congress, but by our sons, our daughters, and our grandchildren.•

Mr. GRASSLEY. Mr. President, I rise in support of S. 2986, a bill to increase the Federal debt limit.

I support this increase because it is necessary to preserve the full faith and credit of the U.S. Government.

Without an increase in the debt limit, our Government will face a choice between breaking the law by exceeding the statutory debt limit, or breaking faith with the public by defaulting on our debt. Neither choice is acceptable.

To understand why we are here today seeking to increase the debt limit, it is necessary to explain a few things about the Federal debt.

Under current law, there is a statutory limit on the amount of debt that can be issued by the Federal Government. This limit which now stands at $7.384 trillion applies to virtually all of the debt issued by the U.S. Government.

There is only one debt limit, but there are two types of debt—debt held by the public and debt held by the various Government trust funds.

The amount of Federal debt held by the public is determined by the Government's annual cash-flow. When total spending exceeds total taxes, the Government has a budget deficit.

To finance this deficit, the Government borrows from the public by selling debt, such as Treasury bills, notes, and bonds.

We will hear a lot of criticism that President Bush's tax cuts are responsible for our rising public debt. But the facts show otherwise.

When President Bush took office in 2001, the Federal debt limit was $5.95 trillion.

The debt limit was increased to $6.4 trillion in 2002 and to $7.384 trillion in 2003.

Assuming we increase the debt limit again today, it will be $8.184 trillion.

Thus, the Federal debt limit will have increased $2.234 trillion since President Bush took office in 2001.

However, the tax cuts that have been enacted since 2001 total less than $700 billion through the end of the most recent fiscal year, and that includes the interest cost as well.

Thus, the President's tax cuts account for less than 30 percent of the increase in the Federal debt limit.

The rest of the increase in public debt is due to the recession, the war in Iraq, and homeland security.

In addition to the debt held by the public, the Federal debt limit also applies to the debt held by various Government trust funds—such as Social Security and Medicare.

Whenever a trust fund program collects more than it spends, the surplus is invested in special issue Treasury securities. These special securities count toward the debt limit.

However, it is important to understand the amount of debt held by the trust funds does not reflect the Government's unfunded obligations.

For example, the Treasury Department reports that the total amount of Federal debt held by all of the trust fund programs is just over $3 trillion.

However, the Social Security and Medicare trustees report that the unfunded obligation of Social Security and Medicare is more than $72 trillion.

Given these facts, it should be obvious to everyone that the Federal debt limit provides a misleading and inaccurate picture of the Government's future liabilities.

Efforts to use the statutory debt limit to control Government debt and deficits cannot succeed because it ignores the long-term budget problem.

Indeed, even Federal Reserve Chairman Alan Greenspan has suggested the debt limit has outlived its usefulness and should be replaced with a more accurate and useful alternative.

I would welcome the opportunity to work with my colleagues to develop such an alternative.

However, pending the outcome of such an effort, I would strongly urge every Senator to support this bill.

Testimony of Chairman Alan Greenspan in the Federal Reserve Board's semiannual monetary policy report to the Congress before the Committee on Banking, Housing, and Urban Affairs, U.S. Senate, February 11, 2003:

> In the Congress's review of the mechanisms governing the budget process, you may want to reconsider whether the statutory limit on the public debt is a useful device. As a matter of arithmetic, the debt ceiling is either redundant or inconsistent with the paths of revenues and outlays you specify when you legislate a budget.

Mrs. FEINSTEIN. Mr. President, I cannot in good conscience support this request to raise the national debt limit to $8.1 trillion. Rather than raising the debt limit by $800 billion, we should be taking concrete steps to lower our budget deficit and reduce our national debt.

If today's increase is adopted, President Bush will have raised the Nation's debt limit by more than $2 trillion. In other words, just 4 years into the job he has raised the debt limit more than any President in U.S. history.

The Federal budget deficit reached a record $422 billion for fiscal year 2004, according to the latest estimate by the Congressional Budget Office.

Over the next 10 years the President's budget will create $2.3 trillion in additional debt for our Nation. This is a stunning turnaround from 4 years ago, when the budget showed: a $127 billion budget surplus, and a projected 10-year surplus of $5.7 trillion.

This is a mind-numbing $8.0 trillion turnaround in just 4 years.

Given these numbers, it is not surprising that the debt limit has been raised twice in the past 2 years—by $450 billion in 2002 and by $984 billion in 2003.

At the same time he is raising the debt limit, President Bush is promising to "cut the deficit in half over the next five years." But his numbers don't add up and he has provided no clear path to achieve this goal.

In contrast, in 1998, following nearly 30 years of deficits and a 17-fold increase in Federal debt from $365.8 billion to $6.4 trillion, we paid off $448 billion of the Nation's publicly held debt.

For the first time in more than a generation, some of the funds which would have gone to pay interest on the debt were instead spent actually paying down the debt.

I see no similar path being offered by President Bush and now deficits and interest costs are growing once again. Net interest payments on the Federal debt will increase sharply, from $159 billion in 2004 to nearly $350 billion by 2014.

Not surprisingly, when this Nation runs a budget deficit, the government must borrow money from other sources to balance its books.

What would surprise many, however, is that we largely borrow this money from foreign countries—like China and South Korea. And the degree to which this administration has borrowed from foreign nations is shocking.

Over the past 4 years, the U.S. has increased its borrowing from Japan to the tune of $700 billion; by $167 billion from China, $130 billion from Great Britain, and $60 billion from South Korea.

When President Bush came to office we owed $1 trillion to foreign countries. We now owe more than $1.8 trillion. We are ceding control of our Nation's destiny for a quick payoff to wealthy taxpayers and this debt limit increase bill simply enables that disturbing behavior.

The Committee for Economic Development, an independent, nonpartisan organization of 250 business and education leaders, estimates that if we stay on our current course, the deficit will rise from 3.5 percent of GDP today to: 6.2 percent of GDP in 2020, and 21.1 percent of GDP in 2040.

Deficit growth of this nature would absolutely crush any hope this Nation has of addressing so many of our pressing problems, like better homeland security, shoring up Social Security, and fully funding No Child Left Behind. Deficits do matter, and unless we face up to them, they could seriously harm our Nation's economy. Here is why first, deficits mean increased spending on interest instead of priorities.

In the short term, deficits can help stimulate the economy or pay for emergency spending. But in the long term, they limit our Nation's ability to fund much needed priorities. This means less money for education, less money for environmental protection, and less money for health care.

Second, deficits lead to interest rate increases. We have been fortunate in recent years: interest rates and inflation have remained low. But as we have seen in the past few months, as the economy picks up, the downward pressure on interest rates are being relieved and the impact of deficits are starting to be felt. This is adding huge expenses to variable home mortgages and auto loans.

An increase of just 1 percent adds $2,000 per year to the cost of a $200,000 home mortgage. This is more than the majority of American taxpayers received from the President's latest tax cut.

Third, deficits prevent us from addressing the looming Social Security and Medicare crises. This is an issue that we can not continue to avoid. The retirement of the baby boomers will place a tremendous strain on our social safety net. In fact, if we do not address the problem, the Medicare trust fund will go broke by the year 2019, and the Social Security trust fund by 2052.

Our Nation was poised to deal with these crises at the end of the Clinton administration.

Not only have we failed to shore up the Social Security and Medicare trust funds, but we are also tapping the Social Security trust fund to pay our bills—to the tune of $164 billion last year alone.

So what do we do? One possibility is to simply continue along our current path and pass our problems on to our children and grandchildren. In fact, the debt limit increase that we are debating today enables the President to borrow from future generations and sends the message that we are unable to muster the political will necessary to pay today's obligations today.

So I strongly believe that the time has come to chart a different course, and make the tough choices that the President and this budget resolution avoid making.

We must adopt a balanced approach to both taxes and spending and return to a program of fiscal sanity.

This is what we did when I first came to the Senate over a decade ago. At that time, a small, bipartisan group of Senators came together to get our fiscal house in order: Democrats worked to bring spending under control; and Republicans pledged not to push for additional tax cuts.

Today, we must come together again to address the deficit and restore our Nation's economic security.

On taxes, I believe that we must move to make our Tax Code more equitable, not make the President's tax cuts permanent. To make the President's cuts permanent at a time when the Nation is running historically high budget deficits represents the height of fiscal irresponsibility.

The Tax Policy Institute estimates the cost of making these tax cuts permanent would cost $1.8 trillion over 10 years—$1.8 trillion at just the time that baby boomers will start retiring and Social Security and Medicare need to be stabilized.

The tragedy of our current circumstance is that, given the surpluses he inherited, President Bush should have the resources available to devote additional spending to healthcare, education, and the environment. But the wrong policies, at the wrong time, combined with the war on terror, escalating the 2001 tax cuts, and then extending many of them, have contributed toward the largest budget deficit and largest national debt in the country's history. And now, the fact of the matter is that we are going to need to tighten our belts and bring spending under control.

I have no problem holding the line on spending, but believe that it must be done in the context of a more responsible approach to tax policy.

Finally, we need to take a good, hard look at Social Security and Medicare, and start addressing some of the deeper structural problems with these programs now—before they fall into crisis.

These are not easy answers. But holding off on additional tax cuts, bringing spending under control, and dealing with Social Security and Medicare is the only path to long term fiscal order, a balanced budget, and a healthy and vibrant economy.

Mr. KENNEDY. Mr. President, the fact that we are being asked to raise the debt ceiling to $8.0 trillion is further proof of the nation's bankrupt economic policy. It will be the third increase in the last 2 years, collectively raising the debt limit by more than $2.2 trillion. There is still no credible plan in place to bring the mushrooming deficits under control.

President Bush's massive tax cuts for the wealthy have helped to turn the record surpluses he inherited into record deficits. The $5 trillion surplus projected 4 years ago has turned into a $3 trillion projected deficit. If we continue to follow the administration's misguided economic course, the federal debt could rise to more than $14 trillion in the next 10 years, and there will be large annual deficits as far as the eye can see.

Over the long term, deficits that large will cripple the ability of the private sector to obtain the capital needed for companies to grow and create new jobs. They will also cripple the federal government's ability to make the needed investments in education, health care, and scientific research which are crucial to the nation's long-term wellbeing.

These projected deficits do not even tell the whole story because they do not focus on borrowing from Social Security. The proposed Bush budget would raid the Social Security Trust Fund for nearly $2.5 trillion over the next 10 years. These are dollars which workers pay each year in payroll taxes to finance their retirement. It is wrong to take that money out of Social Security and use it to finance the daily operations of government. In essence, Social Security is being used to fill a piece of the huge revenue gap left by the administration's excessive and unaffordable tax cuts.

Mortgaging the future in this irresponsible manner has not even brought American families a temporary prosperity. On the contrary, it has increased the financial burden on them. Their jobs are less secure. In fact, 2.5 million manufacturing workers have already seen their jobs disappear over the last 4 years.

The cost of health insurance has soared more than 50 percent; and, as a result, 5 million fewer workers receive health coverage.

Tuition at public colleges has risen by 28 percent, pushing higher education beyond the reach of more and more students.

Workers wages have grown at the slowest rate in more than 2 decades, and minimum wage workers have not had any increase at all in 7 long years.

As a result of the disastrous economic policies of this administration, 4.3 million more Americans are living in poverty, and the household debt of the average family has increased by one-third.

What is the Bush administration's response? How does the President propose to remedy these very serious problems? More tax breaks for the same wealthy people who were the primary beneficiaries of his earlier cuts; transferring a larger share of the tax burden from those who live off their accumulated wealth to those who live from paycheck to paycheck. If the tax proposals in the President's budget are enacted into law, they would add more than $2.0 trillion more in debt over the next 10 years.

American families cannot afford more of the same. The financial squeeze is getting steadily tighter. Working men and women are the ones paying the price for Washington's economic mistakes.

Hopefully, in the new Congress, we will start to seriously address these critical issues with members from both sides of the aisle and the administration working together to get our economic ship of state on a better course before it hits the rocks.

Mr. SARBANES. Mr. President, I am deeply troubled by the pending legislation, which would raise the federal debt limit by $800 billion. The fact that we are considering this legislation illustrates how deeply the policies of this administration have plunged us into deficits and debt, and yet, the President continues to push for more of the same: tax cuts for the wealthiest Americans, which are not paid for and which will continue to run up deficits and debt as far as the eye can see. I am very concerned that if the President continues to pursue this reckless fiscal policy, our Nation's long-term economic strength will be seriously compromised.

Despite the fact that the President signed into law the largest debt limit increase in our country's history only 18 months ago, the Treasury Department has now informed us that it will need to borrow even more to keep the government functioning. The legislation we are considering today would allow federal debt to grow to $8.184 trillion, truly a staggering sum.

When President Bush took office, he promised that his fiscal policies would include "maximum possible debt retirement." At that time, the Congressional Budget Office was projecting that our net debt to the public would decline to $36 billion by 2008, when this President leaves office. Now, instead of achieving "maximum possible debt retirement," the President is asking for historically high debt increases. In fact, the CBO is now projecting that publicly-held debt will rise to $5.6 trillion in 2008—almost 40 percent of our GDP. Gross Federal debt, which includes our commitments to Social Security and Medicare, will be almost $10 trillion by the time this President leaves office.

These figures demonstrate how seriously our economic situation has deteriorated under this administration. Let me just emphasize that point with one further example. When the president took office, he inherited a 10-year surplus estimated at $5.6 trillion. Now, when you factor in some of the costs we know are coming, such as the continuing costs of the war in Iraq and the cost of reforming the alternative minimum tax, plus the cost of some of the President's proposals, such as making his tax cuts permanent and continuing his defense buildup, the projections are for a $3.5 trillion deficit over that same period, a reversal of $9.1 trillion. That is a seismic shift in our position.

Much of this shift is a direct result of the fiscal policies pursued by the President during his first term. For example, consider this year's budget deficit. When President Bush took office, the CBO was projecting a surplus for 2004 of $397 billion. Instead, we have a deficit this year of $413 billion—a shift of $810 billion. More than one-third—37 percent—of this reversal is directly attributable to the tax cuts this President has enacted, tax cuts that primarily benefitted the wealthiest Americans. And the President is seeking to increase our debt burden by permanently extending many of these tax cuts, utterly ignoring the fact that these massive tax cuts for the rich have led to budget deficits so large that they could jeopardize our future economic strength.

In part, my concern for our economic future stems from a change in the United States' international economic position. Two decades ago, the United States was a creditor nation internationally, by about 10 percent of our GDP. Now, because of the deterioration of our position over those intervening two decades, we are a debtor nation, to the tune of about 22 percent percent of our GDP. Our status as a debtor nation has worsened considerably since President Bush took office: between January 2001 and July 2004, foreign holdings of U.S. Treasury debt increased by 79 percent. The large budget deficits that have appeared during the last 4 years have made us inordinately dependent on the influx of capital from abroad in order to sustain ourselves.

What will happen to the United States if foreign buyers of our debt decide to make their investments elsewhere? As the Washington Post explained in an article on October 19, 2004:

> Foreign governments and individuals hold about half of the $3.7 trillion in outstanding U.S. Treasury bonds, for example, and the government has been heavily dependent on continued overseas bond purchases to finance the roughly $1 billion a day it has to borrow to pay its bills. Foreign lending and investment are also needed to finance the country's roughly $50 billion monthly trade deficit, while foreign capital has been a key prop to U.S. stock prices. A turn in overseas attitudes toward the United States could ripple deeply through the economy, depressing the market, raising interest rates and pushing down the value of the dollar.

There are already signs that this is beginning to happen. The Treasury Department reported in October that net monthly capital flow from the rest of the world into the United States fell in August, for the sixth time this year. As reported last week by the Wall Street Journal,

> Since Election Day, the dollar has fallen 1.4 percent to an all-time low against the euro. . . . The catalyst for its most recent decline was President George W. Bush's re-election last Tuesday. Investors perceive his policies as likely to aggravate the steep U.S. budget deficit.

What is more, if it were not for the currency manipulation that many of our Asian trading partners are engaged in, the dollar would be significantly lower than it already is against those currencies as well. If this trend continues, the United States could be in for a period of significant economic contraction.

As I said 18 months ago, during the debate on the last debt limit increase, the United States' international financial position reminds me of Tennessee Williams's Blanche DuBois in "A Streetcar Named Desire," who said: "I have always depended on the kindness of strangers." That is what has happened to the United States in the international economic scene. We have deteriorated into a debtor status so that we are now dependent upon the kindness of strangers. That is not where the world's leading power should find itself.

This dramatic change in our economic situation comes at a time when the United States is facing a demographic tidal wave as the baby boom generation approaches retirement. When President Bush first took office, that retirement was almost a decade away. But time has run out. The first of the baby boomers will begin to retire in 2008, on this President's watch. Unfortunately, rather than prepare for the obligations we know are coming, this President has squandered every opportunity to save for the future.

Moreover, his policy of deficit-financed tax cuts makes us less able to make needed investments today. Every increase in the government's debt means we are siphoning off resources that could be used for other purposes simply to pay the interest on that debt. Net interest payments on our debt are expected to consume more than $1 trillion over the next 5 years. Instead of making investments in education, in health care, in transportation, we are paying billions of dollars in interest costs that would not have existed in the absence of the reckless fiscal policy of the last 4 years.

Not only do these policies jeopardize our current and future economic strength, they place a tremendous burden on our children and grandchildren who will have to pay off this debt. By cutting taxes for the wealthiest, the President is really raising taxes on everyone, including our children and grandchildren, by leaving them with the responsibility for paying off this enormous debt.

It is unfortunate that this Administration has demonstrated such a single-minded focus on cutting taxes, regardless of the very serious change in our economic situation and our country's current and future needs. The fact that the President is calling for still more tax cuts at the same time the Congress is being asked to add $800 billion to the Federal debt ceiling is beyond reckless—it places in jeopardy our future economic strength and the economic security of all Americans.

Mr. LEVIN. Mr. President, I cannot support raising the limit on our national debt to $8.184 trillion without taking other steps to restore fiscal responsibility. The fact that this is the third debt increase in three years highlights the irresponsibility of the fiscal policies of this administration. These policies have taken the nation from two years of record surplus—when we were paying down our debt—to this administration's record deficits and debt. A crippling burden is being passed to our children and grandchildren. and the economic security of our nation is threatened as a result.

The three recent increases in the debt limit reflect an astounding increase of more than $2.2 trillion. And unless we make a significant change in our fiscal policies, the outlook for avoiding future increases doesn't look any brighter. The Congressional Budget Office, CBO, forecasts that our gross Federal debt, which includes debt the Government owes to the public plus funds owed to federal trust funds like Social Security and Medicare, will climb from its 2003 level of $6.8 trillion to $13.3 trillion in 2014. And this shocking estimate doesn't even include the costs of continued military operations in Iraq and Afghanistan that we all know are coming. Nor does it take into account the substantial cost of continuing to provide relief for middle-class families from the alternative minimum tax, which, when applied to them, produces totally unfair results.

The fiscal burden such massive debt puts on us and our children is stupendous. By 2014, each American citizen's share of the debt will be $42,903. Paying off a debt of this size will require either extraordinary tax increases or significant cuts in critical government programs like homeland security and education. Furthermore, we will have to spend an increasing amount of our precious dollars on interest payments. Even under the CBO's conservative estimates, net interest payments on the public debt will rise from $159 billion in 2004 to $348 billion in 2014. Every family who has worked to balance its own budget knows that making interest payments diverts scarce resources from other priorities. Making these interest payments means fewer resources are available for many of our national priorities, including shoring up the Social Security and Medicare trust funds at a time when those programs' costs are about to skyrocket as members of the baby boom generation begin relying on payments from those Funds to support their retirement.

Our rampant borrowing also threatens the economic security of our Nation as we are forced to go deeper into debt to foreign countries. Since January 2001, the share of U.S. Treasury debt held by foreigners has risen to 42 percent from 30 percent, and 90 percent of the new debt has been purchased by foreigners. This large amount of foreign debt leaves our nation vulnerable to the priorities of foreign creditors. For example, if foreign investors ever decide, for economic or political reasons, to stop financing our debt, U.S. and international markets could be thrown into turmoil. This provides other countries with leverage during trade or other negotiations with us.

Our economic security is also threatened by the prospect that a larger debt will lead to higher long-term interest rates. This means it will be more expensive to buy a house, pay for college or pay off credit card debt. This threat is made more serious by the recent increase in indebtedness of American households. Since the beginning of 2001, mortgage debt has increased by 44 percent and now stands at $7 trillion. Home equity loans have jumped by 54 percent and installment debt, including credit card debt, has risen 17 percent. Americans have taken on these new debts largely in an attempt to maintain their living standards in a struggling economy. Since much of this private debt is set at variable rates, any increase in interest rates will have a severe and immediate impact on these families.

So before we raise the debt limit today, we should commit to pursuing more responsible fiscal policies to prevent the need for future increases. We should reinstate pay-as-you-go rules to require that in addition to paying for all spending, we pay for all tax cuts as well. This concept is common sense for most families, who work to live within their means by balancing what goes out with what comes in.

We should also revisit this administration's irresponsible and unfair tax cuts that have driven us so deep into this deficit ditch. It is reckless and irresponsible that the top five percent of households in our country, whose average income is over $250,000 a year, received almost half of these tax cuts. Restoring responsibility and accountability is essential to the economic and fiscal health of our nation. Simply raising the debt limit without taking other steps to restore fiscal responsibility won't lead to that result.

Mr. BAUCUS. Mr. President, I see the Senator from Iowa on the floor. Does he wish to speak now?

Mr. HARKIN. As long as the floor is open, I might as well speak now.

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Iowa.

Mr. HARKIN. Mr. President, I thank my friend from Montana. I will not take a lot of time. I wanted to talk a little bit about the measure in front of us, raising the debt limit yet one more time on the American people.

I liken it really to this right here. I will take it out of my billfold. It is a credit card. You see, what the Republicans have done is they have put America on a credit card. What they are doing is sort of like: spend and pay later, feel good. There was an advertisement once for a credit card company that said you can have it all. That is what the Republicans are telling us: You can have it all. We are going to put America on a credit card society. We can have tax cuts for the wealthy and the most privileged and we will put it on a credit card. We can continue the war in Iraq, brought on by exaggerations and misinformation to the tune of about $6 billion a month now. That is what we are spending in Iraq. I think it will $200 billion by the end of this fiscal year. Put it on a credit card. Put it on the credit card. And, boy, does it feel good. We can have everything. We can have it all. That is what Republicans are telling us. All you have to do is go in debt, put it on the credit card, put it on the country's credit card. We all know what is going to happen. When you are running up the credit card, boy, it feels good.

Who is getting all the advantages of this credit card, though? The wealthiest among us who got all these big tax cuts, and they are now shopping at Neiman Marcus. Check it out. High-end stores, the high-end catalogs are doing very well. People are buying expensive trinkets, expensive watches, yachts, and everything else. They made out.

Guess where it is coming from. It is on your credit card, America. It is on your credit card. And who will be paying? Working families. And now they want us to extend the credit card limit one more time.

You see, they bumped against the limit on the credit card, so now they are saying we have to extend the limit. That is what all this is about. You have to put it in real-life terms. This is a real-life credit card. You know what your limit is, you know what your income is, and you know what happens if you exceed your credit card limit and you cannot pay it. What happens? What happens when you cannot meet the payments? You either declare bankruptcy and go to bankruptcy court, or your creditors come after you. They restructure you. They deny you certain things so that you can start to pay off your credit card debt.

Guess who is now taking our credit card debt. The top countries holding our credit card debt are Japan, China, South Korea, Taiwan, Germany, Hong Kong, Switzerland, OPEC—the oil producing and exporting countries have a lot of our debt—China. I do not mean to castigate China. I happen to like the Chinese people. I think we ought to trade with China, although in a more balanced way. But what happens when they become a big creditor and we are their debtor? What happens to trade deals down the road?

Put yourself and your family in this position. What happens when you are the debtor and you have a creditor? Who tells whom what to do? Does the debtor tell the creditor what to do? Your creditor tells you what you have to do to get out of debt.

So what is going to happen a few years from now when we are having a trade deal with China, when we are trying to hammer it out and the Chinese do not like exactly how we are dealing? What happens when they are keeping the value of their currency artificially low? The debtor tends to pull their punch when dealing with the creditor. And we have been pulling our punches in this situation.

This is not some fancy kind of thing. I have heard some speeches on the floor today about the debt limit. Look, this is family. This is the American family we are talking about, and the Republicans are selling us out to creditors around the world. And now that we have bumped up against the limit on our credit card, they say we are going to raise the limit one more time. We can put more debt on our credit card: $800 billion more. Think of it as another $11,000 for a family of four.

Two things are happening. First is you have to pay interest, right? When you have debt on your credit card, you pay interest on that credit card debt. You pay it every month or you start paying interest on the interest. Guess what. You will have to pay it. That is what is happening to our national debt. We raise the limit on our credit card, and every month we have to pay interest or what it build and build.

How much interest? Every man, woman, and child in America will, by 2009, be paying $1,000 a year in taxes just to pay the interest on the national debt: $4,000 for a family of four, every year, just to pay the interest on the debt. And, Mr. President, that is not one tax that can be cut. You cannot cut that tax. That has to be paid. The interest has to be paid on the debt—$4,000 a year for a family of four.

I have heard a lot of talk around here this year and in previous years—and now I hear the President of the United States talking about it again—about the death tax, otherwise known as the estate tax, which is if you have a big estate, over $1.5 million dollars, before you pass it on, you have to pay taxes on the amount over that sum. They got to calling it this fancy death tax, like you are taxed because you die. You are not taxed because you die, you are taxed because you have large holdings that have built up, a lot of which you have not paid taxes on, that you can pass on to other generations in your family. They call it a death tax.

I think we ought to start talking about the birth tax. That is what is happening on the floor today. Increasing our national debt is putting a birth tax on every child born in America.

Think about it. For a child born in America 5 years hence, during that child's first year of life, his or her share of the interest payment on the publicly held debt will be $1,000. No one is talking about it. We ought to be talking about it because that is what it is—a birth tax on every child born in America. You have to pay $1,000 a year interest on the national debt to pay for the tax cuts.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. Mr. President, I ask unanimous consent for 5 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. That is what it is. It is a birth tax. Every child born has to pay $1,000 in interest on the debt that first year.

Where did the money go? Lots went to the wealthiest in our society who are now shopping at Neiman Marcus and buying fancy cars. Trickle-down economics. All you have to do is give more to the wealthiest in our society, and it will trickle down. Nonsense. What is trickling down is the interest on the debt that our families have to pay. That is all that is trickling down.

Here it is right here on this chart, the debt each American owes, per capita, Federal debt outstanding. This year, $25,398 each American owes on the Federal debt outstanding, and now we are asking one more time to raise the credit card ceiling. One more time we will raise it, putting American families more in hock to the Chinese, the Japanese, the United Kingdom, the Caribbean banking centers, South Korea, Taiwan, Germany, Switzerland, and the oil producing and exporting countries, the top 10 countries holding our national debt.

This is not rocket science. All it is, pure and simple, is giving more to those who already have a lot in our society. It is spending, as I said, on a needless war in Iraq to the tune of $6 billion a month, not counting the tragic loss in American lives and innocent Iraqi lives. Yet, with all of that we do not even have enough money to fund education. We are putting to bed, so to speak, our education appropriations bill. Guess what. In the Omnibus Appropriations bill we will consider on the floor of the Senate this week, funding for Title I spending, for the poorest schools, is $8 billion short of the authorized level. We have had to cut title I spending for the poorest schools, for the kids in the lowest income areas of America today.

So we do not have enough money for kids and education, for poor schools. We don't have enough money to make sure we have a decent health care plan for the poorest in our country and our children. Our middle-class kids graduate from college with debt up to their eyeballs because they can't afford to go to college. Our environment is being ravaged, our transportation system is falling apart—drive down any highway, thank you—yet we are asked to raise the national debt one more time on this credit card so the most privileged in our society can continue their spending spree. It is time to get us off the credit card.

A simple fact, simple truth: Republicans can't be trusted with your money. That is the simple fact. It happens every time. They simply think all you have to do is run up that credit card, give tax cuts to the wealthy, and everybody will be fine.

Someone said earlier today the responsible thing to do was to vote to increase the debt limit. I am sorry. I am sorry. That is not the responsible thing. That is one more irresponsible action.

I wouldn't mind voting to raise the debt limit if it were coupled with a bill that was true tax reform, that made the wealthiest in our society pay their fair share, that provided for good education and health care for our people. Then you could say we had a fair deal. This is not a fair deal. We are raising the debt so the most privileged in our society can have more. We are raising the debt limit so countries like China can have a noose around our neck.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARKIN. I ask for 60 more seconds and I will conclude.

Mr. BAUCUS. I yield the Senator 60 more seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. It is a shame we have come to this. It is time to rip up the credit card. It is time to take the credit card away from the Republican majority here and from the President of the United States. It is time that we have a fair deal for the people of this country and not impose a new birth tax on every child born in America to pay this interest on the national debt. It is unfair. We ought to turn it down and come back with a fair deal for the American people.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Montana.

Mr. BAUCUS. I yield 5 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. I thank my colleague from Montana and my colleague from Iowa. I listened carefully to his comments.

We are here debating the proposition of increasing the debt limit by $800 billion. We have come through a time in the 1990s when we were actually running budget surpluses. We were paying down the debt. Now we are stacking debt on top of debt on top of debt. This is the most reckless fiscal policy I have ever seen. I didn't vote for it. I don't feel responsible for things I didn't vote for.

Let me say that if this Senate passes an increase in the debt limit and does nothing about the underlying fiscal policy that has created it, then this Senate ill serves the American people.

The President says: You know, we have had an economic slowdown, a recession, war, and terrorism. Yes. So have other Presidents. That is all true. But it seems to me it probably would have augured well for this administration, then, to recognize that things have changed and therefore fiscal policy must change. We are spending $5 billion a month every month in Iraq and Afghanistan—$4 billion in Iraq, $1 billion in Afghanistan. We are not paying for one penny of it. It is all being charged.

This administration says we are fighting a war. Yes, we are fighting a war and guess what, this administration doesn't ask anyone to pay for it. They say we want to give big tax cuts mostly to people at the upper income level. What kind of fiscal policy is that?

Part of this increase in the debt limit, I suppose, is to accommodate something that was done last year on the floor of the Senate. It says, you know what we have to do now? We have to reconstruct the country of Iraq. We want the American people to ante up $20 billion to reconstruct the country of Iraq. I offered an amendment. I said: I don't think we ought to do that. Iraq has the second largest oil reserves in the world. I had soldiers tell me they stood in indentations in the sand and got oil on their boots. I think the Iraqi people ought to pump oil and sell it at $45 a barrel. They will have more money than they know what to do with. But this administration believes the American taxpayer should pay for the reconstruction of Iraq and the Senate should raise the debt limit to make this happen. It is just one domino in this line, but it is a hood ornament of failure.

The question is, When will this place and when will this administration come to its senses? I am not saying one side is all right and the other side is all wrong. But I am saying this: This fiscal policy was constructed at the White House at a time when they said we have so much surplus we don't know what to do with it. Let's start giving it back. Some of us stood on the floor of the Senate and said we ought to be a bit conservative. What if something happens we did not anticipate and things change? A war? A terrorist attack? An economic slowdown?

The President says, no, don't worry about that. The future is bright.

So we put in place tax cut after tax cut and we are now choking on red ink and the President doesn't seem to care much at all. He doesn't address it, talk about it, or think about it. I think it's true to the admonition in Bob Woodward's books about the President saying I don't want second guessers around me. Once we decide to do something, that is what we do, and I don't want to talk about it. It seems to me when you have a fiscal policy that created an avalanche of debt for this country, the thing you ought to do—it is like the old southern saying about the law of holes. When you find yourself in a hole, stop digging. Maybe we ought to stop digging. Maybe this administration ought to describe the fiscal policy that stops making this hole deeper. But that is not what this is about today and I regret that.

There is so much to talk about. We are talking about the budget deficits and the accumulated debt. By the way, every penny of the Social Security surplus is being spent.

This administration makes the case that what matters is debt held by the public.

No, no, that is not what matters. It is not just debt held by the public. It is debt held by the public and debt instruments that exist in the Social Security accounts which we are going to have to repay. All of that represents an obligation that this country must meet and it is growing and mushrooming in a way that is dangerous for the future of this country. Everybody knows it except the President, apparently, and those in this Chamber who have decided this President's fiscal plan is moving us in the right direction.

You know the old saying in the western movies: Are you going to believe me or your lying eyes?

The fact is, we understand what is happening here. We see it. Only in this town, where we make an industry out of creating euphemisms, can we have enough sugar to sugarcoat this nonsense. This is awful. This fiscal policy is injuring this country in a very dramatic way. We ought to take a step right now on this debt ceiling limit and decide we are going to tell this administration we demand a change in fiscal policy.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DORGAN. Let me ask for two additional minutes, if the Senator from Montana has it.

Mr. BAUCUS. I yield 2 minutes to the Senator from North Dakota.

Mr. DORGAN. I am happy to yield.

Mr. HARKIN. I thank the Senator from North Dakota for his great statement. He is very perceptive.

One thing I did not mention, but as he alerted the Senate, we are now being told we will not be able to meet our obligations under Social Security if we continue down this path. Therefore, what we need to do is somehow privatize Social Security and put it out on the stock market, like Enron stock, for future beneficiaries.

I ask my friend from North Dakota to address that further. He touched on it. Now we are going into debt further and further and we have huge tax breaks for the wealthy, for the most privileged among us, and we are being told we will not have enough money to pay our obligations under Social Security.

Is that what is happening now, I ask my friend from North Dakota?

Mr. DORGAN. The response to that is this administration is spending every single penny that comes into the Social Security trust fund. They want to fight the war and do all these things and no one has to pay for it. Don't worry. Be happy. Dance down the sidewalk and be oblivious to what is happening.

We have the largest budget deficit in the history of this country and one that, incidentally, all the experts say you cannot grow out of. But we have our colleagues saying, we will just hang around, thumb our suspenders, and grow out of this. I guarantee we will grow out of it, they huff and puff.

Nonsense. And they know it is nonsense.

In addition to the biggest budget deficit in the history of this country, we have the biggest trade deficit in the history of this country, as well. I worry that one of these days the currency traders are going to look at this and say, as an electronic herd, we are moving elsewhere. When they do, the collapse of this dollar will have enormous consequences.

I ask this President to provide some leadership in a fiscal policy that moves us in a constructive direction.

I yield the floor.

Mr. BAUCUS. I appreciate the discussion with the Senator from Iowa and the Senator from North Dakota.

I ask unanimous consent 20 minutes be reserved for the use of Senator BYRD when he is able to come to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. I suggest the absence of a quorum, not charged to the minority side but charged to the majority side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Mr. President, how much time do I have under the order?

The PRESIDING OFFICER. The Senator is entitled to 20 minutes.

Mr. BYRD. I thank the Chair. I will try to do my speech in less than 20; not much, perhaps, but at least less.

Mr. President, as I begin my remarks today, I am reminded of the brutally candid statement by David Stockman, President Reagan's Budget Director in December 1981, when it became clear that the Reagan tax cuts would cause massive deficits in the Federal budget. In response to a reporter's queries, Mr. Stockman quipped that "None of us really understands what is going on with all of these numbers."

I wonder how many of us today understand what is going on with all of these numbers. We certainly do not act as though we do. This administration has plunged the Federal Government deeply into debt, deeply into debt, Mr. President, deeply into debt, which, unless policies change, will mean deficits at historically high levels for the foreseeable future. Former congressional deficit hawks, many of the very same people who for years decried deficit spending, seem perfectly content to go along for the ride.

This week, the Senate is poised to vote to increase the statutory debt limit—it will take place within the hour—for the third time in just 3 years. The $800 billion increase that we consider today follows a record $934 billion increase signed by President Bush in May 2003 and a $450 billion increase signed by President Bush in June 2002. In less than 3 years, under the Bush regime, the debt limit will have soared to the alarming level of $8.2 trillion, with no end in sight to the spending and borrowing.

How long would it take to count a trillion dollars, Mr. President, at the rate of $1 per second? It would take 32,000 years. If you want to know what a trillion dollars sounds like and is, that is it. To count a trillion dollars, at the rate of $1 per second, would take 32,000 years.

Since January 2001, the gross Federal debt has increased $1.2 billion per day. It has increased $50 million every hour of every day. Today, every man, woman, and child in the United States owes $25,206.29 on the debt. In fiscal year 2004, U.S. taxpayers owed $322 billion in interest—in interest? Yes, in interest on the publicly held debt. These are interest payments that do not educate one child, that don't buy one tank, that don't provide health care for one senior citizen. Skyrocketing budget deficits and an ever-increasing, destructive national debt have become not merely facts of life in America today but a way of life for tomorrow and tomorrow and tomorrow, and for the years to come.

Lawmakers may faithfully tout the Bush administration's line that the White House is serious about cutting the Federal deficit, but the American people have yet to see anything that would give them reason to take such claims seriously. Irresponsible spending does not reflect the values of most Americans who must struggle with their own family budget and foot big Federal bills by paying taxes. Oh, how sweet the sound—taxes.

For the last 4 years, we have been operating under Bush budgets. We have been operating under Bush tax cuts. We have been operating under Bush spending bills. The result has been a Bush deficit of $413 billion for the fiscal year 2004.

How much is a billion dollars? We are talking about $413 billion. We are talking about $413 for every minute since Jesus Christ was born. Think of that. We have the largest deficit in U.S. history and an estimated $2.3 trillion in accumulated deficits over the next decade.

The White House will try to blame deficits on the war on terror. There happens to be two wars going on, I remind my colleagues, not just one—one in Afghanistan and the Bush war in Iraq.

Let's look at the whole picture. President Bush reportedly will request an additional $75 billion early next year for the war in Iraq. That is the Bush war. That request follows $203 billion already appropriated for Iraq and Afghanistan, bringing our total commitment to $278 billion for Iraq and Afghanistan. The corporate tax bill that the President signed into law in October will cost $18 billion in the coming 3 years to pay for special interest tax breaks, further increasing budget deficits in the short run.

The White House's own budget office is leaking word that the budget deficit will increase, not decrease, next year when the President submits his budget to the Congress.

The President's Social Security privatization proposal is projected to cost a trillion dollars in the coming decade, and the President's tax and spending proposals will likely add hundreds of billions of dollars more to our Nation's budget deficits. That is to say nothing of our mounting trade deficits that have cost an untold number of American workers their jobs, or the multi-trillion-dollar deficits in the Social Security and Medicare Programs that threaten senior citizens and their retirement and health benefits.

The Bush administration and the Congress have not had the courage to address this mounting debt, and to debate policy changes which might help to bring these deficits under control.

It is hard to believe that only 2 weeks after an intense Presidential election campaign in which both sides, Republican and Democrat, pledged to reduce the size of the deficit, the Senate's first order of business upon returning is to completely ignore those campaign promises and pass this debt limit increase, without a debate, really, about the ways to reduce our Nation's huge deficit.

In his victory speech, George Bush pledged to work with Democrats to unite the country, didn't he? Well, I can think of no better way to demonstrate the commitment behind that pledge than drawing on both parties' avowed aversion to these budget deficits and initiating a constructive, bipartisan effort to move to eliminate them. We know how to do it. We have done it before. We have done it in a bipartisan manner. We have done it successfully, without budget gimmicks, without constitutional amendments. For Heaven's sake, let's don't start down that road of constitutional amendments to balance the budget. We can do it without constitutional amendments, without granting imperious Presidential powers—just using plain common sense.

In 1990, President George Herbert Walker Bush and the 101st Congress negotiated budget enforcement tools and demonstrated the courage to implement them. Every budget guru in Washington, from Federal Reserve Chairman Alan Greenspan to Comptroller General David Walker to former Directors of the Congressional Budget Office, agreed that those tools worked extraordinarily well in bringing our Nation's deficits under control.

Both Republicans and Democrats voted this year to restore pay-as-you-go rules, requiring new mandatory spending and new tax cuts to be offset. Hallelujah. President Bush endorsed those budget enforcement mechanisms in his fiscal year 2004 budget. Hallelujah. But he has now flip-flopped and wants to exclude tax cuts from the requirement that they be paid for.

But here we stand in the midst of renewed pledges by both parties to work together to address our Nation's challenges, and on this issue where so much common ground exists we are unable to muster the political courage to talk about the wolf at our doorstep.

So we will pass this statutory debt increase and then put it out of our minds until we are forced to raise it again. We all should know the folly of this tactic, and as the chickens come home to roost in the years ahead, the American people will surely remind us of it. It is morally reprehensible to deceive the voter by claiming that deficits don't matter.

These destructive debt figures represent a threat—yes, a threat—to the Social Security system—and don't you forget it—a threat to affordable health care for working Americans, a threat to the promise of a college education for our Nation's youth, a threat to the financial underpinnings of our economy, what one editorial in the Washington Post described as "the cold-hearted actuaries of doom."

Economists across the political spectrum are growing increasingly concerned about the effect of these mounting budget deficits on our economy. The U.S. dollar continues to lose value against the Japanese yen, the European Euro, and the Canadian dollar. Investors may soon rather hold the currencies of other nations than our own, and this spells great trouble in boxcar letters, trouble for our country in foreign policy as well as domestic responsibility. Republicans and Democrats increasingly view our Nation as becoming too dependent—too dependent—on foreign investment and with good reason.

According to the Treasury Department, foreign holdings—get that, foreign holdings—foreign holdings comprise half of our Nation's privately held public debt, with much of that debt owed to countries such as China and Korea and entities such as OPEC and the Caribbean banking centers. To these foreign holders, American taxpayers paid $322 billion in interest payments last fiscal year on money borrowed to finance our Government's operations.

Please understand, it is hard to scold China about its human rights policies when we are in debt up to our eyeballs to such foreign entities. With a $413 billion deficit last year, the administration must borrow the equivalent of the entire budget for the Department of Defense, from where? From foreign countries. That means that the Bush administration cannot pay our soldiers in Iraq who are fighting the Bush war, and Afghanistan where a war is going on that I support fully, without having to go hat in hand—hat in hand—to other countries for a loan and handing the U.S. taxpayer a hefty interest premium to boot.

It is great political rhetoric to claim that America does not have to ask the permission of other nations to defend itself or do anything else for that matter, but when we rely so heavily on other nations to help pay our way in the world, our haughty claims of independence are just so much bluff. Unfortunately, the rest of the world knows what we will not admit; that is, we are beholden to foreigners to pay our way.

Make no mistake about it, the threat of budget deficits to our economy is real, and we cannot afford to ignore it any longer.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. BYRD. I thank the Chair. I yield back that time. Perhaps I do not have it to yield back, but I shall not use it. I yield the floor.

Mr. THOMAS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask that all time be yielded back on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask for the vote and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is on the passage of the bill. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. Mr. President, on this vote, I have a live pair with the Senator from New York, Mrs. CLINTON. If she were present and voting, she would vote "nay." If I were permitted to vote, I would vote "yea." I, therefore, withhold my vote.

I announce that the Senator from Vermont (Mr. LEAHY) is necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent attending a funeral.

On this vote, the Senator from Nevada (Mr. REID) is paired with the Senator from New York (Mrs. CLINTON).

If present and voting, the Senator from New York would vote nay and the Senator from Nevada would vote aye. I therefore withhold my vote.

I further announce that, if present and voting the Senator from Delaware (Mr. BIDEN) and the Senator from Vermont (Mr. LEAHY) would each vote no.

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 44, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—52

Alexander
Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—44

Akaka
Baucus
Bayh
Bingaman
Boxer
Byrd
Cantwell
Carper
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Ensign
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

PRESENT AND GIVING A LIVE PAIR—1

Reid

NOT VOTING—3

Biden
Clinton
Leahy

The bill (S. 2986) was passed, as follows:

S. 2986

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. INCREASE IN PUBLIC DEBT LIMIT.**

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking "$7,384,000,000,000" and inserting "$8,184,000,000,000".

Mr. McCONNELL. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. BIDEN. Mr. President, I was not able to participate in today's debate and vote on the extension of the national debt limit. I was attending the funeral of a great civil rights leader in Delaware, Jane E. Mitchell. Had I been here to vote, Mr. President, I would have cast a symbolic vote against an extension of the debt limit. Today's fiscal mess, the transformation of historic surpluses into record deficits, is not an accident. It is the inevitable outcome of policies that consistently ignored evidence and experience.

When we launched out on a course of tax cutting, with expanding domestic and international obligations and responsibilities, many of us in Congress argued that we could not afford to do everything, that we needed a fiscal policy that matched our revenues with our expenditures. Some tax cuts, especially for the middle class, were needed, tax cuts that could have revived job growth and aided economic recovery. Instead, we have a policy that calls for permanent tax cuts that overwhelmingly favor those who are already well off. When twice the administration asked us to appropriate funds for our military actions in Iraq and Afghanistan, I stood here on the Senate floor and said that we should pay for those obligations with smaller tax cuts for our wealthiest taxpayers, and not just pass the bill on to all our children.

We are here today because that advice was ignored, those hard choices were ducked, and the bill for our decisions will be sent to our children and grandchildren, in the form of the additional debt we will authorize today. It did not have to be this way, Mr. President. In the next Congress, the threat of massive deficits, which have made us increasingly dependent of foreign lenders to stay afloat, will still be with us. My symbolic vote against raising the debt limit would have been a protest of the policies that have brought us to this point, and a demand that we change course.●

Mr. McCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MANDATORY COUNTRY OF ORIGIN LABELING

Mr. JOHNSON. Mr. President, I rise today to discuss an issue of importance not only to South Dakota producers and ranchers, but to producers and ranchers all across America.

The issue involves a program that would not only provide positive benefits for our agricultural producers, but ensure consumer choice in the grocery store aisle and on the dinner table.

There are efforts underway, unfortunately, to gut the mandatory country-of-origin labeling law that was incorporated into the 2002 farm bill, a farm bill signed into law by this President, and which should be supported by this administration. I rise today to express concern that the fiscal year 2005 omnibus appropriations measure may contain provisions which would weaken or replace mandatory country-of-origin labeling with a voluntary country-of-origin labeling program.

As you will recall, last year the Senate overwhelmingly supported a resolution that Senator DASCHLE introduced instructing conferees to strike any language which would delay the implementation of a mandatory labeling program. The omnibus conference recessed hastily, and consequently no opportunity existed to debate and vote on that matter. In any event, the fiscal year 2004 agriculture appropriations bill, the vehicle for the fiscal year 2004 omnibus, contained language delaying country-of-origin labeling by 2 years for all covered commodities with the exception of farm fish and wild fish. This language was adopted by only a small margin in the House. I rise today to urge my colleagues in the Senate to convey their support for this measure and the importance of mandatory country-of-origin labeling.

It is no secret that this administration has voiced its support for resumption of trade of live Canadian cattle, and it is only a matter of time before our producers feel the economic impact of this decision. When USDA opens the floodgates, and if our mandatory labeling program is gutted, consumers will have no way of determining where their meat comes from. And I worry that the Canadian border will reopen before we have resumed trade relations with some of our key export markets. That presents a dangerous situation for our producers, and I fail to see why the administration would continue to cheer large agribusiness while the burden of our faltering export markets is borne by the individuals feeding this great Nation.

Country-of-origin labeling retains support from over 80 percent of American consumers, and recently about 95 consumer and producer groups, representing over 50 million Americans, wrote Congress to express their support for a mandatory food labeling program. They also conveyed their opposition to any effort to turn this program into a voluntary program in the 2005 omnibus appropriations measure. Country-of-origin labeling has overwhelming bipartisan support, and the majority of our trading partners have already implemented a country-of-origin system in their respective countries. It is time to quit dragging America's feet and join the remainder of the industrialized nations throughout the world that afford their consumers the right to know the origin of the food they feed their families.

I have worked on mandatory country-of-origin labeling for nearly 12 years. My first labeling bill was introduced in 1992, and as the primary author of the origin labeling language incorporated in our existing farm bill, I join Mr. BURNS and other Senate colleagues in introducing a bill on that issue today. I will persist in working to speed up implementation of this program with my colleagues. It is important that this Senate continue its bipartisan support for implementation of this commonsense law.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

## HONORING OUR ARMED FORCES

### LANCE CORPORAL SHANE E. KIELION

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Shane Kielion of Omaha, NE, a lance corporal in the U.S. Marine Corps. Lance Corporal Kielion was killed while supporting Operation Iraqi Freedom on November 15, 2004, in Iraq's Al Anbar Province. He was 23 years old.

Lance Corporal Kielion attended Omaha South High School where he was a leader both on the football field and in the classroom. After graduating in 1999, he briefly attended Peru State College on a football scholarship before joining the U.S. Marine Corps. He was assigned 3rd Battalion, 5th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Marine Corps Base Camp Pendleton, CA. Lance Corporal Kielion will be remembered as a loyal marine who had a strong sense of duty, honor, and love of country. Thousands of brave Americans like Lance Corporal Kielion are currently serving in Iraq.

Lance Corporal Kielion is survived by his parents, Patricia and Roger Kielion; his wife, April, and their newborn son. Our thoughts and prayers are with them at this difficult time. The United States of America is proud of Shane Kielion's service and mourns his loss.

For his service, bravery and sacrifice, I ask my colleagues to join me and all Americans in honoring LCpl Shane Kielion.

### LCPL KYLE BURNS, USMC

Mr. THOMAS. Mr. President, I rise today to express our Nation's deepest thanks and gratitude to a special young man and his family. During this past recess, I received word that on November 11, 2004, Veteran's Day, Marine LCpl Kyle Burns of Laramie, WY, died in the line of duty while serving his country in the war on terrorism. Lance Corporal Burns was killed while fighting insurgents in the battle for Fallujah, Iraq, west of Baghdad. It was his second tour of duty in Iraq.

Lance Corporal Burns was a member of 1st Light Armored Reconnaissance Battalion, 1st Marine Division, 1st Marine Expeditionary Force. He joined the Marine Corps after graduating from Laramie High School in 2002. He held a profound sense of duty and knew he was doing the right thing. He was very proud of being a Marine. He loved the outdoors and enjoyed hiking, hunting, and fishing. He was a sports fan, and he played baseball and ran track, but he particularly liked hockey—a sport he played for 12 years. Kyle Burns had a love and lust for life and made every opportunity to live it to the best of his ability.

It is because of people such as Kyle Burns that we continue to live safe and free. America's men and women who answer the call of service and wear our Nation's uniform deserve respect and recognition for the enormous burden that they willingly bear. Our people put everything on the line everyday, and because of these folks, our Nation remains free and strong in the face of danger.

The motto of the Marine Corps is "Semper Fidelis." It means "Always Faithful." Through his selfless and courageous sacrifice, LCpl Kyle Burns lived up to these words with great honor.

Lance Corporal Burns is survived by his mother Jo, his father Bob, his brother Kris, and his brothers of the United States Marine Corps. We say goodbye to a son, a brother, a Marine, and an American. Our Nation pays its deepest respect to LCpl Kyle Burns for his courage, his love of country, and his sacrifice so that we may remain free. He was a hero in life, and he remains a hero in death. All of Wyoming and, indeed, the entire Nation are proud of him.

So, one Marine to another, Lance Corporal Burns, Semper Fi.

### CORPORAL LANCE M. THOMPSON

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Kokomo, IN. Corporal Lance M. Thompson, 21 years old, died on November 15. Lance was killed by an improvised explosive devise while conducting combat operations in the Al-Anbar Province of Iraq. With his entire life before him, Lance risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A 2001 graduate of Eastbrook High School, Lance followed in his brother Phillip's footsteps by joining the Marines. His father, Gregory, told the Kokomo Tribune that his son had been a committed member of the Armed Forces and believed in what the Marines were doing in Iraq. Reflecting on Lance's life, his half-brother, Matt, told the Marion Chronicle-Tribune that his "motto" had been "gung-ho." This selfless dedication carried Lance through his first tour of duty in Iraq and led him back again for a second tour, which began in September of this year.

Lance was the 38th Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. He was assigned to the Weapons Company, 2nd Battalion, 5th Marine, 2–Battalion Combat Team, 1st Marine Division, Camp Pendleton, CA. This brave young soldier leaves behind his wife, Dawn; his father, Gregory; his mother, Melanie; his brother, Phillip; and his half-brother, Matt.

Today, I join Lance's family, his friends and the entire Kokomo community in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Lance, a memory that will burn brightly during these continuing days of conflict and grief.

Lance was known for his dedication to family and his love of country. According to friends and loved ones, he also enjoyed spending time outdoors, being with children and animals, and was always making jokes. Today and always. Raymond will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Lance's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Lance's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Lance M. Thompson in the official RECORD of the United States Senate for his service to this country and for his profound commitment to freedom, democracy, and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Lance's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Lance.

### SERGEANT RUSSELL L. COLLIER

Mrs. LINCOLN. Mr. President, today I rise to celebrate the life of an authentic American hero who fought to defend his Nation. Tragically, Sgt. Russell L. Collier of Harrison, AR, died October 3, 2004, in Taj, Iraq, while trying to rescue a fellow soldier also serving in Operation Iraqi Freedom. He was a member of 1st Battalion, 206th Field Artillery Regiment, Arkansas National Guard, from Russellville, AR.

Sgt. Collier exhibited tremendous courage and strength in the face of great peril. When his unit came under enemy fire while detaining insurgents suspected of building improvised rocket launchers for use against U.S. forces, his friend and fellow soldier, Sgt. Chris Potts of Tiverton, RI, was shot. Sgt. Collier, who as the unit medic was known as "Doc," gave up his rifle to run to Sgt. Potts' aid. Both men died trying to save their fellow soldiers. Indeed, Sgt. Collier risked his life to save another, and, in the end, lost his own life.

The Crossett native was embraced by Sgt. Potts' 103rd Field Artillery of the Rhode Island National Guard, which has fought alongside Sgt. Collier's own regiment. While speaking about the fallen hero, fellow medic Spc. Tommy Rich said, "He took care of the Rhodys. He was a Rhody. They wouldn't give him up, and he wouldn't leave them. They've been a team from the beginning. He loved his guys." Sgt. Collier's attempt to rescue a fellow soldier illustrates his strong commitment to his unit and his truly selfless nature.

Sgt. Collier loved the military, said his sister, Carolyn Pfaus. His long military career began in 1975 when he enlisted in the U.S. Army after graduating from Wuerzburg High School in Germany. In 1978, he joined the U.S. Navy and then the Arkansas Army National Guard in 1999. His wife, Rocky, said, "The military was his whole life."

Yet to Sgt. Collier, who also worked full-time at night at Tyson Foods in Green Forest, the most important aspect of his life was his family. He had sent his 9-year-old son, Hunter, an Army action figure for his birthday last July from Iraq.

Sgt. Collier is survived by his wife, Rocky, and their son, Hunter, both of Harrison; two adult children, Mary Virginia and Wayne, who both live in North Carolina; and sister, Carolyn Pfaus, of Conway. His family and friends will remember a man dedicated to his family and the military, and we will remember a man who died a hero. Our prayers and gratitude go out to his family for the great service that Sgt. Collier rendered to our Nation.

### SERGEANT THOMAS C. ROSENBAUM

Mr. President, I am honored to rise today in tribute to the life of Sergeant Thomas Chad Rosenbaum. Above all, Sgt. Rosenbaum was a beloved son, brother, friend and father. He was also one of the brave souls valiantly serving our Nation in Operation Iraqi Freedom. Tragically, he was killed on September 18, 2004, when his convoy came under attack while moving through Baghdad.

Sgt. Rosenbaum was born in the small town of Prescott, AR, and grew up in nearby Hope. He spent his youth, as many children do, participating in athletics and various extracurricular activities, playing pranks with his friends and collecting small turtles from the banks of nearby rivers with his parents and his brother. Today, he is remembered by his family and loved ones as an outgoing, fun-loving, and fearless young man who loved God, his family and his country. This love of country motivated him to enlist in the U.S. Army during his senior year of high school. He was assigned to the 1st Cavalry Division out of Fort Hood, Texas, and was deployed to Iraq in March.

In Iraq, Sgt. Rosenbaum served as a chemical specialist who also helped train Iraqi security forces in the use of firearms. Although he was originally scheduled to depart Iraq in May, his duty was extended until December. Weeks before his death, Sgt. Rosenbaum had the opportunity to return home on leave for 15 days to spend with his friends and family. Most of this time was spent with the person he called "the love of his life," his 4 year-old son, Ty. Father and son would return to those same Caddo River banks he had known as a child and together they searched for small turtles. Today, Ty still has one of those turtles, whom he has named "Milkshake," and whom he has kept as a reminder of the time spent with his father.

The loss of Thomas Rosenbaum is a tragic and sobering reminder of the terrible human sacrifice that war brings, and I am eternally grateful for his service to our Nation. Although he may no longer be with us, his spirit and his legacy lives on in each of us through the examples he set and the many lives he touched. My thoughts and prayers are with his son, Ty, his parents, Jackie and Donna, and the rest of his family, friends, and loved ones.

### SERGEANT RONALD W. BAKER

Mr. President, I rise today with a heavy heart to pay tribute to the life of Sergeant Ronald W. Baker and to honor his sacrifice on behalf of a grateful Nation. Sgt. Baker was a loving man who cared deeply for his family and his friends. He was also a native Arkansan who cared deeply for his state and his country. Today, he is remembered as a devoted husband, father, brother, son, and friend. He is also remembered as a brave soldier who died a hero.

Sgt. Baker was born in the small Arkansas town of Searcy and later moved with his family to nearby Cabot. Wherever he went, Sgt. Baker quickly made friends and those who knew him best often talked of how his personality always seemed to draw others to him. His strong sense of family and community is what contributed to his decision to enlist in the Arkansas Army National Guard a month after the tragic events of September 11, 2001. He served as a member of the Guard's 39th Support Battalion based out of Lonoke and was later called up to serve as a specialist in Operation Iraqi Freedom. Along with many of his comrades in the 39th, he was stationed at Camp Taji, about 16 miles northwest of downtown Baghdad.

On October 7, Sgt. Baker volunteered for a supply mission that would convoy from Camp Taji to another camp nearby. While en route, a roadside bomb concealed in a parked car exploded as the convoy rode by with Sgt. Baker in the gunner's turret of a humvee. As a result of the blast, he sustained serious injuries and was immediately flown to Landstuhl Army Medical Center in Germany. Sgt. Baker's wife, Joanne, and his father, Anthony, were quickly flown in from Arkansas so they could be there to share in his last few moments. Although Sgt. Baker was never baptized, he had previously told his wife that he wanted to leave the world as a Christian. Before he passed away on October 13, Joanne would watch as an Air National Guard Chaplain baptized her husband and, in her words, permitted him to pass into a better place.

The day of his funeral was proclaimed as "Sergeant Ronald Baker Day" in his hometown. Those en route to his memorial ceremony at the Arkansas Veterans' Cemetery in North Little Rock drove under an arch made of ladders over the highway that hung a large American flag. It was a touching and fitting tribute, created by the Sherwood Fire Department, to honor one of Arkansas' fallen who paid the ultimate sacrifice in order to make those around him safer.

Along with a grateful Nation, my thoughts and prayers go out to Joanne; their 7-year-old daughter, Alexis; Anthony and his mother Carolyn; his brother and sister; and to the rest of his family, friends and loved ones. Although Ronald Baker may no longer be with us, the lasting relationships he formed and the principles he fought for live on in all of us.

### AIRMAN JESSE M. SAMEK

Mr. President, today, I am honored to rise in tribute to the life of Jesse M. Samek and am humbled to pay tribute to his service to our Nation.

Friends and family would remember Airman Samek for living a life of fun and happiness. While growing up in Missouri and Arkansas, he spent much of his time, as most children do, hanging out with his friends and playing sports. He also had a great love of the outdoors and enjoyed camping, hiking, hunting, fishing and snow- and waterskiing with friends and family. He would go on to graduate from Rogers High School in 2001 and attended the University of Arkansas.

It was clear to those who knew Airman Samek that he would succeed regardless of whatever path in life he chose to follow. He decided that path would ultimately be service to his country and he joined the United States Air Force in February of 2003. He was assigned to the 66th Rescue Squadron at Nellis Air Force Base, just outside of Las Vegas, and was deployed to Afghanistan in September.

While serving in Operation Enduring Freedom, Airman Samek never lost his perspective on life and was proud to do his part to bring security and freedom to a Nation that had seen nothing but war and instability. His family later said that he worked for months to become a member of an elite group that qualified him for rescue duty as a flight engineer on an HH–60 Para Rescue helicopter. Tragically, he died on October 21 from injuries he received when his helicopter crashed during a medical evacuation mission in northwestern Afghanistan. The aircraft was carrying a wounded Afghan election worker who was being transported for medical treatment and Airman Samek was treating him when the aircraft went down.

David Dezarov would make the final trip home with his friend's body. "The hardest thing I've ever had to do was spend the last four days with him and not saying a word." On that flight from Atlanta to Tulsa, the pilot of the plane circled above Rogers for 10 minutes in tribute to that community's fallen hero. During the burial ceremony at Bella Vista Memorial Cemetery, Airman Samek's fellow Airmen would pay their last respects by flying over his casket in the same type of helicopter he once flew so proudly.

My thoughts and prayers are with his parents, Gavin and Julie; his brother, Benjamin; his grandparents, David and Jenny Burkemper; and the rest of his family and friends. Although he is no longer with us, may we find solace in the many lives he touched and the sacrifice he made on behalf of a grateful Nation. In the words of his mother, Jesse Samek was a hero; not for what he did, but for who he was.

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## TRIBUTE TO THE SOLDIERS OF THE 66TH INFANTRY DIVISION

Mr. BOND. Mr. President, today I join with my constituents in recognizing the brave men of the 66th Infantry Division.

Sixty years ago on November 15, 1944, the soldiers left from New York Harbor on the USAT *George Washington* without knowledge of their destination. It turned out the USAT *George Washington* brought the soldiers to England, where they were stationed at Southampton Harbor until Christmas Eve 1944.

On Dec. 16, 1944, the Nazis launched a desperate offensive in Belgium intended to split the Allied Forces. The fierce struggle became known as "The Battle of the Bulge." As part of the allied response to this threat, on Christmas Eve 1944 over 2,000 American soldiers of the 66th Infantry Division stationed in England were rushed to Southampton, where they boarded the troopship SS *Leopoldville*. The troops were then transported across the English Channel, but just 5½ miles from their destination, Cherbourg, France, the vessel was torpedoed by the German submarine U–486.

Some of the soldiers were killed instantly, some went down with the ship, some safely jumped from the ship's rail to the rescue craft that pulled alongside, while others missed the jump, plunged into the waves and were crushed as the two vessels came together. Some drowned, some froze to death in the frigid 48-degree waters of the English Channel. In all, there were 763 American soldiers confirmed dead, representing sons, husbands, and fathers from 47 of then 48 States. There were three sets of brothers killed, including two sets of twins. The bodies of both sets of twins were among the 493 never found. Although over 1,400 soldiers survived, more than 500 were hospitalized with injuries or pneumonia. Missouri had 31 brave men who lost their lives that night. The *Leopoldville* disaster was the worst tragedy to eve befall an American Infantry Division as a result of an enemy submarine attack.

It is my ultimate honor to recognize the heroism of the survivors and the sacrifice of the dead. In the words of Eleanor Roosevelt, "They are not dead who live in lives they leave behind. In those whom they have blessed they have life again." It is my hope that future generations of Americans remember the sacrifices and costs in human life made to preserve our liberties, and to instill in them an understanding of what it means to be an American.

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## TRIBUTE TO MAJOR GENERAL JAMES L. MURRAY

Mr. SESSIONS. Mr. President, I rise today in memory of Major General James L. Murray, U.S. Air Force (Ret.), and Aerospace Executive. Major General Murray was recently interred at Arlington National Cemetery. He served his country with honor and integrity, and should also be recognized for the numerous accomplishments of his half century career.

Although I was saddened to learn of Major General Murray's death, I am proud to have personally known him. This man was a great American, a man who loved his country, and a man who always put his country first. During his USAF career he logged over 5,500 hours as a pilot in over 60 different types of aircraft. He then went on to participate in the development of the thermal de-icing system, led the design and development of the ejection seat escape system, and managed the development of the B–52. Major General Murray was very dedicated to serving his country, and he clearly demonstrated this dedication while in the Air Force. Upon retirement he was awarded the Distinguished Service Medal, the highest honor the military conveys in peacetime.

Major General Murray continued to work toward strengthening our Nation after he retired. He led the way at Douglas Aircraft to develop the C–5 aircraft, which was a huge triumph of the time and it remains today a key part of our military's airlift capability. Major General Murray also demonstrated his extraordinary abilities while he was President and Chairman of Teledyne CAE, formerly Continental Aviation and Engineering. It was here that he led the work to produce the cruise missile engines for the U.S. military. The value of these incredibly capable precision weapons has been witnessed several times over the years, specifically in the first Gulf War.

Major General Murray and his wife, Phyllis Jennings Murray, made beautiful Point Clear, AL, on the eastern shore of Mobile Bay, their home in 1985. She survives him together with their seven children, nine grandchildren, and one great-grandchild. His family can know that they have been beneficiaries of a remarkable legacy.

Major General Murray led an extraordinarily productive life. All his powers and gifts, in the Air Force and in business, were given to strengthening the country he loved. There can be no doubt his life's work has made a tremendous contribution to a stronger America.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On September 2, 1998, in New York City, three men assaulted two men they believed to be gay.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## COPYRIGHT ROYALTY AND DISTRIBUTION REFORM ACT, H.R. 1417

Mr. LEAHY. I am pleased that in the waning days of the 108th Congress we can send H.R. 1417, the Copyright Royalty and Distribution Reform Act of 2004, to the White House for the President's signature. I wish to thank Senator HATCH, as his chairmanship of the Judiciary Committee comes to a close, for the important work we have done over the years to strengthen our Nation's intellectual property laws. When two Senators from different parties can collaborate as productively as we have on these issues, the legislative process is working the way it should.

This bill has been a massive, bicameral undertaking. Many of the provisions were technically complex, and extensive negotiations were necessary in order to iron out some of the more difficult provisions. In all of these details, recognition is owed to our colleagues in the House for ensuring that obstacles to this bill's passage did not become roadblocks. Chairman SENSENBRENNER, in particular, played a crucial role in the development of this bill and in helping to pilot it through the other Chamber. Likewise, I wish to express my gratitude for the time, energy, and thoughtful contributions of Congressman CONYERS, Congressman SMITH, and Congressman BERMAN, without whom the result we have achieved today would simply not have been possible.

The Copyright Royalty and Distribution Reform Act will modernize and improve the process by which certain royalty rates, such as those for small webcasters, are determined.

As early as 2002, I noted in a Judiciary Committee hearing that there was widespread dissatisfaction with the current CARP procedures. Among some of the complaints, the Committee heard that many small webcasters could not afford to take part in CARP proceedings, despite their livelihoods hinging on the outcome. We also heard of many of the structural problems that plagued the process. In addition, I have been concerned that the current procedures are often hindered by unreasonable delays, and the outcomes subject to manipulation.

The Copyright Royalty and Distribution Reform Act responds to these concerns. It replaces arbitrators with full-time administrative judges, alleviating the massive financial burden of taking part in a CARP proceeding, and providing the process with continuity and stability. This bill also resolves long-standing disputes over the availability of discovery. Because discovery is available where it is needed, the Copyright Royalty Judges will have the information necessary to render a correct determination, but the costs of discovery will be kept to a minimum. Finally, this bill preserves the traditional role of the Register of Copyrights.

Again, I wish to thank my colleagues in the Senate and in the House for their hard work in guiding into law this important, complex piece of legislation. We work best when we work together, and I hope that in the final product of the CARP bill we will see reason to develop legislation across party lines, and between chambers, in the next Congress.

## HONORING THE CAREER OF JERRY KLECZKA

Mr. FEINGOLD. Mr. President, today I would like to honor and thank U.S. Representative JERRY KLECZKA for his outstanding service to the people of Milwaukee as he retires from Congress.

For nearly 20 years, JERRY has served tirelessly representing Wisconsin's 4th district. The native of Milwaukee's south side got an early start in Wisconsin politics. He was elected to the State legislature in 1969 when he was just 24 years old. He served in the State assembly for 5 years before moving to the State senate in 1975. During his time there, JERRY served with distinction as chairman of the powerful Joint Finance Committee and as assistant majority leader.

In 1984, JERRY was elected to the U.S. House of Representatives where he would go on to serve 10 terms. During his tenure, JERRY successfully passed legislation banning "drive-thru" baby deliveries and worked hard to protect seniors living in public housing from physical harm. Thanks to his hard work, Milwaukee became the first city in the Nation to provide elderly-only public housing. JERRY leaves the House as a member of the influential Committee on Ways and Means, where he fought for Social Security and affordable health care.

JERRY has embodied Wisconsin's progressive tradition during his 35 years of public service. The son of a factory worker, JERRY always stayed true to the hardworking Wisconsin families who counted on him to fight for them in Congress. He developed a trusting and open relationship with his Milwaukee constituency and is widely known for his superior constituent services. JERRY's unquestionable dedication and hard work will be truly missed. Not only am I thankful for the time we have served together in the U.S. Congress, but I am grateful for our friendship that goes back to our days spent together in the Wisconsin Legislature. Wisconsin will forever appreciate JERRY's 35 years of public service. I wish him the best of luck in all of his future pursuits.

## VETERANS DAY 2004

Mr. FEINGOLD. Mr. President, last week, on November 11, the Nation paused to honor those brave Americans who have so selflessly served our country in the Armed forces. For more than 200 years, men and women have proudly worn the uniform of the United States. In peacetime and in wartime, these men and women have served and sacrificed on our behalf, often far away from their homes and from their families. Too many of them have made the ultimate sacrifice. We owe them—and their families—our deepest, heartfelt gratitude.

As we marked Veterans Day here in the United States with appropriate ceremonies and recognitions, men and women from Wisconsin and across our country were serving on our behalf in Iraq, Afghanistan, and elsewhere. Their dedication to this great country—like that of those who served before them—should inspire us all.

We owe these brave men and women our gratitude, and we also owe them our best efforts to ensure that they know about and receive the Federal benefits and services that they have earned through their service to our country. I have long been concerned that to many veterans and military personnel are unaware of benefits and programs that are available to them through the Departments of Veterans Affairs and Defense and a number of other Federal agencies. I will continue my work to ensure that all veterans know about the benefits for which they may be eligible. I will also continue to support efforts to fully fund VA health care programs so that all veterans who wish to take advantage of their health care benefits are able to do so. No veterans should have to wait months to see a doctor or should be told that he or she is barred from enrolling in the VA health care system because of a lack of funding.

In addition, I am committed to ensuring that our current military personnel receive adequate health care and transition services, including mental health services, as they return from deployments and when they return to civilian life. I am pleased that the recently enacted defense authorization bill for fiscal year 2005 includes a provision that I authored which represents a first step toward enhancing and strengthening transition services that are provided to our military personnel. My provision requires the Government Accountability Office to undertake a comprehensive analysis of existing transition services for our military personnel that are administered by the Departments of Defense, Veterans Affairs, and Labor and to make recommendations to Congress on how these programs can be improved. This study will focus on two issues: how to achieve the uniform provision of appropriate transition services to all military personnel, and the role of post-deployment and pre-discharge health assessments as part of the larger transition program.

I have heard from a number of Wisconsinites and members of military and veterans service organizations that our men and women in uniform do not all have access to the same transition counseling and medical services as they are demobilizing from service in Iraq, Afghanistan, and elsewhere. I have long been concerned about reports of uneven provision of services from base to base and from service to service. All of our men and women in uniform have pledged to serve our country, and all of them, at the very least, deserve to have access to the same services in return. This GAO study will help us to have a better picture of the services that are being provided and what needs to be done to improve these important programs, and I look forward to reviewing it.

We should honor America's brave veterans and their families not only on Veterans Day, but throughout the year. As we reflect upon the meaning of this day, let us keep all of our veterans and their families in our thoughts. These men and women are examples of the best that our country has to offer, and they deserve our support both during times of conflict and after the battles have ended and our troops have come home.

## JIM MARKS

Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to Jim Marks for his many years of dedicated public service at the Centers for Disease Control and Prevention as he prepares to take up an eminent new position as senior vice president and director of the Public Health Group and the Robert Wood Johnson Foundation.

Dr. Marks is a pediatrician and former Assistant Surgeon General who began his career more than 20 years ago at the CDC. He has worked effectively in the areas of birth defects prevention, reproductive health, nutrition, and health promotion and education, and rose through the ranks at CDC to a position of renown as one of America's leading experts on disease prevention. He was named director of the National Center for Chronic Disease Prevention and Health Promotion in 1995, and this year he became the acting director of the CDC's Coordinating Center for Health Information and Service.

Dr. Marks has significantly improved public health through his leadership on critical health issues facing the Nation. He was instrumental in achieving the most impressive recent accomplishment in tobacco control and prevention: The decline in adolescent smoking after nearly a decade of rising rates of smoking in the 1990s. Under Dr. Marks' direction, CDC increased its commitment to reduce and prevent smoking, and transformed a piecemeal State-by-State approach into a true national effort. CDC developed standards for best practices and created the National Tobacco Control Program, which provides funds and technical support to State health departments. Under his leadership, 4 Surgeon General reports were released that highlight the full scope of tobacco-related deaths and disease. As a result of these efforts, cigarette sales dropped and States achieved a reduction in tobacco-related deaths from both lung cancer and heart disease. The CDC also now works closely with the World Health Organization to conduct the Global Youth Tobacco Survey, which is active in more than 160 countries and will be invaluable in developing the first international public health treaty.

On cancer, Dr. Marks has helped spearhead efforts to prevent cancer and promote early detection. Under his direction and with the support of Congress, the Division of Cancer Prevention and Control has grown from approximately $123 million to over $313 million.

Several specific accomplishments under Dr. Marks' leadership are worth mentioning. The National Breast and Cervical Cancer Early Detection Program has helped uninsured and underinsured women obtain lifesaving screening and diagnostic testing for early detection. The program has achieved nearly 5 million screenings, and diagnosed 17,000 breast cancers, 61,000 precancerous cervical lesions, and 1,100 cervical cancers.

The National Program of Cancer Registries has been expanded to cover 96 percent of the Nation's population. The information gathered by the program is important for tracing cancer patterns and monitoring cancer trends. It guided State planning and State evaluation of cancer control programs and helps States to set priorities. It is also useful in planning clinical research and research on health and on epidemics. The data contributed as well to producing the official Federal report, "U.S. Cancer Statistics: 2000 Incidence."

The National Comprehensive Cancer Control Program was developed and has been expanded to 61 programs in States, territories and tribes, enabling local health agencies to establish broad-based cancer control coalitions.

Last year, under Dr. Marks, the plan called "A National Action Plan for Cancer Survivorship: Advancing Public Health Strategies" was developed in collaboration with the Lance Armstrong Foundation and national experts in cancer survivorship and public health. The Action Plan charts a course to enable the public health community to focus more effectively on cancer survivorship and on improving the quality of life for survivors.

In addition, Dr. Marks has emphasized science-based nutrition and physical activity as part of a greater effort to deal with the current epidemic of obesity in our Nation. He enthusiastically embraced the idea of a unique CDC partnership with the world of commercial youth marketing, which led to the so-called VERB Campaign, to move American youth off the couch and into healthy activities. The VERB campaign is a "for kids/by kids" voice to reach youth between the ages of 9 and 13 with "cool" messages to discover the fun of being physically active—and do it "anywhere, anytime, and any way." As a result, after 1 year, 74 percent of this youth now recognize and like the VERB brand.

Dr. Marks has been an outstanding leader on the major public health issues of our time. His pioneering work has improved the health of communities across the Nation and improved the quality of life for countless families and children. His strong commitment and wise counsel have educated all of us in Congress. I wish him well, and I look forward to his continuing leadership with the Robert Wood Johnson Foundation.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

## THE DEATH OF JANE E. MITCHELL

● Mr. BIDEN. Mr. President, I wish to honor the life of a truly great woman.

Jane E. Mitchell. She passed away on Saturday. November 13, after 83 years of standing up for the rights of others. Her impact on the State of Delaware is profound, and her spirit everlasting.

Many in Delaware know Jane Mitchell as the wife of Littleton "Lit" Mitchell, Delaware's first African-American lawyer and a remarkable force in the civil rights movement. With all of his astounding accomplishments, though, Lit never made a decision without talking it over with Jane. She may not have had his public profile, but she certainly knew the intricacies of the issues and just how much was at stake.

Far beyond her role as the wife of an influential man, Jane Mitchell was an extraordinary person in her own right. Her life is a story of achievement—each one greater than the last. In her nursing career, Jane began making history by being the first African-American at Delaware State Hospital to treat both black and white patients. Her career led her to become the first African-American nursing director in the State, and she was eventually the president of the State Board of Nursing and vice-president of the Delaware Nurses Association before her retirement.

After retiring, Jane Mitchell devoted her life to volunteering. Her causes were numerous, and she was passionately committed to each. She continued her work in medicine and civil rights, and became a powerful voice in the fight to improve the treatment of the mentally ill. In 1998, a building was erected in her name at the Delaware Psychiatric Center.

Jane E. Mitchell has been described as a pioneer, a trailblazer and a heroine. She devoted her life to promoting the welfare of others. Whether it was in her role as nurse, advocate, volunteer or wife and mother, Jane never wavered in her enthusiasm for doing good and making a difference. I am saddened by her passing, yet she continues to inspire me. Jane Mitchell's legacy is great, and I am honored to recognize her today.•

## ADDITIONAL STATEMENTS

## JENNIFER STEENSEN FIELD OF DREAMS THERAPEUTIC RIDING PROGRAM

• Mr. HARKIN. Mr. President, I ask the U.S. Senate to join me in saluting the Jennifer Steensen Field of Dreams Therapeutic Riding Program of Granger, IO. This outstanding program provides therapeutic riding and driving programs for individuals with physical and mental disabilities and children in at-risk situations.

The program has provided over 2000 hours of horseback riding lessons to clients aged two to 80 with disabilities that include cerebral palsy, intellectual disabilities, spinal bifida, blindness, ADHD, learning disabilities and brain injury. On average, 80 individuals participate in this program every year.

I would like to pay tribute to the dedicated volunteers who make this program successful. One such individual is Lisa Quam, who volunteers once a week at the stables to share her laughter and love of horses with the riders. Matthew Vujnovich of Des Moines is one of the many clients who have benefited from the time and talents of the program's volunteers. Matthew has autism and Lisa's friendship and guidance with the horses has helped develop his fine motor skills, muscles and independence.

I am dedicated to the principles of the Americans with Disabilities Act: equality of opportunity, full participation, independent living, and economic self-sufficiency for millions of Americans with physical and mental disabilities. The Jennifer Steensen Field of Dreams Therapeutic Riding Program advances these principles and helps clients develop critical life-skills. I applaud their efforts and thank them for all that they have accomplished.•

## ZACH HEBL'S ACHIEVEMENT ON BEHALF OF PEOPLE WITH DISABILITIES

• Mr. HARKIN. Mr. President, as we all know, this is an election year. Whether you are a Democrat or a Republican, both parties recognize the importance of civic engagement this year. That is why I want to recognize the efforts of Zach Hebl, an Eagle Scout from Cedar Township, IA. When 15-year-old Zach learned that his parents' polling location was not accessible to people with disabilities, he coordinated an effort to construct a sidewalk, parking lot, and wooden access ramp at Cedar Township Hall, a Johnson county polling location, so that everyone in his precinct had an equal opportunity to cast their ballot.

Zach's achievement is particularly important because as of September of 2003, there were approximately 300 precincts in Iowa that did not meet the standards of the Americans with Disabilities Act. Without renovation, these locations will shut down in 2006 and close their doors to voters. Thanks to Zach, Cedar Township Hall was the first site to be removed from this list. I would like to print in the RECORD this article from the Cedar Rapids Gazette which describes Zach's project in greater detail.

The article follows:

Cedar Rapids Gazette, August 26, 2003:

Fifteen-year-old Zach Hebl didn't want to see the one-room schoolhouse become just a symbol of the past.

The old schoolhouse, which closed in the 1950s, has served as the township's polling place for at least 60 years but was in danger of no longer being an allowable voting site because it failed to meet Americans With Disabilities Act, or ADA, requirements.

That's when Hebl got the idea to bring the old building up to current standards by building a ramp and deck onto the building.

"I've always figured I could be voting here one day and wanted to do something so that I could do that," said Hebl, who lives on a farm in Cedar Township about two miles south of the schoolhouse.

Hebl began working on the project, which he will use as an Eagle Scout project, in mid-April. He developed plans for multiple ramps and made a presentation to the Cedar Township Board of Trustees. He researched the ADA requirements and prepared cost estimates. By mid-July, both the Scouts and trustees approved the project.

"We were glad somebody came along to take this project over," said Don Brannaman, a trustee who has lived in Cedar Township for 55 years. "We were going to have to find a way to do this."

Hebl worked with his Eagle Scout adviser, Jim Jacob, 51, a structural engineer with Van Winkle-Jacob Engineering in Coralville, to conduct site elevations and choose the best design.

"This building has got a lot of significance," said Jacob, who lives in Cedar Township and has voted at the building since 1983. "If people couldn't vote here, nobody would take care of the building, and it would fall into disrepair."

On Saturday, it was evident many residents didn't want that to happen. A group of 25 kids, mostly fellow members of Troop 120, and 19 adults arrived at the job site to help build the 24-foot-long ramp and deck. Installation of the posts began Friday, and the final touch on the project, a large concrete parking slab and sidewalk to the ramp, will be installed in September.

"We wouldn't want to vote anyplace else," said Loretta Basten, 58, who attended the one-room schoolhouse until third grade when it closed in the 1950s. She was bringing snacks to the site.

"There are students who go to college and come back just so they can cast a ballot here," Basten said.

In August, Chet Culver, Secretary of the State of Iowa, and I had the privilege of attending a ribbon-cutting ceremony for the new polling place. There to support Zach were his parents, Boy Scout Troop 120, and many members of the community. It was a proud moment for Cedar Township as Zach cut that ribbon. He is a wonderful example of how one person can truly impact a community simply by acting upon an idea.

As the author of the ADA, I am always glad to see progress toward its four great goals—equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities. Zach's work is critical to ensuring equality in voting and full participation in our democratic system, which formerly was not available to the people in his County and still is not available for many Iowans. Even though Zach is too young to vote, he serves as a role model to Eagle Scouts and young people across the country. He proves that one person can make a tremendous difference.•

## HONORING LT. COLONEL JOHN McCANCE, USAF

• Mr. MILLER. Mr. President, I rise today to pay tribute to Lt. Colonel John McCance, who will complete his 3-year tour of duty with the United States Air Force's Office of Legislative Affairs at the end of this year.

Most people don't know that our services have liaison offices within Congress. Even many servicemembers don't know these offices exist. And, yet, they are a vital link between the United States Senate and the Department of Defense.

Liaison officers are chosen because of their wealth of knowledge, ability to handle a pressure-packed environment with high-maintenance staffers, and their discernment in making tough decisions. They generally have significant experience and a long track record of outstanding performance. Simply put, Service liaisons are the best of the best.

The Air Force has been fortunate to have Lt. Colonel John McCance as a vital member of its liaison team here in the Senate. He has demonstrated the superior caliber and quality of Air Force officers with which we are all familiar. I know I speak for many of my fellow Members in expressing our profound regret at his departure. Yet I know that the Air Force Reserve has many good things planned for John and that our country will surely benefit from his experience in his future assignments.

On behalf of the Senate, I thank John McCance for his service to the Nation and to the United States Air Force Reserve, and I thank his wife, Wendy, and his daughters, Lauren and Katie, for their steadfast support while he fulfilled this essential duty. We in the U.S Senate, and I personally, wish them all the best as Lt. Colonel McCance returns to his civilian career and tackles new challenges.•

## TRIBUTE TO WAYNE BERRY

• Mrs. HUTCHISON. Mr. President, I rise today to take this opportunity to honor Wayne Berry from Dallas, TX, as he celebrates his 50th anniversary working for Lockheed Martin Missiles and Fire Control and its predecessor companies on November 3, 2004.

In 1954, at the age of 24, Mr. Berry began his career with Lockheed Martin as a machinist from Temco Electronics and Missiles. After graduating from the University of Texas at Arlington in 1968, he joined the Environmental Test Lab as an Environmental Test Technician. Over the next 38 years, Mr. Berry contributed significantly to the growth of the Environmental Test Lab and, for the past 10 years, he has been assigned responsibilities as Quality Engineering Project Manager.

Over his tenure, Mr. Berry has set a high standard with his dedication to his job and has acquired knowledge and experience which has been valuable to his company and its work for the United States government. Fifty years with an organization is a remarkable testament of this tireless Texan. I know my colleagues will join me in honoring Mr. Berry on his accomplishments and wishing him continued success with Lockheed Martin.•

## TRIBUTE TO CHARLES WOODS

• Mr. SESSIONS. Mr. President, I rise to commemorate the recent death of one of Alabama's most remarkable men, Charles Woods of Dothan, AL. Mr. Woods, who was 83 years old, died October 17 in Dothan after an extended illness. Mr. Woods lived an extraordinary life. Orphaned until age 6, he worked hard and became a decorated World War II pilot who was severely burned in a plane crash in India as he and his crew were on their way to China over the Himalayan Mountains. Mr. Woods was riding as check pilot in a C-109 supply aircraft when the accident occurred. The plane crashed off the end of the runway, and Captain Woods was able to open the window on his side of the cockpit and stumble away from the flaming aircraft. The training pilot and two other crew members perished. That crash left Mr. Woods scarred but not beaten. His powerful drive to survive his burns was the same drive that made him a highly successful businessman.

After the war, Mr. Woods established successful real estate and media businesses that included the launching of Dothan's first television station, WTVY-TV. Still, he had a deep interest in politics and ran a number of high profile races that did not lead to victory but captured the attention of the people of Alabama and certainly his opponents. I well remember as a teenager watching his dramatic story produced as part of his first campaign for Governor. It was a powerful piece. I believe this early "infomercial" was a breakthrough in political campaigning and now, with the advent of cable television, has become more common.

He ran a strong race for the U.S. Senate in 1996 and his surge in the polls got the attention of all of us in that Republican primary. After I got in the runoff, I was very pleased that he chose to immediately endorse my candidacy. He was gracious and affirming. I valued that highly because everyone knew that Charles Woods was a courageous and independent minded person whose goal was to improve the lives of all Alabamians. His endorsement gave my campaign a real boost. Since that time, I had the opportunity to talk with him on a number of occasions, to appreciate his insight and decisiveness, and to become friends. He spoke to me of his faith on more than one occasion.

Mr. Woods' 10 children, 17 grandchildren and one great grandchild have received a tremendous legacy. Charles Woods was truly a giant of a man who overcame tremendous adversity to achieve extraordinary things. His was an American story of almost unbelievable achievement.•

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND JAPAN ON SOCIAL SECURITY—PM 96

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

*To the Congress of the United States:*

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95-216, 42 U.S.C. 433 (e)(1)), I transmit herewith the Agreement between the United States of America and Japan on Social Security, which consists of two separate instruments: a principal agreement and an administrative arrangement. The Agreement was signed at Washington on February 19, 2004.

The United States-Japan Agreement is similar in objective to the social security agreements already in force with Australia, Austria, Belgium, Canada, Chile, Finland, France, Germany, Greece, Ireland, Italy, Korea, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual social security coverage and taxation, and to help prevent the lost benefit protection that can occur when workers divide their careers between two countries. The United States-Japan Agreement contains all provisions mandated by section 233 and other provisions which I deem appropriate to carry out the purposes of section 233, pursuant to section 233(c)(4).

I also transmit for the information of the Congress a report prepared by the

Social Security Administration explaining the key points of the Agreement, along with a paragraph-by-paragraph explanation of the provisions of the principal agreement and the related administrative arrangement. Annexed to this report is the report required by section 233(e)(1) of the Social Security Act, a report on the effect of the Agreement on income and expenditures of the United States Social Security program and the number of individuals affected by the Agreement.

The Department of State and the Social Security Administration have recommended the Agreement and related documents to me.

I commend to the Congress the United States-Japan Social Security Agreement and related documents.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 17, 2004.*

## REPORT RELATIVE TO THE NON-SUITABILITY OF THE SQUIRREL RIVER IN ALASKA AS AN ADDITION TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM—PM 97

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

*To the Congress of the United States:*

I transmit herewith the enclosed study, findings, and report for the Squirrel River in Alaska. The report and my recommendations are submitted pursuant to my authority under Article II, section 3, of the Constitution of the United States, and consistent with section 5(a) of the Wild and Scenic Rivers (WSR) Act, Public Law 90-542, as amended. The Squirrel River suitability study was authorized by Public Law 96-487 (Alaska National Interest Lands Conservation Act).

The study conducted by the Bureau of Land Management determined that all 100 miles of the river are nonsuitable for inclusion in the National WSR System. Consistent with the study, I recommend that the Congress take no action to designate the river. The withdrawal provided by section 5(a) of the WSR Act would expire within 3 years of the date of this message (unless other action is taken by the Congress). Approximately 81,501 acres of State-selected lands would be opened to mineral entry although mineral potential has been assessed as very low and there are no past or active mining claims.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 17, 2004.*

## MESSAGE FROM THE HOUSE

At 3:21 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 110. Joint resolution recognizing the 60th anniversary of the Battle of the Bulge during World War II.

The message also announced that the House has passed the following bills, without amendment:

S. 2214. An act to designate the facility of the United States Postal Service located at 3150 Great Northern Avenue in Missoula, Montana, as the "Mike Mansfield Post Office".

S. 2640. An act to designate the facility of the United States Postal Service located at 1050 North Hills Boulevard in Reno, Nevada, as the "Guardians of Freedom Memorial Post Office Building" and to authorize the installation of a plaque at such site, and for other purposes.

S. 2693. An act to designate the facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, as the "Lieutenant John F. Finn Post Office".

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House.

From the Subcommittee on Foreign Operations, Export Financing, and Related Programs of the Committee on Appropriations, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. KOLBE, Mr. KNOLLENBERG, Mr. LEWIS of California, Mr. WICKER, Mr. BONILLA, Mr. VITTER, Mr. KIRK, Mr. CRENSHAW, Mrs. LOWEY, Mr. JACKSON of Illinois, Ms. KILPATRICK, Mr. ROTHMAN, and Ms. KAPTUR.

From the Committee on Appropriations, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. YOUNG of Florida, Mr. REGULA, Mr. HOBSON, Mr. OBEY, and Mr. VISCLOSKY.

The message also announced that pursuant to section 1 of the Library of Congress Trust Fund Board Act (2 U.S.C. 154 note), and the order of the House of December 8, 2003, the Speaker appoints the following members on the part of the House of Representatives to the Library of Congress Trust Fund Board, each for a 5-year term: Mr. Edwin L. Cox of Dallas, Texas, and Mr. Anthony Welters of Vienna, Virginia.

The message further announced that pursuant to section 703 of the Social Security Act (42 U.S.C. 903 note), the order of the House of December 8, 2003, and with the advice of the Chairman of the Committee on Ways and Means, on October 9, 2004, the Speaker reappointed the following members on the part of the House of Representatives to the Social Security Advisory Board for a 6-year term to fill the existing vacancy thereon: Mrs. Dorcas R. Hardy of Spotsylvania, Virginia.

The message also announced that pursuant to section 301 of the Congressional Accountability Act of 1995 (2 U.S.C. 1381), amended by Public Law 108-329, and the order of the House of December 8, 2004, the Speaker and Minority Leader of the House of Representatives and the Majority and Minority Leaders of the United States Senate announce their joint reappointment on October 27, 2004, of the following individuals to a 5-year term to the Board of Directors of the Office of Compliance: Mr. Alan V. Friedman of Los Angeles, California, Ms. Susan S. Robfogel of Rochester, New York, and Ms. Barbara Childs Wallace of Ridgeland, Mississippi.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-9745. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-9746. A message from the President of the United States, transmitting, pursuant to law, a report of the continuation of the national emergency regarding weapons of mass destruction; to the Committee on Banking, Housing, and Urban Affairs.

EC-9747. A message from the President of the United States, transmitting, pursuant to law, a report of the continuation of the national emergency with respect to Iran; to the Committee on Banking, Housing, and Urban Affairs.

EC-9748. A communication from the Associate General Counsel for Legislation and Regulations, Office of the Assistant Secretary for Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "HUD's Housing Goals for the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) for the Years 2005-2008 and Amendments to HUD's Regulations of Fannie Mae and Freddie Mac" (RIN2501-AC92) received on November 4, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-9749. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Evaluation of Medicare's Competitive Bidding Demonstration for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies"; to the Committee on Finance.

EC-9750. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Revisions to Payment

Policies Under the Physician Fee Schedule for CY 2005'' (RIN0938–AM90) received on November 15, 2004; to the Committee on Finance.

EC–9751. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Prospective Payment System for Inpatient Psychiatric Facilities'' (RIN0938–AL50) received on November 15, 2004; to the Committee on Finance.

EC–9752. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2005 Payment Rates'' (RIN0938–AM75) received on November 15, 2004; to the Committee on Finance.

EC–9753. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–9754. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–9755. A communication from the Chairman, Occupational Safety and Health Review Commission, transmitting, pursuant to law, the report of the Office of Inspector General for fiscal year 2004; to the Committee on Governmental Affairs.

EC–9756. A communication from the Special Counsel, Office of Special Counsel, transmitting, pursuant to law, a report relative to the Federal Managers' Financial Integrity Act/Inspector General Act Reports; to the Committee on Governmental Affairs.

EC–9757. A communication from the Archivist, National Archives and Records Administration, transmitting, pursuant to law, the inventory of the Administration's commercial and inherently governmental activities; to the Committee on Governmental Affairs.

EC–9758. A communication from the Director, Office of Personnel Management, Division for Strategic Human Resources Policy, transmitting, pursuant to law, the report of a rule entitled "Premium Pay Limitations'' received on October 14, 2004; to the Committee on Governmental Affairs.

EC–9759. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Agency's report of the Office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–9760. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Ineffective Management, Poor Internal Controls, and Inadequate Financial Oversight Found Within the District's Subsidized Child Care Program; to the Committee on Governmental Affairs''; to the Committee on Governmental Affairs.

EC–9761. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Audit of Advisory Neighborhood Commission 7B for Fiscal Years 2001 Through 2004 as of June 30, 2004''; to the Committee on Governmental Affairs.

EC–9762. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Analysis of the Office of the Chief Financial Officer's Exception Account for Fiscal Years 2003 and 2004, as of June 30, 2004''; to the Committee on Governmental Affairs.

EC–9763. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Results of the Auditor's Examination of the Processes Leading to the Award of a Sole Source, Non-Competitive Contract, and Blanket Purchase Agreement to Curtis Lewis & Associates''; to the Committee on Governmental Affairs.

EC–9764. A communication from the Director, Center for Employee and Family Support Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Federal Employees Health Benefits Children's Equity'' (RIN3206–AJ34) received on October 25, 2004; to the Committee on Governmental Affairs.

EC–9765. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report relative to the Administration's Fiscal Year 2005 Capital Investment and Leasing Program; to the Committee on Governmental Affairs.

EC–9766. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report relative to the Administration's Fiscal Year 2005 Capital Investment and Leasing Program; to the Committee on Governmental Affairs.

EC–9767. A communication from the Senior Procurement Executive, Office of the Chief Acquisition Officer, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2001–25'' (FAC 2001–25) received on October 26, 2004; to the Committee on Governmental Affairs.

EC–9768. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Effectiveness of the Special Nutrition and Commodities Distribution Program Was Hindered by Lax Management and Inadequate Oversight by Other Agencies''; to the Committee on Governmental Affairs.

EC–9769. A communication from the Executive Director, United States Access Board, transmitting, pursuant to law, the Board's report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 2004; to the Committee on Governmental Affairs.

EC–9770. A communication from the Special Counsel, Office of Special Counsel, transmitting, pursuant to law, a report relative to the last full year of operations under the previous Special Counsel; to the Committee on Governmental Affairs.

EC–9771. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Over-the-Counter Human Drugs; Labeling Requirements; Delay of Implementation Date'' (RIN0910–AA79) received on October 14, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9772. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Orthopedic Devices; Effective Date of Requirement for Premarket Approval for Hip Joint Metal/Polymer or Ceramic/Polymer Semiconstrained Resurfacing Cemented Prosthesis'' (Doc. No. 2003N–0561) received on October 14, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9773. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Listng of Color Additives Subject to Certification; D&C Black No . 2; Confirmation of Effective Date'' (Doc. No. 1987C–0023) received on October 14, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9774. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Immunology and Microbiology Devices; Classification of the Beta-Glucan Serological Assay'' (Doc. No. 2004N–0370) received on October 14, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9775. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Clinical Chemistry and Clinical Toxicology Devices; Classification of Sirolimus Test System Devices'' (Doc. No. 2004P–0354) received on October 14, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9776. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Assets for Independence Demonstration Program: Status at the Conclusion of the Third and Fourth Years''; to the Committee on Health, Education, Labor, and Pensions.

EC–9777. A communication from the Regulations Coordinator, Administration for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Child Support Enforcement Program; Federal Tax Refund Offset'' (RIN0970–AC09) received on October 26, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9778. A communication from the Secretary of Education, transmitting, pursuant to law, the Department of Education's Annual Report to Congress on Grants Streamlining; to the Committee on Health, Education, Labor, and Pensions.

EC–9779. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the effectiveness of programs assisted under the Lead Contamination Control Act of 1988; to the Committee on Health, Education, Labor, and Pensions.

EC–9780. A communication from the Assistant Attorney General, Department of Justice, transmitting, pursuant to law, the 2003 Annual Report of the National Institute of Justice; to the Committee on the Judiciary.

EC–9781. A communication from the Under Secretary and Director, Patent and Trademark Office, transmitting, pursuant to law, the report of a rule entitled "Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan'' (RIN0651–AB64) received on October 15, 2004; to the Committee on the Judiciary.

EC–9782. A communication from the Under Secretary and Director, Patent and Trademark Office, transmitting, pursuant to law, the report of a rule entitled "New Mailing Addresses for Paper Submissions of Trademark-Related Correspondence and Madrid Protocol Rules Change'' (RIN0651–AB78) received on October 15, 2004; to the Committee on the Judiciary.

EC-9783. A communication from the General Counsel, Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Section 212(c) Relief for Aliens With Certain Criminal Convictions Before April 1, 1970" (RIN1125-AA33) received on October 18, 2004; to the Committee on the Judiciary.

EC-9784. A communication from the Director, Regulatory Management Division, Citizenship and Immigration Services, transmitting, pursuant to law, the report of a rule entitled "Adding Actuaries and Plant Pathologists to Appendix 1603.D.1 of the North American Free Trade Agreement" (RIN1615-AA38) received on October 18, 2004; to the Committee on the Judiciary.

EC-9785. A communication from the Secretary, American Battle Monuments Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2004 Annual Report; to the Committee on the Judiciary.

EC-9786. A communication from the Under Secretary and Director, Patent and Trademark Office, transmitting, pursuant to law, the report of a rule entitled "Waiver of Pixel Requirement for Drawings Filed Electronically" (RIN0651-AB82) received on November 4, 2004; to the Committee on the Judiciary.

EC-9787. A communication from the National Service Officer, American Gold Star Mothers, Inc., transmitting, pursuant to law, the CPA audit of the American Gold Star Mothers, Inc., for the District of Columbia Tax Exemption; to the Committee on the Judiciary.

EC-9788. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the status of machine-readable passport programs in countries participating in the Visa Waiver Program; to the Committee on the Judiciary.

EC-9789. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Cyprodinil; Pesticide Tolerance" (FRL#7682-1) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9790. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Mepanipyrim; Pesticide Tolerances" (FRL#7681-8) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9791. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District" (FRL#7818-6) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9792. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Colorado; Designation of Areas for Air Quality Planning Purposes, Steamboat Springs" (FRL#7815-5) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9793. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland, Control of VOC Emissions from Yeast Manufacturing" (FRL#7819-7) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9794. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Redesignation of Kent and Queen Anne's Counties Ozone Nonattainment and Approval of the Area's Maintenance Plan" (FRL#7821-1) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9795. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania VOC and NOx RACT Determinations for National Fuel Gas Supply Corporation" (FRL#7822-5) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9796. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Determination of Attainment and Redesignation of the city of Weirton PM10 Nonattainment Area to Attainment and Approval of the Maintenance Plan" (FRL#7821-4) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9797. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for North Dakota; Revisions to the Air Pollution Control Rules; Delegation of Authority for New Source Performance Standards" (FRL#7823-2) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9798. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Environmental Performance Track Program; Corrections" (FRL#7830-1) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9799. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Bay Area Quality Management District" (FRL#7811-2) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9800. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Idaho; Correcting Amendments" (FRL#7825-3) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9801. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri; Designation of Areas for Air Quality Planning Purposes, Iron County; Arcadia and Liberty Townships" (FRL#7831-1) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9802. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Texas; Memorandum of Agreement between Texas Council on Environmental Quality and the North Central Texas Council of Governments Providing Emissions Offsets to Dallas Fort Worth International Airport" (FRL#7830-8) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9803. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Plan Revisions; Indiana" (FRL#7826-8) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9804. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Authorization of State Hazardous Waste Management Program Revision" (FRL#7832-2) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9805. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Arizona State Implementation Plan, Arizona Department of Environmental Quality" (FRL#7820-2) received on October 13, 2004; to the Committee on Environment and Public Works.

EC-9806. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Water Quality Standards; Withdrawal of Certain Federal Water Quality Criteria Applicable to Alaska, Arkansas, and Puerto Rico" (FRL#7825-1) received on October 13, 2004; to the Committee on Environment and Public Works.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1905. A bill to provide habitable living quarters for teachers, administrators, other school staff, and their households in rural areas of Alaska located in or near Alaska Native Villages (Rept. No. 108-414).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Vinicio E. Madrigal, of Louisiana, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2009.

*Otis Webb Brawley, Jr., of Georgia, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2009.

*R. Bruce Matthews, of New Mexico, to be a Member of the Defense Nuclear Facilities

Safety Board for a term expiring October 18, 2005.

*Joseph F. Bader, of the District of Columbia, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2007.

Air Force nomination of Brigadier General John H. Folkerts.

Air Force nomination of Lt. Gen. Bruce A. Wright.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Navy nominations beginning Armand P Abad and ending Matthew P Zentz, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 7, 2004.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. WYDEN:

S. 2988. A bill to amend title XVIII of the Social Security Act to provide medicare beneficiaries with access to information concerning the quality of care provided by skilled nursing facilities and to provide incentives to skilled nursing facilities to improve the quality of care provided by those facilities by linking the amount of payment under the medicare program to quality reporting and performance requirements, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. LEAHY, and Mr. JEFFORDS):

S. 2989. A bill to amend the Controlled Substances Act to provide an affirmative defense for the medical use of marijuana in accordance with the laws of the various States, and for other purposes; to the Committee on the Judiciary.

By Mr. DeWINE:

S. 2990. A bill to reduce temporarily the duty on palm fatty acid distillate; to the Committee on Finance.

By Mr. COCHRAN (for himself and Mr. BYRD):

S. 2991. A bill to suspend temporarily new shipper bonding privileges; considered and passed.

By Mr. BAUCUS (for himself and Mr. CRAIG):

S. 2992. A bill to liquidate and distribute duties collected on certain softwood lumber from Canada; to the Committee on Finance.

By Mr. GRAHAM of Florida (for himself and Mr. VOINOVICH):

S. 2993. A bill to establish a National Commission on the Infrastructure of the United States; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself, Mr. ROCKEFELLER, Mr. STEVENS, Mr. BURNS, and Mr. DORGAN):

S. 2994. A bill to provide that funds received as universal service contributions under section 254 of the Communications Act of 1934 and the universal service support programs established pursuant thereto are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act, for a period of time; to the Committee on Commerce, Science, and Transportation.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ALLEN (for himself, Mr. WYDEN, Mrs. HUTCHISON, Mr. ALEXANDER, and Mr. ENZI):

S. Con. Res. 146. A concurrent resolution to direct the Secretary of the Senate to make corrections in the enrollment of the bill S. 150; considered and agreed to.

## ADDITIONAL COSPONSORS

### S. 469

At the request of Mr. KOHL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 469, a bill to amend chapter 44 of title 18, United States Code, to require ballistics testing of all firearms manufactured and all firearms in custody of Federal agencies.

### S. 540

At the request of Mr. INHOFE, the names of the Senator from Michigan (Ms. STABENOW), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. LEVIN), the Senator from Kentucky (Mr. BUNNING) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 540, a bill to authorize the presentation of gold medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th Century in recognition of the service of those Native Americans to the United States.

### S. 1557

At the request of Mr. MCCONNELL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1557, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

### S. 2744

At the request of Mr. SUNUNU, the names of the Senator from Connecticut (Mr. DODD), the Senator from Iowa (Mr. GRASSLEY) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 2744, a bill to authorize the minting and issuance of a Presidential $1 coin series.

### S. 2956

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 2956, a bill to amend title 10, United States Code, to direct the Secretary of Defense to carry out a program to provide a support system for members of the Armed Forces who incur severe disabilities.

### S. 2968

At the request of Mr. REED, the names of the Senator from Ohio (Mr. DEWINE), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 2968, a bill to amend the Public Health Service Act to address the shortage of influenza vaccine, and for other purposes.

### S. 2987

At the request of Mr. BURNS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2987, a bill to amend the Agricultural Marketing Act of 1946 to expand the country of origin labeling for certain covered commodities, and for other purposes.

### S. RES. 436

At the request of Mr. REID, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from North Dakota (Mr. DORGAN), the Senator from Idaho (Mr. CRAPO) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. Res. 436, a resolution designating the second Sunday in the month of December 2004 as "National Children's Memorial Day".

### S. RES. 452

At the request of Mr. CAMPBELL, the names of the Senator from Utah (Mr. HATCH), the Senator from Ohio (Mr. DEWINE) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Res. 452, a resolution designating December 13, 2004, as "National Day of the Horse" and encouraging the people of the United States to be mindful of the contribution of horses to the economy, history, and character of the United States.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN:

S. 2988. A bill to amend title XVIII of the Social Security Act to provide medicare beneficiaries with access to information concerning the quality of care provided by skilled nursing facilities and to provide incentives to skilled nursing facilities to improve the quality of care provided by those facilities by linking the amount of payment under the medicare program to quality reporting and performance requirements, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, I rise to discuss a bill I am introducing today, the Long Term Care Quality and Consumer Information Act.

I hope that this bill will spark a serious debate about how we pay for quality care. This proposal establishes a voluntary system under which nursing homes providing better quality of care would receive higher payment and in turn would provide more information about the quality of care provided. Information would include nurse staffing ratios and would be made public to consumers and their families.

Historically, Americans have been paying the same for quality health care as for mediocre care. Efforts have been made by some in the private sector to better recognize and incentivize those providers who consistently provide higher level of care. The Institute of Medicine (IOM), in its report "Leading by Example," declared the government should take the lead in improving health care by giving financial rewards to hospitals and doctors who improve care for beneficiaries in six Federal programs, including Medicare and Medicaid and the Veterans Health Administration. The IOM report also said the government should collect and make available to the public data comparing the quality of care among providers. The Centers for Medicare and Medicaid Services has begun pilot programs. I think nursing homes should also be an area in which we explore payment policies that regard those providing a higher quality of care.

I look forward to continuing the discussion with all stakeholders about these concepts so we can assure a high level of care and find ways to help providers improve the level of care they provide.

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By Mr. DURBIN (for himself, Mr. LEAHY, and Mr. JEFFORDS):

S. 2989. A bill to amend the Controlled Substances Act to provide an affirmative defense for the medical use of marijuana in accordance with the laws of the various States, and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I rise today with Senators LEAHY and JEFFORDS to introduce the Truth in Trials Act. This is a narrowly tailored bill that would allow defendants in Federal criminal trials regarding medicinal marijuana to introduce evidence that their marijuana-related activity was performed in compliance with State law regarding the medical use of marijuana. It also would provide defendants in such trials with an affirmative defense if they establish, by a preponderance of the evidence, that their activities complied with State law.

Let me be clear. This legislation does not legalize marijuana. It does not even legalize marijuana for medicinal purposes. It only is meant to address the conflict between State and Federal law with regard to medical marijuana. Under this legislation, defendants in the ten States with medicinal marijuana laws could be found not guilty of violating Federal law if their actions are done in compliance with State law.

Why is this legislation necessary?

Over the past 8 years, ten States have passed referendums or enacted laws authorizing medical marijuana in those States. The first of these states was California. In 1996, voters in California passed the California Compassionate Use Act, also known as Proposition 215, to allow seriously ill people who have a doctor's recommendation to cultivate and use marijuana as a form of treatment.

However, in 2001, the Drug Enforcement Administration began aggressively targeting medical marijuana providers in California and these other States—regardless of the fact that these individuals were complying with State law.

Consider who these so-called criminals are that the DEA is targeting and arresting.

The city of Oakland enacted a medicinal marijuana ordinance, as permitted by California law, and Ed Rosenthal grew marijuana to be sold for medicinal uses under the auspices of this ordinance. Even though Mr. Rosenthal was acting as an officer of the city, in February 2002, DEA agents raided his facility and arrested him of marijuana cultivation and conspiracy.

Since Federal law does not recognize "medical necessity" as a defense, Mr. Rosenthal was not allowed to tell the jury that he was growing the marijuana for medicinal purposes. The prosecutors took this opportunity to present Mr. Rosenthal as a big-time drug dealer, and the jury had no choice but to convict Mr. Rosenthal.

After the trial, the jurors learned that Mr. Rosenthal was growing medical marijuana and complained that they had been misled by the court. Five jurors immediately issued a public apology to him and demanded a new trial. Their statement said, "In this trial, the prosecution was allowed to put all of the evidence and testimony on one of the scales, while the defense was not allowed to put its evidence and testimony on the other side. Therefore we were not allowed as a jury to properly weight the case."

During the sentencing phase of the trial, nine of the twelve jurors asked that Mr. Rosenthal not be imprisoned because they had convicted him "without having all the evidence." Due to these unique circumstances, the judge sentenced Mr. Rosenthal to one day in prison and a $1,000 fine, the most lenient sentence allowed under the law. Yet, the prosecutor, who had asked for a six-and-a-half-year sentence, has appealed this sentence.

Another example is the Wo/men's Alliance for Medical Marijuana, a nonprofit collective of patients and their caregivers, 85 percent of whom are terminally ill with cancer or AIDS. One member of this organization is Suzanne Pfeil, who suffers from post-polio syndrome and experiences extreme pain and muscle spasticity. She is allergic to opiates and does not tolerate many pharmaceutical drugs, so her physician recommended medicinal marijuana, in accordance with California State law. Here, in her own words, is what happened to her in 2002:

> At dawn on September 5th, 2002, I awoke to five federal agents pointing assault rifles at my head. I did not hear them come in because my respirator is rather loud. They yelled at me to put my hands in the air and to stand up "NOW." I tried to explain to them that I needed to put my hands down on the bed in order to sit up because I am paralyzed. They again shouted at me to stand up. I pointed to my crutches and braces beside the bed and said, "I'm sorry, I can't stand up without my crutches and braces and I normally use a wheelchair." At that point they ripped the covers off the bed and finally realized what I was trying to explain amid their shouts and guns. They handcuffed me behind my back and left me on the bed. The DEA then proceeded to confiscate medication recommended to me by my physician under California State Law Proposition 215. My crime? I am a member of the WAMM, the Wo/men's Alliance for Medical Marijuana, a nonprofit collective of patients and their caregivers working together to provide free medication and hospice services to approximately 250 seriously ill and dying members. The DEA then destroyed our collective garden and arrested our Director Valerie Corral, who is an epileptic, and her caregiver and husband Michael Corral.

This conflict between State and Federal law is a serious one, and one that will be addressed by the Supreme Court later this year in the case of Ashcroft v. Raich. Last year, the Ninth Circuit Court of Appeals rule in this case that is unconstitutional to prosecute medicinal marijuana users under federal law in states with medicinal marijuana laws, as long as the marijuana is not sold or transported across state lines.

The Truth in Trials Act is consistent with this Circuit Court ruling, which I hope the Supreme Court will uphold, and I urge my colleagues to support this bill.

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By Mr. BAUCUS (for himself and Mr. CRAIG):

S. 2992. A bill to liquidate and distribute duties collected on certain softwood lumber from Canada; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today in disappointment, but also with resolve.

After more than 2 years of negotiations between the United States and Canada, there is still no agreement on how to manage softwood lumber trade between our two countries. This is disappointing, particularly given the importance of the issue. Perhaps what is most disappointing, though, is that the negotiations appear to have fallen off, despite the fact that parties last year seemed close to an agreement.

There might be some who think that the recent NAFTA decisions signal an imminent conclusion of the litigation, and that deposits collected by U.S. Customs will be returned soon. As one who has seen this dispute wax and wane for nearly 30 years, this seems to me a naïve expectation. The fact is that the recent NAFTA decisions had more to do with a bitter disagreement between the NAFTA panelists and the U.S. International Trade Commission about investigative methodologies than whether or not the Canadian timber policies are consistent with NAFTA obligations. The bottom line—and this is the issue at the root of this dispute—is that the Canadian policies are deeply inconsistent with the notion of a free and integrated North American market. The timber subsidies provide Canadian mills with a significant, artificial advantage. Until this basic issue is resolved, this dispute—including this litigation and the duties imposed on importers—will continue.

In my judgment, the most effective, durable, and fair resolution to this decades-old problem will be found only through a negotiated settlement. This means both parties sitting down at the table and finding a mutually acceptable solution that provides for timber policies that are consistent and compatible. However, pulling away from the negotiating table and relying on litigation isn't going to get us there.

Under current U.S. law, the deposits sitting in escrow are eligible for liquidation. As I have said, I would prefer a negotiated settlement—one that resolves all matters of disagreement, including the disposition of these deposits, but some involved in the negotiation appear to have decided upon litigation as their preferred method of resolution. If it is necessary for more and my colleagues to assert the legal rights available to the U.S. industry as a way of reminding the parties of the stakes that are still very much on the table, then that is what we will do.

Today, my good friend, LARRY CRAIG and I have introduced a bill that would order the Commerce Department to begin the process of liquidating the approximately $3 billion sitting in escrow, as a result of the antidumping and countervailing duties imposed upon imports of Canadian softwood lumber since March 2002. Further, these deposits are to be distributed to the U.S. lumber industry, which have been seriously injured by Canada's timber policies and which petitioned for these duties in the first place. This measure is consistent with current U.S. law and, if enacted, I expect the U.S. government to defend it to the hilt.

I hope that our action today will spark a return—by both sides—to the negotiating table. However, if it does not, and if a settlement is not reached, I will not hesitate to push forcefully for enactment of this legislation.

Mr. CRAIG. Mr. President, I rise today with a heavy heart because it has been more than four years since the expiration of the Canadian Softwood Lumber Agreement and we have very little to show for it except a U.S. industry that is still a victim of the situation.

This is an issue that I have been involved with since I came to Congress and in that time we have seen three separate disputes resulting in two negotiated agreements that have also come and gone. We are now in the middle of our fourth dispute with no settlement agreement in sight.

While the two countries were close to reaching an agreement last year, little has happened since to reach a resolution. Meanwhile, with each log truck that comes across the border from Canada, another light at a U.S. timber company goes out permanently.

In order to ensure a future for U.S. timber companies, I am joining Senator BAUCUS, in introducing the Softwood Lumber Duties Liquidation Act.

Under current U.S. law, the deposits sitting in escrow are eligible for liquidation. The duties were first imposed in May 2002, when the U.S. slapped antidumping and countervailing tariffs amounting to more than 27 percent on Canada imports. The Commerce Department had determined that Canadian timber policies amounted to an unfair subsidy and led to the dumping of artificially cheap softwood lumber into the U.S. market. Meanwhile, the U.S. International Trade Commission ruled that the subsidies and dumped imports injured the U.S. lumber industry, warranting the imposition of tariffs.

That being said, it is time that all parties come together in honest faith and work towards establishing a settlement that is free and fair in its framework. Anything less would be unjust to producers and consumers on both sides of the border.

I am hopeful for a resolution. However, in the meantime, I, along with Senator BAUCUS, will continue to uphold U.S. laws and the determinations of our trade agencies to help ensure fair trade and protect our industries from illegally subsidized products.

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By Mr. GRAHAM of Florida (for himself and Mr. VOINOVICH):

S. 2993. A bill to establish a National Commission on the Infrastructure of the United States; to the Committee on Environment and Public Works.

Mr. GRAHAM of Florida. Mr. President, I rise to introduce the National Infrastructure Improvement Act of 2004. For the past year, both bodies of Congress and the Administration have been in a numbers debate—disagreeing over the appropriate level of Federal expenditures for surface transportation, highways and public transit, for the next six years.

What this dispute misses are the real issues: 1. What is the state of our surface transportation systems and other public infrastructure? 2. What will the expenditure levels in the bills under consideration do to affect that state? 3. What do the American people want in terms of maintenance, access, congestion, and serviceability of our highways, bridges, public transit, schools, water and sewer systems, and other infrastructure sectors?

Now, we have passed an 8 month surface transportation extension because the White House and both bodies of Congress could not even agree on a $318 billion funding level—$57 billion lower than what was recommended by the United States Department of Transportation to maintain our surface transportation. These inadequate levels of funding that were being discussed proves that surface transportation and infrastructure is not a priority of this Congress. This is the precise reason we must establish an infrastructure commission to assess the problems of our nation's infrastructure and recommend solutions. This Congress must understand that a component of America's economic competitiveness lies within our infrastructure.

The reality is that our Nation is in the midst of an infrastructure crisis. In almost every one of these areas, America is losing ground at an alarming pace and inadequate funding on the part of the federal government is the leading cause.

The infrastructure deficit interferes with our personal lives on a daily basis. Increased congestion means longer commutes to and from work. Unrepaired potholes means greater wear and tear on our vehicles. Deteriorating water lines means greater exposure to lead in our drinking water.

Crumbling schools means our children do not receive the quality education they deserve. We cannot expect our children to be productive if their schools' basic amenities do not meet the fundamental standards needed for effective learning. A 2003 report by the American Society of Civil Engineers, who I am happy to say support this piece of legislation, in addition to the Associated General Contractors of America and the American Public Works Association, had schools rated as a D- and estimated that 75% of school buildings are inadequate to meet the needs of school children.

An even greater threat is over the horizon. This infrastructure deficit will erode our economic productivity advantage, the principle hope for Americans to maintain our standard of living in the face of fierce global competition. U.S. productivity, and the high standard of living that results, is dependent upon efficient transportation systems and healthy workers.

We are not efficient if our goods are shipped on trucks that are stuck in congested traffic. We are not efficient if our harbors are unable to accommodate the newest generation of freighters. And our workers cannot be productive if our sewer and water lines are in such disrepair that it affects their health.

In 1984, Congress established the National Council on Public Works Improvement to report on the state of the Nation's infrastructure. They found that investment in America's infrastructure was barely keeping up with yearly depreciation and that the system would not be able to adequately respond to increased demand. Their 1988 final report warned that without increased investment, America would be faced with an "infrastructure crisis."

Sixteen years later and after the major economic boom of the 1990's, we have failed to maintain, let alone improve, America's infrastructure. The consequences of our inaction are apparent. In the 1988 report, the national infrastructure grade was a "C." The ASCE 2003 Report Card for America's Infrastructure demoted the overall grade to a "D+." It is evident that there has been a deterioration in several aspects of our infrastructure since the 1988 report.

In 1988, roads received a grade of a C+. In 2003, roads were downgraded to a D+.

In 1988, water resources and water supply was given a B and B- respectively. In 2003, drinking water received a D and navigable waterways received a D+.

This deterioration has a ripple effect throughout the entire economy. Public dollars invested in infrastructure increases the productivity of private investment, which keeps the U.S. competitive in the global economy.

What should we do? In the short run, any infrastructure bill passed prior to the development of a long-term plan should be for 3 years or less in duration. This is the only way to keep the political heat on the White House and the Congress. Our recent experience with 6-year authorization bills, such as the highway bill, demonstrates the Jekyll and Hyde approach we have taken toward infrastructure. There is a moderate peak of attention when the legislation is up for reauthorization, then, more than a half a decade of disinterest.

Also in the short run, Congress must restrain itself from using the surface transportation act and other infrastructure legislation as a field of turkeys with the gobblers to be brought home to voters. The ability of Congress to restrain itself would be enormously enhanced if the relevant federal agencies would immediately get to the task of developing nation-wide standards of need, so that the Congress would have a standard against which to allocate resources. Like the United States Department of Transportation, other agencies need to assess their needs and report back to the Congress and the White House one year prior to the expiration of the current laws.

In the long run, we must come to grips with this burgeoning infrastructure deficit. One model could be the National Highway Act of the 1950s, when under the leadership of President Eisenhower, the states and the federal government came together to jointly finance and construct an interstate highway system, a system which has transformed our nation. President Eisenhower recognized that the highway system would benefit the entire nation, and called on Congress to support his vision. In his words, ". . . the uniting forces of our communication and transportation systems are dynamic elements in the very name we bear—United States." Today, his words still resonate. Improving infrastructure should be a cause around which we can all unite. If we act, the entire country benefits; if we fail to act, the entire country suffers.

This new infrastructure initiative could use many of Eisenhower's same principles and apply them to rebuild America and protect and advance our nation's social and economic future. The establishment of this national commission on infrastructure to report to the President and the Congress in 2½ years would be a step in the right direction.

I urge my colleagues to support this vital legislation to ensure that the nation's infrastructure will one day meet current and future demands and more importantly, facilitate economic growth.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2993

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Infrastructure Improvement Act of 2004".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) ACQUISITION.—The term "acquisition" includes the addition of land, sites, equipment, structures, facilities, or rolling stock by purchase, lease-purchase, trade, or donation.

(2) COMMISSION.—The term "Commission" means the National Commission on the Infrastructure of the United States established by section 3(a).

(3) CONSTRUCTION.—The term "construction" means—

(A) the design, planning, and erection of new infrastructure;

(B) the expansion of existing infrastructure;

(C) the reconstruction of an infrastructure project at an existing site; and

(D) the installation of initial or replacement infrastructure equipment.

(4) INFRASTRUCTURE.—

(A) IN GENERAL.—The term "infrastructure" means a nonmilitary structure or facility and equipment associated with that structure or facility.

(B) INCLUSIONS.—The term "infrastructure" includes—

(i) a surface transportation facility (such as a road, bridge, highway, public transportation facility, and freight and passenger rail);

(ii) a mass transit facility;

(iii) an airport or airway facility;

(iv) a resource recovery facility;

(v) a water supply and distribution system;

(vi) a wastewater collection, treatment, and related facility;

(vii) a waterway;

(viii) a dock or port;

(ix) a school building; and

(x) a solid waste disposal facility.

(5) MAINTENANCE.—The term "maintenance" means any regularly scheduled activity, such as a routine repair, intended to ensure that infrastructure continues to operate efficiently.

(6) REHABILITATION.—The term "rehabilitation" means—

(A) the correction of a deficiency in existing infrastructure so as to extend the useful life or improve the effectiveness of the infrastructure;

(B) the modernization or replacement of equipment of existing infrastructure; and

(C) the modernization of, or replacement of parts for, rolling stock relating to infrastructure.

**SEC. 3. ESTABLISHMENT OF COMMISSION.**

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on the Infrastructure of the United States" to ensure that the infrastructure of the United States—

(1) meets current and future demand; and

(2) facilitates economic growth.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 7 members, of whom—

(A) 3 members shall be appointed by the President;

(B) 1 member shall be appointed by the Speaker of the House of Representatives;

(C) 1 member shall be appointed by the minority leader of the House of Representatives;

(D) 1 member shall be appointed by the majority leader of the Senate; and

(E) 1 member shall be appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—Each member of the Commission shall have experience in 1 or more of the fields of economics, public administration, civil engineering, public works, and related design professions, planning, or public investment financing.

(3) DATE OF APPOINTMENTS.—The members of the Commission shall be appointed under paragraph (1) not later than 90 days after the enactment of this Act.

(c) TERM; VACANCIES.—

(1) TERM.—A member shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy in the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled, not later than 30 days after the date on which the vacancy occurs, in the same manner as the original appointment was made.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson or the majority of the Commission members.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

### SEC. 4. DUTIES.

(a) STUDY.—

(1) IN GENERAL.—Not later than February 15, 2007, the Commission shall complete a study of all matters relating to the state of the infrastructure of the United States.

(2) MATTERS TO BE STUDIED.—In carrying out paragraph (1), the Commission shall study such matters as—

(A) the capacity of infrastructure improvements to sustain current and anticipated economic development, including long-term economic construction and to support a sustained and expanding economy;

(B) the age and condition of public infrastructure (including congestion and changes in the condition of that infrastructure as compared with preceding years);

(C) the methods used to finance the construction, acquisition, rehabilitation, and maintenance of public works improvements (including general obligation bonds, tax-credit bonds, revenue bonds, user fees, excise taxes, direct governmental assistance, and private investment);

(D) any trends or innovations in methods used to finance that construction, acquisition, rehabilitation, and maintenance;

(E) investment requirements, by type of facility, that are necessary to maintain the current condition and performance of those facilities and the investment needed to improve those facilities in the future;

(F)(i) the projected historical share of Federal, State, local, and other government levels of investment requirements as identified in subparagraph (E); and

(ii) the projected expenditure on infrastructure facility improvements described in subparagraph (E) by each level of government;

(G) estimates of the return to the economy from public works investment;

(H) any trends or innovations in infrastructure procurement methods; and

(I) any trends or innovations in construction methods or materials.

(3) CONSULTATION.—In carrying out paragraph (1), the Commission shall consult with appropriate stakeholders, including—

(A) the Secretary of the Army;

(B) the Secretary of Agriculture;

(C) the Secretary of Transportation;

(D) the Administrator of the Environmental Protection Agency;

(E) the Secretary of Commerce;

(F) the Secretary of Education;

(G) the Secretary of Energy;

(H) the Secretary of the Treasury;

(I) the Secretary of the Interior;

(J) the Administrator of General Services;

(K) associations representing private sector stakeholders;

(L) associations representing State and local governments; and

(M) such other individuals and entities as are determined to be appropriate by the Commission.

(4) RESOURCES; DATA.—In carrying out paragraph (1), to the maximum extent practicable, the Commission shall—

(A) use existing studies, data, sampling techniques, and reports of other commissions; and

(B) if collecting new data under this section, make every effort to ensure that the data is collected in consultation with the States so as to ensure that uniform methods, categories, and analyses are used.

(b) RECOMMENDATIONS.—The Commission shall develop recommendations—

(1) on a Federal infrastructure plan that will detail national infrastructure program priorities, including alternative methods of meeting national infrastructure needs to effectuate balanced growth and economic development;

(2) on public works improvements and methods of delivering and providing for public work facilities;

(3) for analysis or criteria and procedures that may be used by Federal agencies and State and local governments in—

(A) inventorying existing and needed public works improvements;

(B) assessing the condition of public works improvements; and

(C) developing uniform criteria and procedures for use in conducting those inventories and assessments; and

(4) for proposed guidelines for the uniform reporting, by Federal agencies, of construction, acquisition, rehabilitation, and maintenance data with respect to infrastructure improvements.

(c) STATEMENT AND RECOMMENDATIONS.—Not later than February 15, 2007, the Commission shall submit to Congress—

(1) a detailed statement of the findings and conclusions of the Commission; and

(2) the recommendations of the Commission under subsection (b), including recommendations for such legislation and administrative actions for 5-, 15-, 30-, and 50-year time periods as the Commission considers to be appropriate.

### SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission shall hold such hearings, meet and act at such times and places, take such testimony, administer such oaths, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this Act.

(2) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of the Federal agency shall provide the information to the Commission.

(c) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) CONTRACTS.—The Commission may enter into contracts with other entities, including contracts under which 1 or more entities, with the guidance of the Commission, conduct the study required under section 4(a).

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

### SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—A member of the Commission shall serve without pay, but shall be allowed a per diem allowance for travel expenses, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(b) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws, including regulations, appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(3) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—In no event shall any employee of the Commission (other than the executive director) receive as compensation an amount in excess of the maximum rate of pay for Executive Level IV under section 5315 of title 5, United States Code.

(c) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(1) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(2) CIVIL SERVICE STATUS.—The detail of a Federal employee shall be without interruption or loss of civil service status or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—On request of the Commission, the Secretary of the Army, acting through the Chief of Engineers, shall provide, on a reimbursable basis, such office space, supplies, equipment, and other support services to the Commission and staff of the Commission as are necessary for the Commission to carry out the duties of the Commission under this Act.

### SEC. 7. CONGRESSIONAL BUDGET OFFICE REVIEW.

Not later than 90 days after the date on which the report under section 4(c) is submitted to Congress by the Commission, the Congressional Budget Office shall review the report and submit a report on the results of the review to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

### SEC. 8. FUNDING.

(a) FISCAL YEAR 2005.—For fiscal year 2005, from amounts otherwise made available to the Secretary of the Army for the purpose of civil works for that fiscal year, the Secretary of the Army shall transfer to the Commission such amount, not to exceed $2,000,000, as the Commission may request to carry out this Act.

(b) .FUTURE FISCAL YEARS.—There is authorized to be appropriated to the Commission to carry out this Act $1,000,000 for each of fiscal years 2006 and 2007.

### SEC. 9. TERMINATION OF COMMISSION.

The Commission shall terminate on September 30, 2007.

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By Ms. SNOWE (for herself, Mr. ROCKEFELLER, Mr. STEVENS, Mr. BURNS, and Mr. DORGAN):

S. 2994. A bill to provide that funds received as universal service contributions under section 254 of the Communications Act of 1934 and the universal service support programs established pursuant thereto are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act, for a period of time; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today with the support of many of my colleagues on the Committee on Commerce, Science, and Transportation to introduce legislation to help keep Americans' telephone bills from rising and to prevent future disruption to the Universal Service Fund. The Universal Service Fund helps keep telephone rates at a reasonable level for millions of American consumers and businesses located in rural parts of our country, areas where phone service would otherwise be prohibitively expensive. The USF also provides discounts to schools and libraries on their Internet service through the E-Rate program, which I and Senator ROCKEFELLER worked to establish in 1996. Finally the USF makes basic "life line" phone service available to low-income Americans, and gives assistance to rural health care providers.

The bill I introduce today is a corrective measure that addresses problems recently encountered by the Universal Service Administration Company, or "USAC," the private, nonprofit corporation that Congress created to administer the USF. Specifically, this bill deals with a decision by the FCC that ordered USAC to adhere to a special set of accounting rules that applies to government agencies. As a private company, USAC had utilized the same accounting rules as used by the private sector, but was told last year that it was subject to the Anti-Deficiency Act, a law that prevents government agencies from incurring financial obligations beyond the amount that has been appropriated to them by Congress. Adherence to government accounting rules is one of the Anti-Deficiency Act's requirements.

However, the switch to government accounting rules has caused an unforseen disruption in the operation of the USF. In July 2004, USAC was notified that its method for accounting for funding commitments made to schools and libraries under the E-Rate program was illegal under the new government accounting rules, even though the method was perfectly proper under Generally Accepted Accounting Principles. As a result, USAC was forced to place an enormous amount of cash on its books by the close of the fiscal year, September 30; to freeze the program on August 3, preventing any action on applications for E-Rate discounts right before the start of the school year; and to liquidate all of its assets, resulting in $4.6 million in penalties and an estimated loss of $30 million in expected interest income.

While USAC believes it can resume acting upon applications for E-Rate discount later this month, it notified the FCC on November 1 that, in order to continue compliance with the new government accounting rules, the USF contribution factor must be raised. The contribution factor is the portion of each customer's phone bill that is paid into the USF. Currently the charge is 8.9 percent of a customer's interstate calls made, but it will likely rise to 13 percent or more. Of course, this increase would be passed right on to consumers and businesses. Worse yet, this accounting change is likely to affect the other components of the USF as well, since they by and large operate in the same manner. If the USF as a whole is forced to make the same accounting changes that were imposed on E-Rate, the USF contribution factor may rise to 25 percent or more by January 1, 2005.

As a result of a seemingly innocuous accounting rule change, schools and libraries across the country have been unable to obtain much-needed discounts on their Internet connections, leading many to shut off their Internet service altogether. A similar strain may be encountered by the USF as a whole, jeopardizing price supports for rural- and low-income Americans on their phone service. And if no immediate action is taken, the telephone bills of American consumers and businesses are slated to rise significantly come the beginning of the new year.

My colleagues and I have examined this issue and worked closely with the FCC and our counterparts on the House Energy and Commerce Committee. We have determined that, given the pending phone bill increases on January 1, the only way to address this problem is to pass a law exempting the Universal Service Fund from the Anti-Deficiency Act through December 31, 2005. During this exemption period, USAC can continue to operate its programs in an orderly manner, phone bills can remain stable, and both Congress and the Executive Branch can work on a permanent solution to this problem. There is ample precedent for an exemption; indeed, many government programs are permanently exempted from the Anti-Deficiency Act, such as the National Park Service and the Conservation Trust.

This is a bipartisan effort among those Members who deal with telecommunications issues regularly. We have worked closely with the FCC and the House, and we have the support of the telecom industry, educators, and state and local governments. A permanent solution might require legislation, or it might not, but either way we will require sufficient time to craft that fix. This bill ensures that, in the meantime, the status quo is preserve, schools and libraries receive their Internet funding, the USF continues to operate soundly, and consumers' telephone bills do not rise.

## SUBMITTED RESOLUTIONS

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### SENATE CONCURRENT RESOLUTION 146—TO DIRECT THE SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF THE BILL S. 150

Mr. ALLEN (for himself, Mr. WYDEN, Mrs. HUTCHISON, Mr. ALEXANDER, and Mr. ENZI) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 146

*Resolved by the Senate (the House of Representatives concurring),* That, in the enrollment of the bill (S. 150) to extend the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act, the Secretary of the Senate shall make the following corrections:

(1) Amend subsection (a) of section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note), as added by section 3 of the bill, to read as follows:

"(a) PRE-OCTOBER 1998 TAXES.—

"(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, if, before that date—

"(A) the tax was authorized by statute; and

"(B) either—

"(i) a provider of Internet access services had a reasonable opportunity to know, by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

"(ii) a State or political subdivision thereof generally collected such tax on charges for Internet access.

"(2) TERMINATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection shall not apply after November 1, 2007.

"(B) STATE TELECOMMUNICATIONS SERVICE TAX.—

"(i) DATE FOR TERMINATION.—This subsection shall not apply after November 1, 2006, with respect to a State telecommunications service tax described in clause (ii).

"(ii) DESCRIPTION OF TAX.—A State telecommunications service tax referred to in subclause (i) is a State tax—

"(I) enacted by State law on or after October 1, 1991, and imposing a tax on telecommunications service; and

"(II) applied to Internet access through administrative code or regulation issued on or after December 1, 2002.".

(2) Insert after section 6 of the bill the following:

**"SEC. 6A. EXCEPTION FOR TEXAS MUNICIPAL ACCESS LINE FEE.**

"The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 6, is amended by adding at the end the following:

**"SEC. 1109. EXCEPTION FOR TEXAS MUNICIPAL ACCESS LINE FEE.**

"Nothing in this Act shall prohibit Texas or a political subdivision thereof from imposing or collecting the Texas municipal access line fee pursuant to Texas Local Govt. Code Ann. ch. 283 (Vernon 2005) and the definition of access line as determined by the Public Utility Commission of Texas in its 'Order Adopting Amendments to Section 26.465 As Approved At The February 13, 2003 Public Hearing', issued March 5, 2003, in Project No. 26412.".

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ENVIRONMENTAL AND PUBLIC WORKS

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday. November 17, 2004 at 2:30 p.m. to conduct a business meeting regarding various projects included in GSA's fiscal year 2005 Capital Investment and Leasing Program, to authorize various courthouse construction projects, and to consider Army Corps of Engineers study resolutions.

The meeting will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, November 17, 2004, at 3 p.m. in Room 216 of the Hart Senate Office Building to conduct a business meeting on pending Committee matters, to be followed immediately by an oversight hearing on the In Re Tribal Lobbying Matters, et al.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. ALLEN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on Wednesday, November 17, 2004, at 2 p.m. on Prenatal Genetic Testing Technology.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the privilege of the floor be granted to the following fellow and interns of the Finance Committee staff during consideration of S. 2986, the debt limit bill: Mary Tuckerman, Priya Mahanti, Audrey Schultz, Brittney McClary, Kelsie Eggensperger, Paige Lester, Jeremy Sylestine, Jodi George, Janis Lazda, Chris Knopes, Scott Landes, and Cuong Huynh.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I ask unanimous consent that floor privileges for the remainder of the week be granted to Jimmy Loyless, who is a banking fellow in my office.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT—CONFERENCE REPORT

Mr. FRIST. Mr. President, I move to proceed to the conference report to accompany H.R. 1047, the Miscellaneous Trade and Technical Corrections Act.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1047), to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by all conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of October 8, 2004.)

### CLOTURE MOTION

Mr. FRIST. Mr. President, I now send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 1047, a bill to amend the harmonized tariff schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

Bill Frist, Chuck Grassley, George Allen, Craig Thomas, Jon Kyl, Mike Crapo, Robert F. Bennett, John Ensign, Pete Domenici, Lamar Alexander, John E. Sununu, Richard G. Lugar, George Voinovich, Peter Fitzgerald, Trent Lott, Lindsey Graham, Jim Talent.

Mr. FRIST. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. For the information of all Members, this cloture motion will ripen on Friday morning. If cloture is invoked—and I think it will be—I hope we can move quickly to the adoption of the conference report.

## NEW SHIPPER REVIEW AMENDMENT ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of S. 2991, which was introduced earlier today by Senators COCHRAN and BYRD.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2991) to suspend temporarily new shipper bonding privileges.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2991) was read the third time and passed, as follows:

S. 2991

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "New Shipper Review Amendment Act of 2004".

**SEC. 2. TEMPORARY SUSPENSION OF NEW SHIPPER BONDING PRIVILEGES.**

Clause (iii) of section 751(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)(iii)) shall not be effective during the 3-year period beginning on the date of the enactment of this Act.

**SEC. 3. REPORT TO CONGRESS.**

Not later than 2 years after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of the Treasury, the United States Trade Representative, and the Commissioner of the Bureau of Customs and Border Protection, shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing—

(1) recommendations on whether the suspension of the effectiveness of section 751(a)(2)(B)(iii) of the Tariff Act of 1930 should be extended beyond the date provided in section 2 of this Act; and

(2) assessments of the effectiveness of any administrative measures that have been implemented to address the difficulties giving rise to section 2 of this Act, including—

(A) problems in assuring the collection of antidumping duties on imports from new shippers;

(B) administrative burdens imposed on the Department of Commerce by new shipper reviews; and

(C) the use of the bonding privilege by importers from new shippers to circumvent the effect of antidumping duty orders.

## UNANIMOUS CONSENT AGREEMENT—FOREIGN OPERATIONS APPROPRIATIONS CONFEREES

Mr. FRIST. Mr. President, I ask unanimous consent that with respect to the Foreign Operations appropriations bill, Senator COCHRAN be inserted in lieu of Senator SPECTER as a conferee.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROTOCOL AMENDING TAX CONVENTION WITH THE NETHERLANDS—TREATY DOCUMENT NO. 108–25

Mr. FRIST. As in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of

Treaty Document No. 108-25, the Protocol Amending the Tax Convention with the Netherlands.

I further ask unanimous consent that the Senate proceed to its consideration and to the accompanying resolution of ratification which is at the desk; that the treaty be considered as having passed through its various parliamentary stages, up to and including the presentation of the resolution of ratification; that any statements be printed in the CONGRESSIONAL RECORD as if read; and that the Senate immediately proceed to a vote on the resolution of ratification; further, that when the resolution of ratification is voted upon, the motion to reconsider be laid upon the table, and that the President be notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask for a division vote on the resolution of ratification.

The PRESIDING OFFICER. A division vote is requested. Senators in favor of the resolution of ratification will rise and stand until counted.

Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification is as follows:

*Resolved (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of the Protocol Amending the Convention Between the United States of America and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on March 8, 2004 (T. Doc. 108-25).

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. BIDEN. Mr. President, today the Senate considered a protocol to the current tax convention between the United States and the Kingdom of the Netherlands. There is substantial trade and cross-border investment between our two countries; the tax convention provides an important basis for facilitating this economic relationship. The original convention was concluded in the early 1990s, and there have been several developments in U.S. tax treaty policy in the intervening years that the protocol seeks to address. It contains several significant provisions, including a revised provision designed to ensure that the treaty cannot be used for inappropriate purposes—a so-called antitreaty-shopping provision. I commend Chairman LUGAR for his diligence in bringing the protocol before the Senate.

During the Foreign Relations Committee's review of the protocol, I raised a concern about a provision in the current treaty that is not addressed by the protocol. Article 24(1) of the current treaty permits the United States to tax former citizens for a period of 10 years after they lose their citizenship, if the loss of their citizenship has as one of its principal purposes the avoidance of income tax. With one exception, this provision in the treaty is consistent with U.S. law—specifically, section 877 of the Internal Revenue Code—as it existed at the time the treaty was concluded. The exception is this: the treaty does not allow the United States to tax former citizens who become nationals of the Netherlands. Such an exclusion for nationals of the treaty partner is unique in our tax treaty practice; it is not found in any other treaty, nor is it contained in our model treaty.

The protocol before the Senate does not close this gap. Consistent with statutory amendments made by Congress in 1996, it does extend the taxation authority of the United States to former long-term residents who leave the United States to avoid taxation. But the exclusion for nationals of the Netherlands remains.

Maintaining this exclusion for nationals of the Netherlands is unwarranted, and raises two concerns. First, I wanted to be sure that retaining the exclusion would not serve as a precedent in future tax treaty negotiations. The Treasury Department has noted that such an exclusion for nationals of the treaty partner has not been included in over two dozen tax treaties negotiated since the treaty with the Netherlands entered into force. More important, the Treasury has committed in writing that it does not intend the provision in the Netherlands treaty to serve as a precedent in the future.

Second, I was concerned that maintaining the exclusion might subvert the purpose of section 877 of the Internal Revenue Code. Based on the information we have received from the Treasury, and after consultation with the staff of the Joint Committee on Taxation, it seems unlikely that the provision in the treaty will, in practice, undermine the operation of section 877. The reasons for this are set forth in detail in the materials that I will seek to include in the RECORD.

Finally, it is worth noting that Congress amended section 877 in section 804 of The American Jobs Creation Act of 2004, also known as the FSC/ETI bill, which was enacted last month. The primary purpose of the provision remains: to continue to tax people who expatriate in order to avoid tax. But the test under the revised section 877 is a more objective test—one based on income levels—than had been applied under the prior law. A question therefore arises about the relationship between the revised language in section 877 and the provision in the U.S.-Netherlands treaty, which uses a more subjective test of whether a "principal purpose" of the expatriating act is to avoid taxation. In a letter that I will insert in the RECORD, the Treasury has set forth information about its intentions for applying the treaty provision in light of the revisions to section 877.

The committee on Foreign Relations held a hearing on the protocol on September 24, 2004. The committee did not vote on the protocol, however, and therefore there is no committee report. So that may colleagues and the public will have a better understanding of the issues I have described, I will ask consent to include two sets of documents in the RECORD. The first is a series of questions for the record that I submitted after the hearing, and the responses from the Treasury witness at the hearing, Barbara Angus, who serves as the international tax counsel at the Department. It should be noted that these questions and answers for the record were written before enactment of the revisions to section 877 of the Internal Revenue Code in the FSC/ETI bill. The second set of documents is an exchange of letters between myself and Ms. Angus on November 15, 2004, which elaborates on the issues that I have discussed, including the Department's intentions for interpreting the revisions to section 877.

Accordingly, I ask unanimous consent to have printed in the RECORD the materials I have described.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### TREASURY DEPARTMENT RESPONSE TO QUESTION FOR THE RECORD FROM SENATOR BIDEN TO BARBARA ANGUS, WITH RESPECT TO THE PROPOSED PROTOCOL TO THE INCOME TAX CONVENTION BETWEEN THE UNITED STATES AND THE KINGDOM OF THE NETHERLANDS—OCTOBER 6, 2004

#### QUESTION

Section 877 of the Internal Revenue Code provides for continued taxation of former citizens and long-term residents of the United States if one of the principal purposes of the loss of U.S. citizenship or change of residence status is the avoidance of taxes.

When Congress amended Section 877 in 1996 to extend this provision to former long-term residents, the conference report on the legislation stated that "it is intended that the purpose of the expatriation tax provisions, as amended, not be defeated by any treaty provision. The Treasury Department is expected to review all outstanding treaties to determine whether the expatriation tax provisions, as revised, potentially conflict with treaty provisions and to eliminate any such potential conflicts through renegotiation of the affected treaties as necessary. Beginning on the tenth anniversary of the enactment of the House bill, any conflicting treaty provisions that remain in force would take precedence over the expatriation tax provisions as revised." (Conf. Rept. on the Health Insurance Portability and Accountability Act of 1996, H. Rept. 104-736, at 329). The Internal Revenue Service subsequently issued guidance stating that it "will interpret section 877 as consistent with U.S. income tax treaties. To the extent that there is a conflict, however, all provisions of section 877, as amended, prevail over treaty provisions in effect on August 21, 1996." (Internal Revenue Bulletin 1997–10, Mar. 10, 1997, at 48.) Presumably, however, the effect of this guidance expires in 2006, as set forth in the above-quoted conference report.

Article 6 of the protocol pending before the Committee extends Article 24(1) and its authority over residents and nationals to former long-term residents, but retains an exclusion for nationals of the Netherlands, whether or not they are former citizens or former long-term residents. Thus, rather than follow the 1996 directive urging the elimination of any potential conflicts between a tax treaty and Section 877, the protocol appears to preserve an existing conflict (for former citizens who are Dutch nationals) and create a new one (for former long-term residents who are Dutch nationals). This exclusion of the treaty partner's nationals also departs from the U.S. model tax treaty. .

Please answer the following questions:

a. Is the exclusion in Article 24(1) for nationals of the Netherlands found in any other U.S. tax treaty? If not, why is it contained in the U.S.-Netherlands treaty?

b. Was the exclusion for nationals of the Netherlands in Article 24(1) of the underlying treaty discussed in the negotiations of the Protocol? Did the United States propose amending this provision? Please elaborate.

c. Why was the exclusion for nationals of the Netherlands in Article 24(1) extended to former long-term residents?

d. What is the estimated fiscal effect of (1) retaining the exclusion for nationals of the Netherlands who were formerly U.S. citizens; and (2) extending the exclusion to nationals of the Netherlands who were formerly long-term residents?

RESPONSE

Section 877 of the Internal Revenue Code, which has been part of the U.S. tax law since 1966, provides for special tax treatment of former U.S. citizens who gave up their citizenship to avoid U.S. tax. Amendments enacted in 1996 strengthened these tax rules and extended the special tax treatment to apply also to certain former long-term U.S. permanent residents who gave up such status to avoid U.S. tax.

Under section 877, former U.S. citizens and certain former long-term U.S. residents are subject to special rules that impose U.S. tax on certain categories of income that have a connection to the United States; these special tax rules are applicable for the 10-year period following the individual's relinquishment of U.S. citizenship or long-term resident status. The special tax rules apply only to individuals who relinquish U.S. citizenship or long-term resident status for a principal purpose of avoiding U.S. income or estate and gift taxes. For this purpose, a presumption of tax avoidance motive applies in the case of certain individuals whose net worth or average annual net income tax liability exceeds specified thresholds; this presumption does not apply, however, to individuals who meet specified criteria.

Section 877 provides that the presumption of tax-avoidance motive (which otherwise would apply if the individual's net worth or average tax liability exceeds the specified thresholds) does not apply to former U.S. citizens who fall into one of the following classes and who submit a ruling request to the Internal Revenue Service:

(i) former U.S. citizens who were dual citizens at birth and who have remained citizens of the other country;

(ii) former U.S. citizens who become citizens of their country of birth, their spouse's country of birth, or one of their parents' countries of birth;

(iii) former U.S. citizens who for the 10 years prior to expatriation were present in the United States for no more than 30 days in any year; and

(iv) former U.S. citizens who gave up their U.S. citizenship before age 18½. Analogous exceptions apply in the case of former long-term U.S. residents.

The special tax rules of section 877 apply only when there is a tax-avoidance purpose for an individual's relinquishment of U.S. citizenship or U.S. long-term resident status. These exceptions to the presumption of tax-avoidance motive recognize that individuals who have close personal ties to another country are likely to have non-tax reasons for a decision to give up U.S. citizenship or long-term resident status.

The U.S.-Netherlands treaty sets forth specific guidance regarding how each country is to tax individuals who are resident in the other country. Although the treaty, like all other U.S. tax treaties, generally limits each country's ability to tax residents of the other country, the treaty contains specific rules that permit the United States to apply its domestic tax rules to U.S. citizens who are resident in the Netherlands. The treaty further provides a rule under which the United States may apply its domestic tax rules to former U.S. citizens who are resident in the Netherlands and who are not Netherlands nationals. The proposed protocol would add to the treaty a rule that extends this same treatment to former U.S. long-term residents who are resident in the Netherlands and who are not Netherlands nationals.

The provision in Article 24(1) of the U.S.-Netherlands income tax treaty that limits the imposition of the special U.S. tax rules under section 877 when applied to Netherlands nationals is unique among U.S. tax treaties. However, this exception for Netherlands nationals is not qualitatively different from the underlying approach reflected in section 877 as amended in 1996. As described above, section 877 provides several exceptions to the tax-avoidance presumption, including exceptions for individuals who are (or become) citizens of the country in which they (or certain family members) were born or who have very limited links to the United States. These exceptions in section 877 are in several cases broader than the exception for Netherlands nationals in the U.S.-Netherlands treaty.

The provision in the U.S.-Netherlands treaty is not expected to produce significantly different results than would be provided under section 877 in practice. As described above, the special tax treatment provided in section 877 applies only in the case of individuals whose relinquishment of U.S. citizenship or long-term resident status had a principal purpose of tax avoidance. Because the Netherlands imposes substantial tax on individuals who are resident there (and only resident individuals who are subject to Netherlands tax are eligible for the benefits of the U.S.-Netherlands tax treaty, including the provision that limits the imposition of U.S. tax), individuals who are trying to avoid tax are unlikely to become residents of the Netherlands. Indeed, pursuant to section 877, the Internal Revenue Service has issued rulings in cases involving Netherlands nationals who relinquished U.S. citizenship or long-term resident status in order to return to the Netherlands, concluding that the individuals did not have a principal motive of tax avoidance and therefore were not subject to the special tax rules provided in section 877. Moreover, because section 877 requires the United States to provide a credit against U.S. tax for tax paid in the country of residence, the application of section 877 to a resident of the Netherlands is unlikely to result in significant U.S. tax (given the substantial tax imposed by the Netherlands on the income of individuals who are resident there).

Although the Netherlands agreed to the application of the special rules of section 877 to residents of the Netherlands who are former U.S. citizens or long-term residents, for a period of 10 years when loss of U.S. citizenship or long-term resident status had as one of its principal purposes the avoidance of U.S. income tax, the exception for Netherlands nationals contained in the 1993 treaty (and continued in the proposed protocol) was important to the Netherlands. This position reflects the underlying view that the special tax rules applicable in the case of tax-avoidance motivated changes in citizenship or residence should not be applicable in cases where the move is to go home. As noted above, the rules of section 877 and the exceptions contained therein reflect a similar perspective.

In light of the limited potential impact of the exception for Netherlands nationals, it was determined that continuation of the exception in the proposed protocol was not inappropriate, particularly given the narrow scope of the proposed protocol. The focus of the proposed protocol is on the withholding tax treatment of dividends and the limitation on benefits provisions. Both countries were interested in the prompt conclusion of a protocol to address these important issues. For the United States in particular, it was a matter of priority to secure improvements to the limitation on benefits provisions in order to prevent the potential for inappropriate use of the treaty through treaty shopping. It is important that the ground-breaking changes to the limitation on benefits provision reflected in the proposed protocol enter into force as soon as possible. In addition, there also were significant benefits to the United States in having the new limitation on benefits rules contained in the proposed protocol become public as soon as possible in order to establish a precedent in terms of strengthened anti-treaty-shopping provisions for other ongoing treaty negotiations. In order to achieve these goals, at the start of negotiations both countries agreed that this protocol would not address other issues where there were differences between the two countries that could slow the process and jeopardize an important agreement.

While this protocol did not revisit the agreement reached in 1993 regarding the treatment of Netherlands nationals under the special rules applicable to former U.S. citizens, the proposed protocol does include a straightforward extension of these special rules regarding U.S. taxing jurisdiction of Netherlands residents contained in the current treaty to provide for coverage of former U.S. long-term residents to the same extent as former U.S. citizens. The current treaty does not contain special rules providing for U.S. taxing jurisdiction over former long-term residents. In addition, other significant 1996 changes strengthening section 877, such as the inclusion of new categories of income subject to the special tax rules, are applicable under the treaty.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
*Washington, DC, November 15, 2004.*
Ms. BARBARA ANGUS,
*International Tax Counsel, Department of the Treasury, Washington, DC.*

DEAR MS. ANGUS: I write regarding the protocol to the U.S.-Netherlands tax treaty now pending before the Senate.

As you know, I have been concerned about the continuation of the exclusion from U.S. taxation authority for nationals of the Netherlands set forth in Article 24(1) of the current U.S.-Netherlands tax treaty. Such an exclusion is unique to the Netherlands treaty, and is not contained in the U.S. model treaty. I am therefore concerned that this provision not serve as a precedent in future tax convention negotiations, and would be grateful for any assurances you can provide in this regard.

Since the Committee's hearing on the protocol, the Congress has approved and the President has signed into law a measure that modifies section 877 of the Internal Revenue Code (Sec. 804 of The American Jobs Creation Act of 2004, Pub. Law 108-357); that provision of law, as you know, provides for special tax treatment of former U.S. citizens and long-term nationals who expatriate. The revised section 877 sets forth an objective test with regard to such individuals, replacing the prior version, which focused on whether the expatriating individual had as a principal purpose the avoidance of U.S. taxation.

In previous exchanges between the Department and the Committee, Department officials have asserted to the Committee that the exclusion in Article 24 for nationals of the Netherlands would not produce a significantly different result in practice than would be provided under section 877. I would appreciate the Department's views on whether that remains the case under the revised section 877.

Finally, a question arises about the interaction between Article 24 and revised section 877. As noted, the latter now contains an objective test; the former provides for continued taxation for 10 years of former U.S. nationals and long-term U.S. residents—provided they are not nationals of the Netherlands—in cases where the loss of such status "has as one of its principal purposes the avoidance of income tax." I am interested in knowing the Department's views on how it will interpret and apply these provisions, not only under the U.S.-Netherlands treaty but also in the case of similar bilateral tax treaties currently in force.

I appreciate your attention to this matter. I expect that the Senate will consider the protocol to the U.S.-Netherlands treaty during this week's session, and I would therefore be grateful for a prompt response to the issues that I have raised.

Sincerely,

JOSEPH R. BIDEN, Jr.,
*Ranking Minority Member.*

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DEPARTMENT OF THE TREASURY,
*Washington, DC, November 15, 2004.*
Hon. JOSEPH R. BIDEN, Jr.,
*Ranking Member, Committee on Foreign Relations, U.S. Senate, Washington, DC.*

DEAR SENATOR BIDEN: I am writing in response to your letter of November 15, 2004, regarding the pending protocol amending the existing tax treaty with the Netherlands. Your letter focuses on the particular provisions in the U.S.-Netherlands treaty and protocol relating to the tax treatment of certain former U.S. citizens and former U.S. long-term residents. You also asked about the interaction of the provisions in this treaty, and in other treaties, with the provisions of section 377 of the Internal Revenue Code as amended by the American Jobs Creation Act enacted last month.

The U.S.-Netherlands treaty includes a provision under which the United States may apply its domestic tax rules to former U.S. citizens who are resident in the Netherlands and who are not Netherlands nationals. The pending protocol would add to the treaty a rule that extends this same treatment to former U.S. long-term residents. The provision in the U.S.-Netherlands treaty that limits the imposition of the special U.S. tax rules under section 877 when applied to individuals who are Netherlands nationals is unique among U.S. tax treaties. This special rule with respect to nationals was incorporated in the U.S.-Netherlands tax treaty in 1993 and has not been included in any other treaties since that time. None of the twenty-seven agreements that have entered into force since the Netherlands treaty entered into force includes such a rule for nationals. This special rule in the U.S.-Netherlands treaty has not served as a precedent for other treaties and we do not intend for it to serve as a precedent going forward.

In my response to your questions for the record, I explained why we believed that the continuation of the special rule for Netherlands nationals in the U.S.-Netherlands treaty would not produce significantly different results than would be produced under U.S. domestic law in practice. We continue to believe that will be the case following the recent amendments to section 877. Although the test in section 377 has been modified to make it more objective, key considerations underlying our view regarding the practical result were the fact that the Netherlands imposes substantial taxes on individuals and the fact that section 877 provides for a credit that reduces the U.S. tax otherwise due by the tax paid in the country of residence. There has been no change with respect to this factual background.

More generally, you asked about our intentions regarding the interpretation of the treaty language which preserves U.S. taxing jurisdiction over former U.S. citizens and former U.S. long-term residents where the individual's relinquishment of citizenship or resident status has "as one of its principal purposes the avoidance of tax". The quoted language regarding principal purpose has long been included in the U.S. Model Income Tax Convention and thus appears in many U.S. tax treaties. This treaty language was intended to be read consistently with section 877. Following the modification of section 877 in 1996 to add objective tests, we have taken the position that those objective tests represent the administrative means by which the United States determines whether a taxpayer has a tax avoidance purpose. The recently-enacted changes represent a further step in this direction and are intended to facilitate the administration of the special tax rules of section 877 by making the rules more objective; however, the underlying purpose of section 877 has not changed. Accordingly, we intend to continue to take the position, in interpreting the "principal purpose" language in the U.S.-Netherlands treaty and other existing treaties, that the objective tests in section 877 as recently amended represent the means by which the United States detemines tax avoidance purpose.

We appreciate your interest in this issue. The pending protocol to the U.S.-Netherlands tax treaty will substantially improve a long-standing U.S. treaty relationship and we believe it is in the interest of the United States to bring this agreement into force as soon as possible.

Sincerely yours,

BARBARA M. ANGUS,
*International Tax Counsel.*●

## ORDERS FOR THURSDAY, NOVEMBER 18, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Thursday, November 18. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will be in a period of morning business. Senators are encouraged to use this time, as I mentioned early this morning, to deliver their tribute speeches to departing Members. While rollcall votes are unlikely during tomorrow's session, Senators should note we will have a lot of work to do prior to adjourning. Moments ago I filed a cloture motion on the Miscellaneous Tariffs conference report. That vote will occur Friday morning. In addition, we must complete action on the remaining appropriation bills which we hope to receive from the House on Friday. We will also consider any additional nominations and conference reports as they become available.

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:44 p.m., adjourned until Thursday, November 18, 2004, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate November 17, 2004:

### NATIONAL MUSEUM AND LIBRARY SERVICES BOARD

A. WILSON GREENE, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2009. (REAPPOINTMENT)

KATINA P. STRAUCH, OF SOUTH CAROLINA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2009, VICE ELIZABETH J. PRUET, TERM EXPIRING.

## IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. STANLEY E. GREEN, 4130

# HOUSE OF REPRESENTATIVES—*Wednesday, November 17, 2004*

HOUSE OF REPRESENTATIVES
WEDNESDAY, NOVEMBER 17, 2004

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. BISHOP of Utah).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*November 17, 2004.*

I hereby appoint the Honorable ROB BISHOP to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

Dr. Bob M. Patterson, Pastor, First Baptist Church, Warm Springs, Georgia, offered the following prayer:

Father, we open this session with prayer not because of tradition or misplaced need to convince You to be on our side. But in this place, sacred to our republic, we admit that we are lost and clueless without Your presence and guidance.

Our first thoughts today are with those in harm's way around Your world in defense of freedom. We pray for victory that will be complete and permanent. For families who find themselves separated, we ask for strong bonds in spite of missed birthdays, anniversaries and holidays. And for those who have received a flag folded three-cornered, we pray Your presence will be an unseen source of comfort and hope.

As the people's business is conducted in this hallowed Chamber, we ask for our representatives to not doubt their beliefs or believe their doubts. We pray for them the courage born of godly convictions and tempered by humility. We ask that You give them a clear idea of what is just and best for our republic coupled with the resolve to do the right thing.

We pray this in the name of the one who promised to be present and to guide us, Jesus the Christ. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. KUCINICH) come forward and lead the House in the Pledge of Allegiance.

Mr. KUCINICH led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## THANKING THE REVEREND DR. BOB PATTERSON

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise to thank the reverend Dr. Bob Patterson for his message today. Bob is no stranger to the halls of the United States House or to Georgia congressmen named Phil. When he was a young man growing up in Hall County, Georgia, in the 1970s, he was appointed to serve as a House page by then Congressman Phil Landrum, and later, he was on detached duty with the House Press Gallery during the Nixon impeachment inquiry.

But Bob did not answer to the siren song of politics. He returned to Georgia to finish college, and then he headed to Texas for seminary. Ministers are not known for staying in one place too long, but Bob has made his home at the First Baptist Church of Warm Springs, Georgia, since 1986.

Warm Springs, Georgia, should sound familiar to those who take a strong interest in American history. Even before he was elected President, Franklin Delano Roosevelt was a frequent visitor and a part-time resident. He was convinced that the warm spring water that existed there had a healing effect on his polio, and he set up an institute in this west Georgia community where other victims of the disease, many of them children, could come for care.

FDR built a house in Warm Springs that is known as the Little White House, and it was in this house in 1945 that the President died.

FDR saw Warm Springs as a place to serve others, and Bob Patterson has carried on that tradition in the heart of Meriwether County. The thesis for his doctoral dissertation was entitled "Developing a Need-Based Community Ministry Strategy for First Baptist Church in Warm Springs." He has personally ministered to the needs in his local community by serving the Family Connection initiative. In fact, he has been honored by both the Rotary and the Pilot clubs for his outstanding contribution to all of Meriwether County.

## U.S. MUST DEVELOP EXIT STRATEGY IN IRAQ

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. Mr. Speaker, the United States must begin to present an exit strategy in Iraq. Bombing the villages to save the villages is not an exit strategy. It is absolutely horrific that as many as 100,000 innocent civilians may have perished in Iraq. Stopping troops who have served their tour of duty from returning to their families is not an exit strategy. Expanding house-to-house fighting across Iraq is not an exit strategy.

The United States must develop an exit strategy in Iraq. It must bring our troops home, and we must seek a new relationship with the United Nations to help make this possible.

In the weeks ahead, I will join with other Members of the House in expanding this discussion. We have a new Congress coming up. We have to take new directions. And we can start by discussing a new direction for Iraq that will result in the United States getting out, bringing our troops home and reestablishing our relationship with the world.

## BUSINESS AS USUAL

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, it is business as usual after the election here in Washington. Right now they are writing a bill to finance the entire Federal Government, hundreds of billions of dollars, behind closed doors. It will be brought up with one vote, no amendments allowed, up or down. Why not? Maybe because we are borrowing $1 million a minute to run the Federal Government, $1 million a minute.

Yesterday the Pension Benefit Guarantee Fund announced that its deficit has doubled to $24 billion. They are broke. They cannot guarantee pensions. Social Security will collect $163 billion more than it needs, but every penny will be borrowed and spent this year for current consumption. We hit the federal debt limit for the third time in 3 years, but the Federal Government is not in default because they are borrowing from Federal employees' pension savings.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Is this not great? Nothing wrong with this picture. We do not need to change. The majority has a plan: more spending, more borrowing, more tax cuts, more dynamic scoring, which means we pretend none of this exists, and we pass the bill to our kids and grandkids.

## WORKING TOGETHER

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, the election is over, and I rise to congratulate President Bush, a fellow Texan, on his reelection. I look forward to working with the President over the next 4 years, particularly to ensure the security of our Nation and to support our men and women in combat. The elimination of terrorist networks across the world and victory in Iraq are mutual goals on which I think we can work together.

While the President's election victory was decisive, 51 percent does not constitute a mandate. Nearly half of America voted for a Democratic platform that protects Social Security and provides more Americans with health insurance. So the President should not mistake this election as a mandate for his efforts to privatize Social Security.

To put Social Security in the hands of a volatile stock market would dismantle our Nation's secured social safety network. We must do more to stop the increase in Americans without health insurance. To expand health savings accounts and association health plans would increase the ranks of uninsured by more than 1 million per year.

During the President's first term, we saw the middle class dwindle, the gap between rich and poor widen. If the President wants to reverse this trend and provide Americans with true health care and economic security, we can work together. But if working together means enacting controversial policies that dismantle the social safety net, this President can count on aggressive opposition.

God bless the United States of America.

## TROUBLING ECONOMIC NEWS

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, as we returned for this lame duck session, we are confronted with a slew of troubling economic news. Just yesterday we learned that inflation is up by 1.7 percent, the sharpest monthly increase in over 15 years. The value of the dollar is dropping to all-time new lows. We also learned that the Pension Benefit Guarantee Corporation's long-term deficit doubled from $11.2 billion to $23.3 billion, a deficit resulting from the PBGC assuming responsibilities for pension plans of 192 failed companies, up from 155 last year alone.

And while we are confronting these new challenges, the annual budget deficit is at $400 billion, an all-time high. On top of the pension benefit deficit, the Federal Government has added, in just the last 3 years, $2 trillion to the Nation's debt, and we are being asked to vote on an additional $900 billion just this week alone.

Mr. Speaker, the American people look to us to solve their problems, America's problems, not our own problems or our own challenges. But in some ways finishing last year's business this year is a fitting end to the 108th Congress.

## REPUBLICAN RULES CHANGE

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, this morning, House Republicans are meeting here on Capitol Hill to vote on a change to their conference rules. A new rule would allow an indicted leader to continue in his position as leader if the indictment comes from a State grand jury.

Can my colleagues imagine that? If House Republicans make this rule change, they are condoning unethical behavior at the State level by their own leaders here in the House. The American people should be outraged by this arrogant behavior.

Back in 1993, Republicans made the change in their rules to demonstrate to the American people that they were not above the law, that if they ran this House, the American people would not have to worry about ethical problems, that Republicans would hold themselves to a higher standard.

Now, however, it appears that higher standard is gone. House Republicans are saying they are willing to stand behind one of their leaders after he is indicted by a State grand jury. It does not matter the charge. The Republicans simply do not care. But I am betting that the American people will care, Mr. Speaker.

## TRIBUTE TO RAUL A. BESTEIRO, JR.

(Mr. HINOJOSA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HINOJOSA. Mr. Speaker, I rise today to pay tribute to one of the finest citizens of South Texas, Raul A. Besteiro, Jr., who passed away November 14, 2004. The Brownsville Herald called him a "Brownsville Pioneer" because of his groundbreaking efforts to transform the region.

For those of us committed to education and economic development, he was the ultimate role model. Mr. Besteiro dedicated his life to improving educational and economic opportunities for his hometown of Brownsville, Texas. He has left a lasting impact on the entire south Texas region.

Mr. Besteiro saw the potential of our region and committed his life's work to helping us achieve it. Whether he was preparing future scientists in the classroom, leading a school system to excellence, or promoting the economic development of our region through the Brownsville Port Authority, Raul Besteiro made south Texas a better and stronger place to live in. Let us carry out his legacy. He will be sorely missed, and we mourn his passing.

## MORAL VALUE OF GOVERNMENT'S "BORROW AND SPEND" ECONOMIC POLICIES

(Mr. DAVIS of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Tennessee. Mr. Speaker, there has been a lot of talk and discussion in media and throughout the country about morals and the role they played in the elections. I personally welcome these discussions, but I am saddened by the fact that there has been little talk about the moral values of the government's "borrow and spend" economic policies.

This week, we will have a vote to raise the debt ceiling for the third time in the last 3 years. Why? Because Congress has been content to manage the American taxpayers' money in a way that immorally disregards the well-being of our Nation's economic future.

I believe it is immoral for this country to keep racking up debt as far as the eye can see only to pass it on to our children and our grandchildren. I think it is immoral to continue to borrow and spend and ask our soldiers to make the ultimate sacrifice while we refuse to make even marginal sacrifices in our fiscal policies.

Mr. Speaker, last week, on Thursday, November 11, the 278th Regimental Combat Unit left for Iraq. Many of these brave men and women of this National Guard unit come from my district in Tennessee. I was able to visit the 278th in Fort Shelby, Mississippi, the day they went off to defend our country. I wish them luck and offer my prayers for their safe return home.

□ 1015

Now I wish our soldiers' government would take the steps necessary to curb this deficit spending, to reinstate true budget enforcement measures like pay-go, and to pay down this national debt instead of continuing to raise the ceiling, so that when our troops return home, they are not left footing the bill for a war they so bravely fought. As we continue to discuss morality in America, I hope we will not continue to ignore the immoralities within our current fiscal policies.

## RECESS

The SPEAKER pro tempore (Mr. DAVIS of Tennessee). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 15 minutes a.m.), the House stood in recess subject to the call of the Chair.

☐ 1400

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 2 p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later in the day.

## VETERANS BENEFITS IMPROVEMENT ACT OF 2004

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2486) to amend title 38, United States Code, to improve and extend housing, education, and other benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

The Clerk read as follows:

S. 2486

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Veterans Benefits Improvement Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title: table of contents.
Sec. 2. Reference to title 38, United States Code.

TITLE I—VETERANS EARN AND LEARN ACT

Sec. 101. Short title.
Sec. 102. Modification of benefit entitlement charges for certain on-job training programs.
Sec. 103. Increase in benefit for individuals pursuing apprenticeship or on-job training.
Sec. 104. Authority for competency-based apprenticeship programs.
Sec. 105. Ten-year extension of delimiting period for survivors' and dependents' educational assistance for spouses of members who die on active duty.
Sec. 106. Availability of education benefits for payment for national admissions exams and national exams for credit at institutions of higher education.
Sec. 107. Requirement for coordination of data among the Departments of Veterans Affairs, Defense, and Labor with respect to on-job training.
Sec. 108. Pilot program to provide on-job benefits to train Department of Veterans Affairs' claims adjudicators.
Sec. 109. Collection of payment for educational assistance under Montgomery GI Bill from members of the Selected Reserve called to active duty.
Sec. 110. Technical and conforming amendments.

TITLE II—EMPLOYMENT MATTERS

Subtitle A—Employment and Reemployment Rights

Sec. 201. Two-year period of continuation of employer-sponsored health care coverage.
Sec. 202. Reinstatement of reporting requirements.
Sec. 203. Requirement for employers to provide notice of rights and duties under USERRA.
Sec. 204. Demonstration project for referral of USERRA claims against Federal agencies to the Office of Special Counsel.

Subtitle B—Other Matters

Sec. 211. Report of employment placement, retention, and advancement of recently separated servicemembers.

TITLE III—BENEFITS MATTERS

Sec. 301. Additional dependency and indemnity compensation for surviving spouses with dependent children.
Sec. 302. Offset of veterans' disability compensation and dependency and indemnity compensation from awards under radiation exposure compensation program.
Sec. 303. Exclusion of life insurance proceeds from consideration as income for veterans' pension purposes.
Sec. 304. Certain service-connected disability benefits authorized for persons disabled by treatment or vocational rehabilitation provided by the Department of Veterans Affairs.
Sec. 305. Effective date of death pension.
Sec. 306. Codification of administrative actions relating to presumptions of service connection for veterans exposed to ionizing radiation.
Sec. 307. Codification of cost-of-living adjustment provided in Public Law 108–47.
Sec. 308. Cross-reference amendments relating to concurrent payment of retired pay and veterans' disability compensation.

TITLE IV—HOUSING MATTERS

Sec. 401. Authority to provide specially adapted housing to certain disabled veterans.
Sec. 402. Transitional housing amendments.
Sec. 403. Increase in maximum amount of home loan guaranty for construction and purchase of homes and annual indexing of amount.
Sec. 404. Extension of authority for guarantee of adjustable rate mortgages.
Sec. 405. Extension and improvement of authority for guarantee of hybrid adjustable rate mortgages.
Sec. 406. Termination of collection of loan fees from veterans rated eligible for compensation at pre-discharge rating examinations.
Sec. 407. Three-year extension of Native American veteran housing loan pilot program.

TITLE V—MATTERS RELATING TO FIDUCIARIES

Sec. 501. Definition of fiduciary.
Sec. 502. Inquiry, investigations, and qualification of fiduciaries.
Sec. 503. Misuse of benefits by fiduciaries.
Sec. 504. Additional protections for beneficiaries with fiduciaries.
Sec. 505. Annual report.
Sec. 506. Annual adjustment in benefits thresholds.
Sec. 507. Effective dates.

TITLE VI—MEMORIAL AFFAIRS MATTERS

Sec. 601. Designation of Prisoner of War/Missing in Action National Memorial, Riverside National Cemetery, Riverside, California.
Sec. 602. Lease of certain National Cemetery Administration property.
Sec. 603. Exchanges of real property for national cemeteries.

TITLE VII—IMPROVEMENTS TO SERVICEMEMBERS CIVIL RELIEF ACT

Sec. 701. Clarification of meaning of "judgment" as used in the Act.
Sec. 702. Requirements relating to waiver of rights under the Act.
Sec. 703. Right of servicemember plaintiffs to request stay of civil proceedings.
Sec. 704. Termination of leases.

TITLE VIII—OTHER MATTERS

Sec. 801. Principal office of United States Court of Appeals for Veterans Claims.
Sec. 802. Technical amendments relating to the United States Court of Appeals for Veterans Claims.
Sec. 803. Extension of biennial report of Advisory Committee on Former Prisoners of War.
Sec. 804. Availability of administrative and judicial redress for certain veterans denied opportunity to compete for Federal employment.
Sec. 805. Report on servicemembers' and veterans' awareness of benefits and services available under laws administered by Secretary of Veterans Affairs.

**SEC. 2. REFERENCE TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

## TITLE I—VETERANS EARN AND LEARN ACT

### SEC. 101. SHORT TITLE.

This title may be cited as the "Veterans Earn and Learn Act of 2004".

### SEC. 102. MODIFICATION OF BENEFIT ENTITLEMENT CHARGES FOR CERTAIN ON-JOB TRAINING PROGRAMS.

(a) IN GENERAL.—Section 3687 is amended by adding at the end the following new subsection:

"(e)(1) For each month that an individual (as defined in paragraph (3)) is paid a training assistance allowance under subsection (a), the entitlement of the individual shall be charged at a percentage rate (rounded to the nearest percent) that is equal to the ratio of—

"(A) the training assistance allowance for the month involved, to

"(B) the monthly educational assistance allowance otherwise payable for full-time enrollment in an educational institution.".

"(2) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under paragraph (1) shall be reduced in the same proportion as the monthly training assistance allowance payable is reduced under subsection (b)(3).

"(3) In this section, the term 'individual' means—

"(A) an eligible veteran who is entitled to monthly educational assistance allowances payable under section 3015(e) of this title, or

"(B) an eligible person who is entitled to monthly educational assistance allowances payable under section 3532(a) of this title,

as the case may be.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to months beginning after September 30, 2005.

### SEC. 103. INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING APPRENTICESHIP OR ON-JOB TRAINING.

(a) MONTGOMERY GI BILL.—For months beginning on or after October 1, 2005, and before January 1, 2008, subsection (c)(1) of section 3032 of title 38, United States Code, shall be applied as if—

(1) the reference to "75 percent" in subparagraph (A) were a reference to "85 percent";

(2) the reference to "55 percent" in subparagraph (B) were a reference to "65 percent"; and

(3) the reference to "35 percent" in subparagraph (C) were a reference to "45 percent".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE.—For months beginning on or after October 1, 2005, and before January 1, 2008, subsection (a) of section 3233 of title 38, United States Code, shall be applied as if—

(1) the reference to "75 percent" in paragraph (1) were a reference to "85 percent";

(2) the reference to "55 percent" in paragraph (2) were a reference to "65 percent"; and

(3) the reference to "35 percent" in paragraph (3) were a reference to "45 percent".

(c) SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE.—(1) For months beginning on or after October 1, 2005, and before January 1, 2008, subsection (b)(2) of section 3687 of title 38, United States Code, shall be applied as if—

(A) the reference to "$574 for the first six months" were a reference to "$650 for the first six months";

(B) the reference to "$429 for the second six months" were a reference to "$507 for the second six months"; and

(C) the reference to "$285 for the third six months" were a reference to "$366 for the third six months".

(2) Subsection (d) of such section 3687 shall not apply with respect to the provisions of paragraph (1) for months occurring during fiscal year 2006.

(3) For months beginning on or after January 1, 2008, the Secretary shall carry out subsection (b)(2) of such section 3687 as if paragraphs (1) and (2) were not enacted into law.

(d) SELECTED RESERVE MONTGOMERY GI BILL.—For months beginning on or after October 1, 2005, and before January 1, 2008, Subsection (d)(1) of section 16131 of title 10, United States Code, shall be applied as if—

(1) the reference to "75 percent" in subparagraph (A) were a reference to "85 percent";

(2) the reference to "55 percent" in subparagraph (B) were a reference to "65 percent"; and

(3) the reference to "35 percent" in subparagraph (C) were a reference to "45 percent".

### SEC. 104. AUTHORITY FOR COMPETENCY-BASED APPRENTICESHIP PROGRAMS.

(a) IN GENERAL.—Section 3672(c) is amended—

(1) by striking "(1)" and "(2)" and inserting "(A)" and "(B)", respectively;

(2) by inserting "(1)" after "(c)"; and

(3) by adding at the end the following new paragraphs:

"(2) The period of a program of apprenticeship may be determined based upon a specific period of time (commonly referred to as a 'time-based program'), based upon the demonstration of successful mastery of skills (commonly referred to as a 'competency-based program'), or based upon a combination thereof.

"(3)(A) In the case of a competency-based program of apprenticeship, State approving agencies shall determine the period for which payment may be made for such a program under chapters 30 and 35 of this title and chapter 1606 of title 10. In determining the period of such a program, State approving agencies shall take into consideration the approximate term of the program recommended in registered apprenticeship program standards recognized by the Secretary of Labor.

"(B) The sponsor of a competency-based program of apprenticeship shall provide notice to the State approving agency involved of any such standards that may apply to the program and the proposed approximate period of training under the program.

"(4) The sponsor of a competency-based program of apprenticeship shall notify the Secretary upon the successful completion of a program of apprenticeship by an individual under chapter 30 or 35 of this title, or chapter 1606 of title 10, as the case may be.".

(b) INCREASED USE OF APPRENTICESHIPS.—Section 3672(d)(1) is amended by adding at the end the following new sentence: "The Secretary of Labor shall provide assistance and services to the Secretary, and to State approving agencies, to increase the use of apprenticeships.".

(c) FUNDING FOR DEPARTMENT COMPUTER SYSTEM MODIFICATIONS.—From amounts appropriated to the Department of Veterans Affairs for fiscal year 2005 for readjustment benefits, the Secretary of Veterans Affairs shall use an amount not to exceed $3,000,000 to modify computer systems and to develop procedures required to carry out the amendments made by subsection (a) and sections 102 and 103.

### SEC. 105. TEN-YEAR EXTENSION OF DELIMITING PERIOD FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE FOR SPOUSES OF MEMBERS WHO DIE ON ACTIVE DUTY.

Section 3512(b)(1) is amended—

(1) in subparagraph (A), by striking "in subparagraph (B)" and inserting "in subparagraph (B) or (C)"; and

(2) by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph who is made eligible under section 3501(a)(1)(B) of this title by reason of the death of a person on active duty may be afforded educational assistance under this chapter during the 20-year period beginning on the date (as determined by the Secretary) such person becomes an eligible person within the meaning of such section.".

### SEC. 106. AVAILABILITY OF EDUCATION BENEFITS FOR PAYMENT FOR NATIONAL ADMISSIONS EXAMS AND NATIONAL EXAMS FOR CREDIT AT INSTITUTIONS OF HIGHER EDUCATION.

(a) COVERED EXAMS.—Sections 3452(b) and 3501(a)(5) are each amended by adding at the end the following new sentence: "Such term also includes national tests for admission to institutions of higher learning or graduate schools (such as the Scholastic Aptitude Test (SAT), Law School Admission Test (LSAT), Graduate Record Exam (GRE), and Graduate Management Admission Test (GMAT)) and national tests providing an opportunity for course credit at institutions of higher learning (such as the Advanced Placement (AP) exam and College-Level Examination Program (CLEP)).".

(b) AMOUNT OF PAYMENT.—

(1) CHAPTER 30.—Section 3032 is amended by adding at the end the following new subsection:

"(g)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3452(b) of this title is the amount of the fee charged for the test.

"(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under subsection (a)(1), (b)(1), (d), or (e)(1) of section 3015 of this title, as the case may be.

"(3) In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.".

(2) CHAPTER 32.—Section 3232 is amended by adding at the end the following new subsection:

"(d)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3452(b) of this title is the amount of the fee charged for the test.

"(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under this chapter.

"(3) In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.".

(3) Chapter 35.—Section 3532 is amended by adding at the end the following new subsection:

"(g)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3501(a)(5) of this title is the amount of the fee charged for the test.

"(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under this chapter.

"(3) In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.".

#### SEC. 107. REQUIREMENT FOR COORDINATION OF DATA AMONG THE DEPARTMENTS OF VETERANS AFFAIRS, DEFENSE, AND LABOR WITH RESPECT TO ON-JOB TRAINING.

Section 3694 is amended—

(1) by striking "In carrying out" and inserting "(a) In General.—In carrying out"; and

(2) by adding at the end the following new subsection:

"(b) Coordination of Information Among the Departments of Veterans Affairs, Defense, and Labor With Respect to On-Job Training.—At the time of a servicemember's discharge or release from active duty service, the Secretary of Defense shall furnish to the Secretary such pertinent information concerning each registered apprenticeship pursued by the servicemember during the period of active duty service of the servicemember. The Secretary, in conjunction with the Secretary of Labor, shall encourage and assist States and private organizations to give credit to servicemembers for the registered apprenticeship program so pursued in the case of any related apprenticeship program the servicemember may pursue as a civilian.".

#### SEC. 108. PILOT PROGRAM TO PROVIDE ON-JOB BENEFITS TO TRAIN DEPARTMENT OF VETERANS AFFAIRS' CLAIMS ADJUDICATORS.

Section 3677 is amended by adding at the end the following new subsection:

"(d)(1) The Secretary may conduct a pilot program under which the Secretary operates a program of training on the job under this section for a period (notwithstanding subsection (c)(2)) of up to three years in duration to train employees of the Department to become qualified adjudicators of claims for compensation, dependency and indemnity compensation, and pension.

"(2)(A) Not later than three years after the implementation of the pilot project, the Secretary shall submit to Congress an initial report on the pilot project. The report shall include an assessment of the usefulness of the program in recruiting and retaining of personnel of the Department as well as an assessment of the value of the program as a training program.

"(B) Not later than 18 months after the date on which the initial report under subparagraph (A) is submitted, the Secretary shall submit to Congress a final report on the pilot project. The final report shall include recommendations of the Secretary with respect to continuation of the pilot project and with respect to expansion of the types of claims for which the extended period of on the job training is available to train such employees.".

#### SEC. 109. COLLECTION OF PAYMENT FOR EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FROM MEMBERS OF THE SELECTED RESERVE CALLED TO ACTIVE DUTY.

(a) Active Duty Program.—Section 3011(b) is amended—

(1) by striking "The basic pay" and inserting "(1) Except as provided in paragraph (2), the basic pay";

(2) by designating the second sentence as paragraph (3) and in that paragraph by striking "this chapter" and inserting "this subsection"; and

(3) by inserting after paragraph (1), as so designated, the following new paragraph:

"(2) In the case of an individual covered by paragraph (1) who is a member of the Selected Reserve, the Secretary of Defense shall collect from the individual an amount equal to $1,200 not later than one year after completion by the individual of the two years of service on active duty providing the basis for such entitlement. The Secretary of Defense may collect such amount through reductions in basic pay in accordance with paragraph (1) or through such other method as the Secretary of Defense considers appropriate.".

(b) Selected Reserve Program.—Section 3012(c) is amended—

(1) by striking "The basic pay" and inserting "(1) Except as provided in paragraph (2), the basic pay";

(2) by designating the second sentence as paragraph (3) and in that paragraph by striking "this chapter" and inserting "this subsection"; and

(3) by inserting after paragraph (1), as so designated, the following new paragraph:

"(2) In the case of an individual covered by paragraph (1) who is a member of the Selected Reserve, the Secretary of Defense shall collect from the individual an amount equal to $1,200 not later than one year after completion by the individual of the two years of service on active duty providing the basis for such entitlement. The Secretary of Defense may collect such amount through reductions in basic pay in accordance with paragraph (1) or through such other method as the Secretary of Defense considers appropriate.".

#### SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Definition of Training Establishment.—Section 3452(e), as amended by section 301 of the Veterans Benefits Act of 2003 (Public Law 108–183; 117 Stat. 2658), is amended in paragraph (5) to read as follows:

"(5) The sponsor of a program of apprenticeship.".

(b) Clarification of Applicable Apprenticeship Standards.—(1) Section 3672(c), as amended by section 105(a), is amended in subparagraph (A) by inserting "apprenticeship" before "standards".

(2) Section 3672(d)(1) is amended by striking "of programs of training on the job (including programs of apprenticeship)" and inserting "of apprenticeship and on the job training programs".

(c) Record-Keeping Requirements for Qualified Providers of Entrepreneurship Courses.—(1) Section 3675(c) is amended by adding at the end the following new paragraph:

"(4) Notwithstanding paragraph (3), a qualified provider of entrepreneurship courses shall maintain such records as the Secretary determines to be necessary to comply with reporting requirements that apply under section 3684(a)(1) of this title with respect to eligible persons and veterans enrolled in an entrepreneurship course offered by the provider.".

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 305(a) of the Veterans Benefits Act of 2003 (Public Law 108–183; 117 Stat. 2660).

(d) Authority To Pay Reporting Fee.—Section 3684(c) is amended by striking "or to any joint apprenticeship training committee acting as a training establishment" and inserting "or to the sponsor of a program of apprenticeship".

## TITLE II—EMPLOYMENT MATTERS

### Subtitle A—Employment and Reemployment Rights

#### SEC. 201. TWO-YEAR PERIOD OF CONTINUATION OF EMPLOYER-SPONSORED HEALTH CARE COVERAGE.

(a) Improvement in Period of Coverage.—Subsection (a)(1)(A) of section 4317 is amended by striking "18-month period" and inserting "24-month period".

(b) Effective Date.—The amendment made by subsection (a) shall apply to elections made under section 4317 of title 38, United States Code, on or after the date of the enactment of this Act.

#### SEC. 202. REINSTATEMENT OF REPORTING REQUIREMENTS.

Section 4332 is amended in the matter preceding paragraph (1) by striking "no later than February 1, 1996, and annually thereafter through 2000" and inserting "no later than February 1, 2005, and annually thereafter".

#### SEC. 203. REQUIREMENT FOR EMPLOYERS TO PROVIDE NOTICE OF RIGHTS AND DUTIES UNDER USERRA.

(a) Notice.—Chapter 43 is amended by adding at the end the following new section:

**"§ 4334. Notice of rights and duties**

"(a) Requirement to Provide Notice.—Each employer shall provide to persons entitled to rights and benefits under this chapter a notice of the rights, benefits, and obligations of such persons and such employers under this chapter. The requirement for the provision of notice under this section may be met by the posting of the notice where employers customarily place notices for employees.

"(b) Content of Notice.—The Secretary shall provide to employers the text of the notice to be provided under this section.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4334. Notice of rights and duties.".

(c) Implementation.—(1) Not later than the date that is 90 days after the date of the enactment of this Act, the Secretary of Labor shall make available to employers the notice required under section 4334 of title 38, United States Code, as added by subsection (a).

(2) The amendments made by this section shall apply to employers under chapter 43 of

title 38, United States Code, on and after the first date referred to in paragraph (1).

### SEC. 204. DEMONSTRATION PROJECT FOR REFERRAL OF USERRA CLAIMS AGAINST FEDERAL AGENCIES TO THE OFFICE OF SPECIAL COUNSEL.

(a) ESTABLISHMENT OF PROJECT.—The Secretary of Labor and the Office of Special Counsel shall carry out a demonstration project under which certain claims against Federal executive agencies under the Uniformed Services Employment and Reemployment Rights Act under chapter 43 of title 38, United States Code, are referred to, or otherwise received by, the Office of Special Counsel for assistance, including investigation and resolution of the claim as well as enforcement of rights with respect to the claim.

(b) REFERRAL OF ALL PROHIBITED PERSONNEL ACTION CLAIMS TO THE OFFICE OF SPECIAL COUNSEL.—(1) Under the demonstration project, the Office of Special Counsel shall receive and investigate all claims under the Uniformed Services Employment and Reemployment Rights Act with respect to Federal executive agencies in cases where the Office of Special Counsel has jurisdiction over related claims pursuant to section 1212 of title 5, United States Code.

(2) For purposes of paragraph (1), a related claim is a claim involving the same Federal executive agency and the same or similar factual allegations or legal issues as those being pursued under a claim under the Uniformed Services Employment and Reemployment Rights Act.

(c) REFERRAL OF OTHER CLAIMS AGAINST FEDERAL EXECUTIVE AGENCIES.—(1) Under the demonstration project, the Secretary—

(A) shall refer to the Office of Special Counsel all claims described in paragraph (2) made during the period of the demonstration project; and

(B) may refer any claim described in paragraph (2) filed before the demonstration project that is pending before the Secretary at the beginning of the demonstration project.

(2) A claim referred to in paragraph (1) is a claim under chapter 43 of title 38, United States Code, against a Federal executive agency by a claimant with a social security account number with an odd number as its terminal digit, or, in the case of a claim that does not contain a social security account number, a case number assigned to the claim with an odd number as its terminal digit.

(d) ADMINISTRATION OF DEMONSTRATION PROJECT.—(1) The Office of Special Counsel shall administer the demonstration project. The Secretary shall cooperate with the Office of Special Counsel in carrying out the demonstration project.

(2) In the case of any claim referred, or otherwise received by, to the Office of Special Counsel under the demonstration project, any reference to the "Secretary" in sections 4321, 4322, and 4326 of title 38, United States Code, is deemed a reference to the "Office of Special Counsel".

(3) In the case of any claim referred to, or otherwise received by, the Office of Special Counsel under the demonstration project, the Office of Special Counsel shall retain administrative jurisdiction over the claim.

(e) PERIOD OF PROJECT.—The demonstration project shall be carried out during the period beginning on the date that is 60 days after the date of the enactment of this Act, and ending on September 30, 2007.

(f) EVALUATIONS AND REPORT.—(1) The Comptroller General of the United States shall conduct periodic evaluations of the demonstration project under this section.

(2) Not later than April 1, 2007, the Comptroller General shall submit to Congress a report on the evaluations conducted under paragraph (1). The report shall include the following information and recommendations:

(A) A description of the operation and results of the demonstration program, including—

(i) the number of claims described in subsection (c) referred to, or otherwise received by, the Office of Special Counsel, and the number of such claims referred to the Secretary of Labor; and

(ii) for each Federal executive agency, the number of claims resolved, the type of corrective action obtained, the period of time for final resolution of the claim, and the results obtained.

(B) An assessment of whether referral to the office of special counsel of claims under the demonstration project—

(i) improved services to servicemembers and veterans; or

(ii) significantly reduced or eliminated duplication of effort and unintended delays in resolving meritorious claims of those servicemembers and veterans.

(C) An assessment of the feasibility and advisability of referring all claims under chapter 43 of title 38, United States Code, against Federal executive agencies to the Office of Special Counsel for investigation and resolution.

(D) Such other recommendations for administrative action or legislation as the Comptroller General determines appropriate.

(g) DEFINITIONS.—In this section:

(1) The term "Office of Special Counsel" means the Office of Special Counsel established by section 1211 of title 5, United States Code.

(2) The term "Secretary" means the Secretary of Labor.

(3) The term "Federal executive agency" has the meaning given that term in section 4303(5) of title 38, United States Code.

## Subtitle B—Other Matters

### SEC. 211. REPORT OF EMPLOYMENT PLACEMENT, RETENTION, AND ADVANCEMENT OF RECENTLY SEPARATED SERVICEMEMBERS.

(a) CONTRACT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall enter into a contract with a qualified entity to conduct a study of and prepare a report on the employment histories of recently separated servicemembers.

(b) CONTENT OF REPORT.—(1) The study conducted pursuant to subsection (a) shall consist of an analysis of employment-related data that have been collected with respect to recently separated servicemembers.

(2) In conducting the study, the qualified entity shall—

(A) determine whether the employment obtained by recently separated servicemembers is commensurate with training and education of those servicemembers;

(B) determine whether recently separated servicemembers received educational assistance or training and rehabilitation under programs administered by the Secretary of Veterans Affairs under chapter 30 or 31 of title 38, United States Code, or under chapter 1606 of title 10, United States Code;

(C) determine whether transition assistance services provided to recently separated servicemembers assisted those servicemembers in obtaining civilian employment;

(D) analyze trends in hiring of veterans by the private sector; and

(E) identify recently separated servicemembers who have reached senior level management positions.

(c) USE OF DATA.—In conducting the study under subsection (a), the qualified entity shall review data compiled and reported by the Bureau of Labor Statistics and shall collect additional data on the employment histories of recently separated servicemembers available from such other sources as the qualified entity determines to be appropriate.

(d) CONTRACT REQUIREMENTS.—(1) The contract entered into under subsection (a) shall contain such terms and conditions as the Secretary may require. The contract shall require that the report on the study be submitted to the Secretary not later than 2 years after the date on which the contract was entered into.

(2) The report required under subsection (a) shall contain the findings and conclusions of the qualified entity on the study and specific recommendations to improve employment opportunities for veterans recently separated from service in the Armed Forces, including, if appropriate, recommendations for—

(A) the establishment of networks of contacts for employment of such veterans in the private sector;

(B) outreach to private sector leaders on the merits and sound business practice of hiring such veterans; and

(C) additional methods to facilitate communication between private sector employers and such veterans who are seeking employment.

(e) FUNDING.—Payment by the Secretary for the contract entered into under subsection (a)—

(1) shall be made from the Department of Veterans Affairs appropriations account from which payments for readjustment benefits are made; and

(2) may not exceed $490,000.

(f) DEFINITIONS.—In this section:

(1) The term "qualified entity" means an entity or organization that meets the following requirements:

(A) Demonstrated experience in conducting employment surveys of recently separated servicemembers, including Internet-based surveys, that meet such quality assurance requirements as the Secretary determines appropriate.

(B) Demonstrated familiarity with veteran employment matters.

(C) Demonstrated ability in developing plans to market veterans as employment assets.

(D) Demonstrated ability to acquire services at no cost from other organizations, such as technology, staff services, and advertising services.

(E) Demonstrated ability to develop relationships, establish employment networks, and facilitate interaction between private and public sector leaders and veterans.

(2) The term "employment history" means, with respect to a recently separated servicemember, training, placement, retention, and advancement in employment of that servicemember.

(3) The term "recently separated servicemember" means any veteran (as defined in section 101(2) of title 38, United States Code) discharged or released from active duty in the Armed Forces of the United States during the 16-year period beginning on January 1, 1990.

## TITLE III—BENEFITS MATTERS

### SEC. 301. ADDITIONAL DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES WITH DEPENDENT CHILDREN.

(a) ADDITIONAL DEPENDENCY AND INDEMNITY COMPENSATION.—Section 1311 is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraphs (2) and (3), if there is a surviving spouse with one or more children below the age of 18, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $250, regardless of the number of such children.

"(2) Dependency and indemnity compensation shall be increased under this subsection only for months occurring during the two-year period beginning on the date on which entitlement to dependency and indemnity compensation commenced.

"(3) The increase in dependency and indemnity compensation of a surviving spouse under this subsection shall cease beginning with the first month commencing after the month in which all children of the surviving spouse have attained the age of 18.

"(4) Dependency and indemnity compensation under this subsection is in addition to any other dependency and indemnity compensation payable under this chapter.".

(b) EFFECTIVE DATE.—Subsection (e) of section 1311 of title 38, United States Code, as added by subsection (a), shall take effect with respect to payments for the first month beginning after the date of the enactment of this Act.

### SEC. 302. OFFSET OF VETERANS' DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION FROM AWARDS UNDER RADIATION EXPOSURE COMPENSATION PROGRAM.

(a) OFFSET IN LIEU OF FORFEITURE FROM DISABILITY COMPENSATION.—Subsection (c) of section 1112 is amended by adding at the end the following new paragraph:

"(4) A radiation-exposed veteran who receives a payment under the provisions of the Radiation Exposure Compensation Act of 1990 (42 U.S.C. 2210 note) shall not be deprived, by reason of the receipt of that payment, of receipt of compensation to which that veteran is entitled by reason of paragraph (1), but there shall be deducted from payment of such compensation the amount of the payment under that Act.".

(b) OFFSET IN LIEU OF FORFEITURE FROM DEPENDENCY AND INDEMNITY COMPENSATION.—Section 1310 is amended by adding at the end the following new paragraph:

"(c) A person who receives a payment under the provisions of the Radiation Exposure Compensation Act of 1990 (42 U.S.C. 2210 note) shall not be deprived, by reason of the receipt of that payment, of receipt of dependency and indemnity compensation to which that person is otherwise entitled, but there shall be deducted from payment of such dependency and indemnity compensation the amount of the payment under that Act.".

(c) EFFECTIVE DATE.—Paragraph (4) of section 1112(c) of title 38, United States Code, as added by subsection (a), shall take effect with respect to compensation payments for months beginning after March 26, 2002. Subsection (c) of section 1310 of such title, as added by subsection (b), shall take effect with respect to dependency and indemnity compensation payments for months beginning after March 26, 2002.

### SEC. 303. EXCLUSION OF LIFE INSURANCE PROCEEDS FROM CONSIDERATION AS INCOME FOR VETERANS' PENSION PURPOSES.

Section 1503(a) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of the paragraph (10) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(11) lump-sum proceeds of any life insurance policy on a veteran, for purposes of pension under subchapter III of this chapter.".

### SEC. 304. CERTAIN SERVICE-CONNECTED DISABILITY BENEFITS AUTHORIZED FOR PERSONS DISABLED BY TREATMENT OR VOCATIONAL REHABILITATION PROVIDED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) AUTHORIZED BENEFITS.—Section 1151 is amended by adding at the end the following new subsection:

"(c) A qualifying additional disability under this section shall be treated in the same manner as if it were a service-connected disability for purposes of the following provisions of this title:

"(1) Chapter 21, relating to specially adapted housing.

"(2) Chapter 39, relating to automobiles and adaptive equipment.".

(b) EFFECTIVE DATE.—Subsection (c) of section 1151 of title 38, United States Code, as added by subsection (a), shall apply with respect to eligibility for benefits and services provided by the Secretary of Veterans Affairs on or after the date of the enactment of this Act.

(c) ADMINISTRATION OF OFFSET PROVISION.—Subsection (b) of section 1151 is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting "(except as otherwise provided in paragraph (2))" after "service-connected, then"; and

(3) by adding at the end the following new paragraph:

"(2) In the case of a judgment, settlement, or compromise covered by paragraph (1) that becomes final on or after the date of the enactment of this paragraph and that includes an amount that is specifically designated for a purpose for which benefits are provided under chapter 21 or 39 of this title (hereinafter in this paragraph referred to as the 'offset amount'), if such judgment, settlement, or compromise becomes final before the date of the award of benefits under chapter 21 or 39 for the purpose for which the offset amount was specifically designated—

"(A) the amount of such award shall be reduced by the offset amount; and

"(B) if the offset amount is greater than the amount of such award, the excess amount received pursuant to the judgment, settlement or compromise, shall be offset against benefits otherwise payable under this chapter.".

### SEC. 305. EFFECTIVE DATE OF DEATH PENSION.

Section 5110(d) is amended—

(1) by striking "(1)";

(2) by striking "death compensation or dependency and indemnity compensation" and inserting "death compensation, dependency and indemnity compensation, or death pension"; and

(3) by striking paragraph (2).

### SEC. 306. CODIFICATION OF ADMINISTRATIVE ACTIONS RELATING TO PRESUMPTIONS OF SERVICE CONNECTION FOR VETERANS EXPOSED TO IONIZING RADIATION.

(a) COVERED DISEASES.—Subsection (c)(2) of section 1112 is amended by adding at the end the following new subparagraphs:

"(Q) Cancer of the bone.

"(R) Cancer of the brain.

"(S) Cancer of the colon.

"(T) Cancer of the lung.

"(U) Cancer of the ovary.".

(b) COVERED RADIATION-RISK ACTIVITIES.—Subsection (c)(3)(B) of such section is amended by adding at the end the following new clause:

"(iv) Service in a capacity which, if performed as an employee of the Department of Energy, would qualify the individual for inclusion as a member of the Special Exposure Cohort under section 3621(14) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l(14)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of March 26, 2002.

### SEC. 307. CODIFICATION OF COST-OF-LIVING ADJUSTMENT PROVIDED IN PUBLIC LAW 108–47.

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 is amended—

(1) by striking "$104" in subsection (a) and inserting "$106";

(2) by striking "$201" in subsection (b) and inserting "$205";

(3) by striking "$310" in subsection (c) and inserting "$316";

(4) by striking "$445" in subsection (d) and inserting "$454";

(5) by striking "$633" in subsection (e) and inserting "$646";

(6) by striking "$801" in subsection (f) and inserting "$817";

(7) by striking "$1,008" in subsection (g) and inserting "$1,029";

(8) by striking "$1,171" in subsection (h) and inserting "$1,195";

(9) by striking "$1,317" in subsection (i) and inserting "$1,344";

(10) by striking "$2,193" in subsection (j) and inserting "$2,239";

(11) in subsection (k)—

(A) by striking "$81" both places it appears and inserting "$82"; and

(B) by striking "$2,728" and "$3,827" and inserting "$2,785" and "$3.907", respectively;

(12) by striking "$2.728" in subsection (l) and inserting "$2,785";

(13) by striking "$3,010" in subsection (m) and inserting "$3,073";

(14) by striking "$3,425" in subsection (n) and inserting "$3,496";

(15) by striking "$3,827" each place it appears in subsections (o) and (p) and inserting "$3,907";

(16) by striking "$1,643" and "$2,446" in subsection (r) and inserting "$1,677" and "$2,497", respectively; and

(17) by striking "$2,455" in subsection (s) and inserting "$2,506".

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) is amended—

(1) by striking "$125" in subparagraph (A) and inserting "$127";

(2) by striking "$215" and "$64" in subparagraph (B) and inserting "$219" and "$65", respectively;

(3) by striking "$85" and "$64" in subparagraph (C) and inserting "$86" and "$65", respectively;

(4) by striking "$101" in subparagraph (D) and inserting "$103";

(5) by striking "$237" in subparagraph (E) and inserting "$241"; and

(6) by striking "$198" in subparagraph (F) and inserting "$202".

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 is amended by striking "$588" and inserting "$600".

(d) Dependency and Indemnity Compensation for Surviving Spouses.—(1) Section 1311(a) is amended—

(A) by striking "$948" in paragraph (1) and inserting "$967"; and

(B) by striking "$204" in paragraph (2) and inserting "$208".

(2) The table in section 1311(a)(3) is amended to read as follows:

| Pay grade | Monthly rate | Pay grade | Monthly rate |
|---|---|---|---|
| E-1 | $967 | W-4 | $1,157 |
| E-2 | 967 | O-1 | 1,022 |
| E-3 | 967 | O-2 | 1,056 |
| E-4 | 967 | O-3 | 1,130 |
| E-5 | 967 | O-4 | 1,195 |
| E-6 | 967 | O-5 | 1,316 |
| E-7 | 1,000 | O-6 | 1,483 |
| E-8 | 1,056 | O-7 | 1,602 |
| E-9 | [1]1,102 | O-8 | 1,758 |
| W-1 | 1,022 | O-9 | 1,881 |
| W-2 | 1,063 | O-10 | [2]2,063 |
| W-3 | 1,094 | | |

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,189.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,213.

(3) Section 1311(b) is amended by striking "$237" and inserting "$241".

(4) Section 1311(c) is amended by striking "$237" and inserting "$241".

(5) Section 1311(d) is amended by striking "$113" and inserting "$115".

(e) Dependency and Indemnity Compensation for Children.—(1) Section 1313(a) is amended—

(A) by striking "$402" in paragraph (1) and inserting "$410";

(B) by striking "$578" in paragraph (2) and inserting "$590";

(C) by striking "$752" in paragraph (3) and inserting "$767"; and

(D) by striking "$752" and "$145" in paragraph (4) and inserting "$767" and "$148", respectively.

(2) Section 1314 is amended—

(A) by striking "$237" in subsection (a) and inserting "$241";

(B) by striking "$402" in subsection (b) and inserting "$410"; and

(C) by striking "$201" in subsection (c) and inserting "$205".

### SEC. 308. CROSS-REFERENCE AMENDMENTS RELATING TO CONCURRENT PAYMENT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION.

(a) Prohibition Against Duplication of Benefits.—Section 5304(a)(1) is amended by inserting "as provided in section 1414 of title 10 or" after "Except".

(b) Waiver of Retired Pay.—Section 5305 is amended by striking "Any" in the first sentence and inserting "Except as provided in section 1414 of title 10, any".

## TITLE IV—HOUSING MATTERS

### SEC. 401. AUTHORITY TO PROVIDE SPECIALLY ADAPTED HOUSING TO CERTAIN DISABLED VETERANS.

The text of section 2101 is amended to read as follows:

"(a) Acquisition of Housing With Special Features.—(1) Subject to paragraph (3), the Secretary may assist a disabled veteran described in paragraph (2) in acquiring a suitable housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, and necessary land therefor.

"(2) A veteran is described in this paragraph if the veteran is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability that meets any of the following criteria:

"(A) The disability is due to the loss, or loss of use, of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

"(B) The disability is due to—

"(i) blindness in both eyes, having only light perception, plus

"(ii) loss or loss of use of one lower extremity.

"(C) The disability is due to the loss or loss of use of one lower extremity together with—

"(i) residuals of organic disease or injury; or

"(ii) the loss or loss of use of one upper extremity,

which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

"(D) The disability is due to the loss, or loss of use, of both upper extremities such as to preclude use of the arms at or above the elbows.

"(3) The regulations prescribed under subsection (c) shall require that assistance under paragraph (1) may be provided to a veteran only if the Secretary finds that—

"(A) it is medically feasible for the veteran to reside in the proposed housing unit and in the proposed locality;

"(B) the proposed housing unit bears a proper relation to the veteran's present and anticipated income and expenses; and

"(C) the nature and condition of the proposed housing unit are such as to be suitable to the veteran's needs for dwelling purposes.

"(b) Adaptations to Residence of Veteran.—(1) Subject to paragraph (3), the Secretary shall assist any disabled veteran described in paragraph (2) (other than a veteran who is eligible for assistance under subsection (a))—

"(A) in acquiring such adaptations to such veteran's residence as are determined by the Secretary to be reasonably necessary because of such disability; or

"(B) in acquiring a residence already adapted with special features determined by the Secretary to be reasonably necessary for the veteran because of such disability.

"(2) A veteran is described in this paragraph if the veteran is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability that meets either of the following criteria:

"(A) The disability is due to blindness in both eyes with 5/200 visual acuity or less.

"(B) The disability includes the anatomical loss or loss of use of both hands.

"(3) Assistance under paragraph (1) may be provided only to a veteran who the Secretary determines—

"(A) is residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family; or

"(B) if the veteran's residence is to be constructed or purchased, will be residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family.

"(c) Regulations.—Assistance under this section shall be provided in accordance with such regulations as the Secretary may prescribe.".

### SEC. 402. TRANSITIONAL HOUSING AMENDMENTS.

(a) Use of Veteran Volunteers.—Section 2051 is amended by adding at the end the following new subsection:

"(g) Notwithstanding any other provision of law, a multifamily transitional housing project that is funded by a loan guaranteed under this subchapter may accept uncompensated voluntary services performed by any eligible entity (as that term is defined in section 2011(d) of this title) in connection with the construction, alteration, or repair of such project.".

(b) Authorization for Commercially-Leased Space.—Section 2052(c)(1) is amended by striking "services" and inserting "services, other commercial activities,".

### SEC. 403. INCREASE IN MAXIMUM AMOUNT OF HOME LOAN GUARANTY FOR CONSTRUCTION AND PURCHASE OF HOMES AND ANNUAL INDEXING OF AMOUNT.

(a) Maximum Loan Guaranty Based on 100 Percent of Freddie Mac Conforming Loan Rate.—Section 3703(a)(1) is amended by striking "$60,000" each place it appears in subparagraphs (A)(i)(IV) and (B) and inserting "the maximum guaranty amount (as defined in subparagraph (C))".

(b) Definition.—Such section is further amended by adding at the end the following new subparagraph:

"(C) In this paragraph, the term 'maximum guaranty amount' means the dollar amount that is equal to 25 percent of the Freddie Mac conforming loan limit limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a single-family residence, as adjusted for the year involved.".

### SEC. 404. EXTENSION OF AUTHORITY FOR GUARANTEE OF ADJUSTABLE RATE MORTGAGES.

Section 3707(a) is amended by striking "during fiscal years 1993, 1994, and 1995" and inserting "during fiscal years 1993 through 2008".

### SEC. 405. EXTENSION AND IMPROVEMENT OF AUTHORITY FOR GUARANTEE OF HYBRID ADJUSTABLE RATE MORTGAGES.

(a) Extension of Authority.—Subsection (a) of section 3707A is amended by striking "during fiscal years 2004 and 2005" and inserting "during fiscal years 2004 through 2008".

(b) Modification of Interest Rate Adjustment Requirements.—Subsection (c) of such section is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) by striking paragraph (3) and inserting the following new paragraphs:

"(3) in the case of the initial contract interest rate adjustment—

"(A) if the initial contract interest rate remained fixed for less than 5 years, be limited to a maximum increase or decrease of 1 percentage point; or

"(B) if the initial contract interest rate remained fixed for 5 years or more, be limited to a maximum increase or decrease of such percentage point or points as the Secretary may prescribe;

"(4) in the case of any single annual interest rate adjustment after the initial contract interest rate adjustment, be limited to a maximum increase or decrease of 1 percentage point; and"; and

(3) in paragraph (5), as so redesignated, by striking "5 percentage points" and all that

follows and inserting "such number of percentage points as the Secretary shall prescribe for purposes of this section.".

(c) NO EFFECT ON GUARANTEE OF LOANS UNDER HYBRID ADJUSTABLE RATE MORTGAGE GUARANTEE DEMONSTRATION PROJECT.—The amendments made by this section shall not be construed to affect the force or validity of any guarantee of a loan made by the Secretary of Veterans Affairs under the demonstration project for the guarantee of hybrid adjustable rate mortgages under section 3707A of title 38, United States Code, as in effect on the day before the date of the enactment of this Act.

### SEC. 406. TERMINATION OF COLLECTION OF LOAN FEES FROM VETERANS RATED ELIGIBLE FOR COMPENSATION AT PRE-DISCHARGE RATING EXAMINATIONS.

Section 3729(c) is amended—

(1) by inserting "(1)" before "A fee"; and

(2) by adding at the end the following new paragraph:

"(2) A veteran who is rated eligible to receive compensation as a result of a pre-discharge disability examination and rating shall be treated as receiving compensation for purposes of this subsection as of the date on which the veteran is rated eligible to receive compensation as a result of the pre-discharge disability examination and rating without regard to whether an effective date of the award of compensation is established as of that date.".

### SEC. 407. THREE-YEAR EXTENSION OF NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM.

Section 3761(c) is amended by striking "December 31, 2005" and inserting "December 31, 2008".

## TITLE V—MATTERS RELATING TO FIDUCIARIES

### SEC. 501. DEFINITION OF FIDUCIARY.

(a) IN GENERAL.—(1) Chapter 55 is amended by adding at the end the following new section:

**"§ 5506. Definition of 'fiduciary'**

"For purposes of this chapter and chapter 61 of this title, the term 'fiduciary' means—

"(1) a person who is a guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant (or a claimant's estate) or of a beneficiary (or a beneficiary's estate); or

"(2) any other person having been appointed in a representative capacity to receive money paid under any of the laws administered by the Secretary for the use and benefit of a minor, incompetent, or other beneficiary.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5506. Definition of 'fiduciary'.".

(b) CONFORMING AMENDMENTS TO SECTION 5502.—Section 5502 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "other person" and inserting "other fiduciary"; and

(B) in the second sentence of paragraph (2), by inserting "for benefits under this title" after "in connection with rendering fiduciary services";

(2) in subsection (b), by striking "guardian, curator, conservator, or other person" each place it appears and inserting "fiduciary"; and

(3) in subsection (d), by striking "guardian, curator, or conservator" and inserting "fiduciary".

(c) CONFORMING AMENDMENT TO SECTION 6101.—Section 6101(a) is amended by striking "guardian, curator," and all that follows through "beneficiary," and inserting "fiduciary (as defined in section 5506 of this title) for the benefit of a minor, incompetent, or other beneficiary under laws administered by the Secretary,".

### SEC. 502. INQUIRY, INVESTIGATIONS, AND QUALIFICATION OF FIDUCIARIES.

(a) IN GENERAL.—Chapter 55, as amended by section 501(a)(1), is further amended by adding at the end the following new section:

**"§ 5507. Inquiry, investigations, and qualification of fiduciaries**

"(a) Any certification of a person for payment of benefits of a beneficiary to that person as such beneficiary's fiduciary under section 5502 of this title shall be made on the basis of—

"(1) an inquiry or investigation by the Secretary of the fitness of that person to serve as fiduciary for that beneficiary, such inquiry or investigation—

"(A) to be conducted in advance of such certification;

"(B) to the extent practicable, to include a face-to-face interview with such person; and

"(C) to the extent practicable, to include a copy of a credit report for such person issued within one year of the date of the proposed appointment;

"(2) adequate evidence that certification of that person as fiduciary for that beneficiary is in the interest of such beneficiary (as determined by the Secretary under regulations); and

"(3) the furnishing of any bond that may be required by the Secretary.

"(b) As part of any inquiry or investigation of any person under subsection (a), the Secretary shall request information concerning whether that person has been convicted of any offense under Federal or State law which resulted in imprisonment for more than one year. If that person has been convicted of such an offense, the Secretary may certify the person as a fiduciary only if the Secretary finds that the person is an appropriate person to act as fiduciary for the beneficiary concerned under the circumstances.

"(c)(1) In the case of a proposed fiduciary described in paragraph (2), the Secretary, in conducting an inquiry or investigation under subsection (a)(1), may carry out such inquiry or investigation on an expedited basis that may include waiver of any specific requirement relating to such inquiry or investigation, including the otherwise applicable provisions of subparagraphs (A), (B), and (C) of such subsection. Any such inquiry or investigation carried out on such an expedited basis shall be carried out under regulations prescribed for purposes of this section.

"(2) Paragraph (1) applies with respect to a proposed fiduciary who is—

"(A) the parent (natural, adopted, or stepparent) of a beneficiary who is a minor;

"(B) the spouse or parent of an incompetent beneficiary;

"(C) a person who has been appointed a fiduciary of the beneficiary by a court of competent jurisdiction; or

"(D) being appointed to manage an estate where the annual amount of veterans benefits to be managed by the proposed fiduciary does not exceed $3,600, as adjusted pursuant to section 5312 of this title.

"(d) TEMPORARY FIDUCIARIES.—When in the opinion of the Secretary, a temporary fiduciary is needed in order to protect the assets of the beneficiary while a determination of incompetency is being made or appealed or a fiduciary is appealing a determination of misuse, the Secretary may appoint one or more temporary fiduciaries for a period not to exceed 120 days. If a final decision has not been made within 120 days, the Secretary may not continue the appointment of the fiduciary without obtaining a court order for appointment of a guardian, conservator, or other fiduciary under the authority provided in section 5502(b) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item added by section 501(a)(2) the following new item:

"5507. Inquiry, investigations, and qualification of fiduciaries.".

### SEC. 503. MISUSE OF BENEFITS BY FIDUCIARIES.

(a) PROTECTION OF VETERANS BENEFITS WHEN ADMINISTERED BY FIDUCIARIES.—(1) Chapter 61 is amended by adding at the end the following new sections:

**"§ 6106. Misuse of benefits by fiduciaries**

"(a) FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY FIDUCIARIES.—A fiduciary may not collect a fee from a beneficiary for any month with respect to which the Secretary or a court of competent jurisdiction has determined that the fiduciary misused all or part of the individual's benefit, and any amount so collected by the fiduciary as a fee for such month shall be treated as a misused part of the individual's benefit.

"(b) MISUSE OF BENEFITS DEFINED.—For purposes of this chapter, misuse of benefits by a fiduciary occurs in any case in which the fiduciary receives payment, under any of laws administered by the Secretary, for the use and benefit of a beneficiary and uses such payment, or any part thereof, for a use other than for the use and benefit of such beneficiary or that beneficiary's dependents. Retention by a fiduciary of an amount of a benefit payment as a fiduciary fee or commission, or as attorney's fees (including expenses) and court costs, if authorized by the Secretary or a court of competent jurisdiction, shall be considered to be for the use or benefit of such beneficiary.

"(c) REGULATIONS.—The Secretary may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this section.

**"§ 6107. Reissuance of benefits**

"(a) NEGLIGENT FAILURE BY SECRETARY.—(1) In any case in which the negligent failure of the Secretary to investigate or monitor a fiduciary results in misuse of benefits by the fiduciary, the Secretary shall pay to the beneficiary or the beneficiary's successor fiduciary an amount equal to the amount of benefits that were so misused.

"(2) There shall be considered to have been a negligent failure by the Secretary to investigate and monitor a fiduciary in the following cases:

"(A) A case in which the Secretary failed to review a fiduciary's accounting within 60 days of the date on which that accounting is scheduled for review.

"(B) A case in which the Secretary was notified of allegations of misuse, but failed to act within 60 days of the date of such notification to terminate the fiduciary.

"(C) In any other case in which actual negligence is shown.

"(b) REISSUANCE OF MISUSED BENEFITS IN OTHER CASES.—(1) In any case in which a fiduciary described in paragraph (2) misuses all or part of an individual's benefit paid to such fiduciary, the Secretary shall pay to the beneficiary or the beneficiary's successor fiduciary an amount equal to the amount of such benefit so misused.

"(2) Paragraph (1) applies to a fiduciary that—

"(A) is not an individual; or

"(B) is an individual who, for any month during a period when misuse occurs, serves 10 or more individuals who are beneficiaries under this title.

"(3) In any other case in which the Secretary obtains recoupment from a fiduciary who has misused benefits, the Secretary shall promptly remit payment of the recouped amounts to the beneficiary or the beneficiary's successor fiduciary as the case may be.

"(c) LIMITATION ON TOTAL AMOUNT PAID.—The total of the amounts paid to a beneficiary (or a beneficiary's successor fiduciary) under this section may not exceed the total benefit amount misused by the fiduciary with respect to that beneficiary.

"(d) RECOUPMENT OF AMOUNTS REISSUED.—In any case in which the Secretary reissues a benefit payment (in whole or in part) under subsection (a) or (b), the Secretary shall make a good faith effort to obtain recoupment from the fiduciary to whom the payment was originally made.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"6106. Misuse of benefits by fiduciaries.
"6107. Reissuance of benefits.".

### SEC. 504. ADDITIONAL PROTECTIONS FOR BENEFICIARIES WITH FIDUCIARIES.

(a) ONSITE REVIEWS AND REQUIRED ACCOUNTINGS.—(1) Chapter 55, as amended by section 502(a), is further amended by adding at the end the following new sections:

**"§ 5508. Periodic onsite reviews of institutional fiduciaries**

"In addition to such other reviews of fiduciaries as the Secretary may otherwise conduct, the Secretary shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under laws administered by the Secretary to another individual pursuant to the appointment of such person or agency as a fiduciary under section 5502(a)(1) of this title in any case in which the fiduciary is serving in that capacity with respect to more than 20 beneficiaries and the total annual amount of such benefits exceeds $50,000, as adjusted pursuant to section 5312 of this title.

**"§ 5509. Authority to require fiduciary to receive payments at regional offices of the Department when failing to provide required accounting**

"(a) REQUIRED REPORTS AND ACCOUNTINGS.—The Secretary may require a fiduciary to file a report or accounting pursuant to regulations prescribed by the Secretary.

"(b) ACTIONS UPON FAILURE TO FILE.—In any case in which a fiduciary fails to submit a report or accounting required by the Secretary under subsection (a), the Secretary may, after furnishing notice to such fiduciary and the beneficiary entitled to such payment of benefits, require that such fiduciary appear in person at a regional office of the Department serving the area in which the beneficiary resides in order to receive such payments.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item added by section 502(b) the following new items:

"5508. Periodic onsite reviews of institutional fiduciaries.
"5509. Authority to require fiduciary to receive payments at regional offices of the Department when failing to provide required accounting.".

(b) JUDICIAL ORDERS OF RESTITUTION.—(1) Chapter 61, as amended by section 503(a), is further amended by adding at the end the following new section:

**"§ 6108. Authority for judicial orders of restitution**

"(a) Any Federal court, when sentencing a defendant convicted of an offense arising from the misuse of benefits under this title, may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Department.

"(b) Sections 3612, 3663, and 3664 of title 18 shall apply with respect to the issuance and enforcement of orders of restitution under subsection (a). In so applying those sections, the Department shall be considered the victim.

"(c) If the court does not order restitution, or orders only partial restitution, under subsection (a), the court shall state on the record the reasons therefor.

"(d) Amounts received in connection with misuse by a fiduciary of funds paid as benefits under laws administered by the Secretary shall be paid to the individual whose benefits were misused. If the Secretary has previously reissued the misused benefits, the amounts shall be treated in the same manner as overpayments recouped by the Secretary and shall be deposited to the credit of the applicable revolving fund, trust fund, or appropriation.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item added by section 503(b) the following new item:

"6108. Authority for judicial orders of restitution.".

### SEC. 505. ANNUAL REPORT.

(a) IN GENERAL.—Chapter 55, as amended by section 504(a)(1), is further amended by adding at the end the following new section:

**"§ 5510. Annual report**

"The Secretary shall include in the Annual Benefits Report of the Veterans Benefits Administration or the Secretary's Annual Performance and Accountability Report information concerning fiduciaries who have been appointed to receive payments for beneficiaries of the Department. As part of such information, the Secretary shall separately set forth the following:—

"(1) The number of beneficiaries in each category (veteran, surviving spouse, child, adult disabled child, or parent).

"(2) The types of benefit being paid (compensation, pension, dependency and indemnity compensation, death pension or benefits payable to a disabled child under chapter 18 of this title).

"(3) The total annual amounts and average annual amounts of benefits paid to fiduciaries for each category and type of benefit.

"(4) The number of fiduciaries who are the spouse, parent, legal custodian, court-appointed fiduciary, institutional fiduciary, custodian in fact, and supervised direct payees.

"(5) The number of cases in which the fiduciary was changed by the Secretary because of a finding that benefits had been misused.

"(6) How such cases of misuse of benefits were addressed by the Secretary.

"(7) The final disposition of such cases of misuse of benefits, including the number and dollar amount of any benefits reissued to beneficiaries.

"(8) The number of fiduciary cases referred to the Office of the Inspector General and the nature of the actions taken by the Inspector General.

"(9) The total amount of money recovered by the government in cases arising from the misuse of benefits by a fiduciary.

"(10) Such other information as the Secretary considers appropriate.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the items added by the amendment made by section 504(a)(2) the following new item:

"5510. Annual report.".

### SEC. 506. ANNUAL ADJUSTMENT IN BENEFITS THRESHOLDS.

Section 5312(b)(1) is amended by inserting "and the annual benefit amount limitations under sections 5507(c)(2)(D) and 5508 of this title," after "(d)(3) of such section,".

### SEC. 507. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided, this title and the amendments made by this title shall take effect on the first day of the seventh month beginning after the date of the enactment of this Act.

(b) SPECIAL RULES.—(1) Section 5510 of title 38, United States Code, as added by section 505(a), shall take effect on the date of the enactment of this Act.

(2) Sections 6106 and 6107 of title 38, United States Code, as added by section 503(a), shall apply with respect to any determinations by the Secretary of Veterans Affairs made after the date of the enactment of this Act of misuse of funds by a fiduciary.

## TITLE VI—MEMORIAL AFFAIRS MATTERS

### SEC. 601. DESIGNATION OF PRISONER OF WAR/MISSING IN ACTION NATIONAL MEMORIAL, RIVERSIDE NATIONAL CEMETERY, RIVERSIDE, CALIFORNIA.

(a) DESIGNATION.—The memorial to former prisoners of war and members of the Armed Forces listed as missing in action that is under construction at Riverside National Cemetery in Riverside, California, is hereby designated: "Prisoner of War/Missing in Action National Memorial".

(b) EFFECT OF DESIGNATION.—Such national memorial designated by subsection (a) is not a unit of the National Park System, and the designation of the national memorial shall not be construed to require Federal funds to be expended for any purpose related to the national memorial.

### SEC. 602. LEASE OF CERTAIN NATIONAL CEMETERY ADMINISTRATION PROPERTY.

(a) IN GENERAL.—Chapter 24 is amended by adding at the end the following new section:

**"§ 2412. Lease of land and buildings**

"(a) LEASE AUTHORIZED.—The Secretary may lease any undeveloped land and unused or underutilized buildings, or parts or parcels thereof, belonging to the United States and part of the National Cemetery Administration.

"(b) TERM.—The term of a lease under subsection (a) may not exceed 10 years.

"(c) LEASE TO PUBLIC OR NONPROFIT ORGANIZATIONS.—(1) A lease under subsection (a) to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5).

"(2) Notwithstanding section 1302 of title 40 or any other provision of law, a lease under subsection (a) to any public or nonprofit organization may provide for the maintenance, protection, or restoration of the leased property by the lessee, as a part or all of the consideration for the lease.

"(d) NOTICE.—Before entering into a lease under subsection (a), the Secretary shall give appropriate public notice of the intention of the Secretary to enter into the lease in a newspaper of general circulation in the community in which the lands or buildings concerned are located.

“(e) National Cemetery Administration Facilities Operation Fund.—(1) There is established on the book of the Treasury an account to be known as the ‘National Cemetery Administration Facilities Operation Fund’ (in this section referred to as the ‘Fund’).

“(2) The Fund shall consist of the following:

“(A) Proceeds from the lease of land or buildings under this section.

“(B) Proceeds of agricultural licenses of lands of the National Cemetery Administration.

“(C) Any other amounts appropriated to or otherwise authorized for deposit in the Fund by law.

“(3) Amounts in the Fund shall be available to cover costs incurred by the National Cemetery Administration in the operation and maintenance of property of the Administration.

“(4) Amounts in the Fund shall remain available until expended.”.

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2412. Lease of land and buildings.”.

### SEC. 603. EXCHANGES OF REAL PROPERTY FOR NATIONAL CEMETERIES.

Section 2406 is amended by inserting “exchange,” after “agencies,”.

## TITLE VII—IMPROVEMENTS TO SERVICEMEMBERS CIVIL RELIEF ACT

### SEC. 701. CLARIFICATION OF MEANING OF “JUDGMENT” AS USED IN THE ACT.

Section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511) is amended by adding at the end the following new paragraph:

“(9) Judgment.—The term ‘judgment’ means any judgment, decree, order, or ruling, final or temporary.”.

### SEC. 702. REQUIREMENTS RELATING TO WAIVER OF RIGHTS UNDER THE ACT.

Section 107 of the Servicemembers Civil Relief Act (50 U.S.C. App. 517) is amended—

(1) in subsection (a), by inserting after the first sentence the following new sentence: “Any such waiver that applies to an action listed in subsection (b) of this section is effective only if it is in writing and is executed as an instrument separate from the obligation or liability to which it applies.”;

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection (c):

“(c) Prominent Display of Certain Contract Rights Waivers.—Any waiver in writing of a right or protection provided by this Act that applies to a contract, lease, or similar legal instrument must be in at least 12 point type.”.

### SEC. 703. RIGHT OF SERVICEMEMBER PLAINTIFFS TO REQUEST STAY OF CIVIL PROCEEDINGS.

Section 202(a) of the Servicemembers Civil Relief Act (50 U.S.C. App. 522(a)) is amended by inserting “plaintiff or” before “defendant”.

### SEC. 704. TERMINATION OF LEASES.

(a) Joint Leases.—Subsection (a) of section 305 of the Servicemembers Civil Relief Act (50 U.S.C. App. 535) is amended to read as follows:

“(a) Termination by Lessee.—

“(1) In general.—The lessee on a lease described in subsection (b) may, at the lessee's option, terminate the lease at any time after—

“(A) the lessee's entry into military service; or

“(B) the date of the lessee's military orders described in paragraph (1)(B) or (2)(B) of subsection (b), as the case may be.

“(2) Joint leases.—A lessee's termination of a lease pursuant to this subsection shall terminate any obligation a dependent of the lessee may have under the lease.”.

(b) Motor Vehicles Leases.—

(1) Applicability to PCS orders from states outside CONUS.—Subparagraph (B) of subsection (b)(2) of such section is amended by striking “military orders for” and all that follows through “or to deploy” and inserting “military orders—

“(i) for a change of permanent station—

“(I) from a location in the continental United States to a location outside the continental United States; or

“(II) from a location in a State outside the continental United States to any location outside that State; or

“(ii) to deploy”.

(2) Definitions.—Such section is further amended by adding at the end the following new subsection:

“(i) Definitions.—

“(1) Military orders.—The term ‘military orders’, with respect to a servicemember, means official military orders, or any notification, certification, or verification from the servicemember's commanding officer, with respect to the servicemember's current or future military duty status.

“(2) CONUS.—The term ‘continental United States’ means the 48 contiguous States and the District of Columbia.”.

(c) Coverage of Individual Deployments.—Subsection (b) of such section is further amended in paragraph (1)(B) and paragraph (2)(B)(ii) (as designated by subsection (b) of this section) by inserting “, or as an individual in support of a military operation,” after “deploy with a military unit”.

## TITLE VIII—OTHER MATTERS

### SEC. 801. PRINCIPAL OFFICE OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

Section 7255 is amended by striking “District of Columbia” and inserting “Washington, D.C., metropolitan area”.

### SEC. 802. TECHNICAL AMENDMENTS RELATING TO THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

(a) Restoration of Prior Provision Relating to Chief Judge.—Section 7253(d)(1) is amended by inserting after “(1)” the following: “The chief judge of the Court is the head of the Court.”.

(b) Capitalization Amendments.—Section 7253(d)(4)(A) is amended by striking “court” in clauses (i) and (ii) and inserting “Court”.

(c) Date of Enactment Reference.—Section 7253(h)(4) is amended by striking “the date of the enactment of this subsection” and inserting “December 27, 2001,”.

### SEC. 803. EXTENSION OF BIENNIAL REPORT OF ADVISORY COMMITTEE ON FORMER PRISONERS OF WAR.

Section 541(c)(1) is amended by striking “2003” and inserting “2009”.

### SEC. 804. AVAILABILITY OF ADMINISTRATIVE AND JUDICIAL REDRESS FOR CERTAIN VETERANS DENIED OPPORTUNITY TO COMPETE FOR FEDERAL EMPLOYMENT.

(a) Administrative Redress.—Section 3330a(a)(1) of title 5, United States Code, is amended—

(1) by inserting “(A)” after “(1)”; and

(2) by adding at the end the following new subparagraph:

“(B) A veteran described in section 3304(f)(1) who alleges that an agency has violated such section with respect to such veteran may file a complaint with the Secretary of Labor.”.

(b) Judicial Redress.—Section 3330b(a) is amended by inserting “, or a veteran described by section 3330a(a)(1)(B) with respect to a violation described by such section,” after “a preference eligible”.

### SEC. 805. REPORT ON SERVICEMEMBERS' AND VETERANS' AWARENESS OF BENEFITS AND SERVICES AVAILABLE UNDER LAWS ADMINISTERED BY SECRETARY OF VETERANS AFFAIRS.

(a) Report.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a report setting forth a detailed description of (1) the outreach efforts of the Department of Veterans Affairs, as of the date of the enactment of this Act, to inform members of the uniformed services and veterans (and their family members and survivors) of the benefits and services to which they are entitled under laws administered by the Secretary, and (2) the current level of awareness of those members and veterans (and family members and survivors) of those benefits and services.

(b) Matters to Be Included.—The report under subsection (a) shall include the following:

(1) A description of the outreach activities conducted by the Secretary in each of the three Administrations of the Department of Veterans Affairs and outreach activities conducted by other entities within the Department.

(2) The results of a national survey, conducted as described in subsection (c), to ascertain servicemembers' and veterans' level of awareness of benefits and services referred to in subsection (a) and whether servicemembers and veterans know how to access those benefits and services.

(3) Recommendations by the Secretary on how outreach and awareness activities to veterans and servicemembers may be improved.

(c) Conduct of Survey.—The survey conducted for purposes of subsection (b)(2) shall be conducted in a manner to include a statistically valid sample of persons in each of the following groups:

(1) World War II veterans.

(2) Korean conflict era veterans.

(3) Vietnam era veterans.

(4) Persian Gulf era veterans.

(5) Active duty servicemembers.

(6) National Guard and Reserve members activated under title 10, United States Code.

(7) Family members and survivors.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. Smith) and the gentleman from Maine (Mr. Michaud) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. Smith).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 2486, the Veterans Benefits Improvement Act of 2004. This solid compromise package incorporates 14 benefit bills that have been referred to the House Committee on Veterans' Affairs, this Congress and contains more than 40 substantive provisions. S. 2468 would enhance a wide range of veterans' benefits, including protections for mobilized servicemembers.

I want to draw my colleagues' attention to Title I of this comprehensive bill, which is derived from H.R. 1716, the Veterans Earn and Learn Act. This is a bill that I introduced last year along with the ranking member, the gentleman from Illinois (Mr. EVANS), and others.

The Veterans Earn and Learn Act represents the fifth in a series of employment and business opportunities bills that our Subcommittee on Benefits has offered over the last 3 and a half years. The Veterans Earn and Learn Act would significantly update the Montgomery GI Bill on-job training and apprenticeship programs to reflect learning opportunities in American business and industry today. This legislation is Congress's first major rewrite of the on-job training, or OJT, and apprentice policies for veterans since World War II.

Additionally, effective October 1, 2005, Title I includes a 10 percent increase in the monthly educational assistance allowance the VA furnishes to veterans and others pursuing this particular type of training.

The Veterans Earn and Learn Act is timely because almost 200,000 servicemembers and Reservists separate each year, and they would now all be eligible to use these Earn and Learn initiatives to continue to build transferrable skills.

VA's OJT and apprenticeship program is a valuable program for employers as well. Tapping into veterans as a rich resource of skilled and qualified employees is a shrewd business strategy for employers of all sizes. Veterans bring a unique combination of skill, discipline, character and talent to the workplace.

Title II of the compromise focuses on protecting the civilian job benefits of activated Reservists. In light of longer active duty tours, the major provision here would increase from 18 to 24 months the maximum period of employer-sponsored health care coverage that a Reservist-employee may elect to continue to receive.

Title III, Mr. Speaker, focuses on veterans' benefits matters. The key provision of this title is a $250 monthly increase in dependency and indemnity payments for a surviving spouse with children under the age of 18. This increase would be payable for 2 years following the service-connected death of a servicemember or veteran.

Title IV enhances housing benefits for veterans. Among its important provisions is an increase of the maximum VA home loan to 25 percent of the Freddie Mac conforming loan amount for a single family residence. The increase raises from $240,000 to $333,700 the maximum VA home loan guaranty.

I am also pleased that this title makes some needed changes to provide flexibility in VA's administration of Transitional Housing program for homeless veterans. The very first loan under this program should close this month, I would point out to my colleagues, and I am looking forward to several more projects getting under way in the next 6 months.

Title V focuses on protecting some of our most vulnerable veterans and dependents when it is necessary to pay the VA benefits on their behalf to a third party.

This bill also makes improvements to the Servicemembers Civil Relief Act. I am pleased it includes provisions that I had authored, including one to furnish additional protections to servicemembers and their spouses with respect to residential and motor vehicle leases when the servicemember is mobilized or sent to a new duty assignment, sometimes with little advance notice.

Finally, I am especially pleased that one of the sections of Title VIII would allow the principal office of the U.S. Court of Appeals for Veterans Claims to be located at any location in the Washington, D.C., metropolitan area, if that location would allow greater cost efficiencies or a permanent building for the court.

Mr. Speaker, I rise today in strong support of S. 2486, the Veterans Benefits Improvement Act of 2004.

I appreciate the opportunity to work with ARLEN SPECTER and BOB GRAHAM, the distinguished chairman and ranking member, respectively, of the Senate Committee on Veterans' Affairs, in writing this comprehensive legislation. I thank them both for their leadership.

The Veterans' Benefits Improvement Act of 2004 incorporates 14 benefits bills that have been referred to the House Committee on Veterans' Affairs this Congress. S. 2486 contains more than 40 substantive provisions which would enhance programs affecting veterans' education, training, employment, reemployment, compensation and pension, housing, fiduciary, protections for mobilized servicemembers, and other benefits.

Mr. Speaker, I want to draw my colleagues' attention to title one of this comprehensive bill, the Veterans Earn and Learn Act, which is derived from H.R. 1716, introduced by Ranking Member LANE EVANS and me and many others.

This section represents the fifth of six measures in a Veterans' Jobs and Business Opportunities package that our Subcommittee on Benefits has authored over the last 3½ years. I appreciate the vision and bipartisan leadership of JACK QUINN and BOB FILNER, followed by J.D. HAYWORTH and BOB FILNER, then MIKE SIMPSON and SILVESTRE REYES, and now HENRY BROWN and MICHAEL MICHAUD on this package.

Title one of the bill would significantly update the on-job training and apprenticeship programs administered by the Department of Veterans Affairs to reflect learning opportunities in American business and industry today. Indeed, this legislation is Congress' first major rewrite of on-job training, OJT, and apprenticeship policies for veterans since World War II.

Plus, effective October 1 of 2005, the bill would increase by 10 percent the monthly educational assistance allowance that the Department of Veterans Affairs furnishes eligible veterans, dependent widows and children, and Reservists.

The Veterans Earn and Learn title of the bill is timely because 419 military occupational specialties are currently transferable to the civilian economy. Almost 200,000 separating servicemembers per year, including Reservists, would be eligible to use these Earn and Learn initiatives to continue to build transferable skills. This measure represents a unique opportunity for veterans, Reservists, and dependent widows and children to use their VA educational assistance benefits to augment the entry-level wage the employer pays them as they train on the job. As the training wage increases over time, the monthly VA educational assistance allowance decreases.

VA's OJT and apprenticeship program is a valuable program for employers, too. For example, in a 3-year apprenticeship, VA education benefits under this measure would augment the veteran's training wage furnished by the employer by $17,891. In fact, Missouri has documented that VA's on-job training and apprenticeship programs improve employee retention and bring significant federal training dollars to Missouri communities to the tune of $38 million annually. Tapping into veterans as a rich source of skilled and qualified employees is a shrewd business strategy for employers of all sizes, as veterans bring a unique combination of skill, discipline, character, and talent to the workplace.

The monthly OJT/apprenticeship rates vary based on eligibility. But here are some brief examples of the amount of VA educational program allowances beneficiaries would receive in 1- and 2-year on-job training programs and 3- and 4-year apprenticeships under the Montgomery GI Bill:

A Reservist participating in a 1-year on-job training program as a management trainee in a retail establishment would receive $2,471 over 12 monthly payments.

A widow or dependent child who participates in a 2-year training program as a financial adviser with an investment firm would receive $9,643 over 24 monthly payments.

A veteran who participates in a 3-year apprenticeship program in plumbing would receive $17,891 over 36 monthly payments.

A veteran who participates in a 4-year apprenticeship program as an electrician would receive $22,529 over 48 monthly payments.

Mr. Speaker, it's important to note that on-job training and apprenticeships are excellent, practical ways for veterans to use their VA education benefits, especially for those who are married with families to support. VA education benefits are not limited to classroom training.

Let me now highlight other titles in this comprehensive bill.

Title two focuses on employment matters. A major aspect of this title is a provision to increase from 18 to 24 months the maximum period of employer-sponsored health coverage that an employee covered by the Uniform Services Employment and Reemployment Rights Act of 1994 may elect to continue to receive. This extension of coverage is essential given the longer active-duty tours of our reservists. I commend Representatives HENRY

BROWN and MICHAEL MICHAUD for their leadership on this issue.

Title three focuses on veterans' benefits matters. A key part of this title is the provision that provides a $250 monthly increase in dependency and indemnity payments for a surviving spouse with children under age 18. These payments are authorized during the 2-year period following the service-connected death of the servicemember or veteran. I commend Chairman SPECTER and Ranking Member GRAHAM for their leadership on this provision.

Title four enhances housing matters. Among other important provisions, this section of the bill increases the maximum VA home loan to 25 percent of the Freddie Mac conforming loan amount for a single-family residence. It also annually indexes the maximum amount of VA's home loan guaranty for construction or purchase of a home to that Freddie Mac limit. In effect, the increase raises from 240,000 to $333,700 the maximum home loan purchase amount on a VA-guaranteed purchase.

I am also very pleased this section makes some small needed changes the Department of Veterans Affairs has asked for to provide greater flexibility in its administration of the Transitional Housing program. I was pleased to work with VA in this regard so as to make the Transitional Housing program as effective as possible.

Title five focuses on fiduciary matters to protect our more vulnerable veterans and dependents when they require a third party payee to receive VA benefits on their behalf. These provisions are the result of 2 hearings held by the Subcommittee on Benefits, and I commend Representatives HENRY BROWN and SUSAN DAVIS for their work on this section of the bill.

Title six addresses various memorial affairs issues, including designating a monument constructed at the Riverside National Cemetery in Riverside, CA, as a Prisoner of War/Missing in Action National Memorial.

Title seven makes various improvements to the Servicemembers Civil Relief Act. I am very pleased this section of the bill includes the provision I authored to furnish additional protections to servicemembers and their spouses with respect to residential and motor vehicle leases. This provision modifies section 305 of the Servicemembers Civil Relief Act to address the reality of servicemembers having to terminate leases due to longer-term mobilization or deployment. This provision clarifies that if a servicemember terminates a lease entered into jointly with a dependent—usually the spouse—the obligations of both the servicemember and the dependent are terminated. This affords military families the additional protections they need when the servicemember is mobilized to a new duty assignment—sometimes with little advance notice—and the family, too, must relocate.

Lastly, title eight addresses other important matters. I am pleased this section authorizes that the principal office of the U.S. Court of Appeals for Veterans Claims to be located at any location in the Washington, DC, metropolitan area. Another location may furnish greater cost efficiencies for the court.

In closing, I thank Chairman BROWN and Ranking Member MICHAUD for their leadership and continued bipartisan cooperation. I'd also like to thank the staff on both sides of the aisle in the House and Senate Committees on Veterans' Affairs for their diligent work in bringing this bill to the floor.

Mr. Speaker, I urge my colleagues to support S. 2486.

Mr. Speaker, for the benefit of my colleagues, the following is a joint explanatory statement describing the compromise agreement we have reached with the other body and a letter from the Committee on the Judiciary concerning S. 2486 and our committee's response.

### EXPLANATORY STATEMENT ON SENATE AMENDMENTS TO S. 2486

S. 2486, as amended, the "Veterans Benefits Improvement Act of 2004," reflects a Compromise Agreement reached by the Senate and House Committees on Veterans' Affairs (the Committees) on the following bills reported during the 108th Congress: S. 2485, as amended; S. 2486, as amended; and S. 1132, as introduced (Senate Bills); H.R. 1716, as amended; H.R. 3936; H.R. 4175, as amended; H.R. 4345; and H.R. 4658, as amended (House Bills).

The Senate and House Committees on Veterans' Affairs have prepared the following explanation of S. 2486, as amended (Compromise Agreement). Differences between the provisions contained in the Compromise Agreement and the related provisions of S. 2485, as amended; S. 2486, as amended; S. 1132, as introduced; H.R. 1716, as amended; H.R. 3936; H.R. 4175, as amended; H.R. 4345; and H.R. 4658, as amended; are noted in this document, except for clerical corrections, conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

## TITLE I—VETERANS EARN AND LEARN ACT

### MODIFICATION OF BENEFIT ENTITLEMENT CHARGES FOR CERTAIN ON-JOB TRAINING PROGRAMS

*Current Law*

Section 3687 of title 38, United States Code, charges the Montgomery GI Bill-Active Duty and Selected Reserve programs' entitlement usage based on the actual "dollars used" of monthly VA payment amounts. The entitlement charge under the Vietnam-era and survivors' and dependents' educational assistance programs is based on the time spent in certain training programs.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 102 of H.R. 1716, as amended, would modify the manner in which VA on-job training and apprenticeship benefit entitlement is charged under the MGIB, Vietnam-era and survivors' and dependents' programs. The modification would charge entitlement usage for all programs based on "dollars used" rather than time spent in training. This provision would take effect one year after date of enactment.

*Compromise Agreement*

Section 102 of the Compromise Agreement follows the House language with an effective date of months beginning after September 30, 2005.

### INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING APPRENTICESHIP OR ON-JOB TRAINING

*Current Law*

Sections 3032 and 3233 of title 38, United States Code, and Section 16131 of title 10, United States Code, state that beneficiaries pursuing full-time apprenticeship or on-job training programs will receive 75 percent of the monthly educational assistance benefit for the first six months of training, 55 percent for the second six months of training and 35 percent for the subsequent months.

Section 3687 of title 38, United States Code, states that beneficiaries receiving full-time VA monthly Survivors' and Dependents' Educational Assistance allowances payable to individuals pursuing full-time apprenticeship or on-job training programs will receive, as of October 1, 2004, $585 for the first six months of training, $438 for the second six months of training, $291 for the third six months, and $147 for the remainder of the program.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 104 of H.R. 1716, as amended, would increase by 10 percent the full-time VA monthly educational assistance allowance payable to individuals pursuing a full-time apprenticeship or on-job training program. For the first six months of training, the percentage of the monthly benefit would increase to 85 percent; for the second six months of training, to 65 percent; and for subsequent months to 45 percent. These percentage increases would apply to the Montgomery GI Bill Active Duty and Selected Reserve programs, and the Post-Vietnam Era Veterans' Educational Assistance program. The Survivors' and Dependents' Educational Assistance program would increase to $650 for the first six months of training, $507 for the second six months of training and $366 for the third six months. This provision would be in effect from October 1, 2005 through September 30, 2010.

*Compromise Agreement*

Section 103 of the Compromise Agreement generally follows the House language, but the 10 percent increase would take effect October 1, 2005 through December 31, 2007.

### AUTHORITY FOR COMPETENCY-BASED APPRENTICESHIPS

*Current Law*

Section 3672 of title 38, United States Code, currently allows payment of VA educational assistance benefits for time-based apprenticeships.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 105 of H.R. 1716, as amended, would authorize VA to pay educational assistance benefits to veterans participating in approved programs of competency-based apprenticeships; this new authority is in addition to time-based apprenticeships. In the case of a competency-based apprenticeship registered with the Secretary of Labor, this provision requires VA to consider Department of Labor standards in determining the appropriate length and structure of the competency-based apprenticeship. This section would also direct the Secretary of Veterans Affairs to use up to $3 million to develop the computer systems and procedures needed to carry out section 105(a), 102, 103, and 104 of the bill.

*Compromise Agreement*

Section 104 of the Compromise Agreement follows the House language. The Committees note that this provision acknowledges competency-based apprenticeships but does not require employers to use them in lieu of time-based apprenticeships. In today's workplace, apprenticeship programs are time-based or competency-based, or a combination of the two. Lastly, the Committees note that apprenticeships offered in industries that elect not to register them with the Department of Labor, but are approved by a State approving agency or VA, would continue to serve as legitimate training opportunities for veterans.

### TEN-YEAR EXTENSION OF DELIMITING PERIOD FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE FOR SPOUSES OF MEMBERS WHO DIES ON ACTIVE DUTY

*Current Law*

Chapter 35 of title 38, United States Code, entitles the surviving spouse of a servicemember or veteran who died of a service-connected injury, or the spouse of a veteran who is rated by VA as totally and permanently disabled as the result of a service-connected disability, to educational assistance provided by the Secretary. An eligible spouse is entitled to use such educational assistance during a ten-year period beginning on either: (1) the date the person became eligible by reason of the servicemember's or veteran's service-connected death, or (2) the date on which the veteran was rated by VA as totally and permanently disabled as the result of a service-connected injury. A spouse may be eligible for two ten-year eligibility periods as the result of two distinct qualifying events. A spouse who is entitled to two eligibility periods will not have a subsequent period of eligibility reduced by any earlier period.

*Senate Bill*

Section 203 of S. 2486, as amended, would extend chapter 35 educational assistance eligibility from 10 to 20 years for a surviving spouse of any person who died on active duty.

*House Bill*

The House Bills contain no comparable provision.

*Compromise Agreement*

Section 105 of the Compromise Agreement follows the Senate language.

### AVAILABILITY OF EDUCATIONAL BENEFITS FOR PAYMENT FOR NATIONAL ADMISSIONS EXAMS AND NATIONAL EXAMS FOR CREDIT AT INSTITUTIONS OF HIGHER EDUCATION

*Current Law*

Sections 3452(b) and 3501(a)(5) of title 38, United States Code, define the term "program of education" to generally include a required course, or combination of courses, that lead to an identified educational, professional, or vocational objective. A "program of education" also includes licensing or certification tests that are generally required to enter into, maintain, or advance in a vocation or profession. Section 3002(3) of title 38, United States Code, expands the definition of "program of education" provided in 3452(b) to include preparatory courses for a test required or used for admission to an institution of higher education or graduate school.

*Senate Bill*

Section 204 of S. 2486, as amended, would authorize VA to provide educational assistance benefits to reimburse eligible beneficiaries for the cost of certain national tests required for admission to institutions of higher learning or graduate schools and for national tests that can qualify veterans for receipt of college credit.

*House Bill*

The House Bills contain no comparable provision.

*Compromise Agreement*

Section 106 of the Compromise Agreement follows the Senate language, but adds the College Level Examination Program (CLEP) as an example of a test for which educational assistance benefits may be used.

### REQUIREMENT FOR COORDINATION OF DATA AMONG THE DEPARTMENTS OF VETERANS AFFAIRS, DEFENSE, AND LABOR WITH RESPECT TO ON-JOB TRAINING

*Current Law*

There is no applicable current law.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 107 of H.R. 1716, as amended, would require certain coordination of information among the Departments of Veterans Affairs, Defense, and Labor with respect to on-job training and apprenticeship programs. First, at the time of a servicemember's separation from active duty, the Secretary of Defense would be required to furnish the Secretary of Veterans Affairs with information concerning each registered apprenticeship pursued by the servicemember during his or her active duty service. Second, it would require the Secretary of Veterans Affairs, in coordination with the Secretary of Labor, to encourage and assist States and private organizations to accord credit to servicemembers for skills in any related apprenticeship the servicemember may pursue in civilian life.

*Compromise Agreement*

Section 107 of the Compromise Agreement follows the House language.

### PILOT PROGRAM TO PROVIDE ON-JOB BENEFITS TO TRAIN DEPARTMENT OF VETERANS AFFAIRS CLAIMS ADJUDICATORS

*Current Law*

There is no applicable current law.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 106 of H.R. 1716, as amended, would require the Secretary of Veterans Affairs to establish a pilot program to furnish structured on-job training and on-job training benefits to claims adjudicators training in its disability compensation, dependency and indemnity compensation (DIC), and pension programs. The Secretary would be required to submit reports concerning continuation and expansion of the pilot program.

*Compromise Agreement*

Section 108 of the Compromise Agreement generally follows the House language, but authorizes the Secretary to establish a pilot program to furnish formal, structured on-job training/benefits to claims adjudicators at the Secretary's discretion, and not by statutory mandate. The Committees note that one of VA's four regional offices that adjudicate educational assistance claims already offer such formal, structured on-job training.

### COLLECTION OF PAYMENT FOR EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FROM MEMBERS OF THE SELECTED RESERVE CALLED TO ACTIVE DUTY

*Current Law*

Sections 3011(b) and 3012(c) require that for a servicemember to be eligible for Montgomery GI Bill (MGIB) educational assistance benefits, the servicemember's active duty pay must be reduced by $100 for each of the first 12 months that the individual is entitled to such pay. The Secretary of Defense (or, in cases involving the activation of U.S. Coast Guard personnel, the Secretary of Homeland Security) is responsible for the collection of the $1,200 payment.

*Senate Bill*

Section 201 of S. 2486, as amended, would permit the Secretary of Defense (or, in cases involving the activation of Coast Guard personnel, the Secretary of Homeland Security) to collect an activated Selected Reserve member's $1,200 payment before the servicemember commences use of MGIB educational assistance benefits.

*House Bill*

The House Bills contain no comparable provision.

*Compromise Agreement*

Section 109 of the Compromise Agreement follows the Senate language with the requirement that the servicemember furnish a $1,200 payment not later than 1 year after completion of the 2 years of active duty.

## TITLE II—EMPLOYMENT MATTERS

### Subtitle A—Employment and Reemployment Rights

### TWO-YEAR PERIOD OF CONTINUATION OF EMPLOYER-SPONSORED HEALTH CARE COVERAGE

*Current Law*

Section 4317(a)(1)(A) of title 38, United States Code, allows servicemembers covered under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) to elect to continue employer-provided health coverage for up to 18 months while on active duty, provided the servicemember pays up to 102 percent of the premium.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 201 of H.R. 4658, as amended, would increase from 18 months to 24 months the maximum period of employer-provided health coverage that an employee covered by USERRA may elect to continue. The coverage would become effective on the first day of the servicemember's absence from employment following the date of enactment of this provision.

*Compromise Agreement*

Section 201 of the Compromise Agreement follows the House language.

### REINSTATEMENT OF REPORTING REQUIREMENTS

*Current Law*

Section 4332 of title 38, United States Code, formerly required that the Secretary of Labor, in consultation with the Office of Special Counsel and the U.S. Attorney General, provide annual reports to Congress on the disposition of cases filed under USERRA. This requirement expired on February 1, 1996.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 202 of H.R. 4658, as amended, would reinstate a requirement that the Secretary of Labor, in consultation with the Office of Special Counsel and the U.S. Attorney General, provide annual reports to Congress on the disposition of cases filed under USERRA, effective February 1, 2005.

*Compromise Agreement*

Section 202 of the Compromise Agreement follows the House language.

### REQUIREMENT FOR EMPLOYERS TO PROVIDE NOTICE OF RIGHTS AND DUTIES UNDER USERRA

*Current Law*

There is no applicable current law.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 211 of H.R. 4658, as amended, would require employers to provide notice to employees of the rights, benefits and obligations under USERRA. Section 211 would also require the Department of Labor to make available to employers, within 90 days after the date of enactment of this provision, the text of the notice.

*Compromise Agreement*

Section 203 of the Compromise Agreement follows the House language.

### DEMONSTRATION PROJECT FOR REFERRAL OF USERRA CLAIMS AGAINST FEDERAL AGENCIES TO THE OFFICE OF SPECIAL COUNSEL

*Current Law*

Section 4322 of title 38, United States Code, provides that an individual who believes his or her USERRA rights have been violated by a Federal executive agency may file a complaint with the Secretary of Labor to investigate such complaint. If the Secretary of Labor fs unable to resolve the complaint, then in accordance with section 4324 of title 38, United States Code, the individual may request that the Secretary of Labor refer the complaint to the Office of Special Counsel (OSC) for resolution before the Merit Systems Protection Board.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 212 of H.R. 4658, as amended, would require the Secretary of Labor and the Office of Special Counsel (OSC) to carry out a three-year demonstration project on enforcement of USERRA rights for Federal executive branch employees. The demonstration project would allow certain individuals who allege a Federal executive agency has violated their USERRA rights to file a complaint with OSC. For the OSC demonstration project, USERRA cases involving Federal agencies would be selected by the terminal digit of the claimant's social security number or, if there is no social security number, the claimant's case number. Cases with odd terminal digits would be sent directly to OSC. The Comptroller General of the United States would be required to conduct periodic evaluations of the demonstration project and submit to Congress a final report.

*Compromise Agreement*

Section 204 of the Compromise Agreement follows the House language. While this demonstration project would be limited to USERRA cases involving Federal executive agency employees, the Committees intend to examine further USERRA education and enforcement activities by the Departments of Labor, Justice and Defense to determine whether all claimants are being effectively and efficiently served under the current system.

## Subtitle B—Other Matters

### REPORT OF EMPLOYMENT PLACEMENT, RETENTION, AND ADVANCEMENT OF RECENTLY SEPARATED SERVICEMEMBERS

*Current Law*

There is no applicable current law.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 206 of H.R. 1716, as amended, would direct the Secretary of Veterans Affairs to contract for a report within 180 days of enactment on employment placement, retention, and advancement of recently-separated veterans.

*Compromise Agreement*

Section 211 of the Compromise Agreement follows the House language.

## TITLE III—BENEFITS MATTERS

### ADDITIONAL DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES WITH DEPENDENT CHILDREN

*Current Law*

Section 1311(a) of title 38, United States Code, prescribes the payment of dependency and indemnity compensation (DIC) to the surviving spouse of a veteran or servicemember who dies as a result of a service-connected disability. Section 1311(b) provides for an additional amount of DIC to be paid for each of the surviving spouse's children who are under the age of 18.

*Senate Bill*

Section 4 of S. 1132, as introduced, would provide for a $250 monthly increase in DIC payments for a surviving spouse with children below the age of 18. Such payments would be authorized during the 5-year period following the service-connected death of the servicemember or veteran. Such payments would cease when all children of a surviving spouse reach age 18.

*House Bill*

The House Bills contain no comparable provision.

*Compromise Agreement*

Section 301 of the Compromise Agreement follows the Senate language, except that the $250 monthly increase in DIC would only be authorized during the 2-year period following the application for such benefit. The Committees intend that when the Secretary notifies a DIC recipient of the additional benefit provided by this section, such notice shall clearly indicate that this is a transitional benefit which is limited to two years.

### OFFSET OF VETERANS' DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION FROM AWARDS UNDER RADIATION EXPOSURE COMPENSATION PROGRAM

*Current Law*

Under current law, a veteran who first applies for and receives an award under the compensation program administered by the Department of Justice pursuant to the Radiation Exposure Compensation Act (RECA), Public Law 101–426, is prohibited from receiving benefits from the Department of Veterans Affairs. However, a veteran who applies for VA benefits first may then apply for the RECA award, subject to an offset by the Department of Justice of the amounts received from VA.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 202 of H.R. 1716, as amended, would repeal the bar that prevents a veteran or survivor from applying for VA benefits if the individual had previously received compensation from the Department of Justice's RECA program. The bill would allow individuals to receive VA compensation or dependency and indemnity compensation (DIC) benefits to which they are entitled. However, VA would be required to withhold compensation or DIC payments until the amount of the RECA award has been deducted. This provision is effective for compensation or DIC benefits paid after March 26, 2002. This is the date regulations providing for a presumption of service-connection for certain radiation-related disabilities were established.

*Compromise Agreement*

Section 302 of the Compromise Agreement follows the House language.

### EXCLUSION OF LIFE INSURANCE PROCEEDS FROM CONSIDERATION AS INCOME FOR VETERANS' PENSION PURPOSES

*Current Law*

Section 1503(a) of title 38, United States Code, requires VA in determining eligibility for death pension benefits to consider annual income, including all payments of any kind or from any source.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 203 of H.R. 1716, as amended, would exclude life insurance proceeds from consideration of income for death pension benefits.

*Compromise Agreement*

Section 303 of the Compromise Agreement follows the House language.

### CERTAIN SERVICE-CONNECTED DISABILITY BENEFITS AUTHORIZED FOR PERSONS DISABLED BY TREATMENT OR VOCATIONAL REHABILITATION PROVIDED BY THE DEPARTMENT OF VETERANS AFFAIRS

*Current Law*

Section 1151(a) of title 38, United States Code, authorizes disability compensation or dependency and indemnity compensation for veterans and their dependents who are injured or die as a result of negligent VA medical treatment, or in VA-sponsored rehabilitation or training. Under the decision of the United States Court of Appeals for the Federal Circuit in Kilpatrick v. Secretary of Veterans Affairs, 327 F.3d 1375 (Fed. Cir. 2003), veterans disabled under section 1151 are eligible for specially adapted housing allowances under chapter 21 of title 38, United States Code. Section 1151(b) prohibits the receipt of VA compensation benefits or DIC (for amounts attributable to loss of consortium or society) where an individual, on or after December 1, 1962, receives a judgment against, or settlement or compromise payment from, the United States, until an amount equal to any judgment against, or settlement or compromise payment from the United States is recouped.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 205(a) of H.R. 1716, as amended, would allow veterans and dependents who are injured as a result of negligent VA medical treatment or rehabilitation or training to qualify for vocational rehabilitation benefits, in addition to specially adapted automobile and adaptive equipment grants. Section 205(b) would provide that where a judgment, settlement or compromise of a claim is offset against benefits provided by the Secretary, such offset would be applied only to the comparable benefit.

*Compromise Agreement*

Section 304 of the Compromise Agreement generally follows the House language, but omits eligibility for vocational rehabilitation benefits. Section 205(c) is amended to provide that in the event that a judgment, settlement or compromise specifically designates a portion of such award for housing or automobile benefits such as those provided under Chapters 21 or 39, and the beneficiary later applies for benefits under Chapter 21 or 39, benefits under those chapters would be reduced by the amount of benefits specifically designated in the judgment, settlement or compromise. Any amounts in excess of those permitted under Chapter 21 or 39 would be offset against benefits paid under Chapter 11.

### EFFECTIVE DATE OF DEATH PENSION

*Current Law*

Section 5110(d) of title 38, United States Code, provides that an award based on a death pension claim received more than 45 days after the veteran's death can be effective no earlier than the date of the claim. If the application is received within 45 days of the veteran's death, then the effective date of the death pension award is the first day of the month in which the death occurred.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 204 of H.R. 1716, as amended, would repeal the 45-day rule for the effective date of death pension. Therefore, a claim for death pension received within one year from the date of the veteran's death would be effective the first day of the month in which the death occurred.

*Compromise Agreement*

Section 305 of the Compromise Agreement follows the House language.

### CODIFICATION OF ADMINISTRATIVE ACTIONS RELATING TO PRESUMPTIONS OF SERVICE CONNECTION FOR VETERANS EXPOSED TO IONIZING RADIATION

*Current Law*

Section 1112(c)(2) of title 38, United States Code, lists 16 diseases that VA presumes are related to exposure to ionizing radiation. In addition to the 16 listed in statute, VA regulations list an additional five diseases: bone cancer, brain cancer, colon cancer, lung cancer, and ovarian cancer. Servicemembers who participated in certain radiation-risk activities, as defined in section 1112(c)(3)(B), benefit from the presumption of service-connection to ionizing radiation.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 201 of H.R. 1716, as amended, would add bone cancer, brain cancer, colon cancer, lung cancer, and ovarian cancer to the statutory list of those diseases presumed to be related to ionizing radiation exposure during participation in certain radiation-risk activities. Section 201 would also codify additional locations where radiation-risk activities occurred for purposes of determining which veterans qualify for the presumption of service-connection of certain diseases related to ionizing radiation exposure.

*Compromise Agreement*

Section 306 of the Compromise Agreement follows the House language.

## TITLE IV—HOUSING MATTERS

### AUTHORITY TO PROVIDE SPECIALLY ADAPTED HOUSING TO CERTAIN DISABLED VETERANS

*Current Law*

Chapter 21 of title 38, United States Code, authorizes the Secretary to provide grants to adapt or acquire suitable housing for certain severely disabled veterans.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 302 of H.R. 1716, as amended, would extend eligibility for specially adapted housing grants to veterans with permanent and total service-connected disabilities due to the loss, or loss of use, of both arms at or above both elbows.

*Compromise Agreement*

Section 401 of the Compromise Agreement follows the House language.

### TRANSITIONAL HOUSING AMENDMENTS

*Current Law*

Section 2051 of title 38, United States Code, establishes the general authority governing loan guarantees for multifamily transitional housing. Section 2052 establishes eligibility and other requirements for such loans.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 303 of H.R. 1716, as amended, would provide that a multifamily transitional housing project that is funded by a VA-guaranteed loan may accept uncompensated voluntary services as defined in section 2011(d) of title 38, United States Code, in connection with the construction, alteration, or repair of such project. This section would also add commercial activities, other than neighborhood retail services or job training programs, to the purposes for which multifamily transitional housing space may be used.

*Compromise Agreement*

Section 402 of the Compromise Agreement follows the House language. The Committees intend that veterans be hired at these new centers of commercial activity where practicable.

### INCREASE IN, AND ANNUAL INDEXING OF, MAXIMUM AMOUNT OF HOME LOAN GUARANTY FOR CONSTRUCTION AND PURCHASE OF HOMES

*Current Law*

Section 3703 of title 38, United States Code, establishes that a loan of more than $144,000 made to an eligible veteran under section 3710 for purchase or construction of a home is automatically guaranteed by the United States in an amount not to exceed the lesser of $60,000 or 25 percent of the loan.

*Senate Bill*

Section 101 of S. 2486, as amended, would increase the maximum VA home loan guaranty to 25 percent of the Freddie Mac conforming loan amount for a single-family residence and annually index the maximum amount of VA's home loan guaranty for construction or purchase of a home to the Freddie Mac limit.

*House Bill*

Section 301 of H.R. 1716, as amended, and H.R. 4345 contain a similar provision.

*Compromise Agreement*

Section 403 of the Compromise Agreement follows the Senate language.

### EXTENSION OF AUTHORITY FOR GUARANTEE OF ADJUSTABLE RATE MORTGAGES

*Current Law*

Section 3707 of title 38, United States Code, formerly authorized a three-year test of a VA-guaranteed adjustable rate mortgage program (ARM). The VA ARM program was in force from fiscal year 1993 through fiscal year 1995.

*Senate Bill*

Section 102 of S. 2486, as amended, would reinstate the VA ARM program and extend its authorization through fiscal year 2011.

*House Bill*

The House Bills contain no comparable provision.

*Compromise Agreement*

Section 404 of the Compromise Agreement follows the Senate language but would extend the VA ARM program authorization through fiscal year 2008.

### EXTENSION AND IMPROVEMENT OF AUTHORITY FOR GUARANTEE OF HYBRID ADJUSTABLE RATE MORTGAGES

*Current Law*

Section 3707A of title 38, United States Code, authorizes VA, during fiscal years 2004 and 2005, to guarantee hybrid adjustable rate mortgage (hybrid ARM) loans. Annual interest rate adjustments on VA-guaranteed hybrid ARM loans are subject to a maximum increase or decrease of one percentage point and are limited over the term of the mortgage to a maximum increase of five percentage points above the initial fixed rate of interest.

*Senate Bill*

Section 103 of S. 2486, as amended, would extend the authority of VA to guarantee hybrid ARM loans through fiscal year 2011. For hybrid ARM loans with fixed periods of interest of less than 5 years, the initial and subsequent annual interest rate adjustments would be limited to one percentage point. For hybrid ARM loans with an initial rate of interest fixed for 5 years or more, section 103 would give VA the authority to set an appropriate interest rate cap for the initial interest rate adjustment. Annual adjustments thereafter would be subject to a one percentage point cap. Finally, section 103 would require VA to prescribe the maximum number of percentage points above the initial fixed rate of interest that would limit, over the term of a hybrid ARM mortgage, interest rate adjustments.

*House Bill*

The House Bills contain no comparable provision.

*Compromise Agreement*

Section 405 of the Compromise Agreement follows the Senate language but would extend the VA hybrid ARM program through fiscal year 2008.

### TERMINATION OF COLLECTION OF LOAN FEES FROM VETERANS RATED ELIGIBLE FOR COMPENSATION AT PRE-DISCHARGE RATING EXAMINATIONS

*Current Law*

Section 3729(a) of title 38, United States Code, requires VA to collect a fee from each person obtaining a housing loan guaranteed by VA. Section 3729(c) prohibits the collection of loan fees from veterans who are receiving VA disability compensation. Disability compensation may only be paid upon an active duty servicemember's discharge from service.

*Senate Bill*

Section 104 of S. 2486, as amended, would allow a servicemember who is rated eligible to receive disability compensation as a result of a pre-discharge medical examination to qualify for a waiver of the VA home loan funding fee.

*House Bill*

The House Bills contain no comparable provision.

*Compromise Agreement*

Section 406 of the Compromise Agreement follows the Senate language.

### THREE-YEAR EXTENSION OF NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

*Current Law*

Section 3761 of title 38, United States Code, establishes the general authority governing a pilot program for housing loans to Native Americans residing on tribal lands. The pilot program is authorized through December 31, 2005.

*House Bill*

H.R. 5153 would extend the Native American Home Loan Program through December 31, 2010.

*Senate Bill*

The Senate Bills contain no comparable provision.

*Compromise Agreement*

Section 407 of the Compromise Agreement extends the pilot program until December 31, 2008.

## TITLE V—MATTERS RELATING TO FIDUCIARIES

### DEFINITION OF FIDUCIARY

*Current Law*

There is no applicable current law.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 301 of H.R. 4658, as amended, would define a fiduciary for the purposes of chapters 55 and 61 of title 38, United States Code, as (1) the guardian, curator, conservator, committee or person legally vested with the responsibility or care of a claimant (or the estate) or of a beneficiary (or beneficiary's estate); or (2) any other person appointed in a representative capacity to receive money paid from VA.

*Compromise Agreement*

Section 501 of the Compromise Agreement follows the House language.

### INQUIRY, INVESTIGATIONS, AND QUALIFICATION OF FIDUCIARIES

*Current Law*

There is no applicable current law.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 302 of H.R. 4658, as amended, would require VA to certify, following an inquiry or investigation, the fitness of a fiduciary. Such inquiry or investigation would be conducted through, to the extent practicable, a face-to-face interview, review of a credit report issued within one year of the fiduciary's proposed appointment, and the furnishing of any bond that may be required by the Secretary. Additionally, the Secretary would be required to request information on whether that person has been convicted of any offense under Federal or State law resulting in imprisonment for more than one year. If the proposed fiduciary has been convicted of such an offense, the Secretary may certify the person as a fiduciary only if the Secretary makes a specific finding of rehabilitation and finds that the proposed fiduciary is an appropriate one to act as the fiduciary for the beneficiary.

In cases of a parent or step-parent of a minor beneficiary (natural or adopted), spouse or parent of an incompetent beneficiary, a person who has been appointed by a court of competent jurisdiction, or a person appointed to manage an estate where the annual amount of veterans benefits to be managed does not exceed $3,600 (adjusted for annual cost-of-living increases), the Secretary may certify the potential fiduciary on an expedited basis.

If needed to protect the assets of the beneficiary when a determination of incompetence is being made or appealed, or a fiduciary is appealing a determination of misuse of veteran's benefits, the Secretary would have the authority to appoint a temporary fiduciary, for a period not to exceed 120 days. If a final decision has not been made within 120 days of the appointment of the temporary fiduciary, the Secretary would not be able to continue the temporary appointment without a court order for the appointment of a guardian, conservator, or similar legal fiduciary.

*Compromise Agreement*

Section 502 of the Compromise Agreement follows the House language with modifications. Language requiring a specific finding of rehabilitation before a person with a prior felony conviction may be appointed to serve as a fiduciary is omitted. The Committees intend that the Secretary have discretion in determining when such a person would be an appropriate person to serve as a fiduciary. The Committees expect the Secretary to consider such factors as the length of time since the conviction, the nature of the offense, the relationship of the proposed fiduciary to the beneficiary, and other factors which would demonstrate the appropriateness of the appointment.

### MISUSE OF BENEFITS BY FIDUCIARIES

*Current Law*

There is no applicable current law.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 303 of H.R. 4658, as amended, would, if the Secretary or a court of competent jurisdiction determines the fiduciary misused some or all of the veterans' benefits, prohibit a fiduciary from collecting a fee from a beneficiary for any month benefits were misused. Additionally, any fee collected would be considered to be misused.

Any fiduciary, except a Federal, State or local government agency, would be liable for the amount misused, and that amount would be treated as an erroneous payment to the fiduciary for purposes of laws pertaining to the recovery of overpayments. The misappropriated amount would be recovered in the same manner as any other debt due the United States, and the Secretary would repay to the beneficiary or the beneficiary's successor fiduciary, an amount equal to the recovered amount.

In the event the misused benefits are due to the Secretary's negligent failure to investigate or monitor the fiduciary, the Secretary would be liable to reissue all the benefits. Examples of failure to monitor a fiduciary adequately would include the Secretary's failing to review, in a timely manner, a fiduciary's accounting; failing to act in a timely manner when notified of allegations of misuse; and any other case when actual negligence is shown. In any case, a fiduciary who is (1) not an individual (i.e., an agency) or (2) is an individual who, for any month during a period when misuse occurs, serves ten or more individuals who are beneficiaries under title 38, United States Code, the Secretary would also reissue benefits. When the Secretary reissues a benefit payment, the Secretary is directed to make a good-faith effort to recoup the funds from the fiduciary to which the original payment was made.

*Compromise Agreement*

Section 503 of the Compromise Agreement follows the House language with modifications. The Committees have omitted language authorizing the Secretary to make a finding of misuse and treat the portions of benefits misused as erroneous payments to the fiduciary. Also omitted is language authorizing the Secretary to impose liability upon the fiduciary and recover misused funds in the same manner as any other debt owed to the United States. In addition, the Committees have omitted the provision that would have made a determination by the Secretary that a fiduciary has misused benefits a decision of the Secretary for purposes of section 511(a) of title 38, United States Code. The Committees recognize that it is the duty of the Federal government to recover misused funds and expect that VA and other government agencies will make every effort to recover misused funds. However, at this time, the Committees need to assess further the appropriateness of requiring a fiduciary accused of misuse by the Secretary to appeal such a finding in the appeals venue established for adjudicating veterans' entitlement claims.

The Committees have also amended the provision requiring the Secretary to reissue benefits when the Secretary has negligently failed to monitor or investigate a fiduciary. In particular, the Committees have specified that a timely review of a scheduled accounting or investigation of misuse is one that occurs within 60 days of the scheduled accounting or notification of alleged misuse.

### ADDITIONAL PROTECTIONS FOR BENEFICIARIES WITH FIDUCIARIES

*Current Law*

There is no applicable current law.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 304 of H.R. 4658, as amended, would require the Secretary to conduct periodic onsite reviews of any person or agency located in the United States that serves as a fiduciary to more than 20 beneficiaries and who administers a total annual amount of benefits administered of $50,000 or more (to be adjusted annually to reflect cost-of-living adjustments). Additionally, the Secretary would be authorized to require a fiduciary to file a report or accounting of disbursement of benefits in accordance with regulations prescribed by the Secretary. In the event a fiduciary fails to file the requested report, the Secretary would be authorized to require a fiduciary to appear in person at a VA regional office to receive payment.

In the event the Secretary determines a fiduciary converts a payment for some use other than for use on the beneficiary's behalf, the Secretary would be authorized to assess, in addition to any other penalty that may be prescribed by law, a civil monetary penalty of not more than $5,000 per conversion. Such person would also be subject to an assessment by the Secretary of not more than twice the amount of any payments converted.

Additionally, any Federal court, when sentencing a defendant convicted of an offense arising from the misuse of benefits, could have ordered, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Department and the court would have been required to state on the record the reasons for not ordering restitution, or only ordering partial restitution. Any amounts received or recovered would be available to defray the expenses incurred by the VA's Office of Inspector General for the inquiry or investigation of fiduciaries.

*Compromise Agreement*

Section 504 of the Compromise Agreement follows the House language with modifications. The title of new section 5509, of title 38, United States Code, has been changed to reflect more accurately the requirements of that section. The provision for imposition of civil monetary penalties has been omitted. The Compromise Agreement omits provisions allowing amounts received in excess of benefit restitution to be made available to the Office of the Inspector General.

### ANNUAL REPORT

*Current Law*

There is no applicable current law.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 305 of H.R. 4658, as amended, would require the Secretary to include in the "Annual Benefits Report of the Veterans Benefits Administration" or the "Secretary's Annual Performance and Accountability Report" information concerning fiduciaries who have been appointed to receive benefits. The required report would include the following (1) the number of beneficiaries in each category (veteran, surviving spouse, child, adult disabled child or parent); (2) the types of benefit being paid (compensation, pension, dependency and indemnity compensation, death pension or benefits payable to a disabled child under chapter 18 of title 38, United States Code); (3) the total annual amounts and average annual amounts of benefits paid to fiduciaries for each category and type of benefit; (4) the number of fiduciaries who are the spouse, parent, step-parent, legal custodian, court-appointed fiduciary, institutional fiduciary, custodian-in-fact and supervised direct payee; (5) the number of cases in which the fiduciary was changed by the Secretary because of a finding that benefits had been misused; (6) how such cases of misuse of benefits were addressed by the Secretary; (7) the final disposition of such cases of misuse of benefits, including the number and dollar amount of any civil or criminal penalties imposed; and (8) such other information as the Secretary considers appropriate.

*Compromise Agreement*

Section 505 of the Compromise Agreement follows the House language with modifications. Additional reporting requirements concerning cases referred to the Office of the Inspector General and the amounts of money recovered by the government have been added. Language referring to civil or criminal penalties has been omitted.

## TITLE VI—MEMORIAL AFFAIRS MATTERS

### DESIGNATION OF PRISONER OF WAR/MISSING IN ACTION NATIONAL MEMORIAL, RIVERSIDE NATIONAL CEMETERY, RIVERSIDE, CALIFORNIA

*Current Law*

There is no applicable current law.

*Senate Bill*

Section 122 of S. 2485 would designate the Prisoner of War/Missing in Action National Memorial at the Riverside National Cemetery in Riverside, California. Federal funds would be permitted, but not required, at the discretion of the Secretary for maintenance of the memorial, should private funding sources prove to be inadequate.

*House Bill*

Section 402 of H.R. 1716, as amended, contains a similar provision.

*Compromise Agreement*

Section 601 of the Compromise Agreement generally follows the House language. However, the memorial is designated: "Prisoner of War/Missing in Action National Memorial."

### LEASE OF CERTAIN NATIONAL CEMETERY ADMINISTRATION PROPERTY

*Current Law*

There is no applicable provision in current law.

*Senate Bill*

Section 107 of S. 2485, as amended, would authorize the Secretary to lease any undeveloped land and unused or underutilized buildings belonging to the United States and administered by the National Cemetery Administration (NCA). The term of any such lease would not be permitted to exceed ten years. Proceeds from the lease of land or buildings and proceeds from licenses sold in return for the agricultural use of NCA lands would be deposited in a National Cemetery Administration Facilities Operation Fund along with any appropriation, or other authorized payment, designated for that fund. Fund proceeds would be available to cover costs incurred by NCA in the operation and maintenance of national cemeteries.

*House Bill*

The House Bills contain no comparable provision.

*Compromise Agreement*

Section 602 of the Compromise Agreement follows the Senate language.

### EXCHANGES OF REAL PROPERTY FOR NATIONAL CEMETERIES

*Current Law*

Section 2406 of title 38, United States Code, authorizes the Secretary to acquire additional lands for national cemeteries by purchase, gift, condemnation, or transfer from other Federal agencies.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

The House Bills contain no comparable provision.

*Compromise Agreement*

Section 603 of the Compromise Agreement would authorize the Secretary to acquire additional lands for national cemeteries by exchanging existing national cemetery land.

## TITLE VII—IMPROVEMENTS TO SERVICEMEMBERS CIVIL RELIEF ACT

### CLARIFICATION OF MEANING OF "JUDGMENT" AS USED IN THE SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

*Current Law*

Section 101 of the SCRA provides definitions for purposes of the Act. The section does not define the term "judgment."

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 101 of H.R. 4658, as amended, would clarify that "[t]he term 'judgment' means any judgment, decree, order, or ruling, final or temporary."

*Compromise Agreement*

Section 701 of the Compromise Agreement follows the House language.

### REQUIREMENTS RELATING TO WAIVER OF RIGHTS UNDER THE SCRA

*Current Law*

Section 107 of the SCRA provides that servicemembers may waive any of the rights and protections under the Act if certain requirements are met, including a requirement in section 107(b) that waivers be in writing for specified actions.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 102 of H.R. 4658, as amended, would provide that those actions requiring waivers in writing pursuant to section 107(b) of the SCRA must also be executed in a separate instrument. Additionally, section 102 would provide a new requirement that any waiver, in writing, of a right or protection under section 107 of the Act that applies to a contract, lease or similar legal instrument must be in at least 12-point type.

*Compromise Agreement*

Section 702 of the Compromise Agreement follows the House language.

### RIGHT OF SERVICEMEMBERS PLAINTIFFS TO REQUEST STAY OF CIVIL PROCEEDINGS

*Current Law*

Section 202 of the SCRA provides for a stay of any civil action or proceeding when a servicemember who is a defendant has notice of the action or proceeding.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 103 of H.R. 4658, as amended, would include plaintiffs as well as defendants under section 202 of the SCRA.

*Compromise Agreement*

Section 703 of the Compromise Agreement follows the House language.

### TERMINATION OF LEASES

*Current Law*

Section 305 of the SCRA provides that servicemembers may, under certain circumstances, terminate residential or motor vehicle leases and specifies the manner of termination.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 104 of H.R. 4658, as amended, would clarify that if, under section 305 of the SCRA the servicemember terminates a lease entered into jointly with a dependent, the obligations of both the servicemember and the dependent are terminated. Section 104 would also modify section 305 of the SCRA to allow motor vehicle lease terminations for any permanent change of station move from a state outside of the continental United States to any other location outside that state, and the term "continental United States" would be defined as the "48 contiguous states and the District of Columbia." Further, section 104 would broaden the definition of the term "military orders" to mean "official military orders, or any notification, certification, or verification from the servicemember's commanding officer, with respect to the servicemember's current or future military duty status." Finally, section 104 would amend section 305 of the SCRA to include individual as well as unit deployments for a period of not less than 90 days among the circumstances under which a servicemember could terminate a lease.

*Compromise Agreement*

Section 704 of the Compromise Agreement follows the House language.

## TITLE VIII—OTHER MATTERS

### PRINCIPAL OFFICE OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

*Current Law*

Section 7255 of title 38, United States Code, requires the principal office of the U.S. Court of Appeals for Veterans Claims be located in the District of Columbia.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 1 of H.R. 3936 would authorize the principal office of the U.S. Court of Appeals for Veterans Claims to be located at any location in the Washington, D.C., metropolitan area. Section 2 would make findings and express the sense of Congress regarding a new veterans' courthouse and justice center.

*Compromise Agreement*

Section 801 of the Compromise Agreement follows the House language, but omits section 2 of the bill.

### EXTENSION OF BIENNIAL REPORT OF ADVISORY COMMITTEE ON FORMER PRISONERS OF WAR

*Current Law*

Section 541 of title 38, United States Code, establishes an Advisory Committee on Former Prisoners of War. The Advisory Committee is required to submit to the Secretary, no later than July 1st of each odd numbered year through 2003, a report on the programs and activities of the Department as they pertain to veterans who are former prisoners of war.

*Senate Bill*

Section 302 of S. 2486, as amended, would extend the reporting requirement through 2009.

*House Bill*

The House Bills contain no comparable provision.

*Compromise Agreement*

Section 803 of the Compromise Agreement follows the Senate language.

### AVAILABILITY OF ADMINISTRATIVE AND JUDICIAL REDRESS FOR CERTAIN VETERANS DENIED OPPORTUNITY TO COMPETE FOR FEDERAL EMPLOYMENT

*Current Law*

Section 3304(f)(1) of title 5, United States Code, grants "preference eligible" veterans (generally, veterans who served during a wartime period; veterans who served during a period for which a campaign badge or expeditionary medal was awarded; or veterans with service-connected disabilities) and veterans who separated from the armed forces under honorable conditions after three years or more of active service the opportunity to compete for vacant positions in the Federal government for which an agency is accepting applications from individuals outside its own workforce under merit promotion procedures.

Section 3330a of title 5, United States Code, allows preference eligible veterans who allege their veterans' preference rights have been violated to seek administrative redress by filing a complaint with the Secretary of Labor. Section 3330b of title 5, United States Code, provides preference eligible veterans with judicial redress for claims arising from allegations of violations of veterans' preference laws.

*Senate Bill*

Section 204 of S. 2486, as amended, would provide a veteran who has been separated from the armed forces under honorable conditions after three years or more of active service with administrative and judicial redress for alleged violations of his or her rights under section 3304(f)(1) of title 5, United Stated Code.

*House Bill*

The House Bills contain no comparable provision.

*Compromise Agreement*

Section 804 of the Compromise Agreement follows the Senate language.

### REPORT ON SERVICEMEMBERS' AND VETERANS' AWARENESS OF BENEFITS AVAILABLE UNDER LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS

*Current Law*

Section 7722 of title 38, United States Code, requires the Secretary of Veterans Affairs to distribute full information to eligible servicemembers, veterans and dependents regarding all benefits and services to which they may be entitled under laws administered by the Department.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

The House Bills contain no comparable provision.

*Compromise Agreement*

In conjunction with the improvements in veterans' benefits, section 805 of the Compromise Agreement would direct the Secretary of Veterans Affairs to submit a report to Congress detailing VA's efforts to make veterans and servicemembers aware of VA benefits and services to which they are entitled. The report would include: (1) a description of the outreach activities conducted by VA at each of its three Administrations and by other internal VA entities; (2) the results of a national survey to ascertain servicemembers' and veterans' level of awareness of VA benefits and services; and (3) recommendations the Secretary may have to improve VA's outreach activities. The report would be due 1 year after the enactment of the Compromise Agreement.

## LEGISLATIVE PROVISIONS NOT ADOPTED

### IMPROVED VETERANS' BENEFITS FOR FORMER PRISONERS OF WAR

*Current Law*

Section 1112(b) of title 38, United States Code, specifies 16 disabilities that VA presumes are related to the prisoner of war (POW) experience for the purposes of veterans' and survivors' benefits.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 4 of H.R. 4175 would add osteoporosis to the list of diseases presumed to be the result of the POW experience.

### FINDINGS RELATED TO ON-JOB TRAINING AND APPRENTICESHIP PROGRAMS

*Current Law*

There is no applicable current law.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 101 of H.R. 1716, as amended, would make Congressional findings with respect to broad purposes for VA's OJT and apprenticeship programs in both the private and public sectors of our economy. These include: helping employers hire and retain skilled workers; establishing a link between the training afforded to servicemembers while serving in the Armed Forces and the training available in civilian settings for purposes of occupational licensing and credentialing; and developing a more highly educated and productive workforce.

### INCENTIVE PAYMENT FOR EARLY COMPLETION OF APPRENTICESHIP TRAINING

*Current Law*

Sections 3032, 3233, and 3687 of title 38, United States Code, and Section 16131 of title 10, United States Code, do not currently contain any incentive to finish on-job training or apprenticeships earlier than the established completion date.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 103 of H.R. 1716, as amended, would establish an incentive payment for program participants who finish their apprenticeship training early. As an incentive for trainees to complete their apprenticeship or attain journeyworker status early, this provision would require VA to pay the trainee a lump-sum amount for the months of VA entitlement remaining that would have been needed to complete the apprenticeship. This provision would be applicable for months beginning on or after October 1, 2005, and ending on October 1, 2010.

### ELIGIBILITY OF CERTAIN PERSONS FOR BURIAL IN ARLINGTON NATIONAL CEMETERY

*Current Law*

Eligibility for burial at Arlington National Cemetery is governed by Federal regulations at section 553.15 of title 32, Code of Federal Regulations. The following categories of persons are eligible for in-ground burial: active duty members of the Armed Forces, except those members serving on active duty for training; retired members of the Armed Forces who have served on active duty, are on a retired list and are entitled to receive retirement pay; former members of the Armed Forces discharged for disability before October 1, 1949, who served on active duty and would have been eligible for retirement under 10 U.S.C. 1202 had the statute been in effect on the date of separation; honorably discharged members of the Armed Forces awarded the Medal of Honor, Distinguished Service Cross, Air Force Cross or Navy Cross, Distinguished Service Medal, Silver Star, or Purple Heart; former prisoners of war who served honorably and who died on or after November 30, 1993; provided they were honorably discharged from the Armed Forces, elected Federal officials (the President, Vice President, and Members of Congress), Federal cabinet secretaries and deputies, agency directors and certain other high Federal officials (level I and II executives), Supreme Court Justices, and chiefs of certain diplomatic missions; the spouse, widow or widower, minor child and, at the discretion of the Secretary of the Army, certain unmarried adult children, and certain surviving spouses of persons eligible for in-ground burial.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 401 of H.R. 1716, as amended, would make eligible for in-ground burial at Arlington National Cemetery (1) a member or former member of a reserve component of the Armed Forces who at the time of death was under 60 years of age and who, but for age, would have been eligible for military retired pay under title 10, United States Code; and (2) a member of a reserve component of the Armed Forces who dies in the line of duty while on active duty for training or inactive duty training. Eligibility in both instances would also extend to the servicemember's dependents.

### TECHNICAL AMENDMENTS TO EDUCATION PROGRAM PROVISIONS

*Current Law*

Section 3452(e) of title 38, United States Code, as amended by section 301 of the Veterans Benefits Act of 2003 (Public Law 108–183; 117 Stat. 2658) authorizes education assistance benefits for certain self-employment and on-job training programs (franchises) for less than six months under the Montgomery GI Bill (MGIB) when the beneficiary receives a training wage.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 403 of H.R. 4658, as amended, would make a technical correction to waive the training-wage requirement for programs of less than six months beginning October 1, 2005, and ending on September 30, 2010. The Department of Veterans Affairs would be required to review and approve all such programs before any MGIB educational assistance benefits could be dispersed.

### PREVENTION OF DOUBLE TAXATION OF CERTAIN SERVICEMEMBERS

*Current Law*

There is no applicable current law.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 105 of H.R. 4658, as amended, would prohibit a tax jurisdiction from imposing a use, excise or similar tax on the personal property of a servicemember who is not a resident, if the tax jurisdiction's laws do not provide a credit against such taxes previously paid on the same personal property in another tax jurisdiction.

### FINDINGS AND SENSE OF CONGRESS REGARDING NEW VETERANS COURTHOUSE AND JUSTICE CENTER

*Current Law*

There is no applicable current law.

*Senate Bill*

The Senate Bills contain no comparable provision.

*House Bill*

Section 2 of H.R. 3936 would make findings and express the sense of Congress that all other Article I courts of the United States are located in a dedicated courthouse; that the U.S. Court of Appeals for Veterans Claims, since its creation in 1988, has been located in a commercial office building; and that a dedicated Veterans Courthouse and Justice Center should be provided for the Court and the veterans it serves, and should be located, if feasible, at a site owned by the United States that is part of or proximate to the Pentagon Reservation. Section 2 would also require that not later than 90 days after the date of enactment of this provision, the Secretary of Defense, the Secretary of Veterans Affairs, and the Administrator of General Services submit to the House and Senate Committees on Veterans' Affairs and Armed Services a joint report on the feasibility of locating a new Veterans Courthouse and Justice Center at an appropriate Pentagon Reservation site.

### EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL FOR MEMBERS OF THE SELECTED RESERVE WHO AGGREGATE TWO OR MORE YEARS OF ACTIVE DUTY SERVICE DURING ANY FIVE-YEAR PERIOD

*Current Law*

Section 3012 of title 38, United States Code, authorizes the Department of Veterans Affairs to provide Chapter 30 educational assistance benefits to an individual who, after June 30, 1985, first enters on active duty and has his or her pay reduced by $100 per month for the first 12 months of active duty and serves at least two continuous years on active duty.

*Senate Bill*

Section 202 of S. 2486, as amended, would grant entitlement to Chapter 30 educational assistance benefits to an individual in the Selected Reserve who, during any five-year period beginning on or after September 11, 2001, and ending on June 30, 2008, serves an aggregate of two years of active duty service. The activated Selected Reserve member would be required to make a $1,200 contribution within one year of completing two years of aggregate active duty service.

*House Bill*

The House Bills contain no comparable provision.

### MODIFICATION OF DEFINITION OF MINORITY GROUP MEMBER FOR PURPOSES OF ADVISORY COMMITTEE ON MINORITY VETERANS

*Current Law*

Section 544 of title 38, United States Code, establishes an Advisory Committee on Minority Veterans. For purposes of that section of law the term "minority group members" includes veterans who are: Asian American; Black; Hispanic; Native American (including American Indian, Alaskan Native, and Native Hawaiian); or Pacific-Islander American.

*Senate Bill*

Section 803 of S. 2486, as amended, would amend the definition of "minority group member" to conform to the new Race and Ethnic Standards used in Federal statistical reporting and in the 2000 United States Census. Specifically, section 303 would redefine the categories of minority group members making the following changes: substituting "Asian" for "Asian American;" "Black or African American" for "Black;" "Hispanic, Latino, or Spanish Origin" for "Hispanic;" and "American Indian or Alaska Native" and "Native Hawaiian or other Pacific Islander" for "Native American (including American Indian, Alaskan Native, and Native Hawaiian)."

*House Bill*

The House Bills contain no comparable provision.

### INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

*Current Law*

Current law does not require an annual cost-of-living adjustment to veterans' and survivors' disability compensation.

*Senate Bill*

S. 2483 contains a similar provision.

*House Bill*

Section 2 of H.R. 4175 would provide, effective December 1, 2004, a cost-of-living adjustment to the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans. The percentage increase would be equal to the percentage increase for benefits provided under the Social Security Act.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, November 16, 2004.*

Hon. CHRIS SMITH,
*Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, DC.*

DEAR CHAIRMAN SMITH: In recognition of the desire to expedite floor consideration of S. 2486, the "Veterans Benefits Improvement Act of 2004," the Committee on the Judiciary hereby waives consideration of the bill. Section 504(b) of the bill creates a new §6108 of Title 38 of the U.S. Code. This new section gives courts the authority to order restitution to the Department of Veterans Affairs when a fiduciary is convicted of missing veterans benefits. These provisions fall within the committee on the Judiciary's Rule X jurisdiction. However, given the need to expedite this legislation, I will not seek a referral of S. 2486 based on their inclusion.

The Committee on the Judiciary takes this action with the understanding that the Committee's jurisdiction over these provisions is in no way diminished or altered. I would appreciate your including this letter and your response in the Congressional Record during consideration of S. 2486 on the House floor.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
*Washington, DC, November 16, 2004.*

Hon. F. JAMES SENSENBRENNER, Jr.,
*Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of November 16, 2004, regarding the jurisdictional interest of the Committee on the Judiciary in section 504(b) of S. 2486, the Veterans Benefits Improvement Act of 2004.

Your willingness to forego a sequential referral to expedite House consideration of S. 2486 is most appreciated. The Committee on Veterans' Affairs understands that your letter does not waive jurisdiction of the Committee on the Judiciary over the bill and is not a precedent for other bills.

Again, thank you for your cooperation in this matter. Be assured I will include our exchange of letters in the Congressional Record.

Sincerely,

CHRISTOPHER H. SMITH,
*Chairman.*

Mr. Speaker, I reserve the balance of my time.

Mr. MICHAUD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker I rise in strong support of S. 2486, the Veterans Benefits Improvement Act of 2004. I would like to thank the ranking member, the gentleman from Illinois (Mr. EVANS), and the gentleman from New Jersey (Mr. SMITH) for their leadership on this legislation and my good friend and colleague on the Subcommittee on Benefits, the gentleman from South Carolina (Mr. BROWN). I have enjoyed working with him during this Congress.

I was proud to join Members on both sides of the aisle in introducing provisions to help our veterans and servicemembers and their families. It is good to see that work contained in this final bill.

This legislation demonstrates the bipartisan nature of the Committee on Veterans Affairs and our ability to work together for the good of our Nation's veterans. The Members and staff of both sides of the aisle also should be recognized for their efforts in putting legislation together.

Finally, I would like to acknowledge the good work done by the other body. Senator SPECTER and Senator GRAHAM and their staffs worked diligently to bring this bill forward. It has been a bipartisan and bicameral effort. Our Nation's veterans and their families would be better off with this legislation.

S. 2486 is a comprehensive bill drawn from a number of provisions that came before our committee. I would like to take a moment to point out just a few.

Many of the provisions in Title I, the Veterans Earn and Learn Act of S. 2486, are drawn from H.R. 1716. Title I will provide improved benefits and job assistance for future skilled workers as they leave military service. The gentleman from South Carolina (Mr. BROWN) introduced and I was happy to support a provision to extend eligibility of employer-sponsored health care coverage to Reservists who have been activated for up to 24 months of active service. This provision is found in section 201 of the bill.

Section 2111 drawn from a bipartisan H.R. 4173 provides for a report of employment placement, retention and advancement of recently separated servicemembers.

I am also pleased that the other body included provisions similar to H.R. 1750 to increase by $250 the amount of dependency and indemnity compensation benefits received by surviving spouses with children under age 18 for the first 2 years of eligibility. The ranking member, the gentleman from Illinois (Mr. EVANS), has been a long-time advocate for our Nation's disabled veterans and their families.

S. 2486 contains provisions drawn from the Evans bill, H.R. 4172, to codify certain disabilities as presumptive disabilities for atomic veterans and to provide an offset rather than a bar to benefits when an atomic veteran or survivor receives benefits under the Radiation Exposure Compensation Act.

I would like to thank the gentleman from New Hampshire (Mr. BRADLEY) for the opportunity to join with him in introducing H.R. 2163 to equalize the position of surviving spouses who receive death pension benefits and who are also the beneficiaries of veterans' life insurance. The provisions of H.R. 2163 are contained in section 303 and 305 of this bill.

The Veterans Benefits Improvement Act of 2004 includes a provision that is drawn from my bill, H.R. 2612, to allow veterans who have lost or lost the use of both arms at or above the elbow due to a service-connected disability to receive a special adaptive housing grant. This will provide needed assistance to those veterans currently being disabled in Iraq and Afghanistan as well as veterans of former wars, such as James Moore of Lincoln, Nebraska, who contacted the committee concerning this issue.

The gentlewoman from California (Mrs. DAVIS) has been a leader on our committee for veterans' housing issues, and her work is reflected in S. 2486. Section 103 is drawn from her bill, H.R. 4616, and provisions from the Senate to extend the authority for hybrid adjustable mortgages.

S. 2486 will also benefit Native American veterans in my State and across the country. The Pleasant Point and Indian Township Passamoquody Tribe of Maine has entered into a memorandum of understanding to participate in the VA's Native America Home Loan pilot project. The newest member of our committee, the gentlewoman from South Dakota (Ms. HERSETH), introduced H.R. 5153 to extend this program. That provision is included as section 406 of this bill.

The gentlewoman from California (Mrs. DAVIS) has also been a leader in working to protect our most vulnerable veterans, and I was pleased to join her in introducing H.R. 4032 to improve protection and remedies in the event of fiduciary misuse. Many of the provisions of H.R. 4032 are included in Title V of the Veterans Benefit Improvement Act of 2004.

Mr. Speaker, as you can see, there has been a great deal of bipartisan support put together in this bill. S. 2486 will improve the lives of veterans of today and provide a sense of security for those servicemembers who are risking their lives all around the world. I urge all Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. BROWN), who has been a great workhorse on this committee. As I indicated earlier, this bill alone has some 40 disparate provisions. It encompasses over 14 bills. The gentleman, as the subcommittee chairman, has walked point on all of this; and I want to thank the distinguished chairman for his very able and very effective leadership as subcommittee chairman.

Mr. BROWN of South Carolina. Mr. Speaker, I thank the gentleman for his kind remarks.

Mr. Speaker, I rise today in strong support of S. 2486, the Veterans Benefit Improvement Act of 2004. We have been working on this comprehensive bill throughout the 108th Congress, like our chairman said. I commend the Committee on Veteran's Affairs leadership for bringing it to the floor today.

It incorporates 14 separate House bills and comprises 43 substantive provisions. Countless servicemembers, veterans and their families will directly benefit from S. 2486. Likewise, Mr. Speaker, by significant enhancing and modernizing the VA on-the-job training and apprenticeship programs for veterans, American businesses and industry will feel the positive effects of this bill, as well as 858 civilian occupations offer apprenticeships. These improvements can be especially useful to American small businesses, the bedrock of our economy.

I would like to briefly note Title V of the bill, which addresses the needs of our most vulnerable veterans, those who require a fiduciary to handle monetary benefits received from the VA. It is an unfortunate fact that when someone is responsible for another person's money, temptations may arise to take advantage of that position, ultimately to the detriment of the person being assisted. S. 2486 would add protection for incompetent veterans or dependents when their benefits are misused.

Currently, over 100,000 veterans, widows or adult helpless children and minors have an appointed fiduciary. While VA overall does a good job of protecting this population, S. 2486 addresses many of our concerns with the fiduciary program.

Mr. Speaker, I applaud the gentleman from New Jersey (Mr. SMITH), our great chairman, and the gentleman from Illinois (Mr. EVANS), the ranking member, for their continuing foresight and leadership, as well as my great friend, the gentleman from Maine (Mr. MICHAUD), the ranking member of the Subcommittee on Benefits.

In addition to the Subcommittee on Benefits as a whole, I thank the members of the committee who worked with the gentleman from Maine (Mr. MICHAUD) and myself for bringing the bill forward.

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The full committee's vice chairman, the gentleman from Florida (Mr. BILIRAKIS), the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), the gentlewoman from California (Mrs. DAVIS), the gentleman from New Hampshire (Mr. BRADLEY), the gentleman from

Texas (Mr. REYES); indeed, this has been a team effort.

I also want to thank the Subcommittee on Benefits staff on both sides of the aisle.

Mr. Speaker, I urge my colleagues to support the Veterans Benefit Improvement Act of 2004.

Mr. MICHAUD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS), the ranking member of the committee.

Mr. EVANS. Mr. Speaker, I rise in strong support of S. 2486. This legislation includes a number of measures to improve the lives of this Nation's veterans and their families.

I also want to thank the gentleman from New Jersey (Mr. SMITH), the chairman of committee, and the gentleman from South Carolina (Mr. BROWN) and the gentleman from Maine (Mr. MICHAUD), the chairman and ranking member of the Subcommittee on Benefits, and both of their staffs for their hard work in bringing this legislation to the floor.

In particular, I also want to acknowledge the work and contribution of Pat Ryan, who is retiring from the committee after many years of service.

I also want to thank the members of the other body, Senator SPECTER and Senator GRAHAM and their staffs for the contributions made to this bill.

Mr. Speaker, today, we recognize the sacrifices of the men and women in uniform who served our Nation. By passing this important legislative package, this bill honors their service and provides them with the care that they have earned.

As is the committee's custom, this bill incorporates a large number of provisions from bills introduced by other Members from both sides of the aisle in both bodies. The House Committee on Veterans Affairs has a long-standing record of working in a bipartisan manner, and I am glad that we have the gentleman from New Jersey's (Mr. SMITH's) leadership on his side, who has worked together with us on our side so that we can continue this practice.

I am very pleased to be a sponsor or an original cosponsor of many of the other bills which were incorporated into this package and look forward to their implementation.

Mr. Speaker, we can finalize the committee's work for this Congress. We have many accomplishments that we can be proud of, and I want to thank the chairman and members of the committee for working so hard and dedicating our work to our Nation's veterans. I urge all Members to vote for this legislation.

Mr. Speaker, I rise in strong support of S. 2486, a legislative package encompassing a number of important measures to assist this nation's veterans and their families.

I would like to thank the Chairman of our Committee, CHRIS SMITH, and the Chairman and Ranking Member of the Benefits Subcommittee, HENRY BROWN and MIKE MICHAUD, and their staffs for their work in bringing this important legislation to the floor.

I also want to thank the Members of the other body, Senator SPECTER and Senator GRAHAM and their staffs for their contribution to this bill.

Mr. Speaker, it is incumbent upon us to recognize the many sacrifices of the brave men and women in uniform who have so gallantly served our Nation. We do so by passing legislation honoring their service and providing them with the benefits they surely have earned.

As is the Committee's custom, this bill incorporates a large number of provisions, from bills introduced by Members from both sides of the aisle and both bodies. The House Veterans' Affairs committee has a long-standing tradition of working in a bipartisan manner and I am proud that we have continued this practice as exhibited in this bill. I thank the Chairman for his leadership in continuing this tradition. This bill is truly the product of a bipartisan, bicameral effort.

I am very pleased to be a sponsor or an original cosponsor of many of the bills which were incorporated into this measure. These provisions will improve the quality of our life of our Nation's veterans and their families. It honors their service and sacrifice to this country.

Mr. Speaker, Congress has made important strides in providing quality educational assistance to servicemembers, veterans and their families; however, we have not made similar progress with respect to the job training and vocational programs available under the Montgomery G.I. Bill. Accordingly, S. 2486, as amended, is a strong step in the right direction in the job training and economic development area.

Specifically, this bill includes important provisions that would modernize, enhance and encourage greater participation in the on-job training and apprenticeship programs administered by the Department of Veterans Affairs (VA). It is important for veterans to be able to use the Montgomery G.I. bill education benefits for academic courses leading to a degree. I used VA education benefits to further my own education upon leaving military service. It is, however, just as important for the future electricians, plumbers, auto mechanics and other skilled workers to be able to effectively use the Montgomery G.I. Bill to fulfill the training and certification requirements they may need to prepare them to transition to the civilian workforce and contribute to society. The Committee worked diligently to ensure that these provisions accurately reflect contemporary industry and labor practices. We also worked with the VA to address its administrative concerns regarding these provisions. More important, Mr. Speaker, these provisions will provide veterans with improved job-training skills and opportunities under the Montgomery G.I. Bill.

I am pleased to support in the bill a measure brought forth by the other body which will allow an additional 10-year period for those Gold Star Wives and the surviving widowers of men and women who die during military service to use their education benefits. Men and women who die during military service are often in their early twenties and leave behind young children. By providing an additional 10 years, we will allow those surviving spouses an opportunity to raise their children before resuming their education. We have learned that this benefit is underutilized because surviving spouses are reluctant to resume their education while raising young children.

The bill recognizes the need for continued health insurance for those members of the Guard and Reserve who are called up for increasing periods of time. Therefore, a provision is included allowing these reservists to maintain employer-sponsored health insurance for 24 months, 6 months longer than that provided by current law.

I am pleased that a measure introduced by my good friend, the gentleman from Massachusetts, Mr. MCGOVERN, is included. He recognized that one of the biggest obstacles to effective utilization of employment-related rights for returning servicemembers is the lack of information concerning those rights. The bill requires the Department of Labor to provide employers with a notice of employee rights under the Uniformed Services Employment and Reemployment Rights Act, known as USERRA, and requires employers to post those notices.

S. 2486, as amended, also includes a provision requiring a study and report on employment, retention and advancement in employment of former servicemembers. This study and report will provide valuable information and assist Congress in our efforts to do all we can to facilitate the transition of servicemembers to the civilian workforce and promote veterans' employment opportunities generally.

Several years ago, an evaluation of VA's programs for survivors found that surviving spouses of veterans who have children and who receive Dependency and Indemnity Compensation (DIC) need an additional $250 per month to maintain the same standard of living as DIC recipients without children for the first 5 years after the veteran's death. I joined the Ranking Member of the Benefits Subcommittee, MIKE MICHAUD and others in introducing H.R. 1750 to implement that recommendation. I am pleased that the bill will provide the increased benefit to DIC recipients for the first 2 years following eligibility. I regret that funding was not available to provide benefits for a longer period. Nonetheless, this is an important step in implementing the evaluation's recommendations and providing for the widows and widowers who have borne the battle and their children.

I am particularly pleased that included within this bill are provisions that would codify current VA regulations regarding additional cancers recognized as presumptively service connected under the "Atomic Veterans" program, and repeal a bar that prevents a veteran or survivor from applying for VA compensation, subject to an offset, if they have already received compensation from the Justice Department under the Radiation Exposure Compensation Act. As the son of a veteran who was exposed to ionizing radiation in the Pacific, I have long been an advocate for the "Atomic Veterans" program and will continue my efforts to recognize and honor their often dangerous confidential service in defense of this country.

Additionally, Mr. Speaker, I support the provision of this bill which will exclude VA life insurance proceeds from being counted as income for those very low-income survivors of wartime veterans. Currently, those who have an effective advocate are able to time their request for death pension in a manner which will allow them to give up a few months of death pension benefits in order to keep the veteran's life insurance proceeds. Those without effective advocacy often lose a year of benefits. We care for the widow and widower of those who have borne the battle by providing a simple solution to the problem identified by VA in current law.

Veterans who are disabled by reason of VA medical treatment or vocational rehabilitation activities qualify for cash benefits and grants for specially adapted housing. They are, however, denied grants for automobiles and other motor vehicle adaptations. A provision drawn from a bill introduced by Mr. REYES and myself will not allow such veterans to obtain an automobile grant.

Veterans who have lost the use of their arms do not currently qualify for specially adapted housing. I joined Mr. MICHAUD in introducing a bill to permit such veterans to qualify for this benefit and am pleased this bill includes a provision drawn from that bill.

This bill will significantly improve VA's home loan program, including home loans for Native Americans. I am pleased that provision from bills introduced by Mrs. DAVIS of California and the newest Member of our Committee, Ms. HERSETH of South Dakota, are included in the final bill.

VA's most vulnerable veterans are those who require a fiduciary to handle their financial benefits. I joined Mrs. DAVIS of California in introducing legislation to provide improved protections for beneficiaries whose benefits are misused by fiduciaries. This bill contains a number of important provisions drawn from H.R. 4032.

The bill also makes a number of improvements to the Servicemembers Civil Relief Act which was substantially rewritten in the first session of this Congress.

Mr. Speaker, many provisions from this comprehensive package are drawn from bills which have been considered by the House Committee on Veterans Affairs. The bill has been enhanced and improved by measures considered by the other body. As we finalize the Committee's work for this Congress we have many accomplishments of which we can be proud.

Again, I want to thank Chairman SMITH for his leadership and his dedication to serving our nation's veterans. This is an excellent bill which will make a difference in the lives of this nation's veterans and their families. I urge all Members to show their support for the men and women who have worn the uniform in defense of our country by voting to pass this legislative package.

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), a distinguished member of our committee.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I thank the gentleman very much for the time.

I am very pleased to support Senate 2486, the Veterans Benefit Improvement Act of 2004, and I am glad we got it finished this year. I know that there was some question about whether or not we would have time to get this very important bill up, and I certainly commend the gentleman from New Jersey (Mr. SMITH), the chairman, and the gentleman from Illinois (Mr. EVANS), the ranking member, for their efforts on behalf of veterans, along with all the members of the committee who are truly dedicated to America's heroes.

This bill includes an expansion of educational benefits for veterans and clarifies protections to servicemen and -women under the Servicemember Civil Relief Act, and it also improves the housing benefit available to veterans through the VA home loan.

It is the last provision of this bill that I would like to elaborate on as it is the product of a bipartisan collaboration between the gentlewoman from California (Mrs. DAVIS) and myself. Certainly, the chairman of the committee was very, very generous in working so hard on the bill and all the provisions of the bill, but this particular provision is one that will certainly impact our young men and women returning from Iraq.

Like so many other aspects of a soldier's life, many soldiers postpone homeownership until after they are out of the service. For these soldiers, as housing prices increase, the VA home loan value actually decreases in real terms.

The rising housing market erodes the purchasing power of the VA home loan. Depending on where the veteran lives, the current maximum of $240,000 is simply insufficient to meet their housing needs.

The bill, which encompasses a bill which the gentlewoman from California (Mrs. DAVIS) and I had worked on, which passed this House, indexes the maximum VA guarantee amount to 25 percent of the Freddie Mac conforming loan rate. The prevailing VA loan under this new change would be $333,700 in 2004, and it would continue to adjust as housing market needs increase.

We are all very proud of the young men and women who serve our Nation, past and present, and I am sure that the Members will agree that the value of their benefit should not vary depending on where they live or where they choose to purchase a home.

This legislation is very important and timely, and I urge my colleagues' support. I urge all the Members to support this.

Again, I commend my colleagues and especially the chairman for working so hard on this, what could very easily be called an omnibus, comprehensive bill to benefit our Nation's veterans.

Mr. MICHAUD. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Maine (Mr. MICHAUD) has 12 minutes remaining. The gentleman from New Jersey (Mr. SMITH) has 10 minutes remaining.

Mr. MICHAUD. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I rise today in support of S. 2486, the Veterans Benefit Improvement Act, and I would like to take this opportunity to thank the gentleman from New Jersey (Chairman SMITH), as well as the gentleman from Illinois (Ranking Member Evans) and the gentleman from Maine (Mr. MICHAUD), the ranking member of the Subcommittee on Benefits, for their leadership in this particular issue.

One of the best things about being a member of this committee is the ability to pass a comprehensive bill, a benefits bill, every year while keeping on with the PAYGO provisions.

Although I was worried this particular year that that might not happen, I am glad that our colleagues in the Senate and the staff of our committees worked out this compromise.

Mr. Speaker, this bill has many wonderful provisions that would enhance the benefits of our veterans. National Guardsmen and their families receive, including additional educational benefits.

With passage of this particular piece of legislation, veterans will be able to use their Montgomery GI bill for apprenticeships and on-the-job training, as well as national admissions exams.

I am very pleased that this bill acknowledges the rewards and sacrifices many of our Reservists are making. With the passage of this particular piece of legislation, those men and women, Reservists who are called to active duty for more than 24 consecutive months, will be able to pay into the GI bill and become eligible for benefits.

This bill also includes some enhanced VA home loan language, which I know the gentlewoman from California (Mrs. DAVIS), my colleague, has been advocating for.

Like all Americans, our veterans dream of obtaining the American dream of homeownership. Our veterans have fought selflessly on behalf of our country and are entitled to the benefits we have promised them, including home loan benefits. Unfortunately, for many, this dream is faced with many obstacles.

The current VA home loan limit of $240,000 prevents many veterans from using their loan benefits to purchase a home in high-cost areas, such as in California or Florida and parts of the State of Texas. This legislation indexes the maximum loan amount to 100 percent of the Freddie Mac conforming loan rate to make the VA home loans compatible with the home loans available to the public nationwide. Additionally, this legislation allows the maximum VA loan amounts to adjust automatically each year to Freddie Mac standards in order to remain compatible with the national housing markets.

This legislation is extremely important. During 2003, 3 million veterans took advantage of the VA home loans, and I am positive more veterans will be able to take advantage of this particular benefit because of the improvements we are making today. As our troops are fighting in Iraq and Afghanistan, we must continue to show them the thanks of a grateful Nation.

I cannot think of a better way of saying thank you than improving the benefits of our soldiers, and so by this particular legislation, although there are many benefits we would like to take advantage of for our veterans, I am glad that the committee has been able to work with the money to make this happen.

Mr. SMITH of New Jersey. Mr. Speaker, we reserve the balance of our time.

Mr. MICHAUD. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, with another Veterans Day recently passed, we heard much about the incredible sacrifices made by America's veterans and their tremendous bravery. I strongly echo those sentiments.

Because our courageous military personnel are willing to go into battle and sacrifice on our behalf, America's independence and liberties have remained intact for over 200 years, and we are truly indebted to those who fought in the Armed Forces.

However, Mr. Speaker, I strongly feel that we must honor these brave men and women with more than our words. After risking everything on our behalf, our veterans ask only that we work to improve the services they earned through their dedication and their bravery.

This is why the Veterans Benefit Improvement Act of 2004 before us today greatly enhances the services we provide to our military heroes. It increases the compensation we provide to surviving spouses and their children; gives veterans new opportunities to receive vocational training when leaving the military; and protects the civilian jobs of Reservists deployed overseas.

I was very honored, Mr. Speaker, by the opportunity to contribute directly to this comprehensive benefits legislation.

During my first term in Congress, I became interested in improving the home loan program offered by the Department of Veterans Affairs and introduced H.R. 1735 and cosponsored H.R. 4345, which increases the home loan limit available to veterans. I also introduced H.R. 4616 to offer adjustable-rate mortgages through the VA program.

Our veterans certainly deserve the same opportunity for home ownership as the public at large and the freedom to choose which loan will best meet their needs.

This legislation links the VA home loan amount to the Freddie Mac index to guarantee annual increases, and at the same time, it extends a program offering veterans the freedom to choose a fixed-rate or an adjustable-rate mortgage.

It is particularly helpful and a real victory for those veterans in San Diego because we are a high-cost area.

Additionally, S. 2486 provides new protections from fraud and abuse to a vulnerable class of veterans who require a guardian or fiduciary to oversee their finances and VA payments.

My staff in San Diego tried to assist a veteran who lost out on his VA disability compensation over a long period of time because his fiduciary had withheld payment for herself. Unfortunately, we could not recover the veteran's losses because current law did not provide revenues to recoup stolen payments.

After learning about this abuse, we introduced H.R. 4032 to give the VA the authority to conduct more thorough background checks of fiduciaries and to give veterans who fall victim to this abuse new revenues to recover their losses, and I am pleased these provisions were included in the legislation before us today.

I want to thank the House leadership for bringing this comprehensive veterans benefits package before the Congress and for acting in the interest of our former service members, and I urge my colleagues to support it.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. MICHAUD), my good friend and colleague, to allocate as he would like.

Mr. MICHAUD. Mr. Speaker, I yield 2 minutes to the gentlewoman from South Dakota (Ms. HERSETH).

Ms. HERSETH. Mr. Speaker, I rise in support of the veterans bills being considered today and to thank and congratulate my colleagues, especially the gentleman from New Jersey (Chairman SMITH), the gentleman from Illinois (Ranking Member EVANS), the gentleman from South Carolina (Mr. BROWN) and the gentleman from Maine (Mr. MICHAUD) and their staff for their hard work and commitment to these important bills. I want to commend the gentleman from Texas (Mr. RODRIGUEZ), my colleague and friend, as well for his distinguished service on the Committee on Veterans Affairs.

I express my strong support today for the Veterans Benefits Improvement Act which includes two measures I introduced earlier this year to extend important veterans programs scheduled to expire.

The first of these measures is a provision to extend to 2010 the Veterans Administration's Native American Home Loan pilot program. This program directs home loans to eligible Native American veterans who wish to purchase, construct or improve a home on tribal trust lands. This extension will allow more veterans living on tribal trust lands to take advantage of this important benefit over the next 6 years.

Since the inception of this pilot program in 1992, the Department of Veterans Affairs has made more than 400 direct loans to Native American veterans, including loans to 17 veterans from my State of South Dakota. These loans are important tools for helping Native Americans purchase, construct or improve homes in Indian country.

The second measure which I introduced extends to 2009 the requirement that the Advisory Committee on Former Prisoners of War submit biennial reports to the Secretary of Veterans Affairs on the programs and activities of the Department of Veterans Affairs that pertain to former prisoners of war.

The Advisory Committee on Former Prisoners of War reviews Department policies and makes suggestions to improve compensation, rehabilitation programs and health care benefits for former POWs. Passage of the Veterans Benefits Improvement Act would require reports from the Advisory Committee on former POWs every 2 years through 2009, a 5-year extension of current law.

Thanks again to my fellow members of the Committee on Veterans Affairs and all staff for their work on these important bills. At a time in our Nation's history when we are asking men and women in our Armed Forces for greater sacrifices, we must make sure we provide the services promised to our veterans. I look forward to supporting these measures and continuing to work with my colleagues to ensure they receive the benefits they have earned and deserve.

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Mr. SMITH of New Jersey. Mr. Speaker, I reserve the balance of my time.

Mr. MICHAUD. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I am very pleased to join with my colleagues today in support of veterans. On Veterans Day, I visited a program in my district known as U.S. Vets. This is a program that houses veterans in transition. They really work with the homeless. They have a huge residential complex, and the veterans are able to stay at this complex while they get job training leading to a job. In addition to that, they have a central facility there where they prepare meals for the veterans. They also have a wonderful computer room where veterans are learning computer skills.

And while I was very pleased to be there on Veterans Day with them, I was reminded of all those things we need to do for veterans that should have been done a long time ago. This bill goes a long way to attending to some of those things that we should have done.

For example, surviving spouses can now get $250 in dependency and indemnity compensation. Veterans who were exposed to radiation can now be eligible for VA compensation. We increase the educational assistance by 10 percent, allowing veterans to pursue a full-time apprenticeship program, or on-the-job training. There are other benefits in this bill.

We can all be proud on both sides of the aisle that we are finally paying attention in a real way. I know that there has been a lot of debate about the cost of some of the things we would like to do, but I do not think at a time in particular where we are at war and where veterans are coming back with the loss of a limb, with health impairments and other kinds of deficiencies that they are now confronted with that we can talk about not being able to afford to pay in order to make their lives comfortable when they return from war.

So I am very pleased, and I wish to commend all my colleagues on both sides of the aisle for pursuing this bill that will help our veterans.

Mr. SMITH of New Jersey. Mr. Speaker, I continue to reserve the balance of my time.

Mr. MICHAUD. Mr. Speaker, I yield myself such time as I may consume, before yielding to my last speaker, to thank our chairman, the gentleman from New Jersey (Mr. SMITH); the subcommittee chairman, the gentleman from South Carolina (Mr. BROWN); and our ranking member, the gentleman from Illinois (Mr. EVANS), as well as the committee staff on both sides of the aisle for all the hard work that they have done in the Committee on Veterans' Affairs over the last 2 years.

Mr. Speaker, I yield the balance of my time to the gentlewoman from Texas (Ms. JACKSON-LEE).

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE) as well.

The SPEAKER pro tempore (Mr. SIMPSON). The gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 6 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think this is a very important moment on this floor, and I think that we owe this entire committee a debt of gratitude: the chairman, the gentleman from New Jersey (Mr. SMITH); the ranking member, the gentleman from Illinois (Mr. EVANS); certainly to the chairman of the subcommittee, the gentleman from South Carolina (Mr. BROWN). I thank the gentleman from Maine (Mr. MICHAUD) for yielding me this time. And, of course, on the health bills that I will speak very briefly to, our ranking member, the gentleman from Texas (Mr. RODRIGUEZ) and the gentleman from Connecticut (Mr. SIMMONS).

Mr. Speaker, let me say why I think it is important that Members owe these colleagues a debt of gratitude. There is not one district that does not confront the dilemma of a veteran. There is not one district that does not owe to those veterans appreciation and applause. Many times we find those families and the veterans wondering about the concern and the commitment of this body or of their fellow Americans for the work they have done.

In the backdrop of Veterans Day, I want to acknowledge both the chairman and the ranking member of the full committee, who are always steadfast in reminding us not to forget the veterans. This comprehensive Veterans Benefits Improvement Act is a gift long overdue. And the reason I say that is because I represent the Veterans Hospital in Houston, Texas, and among the issues that we are concerned about, in addition to taking care of the health needs of those veterans, there are the psychological needs and the employment needs.

Americans need to know that this legislation is now going to deal head-on with the large unemployment that we find among veterans, and returning veterans. For a number of years, Mr. Speaker, I have worked with an organization called Stand Down, which works with our communities' homeless veterans. Whenever I go to Stand Down, the veterans simply say, all we want is an opportunity; all we want is to be able to be apprentices, as this particular bill is doing; all we want is to be able to have full-time VA monthly educational assistance, as this bill is doing; all we want is to have competency-based apprenticeships; all we want is for our families to have increased benefits and to show our pride in our Nation and also to make our Nation again proud of us.

So I want to thank my colleagues for this legislation, and I add my appreciation as well as someone who represents the veterans hospitals for the legislation that deals with S. 2484, the Department of Veterans Affairs Health Care Personnel Enhancement Act, and as well the Veterans Health Programs Improvement Act of 2004. What this does is of course say to our veterans that we care.

Let me also say to my colleagues that I spent some time in Iraq just a few weeks ago, and visited, after going to Iraq, the Landstuhl Hospital in Ramstein, where there were a number of injured soldiers, many of them who will be returning veterans. I want my colleagues to know that what they wanted most of all was to return to conflict, to combat, to be with their comrades as soldiers. But they were grateful, as returning veterans, that we would show them that we care, and today we are showing them we do so. We could not have done it without the leaders of this committee.

So, Mr. Speaker, I am today thanking them, and as I close, I want to add a very special appreciation for a dear friend of this House and a dear friend of veterans in the United States of America, and that is our friend and colleague, the gentleman from San Antonio, Texas (Mr. RODRIGUEZ).

I cannot say enough, Mr. Speaker, about the compassion of CIRO RODRIGUEZ. I cannot say enough about the kindness and the caring attitude that he has exhibited to his colleagues and friends on the floor of this body. More importantly, I cannot say enough about his voice of reason when challenging the system for health care for all Americans, but clearly challenging the system for health care for our veterans. He demonstrated such a cooperative spirit with his own chairman, the gentleman from Connecticut (Mr. SIMMONS), and I know they had a special bond and a special friendship in working together.

We know that health care for our veterans is an indication to their families and an indication to veterans and the enlisted personnel as to how much America thanks them and how much America recognizes their sacrifice. We could not have done it without the face of CIRO RODRIGUEZ going out day after day visiting with his own veterans, speaking across the country, speaking as the chairman of the Congressional Hispanic Caucus, and recognizing the importance of thanking our veterans in a real meaningful way by the legislation he has helped to produce.

Might I also thank him for his support in providing posthumous citizenship to those who lost their lives in Afghanistan and Iraq, to those who were not citizens but who came from our immigrant community. CIRO, we owe you a debt of gratitude. It is my honor and privilege to have served with you. The veterans of America will thank you continuously as they rise again to serve their country and in their daily lives, and their families owe you also a debt of gratitude. Thank you again, my friend. We wish you the very best. We honor you as you honor the veterans.

Mr. Speaker, I thank each and every one of the members of this committee for allowing this body to thank the veterans by this legislation. I ask my colleagues to support all the legislation on the floor for the veterans of America.

I rise today as a strong supporter of S. 2486, the Veterans' Benefits Improvements Act of 2004, which received unanimous approval in the Senate and is now before this body for passage. The Veterans' Benefits Improvements Act would improve and enhance education, housing, employment, medical, and other benefits for veterans.

As a Member of this body I have always been an ardent supporter of our Nation's brave veterans and of the idea that they should receive the best of care and support that our Nation has to offer. I am heartened by this legislation because it takes steps toward improving opportunities that veterans can receive as a condition of their service.

I am especially pleased to find provisions in this legislation that will increase education opportunities for Armed Service members after they leave the Armed Forces. Specifically, the Veterans' Benefits Improvements Act increases the voluntary contribution amount that active duty members of the Armed Forces may make in order to receive increased monthly educational assistance under the Montgomery GI Bill. This additional assistance can very well mean the difference between whether our veterans will be able to afford an education. Furthermore, this legislation excludes veterans' education benefits from the determination of eligibility for, or the amount of, Federal education grants and loans. This is an important distinction because veterans education benefits have been earned through service and should not count against any other aid an individual may be able to receive due to their level of financial hardship. These provisions together will provide more opportunities for our veterans to attend institutions of higher learning and obtain high paying career jobs after they leave the Armed Forces.

The Veterans' Benefits Improvements Act also provides important housing provisions for our Nation's deserving veterans. This legislation calls for increasing the maximum housing loan guarantee amount for which veterans are eligible. As well, the legislation gives power to the Secretary for permanent authority to guarantee adjustable rate mortgages (ARMs) and hybrid ARMs, and to modify interest rates applicable to hybrid ARMs. These important housing provisions will make it easier and more likely for our veterans to purchase suitable housing for themselves and their families.

While The Veterans' Benefits Improvements Act contains a large number of different provisions, this legislation is really about providing our veterans with the ability to improve their lives once they leave the Armed Forces. These men and women left their civilian lives behind to serve our Nation; we owe it to them to allow them to improve their lives once they return to civilian status.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume to say once again that this is a good bill. As a matter of fact, it is a very, very important bill. And I do want to thank my friend, the gentleman from Illinois (Mr. EVANS), and the gentleman from South Carolina (Mr. BROWN), our distinguished subcommittee chairman, who has done yeoman's work on this, and also the gentleman from Maine (Mr. MICHAUD), who is the ranking member on that subcommittee. This has been a true bipartisan product. I think when President Bush signs this piece of legislation we can all be very, very proud.

I also want to join my friend from Texas in thanking the gentleman from Texas (Mr. RODRIGUEZ) for his outstanding and exemplary work in the Congress for the past 8 years, and he certainly has put veterans first. So again I want to thank him for his work as well.

Mr. REYES. Mr. Speaker, I rise today in support of S. 2486, the Veteran's Benefits Improvement Act of 2004. I would like to thank my colleagues for bringing it to the floor for a vote.

As you may know, S. 2486 would expand educational and housing benefits to qualified veterans and their dependents. With the rise in cost for educational services and home loans, our Nation's veterans are required to supplement the high costs through loans that can become financially burdensome. With the expansion of these two benefits, we can better ensure they are given the opportunity of continuing their education and purchasing their own home.

In addition, I am glad to see the inclusion of important language to provide housing and automobile benefits to veterans disabled by VA medical treatment or vocational rehabilitation. As you may know, I am a sponsor of H.R. 843 which aims to address this same issue by providing full service-connected disability to persons injured while under the care of the Department of Veterans Affairs. Although this bill does not provide full service-connected disability to injured persons, I am certainly glad to see this piece of legislation included in the bill.

I believe this bill will provide them with the resources needed to fulfil their dreams and long term goals for education and home ownership. In addition, this legislation will solidify the care for our veterans welfare and health while under the care of the Department of Veterans Affairs.

Mr. Speaker, I strongly urge my colleagues to support the passage of this important bill.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of my time.

Mr. MICHAUD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the Senate bill, S. 2486.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

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## GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2486, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## VETERANS HEALTH PROGRAMS IMPROVEMENT ACT OF 2004

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 3936) to amend title 38, United States Code, to authorize the principal office of the United States Court of Appeals for Veterans Claims to be at any location in the Washington, DC, metropolitan area, rather than only in the District of Columbia, and expressing the sense of Congress that a dedicated Veterans Courthouse and Justice Center should be provided for that Court and those it serves and should be located, if feasible, at a site owned by the United States that is part of or proximate to the Pentagon Reservation, and for other purposes.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Programs Improvement Act of 2004".*

*(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:*

*Sec. 1. Short title; table of contents.*
*Sec. 2. Reference to title 38, United States Code.*

*TITLE I—ASSISTANCE TO HOMELESS VETERANS*

*Sec. 101. Authorization of appropriations.*

*TITLE II—VETERANS LONG-TERM CARE PROGRAMS*

*Sec. 201. Assistance for hiring and retention of nurses at State veterans' homes.*
*Sec. 202. Treatment of Department of Veterans Affairs per diem payments to State homes for veterans.*
*Sec. 203. Extension of authority to provide care under long-term care pilot programs.*
*Sec. 204. Prohibition on collection of copayments for hospice care.*

*TITLE III—MEDICAL CARE*

*Sec. 301. Sexual trauma counseling program.*
*Sec. 302. Centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries.*
*Sec. 303. Enhancement of medical preparedness of Department of Veterans Affairs.*

*TITLE IV—MEDICAL FACILITIES MANAGEMENT AND ADMINISTRATION*

*Subtitle A—Major Medical Facility Leases*

*Sec. 401. Major medical facility leases.*
*Sec. 402. Authorization of appropriations.*
*Sec. 403. Authority for long-term lease of certain lands of University of Colorado.*

*Subtitle B—Facilities Management*

*Sec. 411. Department of Veterans Affairs Capital Asset Fund.*
*Sec. 412. Annual report to Congress on inventory of Department of Veterans Affairs historic properties.*
*Sec. 413. Authority to acquire and transfer real property for use for homeless veterans.*
*Sec. 414. Limitation on implementation of mission changes for specified Veterans Health Administration facilities.*

*Sec. 415. Authority to use project funds to construct or relocate surface parking incidental to a construction or nonrecurring maintenance project.*
*Sec. 416. Inapplicability of limitation on use of advance planning funds to authorized major medical facility projects.*
*Sec. 417. Improvements to enhanced-use lease authority.*
*Sec. 418. First option for Commonwealth of Kentucky on Department of Veterans Affairs Medical Center, Louisville, Kentucky.*
*Sec. 419. Transfer of jurisdiction, General Services Administration property, Boise, Idaho.*
*Subtitle C—Designation of Facilities*
*Sec. 421. Thomas E. Creek Department of Veterans Affairs Medical Center.*
*Sec. 422. James J. Peters Department of Veterans Affairs Medical Center.*
*Sec. 423. Bob Michel Department of Veterans Affairs Outpatient Clinic.*
*Sec. 424. Charles Wilson Department of Veterans Affairs Outpatient Clinic.*
*Sec. 425. Thomas P. Noonan, Jr. Department of Veterans Affairs Outpatient Clinic.*
*TITLE V—PERSONNEL ADMINISTRATION*
*Sec. 501. Pilot program to study innovative recruitment tools to address nursing shortages at Department of Veterans Affairs health care facilities.*
*Sec. 502. Technical correction to listing of certain hybrid positions in Veterans Health Administration.*
*Sec. 503. Under Secretary for Health.*
*TITLE VI—OTHER MATTERS*
*Sec. 601. Extension and codification of authority for recovery audits.*
*Sec. 602. Inventory of medical waste management activities at Department of Veterans Affairs health care facilities.*
*Sec. 603. Inclusion of all enrolled veterans among persons eligible to use canteens operated by Veterans' Canteen Service.*
*Sec. 604. Annual reports on waiting times for appointments for specialty care.*
*Sec. 605. Technical clarification.*

### SEC. 2. REFERENCE TO TITLE 38, UNITED STATES CODE.

*Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.*

## TITLE I—ASSISTANCE TO HOMELESS VETERANS

### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

*Section 2013 is amended in paragraph (4) by striking "$75,000,000" and inserting "$99,000,000".*

## TITLE II—VETERANS LONG-TERM CARE PROGRAMS

### SEC. 201. ASSISTANCE FOR HIRING AND RETENTION OF NURSES AT STATE VETERANS' HOMES.

*(a) IN GENERAL.—(1) Chapter 17 is amended by inserting after section 1743 the following new section:*

**"§ 1744. Hiring and retention of nurses: payments to assist States**

*"(a) PAYMENT PROGRAM.—The Secretary shall make payments to States under this section for the purpose of assisting State homes in the hiring and retention of nurses and the reduction of nursing shortages at State homes.*

*"(b) ELIGIBLE RECIPIENTS.—Payments to a State for a fiscal year under this section shall, subject to submission of an application, be made to any State that during that fiscal year—*

*"(1) receives per diem payments under this subchapter for that fiscal year; and*

*"(2) has in effect an employee incentive scholarship program or other employee incentive program at a State home designed to promote the hiring and retention of nursing staff and to reduce nursing shortages at that home.*

*"(c) USE OF FUNDS RECEIVED.—A State may use an amount received under this section only to provide funds for a program described in subsection (b)(2). Any program shall meet such criteria as the Secretary may prescribe. In prescribing such criteria, the Secretary shall take into consideration the need for flexibility and innovation.*

*"(d) LIMITATIONS ON AMOUNT OF PAYMENT.—(1) A payment under this section may not be used to provide more than 50 percent of the costs for a fiscal year of the employee incentive scholarship or other employee incentive program for which the payment is made.*

*"(2) The amount of the payment to a State under this section for any fiscal year is, for each State home in that State with a program described in subsection (b)(2), the amount equal to 2 percent of the amount of payments estimated to be made to that State, for that State home, under section 1741 of this title for that fiscal year.*

*"(e) APPLICATIONS.—A payment under this section for any fiscal year with respect to any State home may only be made based upon an application submitted by the State seeking the payment with respect to that State home. Any such application shall describe the nursing shortage at the State home and the employee incentive scholarship program or other employee incentive program described in subsection (c) for which the payment is sought.*

*"(f) SOURCE OF FUNDS.—Payments under this section shall be made from funds available for other payments under this subchapter.*

*"(g) DISBURSEMENT.—Payments under this section to a State home shall be made as part of the disbursement of payments under section 1741 of this title with respect to that State home.*

*"(h) USE OF CERTAIN RECEIPTS.—The Secretary shall require as a condition of any payment under this section that, in any case in which the State home receives a refund payment made by an employee in breach of the terms of an agreement for employee assistance that used funds provided under this section, the payment shall be returned to the State home's incentive program account and credited as a non-Federal funding source.*

*"(i) ANNUAL REPORT FROM PAYMENT RECIPIENTS.—Any State home receiving a payment under this section for any fiscal year, shall, as a condition of the payment, be required to agree to provide to the Secretary a report setting forth in detail the use of funds received through the payment, including a descriptive analysis of how effective the incentive program has been on nurse staffing in the State home during that fiscal year. The report for any fiscal year shall be provided to the Secretary within 60 days of the close of the fiscal year and shall be subject to audit by the Secretary. Eligibility for a payment under this section for any later fiscal year is contingent upon the receipt by the Secretary of the annual report under this subsection for the previous fiscal year in accordance with this subsection.*

*"(j) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. The regulations shall include the establishment of criteria for the award of payments under this section.".*

*(2) The table of sections at the beginning of such chapter is amended by inserting after section 1743 the following new item:*

*"1744. Hiring and retention of nurses: payments to assist States.".*

*(b) IMPLEMENTATION.—The Secretary of Veterans Affairs shall implement section 1744 of title 38, United States Code, as added by subsection (a), as expeditiously as possible. The Secretary shall establish such interim procedures as necessary so as to ensure that payments are made to eligible States under that section commencing not later than June 1, 2005, notwithstanding that regulations under subsection (j) of that section may not have become final.*

### SEC. 202. TREATMENT OF DEPARTMENT OF VETERANS AFFAIRS PER DIEM PAYMENTS TO STATE HOMES FOR VETERANS.

*Section 1741 is amended by adding at the end the following new subsection:*

*"(e) Payments to States pursuant to this section shall not be considered a liability of a third party, or otherwise be used to offset or reduce any other payment made to assist veterans.".*

### SEC. 203. EXTENSION OF AUTHORITY TO PROVIDE CARE UNDER LONG-TERM CARE PILOT PROGRAMS.

*Subsection (h) of section 102 of the Veterans Millennium Health Care and Benefits Act (38 U.S.C. 1710B note) is amended—*

*(1) by inserting "(1)" before "The authority of"; and*

*(2) by adding at the end the following new paragraph:*

*"(2) In the case of a veteran who is participating in a pilot program under this section as of the end of the three-year period applicable to that pilot program under paragraph (1), the Secretary may continue to provide to that veteran any of the services that could be provided under the pilot program. The authority to provide services to any veteran under the preceding sentence applies during the period beginning on the date specified in paragraph (1) with respect to that pilot program and ending on December 31, 2005.".*

### SEC. 204. PROHIBITION ON COLLECTION OF COPAYMENTS FOR HOSPICE CARE.

*Section 1710B(c)(2) is amended—*

*(1) by striking "or" at the end of subparagraph (A);*

*(2) by redesignating subparagraph (B) as subparagraph (C); and*

*(3) by inserting after subparagraph (A) the following new subparagraph (B):*

*"(B) to a veteran being furnished hospice care under this section; or".*

## TITLE III—MEDICAL CARE

### SEC. 301. SEXUAL TRAUMA COUNSELING PROGRAM.

*(a) PERMANENT AUTHORITY FOR PROGRAM.—Section 1720D(a) is amended—*

*(1) in paragraph (1), by striking "During the period through December 31, 2004, the" and inserting "The"; and*

*(2) in paragraph (2), by striking ", during the period through December 31, 2004,".*

*(b) EXTENSION TO COVER ACTIVE DUTY FOR TRAINING.—Such section is further amended by inserting "or active duty for training" in paragraph (1) before the period at the end.*

### SEC. 302. CENTERS FOR RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES ON COMPLEX MULTI-TRAUMA ASSOCIATED WITH COMBAT INJURIES.

*(a) IN GENERAL.—(1) Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following new section:*

**"§ 7327. Centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries**

*"(a) PURPOSE.—The purpose of this section is to provide for the improvement of the provision*

of health care services and related rehabilitation and education services to eligible veterans suffering from complex multi-trauma associated with combat injuries through—

"(1) the development of improved models and systems for the furnishing by the Department of health care, rehabilitation, and education services to veterans;

"(2) the conduct of research to support the provision of such services in accordance with the most current evidence on multi-trauma injuries; and

"(3) the education and training of health care personnel of the Department with respect to the provision of such services.

"(b) DESIGNATION OF CENTERS.—(1) The Secretary shall designate an appropriate number of cooperative centers for clinical care, consultation, research, and education activities on combat injuries.

"(2) Each center designated under paragraph (1) shall function as a center for—

"(A) research on the long-term effects of injuries sustained as a result of combat in order to support the provision of services for such injuries in accordance with the most current evidence on complex multi-trauma;

"(B) the development of rehabilitation methodologies for treating individuals with complex multi-trauma; and

"(C) the continuous and consistent coordination of care from the point of referral throughout the rehabilitation process and ongoing follow-up after return to home and community.

"(3) The Secretary shall designate one of the centers designated under paragraph (1) as the lead center for activities referred to in that paragraph. As the lead center for such activities, such center shall—

"(A) develop and provide periodic review of research priorities, and implement protocols, to ensure that projects contribute to the activities of the centers designated under paragraph (1);

"(B) oversee the coordination of the professional and technical activities of such centers to ensure the quality and validity of the methodologies and statistical services for research project leaders;

"(C) develop and ensure the deployment of an efficient and cost-effective data management system for such centers;

"(D) develop and distribute educational materials and products to enhance the evaluation and care of individuals with combat injuries by medical care providers of the Department who are not specialized in the assessment and care of complex multi-trauma;

"(E) develop educational materials for individuals suffering from combat injuries and for their families; and

"(F) serve as a resource for the clinical and research infrastructure of such centers by disseminating clinical outcomes and research findings to improve clinical practice.

"(4) The Secretary shall designate centers under paragraph (1) upon the recommendation of the Under Secretary for Health.

"(5) The Secretary may designate a center under paragraph (1) only if the center meets the requirements of subsection (c).

"(c) REQUIREMENTS FOR CENTERS.—To be designated as a center under this section, a facility shall—

"(1) be a regional lead center for the care of traumatic brain injury;

"(2) be located at a tertiary care medical center and have on-site availability of primary and subspecialty medical services relating to complex multi-trauma;

"(3) have, or have the capacity to develop, the capability of managing impairments associated with combat injuries;

"(4) be affiliated with a school of medicine;

"(5) have, or have experience with, participation in clinical research trials;

"(6) provide amputation care and rehabilitation;

"(7) have pain management programs;

"(8) provide comprehensive brain injury rehabilitation; and

"(9) provide comprehensive general rehabilitation.

"(d) ADDITIONAL RESOURCES.—The Secretary shall provide each center designated under this section such resources as the Secretary determines to be required by such center to achieve adequate capability of managing individuals with complex multi-trauma, including—

"(1) the upgrading of blind rehabilitation services by employing or securing the services of blind rehabilitation specialists;

"(2) employing or securing the services of occupational therapists with blind rehabilitation training;

"(3) employing or securing the services of additional mental health services providers; and

"(4) employing or securing additional rehabilitation nursing staff to meet care needs.

"(e) COOPERATION WITH DEPARTMENT OF DEFENSE.—(1) The Secretary of Veterans Affairs may assist the Secretary of Defense in the care of members of the Armed Forces with complex multi-trauma at military treatment facilities by—

"(A) making available, in a manner that the Secretary of Veterans Affairs considers appropriate, certified rehabilitation registered nurses of the Department of Veterans Affairs to such facilities to assess and coordinate the care of such members; and

"(B) making available, in a manner that the Secretary of Veterans Affairs considers appropriate, blind rehabilitation specialists of the Department of Veterans Affairs to such facilities to consult with the medical staff of such facilities on the special needs of such members who have visual impairment as a consequence of combat injury.

"(2) Assistance shall be provided under this subsection through agreements for the sharing of health-care resources under section 8111 of this title.

"(f) AWARD OF FUNDING.—Centers designated under this section may compete for the award of funding from amounts appropriated for the Department for medical and prosthetics research.

"(g) DISSEMINATION OF INFORMATION.—(1) The Under Secretary for Health shall ensure that information produced by the centers designated under this section that may be useful for other activities of the Veterans Health Administration is disseminated throughout the Administration.

"(2) Information shall be disseminated under this subsection through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means.

"(h) NATIONAL OVERSIGHT.—The Under Secretary for Health shall designate an appropriate officer to oversee the operation of the centers designated under this section and provide for periodic evaluation of the centers.

"(i) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Department of Veterans Affairs for the centers designated under this section amounts as follows:

"(A) $7,000,000 for fiscal year 2005.

"(B) $8,000,000 for each of fiscal years 2006 through 2008.

"(2) In addition to amounts authorized to be appropriated by paragraph (1) for a fiscal year, the Under Secretary for Health may allocate to each center designated under this section, from other funds authorized to be appropriated for such fiscal year for the Department generally for medical and for medical and prosthetic research, such amounts as the Under Secretary for Health determines appropriate to carry out the purposes of this section.".

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7326 the following new item:

"7327. Centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries.".

(b) DESIGNATION OF CENTERS.—The Secretary of Veterans Affairs shall designate the centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries required by section 7327 of title 38, United States Code (as added by subsection (a)), not later than 120 days after the date of the enactment of this Act.

(c) ANNUAL REPORTS.—(1) Not later than eighteen months after the date of the designation of centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries required by section 7327 of title 38, United States Code (as so added), and annually thereafter through 2008, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the status and activities of such centers during the one-year period beginning on the date of such designation, for the first such report, and for successive one-year periods, for subsequent reports.

(2) Each such report shall include, for the period covered by such report, the following:

(A) A description of the activities carried out at each center, and the funding provided for such activities.

(B) A description of any advances made in the participating programs of each center in research, education, training, and clinical activities on complex multi-trauma associated with combat injuries.

(C) A description of the actions taken by the Under Secretary for Health pursuant to subsection (g) of that section (as so added) to disseminate throughout the Veterans Health Administration information derived from such activities.

### SEC. 303. ENHANCEMENT OF MEDICAL PREPAREDNESS OF DEPARTMENT OF VETERANS AFFAIRS.

(a) PEER REVIEW PANEL.—In order to assist the Secretary of Veterans Affairs in selecting facilities of the Department of Veterans Affairs to serve as sites for centers under section 7328 of title 38, United States Code, as added by subsection (c), the Secretary shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the selection of such facilities. The panel shall be established not later than 90 days after the date of the enactment of this Act and shall include experts in the fields of toxicological research, infectious diseases, radiology, clinical care of veterans exposed to such hazards, and other persons as determined appropriate by the Secretary. Members of the panel shall serve as consultants to the Department of Veterans Affairs. Amounts available to the Secretary for Medical Care may be used for purposes of carrying out this subsection. The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(b) PROPOSALS.—The Secretary shall solicit proposals for designation of facilities as described in subsection (a). The announcement of the solicitation of such proposals shall be issued not later than 60 days after the date of the enactment of this Act, and the deadline for the submission of proposals in response to such solicitation shall be not later than 90 days after the date of such announcement. The peer review panel established under subsection (a) shall complete its review of the proposals and submit its recommendations to the Secretary not later than 60 days after the date of the deadline for the submission of proposals. The Secretary shall then select the four sites for the location of such centers not later than 45 days after the date on which the peer review panel submits its recommendations to the Secretary.

(c) REVISED SECTION.—(1) Subchapter II of chapter 73 is amended by inserting after section 7327, as added by section 302(a)(1) of this Act, a new section with—

(A) a heading as follows:

**"§ 7328. Medical preparedness centers"**; and

(B) a text consisting of the text of subsections (a) through (h) of section 7325 of title 38, United States Code, and a subsection (i) at the end as follows:

"(i) FUNDING.—(1) There are authorized to be appropriated for the centers under this section $10,000,000 for each of fiscal years 2005 through 2007.

"(2) In addition to any amounts appropriated for a fiscal year specifically for the activities of the centers pursuant to paragraph (1), the Under Secretary for Health shall allocate to the centers from other funds appropriated for that fiscal year generally for the Department medical care account and the Department medical and prosthetic research account such amounts as the Under Secretary determines necessary in order to carry out the purposes of this section.".

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7327, as added by section 302(a)(2) of this Act, the following new item:

"7328. Medical preparedness centers.".

## TITLE IV—MEDICAL FACILITIES MANAGEMENT AND ADMINISTRATION

### Subtitle A—Major Medical Facility Leases

### SEC. 401. MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may enter into contracts for major medical facility leases at the following locations, in an amount for each facility lease not to exceed the amount shown for that location:

(1) Wilmington, North Carolina, Outpatient Clinic, $1,320,000.

(2) Greenville, North Carolina, Outpatient Clinic, $1,220,000.

(3) Norfolk, Virginia, Outpatient Clinic, $1,250,000.

(4) Summerfield, Florida, Marion County Outpatient Clinic, $1,230,000.

(5) Knoxville, Tennessee, Outpatient Clinic, $850,000.

(6) Toledo, Ohio, Outpatient Clinic, $1,200,000.

(7) Crown Point, Indiana, Outpatient Clinic, $850,000.

(8) Fort Worth, Texas, Tarrant County Outpatient Clinic, $3,900,000.

(9) Plano, Texas, Collin County Outpatient Clinic, $3,300,000.

(10) San Antonio, Texas, Northeast Central Bexar County Outpatient Clinic, $1,400,000.

(11) Corpus Christi, Texas, Outpatient Clinic, $1,200,000.

(12) Harlingen, Texas, Outpatient Clinic, $650,000.

(13) Denver, Colorado, Health Administration Center, $1,950,000.

(14) Oakland, California, Outpatient Clinic, $1,700,000.

(15) San Diego, California, North County Outpatient Clinic, $1,300,000.

(16) San Diego, California, South County Outpatient Clinic, $1,100,000.

### SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2005 for the Medical Care account, $24,420,000 for the leases authorized in section 401.

### SEC. 403. AUTHORITY FOR LONG-TERM LEASE OF CERTAIN LANDS OF UNIVERSITY OF COLORADO.

Notwithstanding section 8103 of title 38, United States Code, the Secretary of Veterans Affairs may enter into a lease for real property located at the Fitzsimmons Campus of the University of Colorado for purposes of a medical facility (as that term is defined in section 8101 of title 38, United States Code) for a period of up to 75 years.

### Subtitle B—Facilities Management

### SEC. 411. DEPARTMENT OF VETERANS AFFAIRS CAPITAL ASSET FUND.

(a) ESTABLISHMENT OF FUND.—(1) Subchapter I of chapter 81 is amended by adding at the end the following new section:

**"§ 8118. Authority for transfer of real property; Department of Veterans Affairs Capital Asset Fund**

"(a)(1) The Secretary may transfer real property under the jurisdiction or control of the Secretary (including structures and equipment associated therewith) to another department or agency of the United States, to a State (or a political subdivision of a State), or to any public or private entity, including an Indian tribe. Such a transfer may be made only if the Secretary receives compensation of not less than the fair market value of the property, except that no compensation is required, or compensation at less than fair market value may be accepted, in the case of a transfer to a grant and per diem provider (as defined in section 2002 of this title). When a transfer is made to a grant and per diem provider for less than fair market value, the Secretary shall require in the terms of the conveyance that if the property transferred is used for any purpose other than a purpose under chapter 20 of this title, all right, title, and interest to the property shall revert to the United States.

"(2) The Secretary may exercise the authority provided by this section notwithstanding sections 521, 522, and 541 through 545 of title 40. Any such transfer shall be in accordance with this section and section 8122 of this title.

"(3) The authority provided by this section may not be used in a case to which section 8164 of this title applies.

"(4) The Secretary may enter into partnerships or agreements with public or private entities dedicated to historic preservation to facilitate the transfer, leasing, or adaptive use of structures or properties specified in subsection (b)(3)(D).

"(5) The authority of the Secretary under paragraph (1) expires on the date that is seven years after the date of the enactment of this section.

"(b)(1) There is established in the Treasury of the United States a revolving fund to be known as the Department of Veterans Affairs Capital Asset Fund (hereinafter in this section referred to as the 'Fund'). Amounts in the Fund shall remain available until expended.

"(2) Proceeds from the transfer of real property under this section shall be deposited into the Fund.

"(3) To the extent provided in advance in appropriations Acts, amounts in the Fund may be expended for the following purposes:

"(A) Costs associated with the transfer of real property under this section, including costs of demolition, environmental remediation, maintenance and repair, improvements to facilitate the transfer, and administrative expenses.

"(B) Costs, including costs specified in subparagraph (A), associated with future transfers of property under this section.

"(C) Costs associated with enhancing medical care services to veterans by improving, renovating, replacing, updating, or establishing patient care facilities through construction projects to be carried out for an amount less than the amount specified in 8104(a)(3)(A) for a major medical facility project.

"(D) Costs, including costs specified in subparagraph (A), associated with the transfer, lease, or adaptive use of a structure or other property under the jurisdiction of the Secretary that is listed on the National Register of Historic Places.

"(c) The Secretary shall include in the budget justification materials submitted to Congress for any fiscal year in support of the President's budget for that fiscal year for the Department specification of the following:

"(1) The real property transfers to be undertaken in accordance with this section during that fiscal year.

"(2) All transfers completed under this section during the preceding fiscal year and completed and scheduled to be completed during the fiscal year during which the budget is submitted.

"(3) The deposits into, and expenditures from, the Fund that are incurred or projected for each of the preceding fiscal year, the current fiscal year, and the fiscal year covered by the budget.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8117 the following new item:

"8118. Authority for transfer of real property; Department of Veterans Affairs Capital Asset Fund.".

(b) INITIAL AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Veterans Affairs Capital Asset Fund established under section 8118 of title 38, United States Code (as added by subsection (a)), the amount of $10,000,000.

(c) TERMINATION OF NURSING HOME REVOLVING FUND.—(1) Section 8116 is repealed.

(2) The table of sections at the beginning of chapter 81 is amended by striking the item relating to section 8116.

(d) TRANSFER OF UNOBLIGATED BALANCES TO CAPITAL ASSET FUND.—Any unobligated balances in the nursing home revolving fund under section 8116 of title 38, United States Code, as of the date of the enactment of this Act shall be deposited in the Department of Veterans Affairs Capital Asset Fund established under section 8118 of title 38, United States Code (as added by subsection (a)).

(e) PROCEDURES APPLICABLE TO TRANSFERS.—(1) Paragraph (2) of section 8122(a) is amended to read as follows:

"(2) Except as provided in paragraph (3), the Secretary may not during any fiscal year transfer to any other department or agency of the United States or to any other entity real property that is owned by the United States and administered by the Secretary unless the proposed transfer is described in the budget submitted to Congress pursuant to section 1105 of title 31 for that fiscal year.".

(2) Section 8122(d) is amended—

(A) by inserting "(1)" before "Real property"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary may transfer real property under this section, or under section 8118 of this title, if the Secretary—

"(A) places a notice in the real estate section of local newspapers and in the Federal Register of the Secretary's intent to transfer that real property (including land, structures, and equipment associated with the property);

"(B) holds a public hearing;

"(C) provides notice to the Administrator of General Services of the Secretary's intention to transfer that real property and waits for 30 days to elapse after providing that notice; and

"(D) after such 30-day period has elapsed, notifies the congressional veterans' affairs committees of the Secretary's intention to dispose of the property and waits for 60 days to elapse from the date of that notice.''.

(3) Section 8164(a) is amended by inserting ''8118 or'' after ''rather than under section''.

(4) Section 8165(a)(2) is amended by striking ''nursing home revolving fund'' and inserting ''Department of Veterans Affairs Capital Asset Fund established under section 8118 of this title''.

(f) CONTINGENT EFFECTIVENESS.—Subsection (d) and the amendments made by subsection (c) shall take effect at the end of the 30-day period beginning on the date on which the Secretary of Veterans Affairs certifies to Congress that the Secretary is in compliance with subsection (b) of section 1710B of title 38, United States Code.

(g) ANNUAL UPDATE.—Following a certification under subsection (f), the Secretary shall submit to Congress an annual update on that certification.

### SEC. 412. ANNUAL REPORT TO CONGRESS ON INVENTORY OF DEPARTMENT OF VETERANS AFFAIRS HISTORIC PROPERTIES.

(a) IN GENERAL.—Not later than December 15 of 2005, 2006, and 2007, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the historic properties administered or controlled by the Secretary.

(b) INITIAL REPORT.—In the initial report under subsection (a), the Secretary shall set forth a complete inventory of the historic structures and property under the jurisdiction of the Secretary. The report shall include a description and classification of each such property based upon historical nature, current physical condition, and potential for transfer, leasing, or adaptive use.

(c) SUBSEQUENT REPORTS.—In reports under subsection (a) after the initial report, the Secretary shall provide an update of the status of each property identified in the initial report, with the proposed and actual disposition, if any, of each property. Each such report shall include any recommendation of the Secretary for legislation to enhance the transfer, leasing, or adaptive use of such properties.

### SEC. 413. AUTHORITY TO ACQUIRE AND TRANSFER REAL PROPERTY FOR USE FOR HOMELESS VETERANS.

(a) AUTHORITY.—Upon identification of a parcel of real property meeting the description in subsection (b), the Secretary of Veterans Affairs may acquire that property (with the structures and improvements thereon) or, in the case of property owned by the United States and administered by another Federal department or agency, may accept administrative jurisdiction over that property, with the expectation of promptly transferring that property to a homeless assistance provider identified under paragraph (2) of subsection (b), subject to the condition that the primary purpose for which the property shall be used is to provide housing for homeless veterans.

(b) SPECIFIED PROPERTY.—A parcel of real property referred to in subsection (a) is a parcel in the District of Columbia—

(1) that the Secretary determines to be suitable for use for housing for homeless veterans; and

(2) for which there is an identified homeless assistance provider that is prepared to acquire the property for such purpose from the Secretary promptly upon the acquisition of the property by the Secretary.

(c) TRANSFER OF PROPERTY.—Upon acquiring real property under subsection (a), the Secretary shall immediately transfer all right, title, and interest of the United States (other than the reversionary interest retained under subsection (e)) to the homeless assistance provider identified under subsection (b)(2). Such transfer shall be for such consideration as the Secretary determines appropriate.

(d) TERMS AND CONDITIONS.—The acquisition and transfer of real property under this section shall be made upon such terms and conditions as the Secretary may specify not inconsistent with other applicable provisions of law.

(e) REVERTER.—The terms of the transfer shall provide that if the property is no longer used for the purpose for which conveyed by the Secretary, title to the property shall revert to the United States.

### SEC. 414. LIMITATION ON IMPLEMENTATION OF MISSION CHANGES FOR SPECIFIED VETERANS HEALTH ADMINISTRATION FACILITIES.

(a) LIMITATION.—The Secretary of Veterans Affairs may not implement a mission change for a medical facility of the Department of Veterans Affairs specified in subsection (c) until—

(1) the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a written notice of the mission change; and

(2) the period prescribed by subsection (b) has elapsed.

(b) CONGRESSIONAL REVIEW PERIOD.—(1) The period referred to in subsection (a)(2) is the period beginning on the date of the receipt of the notice under subsection (a)(1) by the committees specified in that subsection and ending on the later of—

(A) the end of the 60-day period beginning on the date on which the notice is received by those committees; or

(B) the end of a period of 30 days of continuous session of Congress beginning on the date on which the notification is received by those committees or, if either House of Congress is not in session on such date, the first day after such date that both Houses of Congress are in session.

(2) For the purposes of paragraph (1)(B)—

(A) the continuity of a session of Congress is broken only by an adjournment of Congress sine die; and

(B) any day on which either House is not in session because of an adjournment of more than three days to a day certain is excluded in the computation of any period of time in which Congress is in continuous session.

(c) SPECIFIED FACILITIES.—A facility referred to in subsection (a) as being specified in this subsection is any of the following facilities of the Department of Veterans Affairs:

(1) The Department of Veterans Affairs medical centers in Boston, Massachusetts.

(2) The Department of Veterans Affairs medical centers in New York City, New York.

(3) The Department of Veterans Affairs medical center in Big Spring, Texas.

(4) The Carl Vinson Department of Veterans Affairs Medical Center, Dublin, Georgia.

(5) The Department of Veterans Affairs medical center in Montgomery, Alabama.

(6) The Department of Veterans Affairs medical center in Louisville, Kentucky.

(7) The Department of Veterans Affairs medical center in Muskogee Oklahoma, and the outpatient clinic in Tulsa, Oklahoma.

(8) The John J. Pershing Department of Veterans Affairs Medical Center, Poplar Bluff, Missouri.

(9) The Department of Veterans Affairs medical center in Ft. Wayne, Indiana.

(10) The Department of Veterans Affairs Medical Center in Waco, Texas.

(11) The Jonathan M. Wainwright Department of Veterans Affairs Medical Center, Walla Walla, Washington.

(d) COVERED MISSION CHANGES.—For purposes of this section, a mission change for a medical facility shall consist of any of the following:

(1) Closure of the facility.

(2) Consolidation of the facility.

(3) An administrative reorganization of the facility covered by section 510(b) of title 38, United States Code.

(e) REQUIRED CONTENT OF NOTICE OF MISSION CHANGE.—Written notice of a mission change for a medical facility under subsection (a) shall include the following:

(1) An assessment of the effect of the mission change on the population of veterans served by the facility.

(2) A description of the availability and quality of health care, including long-term care, mental health care, and substance abuse programs, available in the area served by the facility.

(3) An assessment of the effect of the mission change on the economy of the community in which the facility is located.

(4) An analysis of any alternatives to the mission change proposed by—

(A) the community in which the facility is located;

(B) organizations recognized by the Secretary under section 5902 of title 38, United States Code;

(C) organizations that represent Department employees in such community; or

(D) the Department.

(f) MEDICAL FACILITY CONSOLIDATION.—For the purposes of subsection (d)(2), the term ''consolidation'' means an action that closes one or more medical facilities within a geographic service area for the purpose of relocating those activities to another medical facility or facilities.

(g) COORDINATION OF PROVISIONS.—In the case of a mission change covered by subsection (a) that is also an administrative reorganization covered by section 510(b) of title 38, United States Code, both this section and such section 510(b) shall apply with respect to the implementation of that mission change.

### SEC. 415. AUTHORITY TO USE PROJECT FUNDS TO CONSTRUCT OR RELOCATE SURFACE PARKING INCIDENTAL TO A CONSTRUCTION OR NONRECURRING MAINTENANCE PROJECT.

Section 8109 is amended by adding at the end the following new subsection:

''(j) Funds in a construction account or capital account that are available for a construction project or a nonrecurring maintenance project may be used for the construction or relocation of a surface parking lot incidental to that project.''.

### SEC. 416. INAPPLICABILITY OF LIMITATION ON USE OF ADVANCE PLANNING FUNDS TO AUTHORIZED MAJOR MEDICAL FACILITY PROJECTS.

Section 8104 is amended by adding at the end the following new subsection:

''(g) The limitation in subsection (f) does not apply to a project for which funds have been authorized by law in accordance with subsection (a)(2).''.

### SEC. 417. IMPROVEMENTS TO ENHANCED-USE LEASE AUTHORITY.

Section 8166(a) is amended by inserting ''land use,'' in the second sentence after ''relating to''.

### SEC. 418. FIRST OPTION FOR COMMONWEALTH OF KENTUCKY ON DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, LOUISVILLE, KENTUCKY.

(a) REQUIREMENT.—Upon determining to convey, lease, or otherwise dispose of the Department of Veterans Affairs Medical Center, Louisville, Kentucky, or any portion thereof, the Secretary of Veterans Affairs shall engage in negotiations for the conveyance, lease, or other disposal of the Medical Center or portion thereof solely with the Commonwealth of Kentucky.

(b) DURATION OF REQUIREMENT.—The requirement for negotiations under subsection (a) shall remain in effect for one year after the date of the determination referred to in that subsection.

(c) SCOPE OF NEGOTIATIONS.—The negotiations under subsection (a) shall address the use of the medical center referred to in subsection (a), or portion thereof, by the Commonwealth of

*Kentucky for the primary purpose of the provision of services for veterans and related activities, including use for a State veterans' home.*

### ***SEC. 419. TRANSFER OF JURISDICTION, GENERAL SERVICES ADMINISTRATION PROPERTY, BOISE, IDAHO.***

*(a) TRANSFER.—The Administrator of General Services shall transfer to the Secretary of Veterans Affairs, under such terms and conditions as the Administrator and the Secretary agree, jurisdiction, custody, and control over the parcel of real property, including any improvements thereon, consisting of approximately 2.3 acres located at the General Services Administration facility immediately north of the Army Reserve facility in Boise, Idaho.*

*(b) UTILIZATION.—The Secretary of Veterans Affairs shall utilize the property transferred under subsection (a) for purposes relating to the delivery of benefits to veterans.*

### ***Subtitle C—Designation of Facilities***

### ***SEC. 421. THOMAS E. CREEK DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.***

*(a) IN GENERAL.—The Department of Veterans Affairs medical center in Amarillo, Texas, shall after the date of the enactment of this Act be known and designated as the "Thomas E. Creek Department of Veterans Affairs Medical Center".*

*(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the Thomas E. Creek Department of Veterans Affairs Medical Center.*

### ***SEC. 422. JAMES J. PETERS DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.***

*(a) IN GENERAL.—The Department of Veterans Affairs medical center in the Bronx, New York, shall after the date of the enactment of this Act be known and designated as the "James J. Peters Department of Veterans Affairs Medical Center".*

*(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the James J. Peters Department of Veterans Affairs Medical Center.*

### ***SEC. 423. BOB MICHEL DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.***

*(a) IN GENERAL.—The Department of Veterans Affairs outpatient clinic located in Peoria, Illinois, shall after the date of the enactment of this Act be known and designated as the "Bob Michel Department of Veterans Affairs Outpatient Clinic".*

*(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the outpatient clinic referred to in subsection (a) shall be considered to be a reference to the Bob Michel Department of Veterans Affairs Outpatient Clinic.*

### ***SEC. 424. CHARLES WILSON DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.***

*(a) IN GENERAL.—The Department of Veterans Affairs outpatient clinic located in Lufkin, Texas, shall after the date of the enactment of this Act be known and designated as the "Charles Wilson Department of Veterans Affairs Outpatient Clinic".*

*(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the outpatient clinic referred to in subsection (a) shall be considered to be a reference to the Charles Wilson Department of Veterans Affairs Outpatient Clinic.*

### ***SEC. 425. THOMAS P. NOONAN, JR. DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.***

*(a) IN GENERAL.—The Department of Veterans Affairs outpatient clinic in Sunnyside, Queens, New York, shall after the date of the enactment of this Act be known and designated as the "Thomas P. Noonan, Jr. Department of Veterans Affairs Outpatient Clinic".*

*(b) REFERENCES.—Any reference in any law, map, regulation, document, paper, or other record of the United States to the outpatient clinic referred to in subsection (a) shall be considered to be a reference to the Thomas P. Noonan, Jr. Department of Veterans Affairs Outpatient Clinic.*

## ***TITLE V—PERSONNEL ADMINISTRATION***

### ***SEC. 501. PILOT PROGRAM TO STUDY INNOVATIVE RECRUITMENT TOOLS TO ADDRESS NURSING SHORTAGES AT DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITIES.***

*(a) PILOT PROGRAM.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall designate a health care service region, or a section within such a region, in which health care facilities of the Department of Veterans Affairs are adversely affected by a shortage of qualified nurses.*

*(2) The Secretary shall conduct a pilot program in the region or section designated under paragraph (1) to determine the effectiveness of the use of innovative human capital tools and techniques in the recruitment of qualified nurses for positions at Department health care facilities in such region or section and for the retention of nurses at such facilities. In carrying out the pilot program, the Secretary shall enter into a contract with a private sector entity for services under the pilot program for recruitment of qualified nurses.*

*(b) PRIVATE SECTOR RECRUITMENT PRACTICES.—For purposes of the pilot program under this section, the Secretary shall identify and use recruitment practices that have proven effective for placing qualified individuals in positions that are difficult to fill due to shortages of qualified individuals or other factors. Recruitment practices to be reviewed by the Secretary for use in the pilot program shall include—*

*(1) employer branding and interactive advertising strategies;*

*(2) Internet technologies and automated staffing systems; and*

*(3) the use of recruitment, advertising, and communication agencies.*

*(c) STREAMLINED HIRING PROCESS.—In carrying out the pilot program under this section, the Secretary shall, at health care facilities of the Department in the region or section in which the pilot program is conducted, revise procedures and systems for selecting and hiring qualified nurses to reduce the length of the hiring process. If the Secretary identifies measures to streamline and automate the hiring process that can only be implemented if authorized by law, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives recommendations for such changes in law as may be necessary to enable such measures to be implemented.*

*(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the extent to which the pilot program achieved the goal of improving the recruitment and retention of nurses in Department of Veterans Affairs health care facilities.*

### ***SEC. 502. TECHNICAL CORRECTION TO LISTING OF CERTAIN HYBRID POSITIONS IN VETERANS HEALTH ADMINISTRATION.***

*Section 7401(3) is amended—*

*(1) by striking "and dental technologists" and inserting "technologists, dental hygienists, dental assistants"; and*

*(2) by striking "technicians, therapeutic radiologic technicians, and social workers" and inserting "technologists, therapeutic radiologic technologists, social workers, blind rehabilitation specialists, and blind rehabilitation outpatient specialists".*

### ***SEC. 503. UNDER SECRETARY FOR HEALTH.***

*Section 305(a)(2) is amended—*

*(1) in the matter preceding subparagraph (A), by striking "shall be a doctor of medicine and"; and*

*(2) in subparagraph (A), by striking "and in health-care" and inserting "or in health-care".*

## ***TITLE VI—OTHER MATTERS***

### ***SEC. 601. EXTENSION AND CODIFICATION OF AUTHORITY FOR RECOVERY AUDITS.***

*Section 1703 is amended by adding at the end the following new subsection:*

*"(d)(1) The Secretary shall conduct a program of recovery audits for fee basis contracts and other medical services contracts for the care of veterans under this section, and for beneficiaries under sections 1781, 1782, and 1783 of this title, with respect to overpayments resulting from processing or billing errors or fraudulent charges in payments for non-Department care and services. The program shall be conducted by contract.*

*"(2) Amounts collected, by setoff or otherwise, as the result of an audit under the program conducted under this subsection shall be available for the purposes for which funds are currently available to the Secretary for medical care and for payment to a contractor of a percentage of the amount collected as a result of an audit carried out by the contractor.*

*"(3) The Secretary shall allocate all amounts collected under this subsection with respect to a designated geographic service area of the Veterans Health Administration, net of payments to the contractor, to that region.*

*"(4) The authority of the Secretary under this subsection terminates on September 30, 2008.".*

### ***SEC. 602. INVENTORY OF MEDICAL WASTE MANAGEMENT ACTIVITIES AT DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITIES.***

*(a) INVENTORY.—The Secretary of Veterans Affairs shall establish and maintain a national inventory of medical waste management activities in the health care facilities of the Department of Veterans Affairs. The inventory shall include the following:*

*(1) A statement of the current national policy of the Department on managing and disposing of medical waste, including regulated medical waste in all its forms.*

*(2) A description of the program of each geographic service area of the Department to manage and dispose of medical waste, including general medical waste and regulated medical waste, with a description of the primary methods used in those programs and the associated costs of those programs, with cost information shown separately for in-house costs (including full-time equivalent employees) and contract costs.*

*(b) REPORT.—Not later than June 30, 2005, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on medical waste management activities in the facilities of the Department of Veterans Affairs. The report shall include the following:*

*(1) The inventory established under subsection (a), including all the matters specified in that subsection.*

*(2) A listing of each violation of medical waste management and disposal regulations reported at any health care facility of the Department over the preceding five years by any Federal or State agency, along with an explanation of any remedial or other action taken by the Secretary in response to each such reported violation.*

*(3) A description of any plans to modernize, consolidate, or otherwise improve the management of medical waste and disposal programs at*

*health care facilities of the Department, including the projected costs associated with such plans and any barriers to achieving goals associated with such plans.*

*(4) An assessment or evaluation of the available methods of disposing of medical waste and identification of which of those methods are more desirable from an environmental perspective in that they would be least likely to result in contamination of air or water or otherwise cause future cleanup problems.*

***SEC. 603. INCLUSION OF ALL ENROLLED VETERANS AMONG PERSONS ELIGIBLE TO USE CANTEENS OPERATED BY VETERANS' CANTEEN SERVICE.***

*The text of section 7803 is amended to read as follows:*

*"(a) PRIMARY BENEFICIARIES.—Canteens operated by the Service shall be primarily for the use and benefit of—*

*"(1) veterans hospitalized or domiciled at the facilities at which canteen services are provided; and*

*"(2) other veterans who are enrolled under section 1705 of this title.*

*"(b) OTHER AUTHORIZED USERS.—Service at such canteens may also be furnished to—*

*"(1) personnel of the Department and recognized veterans' organizations who are employed at a facility at which canteen services are provided and to other persons so employed;*

*"(2) the families of persons referred to in paragraph (1) who reside at the facility; and*

*"(3) relatives and other persons while visiting a person specified in this section.".*

***SEC. 604. ANNUAL REPORTS ON WAITING TIMES FOR APPOINTMENTS FOR SPECIALTY CARE.***

*(a) ANNUAL REPORTS.—Not later than January 31 each year through 2007, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on waiting times for appointments for specialty health care from the Department of Veterans Affairs under chapter 17 of title 38, United States Code, during the preceding year.*

*(b) REPORT ELEMENTS.—Each report under subsection (a) shall specify, for the year covered by the report, the following:*

*(1) A tabulation of the number of veterans whose appointment for specialty health care furnished by the Department was more than three months after the date of the scheduling of such appointment, and the waiting times of such veterans for such appointments, for each category of specialty care furnished by the Department, broken out by Veterans Integrated Service Network.*

*(2) An identification of the categories of specialty care furnished by the Department for which there were delays of more than three months between the scheduling date of appointments and appointments in each Veterans Integrated Service Network.*

*(3) A discussion of the reasons for the delays identified under paragraph (2) for each category of care for each Veterans Integrated Service Network so identified, including lack of personnel, financial resources, or other resources.*

*(c) CERTIFICATION ON REPORT INFORMATION.—The Comptroller General of the United States shall certify to the committees of Congress referred to in subsection (a) whether or not each report under this section is accurate.*

***SEC. 605. TECHNICAL CLARIFICATION.***

*Section 8111(d)(2) is amended by inserting before the period at the end of the last sentence the following: "and shall be available for any purpose authorized by this section".*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in very strong support of H.R. 3936, the Veterans Health Programs Improvement Act of 2004. The bill, as amended, represents a compromise agreement between the House Committee on Veterans' Affairs and the Senate on these matters.

Mr. Speaker, I want to thank the gentleman from Illinois (Mr. EVANS), the committee's ranking member, for his work on this. I especially want to thank the gentleman from Connecticut (Mr. SIMMONS) for his admirable leadership as chairman of the Subcommittee on Health, where most of these measures originated. He has done a tremendous job as chairman. As a 37-year Army veteran, he has put veterans first and has done so in a way that is extraordinary.

Again, I want to thank him for his work and his meticulous attention to detail. It has made the difference. This bill, regrettably, went through a lot of difficulties and travail, and yet he persevered. And I want to thank our chairman of that subcommittee for his leadership. It has been extraordinary.

I also want to thank the gentleman from Texas (Mr. RODRIGUEZ), the ranking member of that subcommittee. Again, these bills are bipartisan. We have worked together very closely, and it is a pleasure to bring this before the body today.

Mr. Speaker, H.R. 3936 contains more than 33 measures that would improve the management and the administration of veterans health care programs. I want to highlight just a few of those provisions that are contained in the bill.

The VA's homeless grant and per diem program is an economical, flexible, and innovative approach to housing and supportive services for thousands of homeless veterans. The compromise agreement would increase the fiscal year 2005 authorization level for VA's grant and per diem program from $75 million to $99 million. The Department requested this increase because it has received far more requests for funding from meritorious potential grantees than it can support under existing funding limits.

Another important provision compromise would direct the Secretary to make payments to assist the 128 State-operated nursing homes in hiring and retaining nursing personnel. These homes provide long-term care to over 38,000 veterans annually in an excellent partnership with the VA, and this provision encourages their efforts to keep highly qualified staff caring for these veterans.

Mr. Speaker, today we are at war overseas. We know war can produce terrible physical injuries, and we must do everything possible for wounded servicemembers. This compromise agreement would authorize the VA to establish, in conjunction with the Department of Defense, a limited number of new centers for research, education, and clinical care to improve rehabilitative services for complex traumatic injuries, such as those being suffered by our brave soldiers and Marines in Iraq. These centers will be a Godsend for these wounded war veterans and for their families.

This bill provides VA authority to enter into a 75-year lease to acquire a medical facility on the new Fitzsimons Campus of the University of Colorado. It is anticipated this Federal-State health sciences campus would share many high-cost specialized services and provide expanded access for Air Force beneficiaries at the nearby Buckley Air Force Base.

I want to recognize and thank the gentleman from Colorado (Mr. BEAUPREZ) for his leadership on this important provision and the chairman of the Committee on Standards of Official Conduct, who has also done yeoman's work on this as well.

Mr. Speaker, our compromise agreement would improve the process for disposing of unneeded VA properties and authorize the proceeds from property transfers to be deposited into a new VA capital asset fund.

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The new fund would facilitate transfers, leases and adaptive uses of VA properties, including historic properties. This compromise agreement also includes authorization for naming five VA medical centers, including one in Illinois to be named for the distinguished House minority leader, Bob Michel. Having served with Bob and having great respect for him, I am grateful that this provision is in here, and I want to thank my colleagues for their support for it. It also names facilities in Texas and New York for two heroic Marines who gave their lives for freedom in Vietnam.

Mr. Speaker, the staff of the Committee on Veterans Affairs has worked hard in this Congress to examine ways to provide the best possible health care to those who have earned the honored title of "veteran." I would like to recognize the staff of the Subcommittee on Health: John Bradley, staff director; Dolores Dunn and Kathleen Greve, professional staff members; Susan Edgerton, Democratic staff director; and VA detailee Rosalind Howard. I would also like to thank our full committee staff, Pat Ryan to my left, chief counsel and staff director; Kingston Smith, deputy chief counsel; Jeannie McNally, legislative coordinator; and Jim Holley, Democratic staff director.

I also thank the Senate committee staff director, Bill Tuerk, and Bill Cahill, III, professional staff member. I also thank Kim Lipsky, Alexandra Sardegna and Amanda Krohn of the Democratic professional staff for their contributions. This has been a true collaborative effort.

Again, I thank all who have participated in shaping, crafting and making this an extremely valuable bill that will soon be on the desk of President Bush for his signature.

Mr. Speaker, I move that the House suspend the rules and concur in the Senate amendments to H.R. 3936.

Mr. Speaker, I rise in strong support of H.R. 3936, the Veterans Health Programs Improvement Act of 2004.

H.R. 3936, as amended, represents a compromise agreement between the Committees on Veterans' Affairs of the House and Senate.

Mr. Speaker, I want to thank the gentleman from Illinois, Mr. EVANS, Ranking Member of the Veterans' Affairs Committee, who has helped to shape this particular legislation. Also, I want to thank the gentleman from Connecticut, Mr. SIMMONS, for his outstanding leadership as Chairman of the Subcommittee on Health, where most of these measures originated. Finally, I thank the gentleman from Texas, Mr. RODRIGUEZ, the Ranking Member, who has worked in a bipartisan effort to help craft this and numerous other important veterans' health bills during his time in Congress.

Chairman SPECTER and Ranking Member GRAHAM of the Senate Veterans' Affairs Committee also contributed to the legislation before the House today.

Mr. Speaker, VA's homeless grant and per diem program provides competitive grants to community and faith-based organizations that offer transitional housing or comprehensive service centers for homeless veterans. This program is an economical, flexible and innovative approach to housing and supportive services for homeless veterans in all 50 States and in the District. Over 6,000 beds are now available nationally to veterans through this vital community network. In 2003, 66 percent of the veterans discharged from these VA-funded programs went on to either independent living or residential-program housing. The compromise agreement will increase the fiscal year 2005 authorization level for this key program from $75 million to $99 million. The department requested this increase because it has received far more requests for funding from meritorious potential grantees than it can support under existing funding limits.

Another important provision in this compromise agreement would direct the Secretary to make payments to assist states in hiring and retaining nursing personnel at State-operated nursing homes for veterans. The 128 State veterans' homes collectively represent the largest institutional provider of long-term care to elderly veterans, now caring for over 38,000 veterans annually in 47 States. I am personally aware of staffing difficulties that the three New Jersey State veterans' homes in Vineland, Paramus and Menlo Park have faced over the past several years in their efforts to recruit and retain quality nursing staff to those homes. We need this new incentives program all across the country. It would allow State homes currently receiving per diem payments from VA with established employee-incentive programs to apply for assistance to retain and recruit their nurses. This provision encourages their efforts to keep highly-qualified staff caring for veterans.

Another provision affecting the State home programs would specify that per diem payments made by VA to States for the care of veterans in these homes may not be used to offset or reduce third party payments made to assist veterans, whether from private, State or other Federal sources.

There is well established history of partnership between the Federal and State governments providing care for veterans. This originated with the first Federal law in 1888, providing $100 per year in aid to States to help alleviate the burden of caring for sick and disabled soldiers. This partnership and the first annual payments preceded the advent of the Veterans Administration and the State Home program as we know them today—but Congressional intent has remained constant and clear. Since 1960, Congress has taken an active role in expanding the State home programs to include four levels of care, increased per diem payments and grant funding for construction of facilities. The Congress and its Veterans' Committees are adamant that this partnership and the mutual reliance by VA and the States should not be inadvertently affected by the rules of any other program which is not specifically targeted at caring for aged and infirmed veterans.

Mr. Speaker, 12 years ago, with Public Law 102–585, it was acknowledged that women who experienced sexual trauma while on active military duty may undergo a variety of psychological and physical health effects requiring special counseling. This law authorized VA to provide mental health counseling for these women veterans. Two years later, eligibility for VA sexual trauma counseling and treatment was broadened in Public Law 103–452 to include veterans of either gender who experience sexual trauma while serving on active duty. H.R. 3936 would make permanent VA's authority to provide sexual trauma counseling to veterans.

Mr. Speaker, the shortage of nurses throughout the United States is well documented and VA must position itself to take advantage of all opportunities available to deal with this shortage. H.R. 3936 would establish a pilot program to evaluate the use of proven private sector techniques, such as employer branding, interactive advertising, automated staffing systems and the use of outside recruitment agencies and online technologies to improve VA's program for recruiting nursing personnel.

Mr. Speaker, how well we know that we are at war overseas. We know war can produce terrible physical injuries. In previous wars, many soldiers did not survive the very serious injuries of the kind being seen in Iraq and Afghanistan today. The means were not available for quick evacuation to sophisticated medical treatment. Today military medical treatment capabilities have greatly improved for complex traumatic injuries.

However, Mr. Speaker, this success creates new challenges for the caregivers who have patients with complex traumatic injuries. The compromise agreement will authorize VA to establish in cooperation with the Department of Defense a limited number of new centers for research, education and clinical activities to improve rehabilitative services for these veterans. I particularly want to thank Senator BOB GRAHAM, Ranking Member of the Senate Veterans' Affairs Committee, for his work in helping us reach agreement on this provision. These centers will be a godsend for these wounded war veterans and their families.

Mr. Speaker, the delivery of health care in this country and in the VA system has undergone a profound transformation over the last decade. Once a hospital based health care system, today's VA has made a significant shift from inpatient to outpatient services, with tremendous growth in the number of enrolled veterans. Yet, much of VA health care bricks-and-mortar infrastructure was designed and built decades ago—some parts of it over a century ago—in a bygone era of health care delivery when long stays in the hospital were the norm.

In 1999, a General Accounting Office report not surprisingly found that VA's cost of operating and maintaining its large inventory of old buildings was a huge and avoidable drain on resources. In the years since that GAO report, VA has undergone a major initiative referred to as the Capital Asset Realignment for Enhanced Services (CARES) initiative, to assess the best use of VA's capital assets for the veteran population to be served, and to use resources more effectively to improve health care delivery to these veterans.

While awaiting the CARES recommendations, little was done by the Department to upgrade VA's physical plants. This legislation is consistent with the CARES recommendations and would provide VA the needed authority to execute leases for 16 community-based outpatient clinics at a cost of approximately $24.4 million, in fiscal year 2005, in the States of California, Colorado, Florida, Indiana, North Carolina, Ohio, Tennessee, Texas and Virginia. Most of these leases will upgrade existing clinic locations. All of these leases were requested by the VA.

Mr. Speaker, this bill also provides VA authority to enter into a 75-year lease to acquire a medical facility on the Fitzsimons Campus of the University of Colorado in Aurora. It is anticipated that a new federal-state health sciences campus would share many high cost and specialized services, and also would provide expanded access to care for Air Force beneficiaries from nearby Buckley Air Force Base. I want to recognize and thank the gentleman from Colorado, Mr. BEAUPREZ, for his leadership in developing this good Federal health policy to serve the people of Colorado.

Mr. Speaker, our compromise agreement would improve the process for disposing of unneeded VA properties and authorize the proceeds from these property transfers to be deposited into a new VA Capital Asset Fund. The new fund would defray VA's cost of transferring property including demolition, environmental restoration, historic preservation and establishment of new health facilities. This bill would authorize appropriations of $10 million in seed money to launch the fund to support these initiatives.

Mr. Speaker, the VA has one of the largest federal inventories of properties with significant historic value. In fact, 24 VA medical center campuses are already listed on the National Register of Historic Places, and even more are eligible for this designation. This compromise agreement would allow the Secretary to enter into new partnerships or agreements with entities dedicated to historic preservation, and to use the funds in the Capital Asset Fund to facilitate transfers, leases or adaptive uses of those historic properties that are no longer useful for VA health care. Thus, this compromise agreement would protect history and at the same time the way to new uses of structures that have served their purposes for veterans.

Mr. Speaker, this compromise agreement includes authorization to name VA facilities to honor two heroic Marines who gave this country the greatest measure of their personal devotion, giving their lives in combat to save others in Vietnam. Lance Corporals Thomas E. Creek of Texas and Thomas P. Noonan, Jr. of New York were each posthumously awarded the Nation's highest military decoration, the Congressional Medal of Honor, for their selfless deeds.

The late James J. Peters of New York, a war hero in Vietnam, and a leader of paralyzed veterans after his service, would also be honored by our naming a VA outpatient clinic in the Bronx in his memory.

Further, Mr. Speaker, a VA facility in Illinois will be named in honor of our distinguished former House Minority Leader, Bob Michel, and a facility in Texas will be named in honor of the public service of another former Member of this House, Charles Wilson.

Mr. Speaker, under current law, VA must comply with a variety of Federal, state and local laws and regulations relating to the collecting, handling and disposing of medical waste. Failure to adhere to these laws and regulations could place patients, VA employees and their communities in hazardous situations, as well as subject VA to civil or criminal penalties. This bill would provide a means for Congress to evaluate the effectiveness of VA's medical waste management policies and determine whether additional procedures are needed to reduce environmental and heath risks. The costs of waste disposal would be assessed as well. The bill would require VA to establish and maintain an inventory of medical waste management activities in VA facilities and report to Congress on its inventory, regulatory compliance, and violations of record, along with plans for management improvements.

Mr. Speaker, the staff of the Veterans' Affairs Committee has worked hard in this Congress to examine ways of providing the best possible health care for those who have earned the honored title of "veteran." I would like to recognize the staff of the Subcommittee on Health: John Bradley, Staff Director, Dolores Dunn and Kathleen Greve, professional staff members; Susan Edgerton, Democratic Staff Director, and VA detailee Rosalind Howard. I'd also like to thank our full Committee staff: Patrick Ryan, Chief Counsel and Staff Director; Kingston Smith, Deputy Chief Counsel; Jeannie McNally, our Legislative Coordinator; and Jim Holley, Democratic Staff Director.

Finally, I want to compliment the Senate Veterans' Affairs Committee staff: Bill Tuerk, Staff Director and Chief Counsel; and Bill Cahill III, professional staff member. I also want to recognize Kim Lipsky, Alexandra Sardegna and Amanda Krohn, of the Democratic professional staff, for their contributions to this bill.

For the benefit of my colleagues, I include at this point in the record a joint explanatory statement describing the compromise agreement we have reached with the other body.

Mr. Speaker, one final word on homeless veterans: these veterans who need services and a place to lay their heads have difficult problems. VA's programs and the hundreds of community and faith-based programs that serve in partnership with VA work miracles with many of them. The continuation and expansion of these programs with the goal of eradicating chronic homelessness in the veteran population has been one of my top goals as Chairman of this Committee. I intend to further address this program in the next Congress, so that those who once wore the nation's military uniform and who are now homeless. These veterans need a hand up to turn their lives around, and we should provide that hand.

I urge my colleagues to support this measure to enhance health care for veterans.

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3936, the Veterans Health Programs Improvement Act of 2004. I want to take this opportunity to thank the gentleman from New Jersey (Mr. SMITH) for his efforts, the ranking member, the gentleman from Illinois (Mr. EVANS) also, as well as the gentleman from Connecticut (Mr. SIMMONS) of the Subcommittee on Health, and the House and Senate committee staffs for addressing some of the concerns raised in earlier pieces of this legislation. We now have a bill which I am pleased to lend my support to.

The bill includes provisions from a bill I introduced, H.R. 3849, the Military Sexual Trauma Counseling Act of 2004 to permanently extend VA's authority to provide counseling and treatment for the women and men who have experienced sexual trauma during their service in the military. Current authority for the program expires at the end of this year. Therefore, it is critical that we pass this legislation today.

Overwhelming demand has been demonstrated for this program. Thousands of veterans, in addition to Reservists and National Guardsmen, have taken advantage of the resources available to them.

As the number of women serving in the military continue to grow, the need for the program is sadly more evident. Already we hear media reports that more than 100 troops returning from both Iraq and Afghanistan have stated that they were raped during their service.

Although it is unfortunate that we need this particular program, I am pleased we are now on the road to ensuring that we will have these services for current and future veterans.

Again, I would like to thank the gentleman from Connecticut (Mr. SIMMONS) for his leadership and cooperation in including the Military Sexual Trauma Program in this bill. I also thank the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS), the ranking member, for their support.

I am also supportive of the provisions to increase the funding levels available for the homeless grant and the per diem programs from $75 million to $99 million for 2005. We still have a very long way to go in meeting the Congress's goals to eliminating chronic homelessness by 2011, and this bill can help us get there.

This particular legislation also includes a provision that will require the Secretary of the VA to establish and maintain an inventory of the medical waste management activities in VA facilities, including inventory, regulatory violations and plans for management improvements. We believe the VA should be on the frontline of environmental protection policies, and these provisions help to make that happen.

There are provisions also from our Senate counterparts in this bill, including a requirement that the VA report annually through 2007 on veterans waiting more than 3 months for scheduled appointments in specialty care and the reasons for these delays.

This measure also requires the Secretary of the VA to establish a pilot program to study innovative recruitment tools to address the nursing shortage within the VA. We must be able to recruit and retain well-qualified nurses to care for our veterans. This pilot will help the VA Health Administration identify and adopt the best practices of private industries in hiring of well-qualified nurses.

Now the largest provider of long-term care to our Nation's veterans, the State veterans' home system plays a vital role in caring for the growing number of aging veterans.

This bill will authorize VA to make payments to assist State veterans' homes in hiring and retaining nurses, to help care for our aging veterans, and adds a clarification that per diem payments made by the VA to State veterans' homes are not to be used to offset or reduce third-party payments, such as Medicaid, made to assist veterans.

There are a high number of veterans returning home that have injuries from the war in both Iraq and Afghanistan.

This measure authorizes the establishment of four cooperative centers for research, education and clinical activities to improve the rehabilitation services available to veterans suffering from complex multi-trauma associated with combat injuries. These centers build on the Veterans Health Administration's nationally recognized care for special populations such as post-traumatic stress disorders, spinal cord injuries, traumatic brain injuries, as well as visual impairment, and will prove to be most valuable in providing future combat injury rehabilitation.

While the CARES process was under way, the VA health care system has managed within infrastructure that is in sore need of repair and upgrade. This bill establishes a VA Capital Asset Fund that will help strengthen our funding flow to assist the VA in developing and improving its properties. These funds will allow the VA to improve properties for disposal as well as future disposal and for minor construction. These funds also will allow the VA to use funds for improving properties.

The Secretary of Veterans Affairs will be given the flexibility in using funds to develop advance planning for major construction projects previously authorized and additional authority to transfer unneeded real property and retain the proceeds from the transfer. The bill authorizes $10 million to be appropriated to the Capital Asset Fund where it can be used for these purposes.

Mr. Speaker, 16 major new leases are authorized in this bill, including leases throughout this country. Because many of the VA important historic buildings are poorly maintained or falling apart, I am pleased that the Committee on Veterans' Affairs concluded that the VA should use funds to preserve historic properties. It is the committee's intent for VA to provide a series of reports to address its large inventory of these registered assets.

This legislation will extend the VA authority to provide care to the veterans participating in long-term care pilot programs which were previously authorized until December, 2005.

This is a bill that we all should be very proud of.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Speaker, I rise to add my strong support to H.R. 3936, the Veterans Health Programs Improvement Act of 2004.

I want to acknowledge what some of my colleagues have already said. I want to acknowledge the committee leadership for its commitment to our veterans under the direction of our very able and very courageous chairman, the gentleman from New Jersey (Mr. SMITH). The gentleman from New Jersey has been a remarkable leader over the last 2 years. He has been a courageous leader. He has stood up in this body and leadership councils for our veterans, and I look forward to his continued leadership as our chairman in the 109th Congress.

I also recognize the work of the ranking member, the gentleman from Illinois (Mr. EVANS), who also serves with me as co-chairmen of the U.S. Vietnam Caucus. He has made extraordinary contributions to our veterans in this legislation and in other bills we have taken up before this body.

Finally, I want to express very special words of gratitude to my colleague and ranking member on the Subcommittee on Health, the gentleman from San Antonio, Texas (Mr. RODRIGUEZ).

Let me just share with the body two anecdotes. One, I traveled to San Antonio to chair a field hearing with the gentleman from Texas (Mr. RODRIGUEZ), and we studied how the Department of Defense in that community and how the Veterans' Administration interact to provide health services not only for active troops but for our veterans. What was immediately apparent to me was the warmth with which his local constituents treated him because of his long interest in veterans, an interest that extends back at least 8 years as a member of this body.

But then I invited the gentleman from Texas up to the lovely, warm, pleasant weather of Connecticut, where we spent some time at Newington, Connecticut, at a VA facility. Not only did we have a hearing at that facility but then the gentleman from Texas (Mr. RODRIGUEZ) went to the State Veterans Home at Rocky Hill and spent many hours looking at that facility to see how the VA and the Connecticut State Department of Veteran Affairs interacted once again to provide these services. This shows a very genuine interest on his part in veterans not only in his own State but in Connecticut and elsewhere throughout the country.

We are going to miss that genuine interest in our veterans. I thank the gentleman for his service to the subcommittee, to the committee and to our Nation's veterans.

Our chairman has summarized many of the provisions of this bill. What I would like to do is just point out a couple of features that I think are particularly important.

First and foremost, America has a tradition of caring for her veterans dating back to the Plymouth Colony where the Pilgrims enacted laws to assist sick and disabled soldiers. In 1811, our young country established the first domiciliary and medical facility for veterans that was authorized by the national government and today the Veterans' Administration has stewardship over the fourth largest real estate inventory in the Federal Government, over 20,000 buildings and tens of thousands of acres of land.

One of the provisions of this bill allows the Secretary of the Veterans' Administration to get his arms around this huge inventory through the CARES project, a master plan for realigning the VA's inventory of capital assets in response to GAO findings and our committee oversight that some of these facilities were underutilized and that some dollars could be saved.

In addition, what this legislation does is provide language for the reuse of historic properties. On the one hand, properties that can be adopted to new uses but, secondly, properties that are truly historic and ought to be preserved and protected, for example, the Eisenhower Recovery Room at the Fitzsimmons Hospital in Colorado. We are engaged in a major effort to build a state-of-the-art facility at Fitzsimmons. It will be co-located with the State university hospital system, but that historic room in Fitzsimmons will be preserved and protected into the future.

Furthermore, the hiring and retraining of nursing staff in VA and State veterans homes, this legislation provides provisions that will address that challenge, the challenge of the almost 100,000 vacant nursing positions and a growing need for health care workers nationwide. It allows the VA to look outside for recruiting and advertising these positions and using interactive and online technologies to improve their exposure in today's recruiting market.

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It also allows the State veterans homes to apply for a new grant program to serve as an incentive to attract nurses to State homes for their employment there with a 50–50 split between the VA and the State homes.

I have spent a long time at the Connecticut State home at Rocky Hill. This is a successor to the first State home built in America which was built just after the Civil War. They provide a wonderful service, but if they could work interactively with the VA in Connecticut, they could enhance that service, both in providing more nurses and also in providing better services for our veterans. That is what this legislation attempts to do.

Mr. Speaker, H.R. 3936 was carefully crafted to give the VA the flexibility and authority it needs to manage its capital assets. At the same time, it holds VA accountable for protecting the public interest of the United States as stewards of the valuable inventory of structures and lands held in trust by the VA. Finally, it provides the VA with the resources needed to enhance nurses and other professionals within the system so that they can better provide the services that we need. I urge my colleagues to support this legislation.

Mr. RODRIGUEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS), ranking member of the Committee on Veterans' Affairs.

Mr. EVANS. Mr. Speaker, I rise in support of H.R. 3936, the Veterans Health Programs Improvement Act of 2004. I want to thank the gentleman from New Jersey (Mr. SMITH) again for his leadership on these issues. Every time we try to do something good, his name is always in the forefront of the action. I want to thank the gentleman from Texas (Mr. RODRIGUEZ) who came to our committee, has done great work as the subcommittee ranking member obviously through helping not only the gentleman from Connecticut (Mr. SIMMONS) but all veterans across the board. If we gave Medal of Honor awards to Members, he would certainly be given one.

I want to thank everybody for developing this legislation. We have accomplished a lot. Of particular interest to me is the establishment of the capital asset fund to help renovate some of the VA's most underutilized facilities. The VA needs to meet construction priorities in order to maintain a health care system infrastructure that will be called on increasingly as our service men and women return from Iraq with physical and psychological disabilities.

I am also pleased that the legislation will permanently allow the VA to provide sexual trauma counseling to those men and women who have experienced such trauma. The VA should continue to be available to veterans who need help picking up the pieces after these tragic events.

This measure also includes a requirement for VA to develop a pilot to examine the effectiveness of interactive and online recruiting techniques. This pilot program is just one step to update VA's recruitment tools to what are now commonplace recruitment practices in the private sector.

I support this legislation, and I urge my colleagues to do the same.

Mr. SMITH of New Jersey. Mr. Speaker, for the benefit of my colleagues, I include at this point in the RECORD a joint explanatory statement describing the compromise agreement we have reached with the other body.

## EXPLANATORY STATEMENT ON SENATE AMENDMENTS TO H.R. 3936

H.R. 3936, as amended, the Veterans Health Programs Improvement Act of 2004, (Compromise Agreement) reflects a negotiated agreement reached by the House and Senate Committees on Veterans' Affairs (the Committees) concerning provisions in a number of bills considered by the House and the Senate during the 2nd Session of the 108th Congress. The measures considered in this compromise are: H.R. 1318, passed the House on September 13, 2004; H.R. 2786, as introduced in the House on July 17, 2003, H.R. 4231, as amended, passed the House on September 30, 2004; H.R. 4248, as amended, passed the House on October 7, 2004; H.R. 4317, passed the House on June 1, 2004; H.R. 4608, passed the House on July 21, 2004; H.R. 4658, as amended, passed the House on October 7, 2004; H.R. 4768, as amended, passed the House on September 29, 2004; H.R. 4836, passed the House on September 13, 2004 (House Bills); and S. 2485, as amended, reported by the Senate Committee on Veterans' Affairs on September 27, 2004; and S. 2596, as introduced in the Senate on June 24, 2004 (Senate Bills).

The House and Senate Committees on Veterans' Affairs have prepared the following explanation of the Compromise Agreement. Differences between the provisions of the Compromise Agreement and the related provisions of the House and Senate bills are noted, except for clerical corrections, conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

## TITLE I—ASSISTANCE TO HOMELESS VETERANS

### SEC. 101—AUTHORIZATION OF APPROPRIATIONS

*Current law*

Section 2013 of title 38, United States Code, authorizes appropriations of $60 million for fiscal year 2002, and $75 million per year for fiscal years 2003 through 2005, for a program to make grants to providers of comprehensive services for homeless veterans.

*House bill*

Section 2 of H.R. 4248 would increase the annual authorized appropriation for this program to $99 million for fiscal year 2005.

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 203 of the Compromise Agreement follows the House language.

## TITLE II—VETERANS LONG-TERM CARE PROGRAMS

### SEC. 201—ASSISTANCE FOR HIRING AND RETENTION OF NURSES AT STATE VETERANS HOMES

*Current law*

Subchapter V, chapter 17 of title 38, United States Code, authorizes VA to make payments to States for the care of veterans in a State veterans' home.

*House bill*

Section 5 of H.R. 4231 would amend subchapter V, chapter 17 of title 38, United States Code, to add a new section 1744 to authorize the Secretary to make payments to States for the purpose of assisting State veterans' homes in the hiring and retention of registered nurses through the use of an approved incentive program.

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 201 of the Compromise Agreement follows the House language.

### SEC. 202—TREATMENT OF DEPARTMENT OF VETERANS AFFAIRS PER DIEM PAYMENTS TO STATE HOMES FOR VETERANS

*Current law*

Section 1741 of title 38, United States Code, establishes criteria for VA payments to States for the care of veterans in a State veterans' home.

*House bill*

The House Bills contain no comparable provision.

*Senate bill*

Section 203 of S. 2485 would amend section 1741 of title 38, United States Code, to add a new subsection (e) to clarify that per diem payments made by VA to States for the care of veterans in a State veterans' home would not be used to offset or reduce other third party payments made to assist veterans.

*Compromise agreement*

Section 202 of the Compromise Agreement follows the Senate language.

### SEC. 203—EXTENSION OF AUTHORITY TO PROVIDE CARE UNDER LONG-TERM CARE PILOT PROGRAMS

*Current law*

Section 102 of Public Law 106–117, The Veterans Millennium Health Care and Benefits Act, directed VA to carry out three pilot programs over a three-year period to determine the feasibility and practicability of different models for providing long-term care. The authority for the pilot program expires December 31, 2004.

*House bill*

Section 107 of H.R. 4768 would extend VA's authority to provide health care services under the long-term care pilot programs authorized in Public Law 106–117 through December 31, 2005.

*Senate bill*

Section 206 of S. 2485 contains a similar provision.

*Compromise agreement*

Section 203 of the Compromise Agreement contains this provision.

### SEC. 204—PROHIBITION ON COLLECTION OF COPAYMENTS FOR HOSPICE CARE

*Current law*

Section 1710B(c) of title 38, United States Code, requires certain veterans to pay a copayment for extended care services furnished under that section.

*House bill*

The House Bills contain no comparable provision.

*Senate bill*

Section 201 of S. 2485 would exempt veterans receiving hospice care under Section 1710B from copayment obligations.

*Compromise agreement*

Section 204 of the Compromise Agreement follows the Senate language.

## TITLE III—MEDICAL CARE

### SEC. 301—SEXUAL TRAUMA COUNSELING PROGRAM

*Current law*

Section 1720(D)(a) of title 38, United States Code, authorizes VA to provide counseling services to veterans who may have experienced sexual trauma while serving on active duty through December 31, 2004.

*House bill*

Section 3 of H.R. 4248 would make this authority permanent.

*Senate bill*

Section 202 of S. 2485 would make this authority permanent and broaden the authority to include the treatment of former Reservists who may have experienced sexual trauma while not serving on active duty.

*Compromise agreement*

Section 301 of the Compromise Agreement follows the House language with a modification. The modification broadens the authority to provide counseling services to individuals who may have experienced sexual trauma while on active duty for training.

### SEC. 302—CENTERS FOR RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES ON COMPLEX MULTI-TRAUMA ASSOCIATED WITH COMBAT INJURIES

*Current law*

There is no comparable provision in current law.

*House bill*

The House Bills contain no comparable provision.

*Senate bill*

Section 205 of S. 2485 would establish, in collaboration with the Department of Defense, at least one, but not more than three, VA "War-Related Blast Injury Centers", and establish procedures for the Secretary's designation of such centers. These centers would provide comprehensive rehabilitation programs, targeted education and outreach programs, and research initiatives for veterans injured by explosive blasts in combat theaters.

*Compromise agreement*

Section 203 of the Compromise Agreement authorizes, and authorized the appropriations to support, the Secretary to establish an appropriate number of centers for research, education, and clinical activities to improve and coordinate rehabilitative services for veterans suffering from complex multi-trauma from combat injuries. The Compromise Agreement consolidates a number of current VA clinical, research and other practices for traumatic brain injuries, blind rehabilitation and VA's concepts for combat-injury rehabilitation. The Compromise·Agreement requires this authority be coordinated between the Departments of Veterans Affairs and Defense under section 8111 of title 38, United States Code.

### SEC. 303—ENHANCEMENT OF MEDICAL PREPAREDNESS OF DEPARTMENT OF VETERANS AFFAIRS

*Current law*

Section 7325 of title 38, United States Code, requires the Secretary to establish four Medical Emergency Preparedness Research Centers.

*House bill*

Section 202 of H.R. 4768 would amend chapter 73, of title 38, United States Code to add a new section 7327, to direct the Secretary to take a series of actions by dates certain to establish four Medical Emergency Preparedness Research Centers.

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 303 of the Compromise Agreement follows section 202(a) through (c) of the House language.

## TITLE IV—MEDICAL FACILITIES MANAGEMENT AND ADMINISTRATION SUBTITLE A—MAJOR MEDICAL FACILITY LEASES

### SEC. 401—MAJOR MEDICAL FACILITY LEASES

*Current law*

Section 8104(a)(2) of title 38, United States Code, prohibits VA from obligating or expending more than $600,000 per year for a lease unless that lease has been specifically authorized by law.

*House bill*

Section 101(a) of H.R. 4768 would authorize major medical facility leases in the following locations: (1) Wilmington, North Carolina, Outpatient Clinic, $1,320,000; (2) Greenville, North Carolina, Outpatient Clinic, $1,220,000; (3) Norfolk, Virginia, Outpatient Clinic, $1,250,000; (4) Summerfield, Florida, Marion County Outpatient, Clinic, $1,230,000; (5) Knoxville, Tennessee, Outpatient Clinic, $850,000; (6) Toledo, Ohio, Outpatient, Clinic, $1,200,000; (7) Crown Point, Indiana, Outpatient Clinic, $850,000; (8) Forth Worth, Texas, Tarrant County Outpatient Clinic, $3,900,000; (9) Plano, Texas, Collin County Outpatient Clinic, $3,300,000; (10) San Antonio, Texas, Northeast Central Bexar County Outpatient Clinic, $1,400,000; (11) Corpus Christi, Texas, Outpatient Clinic, $1,200,000; (12) Harlingen, Texas, Outpatient Clinic, $650,000; (13) Denver, Colorado, Health Administration Center, $1,950,000; (14) Oakland, California, Outpatient Clinic, $1,700,000; (15) San Diego, California, North County Outpatient Clinic, $1,300,000; and (16) San Diego, California, South County Outpatient Clinic, $1,100,000.

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 401 of the Compromise Agreement follows the House language.

### SEC. 402—AUTHORIZATION OF APPROPRIATIONS

*Current law*

Section 8104(a)(2) of title 38, United States Code, prohibits funds from being appropriated for a VA major medical facility lease, unless that appropriation has been specifically authorized by law.

*House bill*

Section 101(b) of H.R. 4768 would authorize $24,420,000 to carry out major medical facility leases specified location in the bill.

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 402 of the Compromise Agreement follows the House language.

### SEC. 403—AUTHORITY FOR LONG-TERM LEASE OF CERTAIN LANDS OF UNIVERSITY OF COLORADO

*Current law*

Section 490(h) of title 40, United States Code, limits lease agreements between the Federal Government and any person, copartnership, corporation, or other public or private entity to periods not exceeding twenty years.

*House bill*

Section 101(c) of H.R. 4768 would authorize VA to enter into a long-term lease of up to 75 years for land to construct a new VA medical facility at the Fitzsimons Campus of the University of Colorado, Aurora, Colorado.

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 403 of the Compromise Agreement follows the House language. The authority provided in this section is permissive and intended by the Committees to foster good-faith negotiations between the partners to this lease agreement. In the event that the Secretary of Veterans Affairs determines the terms or conditions of the lease not to be in the best interest of the United States, the Secretary should propose an alternative strategy to Congress. The Committees not that the Administrator of General Services has delegated to the Secretary of Veterans Affairs the authority to enter into lease agreements for VA major medical facility leases.

## SUBTITLE B—FACILITIES MANAGEMENT

### SEC. 411—DEPARTMENT OF VETERANS AFFAIRS CAPITAL ASSET FUND

*Current law*

Section 8122 of title 38, United States Code, authorizes the Secretary to dispose of real property administered by VA and retain the proceeds from such a disposal, but only if the property is considered excess to any need, there is no use for the property in providing services to homeless veterans, and the property is valued at less than $50,000. In cases where a property carries value in excess of $50,000, any disposal must be proposed in the President's budget. In the event such property is so disposed of, proceeds are deposited into the Nursing Home Revolving Fund for construction, acquisition, or alteration of VA nursing homes.

*House bill*

Section 102 of H.R. 4768 would amend chapter 81 of title 38, United States Code, to add a new section 8118 to provide the Secretary authority to transfer by sale, exchange or lease unneeded real properties. It would establish a Department of Veterans Affairs Capital Asset Fund to finance these transfers, as well as to construct new and improved VA health care facilities. The Fund could also be used for demolition, environmental restoration, maintenance, repair, historic preservation, and administrative expenses. Section 102 would establish fair market value as the basis for property transfers. It would require the Secretary to include in each budget submission to Congress a report of the uses of the Capital Asset Fund and descriptive information on each transfer completed, pending, and planned. The section would also repeal the Nursing Home Revolving Fund in section 8116 of title 38, United States Code, and transfer remaining balances from that fund to the new Fund. The authority of Section 102 would be contingent upon the Secretary's certifying to Congress that VA facilities maintain long-term care capacity as required by section 1710B(b) of title 38, United States Code.

*Senate bill*

Section 101 of S. 2485 contains a similar proposal.

*Compromise agreement*

Section 411 of the Compromise Agreement follows the House language with modification. The Compromise Agreement modified the contingency authority to pertain to repeal of the Nursing Home Revolving Fund and its remainder deposits. All other authority of section 411 is effective on enactment.

### SEC. 412—ANNUAL REPORT TO CONGRESS ON INVENTORY OF DEPARTMENT OF VETERANS AFFAIRS HISTORIC PROPERTY

*Current law*

No similar provision exists under current law.

*House bill*

Section 103 of H.R. 4768 would require VA to establish a national inventory of historic VA properties and would require two subsequent annual reports to Congress on the status and plans associated with any VA property listed on the National Register of Historic Places.

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 412 of the Compromise Agreement follows the House language.

### SEC. 413—AUTHORITY TO ACQUIRE AND TRANSFER REAL PROPERTY FOR USE FOR HOMELESS VETERANS

*Current law*

Section 8103 of title 38, United States Code, authorizes the Secretary to acquire such land or interest in land as necessary for the purpose of providing medical services.

*House bill*

The House Bills contain no comparable provision.

Senate bill

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 413 of the Compromise Agreement authorizes the Secretary to acquire property in the District of Columbia that the Secretary determines is suitable for providing services to homeless veterans, if the Secretary identifies a provider of homeless services that is prepared to acquire the property from the Secretary. The Compromise Agreement requires the Secretary, having so identified a provider, to promptly transfer the acquired property to that provider of homeless services. The Compromise Agreement provides a reverter power to the Secretary if the provider of homeless services discontinues providing services to homeless veterans.

### SEC. 414—LIMITATION ON IMPLEMENTATION OF MISSION CHANGES FOR SPECIFIED VETERANS HEALTH ADMINISTRATION FACILITIES

*Current law*

Section 401 of Public Law 108-170, the "Veterans Health Care, Capital Asset, and Business Improvement Act of 2003", requires VA to notify Congress of facility closings proposed under the Capital Asset Realignment for Enhanced Services initiative, and prohibits such closings until the lapse of 60 days following the notification or 30 days of continuous session of Congress, whichever is longer.

*House bill*

The House Bills contained no comparable provision.

*Senate bill*

Section 104 of S. 2485 would prohibit the Secretary from implementing a mission change for a medical facility (other than a mission change prescribed by the Secretary in the Capital Asset Realignment for Enhanced Services (CARES) initiative) until 90 days after the date on which the Secretary submits to the Committees written notice of the mission change.

*Compromise agreement*

Section 414 of the Compromise Agreement prohibits the Secretary from implementing a mission change until the lapse of 60 days following the notification or 30 days of continuous session of Congress, whichever is longer, at VA Medical Centers in the following locations: Boston, Massachusetts; New York City, New York; Big Springs, Texas; Dublin, Georgia; Montgomery, Alabama; Louisville, Kentucky; Muskogee (and the outpatient clinic in Tulsa), Oklahoma; Poplar Bluff, Missouri; Ft. Wayne, Indiana; Waco, Texas; and Walla Walla, Washington.

### SEC. 415—AUTHORITY TO USE PROJECT FUNDS TO CONSTRUCT OR RELOCATE SURFACE PARKING INCIDENTAL TO A CONSTRUCTION OR NON-RECURRING MAINTENANCE PROJECT

*Current law*

Section 8109 of title 38, United States Code, limits the funding of construction, alteration or acquisition of VA parking facilities to the collections made from parking fees at VA facilities and deposited into the Parking Revolving Fund.

*House bill*

Section 104 of H.R. 4768 would authorize the use of funds in a construction or capital account for the relocation of a surface parking facility if the relocation is necessitated by a construction or non-recurring maintenance project.

*Senate bill*

Section 103 of S. 2485 would authorize the use of funds in a construction or capital account for the relocation of a surface parking facility if the relocation is necessitated by a construction or non-recurring maintenance project.

*Compromise agreement*

Section 415 of the Compromise Agreement contains this provision.

### SEC. 416—INAPPLICABILITY OF LIMITATION ON USE OF ADVANCE PLANNING FUNDS TO AUTHORIZED MAJOR MEDICAL FACILITY PROJECTS

*Current law*

Section 8104 of title 38, United States Code, limits the amount VA may obligate for the design and development of a major construction proposal to $500,000, unless VA notifies Congress and waits for a period of 30 days.

*House bill*

Section 105 of H.R. 4768 would provide more flexibility to VA by eliminating the "notice and wait" provision if the project VA is planning has already been authorized by law.

*Senate bill*

Section 106 of S. 2485 contains a similar provision.

*Compromise agreement*

Section 416 of the Compromise Agreement contains this provision.

### SEC. 417—IMPROVEMENTS TO ENHANCE-USE LEASE AUTHORITY

*Current law*

Section 8162 of title 38, United States Code, authorizes VA to lease real property within its jurisdiction to non-Federal entities provided the lease contributes to the mission of VA and enhance the use of the property. The enhanced-use lease authority in this section restricts the projects the Secretary may consider to those plans set forth by the Under Secretary for Health. Section 8166, of title 38, United States Code, provides the Secretary permissive authority to disregard State and local laws relating to building codes, permits or inspections that would regulate or restrict construction, alteration, repair, remodeling or improvement of VA property associated with an enhanced-use lease.

*House bill*

Section 106 of H.R. 4768 would add to existing exemptions from State and local laws for enhanced-use leases, any land-use laws and ordinances.

*Senate bill*

Section 102 of S. 2485 would extend the enhanced-use lease authority to the Veterans Benefits Administration and the National Cemetery Administration.

*Compromise agreement*

Section 417 of the Compromise Agreement follows the House language.

### SEC. 418—FIRST OPTION FOR COMMONWEALTH OF KENTUCKY ON DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, LOUISVILLE, KENTUCKY

*Current law*

Section 8122 of title 38, United States Code, requires VA to transfer real property for fair market value and describe the transfer in its annual budget to Congress. This section includes an exception for the transfer of VA property to a State for use as the site of a State nursing home or domiciliary.

*House bill*

The House Bills contain no comparable provision.

*Senate bill*

Section 131 of S. 2485 would require VA for one year, if it determines that it will convey, lease, or otherwise dispose of all or part of the VA Medical Center in Louisville, Kentucky, to negotiate for the conveyance, lease, or other disposal of the property to the Commonwealth of Kentucky to provide services for veterans or for other purposes. The bill would require the Commonwealth to pay fair market value for the property if VA transfers such property to the Commonwealth.

*Compromise agreement*

Section 418 of the Compromise Agreement follows the Senate language, with a modification to include use of the property as a State veterans' home.

### SEC. 419—TRANSFER OF JURISDICTION, GENERAL SERVICES ADMINISTRATION PROPERTY, BOISE, IDAHO

*Current law*

No similar provision exists under current law.

*House bill*

The House Bills contain no comparable provision.

*Senate bill*

Section 111 of S. 2485 would direct the Administrator of General Services to transfer to the Secretary of Veterans Affairs certain property in Boise, Idaho, for the purpose of use in providing veterans benefits services.

*Compromise agreement*

Section 419 of the Compromise Agreement follows the Senate language.

## SUBTITLE C—DESIGNATION OF FACILITIES

### SEC. 421—THOMAS E. CREEK DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

*Current law*

Section 531 of title 38, United States Code, prohibits the naming of VA facilities other than for the geographic area in which they are located, unless expressly provided by law.

*House bill*

H.R. 4836 would designate the Department of Veterans Affairs Medical Center in Amarillo, Texas as the "Thomas E. Creek Department of Veterans Affairs Medical Center".

*Senate bill*

The Senate Bills contain no comparable provision

*Compromise agreement.*

Section 421 of the Compromise Agreement follows the House language.

### SEC. 422—JAMES J. PETERS DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

*Current law*

Section 531 of title 38, United States Code, prohibits the naming of VA facilities other than for the geographic area in which they are located, unless expressly provided by law.

*House bill*

H.R. 2786 would designate the Department of Veterans Affairs Medical Center in the Bronx, New York as the "James J. Peters Department of Veterans Affairs Medical Center".

*Senate bill*

Section 121 of S. 2485 contains a similar provision.

*Compromise agreement*

Section 422 of the Compromise Agreement contains this provision.

### SEC. 423—BOB MICHEL DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

*Current law*

Section 531 of title 38, United States Code, prohibits the naming of VA facilities other than for the geographic area in which they are located, unless expressly provided by law.

*House bill*

H.R. 4608 would designate the Department of Veterans Affairs outpatient clinic in Peoria, Illinois as the "Bob Michel Department of Veterans Affairs Outpatient Clinic".

*Senate bill*

S. 2596 contains a similar provision.

*Compromise agreement*

Section 423 of the Compromise Agreement contains this provision.

### SEC. 424—CHARLES WILSON DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

*Current law*

Section 531 of title 38, United States Code, prohibits the naming of VA facilities other than for the geographic area in which they are located, unless expressly provided by law.

*House bill*

H.R. 4317 would designate the Department of Veterans Affairs outpatient clinic in Lufkin, Texas as the "Charles Wilson Department of Veterans Affairs Outpatient Clinic".

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 424 of the Compromise Agreement follows the House language.

### SEC. 425—THOMAS P. NOONAN, JR. DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

*Current law*

Section 531 of title 38, United States Code, prohibits the naming of VA facilities other than for the geographic area in which they are located, unless expressly provided by law.

*House bill*

H.R. 1318 would designate the Department of Veterans Affairs outpatient clinic in Sunnyside, Queens, New York as the "Thomas P. Noonan, Jr. Department of Veterans Affairs Outpatient Clinic".

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise bill*

Section 425 of the Compromise Agreement follows the House language.

## TITLE V—PERSONNEL ADMINISTRATION

### SEC. 501—PILOT PROGRAM TO STUDY INNOVATIVE RECRUITMENT TOOLS TO ADDRESS NURSING SHORTAGES AT DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITIES

*Current law*

No similar provision exists under current law.

*House bill*

Section 2 of H.R. 4231 would establish a pilot program within VA to study the use of outside recruitment, advertising and communications agencies and the use of interactive and online technologies to improve VA's program for recruiting nursing personnel.

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 501 of the Compromise Agreement follows the House language.

### SEC. 502—TECHNICAL CORRECTION TO LISTING OF CERTAIN HYBRID POSITIONS IN VETERANS HEALTH ADMINISTRATION

*Current law*

Section 7401 of title 38, United States Code, authorizes VA to appoint in a hybrid manner under title 5, United States Code and title 38, United States Code, certain scientific and professional medical care personnel.

*House bill*

Section 4 of H.R. 4231 would make technical corrections to the description of certain occupations included in section 7401 treatable as hybrid appointments, and add blind rehabilitation specialists and blind rehabilitation outpatient specialists to these hybrid appointment categories.

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 502 of the Compromise Agreement follows the House language.

### SEC. 503—UNDER SECRETARY FOR HEALTH

*Current law*

Section 305(A)(2) of title 38, United States Code, requires that the Under Secretary for Health be a "doctor of medicine."

*House bill*

Section 7 of H.R. 4231 would repeal the requirement that VA's Under Secretary for Health be a medical doctor.

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 503 of the Compromise Agreement follows the House language.

## TITLE VI—OTHER MATTERS

### SEC. 601—EXTENSION AND CODIFICATION OF AUTHORITY FOR RECOVERY AUDITS

*Current law*

Section 116 of Public Law 108-199, "Consolidated Appropriations Act, 2004", requires the Secretary to conduct a program of recovery audits to recoup overpayments for fee basis and other medical services contracts for the care of veterans.

*House bill*

The House Bills contain no comparable provision.

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 601 of the Compromise Agreement requires the Secretary of Veterans Affairs to contract to conduct a program of recovery audits for fee basis and other contract care of veterans. The requirement expires on September 30, 2008.

The Committees are encouraged by the Department's increased third party collection in 2003, as a result of more aggressive efforts to improve VA business practices. The Committees expect the Department to assist third party health insurers to process disputed VA claims by using an automated system to download information in standardized formats and to ensure compliance with rules governing dispute resolution through the appeals process.

### SEC. 602—INVENTORY OF MEDICAL WASTE MANAGEMENT ACTIVITIES AT DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITIES

*Current law*

No similar provision exists under current law.

*House bill*

Section 401 of H.R. 4658 would require the Secretary to establish and maintain an inventory of medical waste management activities in VA medical facilities and submit a report on such activities by April 15, 2005. The VA would be required to report on plans to modernize or improve the management of medical waste and evaluate the most desirable methods of disposal from an environmental perspective.

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 602 of the Compromise Agreement follows the House language with a modification to change the report date to June 30, 2005.

### SEC. 603—INCLUSION OF ALL ENROLLED VETERANS AMONG PERSONS ELIGIBLE TO USE CANTEENS OPERATED BY VETERANS' CANTEEN SERVICE

*Current law*

Section 7803 of title 38, United States Code, defines those persons eligible to use the Veterans' Canteen Service.

*House bill*

Section 201 of H.R 4768 would expand the definition of persons eligible to use the Veterans' Canteen Service to include all individuals enrolled in VA health care under section 1705 of title 38, United States Code, or employed at VA facilities, as well as families and relatives of veteran patients.

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 603 of the Compromise Agreement follows the House language.

### SEC. 604—ANNUAL REPORTS ON WAITING TIMES FOR APPOINTMENTS FOR SPECIALTY CARE

*Current law*

No similar provision exists under current law.

*House bill*

The House Bills contain no comparable provision.

*Senate bill*

Section 207 of S. 2485 would require VA to report annually on patient appointment waiting times, including specialty and primary care services, and separate the data by facility and network.

*Compromise agreement*

Section 604 of the Compromise Agreement requires the Secretary to report, not later than January 31 of each year through 2007, on veterans waiting more than 3 months for scheduled appointments in specialty care clinics and on any reasons for such delays. Further, the Compromise Agreement requires the Comptroller General to certify the accuracy of the report submitted under this section.

### SEC. 605—TECHNICAL CLARIFICATION

*Current law*

Section 8111 of title 38, United States Code, requires the Secretary and the Secretary of Defense to enter into agreements and contracts for the mutually beneficial sharing of health care resources and establishes a fund, known as the "DOD-VA Health Care Sharing Incentive Fund" to provide incentives to enter into such sharing initiatives.

*House bill*

Section 6 of H.R. 4231 would make the established DOD-VA Health Care Sharing Incentive Fund available for any purpose authorized by section 8111.

*Senate bill*

The Senate Bills contain no comparable provision.

*Compromise agreement*

Section 605 of the Compromise Agreement follows the House language.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. STEARNS), the author of the law, the Millennium Health Care Act, which has made a tremendous difference on behalf of our seniors who are veterans who need long-term health care.

Mr. STEARNS. Mr. Speaker, I thank the distinguished chairman of the Committee on Veterans' Affairs, and also I want to thank the gentleman from Connecticut who chairs the Subcommittee on Health for what an outstanding job he has done, having served as the chairman of that committee with the very, very good staff that he has. I think it is a credit to him what we are accomplishing.

I think all of my colleagues know that Florida has one of the largest growing populations of veterans. So many of us in Florida have to be particularly sensitive. We need new facilities down there. That is why I am very supportive of H.R. 3936, the Veterans Health Programs Improvement Act. I especially appreciate that it incorporates provisions of H.R. 4768, the Facilities Management Act of 2004, of which I was an original cosponsor. I thank the chairman for including that in H.R. 3936. This will authorize projects which the CARES (Capital Asset Realignment for Enhanced Services) Commission recommended to the Secretary of Veterans Affairs. He based his recommendations last May upon that, and that is included in this bill.

Mr. Speaker, under CARES, the VA reviewed all of its facilities systematically to consider where resources might be reallocated for optimal service to veterans. I think the veterans should realize that this was a systematic study. As more veterans have relocated to the Southeast over the years, it appears the VA has insufficient clinic room in the Southeast, particularly in my State of Florida. Accordingly, the majority of the leases which this legislation would authorize are facilities to be located in the South. The aim has been to match the assets with the veterans, and this bill does just that. Florida, as we know, has the second largest veterans population and the number one oldest.

Obviously, I am pleased to see a lease for a regional health care facility in South Marion County, my home county, Summerfield, Florida. The plans are for this clinic to offer comprehensive services to veterans, including audiology, which is very important; ophthalmology; dermatology, particularly in Florida; minor surgery; and complete imaging services. It is going to be housed in a 75,000-square-foot building and provide more services and greater resources for the veterans than the existing VA outpatient clinics that we have throughout my congressional district. Even better, while this clinic is predicted to be opened in the summer of 2007, appropriations willing, the generous, resourceful people of north central Florida have indeed offered the VA the use of free space for an interim clinic, so that should expedite it. So our ever-increasing veterans population can see immediate relief for their long health-care waits in the winter when they come down will be decreased, and this more comprehensive specialty clinic which the act authorizes will be built and in the long run will help everybody. I am very enthusiastically supporting this bill.

I want to thank both the Democrats and Republicans on the Committee on Veterans' Affairs and particularly the gentleman from Connecticut (Mr. SIMMONS) and the gentleman from New Jersey (Mr. SMITH) for their support.

Mr. RODRIGUEZ. Mr. Speaker, I yield 4½ minutes to the gentleman from California (Mr. FILNER), a member of the Committee on Veterans' Affairs and an activist in pushing forward on issues regarding veterans.

Mr. FILNER. Mr. Speaker, as a member of the VA Subcommittee on Health, I also rise in support of H.R. 3936 which includes, as we have heard, a lot of provisions to enhance services to our Nation's veterans. We have thanked the gentleman from New Jersey (Mr. SMITH), the gentleman from Illinois (Mr. EVANS) and the gentleman from Connecticut (Mr. SIMMONS).

I would particularly like to just thank the gentleman from Texas (Mr. RODRIGUEZ), the ranking member, for his service. I always say, when I get to the committee meetings, "Ciro, you're my hero." The gentleman from Texas, for the 8 years he has been here, has fought steadfastly for his veterans not only in San Antonio but in the United States as a whole. He has done a tremendous amount for health care for our veterans in this Nation, and we thank him for his service. We are going to miss him.

One of the important provisions of this bill is to set up a pilot program to study new and innovative ways to improve the recruitment and retention of nurses at the VA. We all know about the shortage of nurses in our Nation, and we cannot rely on the old methods of recruitment. The use of online technology, for example, can be a valuable tool in finding nurses who are interested in serving the country through their work at a VA medical facility.

Likewise, we have to find ways to keep the nurses that we recruit. A second bill that is before us after this has a provision in fact for alternative work schedules for nurses. Allowing nurses to work these flexible hours to accommodate personal and family needs is a sure way to improve their lives and to encourage them to continue working at the VA center. In addition, this bill provides payments to States to assist State veterans homes in their hiring and retention of nurses.

I think we all know that funding for grants is vital for homeless veterans. That program will be authorized in this bill at a level of $99 million, an increase of $24 million. Although we all know that even more funding is needed to assist the homeless veterans of our Nation, this authorization is a welcome increase. Homelessness among veterans is a national disgrace. I know we are all firmly behind the gentleman from New Jersey's goal of eliminating chronic homelessness within the veterans population in 10 years. This bill will help us reach that goal.

The bill also gives permanent authority to the VA Secretary to continue the military sexual trauma counseling program that was established in 1992. As we have heard, this program provides counseling and treatment for the men and women who have experienced sexual trauma or harassment while in the military service. Again, the gentleman from Texas was a major supporter of this program, and we thank him for his leadership once again.

Funding to open several new outpatient clinics is included in this bill, including two in San Diego County, a portion of which I represent. The VA's move to open clinics near veterans' homes has been overwhelmingly successful.

I will also continue work for a full outpatient health clinic in Imperial County, which is also in my congressional district.

I should add that, as we look at the ways we fund outpatient clinics, the formulas used involve only population. We ought to also, I think, include "isolation" of a county or an area because that is also important, not just the numbers.

These are a few of the provisions in H.R. 3936. Health care of our veterans has to be a priority all the time but especially at this time when we have so many active duty soldiers fighting for this Nation. Whether they are from World War II or from the present conflicts in Afghanistan and Iraq, they are looking to us to meet their needs. Morale in active duty depends on how we are going to treat our soldiers when they come home, so I hope everyone supports H.R. 3936.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 3½ minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, I first want to thank the gentleman from New Jersey (Mr. SMITH) for his leadership and advocacy on behalf of veterans. No one has worked harder for veterans than he has. I appreciate his commitment not only on this bill but across the board in working to improve veterans health care and the benefits for veterans in the United States. I also want to specifically thank John Bradley on the gentleman from New Jersey's committee staff for his willingness to work with my staff on matters of concern to veterans in my district.

The bill before us contains many important provisions related to veterans health care and facilities management. Particularly, section 414 is of specific interest to veterans in my district, and I appreciate the inclusion of this language to force additional reporting to Congress as far as informing us of changes or closure of veterans hospitals.

In May of this year, Secretary Principi issued his decision on the CARES Commission recommendations for veterans health care. Among the slated changes was a mission change for the Fort Wayne veterans hospital located in my district. The decision called for closure of the hospital's inpatient beds and a transfer of those patients to either a community hospital in the local area or the Indianapolis veterans hospital. Fort Wayne is the largest veterans hospital and city in the United States affected by this bill. It is the second largest city in Indiana. The northern Indiana hospital covers an area larger than 2 million people who live 2 to 4 hours from Indianapolis and have no desire to go to Indianapolis, especially for continuing outpatient care; or for some inpatient care; or far away from their doctors where they have to get motels, where their spouses have to come, far away from their families, where their children will not visit them. They have no interest in this process.

Fort Wayne is one of the top military recruiting areas in the United States. In addition, our Guard and Reserve units are regularly serving on the front lines. Currently, I have a Reserve unit of over 200 men and women in Afghanistan for a year. I just had an Air Guard unit return to Fort Wayne from the Middle East. I have another large Reserve unit that just returned from a year down in Guantanamo. This spring, I had an Army Guard unit of 700 return from 14 months in Iraq. None of this was considered in the CARES Commission report.

In Congress, we are asked to repeatedly support, which I support as well, actions in Afghanistan, actions in Iraq and other parts of the world. But we cannot ask men and women in our Guard and Reserve to repeatedly be called up and then not have health care in the districts that they live in.

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The CARES Commission assumed retirement communities, and where the military bases were, were where the future demand was going to be. But if we are going to use the Guard and Reserve in the way we are using them, we are going to provide them health care because if they are on the frontline in combat, they are going to be treated like other military personnel. And if they get called up a second time and third time around, the health care system is going to be revolutionized in the United States, and these people do not retire in Florida. They do not live there. They do not go where the bases are. They live in the communities they work in, in the Guard and the Reserve. And we have to factor this in as we look at the health care system.

Obviously, population shifts have occurred. Obviously, modernization is needed in our veterans hospitals. Obviously, outpatient services are the growing category in all kinds of health care, and we do not need more input. But what I fear when we look at the obvious trends that are occurring is, this is a back-door way to actually reduce benefits for many veterans and people in the Guard and Reserve in areas where they have been loyal patriotic Americans risking and dying, as many have in my district already in these wars, and they do not deserve to have their health care diminished dramatically.

Mr. RODRIGUEZ. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I would like to thank my colleagues on both sides of the aisle: The gentleman from New Jersey (Chairman SMITH); the gentleman from Connecticut (Mr. SIMMONS), subcommittee chairman; the gentleman from Illinois (Mr. EVANS), our ranking member; and the gentleman from Texas (Mr. RODRIGUEZ), ranking member of the subcommittee. They have done a fabulous job in putting together this legislation.

And this is a good day for veterans. It is a good day for veterans because, again, we are beginning to address some of the issues that we should have addressed a long time ago. Let me just say the gentleman from Texas (Mr. RODRIGUEZ) has done a very wonderful job. I am very proud of the work he has done, and I really do commend him to the care and attention that he has given.

And to the gentleman from Illinois (Mr. EVANS), I served with the gentleman from Illinois (Mr. EVANS) when I first came to the House, and I had the opportunity even to vote for him to be Chair. Sonny Montgomery has never forgiven me. But he is the best advocate the veterans have ever had, and I appreciate him each and every day.

Mr. Speaker, this bill is important for a number of reasons. Someone mentioned earlier that homelessness among the veterans of this country is a disgrace, and it really is. I was at the U.S. Vets again on Veterans Day, and that program fed over 600 or 700 veterans off the street who were homeless. Some of them were fortunate enough to be in the program; others just off the street who were fed that day. But any place that one goes in America and particularly in our cities, when they go to the areas where the homeless congregate, whether they are in the downtowns or wherever they are, disproportionately those will be veterans. So this bill increases the overall authorization for the Grant and Per Diem Homeless Veterans Assistance Program from $75 million to $99 million in funding year 2005, and I hope that each year it will continue to go up.

It is a good bill. It has a lot of good things that are covered in the bill. And so I am pleased that I am here to support it, and I would ask my colleagues to do so.

Mr. SMITH of New Jersey. Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I would also like to rise in support of the Veterans Health Program Improvement Act and to the gentleman from Texas (Mr. RODRIGUEZ), the distinguished manager of this particular legislation, who has been a strong advocate for many years on the health care of our veterans.

I would also like to recognize the gentleman from Illinois (Mr. EVANS), the ranking Democrat on this committee, also and thank him for allowing me the opportunity to speak.

As a Member here, this is now going on my third term. But L.A. County in the area that I represent has one of the largest concentrations of veterans, a large number of Vietnam veterans, but in particular, many that are now serving in Iraq and Afghanistan.

And I am very delighted to see that there has been an extension of the sexual trauma counseling program, and this has been made permanent, and I would like to commend those that worked on this in particular because this has been a subject for the Women's Caucus. We actually had an informal hearing here and brought forward individuals to talk to us about how we could remedy this problem. It is something we have to work on, and sexual assault in the military is something that we all know is unacceptable. The counseling program is one step towards helping victims access services that they deserve. And studies, as we know, have shown that three-fourths of the female veterans who are raped did not report the incident to a ranking officer. Many did not know how to, and some even thought that rape was somehow expected in the military. Since

August of 2002 until November 1 of this year, there has been an estimated 261 cases of sexual assault in Iraq, Kuwait, Afghanistan and Bahrain.

We must enforce a zero-tolerance policy within the Armed Forces and protect all of our veterans, women and men, from having to cope with these injustices. And I urge the Congress to support this piece of vital legislation and also want to thank those who worked on this legislation to increase the health care services for our veterans.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Let me say that this particular piece of legislation is extremely important. I know, as has been mentioned, the importance of the number of veterans that are still estimated to be homeless, some 299,000 veterans out there that sleep under the bridges, and I know that our efforts in this area will help begin to continue to decrease the number of those homeless veterans that are out there.

According to the VA, 45 percent of the homeless veterans also suffer from mental health disorders. We know the importance of coming forth on post-traumatic stress disorder and how critical that is. And I also want to just emphasize how key and how important it is for the sexual trauma situations where we have improved in increasing the number of women in the military, and as we do that, we need to make sure that we have a good safe place for a work environment where they can feel comfortable in addition to the services that are needed.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise as a strong supporter of H.R. 3936 the Veterans Health Programs Improvement Act of 2004 which would increase the authorization of appropriations for grants to benefit homeless veterans, would improve programs for management and administration of veterans' facilities and health care programs. I want to thank Chairman SMITH and Ranking Member EVANS for bringing this necessary piece of legislation before this entire body.

Veterans are some of America's most valued members of society. These are people who served our Nation in a time of need, people who risked their lives to protect our own. Yet, it pains me to say that many of these same veterans who fought so bravely and risked so much in lands far abroad have come back to their nation and are now homeless. The problem of homeless veterans is far more prevalent than we would like to believe. About one-third of the entire adult homeless population has served their country in the Armed Services. On any given day, as many as 250,000 veterans, both male and female, are living on the streets or in shelters, and perhaps twice as many experience hopelessness at some point during the course of a year. Many other veterans are considered near homeless or at risk because of their poverty, lack of support from family and friends, and dismal living conditions in cheap hotels or in overcrowded or substandard housing.

This legislation is necessary not only because this problem is so devastating and prevalent, but also because homeless veterans have special needs that are unique from those faced by the rest of the homeless population. Almost all homeless veterans are male, with three percent being female, the vast majority are single, and most come from poor, disadvantaged backgrounds. Homeless veterans tend to be older and more educated than homeless non-veterans. But similar to the general population of homeless adult males, about 45% of homeless veterans suffer from mental illness and slightly more than 70% suffer from alcohol or other drug abuse problems. Roughly 56% are African American or Hispanic.

I believe that the Veterans Health Programs Improvement Act will help make an impact in helping homeless veterans and ensuring that they have a viable future. This legislation has a number of important provisions, but in my mind none is more important than the issue of homeless veterans. If we cannot even provide our brave veterans with basic necessities then where are we as a Nation? Our Nation's veterans did not risk their lives abroad so that they could come home and feel a cold shoulder. We must all have outrage that so many of our Nation's veterans live this way; only then can we find a way to correct this injustice.

Mr. REYES. Mr. Speaker, I rise today in support of H.R. 3936, the Veterans Health Programs Improvement Act of 2004. I would like to thank the sponsors of this legislation, Chairman CHRIS SMITH and Ranking Member LANE EVANS for their work to bring it through the House Veterans Affairs Committee and to the floor expeditiously.

Among other important actions, H.R. 3936 would provide the needed funding to assist our homeless veterans. As a Vietnam veteran and Member of Congress, I know the importance of addressing and appropriately funding programs to end homelessness among our veteran population. I feel this legislation is a step in the right direction to meet this need.

Sadly, today's homeless veteran population are men and women who have resorted to living out in the streets of the very same country they committed to serve. In addition, nearly half of this population consists of veterans who served with me in Vietnam.

Mr. Speaker, I can't stress enough the importance of this legislation, especially at a time of conflict that is increasing the veteran population. We should not forget the sacrifices made by our Nation's veterans. Instead, we need to uphold our promise to care for those who have answered the call to duty.

Mr. Speaker, I strongly urge my colleagues to support the passage of this important bill.

Mr. BEAUPREZ. Mr. Speaker, I rise today in support of H.R. 3936, the Veterans Health Programs Improvement Act of 2004. Today, more than ever, it is imperative that we address the benefits we provide to our Nation's veterans. Over the past few decades, the needs of veterans have evolved, and it is incumbent upon us to ensure the benefits they have so dutifully earned will sufficiently meet those changing needs.

Included in this bill is language to allow the Department of Veterans Affairs to begin negotiations with the University of Colorado for the land on which to build a new, state-of-the-art veterans medical facility on the Fitzsimons Campus in Aurora, CO. This landmark veterans hospital will be capable of providing services that were previously unthinkable in many of the unequipped, outdated VA hospitals of the past.

Through a collaboration between the VA, the DOD, and the University of Colorado, veterans in the Rocky Mountain region will gain access to a higher quality of health care made possible thanks to 21st century innovations and the synergy of this unique partnership.

Mr. Speaker, I applaud the efforts of everyone involved in bringing this bill to the floor for a vote today. It is a paramount piece of legislation not only for the veterans in my district, but for all of our Nation's veterans, and I strongly support its intent.

Mr. RODRIGUEZ. Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 3936.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3936.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE PERSONNEL ENHANCEMENT ACT OF 2004

Mr. SIMMONS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2484) to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes.

The Clerk read as follows:

S. 2484

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004".

**SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

**SEC. 3. SIMPLIFICATION AND IMPROVEMENT OF GRADE AND PAY PROVISIONS FOR PHYSICIANS AND DENTISTS.**

(a) Simplification of Grades and Grade Requirements.—(1) Subsection (b) of section 7404 is amended—

(A) by striking "(1)" after "(b)";

(B) in the Physician and Dentist Schedule, by striking the items relating to the grades and inserting the following:

"Physician grade.

"Dentist grade."; and

(C) by striking paragraph (2).

(2) Subsection (a) of such section is amended by adding at the end the following: "The pay of physicians and dentists serving in positions to which an Executive order applies under the preceding sentence shall be determined under subchapter III of this chapter instead of such Executive order.".

(b) Simplification and Improvement of Pay Authorities.—Subchapter III of chapter 74 is amended to read as follows:

## "SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

### "§ 7431. Pay

"(a) Elements of Pay.—Pay of physicians and dentists in the Veterans Health Administration shall consist of three elements as follows:

"(1) Base pay as provided for under subsection (b).

"(2) Market pay as provided for under subsection (c).

"(3) Performance pay as provided under subsection (d).

"(b) Base Pay.—One element of pay for physicians and dentists shall be base pay. Base pay shall meet the following requirements:

"(1) Each physician and dentist is entitled to base pay determined under the Physician and Dentist Base and Longevity Pay Schedule.

"(2) The Physician and Dentist Base and Longevity Pay Schedule is composed of 15 rates of base pay designated, from the lowest rate of pay to the highest rate of pay, as base pay steps 1 through 15.

"(3) The rate of base pay payable to a physician or dentist is based on the total number of the years of the service of the physician or dentist in the Veterans Health Administration as follows:

| "For a physician or dentist with total service of: | The rate of base pay is the rate payable for: |
|---|---|
| two years or less | step 1 |
| more than 2 years and not more than 4 years | step 2 |
| more than 4 years and not more than 6 years | step 3 |
| more than 6 years and not more than 8 years | step 4 |
| more than 8 years and not more than 10 years | step 5 |
| more than 10 years and not more than 12 years | step 6 |
| more than 12 years and not more than 14 years | step 7 |
| more than 14 years and not more than 16 years | step 8 |
| more than 16 years and not more than 18 years | step 9 |
| more than 18 years and not more than 20 years | step 10 |
| more than 20 years and not more than 22 years | step 11 |
| more than 22 years and not more than 24 years | step 12 |
| more than 24 years and not more than 26 years | step 13 |
| more than 26 years and not more than 28 years | step 14 |
| more than 28 years | step 15. |

"(4) At the same time as rates of basic pay are increased for a year under section 5303 of title 5, the Secretary shall increase the amount of base pay payable under this subsection for that year by a percentage equal to the percentage by which rates of basic pay are increased under such section for that year.

"(c) Market Pay.—One element of pay for physicians and dentists shall be market pay. Market pay shall meet the following requirements:

"(1) Each physician and dentist is eligible for market pay.

"(2) Market pay shall consist of pay intended to reflect the recruitment and retention needs for the specialty or assignment (as defined by the Secretary) of a particular physician or dentist in a facility of the Department of Veterans Affairs.

"(3) The annual amount of the market pay payable to a physician or dentist shall be determined by the Secretary on a case-by-case basis.

"(4)(A) In determining the amount of market pay for physicians or dentists, the Secretary shall consult two or more national surveys of pay for physicians or dentists, as applicable, whether prepared by private, public, or quasi-public entities in order to make a general assessment of the range of pays payable to physicians or dentists, as applicable.

"(B)(i) In determining the amount of the market pay for a particular physician or dentist under this subsection, and in determining a tier (if any) to apply to a physician or dentist under subsection (e)(1)(B), the Secretary shall consult with and consider the recommendations of an appropriate panel or board composed of physicians or dentists (as applicable).

"(ii) A physician or dentist may not be a member of the panel or board that makes recommendations under clause (i) with respect to the market pay of such physician or dentist, as the case may be.

"(iii) The Secretary should, to the extent practicable, ensure that a panel or board consulted under this subparagraph includes physicians or dentists (as applicable) who are practicing clinicians and who do not hold management positions in the medical facility of the Department at which the physician or dentist subject to the consultation is employed.

"(5) The determination of the amount of market pay of a physician or dentist shall take into account—

"(A) the level of experience of the physician or dentist in the specialty or assignment of the physician or dentist;

"(B) the need for the specialty or assignment of the physician or dentist at the medical facility of the Department concerned;

"(C) the health care labor market for the specialty or assignment of the physician or dentist, which may cover any geographic area the Secretary considers appropriate for the specialty or assignment;

"(D) the board certifications, if any, of the physician or dentist;

"(E) the prior experience, if any, of the physician or dentist as an employee of the Veterans Health Administration; and

"(F) such other considerations as the Secretary considers appropriate.

"(6) The amount of market pay of a physician or dentist shall be evaluated by the Secretary not less often than once every 24 months. The amount of market pay may be adjusted as the result of an evaluation under this paragraph. A physician or dentist whose market pay is evaluated under this paragraph shall receive written notice of the results of such evaluation in accordance with procedures prescribed under section 7433 of this title.

"(7) No adjustment of the amount of market pay of a physician or dentist under paragraph (6) may result in a reduction of the amount of market pay of the physician or dentist while in the same position or assignment at the medical facility of the Department concerned.

"(d) Performance Pay.—(1) One element of pay for physicians and dentists shall be performance pay.

"(2) Performance pay shall be paid to a physician or dentist on the basis of the physician's or dentist's achievement of specific goals and performance objectives prescribed by the Secretary.

"(3) The Secretary shall ensure that each physician and dentist of the Department is advised of the specific goals or objectives that are to be measured by the Secretary in determining the eligibility of that physician or dentist for performance pay.

"(4) The amount of the performance pay payable to a physician or dentist may vary annually on the basis of individual achievement or attainment of the goals or objectives applicable to the physician or dentist under paragraph (2).

"(5) The amount of performance pay payable to a physician or dentist in a fiscal year shall be determined in accordance with regulations prescribed by the Secretary, but may not exceed the lower of—

"(A) $15,000; or

"(B) the amount equal to 7.5 percent of the sum of the base pay and the market pay payable to such physician or dentist in that fiscal year.

"(6) A failure to meet goals or objectives applicable to a physician or dentist under paragraph (2) may not be the sole basis for an adverse personnel action against that physician or dentist.

"(e) Requirements and Limitations on Total Pay.—(1)(A) Not less often than once every two years, the Secretary shall prescribe for Department-wide applicability the minimum and maximum amounts of annual pay that may be paid under this section to physicians and the minimum and maximum amounts of annual pay that may be paid under this section to dentists.

"(B) The Secretary may prescribe for Department-wide applicability under this paragraph separate minimum and maximum amounts of pay for a specialty or assignment. If the Secretary prescribes separate minimum and maximum amounts for a specialty or assignment, the Secretary may establish up to four tiers of minimum and maximum amounts for such specialty or assignment and prescribe for each tier a minimum amount and a maximum amount that the Secretary determines appropriate for the professional responsibilities, professional achievements, and administrative duties of the physicians or dentists (as the case may be) whose pay is set within that tier.

"(C) Amounts prescribed under this paragraph shall be published in the Federal Register, and shall not take effect until at least 60 days after the date of publication.

"(2) Except as provided in paragraph (3) and subject to paragraph (4), the sum of the total amount of the annual rate of base pay payable to a physician or dentist under subsection (b) and the market pay determined for the physician or dentist under subsection (c) may not be less than the minimum amount, nor more than the maximum amount, applicable to specialty or assignment of the physician or dentist under paragraph (1).

"(3) The sum of the total amount of the annual rate of base pay payable to a physician or dentist under subsection (b) and the market pay determined for the physician or dentist under subsection (c) may exceed the maximum amount applicable to the specialty or assignment of the physician or dentist under paragraph (1) as a result of an adjustment under paragraph (3) or (4) of subsection (b).

"(4) In no case may the total amount of compensation paid to a physician or dentist under this title in any year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3.

"(f) TREATMENT OF PAY.—Pay under subsections (b) and (c) of this section shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

"(g) ANCILLARY EFFECTS OF DECREASES IN PAY.—(1) A decrease in pay of a physician or dentist resulting from an adjustment in the amount of market pay of the physician or dentist under subsection (c) shall not be treated as an adverse action.

"(2) If the pay of a physician or dentist is reduced under this subchapter as a result of an involuntary reassignment in connection with a disciplinary action taken against the physician or dentist, the involuntary reassignment shall be subject to appeal under subchapter V of this chapter.

"(h) DELEGATION OF RESPONSIBILITIES.—The Secretary may delegate to an appropriate officer or employee of the Department any responsibility of the Secretary under subsection (c), (d), or (e) except for the responsibilities of the Secretary under subsection (e)(1).

**"§ 7432. Pay of Under Secretary for Health**

"(a) BASE PAY.—The base pay of the Under Secretary for Health shall be the annual rate of basic pay for positions at Level III of the Executive Schedule under section 5314 of title 5.

"(b) MARKET PAY.—(1) In the case of an Under Secretary for Health who is also a physician or dentist, in addition to the base pay specified in subsection (a) the Under Secretary for Health may also be paid the market pay element of pay of physicians and dentists under section 7431(c) of this title.

"(2) The amount of market pay of the Under Secretary for Health under this subsection shall be established by the Secretary.

"(3) In establishing the amount of market pay of the Under Secretary for Health under this subsection, the Secretary shall utilize an appropriate health care labor market selected by the Secretary for purposes of this subsection.

"(c) TREATMENT OF PAY.—Pay under this section shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

**"§ 7433. Administrative matters**

"(a) REGULATIONS.—(1) The Secretary shall prescribe regulations relating to the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

"(2) In prescribing the regulations, the Secretary shall take into account the recommendations of the Under Secretary for Health on the administration of this subchapter. In formulating recommendations for the purpose of this paragraph, the Under Secretary shall request the views of representatives of labor organizations that are exclusive representatives of physicians and dentists of the Department and the views of representatives of professional organizations of physicians and dentists of the Department.

"(b) REPORTS.—(1) Not later than 18 months after the Secretary prescribes the regulations required by subsection (a), and annually thereafter for the next 5 years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

"(2) Each report under this subsection shall include the following:

"(A) A description of the rates of pay in effect during the current fiscal year with a comparison to the rates in effect during the fiscal year preceding the current fiscal year, set forth by facility and by specialty.

"(B) The number of physicians and dentists who left the Veterans Health Administration during the preceding fiscal year.

"(C) The number of unfilled physician positions and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and an assessment of the reasons that such positions remain unfilled.

"(D) An assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

"(3) The first two annual reports under this subsection shall also include a comparison of staffing levels, contract expenditures, and average salaries of physicians and dentists in the Veterans Health Administration for the current fiscal year and for the fiscal year preceding the current fiscal year, set forth by facility and by specialty.".

(c) INITIAL RATES OF BASE PAY FOR PHYSICIANS AND DENTISTS.—The initial rates of base pay established for the base pay steps under the Physician and Dentist Base and Longevity Pay Schedule provided in section 7431(b) of title 38, United States Code (as added by subsection (b)), are as follows:

| Base Pay Step: | Rate of Pay: |
|---|---|
| 1 | $90,000 |
| 2 | $93,000 |
| 3 | $96,000 |
| 4 | $99,000 |
| 5 | $102,000 |
| 6 | $105,000 |
| 7 | $108,000 |
| 8 | $111,000 |
| 9 | $114,000 |
| 10 | $117,000 |
| 11 | $120,000 |
| 12 | $123,000 |
| 13 | $126,000 |
| 14 | $129,000 |
| 15 | $132,000 |

(d) EFFECTIVE DATE.—(1) Notwithstanding the 60-day waiting requirement in section 7431(e)(1)(C) of title 38, United States Code (as amended by subsection (b)), pay provided for a physician or dentist under subchapter III of chapter 74 of such title, as amended by subsection (b), shall take effect on the first day of the first pay period applicable to such physician or dentist that begins on or after January 1, 2006.

(2) Pay provided for the Under Secretary for Health under subchapter III of chapter 74 of title 38, United States Code, as amended by this section shall take effect on the first day of the first pay period applicable to the Under Secretary that begins on or after January 1, 2006.

(e) TRANSITION PROVISIONS.—

(1) PHYSICIANS AND DENTISTS.—

(A) PAY.—(i) The amount of the pay payable on and after the date of the enactment of this Act to a physician or dentist in receipt of pay under section 7404 or 7405 of title 38, United States Code, as of the day before such date shall continue to be determined under such section (as in effect on the day before such date) until the effective date that is applicable under subsection (d) to such physician or dentist, as the case may be.

(ii) A physician or dentist appointed or reassigned on or after the date of the enactment of this Act, but before the effective date applicable under subsection (d) to such physician or dentist, shall be compensated in accordance with applicable provisions of section 7404 or 7405 of title 38, United States Code (as in effect on the day before date of the enactment of this Act), until such effective date.

(B) SPECIAL PAY.—(i) A special pay agreement entered into by a physician or dentist under subchapter III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, a physician or dentist in receipt of special pay pursuant to such an agreement on that date shall continue to receive special pay under the terms of such agreement until the effective date that is applicable under subsection (d) to such physician or dentist.

(ii) A physician or dentist described in subparagraph (A)(ii) may be paid special pay under applicable provisions of section 7433, 7434, 7435, or 7436 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of the appointment or reassignment of such physician or dentist, as the case may be, and ending on the effective date applicable under subsection (d) to such physician or dentist. However, no special pay agreement shall be required for the payment of special pay under this clause.

(C) TREATMENT OF SPECIAL PAY.—(i) Special pay paid under subparagraph (B) to a physician or dentist during the period beginning on the date of the enactment of this Act and ending on the effective date applicable under subsection (d) to such physician or dentist shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act).

(ii) Special pay paid to a physician or dentist under section 7438 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(D) PRESERVATION OF PAY.—The amount of pay paid to a physician or dentist after the effective date of this Act shall not be less than the amount of pay paid to such physician or dentist on the day before the effective date of this Act while such physician or dentist remains in the same position or assignment.

(2) UNDER SECRETARY FOR HEALTH.—

(A) SPECIAL PAY.—(i) The current special pay agreement entered into by the Under Secretary for Health under subchapters I and

III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, the Under Secretary shall continue to receive special pay under the terms of such agreement until the effective date that is applicable under subsection (d) to the Under Secretary.

(ii) An individual appointed as Under Secretary for Health on or after the date of the enactment of this Act and before the effective date applicable under subsection (d) to the Under Secretary shall be paid special pay in accordance with the provisions of sections 7432(d)(2) and 7433 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of appointment and ending on such effective date. However, no special pay agreement shall be required for the payment of special pay under this clause.

(B) TREATMENT OF SPECIAL PAY.—Special pay paid under subparagraph (A) during the period beginning on the date of the enactment of this Act and ending on the effective date applicable under subsection (d) to the Under Secretary—

(i) shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act); and

(ii) shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(f) CONFORMING AMENDMENTS.—Section 7404 is amended—

(1) in subsection (c), by striking “special pay” and inserting “pay”; and

(2) in subsection (d), by striking “pay may not be paid” and all that follows and inserting “pay for positions for which basic pay is paid under this section may not be paid at a rate in excess of the rate of basic pay authorized by section 5316 of title 5 for positions in Level V of the Executive Schedule.”.

(g) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 74 is amended by striking the items relating to subchapter III and inserting the following new items:

“SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

“Sec. 7431. Pay.
“Sec. 7432. Pay of Under Secretary for Health.
“Sec. 7433. Administrative matters.”.

### SEC. 4. ALTERNATE WORK SCHEDULES FOR REGISTERED NURSES.

(a) IN GENERAL.—(1) Chapter 74 is amended by inserting after section 7456 the following new section:

**“§ 7456A. Nurses: alternate work schedules**

“(a) APPLICABILITY.—This section applies to registered nurses appointed under this chapter.

“(b) 36/40 WORK SCHEDULE.—(1)(A) Subject to paragraph (2), if the Secretary determines it to be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work three regularly scheduled 12-hour tours of duty within a work week shall be considered for all purposes to have worked a full 40-hour basic work week.

“(B) A nurse who works under the authority in subparagraph (A) shall be considered a 0.90 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings.

“(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) to have worked a full 40-hour basic work week shall be subject to subparagraphs (B) and (C).

“(B) The hourly rate of basic pay for a nurse covered by this paragraph for service performed as part of a regularly scheduled 36-hour tour of duty within the work week shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

“(C) The Secretary shall pay overtime pay to a nurse covered by this paragraph who—

“(i) performs a period of service in excess of such nurse's regularly scheduled 36-hour tour of duty within an administrative work week;

“(ii) for officially ordered or approved service, performs a period of service in excess of 8 hours on a day other than a day on which such nurse's regularly scheduled 12-hour tour of duty falls;

“(iii) performs a period of service in excess of 12 hours for any day included in the regularly scheduled 36-hour tour of duty work week; or

“(iv) performs a period of service in excess of 40 hours during an administrative work week.

“(D) The Secretary may provide a nurse to whom this subsection applies with additional pay under section 7453 of this title for any period included in a regularly scheduled 12-hour tour of duty.

“(3) A nurse who works a work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for every nine hours of absence.

“(c) HOLIDAY PAY.—A nurse working a work schedule under subsection (b) that includes a holiday designated by law or Executive order shall be eligible for holiday pay under section 7453(d) of this title for any service performed by the nurse on such holiday under such section.

“(d) 9-MONTH WORK SCHEDULE FOR CERTAIN NURSES.—(1) The Secretary may authorize a registered nurse appointed under section 7405 of this title, with the nurse's written consent, to work full time for nine months with 3 months off duty, within a fiscal year, and be paid at 75 percent of the full-time rate for such nurse's grade for each pay period of such fiscal year.

“(2) A nurse who works under the authority in paragraph (1) shall be considered a 0.75 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings.

“(3) Work under this subsection shall be considered part-time service for purposes of computing benefits under chapters 83 and 84 of title 5.

“(4) A nurse who works under the authority in paragraph (1) shall be considered a full-time employee for purposes of chapter 89 of title 5.

“(e) NOTIFICATION OF MODIFICATION OF BENEFITS.—The Secretary shall provide each employee with respect to whom an alternate work schedule under this section may apply written notice of the effect, if any, that the alternate work schedule will have on the employee's health care premium, retirement, life insurance premium, probationary status, or other benefit or condition of employment. The notice shall be provided not later than 14 days before the employee consents to the alternate work schedule.

“(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.”.

(2) The table of sections at the beginning of chapter 74 is amended by inserting after the item relating to section 7456 the following new item:

“Sec. 7456A. Nurses: alternate work schedules.”.

(b) POLICY AGAINST CERTAIN WORK HOURS.—(1) It is the sense of Congress to encourage the Secretary of Veterans Affairs to prevent work hours by nurses providing direct patient care in excess of 12 consecutive hours or in excess of 60 hours in any 7-day period, except in the case of nurses providing emergency care.

(2) Not later than one year after the date of the enactment of this Act and every year thereafter for the next two years, the Secretary shall certify to Congress whether or not each Veterans Health Administration facility has in place, as of the date of such certification, a policy designed to prevent work hours by nurses providing direct patient care (other than nurses providing emergency care) in excess of 12 consecutive hours or in excess of 60 hours in any 7-day period.

### SEC. 5. NURSE EXECUTIVE SPECIAL PAY.

Section 7452 is amended by adding at the end the following new subsection:

“(g)(1) In order to recruit and retain highly qualified Department nurse executives, the Secretary may, in accordance with regulations prescribed by the Secretary, pay special pay to the nurse executive at each location as follows:

“(A) Each Department health care facility.

“(B) The Central Office.

“(2) The amount of special pay paid to a nurse executive under paragraph (1) shall be not less than $10,000 or more than $25,000.

“(3) The amount of special pay paid to a nurse executive under paragraph (1) shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the personal qualifications of the nurse executive, the characteristics of the health care facility concerned, the nature and number of specialty care units at the health care facility concerned, demonstrated difficulties in recruitment and retention of nurse executives at the health care facility concerned, and such other factors as the Secretary considers appropriate.

“(4) Special pay paid to a nurse executive under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V of this chapter.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SIMMONS) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House considers S. 2484, the Department of Veterans Affairs Personnel Enhancement Act of 2004. This legislation is designed to improve VA's ability to recruit and retain physicians and nurses. The bill represents a compromise agreement between the two bodies and is supported by the administration.

The Department of Veterans Affairs has almost 1,000 vacancies for full-time physicians, particularly specialists. Inadequate salaries are one of the biggest obstacles to filling these physician vacancies. Because VA is not able to hire the physician it needs, it will spend over a billion dollars this year for non-VA physicians to care for veterans under contractual agreements.

Thirteen years have passed since Congress last made changes to the VA physician and dentist compensation system. Last year, VA submitted a legislative proposal to allow VA to be more competitive in physician recruitment. After receiving that proposal, we worked with our Senate counterparts, the VA and interested organizations to craft the compromise legislation before the House today.

The largest component of physician compensation for most physicians would be fixed in statute and adjusted annually. A second component, market pay, would be determined through an open three-step process. VA's Under Secretary for Health in formulating recommendations on pay to the Secretary would solicit the views of concerned employee representatives and professional organizations. The Secretary would then provide notice in the Federal Register with a 60-day waiting period before adjustments to pay bans would be finalized.

Further, the compromise agreement would require VA to provide each physician and dentist written notice of any decisions made by the VA concerning their pay.

This compromise agreement would also provide a third component of compensation that addresses the issue of performance pay for physicians and dentists. Any award of performance pay would be made on the basis of an individual physician's or dentist's achievement of specific goals agreed upon in advance. This provision is very important because it would ensure that performance payments serve as incentives for good performance rather than as penalties for lack of performance.

The compromise we are considering today is supported by the VA employee representatives and professional organizations and is a very much needed change that should enhance health care for our veterans. The compromise agreement also includes provisions that would ensure proper retirement credits to physicians and dentists during the transition from the current pay system to the new system. It provides a total VA compensation paid to a physician or dentist in a given year would not exceed the salary of the President, and the compromise agreement would also make the new compensation system effective the first pay period following January 1, 2006.

Our compromise agreement includes several provisions from H.R. 4231, which was a bill I introduced earlier this year, to authorize alternative tours of duty for VA registered nurses. This bill passed the House on September 30, 2004, and the provisions are intended to make VA's scheduling of nurse duty hours more flexible and more family-friendly while enabling VA nurses to pursue their careers in VA health care.

Mr. Speaker, this is a good bill that ought to pass.

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2484, the Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004. I am pleased that this bill is the result of the collaboration of the House and Senate Committee on Veterans' Affairs' staff working with the representatives from the VA, the National Association of VA Physicians and Dentists, and the American Federation of Government Employees.

This legislation has been a long time coming and provides much needed updated improvements in how the VA physicians and dentists are compensated. The VA's current system of pay for physicians and dentists has not been modified since 1991 and has not kept up with the compensation for doctors in the private and academic sectors. According to the testimony from the VA in June of this year, the effects of the noncompetitive pay and benefits are reflected in the dramatic increases in the VA's reliance on expensive, scarce medical specialist contracts and fee-based care.

This bill establishes two components that make up the physician's total salary and also incorporates additional performance pay.

□ 1530

Under this new system, base pay for doctors is comprised of 15 steps.

Physicians automatically move up one step every 2 years, so a doctor's base pay is based on the number of years he or she has worked in the VA health care system. Step increases in base pay are another way of rewarding the VA doctors for their long-term commitment to caring for our veterans.

The second component of this particular bill is market pay as set by the Secretary of Veterans Affairs and will be determined according to geographic areas, specialty or assignment, board certifications, and experience.

The VA will rely on national surveys to establish market pay comparable bands, which are then to be published in the Federal Register. Market pay helps the VA achieve comparability with the private sector.

Performance pay makes up the final tier of this new system and is a result of the VA physicians' annual performance reviews measuring achievement as well as attainment of VA "corporate" goals. This bipartisan bill also contains special pay for the VA nurse executives, a bonus of between $10,000 and $25,000, which is based on several descriptive factors.

This will also help further the VA's ability to recruit and retain highly qualified nurse executives and adds incentive for those nurses to move into managerial positions within the VA health care system.

Since one of the major causes of dissatisfaction in the nursing workforce is inflexible work schedules, a more flexible work schedule for VA nurses is also provided in this piece of legislation.

This new system of pay for VA physicians and dentists and the provisions for the nurses greatly improves the VA's ability not only to recruit, but also to retain top-quality doctors and nurses to care for our veterans.

I ask my colleagues to join me in supporting this piece of legislation.

I also want to take this opportunity to thank the gentleman from Connecticut (Mr. SIMMONS) for his leadership in this area and also personally thank him for his kind words. It has been rewarding working with him on this particular piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SIMMONS. Mr. Speaker, I yield such time as he may wish to consume to the gentleman from New Jersey (Mr. SMITH), my friend and colleague and the distinguished chairman of the Committee on Veterans' Affairs.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, after 22 years on the House Committee on Veterans' Affairs, Pat Ryan, our chief counsel and staff director, is retiring from government service. I want to take this opportunity to pay tribute to his extraordinary career and his many, many accomplishments.

For over 2 decades, Pat Ryan has made tremendous contributions to many of the most important new veterans laws that have been approved by Congress. He worked on numerous bills to expand services for aging veterans and those in need of long-term health care.

He was instrumental in helping to establish domiciliaries for homeless veterans and was the principal drafter of legislation to authorize VA's transitional housing guarantee program to benefit homeless veterans. Pat played an essential role in helping to establish the Department of Veterans Affairs and in creating the Court of Appeals for Veterans Claims.

Pat has been deeply involved in numerous successful committee initiatives that expanded and strengthened programs to assist surviving spouses and children of servicemembers killed in action or who later died of service-related causes. Over the past 20 years, Pat has helped to increase the Montgomery GI Bill benefit for qualified veterans from $300 per month when he joined the committee to over $1.000 per month today.

Using his budget expertise gained from 10 years working for the VA early in his career, Pat has been an extraordinarily valuable person in helping the Congress to ensure that the VA's budget has been both appropriate and responsive and that all funds are well spent. His extensive knowledge of the law and the inner workings of the VA greatly aided our committee in its work to create exemplary oversight of veterans programs.

From managing the committee's professional staff, to drafting legislation, to overseeing VA's programs and services, Patrick Ryan is the consummate professional. I consider him to be a great friend and a great partner in all that this committee has accomplished during our time together, and it has been an honor to work side by side with him.

On a personal level, Pat Ryan has lived his life in a way that has truly made a difference and has walked to the beat of our Lord's drummer when He said whatever you do to the least of my brethren, you do likewise to me. For Pat, that means always looking out for the little guy. I have such respect and admiration for that character trait, and it is very strong in Patrick Ryan. What motivates him more than anything else, and it is first and foremost in his life, is his love for his wife, Kathy, and their three children: Kerry, Dan, and Julia. For Pat Ryan, family always comes first.

Pat is ever proud of his father who has passed, William Everest Ryan, who was a proud Marine and who saw combat during World War II in the South Pacific where he was wounded and won the Purple Heart award. He later joined the Justice Department while continuing in the Marine reserves as an officer in the JAG, retiring with the rank of colonel in 1964. Pat Ryan has spent his entire career in Congress, defending the same values his father defended on the battlefield and in the courtroom.

Mr. Speaker, on behalf of his colleagues in the House and members of the Committee on Veterans' Affairs who know and admire him so much, and other Members who have known and worked with him, and on behalf of millions of veterans who have benefited from his work, but have never known his name, I want to thank Pat Ryan for a distinguished career of faithful public service. It has been an honor to work with him.

Mr. RODRIGUEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS), our ranking member.

Mr. EVANS. Mr. Speaker, I rise in support of S. 2484, the Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004.

There are now over 14,000 physicians and dentists who work in the VA health care system. Unfortunately, the pay system that the VA uses to pay our doctors has not been updated since 1991, and it is not helping the VA's efforts to recruit and retain high-quality providers for our veterans.

The current system is very complex and does not offer the flexibility needed to respond to the changes of competitive markets, especially for the highest paid subspecialties.

This legislation offers the VA the opportunity to award its physicians and dentists for tenure within the VA health care system, and even adds a performance pay section which acts as a bonus for those doctors who achieved specific goals and performance objectives outlined by the Secretary of Veterans Affairs.

Thanks to the efforts of the Senate and House Committee on Veterans' Affairs, we will have legislation that will greatly enhance the VA's ability to recruit and retain high-quality physicians and dentists.

I support this legislation, and I ask my colleagues to do the same.

Mr. SIMMONS. Mr. Speaker, I yield myself such time as I may consume.

I want to thank Chairman SPECTER and Ranking Member GRAHAM of the Senate Committee on Veterans' Affairs for their diligence on this important piece of legislation. Again, I thank our very distinguished chairman, the gentleman from New Jersey (Mr. SMITH); our committee ranking member, the gentleman from Illinois (Mr. EVANS); and my colleague and ranking member on the Subcommittee on Health Care, the gentleman from Texas (Mr. RODRIGUEZ), for all of their hard work on bringing this legislation to fruition.

I would also like to recognize the Senate Committee on Veterans' Affairs Staff Director Bill Tuerk and Bill Cahill, health counsel to the Senate committee, without whose hard work this compromise simply would not have been possible. Finally, I want to acknowledge the excellent staff work conducted by our own committee staff, Pat Ryan, our committee chief counsel; staff director Kingston Smith, Jeannie McNally, John Bradley, and Dolores Dunn of the committee staff.

Finally, I would like to associate myself with the remarks made by the chairman on Pat Ryan. I had the honor a number of years ago to serve as staff director of a committee, regrettably on the Senate side; but what I learned from those 4 years was how difficult it is sometimes to accommodate the differing views of Members, all of whom argue in good faith for their points of view; and observing Pat over the 4 years that I have served on this committee, I think he has done an excellent job. He has been very professional. He has kept his cool under some difficult circumstances. I wish him all the best in his future endeavors.

Again, Mr. Speaker, I urge my colleagues to support this reform.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Let me take this opportunity also just to thank the gentleman from New Jersey (Chairman SMITH) for his leadership and the bipartisan manner in which we have conducted this piece of legislation and during the last 8 years. I want to personally thank the gentleman from New Jersey (Chairman SMITH) for his hard work and for reaching out on behalf of all veterans in this country. I also wanted to take this opportunity to thank the gentleman from Connecticut (Mr. SIMMONS), whom I have enjoyed working with, and I want to personally thank him also for all his hard work and for coming down to San Antonio also.

In the same light, I also want to thank Pat Ryan. I know that a lot of times the Members get all the credit and the staff does all the work. And I do want to thank the staff from both sides of the aisle and thank them for their hard work in a bipartisan manner.

Mr. Speaker, I also want to take this opportunity to thank our ranking member, the gentleman from Illinois (Mr. EVANS). From the very beginning when I first got elected, he came forth to my district in San Antonio and was there with my veterans, one of the first times; and he has helped to educate me on a lot of the issues in my district. So I want to personally thank the gentleman from Illinois (Mr. EVANS) for the opportunity of working with him, and thank him, as well as all the other veterans here for their service to our country.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today as a strong supporter of S. 2484 the Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004 which received unanimous approval in the Senate and is now before this body for passage. The Veterans Affairs Health Care Personnel Enhancement Act would set forth important new pay provisions for physicians and dentists employed by the Veterans Health Administration.

These physicians and dentists represent the lifeblood of the services provided by the Veterans Health Administration. There are over 26,550,000 veterans in the United States, the great majority of whom rely upon these services to maintain a healthy standard of living. In the 18th Congressional District alone there are more than 38,000 veterans and they make up almost ten percent of the district's civilian population over the age of 18. These veterans rely upon the great services offered at the Michael E. DeBakey VA Medical Center in Houston. Of course any great medical facility is only as good as its health care personnel, which is why this legislation is so necessary to correct any pay inequities.

The Veterans Affairs Health Care Personnel Enhancement Act includes three different components. The first calls for base pay that is uniform nationwide; which will ensure that entry level personnel will not be taken advantage and paid lower wages than their counterparts in other facilities. The second component institutes market pay that varies based on geographic area, specialty, assignment, personal qualifications, and individual experience. This component will allow for varying pay grades based on each individuals experience and circumstance as opposed to fixed pay rates that do not properly reflect each individual's contribution to the Veterans Health Administration. The final component calls for performance pay linked to the achievement of specific corporate goals and individual performance objectives. Again, this component will allow individual health care personnel to be rewarded based on their level of service and it will encourage others to raise their level of performance in order to collect performance bonuses. These three components as a whole will provide a more equitable and just pay scale physicians and dentists employed by the Veterans Health Administration. As a Member in this body I have always insisted on our brave veterans receiving the best of care in the finest health care facilities that we can provide. The Veterans Affairs Health Care Personnel Enhancement Act will allow those who provide these vital health care services to be properly compensated and motivated to stay within the Veterans Health Administration.

Mr. RODRIGUEZ. Mr. Speaker, I yield back the balance of my time.

Mr. SIMMONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Connecticut (Mr. SIMMONS) that the House suspend the rules and pass the Senate bill, S. 2484.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SIMMONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2484.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

## ARIZONA WATER SETTLEMENTS ACT

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 437) to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes.

The Clerk read as follows:

### S. 437

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) Short Title.—This Act may be cited as the "Arizona Water Settlements Act".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Arbitration.
Sec. 4. Antideficiency.

TITLE I—CENTRAL ARIZONA PROJECT SETTLEMENT

Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. General permissible uses of the Central Arizona Project.
Sec. 104. Allocation of Central Arizona Project water.
Sec. 105. Firming of Central Arizona Project Indian water.
Sec. 106. Acquisition of agricultural priority water.
Sec. 107. Lower Colorado River Basin Development Fund.
Sec. 108. Effect.
Sec. 109. Repeal.
Sec. 110. Authorization of appropriations.
Sec. 111. Repeal on failure of enforceability date under title II.

TITLE II—GILA RIVER INDIAN COMMUNITY WATER RIGHTS SETTLEMENT

Sec. 201. Short title.
Sec. 202. Purposes.
Sec. 203. Approval of the Gila River Indian Community Water Rights Settlement Agreement.
Sec. 204. Water rights.
Sec. 205. Community water delivery contract amendments.
Sec. 206. Satisfaction of claims.
Sec. 207. Waiver and release of claims.
Sec. 208. Gila River Indian Community Water OM&R Trust Fund.
Sec. 209. Subsidence remediation program.
Sec. 210. After-acquired trust land.
Sec. 211. Reduction of water rights.
Sec. 212. New Mexico Unit of the Central Arizona Project.
Sec. 213. Miscellaneous provisions.
Sec. 214. Authorization of appropriations.
Sec. 215. Repeal on failure of enforceability date.

TITLE III—SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT

Sec. 301. Southern Arizona water rights settlement.
Sec. 302. Southern Arizona water rights settlement effective date.

TITLE IV—SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT

Sec. 401. Effect of titles I, II, and III.
Sec. 402. Annual report.
Sec. 403. Authorization of appropriations.

**SEC. 2. DEFINITIONS.**

In titles I and II:

(1) Acre-feet.—The term "acre-feet" means acre-feet per year.

(2) After-acquired trust land.—The term "after-acquired trust land" means land that—

(A) is located—

(i) within the State; but

(ii) outside the exterior boundaries of the Reservation; and

(B) is taken into trust by the United States for the benefit of the Community after the enforceability date.

(3) Agricultural priority water.—The term "agricultural priority water" means Central Arizona Project non-Indian agricultural priority water, as defined in the Gila River agreement.

(4) Allottee.—The term "allottee" means a person who holds a beneficial real property interest in an Indian allotment that is—

(A) located within the Reservation; and

(B) held in trust by the United States.

(5) Arizona Indian tribe.—The term "Arizona Indian tribe" means an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) that is located in the State.

(6) Asarco.—The term "Asarco" means Asarco Incorporated, a New Jersey corporation of that name, and its subsidiaries operating mining operations in the State.

(7) CAP contractor.—The term "CAP contractor" means a person or entity that has entered into a long-term contract (as that term is used in the repayment stipulation) with the United States for delivery of water through the CAP system.

(8) CAP operating agency.—The term "CAP operating agency" means the entity or entities authorized to assume responsibility for the care, operation, maintenance, and replacement of the CAP system.

(9) CAP repayment contract.—

(A) In general.—The term "CAP repayment contract" means the contract dated December 1, 1988 (Contract No. 14-0906-09W-09245, Amendment No. 1) between the United States and the Central Arizona Water Conservation District for the delivery of water and the repayment of costs of the Central Arizona Project.

(B) Inclusions.—The term "CAP repayment contract" includes all amendments to and revisions of that contract.

(10) CAP subcontractor.—The term "CAP subcontractor" means a person or entity that has entered into a long-term subcontract (as that term is used in the repayment stipulation) with the United States and the Central Arizona Water Conservation District for the delivery of water through the CAP system.

(11) CAP system.—The term "CAP system" means—

(A) the Mark Wilmer Pumping Plant;

(B) the Hayden-Rhodes Aqueduct;

(C) the Fannin-McFarland Aqueduct;

(D) the Tucson Aqueduct;

(E) the pumping plants and appurtenant works of the Central Arizona Project aqueduct system that are associated with the features described in subparagraphs (A) through (D); and

(F) any extensions of, additions to, or replacements for the features described in subparagraphs (A) through (E).

(12) Central Arizona Project.—The term "Central Arizona Project" means the reclamation project authorized and constructed by the United States in accordance with title III of the Colorado River Basin Project Act (43 U.S.C. 1521 et seq.).

(13) Central Arizona Water Conservation District.—The term "Central Arizona Water Conservation District" means the political subdivision of the State that is the contractor under the CAP repayment contract.

(14) Cities.—The term "Cities" means the cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, and Scottsdale, Arizona.

(15) Community.—The term "Community" means the Gila River Indian Community, a

government composed of members of the Pima Tribe and the Maricopa Tribe and organized under section 16 of the Act of June 18, 1934 (25 U.S.C. 476).

(16) COMMUNITY CAP WATER.—The term "Community CAP water" means water to which the Community is entitled under the Community water delivery contract.

(17) COMMUNITY REPAYMENT CONTRACT.—

(A) IN GENERAL.—The term "Community repayment contract" means Contract No. 6-0907-0903-09W0345 between the United States and the Community dated July 20, 1998, providing for the construction of water delivery facilities on the Reservation.

(B) INCLUSIONS.—The term "Community repayment contract" includes any amendments to the contract described in subparagraph (A).

(18) COMMUNITY WATER DELIVERY CONTRACT.—

(A) IN GENERAL.—The term "Community water delivery contract" means Contract No. 3-0907-0930-09W0284 between the Community and the United States dated October 22, 1992.

(B) INCLUSIONS.—The term "Community water delivery contract" includes any amendments to the contract described in subparagraph (A).

(19) CRR PROJECT WORKS.—

(A) IN GENERAL.—The term "CRR project works" means the portions of the San Carlos Irrigation Project located on the Reservation.

(B) INCLUSION.—The term "CRR Project works" includes the portion of the San Carlos Irrigation Project known as the "Southside Canal", from the point at which the Southside Canal connects with the Pima Canal to the boundary of the Reservation.

(20) DIRECTOR.—The term "Director" means—

(A) the Director of the Arizona Department of Water Resources; or

(B) with respect to an action to be carried out under this title, a State official or agency designated by the Governor or the State legislature.

(21) ENFORCEABILITY DATE.—The term "enforceability date" means the date on which the Secretary publishes in the Federal Register the statement of findings described in section 207(c).

(22) FEE LAND.—The term "fee land" means land, other than off-Reservation trust land, owned by the Community outside the exterior boundaries of the Reservation as of December 31, 2002.

(23) FIXED OM&R CHARGE.—The term "fixed OM&R charge" has the meaning given the term in the repayment stipulation.

(24) FRANKLIN IRRIGATION DISTRICT.—The term "Franklin Irrigation District" means the entity of that name that is a political subdivision of the State and organized under the laws of the State.

(25) GILA RIVER ADJUDICATION PROCEEDINGS.—The term "Gila River adjudication proceedings" means the action pending in the Superior Court of the State of Arizona in and for the County of Maricopa styled "In Re the General Adjudication of All Rights To Use Water In The Gila River System and Source" W-091 (Salt), W-092 (Verde), W-093 (Upper Gila), W-094 (San Pedro) (Consolidated).

(26) GILA RIVER AGREEMENT.—

(A) IN GENERAL.—The term "Gila River agreement" means the agreement entitled the "Gila River Indian Community Water Rights Settlement Agreement", dated February 4, 2003.

(B) INCLUSIONS.—The term "Gila River agreement" includes—

(i) all exhibits to that agreement (including the New Mexico Risk Allocation Agreement, which is also an exhibit to the UVD Agreement); and

(ii) any amendment to that agreement or to an exhibit to that agreement made or added pursuant to that agreement consistent with section 203(a) or as approved by the Secretary.

(27) GILA VALLEY IRRIGATION DISTRICT.—The term "Gila Valley Irrigation District" means the entity of that name that is a political subdivision of the State and organized under the laws of the State.

(28) GLOBE EQUITY DECREE.—

(A) IN GENERAL.—The term "Globe Equity Decree" means the decree dated June 29, 1935, entered in United States of America v. Gila Valley Irrigation District, Globe Equity No. 59, et al., by the United States District Court for the District of Arizona.

(B) INCLUSIONS.—The term "Globe Equity Decree" includes all court orders and decisions supplemental to that decree.

(29) HAGGARD DECREE.—

(A) IN GENERAL.—The term "Haggard Decree" means the decree dated June 11, 1903, entered in United States of America, as guardian of Chief Charley Juan Saul and Cyrus Sam, Maricopa Indians and 400 other Maricopa Indians similarly situated v. Haggard, et al., Cause No. 19, in the District Court for the Third Judicial District of the Territory of Arizona, in and for the County of Maricopa.

(B) INCLUSIONS.—The term "Haggard Decree" includes all court orders and decisions supplemental to that decree.

(30) INCLUDING.—The term "including" has the same meaning as the term "including, but not limited to".

(31) INJURY TO WATER QUALITY.—The term "injury to water quality" means any contamination, diminution, or deprivation of water quality under Federal, State, or other law.

(32) INJURY TO WATER RIGHTS.—

(A) IN GENERAL.—The term "injury to water rights" means an interference with, diminution of, or deprivation of water rights under Federal, State, or other law.

(B) INCLUSION.—The term "injury to water rights" includes a change in the underground water table and any effect of such a change.

(C) EXCLUSION.—The term "injury to water rights" does not include subsidence damage or injury to water quality.

(33) LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.—The term "Lower Colorado River Basin Development Fund" means the fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543).

(34) MASTER AGREEMENT.—The term "master agreement" means the agreement entitled "Arizona Water Settlement Agreement" among the Director, the Central Arizona Water Conservation District, and the Secretary, dated August 16, 2004.

(35) NM CAP ENTITY.—The term "NM CAP entity" means the entity or entities that the State of New Mexico may authorize to assume responsibility for the design, construction, operation, maintenance, and replacement of the New Mexico Unit.

(36) NEW MEXICO CONSUMPTIVE USE AND FORBEARANCE AGREEMENT.—

(A) IN GENERAL.—The term "New Mexico Consumptive Use and Forbearance Agreement" means that agreement entitled the "New Mexico Consumptive Use and Forbearance Agreement," entered into by and among the United States, the Community, the San Carlos Irrigation and Drainage District, and all of the signatories to the UVD Agreement, and approved by the State of New Mexico, and authorized, ratified, and approved by section 212(b).

(B) INCLUSIONS.—The "New Mexico Consumptive Use and Forbearance Agreement" includes—

(i) all exhibits to that agreement (including the New Mexico Risk Allocation agreement, which is also an exhibit to the UVD agreement); and

(ii) any amendment to that agreement made or added pursuant to that agreement.

(37) NEW MEXICO UNIT.—The term "New Mexico Unit" means that unit or units of the Central Arizona Project authorized by sections 301(a)(4) and 304 of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(4), 1524) (as amended by section 212).

(38) NEW MEXICO UNIT AGREEMENT.—

(A) IN GENERAL.—The term "New Mexico Unit Agreement" means that agreement entitled the "New Mexico Unit Agreement," to be entered into by and between the United States and the NM CAP entity upon notice to the Secretary from the State of New Mexico that the State of New Mexico intends to have the New Mexico Unit constructed or developed.

(B) INCLUSIONS.—The "New Mexico Unit Agreement" includes—

(i) all exhibits to that agreement; and

(ii) any amendment to that agreement made or added pursuant to that agreement.

(39) OFF-RESERVATION TRUST LAND.—The term "off-Reservation trust land" means land outside the exterior boundaries of the Reservation that is held in trust by the United States for the benefit of the Community as of the enforceability date.

(40) PHELPS DODGE.—The term "Phelps Dodge" means the Phelps Dodge Corporation, a New York corporation of that name, and Phelps Dodge's subsidiaries (including Phelps Dodge Morenci, Inc., a Delaware corporation of that name), and Phelps Dodge's successors or assigns.

(41) REPAYMENT STIPULATION.—The term "repayment stipulation" means the Revised Stipulation Regarding a Stay of Litigation, Resolution of Issues During the Stay, and for Ultimate Judgment Upon the Satisfaction of Conditions, filed with the United States District Court for the District of Arizona in Central Arizona Water Conservation District v. United States, et al., No. CIV 95-09625-09TUC-09WDB(EHC), No. CIV 95-091720-09PHX-09EHC (Consolidated Action), and that court's order dated April 28, 2003, and any amendments or revisions thereto.

(42) RESERVATION.—

(A) IN GENERAL.—Except as provided in sections 207(d) and 210(d), the term "Reservation" means the land located within the exterior boundaries of the reservation created under sections 3 and 4 of the Act of February 28, 1859 (11 Stat. 401, chapter LXVI) and Executive Orders of August 31, 1876, June 14, 1879, May 5, 1882, November 15, 1883, July 31, 1911, June 2, 1913, August 27, 1914, and July 19, 1915.

(B) EXCLUSION.—The term "Reservation" does not include the land located in sections 16 and 36, Township 4 South, Range 4 East, Salt and Gila River Base and Meridian.

(43) ROOSEVELT HABITAT CONSERVATION PLAN.—The term "Roosevelt Habitat Conservation Plan" means the habitat conservation plan approved by the United States Fish and Wildlife Service under section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)(1)(B)) for the incidental taking of endangered, threatened, and candidate species resulting from the continued operation by the Salt River Project of Roosevelt Dam and Lake, near Phoenix, Arizona.

(44) ROOSEVELT WATER CONSERVATION DISTRICT.—The term "Roosevelt Water Conservation District" means the entity of that name that is a political subdivision of the State and an irrigation district organized under the law of the State.

(45) SAFFORD.—The term "Safford" means the city of Safford, Arizona.

(46) SALT RIVER PROJECT.—The term "Salt River Project" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State, and the Salt River Valley Water Users' Association, an Arizona Territorial corporation.

(47) SAN CARLOS APACHE TRIBE.—The term "San Carlos Apache Tribe" means the San Carlos Apache Tribe, a tribe of Apache Indians organized under Section 16 of the Indian Reorganization Act of June 18, 1934, 48 Stat. 987 (25 U.S.C. 476).

(48) SAN CARLOS IRRIGATION AND DRAINAGE DISTRICT.—The term "San Carlos Irrigation and Drainage District" means the entity of that name that is a political subdivision of the State and an irrigation and drainage district organized under the laws of the State.

(49) SAN CARLOS IRRIGATION PROJECT.—

(A) IN GENERAL.—The term "San Carlos Irrigation Project" means the San Carlos irrigation project authorized under the Act of June 7, 1924 (43 Stat. 475).

(B) INCLUSIONS.—The term "San Carlos Irrigation Project" includes any amendments and supplements to the Act described in subparagraph (A).

(50) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(51) SPECIAL HOT LANDS.—The term "special hot lands" has the meaning given the term in subparagraph 2.34 of the UVD agreement.

(52) STATE.—The term "State" means the State of Arizona.

(53) SUBCONTRACT.—

(A) IN GENERAL.—The term "subcontract" means a Central Arizona Project water delivery subcontract.

(B) INCLUSION.—The term "subcontract" includes an amendment to a subcontract.

(54) SUBSIDENCE DAMAGE.—The term "subsidence damage" means injury to land, water, or other real property resulting from the settling of geologic strata or cracking in the surface of the Earth of any length or depth, which settling or cracking is caused by the pumping of underground water.

(55) TBI ELIGIBLE ACRES.—The term "TBI eligible acres" has the meaning given the term in subparagraph 2.37 of the UVD agreement.

(56) UNCONTRACTED MUNICIPAL AND INDUSTRIAL WATER.—The term "uncontracted municipal and industrial water" means Central Arizona Project municipal and industrial priority water that is not subject to subcontract on the date of enactment of this Act.

(57) UV DECREED ACRES.—

(A) IN GENERAL.—The term "UV decreed acres" means the land located upstream and to the east of the Coolidge Dam for which water may be diverted pursuant to the Globe Equity Decree.

(B) EXCLUSION.—The term "UV decreed acres" does not include the reservation of the San Carlos Apache Tribe.

(58) UV DECREED WATER RIGHTS.—The term "UV decreed water rights" means the right to divert water for use on UV decreed acres in accordance with the Globe Equity Decree.

(59) UV IMPACT ZONE.—The term "UV impact zone" has the meaning given the term in subparagraph 2.47 of the UVD agreement.

(60) UV SUBJUGATED LAND.—The term "UV subjugated land" has the meaning given the term in subparagraph 2.50 of the UVD agreement.

(61) UVD AGREEMENT.—The term "UVD agreement" means the agreement among the Community, the United States, the San Carlos Irrigation and Drainage District, the Franklin Irrigation District, the Gila Valley Irrigation District, Phelps Dodge, and other parties located in the upper valley of the Gila River, dated September 2, 2004.

(62) UV SIGNATORIES PARTIES.—The term "UV signatories" means the parties to the UVD agreement other than the United States, the San Carlos Irrigation and Drainage District, and the Community.

(63) WATER OM&R FUND.—The term "Water OM&R Fund" means the Gila River Indian Community Water OM&R Trust Fund established by section 208.

(64) WATER RIGHT.—The term "water right" means any right in or to groundwater, surface water, or effluent under Federal, State, or other law.

(65) WATER RIGHTS APPURTENANT TO NEW MEXICO 381 ACRES.—The term "water rights appurtenant to New Mexico 381 acres" means the water rights—

(A) appurtenant to the 380.81 acres described in the decree in Arizona v. California, 376 U.S. 340, 349 (1964); and

(B) appurtenant to other land, or for other uses, for which the water rights described in subparagraph (A) may be modified or used in accordance with that decree.

(66) WATER RIGHTS FOR NEW MEXICO DOMESTIC PURPOSES.—The term "water rights for New Mexico domestic purposes" means the water rights for domestic purposes of not more than 265 acre-feet of water for consumptive use described in paragraph IV(D)(2) of the decree in Arizona v. California, 376 U.S. 340, 350 (1964).

(67) 1994 BIOLOGICAL OPINION.—The term "1994 biological opinion" means the biological opinion, numbered 2-21-90-F-119, and dated April 15, 1994, relating to the transportation and delivery of Central Arizona Project water to the Gila River basin.

(68) 1996 BIOLOGICAL OPINION.—The term "1996 biological opinion" means the biological opihion, numbered 2-21-95-F-462 and dated July 23, 1996, relating to the impacts of modifying Roosevelt Dam on the southwestern willow flycatcher.

(69) 1999 BIOLOGICAL OPINION.—The term "1999 biological opinion" means the draft biological opinion numbered 2-21-91-F-706, and dated May 1999, relating to the impacts of the Central Arizona Project on Gila Topminnow in the Santa Cruz River basin through the introduction and spread of nonnative aquatic species.

### SEC. 3. ARBITRATION.

(a) NO PARTICIPATION BY THE UNITED STATES.—

(1) IN GENERAL.—No arbitration decision rendered pursuant to subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River agreement (including the joint control board agreement attached to exhibit 20.1) shall be considered invalid solely because the United States failed or refused to participate in such arbitration proceedings that resulted in such arbitration decision, so long as the matters in arbitration under subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River Agreement concern aspects of the water rights of the Community, the San Carlos Irrigation Project, or the Miscellaneous Flow Lands (as defined in subparagraph 2.18A of the UVD agreement) and not the water rights of the United States in its own right, any other rights of the United States, or the water rights or any other rights of the United States acting on behalf of or for the benefit of another tribe.

(2) ARBITRATION INEFFECTIVE.—If an issue otherwise subject to arbitration under subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River Agreement cannot be arbitrated or if an arbitration decision will not be effective because the United States cannot or will not participate in the arbitration, then the issue shall be submitted for decision to a court of competent jurisdiction, but not a court of the Community.

(b) PARTICIPATION BY THE SECRETARY.—Notwithstanding any provision of any agreement, exhibit, attachment, or other document ratified by this Act, if the Secretary is required to enter arbitration pursuant to this Act or any such document, the Secretary shall follow the procedures for arbitration established by chapter 5 of title 5, United States Code.

### SEC. 4. ANTIDEFICIENCY.

The United States shall not be liable for failure to carry out any obligation or activity required by this Act, including all titles and all agreements or exhibits ratified or confirmed by this Act, funded by—

(1) the Lower Basin Development Fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543), if there are not enough monies in that fund to fulfill those obligations or carry out those activities; or

(2) appropriations, if appropriations are not provided by Congress.

## TITLE I—CENTRAL ARIZONA PROJECT SETTLEMENT

### SEC. 101. SHORT TITLE.

This title may be cited as the "Central Arizona Project Settlement Act of 2004".

### SEC. 102. FINDINGS.

Congress finds that—

(1) the water provided by the Central Arizona Project to Maricopa, Pinal, and Pima Counties in the State of Arizona, is vital to citizens of the State; and

(2) an agreement on the allocation of Central Arizona Project water among interested persons, including Federal and State interests, would provide important benefits to the Federal Government, the State of Arizona, Arizona Indian Tribes, and the citizens of the State.

### SEC. 103. GENERAL PERMISSIBLE USES OF THE CENTRAL ARIZONA PROJECT.

In accordance with the CAP repayment contract, the Central Arizona Project may be used to transport nonproject water for—

(1) domestic, municipal, fish and wildlife, and industrial purposes; and

(2) any purpose authorized under the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.).

### SEC. 104. ALLOCATION OF CENTRAL ARIZONA PROJECT WATER.

(a). NON-INDIAN AGRICULTURAL PRIORITY WATER.—

(1) REALLOCATION TO ARIZONA INDIAN TRIBES.—

(A) IN GENERAL.—The Secretary shall reallocate 197,500 acre-feet of agricultural priority water made available pursuant to the master agreement for use by Arizona Indian tribes, of which—

(i) 102,000 acre-feet shall be reallocated to the Gila River Indian Community;

(ii) 28,200 acre-feet shall be reallocated to the Tohono O'odham Nation; and

(iii) subject to the conditions specified in subparagraph (B), 67,300 acre-feet shall be reallocated to Arizona Indian tribes.

(B) CONDITIONS.—The reallocation of agricultural priority water under subparagraph

(A)(iii) shall be subject to the conditions that—

(i) such water shall be used to resolve Indian water claims in Arizona, and may be allocated by the Secretary to Arizona Indian Tribes in fulfillment of future Arizona Indian water rights settlement agreements approved by an Act of Congress. In the absence of an Arizona Indian water rights settlement that is approved by an Act of Congress after the date of enactment of this Act, the Secretary shall not allocate any such water until December 31, 2030. Any allocations made by the Secretary after such date shall be accompanied by a certification that the Secretary is making the allocation in order to assist in the resolution of an Arizona Indian water right claim. Any such water allocated to an Arizona Indian Tribe pursuant to a water delivery contract with the Secretary under this clause shall be counted on an acre-foot per acre-foot basis against any claim to water for that Tribe's reservation;

(ii) notwithstanding clause (i), the Secretary shall retain 6,411 acre-feet of water for use for a future water rights settlement agreement approved by an Act of Congress that settles the Navajo Nation's claims to water in Arizona. If Congress does not approve this settlement before December 31, 2030, the 6,411 acre-feet of CAP water shall be available to the Secretary under clause (i); and

(iii) the agricultural priority water shall not, without specific authorization by Act of Congress, be leased, exchanged, forborne, or otherwise transferred by an Arizona Indian tribe for any direct or indirect use outside the reservation of the Arizona Indian tribe.

(C) REPORT.—The Secretary, in consultation with Arizona Indian tribes and the State, shall prepare a report for Congress by December 31, 2016, that assesses whether the potential benefits of subparagraph (A) are being conveyed to Arizona Indian tribes pursuant to water rights settlements enacted subsequent to this Act. For those Arizona Indian tribes that have not yet settled water rights claims, the Secretary shall describe whether any active negotiations are taking place, and identify any critical water needs that exist on the reservation of each such Arizona Indian tribe. The Secretary shall also identify and report on the use of unused quantities of agricultural priority water made available to Arizona Indian tribes under subparagraph (A).

(2) REALLOCATION TO THE ARIZONA DEPARTMENT OF WATER RESOURCES.—

(A) IN GENERAL.—Subject to subparagraph (B) and subparagraph 9.3 of the master agreement, the Secretary shall reallocate up to 96,295 acre-feet of agricultural priority water made available pursuant to the master agreement to the Arizona Department of Water Resources, to be held under contract in trust for further allocation under subparagraph (C).

(B) REQUIRED DOCUMENTATION.—The reallocation of agricultural priority water under subparagraph (A) is subject to the condition that the Secretary execute any appropriate documents to memorialize the reallocation, including—

(i) an allocation decision; and

(ii) a contract that prohibits the direct use of the agricultural priority water by the Arizona Department of Water Resources.

(C) FURTHER ALLOCATION.—With respect to the allocation of agricultural priority water under subparagraph (A)—

(i) before that water may be further allocated—

(I) the Director shall submit to the Secretary, and the Secretary shall receive, a recommendation for reallocation;

(II) as soon as practicable after receiving the recommendation, the Secretary shall carry out all necessary reviews of the proposed reallocation, in accordance with applicable Federal law; and

(III) if the recommendation is rejected by the Secretary, the Secretary shall—

(aa) request a revised recommendation from the Director; and

(bb) proceed with any reviews required under subclause (II); and

(ii) as soon as practicable after the date on which agricultural priority water is further allocated, the Secretary shall offer to enter into a subcontract for that water in accordance with paragraphs (1) and (2) of subsection (d).

(D) MASTER AGREEMENT.—The reallocation of agricultural priority water under subparagraphs (A) and (C) is subject to the master agreement, including certain rights provided by the master agreement to water users in Pinal County, Arizona.

(3) PRIORITY.—The agricultural priority water reallocated under paragraphs (1) and (2) shall be subject to the condition that the water retain its non-Indian agricultural delivery priority.

(b) UNCONTRACTED CENTRAL ARIZONA PROJECT MUNICIPAL AND INDUSTRIAL PRIORITY WATER.—

(1) REALLOCATION.—The Secretary shall, on the recommendation of the Director, reallocate 65,647 acre-feet of uncontracted municipal and industrial water, of which—

(A) 285 acre-feet shall be reallocated to the town of Superior, Arizona;

(B) 806 acre-feet shall be reallocated to the Cave Creek Water Company;

(C) 1,931 acre-feet shall be reallocated to the Chaparral Water Company;

(D) 508 acre-feet shall be reallocated to the town of El Mirage, Arizona;

(E) 7,211 acre-feet shall be reallocated to the city of Goodyear, Arizona;

(F) 147 acre-feet shall be reallocated to the H2O Water Company;

(G) 7,115 acre-feet shall be reallocated to the city of Mesa, Arizona;

(H) 5,527 acre-feet shall be reallocated to the city of Peoria, Arizona;

(I) 2,981 acre-feet shall be reallocated to the city of Scottsdale, Arizona;

(J) 808 acre-feet shall be reallocated to the AVRA Cooperative;

(K) 4,986 acre-feet shall be reallocated to the city of Chandler, Arizona;

(L) 1,071 acre-feet shall be reallocated to the Del Lago (Vail) Water Company;

(M) 3,053 acre-feet shall be reallocated to the city of Glendale, Arizona;

(N) 1,521 acre-feet shall be reallocated to the Community Water Company of Green Valley, Arizona;

(O) 4,602 acre-feet shall be reallocated to the Metropolitan Domestic Water Improvement District;

(P) 3,557 acre-feet shall be reallocated to the town of Oro Valley, Arizona;

(Q) 8,206 acre-feet shall be reallocated to the city of Phoenix, Arizona;

(R) 2,876 acre-feet shall be reallocated to the city of Surprise, Arizona;

(S) 8,206 acre-feet shall be reallocated to the city of Tucson, Arizona; and

(T) 250 acre-feet shall be reallocated to the Valley Utilities Water Company.

(2) SUBCONTRACTS.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, and in accordance with paragraphs (1) and (2) of subsection (d) and any other applicable Federal laws, the Secretary shall offer to enter into subcontracts for the delivery of the uncontracted municipal and industrial water reallocated under paragraph (1).

(B) REVISED RECOMMENDATION.—If the Secretary is precluded under applicable Federal law from entering into a subcontract with an entity identified in paragraph (1), the Secretary shall—

(i) request a revised recommendation from the Director; and

(ii) on receipt of a recommendation under clause (i), reallocate and enter into a subcontract for the delivery of the water in accordance with subparagraph (A).

(c) LIMITATIONS.—

(1) AMOUNT.—

(A) IN GENERAL.—The total amount of entitlements under long-term contracts (as defined in the repayment stipulation) for the delivery of Central Arizona Project water in the State shall not exceed 1,415,000 acre-feet, of which—

(i) 650,724 acre-feet shall be—

(I) under contract to Arizona Indian tribes; or

(II) available to the Secretary for allocation to Arizona Indian tribes; and

(ii) 764,276 acre-feet shall be under contract or available for allocation to—

(I) non-Indian municipal and industrial entities;

(II) the Arizona Department of Water Resources; and

(III) non-Indian agricultural entities.

(B) EXCEPTION.—Subparagraph (A) shall not apply to Central Arizona Project water delivered to water users in Arizona in exchange for Gila River water used in New Mexico as provided in section 304 of the Colorado River Basin Project Act (43 U.S.C. 1524) (as amended by section 212).

(2) TRANSFER.—

(A) IN GENERAL.—Except pursuant to the master agreement, Central Arizona Project water may not be transferred from—

(i) a use authorized under paragraph (1)(A)(i) to a use authorized under paragraph (1)(A)(ii); or

(ii) a use authorized under paragraph (1)(A)(ii) to a use authorized under paragraph (1)(A)(i).

(B) EXCEPTIONS.—

(i) LEASES.—A lease of Central Arizona Project water by an Arizona Indian tribe to an entity described in paragraph (1)(A)(ii) under an Indian water rights settlement approved by an Act of Congress shall not be considered to be a transfer for purposes of subparagraph (A).

(ii) EXCHANGES.—An exchange of Central Arizona Project water by an Arizona Indian tribe to an entity described in paragraph (1)(A)(ii) shall not be considered to be a transfer for purposes of subparagraph (A).

(iii) Notwithstanding subparagraph (A), up to 17,000 acre-feet of CAP municipal and industrial water under the subcontract among the United States, the Central Arizona Water Conservation District, and Asarco, subcontract No. 3-07-30-W0307, dated November 7, 1993, may be reallocated to the Community on execution of an exchange and lease agreement among the Community, the United States, and Asarco.

(d) CENTRAL ARIZONA PROJECT CONTRACTS AND SUBCONTRACTS.—

(1) IN GENERAL.—Notwithstanding section 6 of the Reclamation Project Act of 1939 (43 U.S.C. 485e), and paragraphs (2) and (3) of section 304(b) of the Colorado River Basin Project Act (43 U.S.C. 1524(b)), as soon as practicable after the date of enactment of

this Act, the Secretary shall offer to enter into subcontracts or to amend all Central Arizona Project contracts and subcontracts in effect as of that date in accordance with paragraph (2).

(2) Requirements.—All subcontracts and amendments to Central Arizona Project contracts and subcontracts under paragraph (1)—

(A) shall be for permanent service (within the meaning of section 5 of the Boulder Canyon Project Act of 1928 (43 U.S.C. 617d));

(B) shall have an initial delivery term that is the greater of—

(i) 100 years; or

(ii) a term—

(I) authorized by Congress; or

(II) provided under the appropriate Central Arizona Project contract or subcontract in existence on the date of enactment of this Act;

(C) shall conform to the shortage sharing criteria described in paragraph 5.3 of the Tohono O'odham settlement agreement;

(D) shall include the prohibition and exception described in subsection (e); and

(E) shall not require—

(i) that any Central Arizona Project water received in exchange for effluent be deducted from the contractual entitlement of the CAP contractor or CAP subcontractor; or

(ii) that any additional modification of the Central Arizona Project contracts or subcontracts be made as a condition of acceptance of the subcontract or amendments.

(3) Applicability.—This subsection does not apply to—

(A) a subcontract for non-Indian agricultural use; or

(B) a contract executed under paragraph 5(d) of the repayment stipulation.

(e) Prohibition on Transfer.—

(1) In general.—Except as provided in paragraph (2), no Central Arizona Project water shall be leased, exchanged, forborne, or otherwise transferred in any way for use directly or indirectly outside the State.

(2) Exceptions.—Central Arizona Project water may be—

(A) leased, exchanged, forborne, or otherwise transferred under an agreement with the Arizona Water Banking Authority that is in accordance with part 414 of title 43, Code of Federal Regulations; and

(B) delivered to users in Arizona in exchange for Gila River water used in New Mexico as provided in section 304 of the Colorado River Basin Project Act (43 U.S.C. 1524) (as amended by section 212).

(3) Effect of subsection.—Nothing in this subsection prohibits any entity from entering into a contract with the Arizona Water Banking Authority or a successor of the Authority under State law.

### SEC. 105. FIRMING OF CENTRAL ARIZONA PROJECT INDIAN WATER.

(a) Firming Program.—The Secretary and the State shall develop a firming program to ensure that 60,648 acre-feet of the agricultural priority water made available pursuant to the master agreement and reallocated to Arizona Indian tribes under section 104(a)(1), shall, for a 100-year period, be delivered during water shortages in the same manner as water with a municipal and industrial delivery priority in the Central Arizona Project system is delivered during water shortages.

(b) Duties.—

(1) Secretary.—The Secretary shall—

(A) firm 28,200 acre-feet of agricultural priority water reallocated to the Tohono O'odham Nation under section 104(a)(1)(A)(ii); and

(B) firm 8,724 acre-feet of agricultural priority water reallocated to Arizona Indian tribes under section 104(a)(1)(A)(iii).

(2) State.—The State shall—

(A) firm 15,000 acre-feet of agricultural priority water reallocated to the Community under section 104(a)(1)(A)(i);

(B) firm 8,724 acre-feet of agricultural priority water reallocated to Arizona Indian tribes under section 104(a)(1)(A)(iii); and

(C) assist the Secretary in carrying out obligations of the Secretary under paragraph (1)(A) in accordance with section 306 of the Southern Arizona Water Rights Settlement Amendments Act (as added by section 301).

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the duties of the Secretary under subsection (b)(1).

### SEC. 106. ACQUISITION OF AGRICULTURAL PRIORITY WATER.

(a) Approval of Agreement.—

(1) In general.—Except to the extent that any provision of the master agreement conflicts with any provision of this title, the master agreement is authorized, ratified, and confirmed. To the extent that amendments are executed to make the master agreement consistent with this title, such amendments are also authorized, ratified, and confirmed.

(2) Exhibits.—The Secretary is directed to and shall execute the master agreement and any of the exhibits to the master agreement that have not been executed as of the date of enactment of this Act.

(3) Debt collection.—For any agricultural priority water that is not relinquished under the master agreement, the subcontractor shall continue to pay, consistent with the master agreement, the portion of the debt associated with any retained water under section 9(d) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(d)), and the Secretary shall apply such revenues toward the reimbursable section 9(d) debt of that subcontractor.

(4) Effective date.—The provisions of subsections (b) and (c) shall take effect on the date of enactment of this Act.

(b) Nonreimbursable Debt.—

(1) In general.—In accordance with the master agreement, the portion of debt incurred under section 9(d) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(d)), and identified in the master agreement as nonreimbursable to the United States, shall be nonreimbursable and nonreturnable to the United States in an amount not to exceed $73,561,337.

(2) Extension.—In accordance with the master agreement, the Secretary may extend, on an annual basis, the repayment schedule of debt incurred under section 9(d) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(d)) by CAP subcontractors.

(c) Exemption.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) and any other acreage limitation or full cost pricing provisions of Federal law shall not apply to—

(1) land within the exterior boundaries of the Central Arizona Water Conservation District or served by Central Arizona Project water;

(2) land within the exterior boundaries of the Salt River Reservoir District;

(3) land held in trust by the United States for an Arizona Indian tribe that is—

(A) within the exterior boundaries of the Central Arizona Water Conservation District; or

(B) served by Central Arizona Project water; or

(4) any person, entity, or land, solely on the basis of—

(A) receipt of any benefits under this Act;

(B) execution or performance of the Gila River agreement; or

(C) the use, storage, delivery, lease, or exchange of Central Arizona Project water.

### SEC. 107. LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.

(a) In General.—Section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543) is amended by striking subsection (f) and inserting the following:

"(f) Additional Uses of Revenue Funds.—

"(1) Crediting against Central Arizona Water Conservation District payments.—Funds credited to the development fund pursuant to subsection (b) and paragraphs (1) and (3) of subsection (c), the portion of revenues derived from the sale of power and energy for use in the State of Arizona pursuant to subsection (c)(2) in excess of the amount necessary to meet the requirements of paragraphs (1) and (2) of subsection (d), and any annual payment by the Central Arizona Water Conservation District to effect repayment of reimbursable Central Arizona Project construction costs, shall be credited annually against the annual payment owed by the Central Arizona Water Conservation District to the United States for the Central Arizona Project.

"(2) Further use of revenue funds credited against payments of Central Arizona Water Conservation District.—After being credited in accordance with paragraph (1), the funds and portion of revenues described in that paragraph shall be available annually, without further appropriation, in order of priority—

"(A) to pay annually the fixed operation, maintenance, and replacement charges associated with the delivery of Central Arizona Project water held under long-term contracts for use by Arizona Indian tribes (as defined in section 2 of the Arizona Water Settlements Act) in accordance with clause 8(d)(i)(1)(i) of the Repayment Stipulation (as defined in section 2 of the Arizona Water Settlements Act);

"(B) to make deposits, totaling $53,000,000 in the aggregate, in the Gila River Indian Community Water OM&R Trust Fund established by section 208 of the Arizona Water Settlements Act;

"(C) to pay $147,000,000 for the rehabilitation of the San Carlos Irrigation Project, of which not more than $25,000,000 shall be available annually consistent with attachment 6.5.1 of exhibit 20.1 of the Gila River agreement, except that the total amount of $147,000,000 shall be increased or decreased, as appropriate, based on ordinary fluctuations since January 1, 2000, in construction cost indices applicable to the types of construction involved in the rehabilitation;

"(D) in addition to amounts made available for the purpose through annual appropriations, as reasonably allocated by the Secretary without regard to any trust obligation on the part of the Secretary to allocate the funding under any particular priority and without regard to priority (except that payments required by clause (i) shall be made first)—

"(i) to make deposits totaling $66,000,000, adjusted to reflect changes since January 1, 2004, in the construction cost indices applicable to the types of construction involved in construction of the New Mexico Unit, into the New Mexico Unit Fund as provided by section 212(i) of the Arizona Water Settlements Act in 10 equal annual payments beginning in 2012;

"(ii) upon satisfaction of the conditions set forth in subsections (j) and (k) of section 212, to pay certain of the costs associated with construction of the New Mexico Unit, in addition to any amounts that may be expended from the New Mexico Unit Fund, in a minimum amount of $34,000,000 and a maximum amount of $62,000,000, as provided in section 212 of the Arizona Water Settlements Act, as adjusted to reflect changes since January 1, 2004, in the construction cost indices applicable to the types of construction involved in construction of the New Mexico Unit;

"(iii) to pay the costs associated with the construction of distribution systems required to implement the provisions of—

"(I) the contract entered into between the United States and the Gila River Indian Community, numbered 6-07-03-W0345, and dated July 20, 1998;

"(II) section 3707(a)(1) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (106 Stat. 4747); and

"(III) section 304 of the Southern Arizona Water Rights Settlement Amendments Act of 2004;

"(iv) to pay $52,396,000 for the rehabilitation of the San Carlos Irrigation Project as provided in section 203(d)(4) of the Arizona Water Settlements Act, of which not more than $9,000,000 shall be available annually, except that the total amount of $52,396,000 shall be increased or decreased, as appropriate, based on ordinary fluctuations since January 1, 2000, in construction cost indices applicable to the types of construction involved in the rehabilitation;

"(v) to pay other costs specifically identified under—

"(I) sections 213(g)(1) and 214 of the Arizona Water Settlements Act; and

"(II) the Southern Arizona Water Rights Settlement Amendments Act of 2004;

"(vi) to pay a total of not more than $250,000,000 to the credit of the Future Indian Water Settlement Subaccount of the Lower Colorado Basin Development Fund, for use for Indian water rights settlements in Arizona approved by Congress after the date of enactment of this Act, subject to the requirement that, notwithstanding any other provision of this Act, any funds credited to the Future Indian Water Settlement Subaccount that are not used in furtherance of a congressionally approved Indian water rights settlement in Arizona by December 31, 2030, shall be returned to the main Lower Colorado Basin Development Fund for expenditure on authorized uses pursuant to this Act, provided that any interest earned on funds held in the Future Indian Water Settlement Subaccount shall remain in such subaccount until disbursed or returned in accordance with this section;

"(vii) to pay costs associated with the installation of gages on the Gila River and its tributaries to measure the water level of the Gila River and its tributaries for purposes of the New Mexico Consumptive Use and Forbearance Agreement in an amount not to exceed $500,000; and

"(viii) to pay the Secretary's costs of implementing the Central Arizona Project Settlement Act of 2004;

"(E) in addition to amounts made available for the purpose through annual appropriations—

"(i) to pay the costs associated with the construction of on-reservation Central Arizona Project distribution systems for the Yavapai Apache (Camp Verde), Tohono O'odham Nation (Sif Oidak District), Pascua Yaqui, and Tonto Apache tribes; and

"(ii) to make payments to those tribes in accordance with paragraph 8(d)(i)(1)(iv) of the repayment stipulation (as defined in section 2 of the Arizona Water Settlements Act), except that if a water rights settlement Act of Congress authorizes such construction, payments to those tribes shall be made from funds in the Future Indian Water Settlement Subaccount; and

"(F) if any amounts remain in the development fund at the end of a fiscal year, to be carried over to the following fiscal year for use for the purposes described in subparagraphs (A) through (E).

"(3) REVENUE FUNDS IN EXCESS OF REVENUE FUNDS CREDITED AGAINST CENTRAL ARIZONA WATER CONSERVATION DISTRICT PAYMENTS.—The funds and portion of revenues described in paragraph (1) that are in excess of amounts credited under paragraph (1) shall be available, on an annual basis, without further appropriation, in order of priority—

"(A) to pay annually the fixed operation, maintenance and replacement charges associated with the delivery of Central Arizona Project water under long-term contracts held by Arizona Indian tribes (as defined in section 2 of the Arizona Water Settlements Act);

"(B) to make the final outstanding annual payment for the costs of each unit of the projects authorized under title III that are to be repaid by the Central Arizona Water Conservation District;

"(C) to reimburse the general fund of the Treasury for fixed operation, maintenance, and replacement charges previously paid under paragraph (2)(A);

"(D) to reimburse the general fund of the Treasury for costs previously paid under subparagraphs (B) through (E) of paragraph (2);

"(E) to pay to the general fund of the Treasury the annual installment on any debt relating to the Central Arizona Project under section 9(d) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(d)), made nonreimbursable under section 106(b) of the Arizona Water Settlements Act;

"(F) to pay to the general fund of the Treasury the difference between—

"(i) the costs of each unit of the projects authorized under title III that are repayable by the Central Arizona Water Conservation District; and

"(ii) any costs allocated to reimbursable functions under any Central Arizona Project cost allocation undertaken by the United States; and

"(G) for deposit in the general fund of the Treasury.

"(4) INVESTMENT OF AMOUNTS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the development fund as is not, in the judgment of the Secretary of the Interior, required to meet current needs of the development fund.

"(B) PERMITTED INVESTMENTS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, including any provision requiring the consent or concurrence of any party, the investments referred to in subparagraph (A) shall include 1 or more of the following:

"(I) Any investments referred to in the Act of June 24, 1938 (25 U.S.C. 162a).

"(II) Investments in obligations of government corporations and government-sponsored entities whose charter statutes provide that their obligations are lawful investments for federally managed funds.

"(III) The obligations referred to in section 201 of the Social Security Act (42 U.S.C. 401).

"(ii) LAWFUL INVESTMENTS.—For purposes of clause (i), obligations of government corporations and government-sponsored entities whose charter statutes provide that their obligations are lawful investments for federally managed funds includes any of the following securities or securities with comparable language concerning the investment of federally managed funds:

"(I) Obligations of the United States Postal Service as authorized by section 2005 of title 39, United States Code.

"(II) Bonds and other obligations of the Tennessee Valley Authority as authorized by section 15d of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n-4).

"(III) Mortgages, obligations, or other securities of the Federal Home Loan Mortgage Corporation as authorized by section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452).

"(IV) Bonds, notes, or debentures of the Commodity Credit Corporation as authorized by section 4 of the Act of March 4, 1939 (15 U.S.C. 713a-4).

"(C) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under subparagraph (A), obligations may be acquired—

"(i) on original issue at the issue price; or

"(ii) by purchase of outstanding obligations at the market price.

"(D) SALE OF OBLIGATIONS.—Any obligation acquired by the development fund may be sold by the Secretary of the Treasury at the market price.

"(E) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the development fund shall be credited to and form a part of the development fund.

"(5) AMOUNTS NOT AVAILABLE FOR CERTAIN FEDERAL OBLIGATIONS.—None of the provisions of this section, including paragraphs (2)(A) and (3)(A), shall be construed to make any of the funds referred to in this section available for the fulfillment of any Federal obligation relating to the payment of OM&R charges if such obligation is undertaken pursuant to Public Law 95-328, Public Law 98-530, or any settlement agreement with the United States (or amendments thereto) approved by or pursuant to either of those acts.".

(b) LIMITATION.—Amounts made available under the amendment made by subsection (a)—

(1) shall be identified and retained in the Lower Colorado River Basin Development Fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543); and

(2) shall not be expended or withdrawn from that fund until the later of—

(A) the date on which the findings described in section 207(c) are published in the Federal Register; or

(B) January 1, 2010.

(c) TECHNICAL AMENDMENTS.—The Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) is amended—

(1) in section 403(g), by striking "clause (c)(2)" and inserting "subsection (c)(2)"; and

(2) in section 403(e), by deleting the first word and inserting "Except as provided in subsection (f), revenues".

### SEC. 108. EFFECT.

Except for provisions relating to the allocation of Central Arizona Project water and the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.), nothing in this title affects—

(1) any treaty, law, or agreement governing the use of water from the Colorado River; or

(2) any rights to use Colorado River water existing on the date of enactment of this Act.

**SEC. 109. REPEAL.**

Section 11(h) of the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988 (102 Stat. 2559) is repealed.

**SEC. 110. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to comply with—

(1) the 1994 biological opinion, including any funding transfers required by the opinion;

(2) the 1996 biological opinion, including any funding transfers required by the opinion; and

(3) any final biological opinion resulting from the 1999 biological opinion, including any funding transfers required by the opinion.

(b) CONSTRUCTION COSTS.—Amounts made available under subsection (a) shall be treated as Central Arizona Project construction costs.

(c) AGREEMENTS.—

(1) IN GENERAL.—Any amounts made available under subsection (a) may be used to carry out agreements to permanently fund long-term reasonable and prudent alternatives in accepted biological opinions relating to the Central Arizona Project.

(2) REQUIREMENTS.—To ensure that long-term environmental compliance may be met without further appropriations, an agreement under paragraph (1) shall include a provision requiring that the contractor manage the funds through interest-bearing investments.

**SEC. 111. REPEAL ON FAILURE OF ENFORCEABILITY DATE UNDER TITLE II.**

(a) IN GENERAL.—Except as provided in subsection (b), if the Secretary does not publish a statement of findings under section 207(c) by December 31, 2007—

(1) this title is repealed effective January 1, 2008, and any action taken by the Secretary and any contract entered under any provision of this title shall be void; and

(2) any amounts appropriated under section 110 that remain unexpended shall immediately revert to the general fund of the Treasury.

(b) EXCEPTION.—No subcontract amendment executed by the Secretary under the notice of June 18, 2003 (67 Fed. Reg. 36578), shall be considered to be a contract entered into by the Secretary for purposes of subsection (a)(1).

## TITLE II—GILA RIVER INDIAN COMMUNITY WATER RIGHTS SETTLEMENT

**SEC. 201. SHORT TITLE.**

This title may be cited as the ``Gila River Indian Community Water Rights Settlement Act of 2004''.

**SEC. 202. PURPOSES.**

The purposes of this title are—

(1) to resolve permanently certain damage claims and all water rights claims among the United States on behalf of the Community, its members, and allottees, and the Community and its neighbors;

(2) to authorize, ratify, and confirm the Gila River agreement;

(3) to authorize and direct the Secretary to execute and perform all obligations of the Secretary under the Gila River agreement;

(4) to authorize the actions and appropriations necessary for the United States to meet obligations of the United States under the Gila River agreement and this title; and

(5) to authorize and direct the Secretary to execute the New Mexico Consumptive Use and Forbearance Agreement to allow the Secretary to exercise the rights authorized by subsections (d) and (f) of section 304 of the Colorado River Basin Project Act (43 U.S.C. 1524).

**SEC. 203. APPROVAL OF THE GILA RIVER INDIAN COMMUNITY WATER RIGHTS SETTLEMENT AGREEMENT.**

(a) IN GENERAL.—Except to the extent that any provision of the Gila River agreement conflicts with any provision of this title, the Gila River agreement is authorized, ratified, and confirmed. To the extent amendments are executed to make the Gila River agreement consistent with this title, such amendments are also authorized, ratified, and confirmed.

(b) EXECUTION OF AGREEMENT.—To the extent that the Gila River agreement does not conflict with this title, the Secretary is directed to and shall execute the Gila River agreement, including all exhibits to the Gila River agreement requiring the signature of the Secretary and any amendments necessary to make the Gila River agreement consistent with this title, after the Community has executed the Gila River agreement and any such amendments.

(c) NATIONAL ENVIRONMENTAL POLICY ACT.—

(1) ENVIRONMENTAL COMPLIANCE.—In implementing the Gila River agreement, the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

(2) EXECUTION OF THE GILA RIVER AGREEMENT.—Execution of the Gila River agreement by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing the Gila River agreement.

(3) LEAD AGENCY.—The Bureau of Reclamation shall be designated as the lead agency with respect to environmental compliance.

(d) REHABILITATION AND OPERATION, MAINTENANCE, AND REPLACEMENT OF CERTAIN WATER WORKS.—

(1) IN GENERAL.—In addition to any obligations of the Secretary with respect to the San Carlos Irrigation Project, including any operation or maintenance responsibility existing on the date of enactment of this Act, the Secretary shall—

(A) in accordance with exhibit 20.1 to the Gila River agreement, provide for the rehabilitation of the San Carlos Irrigation Project water diversion and delivery works with the funds provided for under section 403(f)(2) of the Colorado River Basin Project Act; and

(B) provide electric power for San Carlos Irrigation Project wells and irrigation pumps at the Secretary's direct cost of transmission, distribution, and administration, using the least expensive source of power available.

(2) JOINT CONTROL BOARD AGREEMENT.—

(A) IN GENERAL.—Except to the extent that it is in conflict with this title, the Secretary shall execute the joint control board agreement described in exhibit 20.1 to the Gila River agreement, including all exhibits to the joint control board agreement requiring the signature of the Secretary and any amendments necessary to the joint control board agreement consistent with this title.

(B) CONTROLS.—The joint control board agreement shall contain the following provisions, among others:

(i) The Secretary, acting through the Bureau of Indian Affairs, shall continue to be responsible for the operation and maintenance of Picacho Dam and Coolidge Dam and Reservoir, and for scheduling and delivering water to the Community and the District through the San Carlos Irrigation Project joint works.

(ii) The actions and decisions of the joint control board that pertain to construction and maintenance of those San Carlos Irrigation Project joint works that are the subject of the joint control board agreement shall be subject to the approval of the Secretary, acting through the Bureau of Indian Affairs within 30 days thereof, or sooner in emergency situations, which approval shall not be unreasonably withheld. Should a required decision of the Bureau of Indian Affairs not be received by the joint control board within 60 days following an action or decision of the joint control board, the joint control board action or decision shall be deemed to have been approved by the Secretary.

(3) REHABILITATION COSTS ALLOCABLE TO THE COMMUNITY.—The rehabilitation costs allocable to the Community under exhibit 20.1 to the Gila River agreement shall be paid from the funds available under paragraph (2)(C) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)).

(4) REHABILITATION COSTS NOT ALLOCABLE TO THE COMMUNITY.—

(A) IN GENERAL.—The rehabilitation costs not allocable to the Community under exhibit 20.1 to the Gila River agreement shall be provided from funds available under paragraph (2)(D)(iv) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)).

(B) SUPPLEMENTARY REPAYMENT CONTRACT.—Prior to the advance of any funds made available to the San Carlos Irrigation and Drainage District pursuant to the provisions of this Act, the Secretary shall execute a supplementary repayment contract with the San Carlos Irrigation and Drainage District in the form provided for in exhibit 20.1 to the Gila River agreement which shall, among other things, provide that—

(i) in accomplishing the work under the supplemental repayment contract—

(I) the San Carlos Irrigation and Drainage District—

(aa) may use locally accepted engineering standards and the labor and contracting authorities that are available to the District under State law; and

(bb) shall be subject to the value engineering program of the Bureau of Reclamation established pursuant to OMB Circular A-131; and

(II) in accordance with FAR Part 48.101(b), the incentive returned to the contractor through this ``Incentive Clause'' shall be 55 percent after the Contractor is reimbursed for the allowable costs of developing and implementing the proposal and the Government shall retain 45 percent of such savings in the form of reduced expenditures;

(ii) up to 18,000 acre-feet annually of conserved water will be made available by the San Carlos Irrigation and Drainage District to the United States pursuant to the terms of exhibit 20.1 to the Gila River agreement; and

(iii) a portion of the San Carlos Irrigation and Drainage District's share of the rehabilitation costs specified in exhibit 20.1 to the Gila River agreement shall be nonreimbursable.

(5) LEAD AGENCY.—The Bureau of Reclamation shall be designated as the lead agency for oversight of the construction and rehabilitation of the San Carlos Irrigation Project authorized by this section.

(6) FINANCIAL RESPONSIBILITY.—Except as expressly provided by this section, nothing in this Act shall affect—

(A) any responsibility of the Secretary under the provisions of the Act of June 7, 1924 (commonly known as the "San Carlos Irrigation Project Act of 1924") (43 Stat. 475); or

(B) any other financial responsibility of the Secretary relating to operation and maintenance of the San Carlos Irrigation Project existing on the date of enactment of this Act.

### SEC. 204. WATER RIGHTS.

(a) RIGHTS HELD IN TRUST; ALLOTTEES.—

(1) INTENT OF CONGRESS.—It is the intent of Congress to provide allottees with benefits that are equal to or that exceed the benefits that the allottees currently possess, taking into account—

(A) the potential risks, cost, and time delay associated with the litigation that will be resolved by the Gila River agreement;

(B) the availability of funding under title I for the rehabilitation of the San Carlos Irrigation Project and for other benefits;

(C) the availability of water from the CAP system and other sources after the enforceability date, which will supplement less secure existing water supplies; and

(D) the applicability of section 7 of the Act of February 8, 1887 (25 U.S.C. 381), and this title to protect the interests of allottees.

(2) HOLDING IN TRUST.—The water rights and resources described in the Gila River agreement shall be held in trust by the United States on behalf of the Community and the allottees as described in this section.

(3) ALLOTTED LAND.—As specified in and provided for under this Act—

(A) agricultural allottees, other than allottees with rights under the Globe Equity Decree, shall be entitled to a just and equitable allocation of water from the Community for irrigation purposes from the water resources described in the Gila River agreement;

(B) allotted land with rights under the Globe Equity Decree shall be entitled to receive—

(i) a similar quantity of water from the Community to the quantity historically delivered under the Globe Equity Decree; and

(ii) the benefit of the rehabilitation of the San Carlos Irrigation Project as provided in this Act, a more secure source of water, and other benefits under this Act;

(C) the water rights and resources and other benefits provided by this Act are a complete substitution of any rights that may have been held by, or any claims that may have been asserted by, the allottees before the date of enactment of this Act for land within the exterior boundaries of the Reservation;

(D) any entitlement to water of allottees for land located within the exterior boundaries of the Reservation shall be satisfied by the Community using the water resources described in subparagraph 4.1 in the Gila River agreement;

(E) before asserting any claim against the United States under section 1491(a) of title 28, United States Code, or under section 7 of the Act of February 8, 1887 (25 U.S.C. 381), an allottee shall first exhaust remedies available to the allottee under the Community's water code and Community law; and

(F) following exhaustion of remedies on claims relating to section 7 of the Act of February 8, 1887 (25 U.S.C. 381), a claimant may petition the Secretary for relief.

(4) ACTIONS, CLAIMS, AND LAWSUITS.—

(A) IN GENERAL.—Nothing in this Act authorizes any action, claim, or lawsuit by an allottee against any person, entity, corporation, or municipal corporation, under Federal, State, or other law.

(B) THE COMMUNITY AND THE UNITED STATES.—Except as provided in subparagraphs (E) and (F) of paragraph (3) and subsection (e)(2)(C), nothing in this Act either authorizes any action, claim, or lawsuit by an allottee against the Community under Federal, State, or other law, or alters available actions pursuant to section 1491(a) of title 28, of the United States Code, or section 381 of title 25, of the United States Code.

(b) REALLOCATION.—

(1) IN GENERAL.—In accordance with this title and the Gila River agreement, the Secretary shall reallocate and contract with the Community for the delivery in accordance with this section of—

(A) an annual entitlement to 18,600 acre-feet of CAP agricultural priority water in accordance with the agreement among the Secretary, the Community, and Roosevelt Water Conservation District dated August 7, 1992;

(B) an annual entitlement to 18,100 acre-feet of CAP Indian priority water, which was permanently relinquished by Harquahala Valley Irrigation District in accordance with Contract No. 3-0907-0930-09W0290 among the Central Arizona Water Conservation District, the Harquahala Valley Irrigation District, and the United States, and converted to CAP Indian priority water under the Fort McDowell Indian Community Water Rights Settlement Act of 1990 (104 Stat. 4480);

(C) on execution of an exchange and lease agreement among the Community, the United States, and Asarco, an annual entitlement of up to 17,000 acre-feet of CAP municipal and industrial priority water under the subcontract among the United States, the Central Arizona Water Conservation District, and Asarco, Subcontract No. 3-07-30-W0307, dated November 7, 1993; and

(D) as provided in section 104(a)(1)(A)(i), an annual entitlement to 102,000 acre-feet of CAP agricultural priority water acquired pursuant to the master agreement.

(2) SOLE AUTHORITY.—In accordance with this section, the Community shall have the sole authority, subject to the Secretary's approval pursuant to section 205(a)(2), to lease, distribute, exchange, or allocate the CAP water described in this subsection, except that this paragraph shall not impair the right of an allottee to lease land of the allottee together with the water rights appurtenant to the land. Nothing in this paragraph shall affect the validity of any lease or exchange ratified in section 205(c) or 205(d).

(c) WATER SERVICE CAPITAL CHARGES.—The Community shall not be responsible for water service capital charges for CAP water.

(d) ALLOCATION AND REPAYMENT.—For the purpose of determining the allocation and repayment of costs of any stages of the Central Arizona Project constructed after the date of enactment of this Act, the costs associated with the delivery of water described in subsection (b), whether that water is delivered for use by the Community or in accordance with any assignment, exchange, lease, option to lease, or other agreement for the temporary disposition of water entered into by the Community—

(1) shall be nonreimbursable; and

(2) shall be excluded from the repayment obligation of the Central Arizona Water Conservation District.

(e) APPLICATION OF PROVISIONS.—

(1) IN GENERAL.—The water rights recognized and confirmed to the Community and allottees by the Gila River agreement and this title shall be subject to section 7 of the Act of February 8, 1887 (25 U.S.C. 381).

(2) WATER CODE.—

(A) IN GENERAL.—Not later than 18 months after the enforceability date, the Community shall enact a water code, subject to any applicable provision of law (including subsection (a)(3)), that—

(i) manages, regulates, and controls the water resources on the Reservation;

(ii) governs all of the water rights that are held in trust by the United States; and

(iii) provides that, subject to approval of the Secretary—

(I) the Community shall manage, regulate, and control the water resources described in the Gila River agreement and allocate water to all water users on the Reservation pursuant to the water code;

(II) the Community shall establish conditions, limitations, and permit requirements relating to the storage, recovery, and use of the water resources described in the Gila River agreement;

(III) any allocation of water shall be from the pooled water resources described in the Gila River agreement;

(IV) charges for delivery of water for irrigation purposes to water users on the Reservation (including water users on allotted land) shall be assessed on a just and equitable basis without regard to the status of the Reservation land on which the water is used;

(V) there is a process by which any user of or applicant to use water for irrigation purposes (including water users on allotted land) may request that the Community provide water for irrigation use in accordance with this title;

(VI) there is a due process system for the consideration and determination by the Community of any request by any water user on the Reservation (including water users on allotted land), for an allocation of water, including a process for appeal and adjudication of denied or disputed distributions of water and for resolution of contested administrative decisions; and

(VII) there is a requirement that any allottee with a claim relating to the enforcement of rights of the allottee under the water code or relating to the amount of water allocated to land of the allottee must first exhaust remedies available to the allottee under Community law and the water code before initiating an action against the United States or petitioning the Secretary pursuant to subsection (a)(3)(F).

(B) APPROVAL.—Any provision of the water code and any amendments to the water code that affect the rights of the allottees shall be subject to the approval of the Secretary, and no such provision or amendment shall be valid until approved by the Secretary.

(C) INCLUSION OF REQUIREMENT IN WATER CODE.—The Community is authorized to and shall include in the water code the requirement in subparagraph (A)(VII) that any allottee with a claim relating to the enforcement of rights of the allottee under the water code or relating to the amount of water allocated to land of the allottee must first exhaust remedies available to the allottee under Community law and the water code before initiating an action against the United States.

(3) ADMINISTRATION.—The Secretary shall administer all rights to water granted or confirmed to the Community and allottees by the Gila River agreement and this Act until such date as the water code described in paragraph (2) has been enacted and approved by the Secretary, at which time the

Community shall have authority, subject to the Secretary's authority under section 7 of the Act of February 8, 1887 (25 U.S.C. 381), to manage, regulate, and control the water resources described in the Gila River agreement, subject to paragraph (2), except that this paragraph shall not impair the right of an allottee to lease land of the allottee together with the water rights appurtenant to the land.

**SEC. 205. COMMUNITY WATER DELIVERY CONTRACT AMENDMENTS.**

(a) In General.—The Secretary shall amend the Community water delivery contract to provide, among other things, in accordance with the Gila River agreement, that—

(1) the contract shall be—

(A) for permanent service (as that term is used in section 5 of the Boulder Canyon Project Act (43 U.S.C. 617d)); and

(B) without limit as to term;

(2) the Community may, with the approval of the Secretary, including approval as to the Secretary's authority under section 7 of the Act of February 8, 1887 (25 U.S.C. 381)—

(A) enter into contracts or options to lease (for a term not to exceed 100 years) or contracts or options to exchange, Community CAP water within Maricopa, Pinal, Pima, La Paz, Yavapai, Gila, Graham, Greenlee, Santa Cruz, or Coconino Counties, Arizona, providing for the temporary delivery to others of any portion of the Community CAP water; and

(B) renegotiate any lease at any time during the term of the lease, so long as the term of the renegotiated lease does not exceed 100 years;

(3)(A) the Community, and not the United States, shall be entitled to all consideration due to the Community under any leases or options to lease and exchanges or options to exchange Community CAP water entered into by the Community; and

(B) the United States shall have no trust obligation or other obligation to monitor, administer, or account for—

(i) any funds received by the Community as consideration under any such leases or options to lease and exchanges or options to exchange; or

(ii) the expenditure of such funds;

(4)(A) all Community CAP water shall be delivered through the CAP system; and

(B) if the delivery capacity of the CAP system is significantly reduced or is anticipated to be significantly reduced for an extended period of time, the Community shall have the same CAP delivery rights as other CAP contractors and CAP subcontractors, if such CAP contractors or CAP subcontractors are allowed to take delivery of water other than through the CAP system;

(5) the Community may use Community CAP water on or off the Reservation for Community purposes;

(6) as authorized by subparagraph (A) of section 403(f)(2) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)) (as amended by section 107(a)) and to the extent that funds are available in the Lower Colorado River Basin Development Fund established by section 403 of that Act (43 U.S.C. 1543), the United States shall pay to the CAP operating agency the fixed OM&R charges associated with the delivery of Community CAP water, except for Community CAP water leased by others;

(7) the costs associated with the construction of the CAP system allocable to the Community—

(A) shall be nonreimbursable; and

(B) shall be excluded from any repayment obligation of the Community; and

(8) no CAP water service capital charges shall be due or payable for Community CAP water, whether CAP water is delivered for use by the Community or is delivered under any leases, options to lease, exchanges or options to exchange Community CAP water entered into by the Community.

(b) Amended and Restated Community Water Delivery Contract.—To the extent it is not in conflict with the provisions of this Act, the Amended and Restated Community CAP Water Delivery Contract set forth in exhibit 8.2 to the Gila River agreement is authorized, ratified, and confirmed, and the Secretary is directed to and shall execute the contract. To the extent amendments are executed to make the Amended and Restated Community CAP Water Delivery Contract consistent with this title, such amendments are also authorized, ratified, and confirmed.

(c) Leases.—To the extent they are not in conflict with the provisions of this Act, the leases of Community CAP water by the Community to Phelps Dodge, and any of the Cities, attached as exhibits to the Gila River agreement, are authorized, ratified, and confirmed, and the Secretary is directed to and shall execute the leases. To the extent amendments are executed to make such leases consistent with this title, such amendments are also authorized, ratified, and confirmed.

(d) Reclaimed Water Exchange Agreement.—To the extent it is not in conflict with the provisions of this Act, the Reclaimed Water Exchange Agreement among the cities of Chandler and Mesa, Arizona, the Community, and the United States, attached as exhibit 18.1 to the Gila River agreement, is authorized, ratified, and confirmed, and the Secretary shall execute the agreement. To the extent amendments are executed to make the Reclaimed Water Exchange Agreement consistent with this title, such amendments are also authorized, ratified, and confirmed.

(e) Payment of Charges.—Neither the Community nor any recipient of Community CAP water through lease or exchange shall be obligated to pay water service capital charges or any other charges, payments, or fees for the CAP water, except as provided in the lease or exchange agreement.

(f) Prohibitions.—

(1) Use outside the state.—None of the Community CAP water shall be leased, exchanged, forborne, or otherwise transferred in any way by the Community for use directly or indirectly outside the State.

(2) Use off reservation.—Except as authorized by this section and subparagraph 4.7 of the Gila River agreement, no water made available to the Community under the Gila River agreement, the Globe Equity Decree, the Haggard Decree, or this title may be sold, leased, transferred, or used off the Reservation other than by exchange.

(3) Agreements with the Arizona Water Banking Authority.—Nothing in this Act or the Gila River agreement limits the right of the Community to enter into any agreement with the Arizona Water Banking Authority, or any successor agency or entity, in accordance with State law.

**SEC. 206. SATISFACTION OF CLAIMS.**

(a) In General.—The benefits realized by the Community, Community members, and allottees under this title shall be in complete replacement of and substitution for, and full satisfaction of, all claims of the Community, Community members, and allottees for water rights, injury to water rights, injury to water quality and subsidence damage, except as set forth in the Gila River agreement, under Federal, State, or other law with respect to land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land.

(b) No Recognition of Water Rights.—Notwithstanding subsection (a) and except as provided in section 204(a), nothing in this title has the effect of recognizing or establishing any right of a Community member or allottee to water on the Reservation.

**SEC. 207. WAIVER AND RELEASE OF CLAIMS.**

(a) In General.—

(1) Claims against the state and others.—

(A) Claims for water rights and injury to water rights by the community and the united states on behalf of the community.—Except as provided in subparagraph 25.12 of the Gila River agreement, the Community, on behalf of the Community and Community members (but not members in their capacities as allottees), and the United States, on behalf of the Community and Community members (but not members in their capacities as allottees), as part of the performance of their obligations under the Gila River agreement, are authorized to execute a waiver and release of any claims against the State (or any agency or political subdivision of the State) or any other person, entity, corporation, or municipal corporation under Federal, State, or other law for—

(i)(I) past, present, and future claims for water rights for land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land arising from time immemorial and, thereafter, forever; and

(II) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Community and Community members, or their predecessors;

(ii)(I) past and present claims for injury to water rights for land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land arising from time immemorial through the enforceability date;

(II) past, present, and future claims for injury to water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Community and Community members, or their predecessors; and

(III) claims for injury to water rights arising after the enforceability date for land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land resulting from the off-Reservation diversion or use of water in a manner not in violation of the Gila River agreement or State law;

(iii) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Gila River agreement or the negotiation or enactment of titles I and II; and

(iv)(I) past and present claims for subsidence damage occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land, or fee land arising from time immemorial through the enforceability date; and

(II) claims for subsidence damage arising after the enforceability date occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land, or fee land resulting from the diversion of underground water in a manner not in violation of the Gila River agreement or State law.

(B) CLAIMS FOR WATER RIGHTS AND INJURY TO WATER RIGHTS BY THE UNITED STATES AS TRUSTEE FOR THE ALLOTTEES.—Except as provided in subparagraph 25.12 of the Gila River agreement, the United States, as trustee for the allottees, as part of the performance of its obligations under the Gila River agreement, is authorized to execute a waiver and release of any claims against the State (or any agency or political subdivision of the State) or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for—

(i)(I) past, present, and future claims for water rights for land within the exterior boundaries of the Reservation arising from time immemorial and, thereafter, forever; and

(II) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by allottees, or their predecessors;

(ii)(I) past and present claims for injury to water rights for land within the exterior boundaries of the Reservation arising from time immemorial through the enforceability date;

(II) past, present, and future claims for injury to water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by allottees or their predecessors; and

(III) claims for injury to water rights arising after the enforceability date for land within the exterior boundaries of the Reservation resulting from the off-Reservation diversion or use of water in a manner not in violation of the Gila River agreement or State law;

(iii) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Gila River agreement or the negotiation or enactment of titles I and II; and

(iv) past and present claims for subsidence damage occurring to land within the exterior boundaries of the Reservation arising from time immemorial through the enforceability date.

(C) CLAIMS FOR INJURY TO WATER QUALITY BY THE COMMUNITY.—Except as provided in subparagraph 25.12 of the Gila River agreement, the Community, on behalf of the Community and Community members (but not members in their capacities as allottees), as part of the performance of its obligations under the Gila River agreement, is authorized to execute a waiver and release of any claims, and to agree to waive its right to request the United States to bring any claims, against the State (or any agency or political subdivision of the State) or any other person, entity, corporation, or municipal corporation under Federal, State, or other law for—

(i) past and present claims for injury to water quality (other than claims arising out of the actions that resulted in the remediations described in exhibit 25.4.1.1 to the Gila River agreement), including claims for trespass, nuisance, and real property damage and claims under all current and future Federal, State, and other environmental laws and regulations, including claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Arizona Water Quality Assurance Revolving Fund (Ariz. Rev. Stat. 49-281 et seq. as amended) arising from time immemorial through December 31, 2002, for land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land;

(ii) past, present, and future claims for injury to water quality (other than claims arising out of actions that resulted in the remediations described in exhibit 25.4.1.1 to the Gila River agreement), including claims for trespass, nuisance, and real property damage and claims under all current and future Federal, State, and other environmental laws and regulations, including claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Arizona Water Quality Assurance Revolving Fund (Ariz. Rev. Stat. 49-281 et seq.), arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Community and Community members, or their predecessors;

(iii) claims for injury to water quality (other than claims arising out of actions that resulted in the remediations described in exhibit 25.4.1.1 to the Gila River agreement) arising after December 31, 2002, including claims for trespass, nuisance, and real property damage and claims under all current and future Federal, State, and other environmental laws and regulations, including claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Arizona Water Quality Assurance Revolving Fund (Ariz. Rev. Stat. 49-9281 et seq.), that result from—

(I) the delivery of water to the Community;

(II) the off-Reservation diversion (other than pumping), or ownership or operation of structures for the off-Reservation diversion (other than pumping), of water;

(III) the off-Reservation pumping, or ownership or operation of structures for the off-Reservation pumping, of water in a manner not in violation of the Gila River agreement or of any applicable pumping limitations under State law;

(IV) the recharge, or ownership or operation of structures for the recharge, of water under a State permit; and

(V) the off-Reservation application of water to land for irrigation,

except that the waiver provided in this clause shall extend only to the State (or any agency or political subdivision of the State) or any other person, entity, or municipal or other corporation to the extent that the person, entity, or corporation is engaged in an activity specified in this clause.

(D) PAST AND PRESENT CLAIMS FOR INJURY TO WATER QUALITY BY THE UNITED STATES.—Except as provided in subparagraph 25.12 of the Gila River agreement and except for any claims arising out of the actions that resulted in the remediations described in exhibit 25.4.1.1 to the Gila River agreement, the United States, acting as trustee for the Community, Community members and allottees, and as part of the performance of its obligations under the Gila River agreement, to the extent consistent with this section, is authorized to execute a waiver and release of any claims arising from time immemorial through December 31, 2002, for injury to water quality where all of the following conditions are met:

(i) The claims are brought solely on behalf of the Community, members, or allottees.

(ii) The claims are brought against the State (or any agency or political subdivision of the State) or any person, entity, corporation, or municipal corporation.

(iii) The claims arise under Federal, State, or other law, including claims, if any, for trespass, nuisance, and real property damage, and claims, if any, under any current or future Federal, State, or other environmental laws or regulation, including under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or the Arizona Water Quality Assurance Revolving Fund (Ariz. Rev. Stat. 49–281 et seq.).

(iv) The claimed injury is to land, water, or natural resources located on trust land within the exterior boundaries of the Reservation or on off-Reservation trust land.

(E) FUTURE CLAIMS FOR INJURY TO WATER QUALITY BY THE UNITED STATES.—Except as provided in subparagraph 25.12 of the Gila River agreement and except for any claims arising out of the actions that resulted in the remediations described in exhibit 25.4.1.1 to the Gila River agreement, the United States, in its own right and as trustee for the Community, its members and allottees, as part of the performance of its obligations under the Gila River agreement, to the extent consistent with this section, is authorized to execute a waiver and release of the following claims for injury or threat of injury to water quality arising after December 31, 2002, against the State (or any agency or political subdivision of the State) or any other person, entity, corporation, or municipal corporation under Federal, State, or other law:

(i) All common law claims for injury or threat of injury to water quality where the injury or threat of injury asserted is to the Community's, Community members' or allottees' interests in trust land, water, or natural resources located within the exterior boundaries of the Reservation or within off-Reservation trust lands caused by—

(I) the delivery of water to the Community;

(II) the off-Reservation diversion (other than pumping), or ownership or operation of structures for the off-Reservation diversion (other than pumping), of water;

(III) the off-Reservation pumping, or ownership or operation of structures for the off-Reservation pumping, of water in a manner not in violation of the Gila River agreement or of any applicable pumping limitations under State law;

(IV) the recharge, or ownership or operation of structures for the recharge, of water under a State permit; and

(V) the off-Reservation application of water to land for irrigation.

(ii) All natural-resource damage claims for injury or threat of injury to water quality where the United States, through the Secretary of the Interior or other designated officials, would act on behalf of the Community, its members or allottees as a natural resource trustee pursuant to the National Contingency Plan, (as currently set forth in section 300.600(b)(2) of title 40, Code of Federal Regulations, or as it may hereafter be amended), and where the claim is based on injury to natural resources or threat of injury to natural resources within the exterior boundaries of the Reservation or off-Reservation trust lands, caused by—

(I) the delivery of water to the Community;

(II) the off-Reservation diversion (other than pumping), or ownership or operation of structures for the off-Reservation diversion (other than pumping), of water;

(III) the off-Reservation pumping, or ownership or operation of structures for the off-Reservation pumping, of water in a manner not in violation of the Gila River agreement or of any applicable pumping limitations under State law;

(IV) the recharge, or ownership or operation of structures for the recharge, of water under a State permit; and

(V) the off-Reservation application of water to land for irrigation.

(F) CLAIMS BY THE COMMUNITY AGAINST THE SALT RIVER PROJECT.—

(i) IN GENERAL.—Except as provided in subparagraph 25.12 of the Gila River agreement, to the extent consistent with this section, the Community, on behalf of the Community and Community members (but not members in their capacities as allottees), as part of the performance of its obligations under the Gila River agreement, is authorized to execute a waiver and release of claims against the Salt River Project (or its successors or assigns or its officers, governors, directors, employees, agents, or shareholders), where all of the following conditions are met:

(I) The claims are brought solely on behalf of the Community or its members.

(II) The claims arise from the discharge, transportation, seepage, or other movement of water in, through, or from drains, canals, or other facilities or land in the Salt River Reservoir District to trust land located within the exterior boundaries of the Reservation.

(III) The claims arise from time immemorial through the enforceability date.

(IV) The claims assert a past or present injury to water rights, injury on the Reservation to water quality, or injury to trust property located within the exterior boundaries of the Reservation.

(ii) EFFECT OF WAIVER.—The waiver provided for in this subparagraph is effective as of December 31, 2002, and shall continue to preclude claims as they may arise until the enforceability date, or until such time as the Salt River Project alters its historical operations of the drains, canals, or other facilities within the Salt River Reservoir District in a manner that would cause significant harm to trust lands within the exterior boundaries of the Reservation, whichever occurs earlier.

(G) CLAIMS BY THE UNITED STATES AGAINST THE SALT RIVER PROJECT.—

(i) IN GENERAL.—Except as provided in subparagraph 25.12 of the Gila River agreement, to the extent consistent with this section, the United States, acting as trustee for the Community, Community members and allottees, and as part of the performance of its obligations under the Gila River agreement, is authorized to execute a waiver and release of claims against the Salt River Project (or its successors or assigns or its officers, governors, directors, employees, agents, or shareholders), where all of the following conditions are met:

(I) The claims are brought solely on behalf of the Community, members, or allottees.

(II) The claims arise from the discharge, transportation, seepage, or other movement of water in, through, or from drains, canals, or other facilities or land in the Salt River Reservoir District to trust land located within the exterior boundaries of the Reservation.

(III) The claims arise from time immemorial through the enforceability date.

(IV) The claims assert a past or present injury to water rights, injury on the Reservation to water quality, or injury to trust property located within the exterior boundaries of the Reservation.

(ii) EFFECT OF WAIVER.—The waiver provided for in this subsection is effective as of December 31, 2002, and shall continue to preclude claims as they may arise until the enforceability date, or until such time as the Salt River Project alters its historical operations of the drains, canals, or other facilities within the Salt River Reservoir District in a manner that would cause significant harm to trust lands within the exterior boundaries of the Reservation, whichever occurs earlier.

(H) UNITED STATES ENFORCEMENT AUTHORITY.—Except as provided in subparagraphs (D), (E), and (G), nothing in this Act or the Gila River agreement affects any right of the United States, or the State, to take any action, including environmental actions, under any laws (including regulations and the common law) relating to human health, safety, or the environment.

(2) CLAIMS FOR SUBSIDENCE BY THE COMMUNITY, ALLOTTEES, AND THE UNITED STATES ON BEHALF OF THE COMMUNITY AND ALLOTTEES.—In accordance with the subsidence remediation program under section 209, the Community, a Community member, or an allottee, and the United States, on behalf of the Community, a Community member, or an allottee, as part of the performance of obligations under the Gila River agreement, are authorized to execute a waiver and release of all claims against the State (or any agency or political subdivision of the State) or any other person, entity, corporation or municipal corporation under Federal, State, or other law for the damage claimed.

(3) CLAIMS AGAINST THE COMMUNITY.—

(A) IN GENERAL.—Except as provided in subparagraph 25.12 of the Gila River agreement, to the extent consistent with this Act, the United States, in all its capacities (except as trustee for an Indian tribe other than the Community), as part of the performance of obligations under the Gila River agreement, is authorized to execute a waiver and release of any and all claims against the Community, or any agency, official, or employee of the Community, under Federal, State, or any other law for—

(i) past and present claims for subsidence damage to trust land within the exterior boundaries of the Reservation, off-Reservation trust lands, and fee land arising from time immemorial through the enforceability date; and

(ii) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Gila River agreement or the negotiation or enactment of titles I and II.

(4) CLAIMS AGAINST THE UNITED STATES.—

(A) IN GENERAL.—Except as provided in subparagraph 25.12 of the Gila River agreement, the Community, on behalf of the Community and Community members (but not members in their capacities as allottees), as part of the performance of obligations under the Gila River agreement, is authorized to execute a waiver and release of any claim against the United States (or agencies, officials, or employees of the United States) under Federal, State, or other law for—

(i)(I) past, present, and future claims for water rights for land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land arising from time immemorial and, thereafter, forever; and

(II) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Community and Community members, or their predecessors;

(ii)(I) past and present claims for injury to water rights for land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land arising from time immemorial through the enforceability date;

(II) past, present, and future claims for injury to water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Community and Community members, or their predecessors; and

(III) claims for injury to water rights arising after the enforceability date for land within the exterior boundaries of the Reservation, off-Reservation trust land, or fee land resulting from the off-Reservation diversion or use of water in a manner not in violation of the Gila River agreement or applicable law;

(iii) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Gila River agreement or the negotiation or enactment of titles I and II;

(iv)(I) past and present claims for subsidence damage occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land, or fee land arising from time immemorial through the enforceability date; and

(II) claims for subsidence damage arising after the enforceability date occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land or fee land resulting from the diversion of underground water in a manner not in violation of the Gila River agreement or applicable law;

(v) past and present claims for failure to protect, acquire, or develop water rights for or on behalf of the Community and Community members arising before December 31, 2002; and

(vi) past, present, and future claims relating to failure to assert any claims expressly waived pursuant to section 207(a)(1) (C) through (E).

(B) EXHAUSTION OF REMEDIES.—To the extent that members in their capacity as allottees assert that this title impairs or alters their present or future claims to water or constitutes an injury to present or future water rights, the members shall be required to exhaust their remedies pursuant to the tribal water code prior to asserting claims against the United States.

(5) CLAIMS AGAINST CERTAIN PERSONS AND ENTITIES IN THE UPPER GILA VALLEY.—

(A) BY THE COMMUNITY AND THE UNITED STATES.—Except as provided in the UVD agreement, the Community, on behalf of the Community and Community members (but not members in their capacities as allottees), and the United States on behalf of the Community and Community members (but not members in their capacities as allottees), are authorized, as part of the performance of obligations under the UVD agreement, to execute a waiver and release of the following claims against the UV signatories and the UV Non-signatories (and the predecessors in interest of each) for—

(i)(I) past, present, and future claims for water rights for land within the exterior boundaries of the Reservation and the San Carlos Irrigation Project arising from time immemorial and, thereafter, forever; and

(II) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Community, Community members, or predecessors of the Community or Community members;

(ii)(I) past, present, and future claims for injuries to water rights for land within the exterior boundaries of the Reservation or the San Carlos Irrigation Project arising from time immemorial and, thereafter, forever;

(II) past, present, and future claims for injury to water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Community, Community members, or predecessors of Community members, for so long as and to the extent that any individual beneficiary of such waiver is acting in a manner that is consistent with and not in violation of or contrary to the terms, conditions, requirements, limitations, or other provisions of the UVD agreement;

(III) claims for injury to water rights arising after the enforceability date for land within the exterior boundaries of the Reservation and the San Carlos Irrigation Project, resulting from the diversion, pumping, or use of water in a manner that is consistent with and not in violation of or contrary to the terms, conditions, limitations, requirements, or provisions of the UVD agreement; and

(IV) claims for injury to water rights arising after the enforceability date for water rights transferred to the Project pursuant to section 211 resulting from the diversion, pumping or use of water in a manner that is consistent with and not in violation of or contrary to the terms, conditions, limitations, requirements, or provisions of the UVD agreement;

(iii)(I) past, present, and future claims for injuries to water rights arising out of or relating to the use of water rights appurtenant to New Mexico 381 acres, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and

(II) past, present, and future claims arising out of and relating to the use of water rights for New Mexico domestic purposes, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and

(iv) past, present, and future claims arising out of or relating to the negotiation or execution of the UVD agreement, or the negotiation or enactment of titles I and II.

(B) BY THE UNITED STATES ON BEHALF OF ALLOTTEES.—Except as provided in the UVD agreement, to the extent consistent with this section, the United States as trustee for the allottees, as part of the performance under the UVD agreement, is authorized to execute a waiver and release of the following claims under Federal, State, or other law against the UV signatories and the UV Non-signatories (and the predecessors in interest of each) for—

(i)(I) past, present, and future claims for water rights for land within the exterior boundaries of the Reservation arising from time immemorial, and thereafter, forever; and

(II) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of lands by allottees or their predecessors;

(ii)(I) past and present claims for injury to water rights for lands within the exterior boundaries of the Reservation arising from time immemorial, through the enforceability date, for so long as and to the extent that any individual beneficiary of such waiver is acting in a manner that is consistent with and not in violation of or contrary to the terms, conditions, requirements, limitations, or other provisions of the UVD agreement;

(II) past, present, and future claims for injury to water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of lands by allottees or their predecessors, for so long as and to the extent that any individual beneficiary of such waiver is acting in a manner that is consistent with and not in violation of or contrary to the terms, conditions, requirements, limitations, or other provisions of the UVD agreement; and

(III) claims for injury to water rights for land within the exterior boundaries of the Reservation arising after the enforceability date resulting from the diversion, pumping, or use of water in a manner that is consistent with and not in violation of or contrary to the terms, conditions, limitations, requirements, or provisions of the UVD agreement;

(iii)(I) past, present, and future claims for injuries to water rights arising out of or relating to the use of water rights appurtenant to New Mexico 381 acres, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), as supplemented, and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and

(II) past, present, and future claims arising out of or relating to the use of water rights for New Mexico domestic purposes, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), as supplemented, and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and

(iv) past, present, and future claims arising out of or relating to the negotiation or execution of the UVD agreement, or the negotiation or enactment of titles I and II.

(C) ADDITIONAL WAIVER OF CERTAIN CLAIMS BY THE UNITED STATES.—Except as provided in the UVD Agreement, the United States (to the extent the waiver and release authorized by this subparagraph is not duplicative of the waiver and release provided in subparagraph (B) and to the extent the United States holds legal title to (but not the beneficial interest in) the water rights as described in article V or VI of the Globe Equity Decree (but not on behalf of the San Carlos Apache Tribe pursuant to article VI(2) of the Globe Equity Decree) on behalf of lands within the San Carlos Irrigation and Drainage District and the Miscellaneous Flow Lands) shall execute a waiver and release of the following claims under Federal, State or other law against the UV signatories and the UV Non-signatories (and the predecessors of each) for—

(i) past, present, and future claims for water rights for land within the San Carlos Irrigation and Drainage District and the Miscellaneous Flow Lands arising from time immemorial, and thereafter, forever;

(ii)(I) past and present claims for injury to water rights for land within the San Carlos Irrigation and Drainage District and the Miscellaneous Flow Lands arising from time immemorial through the enforceability date, for so long as and to the extent that any individual beneficiary of such waiver is acting in a manner that is consistent with and not in violation of or contrary to the terms, conditions, requirements, limitations, or other provisions of the UVD agreement;

(II) claims for injury to water rights arising after the enforceability date for land within the San Carlos Irrigation and Drainage District and the Miscellaneous Flow Lands resulting from the diversion, pumping, or use of water in a manner that is consistent with and not in violation of or contrary to the terms, conditions, limitations, requirements, or provisions of the UVD agreement;

(iii)(I) past, present, and future claims for injuries to water rights arising out of or relating to the use of water rights appurtenant to New Mexico 381 acres, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), as supplemented, and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and

(II) past, present, and future claims arising out of or relating to the use of water rights for New Mexico domestic purposes, on the conditions that such water rights remain subject to the oversight and reporting requirements set forth in the decree in Arizona v. California, 376 U.S. 340 (1964), as supplemented, and that the State of New Mexico shall make available on request a copy of any records prepared pursuant to that decree; and

(iv) past, present, and future claims arising out of or relating to the negotiation or execution of the UVD agreement, or the negotiation or enactment of titles I and II.

(6) TRIBAL WATER QUALITY STANDARDS.—The Community, on behalf of the Community and Community members, as part of the performance of its obligations under the Gila River agreement, is authorized to agree never to adopt any water quality standards, or ask the United States to promulgate such standards, that are more stringent than water quality standards adopted by the State if the Community's adoption of such standards could result in the imposition by the State or the United States of more stringent water quality limitations or requirements than those that would otherwise be imposed by the State or the United States on—

(A) any water delivery system used to deliver water to the Community; or

(B) the discharge of water into any such system.

(b) EFFECTIVENESS OF WAIVER AND RELEASES.—

(1) IN GENERAL.—The waivers under paragraphs (1) and (3) through (5) of subsection (a) shall become effective on the enforceability date.

(2) CLAIMS FOR SUBSIDENCE DAMAGE.—The waiver under subsection (a)(2) shall become effective on execution of the waiver by—

(A) the Community, a Community member, or an allottee; and

(B) the United States, on behalf of the Community, a Community member, or an allottee.

(c) ENFORCEABILITY DATE.—

(1) IN GENERAL.—This section takes effect on the date on which the Secretary publishes in the Federal Register a statement of findings that—

(A) to the extent the Gila River agreement conflicts with this title, the Gila River agreement has been revised through an amendment to eliminate the conflict and the Gila River agreement, so revised, has been executed by the Secretary and the Governor of the State;

(B) the Secretary has fulfilled the requirements of—

(i) paragraphs (1)(A)(i) and (2) of subsection (a) and subsections (b) and (d) of section 104; and

(ii) sections 204, 205, and 209(a);

(C) the master agreement authorized, ratified, and confirmed by section 106(a) has been executed by the parties to the master agreement, and all conditions to the enforceability of the master agreement have been satisfied;

(D) $53,000,000 has been identified and retained in the Lower Colorado River Basin Development Fund for the benefit of the Community in accordance with section 107(b);

(E) the State has appropriated and paid to the Community any amount to be paid under paragraph 27.4 of the Gila River agreement;

(F) the Salt River Project has paid to the Community $500,000 under subparagraph 16.9 of the Gila River agreement;

(G) the judgments and decrees attached to the Gila River agreement as exhibits 25.18A (Gila River adjudication proceedings) and 25.18B (Globe Equity Decree proceedings) have been approved by the respective courts;

(H) the dismissals attached to the Gila River agreement as exhibits 25.17.1A and B, 25.17.2, and 25.17.3A and B have been filed with the respective courts and any necessary dismissal orders entered;

(I) legislation has been enacted by the State to—

(i) implement the Southside Replenishment Program in accordance with subparagraph 5.3 of the Gila River agreement;

(ii) authorize the firming program required by section 105; and

(iii) establish the Upper Gila River Watershed Maintenance Program in accordance with subparagraph 26.8.1 of the Gila River agreement;

(J) the State has entered into an agreement with the Secretary to carry out the obligation of the State under section 105(b)(2)(A); and

(K) a final judgment has been entered in Central Arizona Water Conservation District v. United States (No. CIV 95-625-TUC-WDB(EHC), No. CIV 95-1720PHX-EHC) (Consolidated Action) in accordance with the repayment stipulation.

(2) FAILURE OF ENFORCEABILITY DATE TO OCCUR.—If, because of the failure of the enforceability date to occur by December 31, 2007, this section does not become effective, the Community, Community members, and allottees, and the United States on behalf of the San Carlos Irrigation and Drainage District, the Community, Community members, and allottees, shall retain the right to assert past, present, and future water rights claims, claims for injury to water rights, claims for injury to water quality, and claims for subsidence damage as to all land within the exterior boundaries of the Reservation, off-Reservation trust land, and fee land.

(d) ALL LAND WITHIN EXTERIOR BOUNDARIES OF THE RESERVATION.—Notwithstanding section 2(42), for purposes of this section, section 206, and section 210(d)—

(1) the term "land within the exterior boundaries of the Reservation" includes—

(A) land within the Reservation created pursuant to the Act of February 28, 1859, and modified by the executive orders of August 31, 1876, June 14, 1879, May 5, 1882, November 15, 1883, July 31, 1911, June 2, 1913, August 27, 1914, and July 19, 1915; and

(B) land located in sections 16 and 36, T. 4 S., R. 4 E., Salt and Gila River Baseline and Meridian; and

(2) the term "off-Reservation" refers to land located outside the exterior boundaries of the Reservation (as defined in paragraph (1)).

(e) NO RIGHTS TO WATER.—Upon the occurrence of the enforceability date—

(1) all land held by the United States in trust for the Community, Community members, and allottees and all land held by the Community within the exterior boundaries of the Reservation shall have no rights to water other than those specifically granted to the Community and the United States for the Reservation pursuant to paragraph 4.0 of the Gila River agreement; and

(2) all water usage on land within the exterior boundaries of the Reservation, including the land located in sections 16 and 36, T. 4 S., R. 4 E., Salt and Gila River Baseline and Meridian, upon acquisition by the Community or the United States on behalf of the Community, shall be taken into account in determining compliance by the Community and the United States with the limitations on total diversions specified in subparagraph 4.2 of the Gila River agreement.

### SEC. 208. GILA RIVER INDIAN COMMUNITY WATER OM&R TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "Gila River Indian Community Water OM&R Fund", to be managed and invested by the Secretary, consisting of $53,000,000, the amount made available for this purpose under paragraph (2)(B) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)).

(b) MANAGEMENT.—The Secretary shall manage the Water OM&R Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Community consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), hereafter referred to in this section as the "Trust Fund Reform Act".

(c) INVESTMENT OF THE FUND.—The Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, chapter 41; 25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (52 Stat. 1037, chapter 648; 25 U.S.C. 162a); and

(3) subsection (b).

(d) EXPENDITURES AND WITHDRAWALS.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) IN GENERAL.—The Community may withdraw all or part of the Water OM&R Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) REQUIREMENTS.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Community only spend any funds, as provided in the Gila River agreement, to assist in paying operation, maintenance, and replacement costs associated with the delivery of CAP water for Community purposes.

(2) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that the monies withdrawn from the Water OM&R Fund are used in accordance with this Act.

(3) LIABILITY.—If the Community exercises the right to withdraw monies from the Water OM&R Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Community shall submit to the Secretary for approval an expenditure plan for any portion of the funds made available under this section that the Community does not withdraw under this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Community remaining in the Water OM&R Fund will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act.

(5) ANNUAL REPORT.—The Community shall submit to the Secretary an annual report that describes all expenditures from the Water OM&R Fund during the year covered by the report.

(e) NO DISTRIBUTION TO MEMBERS.—No part of the principal of the Water OM&R Fund, or of the interest or income accruing on the principal, shall be distributed to any Community member on a per capita basis.

(f) FUNDS NOT AVAILABLE UNTIL ENFORCEABILITY DATE.—Amounts in the Water OM&R Fund shall not be available for expenditure or withdrawal by the Community until the enforceability date, or until January 1, 2010, whichever is later.

### SEC. 209. SUBSIDENCE REMEDIATION PROGRAM.

(a) IN GENERAL.—Subject to the availability of funds and consistent with the provisions of section 107(a), the Secretary shall establish a program under which the Bureau of Reclamation shall repair and remediate subsidence damage and related damage that occurs after the enforceability date.

(b) DAMAGE.—Under the program, the Community, a Community member, or an allottee may submit to the Secretary a request for the repair or remediation of—

(1) subsidence damage; and

(2) damage to personal property caused by the settling of geologic strata or cracking in the earth's surface of any length or depth, which settling or cracking is caused by pumping of underground water.

(c) REPAIR OR REMEDIATION.—The Secretary shall perform the requested repair or remediation if—

(1) the Secretary determines that the Community has not exceeded its right to withdraw underground water under the Gila River agreement; and

(2) the Community, Community member, or allottee, and the Secretary as trustee for the Community, Community member, or allottee, execute a waiver and release of claim in the form specified in exhibit 25.9.1, 25.9.2, or 25.9.3 to the Gila River agreement, as applicable, to become effective on satisfactory completion of the requested repair or remediation, as determined under the Gila River agreement.

(d) SPECIFIC SUBSIDENCE DAMAGE.—Subject to the availability of funds, the Secretary, acting through the Commissioner of Reclamation, shall repair, remediate, and rehabilitate the subsidence damage that has occurred to land before the enforceability date within the Reservation, as specified in exhibit 30.21 to the Gila River agreement.

### SEC. 210. AFTER-ACQUIRED TRUST LAND.

(a) REQUIREMENT OF ACT OF CONGRESS.—The Community may seek to have legal title to additional land in the State located outside the exterior boundaries of the Reservation taken into trust by the United States for the benefit of the Community pursuant only to an Act of Congress enacted after the date of enactment of this Act specifically authorizing the transfer for the benefit of the Community.

(b) Water Rights.—After-acquired trust land shall not include federally reserved rights to surface water or groundwater.

(c) Sense of Congress.—It is the sense of Congress that future Acts of Congress authorizing land to be taken into trust under subsection (a) should provide that such land will have only such water rights and water use privileges as would be consistent with State water law and State water management policy.

(d) Acceptance of Land in Trust Status.—

(1) In general.—If the Community acquires legal fee title to land that is located within the exterior boundaries of the Reservation (as defined in section 207(d)), the Secretary shall accept the land in trust status for the benefit of the Community upon receipt by the Secretary of a submission from the Community that provides evidence that—

(A) the land meets the Department of the Interior's minimum environmental standards and requirements for real estate acquisitions set forth in 602 DM 2.6, or any similar successor standards or requirements for real estate acquisitions in effect on the date of the Community's submission; and

(B) the title to the land meets applicable Federal title standards in effect on the date of the Community's submission.

(2) Reservation status.—Land taken or held in trust by the Secretary under paragraph (1) shall be deemed part of the Community's reservation.

### SEC. 211. REDUCTION OF WATER RIGHTS.

(a) Reduction of TBI Eligible Acres.—

(1) In general.—Consistent with this title and as provided in the UVD agreement to assist in reducing the total water demand for irrigation use in the upper valley of the Gila River, the Secretary shall provide funds to the Gila Valley Irrigation District and the Franklin Irrigation District (hereafter in this section referred to as "the Districts") for the acquisition of UV decreed water rights and the extinguishment of those rights to decrease demands on the Gila River, or severance and transfer of those rights to the San Carlos Irrigation Project for the benefit of the Community and the San Carlos Irrigation and Drainage District in accordance with applicable law.

(2) Acquisitions.—

(A) Required phase I acquisition.—Not later than December 31 of the third calendar year that begins after the enforceability date (or December 31 of the first calendar year that begins after the payment provided by subparagraph (D)(iii), if later), the Districts shall acquire the UV decreed water rights appurtenant to 1,000 acres of land (other than special hot lands).

(B) Required phase II acquisition.—Not later than December 31 of the sixth calendar year that begins after the enforceability date (or December 31 of the first calendar year that begins after the payment provided by subparagraph (D)(iii), if later), the Districts shall acquire the UV decreed water rights appurtenant to 1,000 acres of land (other than special hot lands). The reduction of TBI eligible acres under this subparagraph shall be in addition to that accomplished under subparagraph (A).

(C) Additional acquisition in case of settlement.—If the San Carlos Apache Tribe reaches a comprehensive settlement that is approved by Congress and finally approved by all courts the approval of which is required, the Secretary shall offer to acquire for fair market value the UV decreed water rights associated with not less than 500 nor more than 3,000 TBI eligible acres of land (other than special hot lands).

(D) Methods of acquisition for rights acquired pursuant to subparagraphs (A) and (B).—

(i) Determination of value.—

(I) Appraisals.—Not later than December 31 of the first calendar year that begins after the enforceability date in the case of the phase I acquisition, and not later than December 31 of the fourth calendar year that begins after the enforceability date in the case of the phase II acquisition, the Districts shall submit to the Secretary an appraisal of the average value of water rights appurtenant to 1,000 TBI eligible acres.

(II) Review.—The Secretary shall review the appraisal submitted to ensure its consistency with the Uniform Appraisal Standards for Federal Land Acquisition and notify the Districts of the results of the review within 30 days of submission of the appraisal. In the event that the Secretary finds that the appraisal is not consistent with such standards, the Secretary shall so notify the Districts with a full explanation of the reasons for that finding. Within 60 days of being notified by the Secretary that the appraisal is not consistent with such Standards, the Districts shall resubmit an appraisal to the Secretary that is consistent with such standards. The Secretary shall review the resubmitted appraisal to ensure its consistency with nationally approved standards and notify the Districts of the results of the review within 30 days of resubmission.

(III) Petition.—In the event that the Secretary finds that such resubmitted appraisal is not consistent with those Standards, either the Districts or the Secretary may petition a Federal court in the District of Arizona for a determination of whether the appraisal is consistent with nationally approved Standards. If such court finds the appraisal is so consistent, the value stated in the appraisal shall be final for all purposes. If such court finds the appraisal is not so consistent, the court shall determine the average value of water rights appurtenant to 1,000 TBI eligible acres.

(IV) No objection.—If the Secretary does not object to an appraisal within the time periods provided in this clause (i), the value determined in the appraisal shall be final for all purposes.

(ii) Appraisal.—In determining the value of water rights pursuant to this paragraph, any court, the Districts, the Secretary, and any appraiser shall take into account the obligations the owner of the land (to which the rights are appurtenant) will have after acquisition for phreatophyle control as provided in the UVD agreement and to comply with environmental laws because of the acquisition and severance and transfer or extinguishment of the water rights.

(iii) Payment.—No more than 30 days after the average value of water rights appurtenant to 1,000 acres of land has been determined in accordance with clauses (i) and (ii), the Secretary shall pay 125 percent of such values to the Districts.

(iv) Reduction of acreage.—No later than December 31 of the first calendar year that begins after each such payment, the Districts shall acquire the UV decreed water rights appurtenant to one thousand (1,000) acres of lands that would have been included in the calculation of TBI eligible acres (other than special hot lands), if the calculation of TBI eligible acres had been undertaken at the time of acquisition. To the extent possible, the Districts shall select the rights to be acquired in compliance with subsection 5.3.7 of the UVD agreement.

(3) Reduction of TBI eligible acres.—Simultaneously with the acquisition of UV decreed water rights under paragraph (2), the number of TBI eligible acres, but not the number of acres of UV subjugated land, shall be reduced by the number of acres associated with those UV decreed water rights.

(4) Alternatives to acquisition.—

(A) Special hot lands.—After the payments provided by paragraph (2)(D)(iii), the Districts may fulfill the requirements of paragraphs (2) and (3) in full or in part, by entering into an agreement with an owner of special hot lands to prohibit permanently future irrigation of the special hot lands if the UVD settling parties simultaneously—

(i) acquire UV decreed water rights associated with a like number of UV decreed acres that are not TBI eligible acres; and

(ii) sever and transfer those rights to the San Carlos Irrigation Project for the benefit of the Community and the San Carlos Irrigation and Drainage District.

(B) Fallowing agreement.—After the payment provided by paragraph (2)(D)(iii), the Districts may fulfill the requirements of paragraphs (2) and (3) in full or in part, by entering into an agreement with 1 or more owners of UV decreed acres and the UV irrigation district in which the acres are located, if any, under which—

(i) the number of TBI eligible acres is reduced; but

(ii) the owner of the UV decreed acres subject to the reduction is permitted to periodically irrigate the UV decreed acres under a fallowing agreement authorized under the UVD agreement.

(5) Disposition of acquired water rights.—

(A) In general.—Of the UV decreed water rights acquired by the Districts pursuant to subparagraphs (A) and (B) of paragraph (2), the Districts shall, in accordance with all applicable law and the UVD agreement—

(i) sever, and transfer to the San Carlos Irrigation Project for the benefit of the Community and the San Carlos Irrigation and Drainage District, the UV decreed water rights associated with up to 900 UV decreed acres; and

(ii) extinguish the balance of the UV decreed water rights so acquired (except and only to the extent that those rights are associated with a fallowing agreement authorized under paragraph (4)(B)).

(B) San Carlos Apache settlement.—With respect to water rights acquired by the Secretary pursuant to paragraph (2)(C), the Secretary shall, in accordance with applicable law—

(i) cause to be severed and transferred to the San Carlos Irrigation Project, for the benefit of the Community and the San Carlos Irrigation and Drainage District, the UV decreed water rights associated with 200 UV decreed acres;

(ii) cause to be extinguished the UV decreed water rights associated with 300 UV decreed acres; and

(iii) cause to be transferred the balance of those acquired water rights to the San Carlos Apache Tribe pursuant to the terms of the settlement described in paragraph (2)(C).

(6) Mitigation.—To the extent the Districts, after the payments provided by paragraph (2)(D)(iii), do not comply with the acquisition requirements of paragraph (2) or otherwise comply with the alternatives to acquisition provided by paragraph (4), the

Districts shall provide mitigation to the San Carlos Irrigation Project as provided by the UVD agreement.

(b) ADDITIONAL REDUCTIONS.—

(1) COOPERATIVE PROGRAM.—In addition to the reduction of TBI eligible acres to be accomplished under subsection (a), not later than 1 year after the enforceability date, the Secretary and the UVD settling parties shall cooperatively establish a program to purchase and extinguish UV decreed water rights associated with UV decreed acres that have not been recently irrigated.

(2) FOCUS.—The primary focus of the program under paragraph (1) shall be to prevent any land that contains riparian habitat from being reclaimed for irrigation.

(3) FUNDS AND RESOURCES.—The program under this subsection shall not require any expenditure of funds, or commitment of resources, by the UVD signatories other than such incidental expenditures of funds and commitments of resources as are required to cooperatively participate in the program.

### SEC. 212. NEW MEXICO UNIT OF THE CENTRAL ARIZONA PROJECT.

(a) REQUIRED APPROVALS.—The Secretary shall not execute the Gila River agreement pursuant to section 203(b), and the agreement shall not become effective, unless and until the New Mexico Consumptive Use and Forbearance Agreement has been executed by all signatory parties and approved by the State of New Mexico.

(b) NEW MEXICO CONSUMPTIVE USE AND FORBEARANCE AGREEMENT.—

(1) IN GENERAL.—Except to the extent a provision of the New Mexico Consumptive Use and Forbearance Agreement conflicts with a provision of this title, the New Mexico Consumptive Use and Forbearance Agreement is authorized, ratified, and confirmed. To the extent amendments are executed to make the New Mexico Consumptive Use and Forbearance Agreement consistent with this title, such amendments are also authorized, ratified, and confirmed.

(2) EXECUTION.—To the extent the New Mexico Consumptive Use and Forbearance Agreement does not conflict with this title, the Secretary shall execute the New Mexico Consumptive Use and Forbearance Agreement, including all exhibits to which the Secretary is a party to the New Mexico Consumptive Use and Forbearance Agreement and any amendments to the New Mexico Consumptive Use and Forbearance necessary to make it consistent with this title.

(c) NEW MEXICO UNIT AGREEMENT.—The Secretary is authorized to execute the New Mexico Unit Agreement, which agreement shall be executed within 1 year of receipt by the Secretary of written notice from the State of New Mexico that the State of New Mexico intends to build the New Mexico Unit, which notice must be received not later than December 31, 2014. The New Mexico Unit Agreement shall, among other things, provide that—

(1) all funds from the Lower Colorado River Basin Development Fund disbursed in accordance with section 403(f)(2)(D) (i) and (ii) of the Colorado River Basin Project Act (as amended by section 107(a)) shall be nonreimbursable (and such costs shall be excluded from the repayment obligation, if any, of the NM CAP entity under the New Mexico Unit Agreement);

(2) in determining payment for CAP water under the New Mexico Unit Agreement, the NM CAP entity shall be responsible only for its share of operations, maintenance, and replacement costs (and no capital costs attendant to other units or portions of the Central Arizona Project shall be charged to the NM CAP entity);

(3) upon request by the NM CAP entity, the Secretary shall transfer to the NM CAP entity the responsibility to design, build, or operate and maintain the New Mexico Unit, or all or any combination of those responsibilities, provided that the Secretary shall not transfer the authority to divert water pursuant to the New Mexico Consumptive Use and Forbearance Agreement, provided further that the Secretary, shall remain responsible to the parties to the New Mexico Consumptive Use and Forbearance Agreement for the NM CAP entity's compliance with the terms and conditions of that agreement;

(4) the Secretary shall divert water and otherwise exercise her rights and authorities pursuant to the New Mexico Consumptive Use and Forbearance Agreement solely for the benefit of the NM CAP entity and for no other purpose;

(5) the NM CAP entity shall own and hold title to all portions of the New Mexico Unit constructed pursuant to the New Mexico Unit Agreement; and

(6) the Secretary shall provide a waiver of sovereign immunity for the sole and exclusive purpose of resolving a dispute in Federal court of any claim, dispute, or disagreement arising under the New Mexico Unit Agreement.

(d) AMENDMENT TO SECTION 304.—Section 304(f) of the Colorado River Basin Project Act (43 U.S.C. 1524(f)) is amended—

(1) by striking paragraph (1) and inserting the following: "(1) In the operation of the Central Arizona Project, the Secretary shall offer to contract with water users in the State of New Mexico, with the approval of its Interstate Stream Commission, or with the State of New Mexico, through its Interstate Stream Commission, for water from the Gila River, its tributaries and underground water sources in amounts that will permit consumptive use of water in New Mexico of not to exceed an annual average in any period of 10 consecutive years of 14,000 acre-feet, including reservoir evaporation, over and above the consumptive uses provided for by article IV of the decree of the Supreme Court of the United States in Arizona v. California (376 U.S. 340). Such increased consumptive uses shall continue only so long as delivery of Colorado River water to downstream Gila River users in Arizona is being accomplished in accordance with this Act, in quantities sufficient to replace any diminution of their supply resulting from such diversion from the Gila River, its tributaries and underground water sources. In determining the amount required for this purpose, full consideration shall be given to any differences in the quality of the water involved.";

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(e) COST LIMITATION.—In determining payment for CAP water under the New Mexico Consumptive Use and Forbearance Agreement, the NM CAP entity shall be responsible only for its share of operations, maintenance, and repair costs. No capital costs attendant to other Units or portions of the Central Arizona Project shall be charged to the NM CAP entity.

(f) EXCLUSION OF COSTS.—For the purpose of determining the allocation and repayment of costs of the Central Arizona Project under the CAP Repayment Contract, the costs associated with the New Mexico Unit and the delivery of Central Arizona Project water pursuant to the New Mexico Consumptive Use and Forbearance Agreement shall be nonreimbursable, and such costs shall be excluded from the Central Arizona Water Conservation District's repayment obligation.

(g) NEW MEXICO UNIT CONSTRUCTION AND OPERATIONS.—The Secretary is authorized to design, build, and operate and maintain the New Mexico Unit. Upon request by the State of New Mexico, the Secretary shall transfer to the NM CAP entity responsibility to design, build, or operate and maintain the New Mexico Unit, or all or any combination of those functions.

(h) NATIONAL ENVIRONMENTAL POLICY ACT.—

(1) ENVIRONMENTAL COMPLIANCE.—Upon execution of the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement, the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

(2) EXECUTION OF THE NEW MEXICO CONSUMPTIVE USE AND FORBEARANCE AGREEMENT AND THE NEW MEXICO UNIT AGREEMENT.—Execution of the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement.

(3) LEAD AGENCY.—The Bureau of Reclamation shall be designated as the lead agency with respect to environmental compliance. Upon request by the State of New Mexico to the Secretary, the State of New Mexico shall be designated as joint lead agency with respect to environmental compliance.

(i) NEW MEXICO UNIT FUND.—The Secretary shall deposit the amounts made available under paragraph (2)(D)(i) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)) into the New Mexico Unit Fund, a State of New Mexico Fund established and administered by the New Mexico Interstate Stream Commission. Withdrawals from the New Mexico Unit Fund shall be for the purpose of paying costs of the New Mexico Unit or other water utilization alternatives to meet water supply demands in the Southwest Water Planning Region of New Mexico, as determined by the New Mexico Interstate Stream Commission in consultation with the Southwest New Mexico Water Study Group or its successor, including costs associated with planning and environmental compliance activities and environmental mitigation and restoration.

(j) ADDITIONAL FUNDING FOR NEW MEXICO UNIT.—The Secretary shall pay for an additional portion of the costs of constructing the New Mexico Unit from funds made available under paragraph (2)(D)(ii) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)) on a construction schedule basis, up to a maximum amount under this subparagraph (j) of $34,000,000, as adjusted to reflect changes since January 1, 2004, in the construction cost indices applicable to the types of construction involved in construction of the New Mexico Unit, upon satisfaction of the conditions that—

(1) the State of New Mexico must provide notice to the Secretary in writing not later than December 31, 2014, that the State of

New Mexico intends to have constructed or developed the New Mexico Unit; and

(2) the Secretary must have issued in the Federal Register not later than December 31, 2019, a Record of Decision approving the project based on an environmental analysis required pursuant to applicable Federal law and on a demonstration that construction of a project for the New Mexico Unit that would deliver an average annual safe yield, based on a 50-year planning period, greater than 10,000 acre feet per year, would not cost more per acre foot of water diverted than a project sized to produce an average annual safe yield of 10,000 acre feet per year. If New Mexico exercises all reasonable efforts to obtain the issuance of such Record of Decision, but the Secretary is not able to issue such Record of Decision by December 31, 2019, for reasons outside the control of the State of New Mexico, the Secretary may extend the deadline for a reasonable period of time, not to extend beyond December 31, 2030.

(k) RATE OF RETURN EXCEEDING 4 PERCENT.—If the rate of return on carryover funds held in the Lower Colorado Basin Development Fund on the date that construction of the New Mexico Unit is initiated exceeds an average effective annual rate of 4 percent for the period beginning on the date of enactment of this Act through the date of initiation of construction of the New Mexico Unit, the Secretary shall pay an additional portion of the costs of the construction costs associated with the New Mexico Unit, on a construction schedule basis, using funds made available under paragraph (2)(D)(ii) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)). The amount of such additional payments shall be equal to 25 percent of the total return on the carryover funds earned during the period in question that is in excess of a return on such funds at an annual average effective return of 4 percent, up to a maximum total of not more than $28,000,000, as adjusted to reflect changes since January 1, 2004, in the construction cost indices applicable to the types of construction involved in construction of the New Mexico Unit.

(l) DISCLAIMER.—Nothing in this Act shall affect, alter, or diminish rights to use of water of the Gila River within New Mexico, or the authority of the State of New Mexico to administer such rights for use within the State, as such rights are quantified by article IV of the decree of the United States Supreme Court in Arizona v. California (376 U.S. 340).

(m) PRIORITY OF OTHER EXCHANGES.—The Secretary shall not approve any exchange of Gila River water for water supplied by the CAP that would amend, alter, or conflict with the exchanges authorized by section 304(f) of the Colorado River Basin Project Act (43 U.S.C. 1524(f)).

**SEC. 213. MISCELLANEOUS PROVISIONS.**

(a) WAIVER OF SOVEREIGN IMMUNITY.—If any party to the Gila River agreement or signatory to an exhibit executed pursuant to section 203(b) or to the New Mexico Consumptive Use and Forbearance Agreement brings an action in any court of the United States or any State court relating only and directly to the interpretation or enforcement of this title or the Gila River agreement (including enforcement of any indemnity provisions contained in the Gila River agreement) or the New Mexico Consumptive Use and Forbearance Agreement, and names the United States or the Community as a party, or if any other landowner or water user in the Gila River basin in Arizona (except any party referred to in subparagraph 28.1.4 of the Gila River agreement) files a lawsuit relating only and directly to the interpretation or enforcement of subparagraph 6.2, subparagraph 6.3, paragraph 25, subparagraph 26.2, subparagraph 26.8, and subparagraph 28.1.3 of the Gila River agreement, naming the United States or the Community as a party—

(1) the United States, the Community, or both, may be joined in any such action; and

(2) any claim by the United States or the Community to sovereign immunity from the action is waived, but only for the limited and sole purpose of such interpretation or enforcement (including any indemnity provisions contained in the Gila River agreement).

(b) EFFECT OF ACT.—Nothing in this title quantifies or otherwise affects the water rights, or claims or entitlements to water, of any Indian tribe, band, or community, other than the Community.

(c) LIMITATION ON CLAIMS FOR REIMBURSEMENT.—The United States shall not make a claim for reimbursement of costs arising out of the implementation of this title or the Gila River agreement against any Indian-owned land within the Reservation, and no assessment shall be made in regard to those costs against that land.

(d) NO EFFECT ON FUTURE ALLOCATIONS.—Water received under a lease or exchange of Community CAP water under this title shall not affect any future allocation or reallocation of CAP water by the Secretary.

(e) COMMUNITY REPAYMENT CONTRACT.—To the extent it is not in conflict with this Act, the Secretary is directed to and shall execute Amendment No. 1 to the Community repayment contract, attached as exhibit 8.1 to the Gila River agreement, to provide, among other things, that the costs incurred under that contract shall be nonreimbursable by the Community. To the extent amendments are executed to make Amendment No. 1 consistent with this title, such amendments are also authorized, ratified, and confirmed.

(f) SALT RIVER PROJECT RIGHTS AND CONTRACTS.—

(1) IN GENERAL.—Subject to paragraph (2), the agreement between the United States and the Salt River Valley Water Users' Association dated September 6, 1917, as amended, and the rights of the Salt River Project to store water from the Salt River and Verde River at Roosevelt Dam, Horse Mesa Dam, Mormon Flat Dam, Stewart Mountain Dam, Horseshoe Dam, and Bartlett Dam and to deliver the stored water to shareholders of the Salt River Project and others for all beneficial uses and purposes recognized under State law and to the Community under the Gila River agreement, are authorized, ratified, and confirmed.

(2) PRIORITY DATE; QUANTIFICATION.—The priority date and quantification of rights described in paragraph (1) shall be determined in an appropriate proceeding in State court.

(3) CARE, OPERATION, AND MAINTENANCE.—The Salt River Project shall retain authority and responsibility existing on the date of enactment of this Act for decisions relating to the care, operation, and maintenance of the Salt River Project water delivery system, including the Salt River Project reservoirs on the Salt River and Verde River, vested in Salt River Project under the 1917 agreement, as amended, described in paragraph (1).

(g) UV IRRIGATION DISTRICTS.—

(1) IN GENERAL.—As partial consideration for obligations the UV irrigation districts shall be undertaking, the obligation to comply with the terms and conditions of term 5 of exhibit 2.30 (New Mexico Risk Allocation Terms) to the New Mexico Consumptive Use and Forbearance Agreement, the Gila Valley Irrigation District, in 2010, shall receive funds from the Secretary in an amount of $15,000,000 (adjusted to reflect changes since the date of enactment of this Act in the cost indices applicable to the type of design and construction involved in the design and construction of a pipeline at or upstream from the Ft. Thomas Diversion Dam to the lands farmed by the San Carlos Apache Tribe, together with canal connections upstream from the Ft. Thomas Diversion Dam and connection devices appropriate to introduce pumped water into the Pipeline).

(2) RESTRICTION.—The funds to be received by the Gila Valley Irrigation District shall be used solely for the purpose of developing programs or constructing facilities to assist with mitigating the risks and costs associated with compliance with the terms and conditions of term 5 of exhibit 2.30 (New Mexico Risk Allocation Terms) of the New Mexico Consumptive and Forbearance Agreement, and for no other purpose.

(h) LIMITATION ON LIABILITY OF UNITED STATES.—

(1) IN GENERAL.—The United States shall have no trust or other obligation—

(A) to monitor, administer, or account for, in any manner, any of the funds paid to the Community by any party to the Gila River agreement; or

(B) to review or approve the expenditure of those funds.

(2) INDEMNIFICATION.—The Community shall indemnify the United States, and hold the United States harmless, with respect to any and all claims (including claims for takings or breach of trust) arising out of the receipt or expenditure of funds described in paragraph (1)(A).

(i) BLUE RIDGE PROJECT TRANSFER AUTHORIZATION.—

(1) DEFINITIONS.—In this subsection:

(A) BLUE RIDGE PROJECT.—The term "Blue Ridge Project" means the water storage reservoir known as "Blue Ridge Reservoir" situated in Coconino and Gila Counties, Arizona, consisting generally of—

(i) Blue Ridge Dam and all pipelines, tunnels, buildings, hydroelectric generating facilities, and other structures of every kind, transmission, telephone and fiber optic lines, pumps, machinery, tools, and appliances; and

(ii) all real or personal property, appurtenant to or used, or constructed or otherwise acquired to be used, in connection with Blue Ridge Reservoir.

(B) SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT.—The term "Salt River Project Agricultural Improvement and Power District" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona.

(2) TRANSFER OF TITLE.—The United States, acting through the Secretary of the Interior, shall accept from the Salt River Project Agricultural Improvement and Power District the transfer of title to the Blue Ridge Project. The transfer of title to the Blue Ridge Project from the Salt River Project Agricultural Improvement and Power District to the United States shall be without cost to the United States. The transfer, change of use or change of place of use of any water rights associated with the Blue Ridge Project shall be made in accordance with Arizona law.

(3) USE AND BENEFIT OF SALT RIVER FEDERAL RECLAMATION PROJECT.—

(A) IN GENERAL.—Subject to subparagraph (B), the United States shall hold title to the

Blue Ridge Project for the exclusive use and benefit of the Salt River Federal Reclamation Project.

(B) AVAILABILITY OF WATER.—Up to 3,500 acre-feet of water per year may be made available from Blue Ridge Reservoir for municipal and domestic uses in Northern Gila County, Arizona, without cost to the Salt River Federal Reclamation Project.

(4) TERMINATION OF JURISDICTION.—

(A) LICENSING AND REGULATORY AUTHORITY.—Upon the transfer of title of the Blue Ridge Project to the United States under paragraph (2), the Federal Energy Regulatory Commission shall have no further licensing and regulatory authority over Project Number 2304, the Blue Ridge Project, located within the State.

(B) ENVIRONMENTAL LAWS.—All other applicable Federal environmental laws shall continue to apply to the Blue Ridge Project, including the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(5) CARE, OPERATION, AND MAINTENANCE.—Upon the transfer of title of the Blue Ridge Project to the United States under paragraph (2), the Salt River Valley Water Users' Association and the Salt River Project Agricultural Improvement and Power District shall be responsible for the care, operation, and maintenance of the project pursuant to the contract between the United States and the Salt River Valley Water Users' Association, dated September 6, 1917, as amended.

(6) C.C. CRAGIN DAM & RESERVOIR.—Upon the transfer of title of the Blue Ridge Project to the United States under paragraph (2), Blue Ridge Dam and Reservoir shall thereafter be known as the "C.C. Cragin Dam and Reservoir".

(j) EFFECT ON CURRENT LAW; JURISDICTION OF COURTS.—Nothing in this section—

(1) alters law in effect on the day before the date of enactment of this Act with respect to pre-enforcement review of Federal environmental enforcement actions; or

(2) confers jurisdiction on any State court to interpret subparagraphs (D), (E), and (G) of section 207(a)(1) where such jurisdiction does not otherwise exist.

### SEC. 214. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) REHABILITATION OF IRRIGATION WORKS.—

(A) IN GENERAL.—There is authorized to be appropriated $52,396,000, adjusted to reflect changes since January 1, 2000, under subparagraph (B) for the rehabilitation of irrigation works under section 203(d)(4).

(B) ADJUSTMENT.—The amount under subparagraph (A) shall be adjusted by such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indices applicable to the types of construction required by the rehabilitation.

(2) BUREAU OF RECLAMATION CONSTRUCTION OVERSIGHT.—There are authorized to be appropriated such sums as are necessary for the Bureau of Reclamation to undertake the oversight of the construction projects authorized under section 203.

(3) SUBSIDENCE REMEDIATION PROGRAM.—There are authorized to be appropriated such sums as are necessary to carry out the subsidence remediation program under section 209 (including such sums as are necessary, not to exceed $4,000,000, to carry out the subsidence remediation and repair required under section 209(d)).

(4) WATER RIGHTS REDUCTION.—There are authorized to be appropriated such sums as are necessary to carry out the water rights reduction program under section 211.

(5) SAFFORD FACILITY.—There are authorized to be appropriated such sums as are necessary to—

(A) retire $13,900,000, minus any amounts appropriated for this purpose, of the debt incurred by Safford to pay costs associated with the construction of the Safford facility as identified in exhibit 26.1 to the Gila River agreement; and

(B) pay the interest accrued on that amount.

(6) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated—

(A) such sums as are necessary to carry out—

(i) all necessary environmental compliance activities undertaken by the Secretary associated with the Gila River agreement and this title;

(ii) any mitigation measures adopted by the Secretary that are the responsibility of the Community associated with the construction of the diversion and delivery facilities of the water referred to in section 204 for use on the reservation; and

(iii) no more than 50 percent of the cost of any mitigation measures adopted by the Secretary that are the responsibility of the Community associated with the diversion or delivery of the water referred to in section 204 for use on the Reservation, other than any responsibility related to water delivered to any other person by lease or exchange; and

(B) to carry out the mitigation measures in the Roosevelt Habitat Conservation Plan, not more than $10,000,000.

(7) UV IRRIGATION DISTRICTS.—There are authorized to be appropriated such sums as are necessary to pay the Gila Valley Irrigation District an amount of $15,000,000 (adjusted to reflect changes since the date of enactment of the Arizona Water Settlements Act of 2004 in the cost indices applicable to the type of design and construction involved in the design and construction of a pipeline at or upstream from the Ft. Thomas Diversion Dam to the lands farmed by the San Carlos Apache Tribe, together with canal connections upstream from the Ft. Thomas Diversion Dam and connection devices appropriate to introduce pumped water into the Pipeline).

(b) IDENTIFIED COSTS.—

(1) IN GENERAL.—Amounts made available under subsection (a) shall be considered to be identified costs for purposes of paragraph (2)(D)(v)(I) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)).

(2) EXCEPTION.—Amounts made available under subsection (a)(4) to carry out section 211(b) shall not be considered to be identified costs for purposes of section 403(f)(2)(D)(v)(I) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)(D)(v)(I)) (as amended by section 107(a)).

### SEC. 215. REPEAL ON FAILURE OF ENFORCEABILITY DATE.

If the Secretary does not publish a statement of findings under section 207(c) by December 31, 2007—

(1) except for section 213(i), this title is repealed effective January 1, 2008, and any action taken by the Secretary and any contract entered under any provision of this title shall be void;

(2) any amounts appropriated under paragraphs (1) through (7) of section 214(a), together with any interest on those amounts, shall immediately revert to the general fund of the Treasury;

(3) any amounts made available under section 214(b) that remain unexpended shall immediately revert to the general fund of the Treasury; and

(4) any amounts paid by the Salt River Project in accordance with the Gila River agreement shall immediately be returned to the Salt River Project.

## TITLE III—SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT

### SEC. 301. SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT.

The Southern Arizona Water Rights Settlement Act of 1982 (96 Stat. 1274) is amended to read as follows:

## "TITLE III—SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT

### "SEC. 301. SHORT TITLE.

"This title may be cited as the 'Southern Arizona Water Rights Settlement Amendments Act of 2004'.

### "SEC. 302. PURPOSES.

"The purposes of this title are—

"(1) to authorize, ratify, and confirm the agreements referred to in section 309(h);

"(2) to authorize and direct the Secretary to execute and perform all obligations of the Secretary under those agreements; and

"(3) to authorize the actions and appropriations necessary for the United States to meet obligations of the United States under those agreements and this title.

### "SEC. 303. DEFINITIONS.

"In this title:

"(1) ACRE-FOOT.—The term 'acre-foot' means the quantity of water necessary to cover 1 acre of land to a depth of 1 foot.

"(2) AFTER-ACQUIRED TRUST LAND.—The term 'after-acquired trust land' means land that—

"(A) is located—

"(i) within the State; but

"(ii) outside the exterior boundaries of the Nation's Reservation; and

"(B) is taken into trust by the United States for the benefit of the Nation after the enforceability date.

"(3) AGREEMENT OF DECEMBER 11, 1980.—The term 'agreement of December 11, 1980' means the contract entered into by the United States and the Nation on December 11, 1980.

"(4) AGREEMENT OF OCTOBER 11, 1983.—The term 'agreement of October 11, 1983' means the contract entered into by the United States and the Nation on October 11, 1983.

"(5) ALLOTTEE.—The term 'allottee' means a person that holds a beneficial real property interest in an Indian allotment that is—

"(A) located within the Reservation; and

"(B) held in trust by the United States.

"(6) ALLOTTEE CLASS.—The term 'allottee class' means an applicable plaintiff class certified by the court of jurisdiction in—

"(A) the Alvarez case; or

"(B) the Tucson case.

"(7) ALVAREZ CASE.—The term 'Alvarez case' means the first through third causes of action of the third amended complaint in Alvarez v. City of Tucson (Civ. No. 93-09039 TUC FRZ (D. Ariz., filed April 21, 1993)).

"(8) APPLICABLE LAW.—The term 'applicable law' means any applicable Federal, State, tribal, or local law.

"(9) ASARCO.—The term 'Asarco' means Asarco Incorporated, a New Jersey corporation of that name, and its subsidiaries operating mining operations in the State.

"(10) ASARCO AGREEMENT.—The term 'Asarco agreement' means the agreement by that name attached to the Tohono O'odham settlement agreement as exhibit 13.1.

"(11) CAP REPAYMENT CONTRACT.—

"(A) IN GENERAL.—The term 'CAP repayment contract' means the contract dated December 1, 1988 (Contract No. 14-0906-09W-

09245, Amendment No. 1) between the United States and the Central Arizona Water Conservation District for the delivery of water and the repayment of costs of the Central Arizona Project.

"(B) INCLUSIONS.—The term 'CAP repayment contract' includes all amendments to and revisions of that contract.

"(12) CENTRAL ARIZONA PROJECT.—The term 'Central Arizona Project' means the reclamation project authorized and constructed by the United States in accordance with title III of the Colorado River Basin Project Act (43 U.S.C. 1521 et seq.).

"(13) CENTRAL ARIZONA PROJECT LINK PIPELINE.—The term 'Central Arizona Project link pipeline' means the pipeline extending from the Tucson Aqueduct of the Central Arizona Project to Station 293+36.

"(14) CENTRAL ARIZONA PROJECT SERVICE AREA.—The term 'Central Arizona Project service area' means—

"(A) the geographical area comprised of Maricopa, Pinal, and Pima Counties, Arizona, in which the Central Arizona Water Conservation District delivers Central Arizona Project water; and

"(B) any expansion of that area under applicable law.

"(15) CENTRAL ARIZONA WATER CONSERVATION DISTRICT.—The term 'Central Arizona Water Conservation District' means the political subdivision of the State that is the contractor under the CAP repayment contract.

"(16) COOPERATIVE FARM.—The term 'cooperative farm' means the farm on land served by an irrigation system and the extension of the irrigation system provided for under paragraphs (1) and (2) of section 304(c).

"(17) COOPERATIVE FUND.—The term 'cooperative fund' means the cooperative fund established by section 313 of the 1982 Act and reauthorized by section 310.

"(18) DELIVERY AND DISTRIBUTION SYSTEM.—

"(A) IN GENERAL.—The term 'delivery and distribution system' means—

"(i) the Central Arizona Project aqueduct;

"(ii) the Central Arizona Project link pipeline; and

"(iii) the pipelines, canals, aqueducts, conduits, and other necessary facilities for the delivery of water under the Central Arizona Project.

"(B) INCLUSIONS.—The term 'delivery and distribution system' includes pumping facilities, power plants, and electric power transmission facilities external to the boundaries of any farm to which the water is distributed.

"(19) EASTERN SCHUK TOAK DISTRICT.—The term 'eastern Schuk Toak District' means the portion of the Schuk Toak District (1 of 11 political subdivisions of the Nation established under the constitution of the Nation) that is located within the Tucson management area.

"(20) ENFORCEABILITY DATE.—The term 'enforceability date' means the date on which title III of the Arizona Water Settlements Act takes effect (as described in section 302(b) of the Arizona Water Settlements Act).

"(21) EXEMPT WELL.—The term 'exempt well' means a water well—

"(A) the maximum pumping capacity of which is not more than 35 gallons per minute; and

"(B) the water from which is used for—

"(i) the supply, service, or activities of households or private residences;

"(ii) landscaping;

"(iii) livestock watering; or

"(iv) the irrigation of not more than 2 acres of land for the production of 1 or more agricultural or other commodities for—

"(I) sale;

"(II) human consumption; or

"(III) use as feed for livestock or poultry.

"(22) FEE OWNER OF ALLOTTED LAND.—The term 'fee owner of allotted land' means a person that holds fee simple title in real property on the Reservation that, at any time before the date on which the person acquired fee simple title, was held in trust by the United States as an Indian allotment.

"(23) FICO.—The term 'FICO' means collectively the Farmers Investment Co., an Arizona corporation of that name, and the Farmers Water Co., an Arizona corporation of that name.

"(24) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(25) INJURY TO WATER QUALITY.—The term 'injury to water quality' means any contamination, diminution, or deprivation of water quality under applicable law.

"(26) INJURY TO WATER RIGHTS.—

"(A) IN GENERAL.—The term 'injury to water rights' means an interference with, diminution of, or deprivation of water rights under applicable law.

"(B) INCLUSION.—The term 'injury to water rights' includes a change in the underground water table and any effect of such a change.

"(C) EXCLUSION.—The term 'injury to water rights' does not include subsidence damage or injury to water quality.

"(27) IRRIGATION SYSTEM.—

"(A) IN GENERAL.—The term 'irrigation system' means canals, laterals, ditches, sprinklers, bubblers, and other irrigation works used to distribute water within the boundaries of a farm.

"(B) INCLUSIONS.—The term 'irrigation system', with respect to the cooperative farm, includes activities, procedures, works, and devices for—

"(i) rehabilitation of fields;

"(ii) remediation of sinkholes, sinks, depressions, and fissures; and

"(iii) stabilization of the banks of the Santa Cruz River.

"(28) LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.—The term 'Lower Colorado River Basin Development Fund' means the fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543).

"(29) M&I PRIORITY WATER.—The term 'M&I priority water' means Central Arizona Project water that has municipal and industrial priority.

"(30) NATION.—The term 'Nation' means the Tohono O'odham Nation (formerly known as the Papago Tribe) organized under a constitution approved in accordance with section 16 of the Act of June 18, 1934 (25 U.S.C. 476).

"(31) NATION'S RESERVATION.—The term 'Nation's Reservation' means all land within the exterior boundaries of—

"(A) the Sells Tohono O'odham Reservation established by the Executive order of February 1, 1917, and the Act of February 21, 1931 (46 Stat. 1202, chapter 267);

"(B) the San Xavier Reservation established by the Executive order of July 1, 1874;

"(C) the Gila Bend Indian Reservation established by the Executive order of December 12, 1882, and modified by the Executive order of June 17, 1909;

"(D) the Florence Village established by Public Law 95-361 (92 Stat. 595);

"(E) all land acquired in accordance with the Gila Bend Indian Reservation Lands Replacement Act (100 Stat. 1798), if title to the land is held in trust by the Secretary for the benefit of the Nation; and

"(F) all other land to which the United States holds legal title in trust for the benefit of the Nation and that is added to the Nation's Reservation or granted reservation status in accordance with applicable Federal law before the enforceability date.

"(32) NET IRRIGABLE ACRES.—The term 'net irrigable acres' means, with respect to a farm, the acreage of the farm that is suitable for agriculture, as determined by the Nation and the Secretary.

"(33) NIA PRIORITY WATER.—The term 'NIA priority water' means Central Arizona Project water that has non-Indian agricultural priority.

"(34) SAN XAVIER ALLOTTEES ASSOCIATION.—The term 'San Xavier Allottees Association' means the nonprofit corporation established under State law for the purpose of representing and advocating the interests of allottees.

"(35) SAN XAVIER COOPERATIVE ASSOCIATION.—The term 'San Xavier Cooperative Association' means the entity chartered under the laws of the Nation (or a successor of that entity) that is a lessee of land within the cooperative farm.

"(36) SAN XAVIER DISTRICT.—The term 'San Xavier District' means the district of that name, 1 of 11 political subdivisions of the Nation established under the constitution of the Nation.

"(37) SAN XAVIER DISTRICT COUNCIL.—The term 'San Xavier District Council' means the governing body of the San Xavier District, as established under the constitution of the Nation.

"(38) SAN XAVIER RESERVATION.—The term 'San Xavier Reservation' means the San Xavier Indian Reservation established by the Executive order of July 1, 1874.

"(39) SCHUK TOAK FARM.—The term 'Schuk Toak Farm' means a farm constructed in the eastern Schuk Toak District served by the irrigation system provided for under section 304(c)(4).

"(40) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(41) STATE.—The term 'State' means the State of Arizona.

"(42) SUBJUGATE.—The term 'subjugate' means to prepare land for agricultural use through irrigation.

"(43) SUBSIDENCE DAMAGE.—The term 'subsidence damage' means injury to land, water, or other real property resulting from the settling of geologic strata or cracking in the surface of the earth of any length or depth, which settling or cracking is caused by the pumping of water.

"(44) SURFACE WATER.—The term 'surface water' means all water that is appropriable under State law.

"(45) TOHONO O'ODHAM SETTLEMENT AGREEMENT.—The term 'Tohono O'odham settlement agreement' means the agreement dated April 30, 2003 (including all exhibits of and attachments to the agreement).

"(46) TUCSON CASE.—The term 'Tucson case' means United States et al. v. City of Tucson, et al. (Civ. No. 75–0939 TUC consol. with Civ. No. 75–0951 TUC FRZ (D. Ariz., filed February 20, 1975)).

"(47) TUCSON INTERIM WATER LEASE.—The term 'Tucson interim water lease' means the lease, and any pre-2004 amendments and extensions of the lease, approved by the Secretary, between the city of Tucson, Arizona, and the Nation, dated October 24, 1992.

"(48) TUCSON MANAGEMENT AREA.—The term 'Tucson management area' means the area in the State comprised of—

"(A) the area—

"(i) designated as the Tucson Active Management Area under the Arizona Groundwater Management Act of 1980 (1980 Ariz. Sess. Laws 1); and

"(ii) subsequently divided into the Tucson Active Management Area and the Santa Cruz Active Management Area (1994 Ariz. Sess. Laws 296); and

"(B) the portion of the Upper Santa Cruz Basin that is not located within the area described in subparagraph (A)(i).

"(49) TURNOUT.—The term 'turnout' means a point of water delivery on the Central Arizona Project aqueduct.

"(50) UNDERGROUND STORAGE.—The term 'underground storage' means storage of water accomplished under a project authorized under section 308(e).

"(51) UNITED STATES AS TRUSTEE.—The term 'United States as Trustee' means the United States, acting on behalf of the Nation and allottees, but in no other capacity.

"(52) VALUE.—The term 'value' means the value attributed to water based on the greater of—

"(A) the anticipated or actual use of the water; or

"(B) the fair market value of the water.

"(53) WATER RIGHT.—The term 'water right' means any right in or to groundwater, surface water, or effluent under applicable law.

"(54) 1982 ACT.—The term '1982 Act' means the Southern Arizona Water Rights Settlement Act of 1982 (96 Stat. 1274; 106 Stat. 3256), as in effect on the day before the enforceability date.

**"SEC. 304. WATER DELIVERY AND CONSTRUCTION OBLIGATIONS.**

"(a) WATER DELIVERY.—The Secretary shall deliver annually from the main project works of the Central Arizona Project, a total of 37,800 acre-feet of water suitable for agricultural use, of which—

"(1) 27,000 acre-feet shall—

"(A) be deliverable for use to the San Xavier Reservation; or

"(B) otherwise be used in accordance with section 309; and

"(2) 10,800 acre-feet shall—

"(A) be deliverable for use to the eastern Schuk Toak District; or

"(B) otherwise be used in accordance with section 309.

"(b) DELIVERY AND DISTRIBUTION SYSTEMS.—The Secretary shall (without cost to the Nation, any allottee, the San Xavier Cooperative Association, or the San Xavier Allottees Association), as part of the main project works of the Central Arizona Project, design, construct, operate, maintain, and replace the delivery and distribution systems necessary to deliver the water described in subsection (a).

"(c) DUTIES OF THE SECRETARY.—

"(1) COMPLETION OF DELIVERY AND DISTRIBUTION SYSTEM AND IMPROVEMENT TO EXISTING IRRIGATION SYSTEM.—Except as provided in subsection (d), not later than 8 years after the enforceability date, the Secretary shall complete the design and construction of improvements to the irrigation system that serves the cooperative farm.

"(2) EXTENSION OF EXISTING IRRIGATION SYSTEM WITHIN THE SAN XAVIER RESERVATION.—

"(A) IN GENERAL.—Except as provided in subsection (d), not later than 8 years after the enforceability date, in addition to the improvements described in paragraph (1), the Secretary shall complete the design and construction of the extension of the irrigation system for the cooperative farm.

"(B) CAPACITY.—On completion of the extension, the extended cooperative farm irrigation system shall serve 2,300 net irrigable acres on the San Xavier Reservation, unless the Secretary and the San Xavier Cooperative Association agree on fewer net irrigable acres.

"(3) CONSTRUCTION OF NEW FARM.—

"(A) IN GENERAL.—Except as provided in subsection (d), not later than 8 years after the enforceability date, the Secretary shall—

"(i) design and construct within the San Xavier Reservation such additional canals, laterals, farm ditches, and irrigation works as are necessary for the efficient distribution for agricultural purposes of that portion of the 27,000 acre-feet annually of water described in subsection (a)(1) that is not required for the irrigation systems described in paragraphs (1) and (2) of subsection (c); or

"(ii) in lieu of the actions described in clause (i), pay to the San Xavier District $18,300,000 (adjusted as provided in section 317(a)(2)) in full satisfaction of the obligations of the United States described in clause (i).

"(B) ELECTION.—

"(i) IN GENERAL.—The San Xavier District Council may make a nonrevocable election whether to receive the benefits described under clause (i) or (ii) of subparagraph (A) by notifying the Secretary by not later than 180 days after the enforceability date or January 1, 2010, whichever is later, by written and certified resolution of the San Xavier District Council.

"(ii) NO RESOLUTION.—If the Secretary does not receive such a resolution by the deadline specified in clause (i), the Secretary shall pay $18,300,000 (adjusted as provided in section 317(a)(2)) to the San Xavier District in lieu of carrying out the obligations of the United States under subparagraph (A)(i).

"(C) SOURCE OF FUNDS AND TIME OF PAYMENT.—

"(i) IN GENERAL.—Payment of $18,300,000 (adjusted as provided in section 317(a)(2)) under this paragraph shall be made by the Secretary from the Lower Colorado River Basin Development Fund—

"(I) not later than 60 days after an election described in subparagraph (B) is made (if such an election is made), but in no event earlier than the enforceability date or January 1, 2010, whichever is later; or

"(II) not later than 240 days after the enforceability date or January 1, 2010, whichever is later, if no timely election is made.

"(ii) PAYMENT FOR ADDITIONAL STRUCTURES.—Payment of amounts necessary to design and construct such additional canals, laterals, farm ditches, and irrigation works as are described in subparagraph (A)(i) shall be made by the Secretary from the Lower Colorado River Basin Development Fund, if an election is made to receive the benefits under subparagraph (A)(i).

"(4) IRRIGATION AND DELIVERY AND DISTRIBUTION SYSTEMS IN THE EASTERN SCHUK TOAK DISTRICT.—Except as provided in subsection (d), not later than 1 year after the enforceability date, the Secretary shall complete the design and construction of an irrigation system and delivery and distribution system to serve the farm that is constructed in the eastern Schuk Toak District.

"(d) EXTENSION OF DEADLINES.—

"(1) IN GENERAL.—The Secretary may extend a deadline under subsection (c) if the Secretary determines that compliance with the deadline is impracticable by reason of—

"(A) a material breach by a contractor of a contract that is relevant to carrying out a project or activity described in subsection (c);

"(B) the inability of such a contractor, under such a contract, to carry out the contract by reason of force majeure, as defined by the Secretary in the contract;

"(C) unavoidable delay in compliance with applicable Federal and tribal laws, as determined by the Secretary, including—

"(i) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

"(ii) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

"(D) stoppage in work resulting from the assessment of a tax or fee that is alleged in any court of jurisdiction to be confiscatory or discriminatory.

"(2) NOTICE OF FINDING.—If the Secretary extends a deadline under paragraph (1), the Secretary shall—

"(A) publish a notice of the extension in the Federal Register; and

"(B)(i) include in the notice an estimate of such additional period of time as is necessary to complete the project or activity that is the subject of the extension; and

"(ii) specify a deadline that provides for a period for completion of the project before the end of the period described in clause (i).

"(e) AUTHORITY OF SECRETARY.—

"(1) IN GENERAL.—In carrying out this title, after providing reasonable notice to the Nation, the Secretary, in compliance with all applicable law, may enter, construct works on, and take such other actions as are related to the entry or construction on land within the San Xavier District and the eastern Schuk Toak District.

"(2) EFFECT ON FEDERAL ACTIVITY.—Nothing in this subsection affects the authority of the United States, or any Federal officer, agent, employee, or contractor, to conduct official Federal business or carry out any Federal duty (including any Federal business or duty under this title) on land within the eastern Schuk Toak District or the San Xavier District.

"(f) USE OF FUNDS.—

"(1) IN GENERAL.—With respect to any funds received under subsection (c)(3)(A), the San Xavier District—

"(A) shall hold the funds in trust, and invest the funds in interest-bearing deposits and securities, until expended;

"(B) may expend the principal of the funds, and any interest and dividends that accrue on the principal, only in accordance with a budget that is—

"(i) authorized by the San Xavier District Council; and

"(ii) approved by resolution of the Legislative Council of the Nation; and

"(C) shall expend the funds—

"(i) for any subjugation of land, development of water resources, or construction, operation, maintenance, or replacement of facilities within the San Xavier Reservation that is not required to be carried out by the United States under this title or any other provision of law;

"(ii) to provide governmental services, including—

"(I) programs for senior citizens;

"(II) health care services;

"(III) education;

"(IV) economic development loans and assistance; and

"(V) legal assistance programs;

"(iii) to provide benefits to allottees;

"(iv) to pay the costs of activities of the San Xavier Allottees Association; or

"(v) to pay any administrative costs incurred by the Nation or the San Xavier District in conjunction with any of the activities described in clauses (i) through (iv).

"(2) NO LIABILITY OF SECRETARY; LIMITATION.—

"(A) IN GENERAL.—The Secretary shall not—

"(i) be responsible for any review, approval, or audit of the use and expenditure of the funds described in paragraph (1); or

"(ii) be subject to liability for any claim or cause of action arising from the use or expenditure, by the Nation or the San Xavier District, of those funds.

"(B) LIMITATION.—No portion of any funds described in paragraph (1) shall be used for per capita payments to any individual member of the Nation or any allottee.

**"SEC. 305. DELIVERIES UNDER EXISTING CONTRACT; ALTERNATIVE WATER SUPPLIES.**

"(a) DELIVERY OF WATER.—

"(1) IN GENERAL.—The Secretary shall deliver water from the main project works of the Central Arizona Project, in such quantities, and in accordance with such terms and conditions, as are contained in the agreement of December 11, 1980, the 1982 Act, the agreement of October 11, 1983, and the Tohono O'odham settlement agreement (to the extent that the settlement agreement does not conflict with this Act), to 1 or more of—

"(A) the cooperative farm;

"(B) the eastern Schuk Toak District;

"(C) turnouts existing on the enforceability date; and

"(D) any other point of delivery on the Central Arizona Project main aqueduct that is agreed to by—

"(i) the Secretary;

"(ii) the operator of the Central Arizona Project; and

"(iii) the Nation.

"(2) DELIVERY.—The Secretary shall deliver the water covered by sections 304(a) and 306(a), or an equivalent quantity of water from a source identified under subsection (b)(1), notwithstanding—

"(A) any declaration by the Secretary of a water shortage on the Colorado River; or

"(B) any other occurrence affecting water delivery caused by an act or omission of—

"(i) the Secretary;

"(ii) the United States; or

"(iii) any officer, employee, contractor, or agent of the Secretary or United States.

"(b) ACQUISITION OF LAND AND WATER.—

"(1) DELIVERY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if the Secretary, under the terms and conditions of the agreements referred to in subsection (a)(1), is unable, during any year, to deliver annually from the main project works of the Central Arizona Project any portion of the quantity of water covered by sections 304(a) and 306(a), the Secretary shall identify, acquire and deliver an equivalent quantity of water from, any appropriate source.

"(B) EXCEPTION.—The Secretary shall not acquire any water under subparagraph (A) through any transaction that would cause depletion of groundwater supplies or aquifers in the San Xavier District or the eastern Schuk Toak District.

"(2) PRIVATE LAND AND INTERESTS.—

"(A) ACQUISITION.—

"(i) IN GENERAL.—Subject to subparagraph (B), the Secretary may acquire, for not more than market value, such private land, or interests in private land, that include rights in surface or groundwater recognized under State law, as are necessary for the acquisition and delivery of water under this subsection.

"(ii) COMPLIANCE.—In acquiring rights in surface water under clause (i), the Secretary shall comply with all applicable severance and transfer requirements under State law.

"(B) PROHIBITION ON TAKING.—The Secretary shall not acquire any land, water, water rights, or contract rights under subparagraph (A) without the consent of the owner of the land, water, water rights, or contract rights.

"(C) PRIORITY.—In acquiring any private land or interest in private land under this paragraph, the Secretary shall give priority to the acquisition of land on which water has been put to beneficial use during any 1-year period during the 5-year period preceding the date of acquisition of the land by the Secretary.

"(3) DELIVERIES FROM ACQUIRED LAND.—Deliveries of water from land acquired under paragraph (2) shall be made only to the extent that the water may be transported within the Tucson management area under applicable law.

"(4) DELIVERY OF EFFLUENT.—

"(A) IN GENERAL.—Except on receipt of prior written consent of the Nation, the Secretary shall not deliver effluent directly to the Nation under this subsection.

"(B) NO SEPARATE DELIVERY SYSTEM.—The Secretary shall not construct a separate delivery system to deliver effluent to the San Xavier Reservation or the eastern Schuk Toak District.

"(C) NO IMPOSITION OF OBLIGATION.—Nothing in this paragraph imposes any obligation on the United States to deliver effluent to the Nation.

"(c) AGREEMENTS AND CONTRACTS.—To facilitate the delivery of water to the San Xavier Reservation and the eastern Schuk Toak District under this title, the Secretary may enter into a contract or agreement with the State, an irrigation district or project, or entity—

"(1) for—

"(A) the exchange of water; or

"(B) the use of aqueducts, canals, conduits, and other facilities (including pumping plants) for water delivery; or

"(2) to use facilities constructed, in whole or in part, with Federal funds.

"(d) COMPENSATION AND DISBURSEMENTS.—

"(1) COMPENSATION.—If the Secretary is unable to acquire and deliver sufficient quantities of water under section 304(a), this section, or section 306(a), the Secretary shall provide compensation in accordance with paragraph (2) in amounts equal to—

"(A)(i) the value of such quantities of water as are not acquired and delivered, if the delivery and distribution system for, and the improvements to, the irrigation system for the cooperative farm have not been completed by the deadline required under section 304(c)(1); or

"(ii) the value of such quantities of water as—

"(I) are ordered by the Nation for use by the San Xavier Cooperative Association in the irrigation system; but

"(II) are not delivered in any calendar year;

"(B)(i) the value of such quantities of water as are not acquired and delivered, if the extension of the irrigation system is not completed by the deadline required under section 304(c)(2); or

"(ii) the value of such quantities of water as—

"(I) are ordered by the Nation for use by the San Xavier Cooperative Association in the extension to the irrigation system; but

"(II) are not delivered in any calendar year; and

"(C)(i) the value of such quantities of water as are not acquired and delivered, if the irrigation system is not completed by the deadline required under section 304(c)(4); or

"(ii) except as provided in clause (i), the value of such quantities of water as—

"(I) are ordered by the Nation for use in the irrigation system, or for use by any person or entity (other than the San Xavier Cooperative Association); but

"(II) are not delivered in any calendar year.

"(2) DISBURSEMENT.—Any compensation payable under paragraph (1) shall be disbursed—

"(A) with respect to compensation payable under subparagraphs (A) and (B) of paragraph (1), to the San Xavier Cooperative Association; and

"(B) with respect to compensation payable under paragraph (1)(C), to the Nation for retention by the Nation or disbursement to water users, under the provisions of the water code or other applicable laws of the Nation.

"(e) NO EFFECT ON WATER RIGHTS.—Nothing in this section authorizes the Secretary to acquire or otherwise affect the water rights of any Indian tribe.

**"SEC. 306. ADDITIONAL WATER DELIVERY.**

"(a) IN GENERAL.—In addition to the delivery of water described in section 304(a), the Secretary shall deliver annually from the main project works of the Central Arizona Project, a total of 28,200 acre-feet of NIA priority water suitable for agricultural use, of which—

"(1) 23,000 acre-feet shall—

"(A) be delivered to, and used by, the San Xavier Reservation; or

"(B) otherwise be used by the Nation in accordance with section 309; and

"(2) 5,200 acre-feet shall—

"(A) be delivered to, and used by, the eastern Schuk Toak District; or

"(B) otherwise be used by the Nation in accordance with section 309.

"(b) STATE CONTRIBUTION.—To assist the Secretary in firming water under section 105(b)(1)(A) of the Arizona Water Settlements Act, the State shall contribute $3,000,000—

"(1) in accordance with a schedule that is acceptable to the Secretary and the State; and

"(2) in the form of cash or in-kind goods and services.

**"SEC. 307. CONDITIONS ON CONSTRUCTION, WATER DELIVERY, REVENUE SHARING.**

"(a) CONDITIONS ON ACTIONS OF SECRETARY.—The Secretary shall carry out section 304(c), subsections (a), (b), and (d) of section 305, and section 306, only if—

"(1) the Nation agrees—

"(A) except as provided in section 308(f)(1), to limit the quantity of groundwater withdrawn by nonexempt wells from beneath the San Xavier Reservation to not more than 10,000 acre-feet;

"(B) except as provided in section 308(f)(2), to limit the quantity of groundwater withdrawn by nonexempt wells from beneath the eastern Schuk Toak District to not more than 3,200 acre-feet;

"(C) to comply with water management plans established by the Secretary under section 308(d);

"(D) to consent to the San Xavier District being deemed a tribal organization (as defined in section 900.6 of title 25, Code of Federal Regulations (or any successor regulations)) for purposes identified in subparagraph (E)(iii)(I), as permitted with respect to tribal organizations under title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

"(E) subject to compliance by the Nation with other applicable provisions of part 900 of title 25, Code of Federal Regulations (or any successor regulations), to consent to contracting by the San Xavier District under section 311(b), on the conditions that—

“(i)(I) the plaintiffs in the Alvarez case and Tucson case have stipulated to the dismissal, with prejudice, of claims in those cases; and

“(II) those cases have been dismissed with prejudice;

“(ii) the San Xavier Cooperative Association has agreed to assume responsibility, after completion of each of the irrigation systems described in paragraphs (1), (2), and (3) of section 304(c) and on the delivery of water to those systems, for the operation, maintenance, and replacement of those systems in accordance with the first section of the Act of August 1, 1914 (25 U.S.C. 385); and

“(iii) with respect to the consent of the Nation to contracting—

“(I) the consent is limited solely to contracts for—

“(aa) the design and construction of the delivery and distribution system and the rehabilitation of the irrigation system for the cooperative farm;

“(bb) the extension of the irrigation system for the cooperative farm;

“(cc) the subjugation of land to be served by the extension of the irrigation system;

“(dd) the design and construction of storage facilities solely for water deliverable for use within the San Xavier Reservation; and

“(ee) the completion by the Secretary of a water resources study of the San Xavier Reservation and subsequent preparation of a water management plan under section 308(d);

“(II) the Nation shall reserve the right to seek retrocession or reassumption of contracts described in subclause (I), and recontracting under subpart P and other applicable provisions of part 900 of title 25, Code of Federal Regulations (or any successor regulations);

“(III) the Nation, on granting consent to such contracting, shall be released from any responsibility, liability, claim, or cost from and after the date on which consent is given, with respect to past action or inaction by the Nation, and subsequent action or inaction by the San Xavier District, relating to the design and construction of irrigation systems for the cooperative farm or the Central Arizona Project link pipeline; and

“(IV) the Secretary shall, on the request of the Nation, execute a waiver and release to carry out subclause (III);

“(F) to subjugate, at no cost to the United States, the land for which the irrigation systems under paragraphs (2) and (3) of section 304(c) will be planned, designed, and constructed by the Secretary, on the condition that—

“(i) the obligation of the Nation to subjugate the land in the cooperative farm that is to be served by the extension of the irrigation system under section 304(c)(2) shall be determined by the Secretary, in consultation with the Nation and the San Xavier Cooperative Association; and

“(ii) subject to approval by the Secretary of a contract with the San Xavier District executed under section 311, to perform that subjugation, a determination by the Secretary of the subjugation costs under clause (i), and the provision of notice by the San Xavier District to the Nation at least 180 days before the date on which the San Xavier District Council certifies by resolution that the subjugation is scheduled to commence, the Nation pays to the San Xavier District, not later than 90 days before the date on which the subjugation is scheduled to commence, from the trust fund under section 315, or from other sources of funds held by the Nation, the amount determined by the Secretary under clause (i); and

“(G) subject to business lease No. H54-16-72 dated April 26, 1972, of San Xavier Reservation land to Asarco and approved by the United States on November 14, 1972, that the Nation—

“(i) shall allocate as a first right of beneficial use by allottees, the San Xavier District, and other persons within the San Xavier Reservation—

“(I) 35,000 acre-feet of the 50,000 acre-feet of water deliverable under sections 304(a)(1) and 306(a)(1), including the use of the allocation—

“(aa) to fulfill the obligations prescribed in the Asarco agreement; and

“(bb) for groundwater storage, maintenance of instream flows, and maintenance of riparian vegetation and habitat;

“(II) the 10,000 acre-feet of groundwater identified in subsection (a)(1)(A);

“(III) the groundwater withdrawn from exempt wells;

“(IV) the deferred pumping storage credits authorized by section 308(f)(1)(B); and

“(V) the storage credits resulting from a project authorized in section 308(e) that cannot be lawfully transferred or otherwise disposed of to persons for recovery outside the Nation's Reservation;

“(ii) subject to section 309(b)(2), has the right—

“(I) to use, or authorize other persons or entities to use, any portion of the allocation of 35,000 acre-feet of water deliverable under sections 304(a)(1) and 306(a)(1) outside the San Xavier Reservation for any period during which there is no identified actual use of the water within the San Xavier Reservation;

“(II) as a first right of use, to use the remaining acre-feet of water deliverable under sections 304(a)(1) and 306(a)(1) for any purpose and duration authorized by this title within or outside the Nation's Reservation; and

“(III) subject to section 308(e), as an exclusive right, to transfer or otherwise dispose of the storage credits that may be lawfully transferred or otherwise disposed of to persons for recovery outside the Nation's Reservation;

“(iii) shall issue permits to persons or entities for use of the water resources referred to in clause (i);

“(iv) shall, on timely receipt of an order for water by a permittee under a permit for Central Arizona Project water referred to in clause (i), submit the order to—

“(I) the Secretary; or

“(II) the operating agency for the Central Arizona Project;

“(v) shall issue permits for water deliverable under sections 304(a)(2) and 306(a)(2), including quantities of water reasonably necessary for the irrigation system referred to in section 304(c)(3);

“(vi) shall issue permits for groundwater that may be withdrawn from nonexempt wells in the eastern Schuk Toak District; and

“(vii) shall, on timely receipt of an order for water by a permittee under a permit for water referred to in clause (v), submit the order to—

“(I) the Secretary; or

“(II) the operating agency for the Central Arizona Project; and

“(2) the Alvarez case and Tucson case have been dismissed with prejudice.

“(b) RESPONSIBILITIES ON COMPLETION.—On completion of an irrigation system or extension of an irrigation system described in paragraph (1) or (2) of section 304(c), or in the case of the irrigation system described in section 304(c)(3), if such irrigation system is constructed on individual Indian trust allotments, neither the United States nor the Nation shall be responsible for the operation, maintenance, or replacement of the system.

“(c) PAYMENT OF CHARGES.—The Nation shall not be responsible for payment of any water service capital charge for Central Arizona Project water delivered under section 304, subsection (a) or (b) of section 305, or section 306.

**“SEC. 308. WATER CODE; WATER MANAGEMENT PLAN; STORAGE PROJECTS; STORAGE ACCOUNTS; GROUNDWATER.**

“(a) WATER RESOURCES.—Water resources described in clauses (i) and (ii) of section 307(a)(1)(G)—

“(1) shall be subject to section 7 of the Act of February 8, 1887 (25 U.S.C. 381); and

“(2) shall be apportioned pursuant to clauses (i) and (ii) of section 307(a)(1)(G).

“(b) WATER CODE.—Subject to this title and any other applicable law, the Nation shall—

“(1) manage, regulate, and control the water resources of the Nation and the water resources granted or confirmed under this title;

“(2) establish conditions, limitations, and permit requirements, and promulgate regulations, relating to the storage, recovery, and use of surface water and groundwater within the Nation's Reservation;

“(3) enact and maintain—

“(A) an interim allottee water rights code that—

“(i) is consistent with subsection (a);

“(ii) prescribes the rights of allottees identified in paragraph (4); and

“(iii) provides that the interim allottee water rights code shall be incorporated in the comprehensive water code referred to in subparagraph (B); and

“(B) not later than 3 years after the enforceability date, a comprehensive water code applicable to the water resources granted or confirmed under this title;

“(4) include in each of the water codes enacted under subparagraphs (A) and (B) of paragraph (3)—

“(A) an acknowledgement of the rights described in subsection (a);

“(B) a process by which a just and equitable distribution of the water resources referred to in subsection (a), and any compensation provided under section 305(d), shall be provided to allottees;

“(C) a process by which an allottee may request and receive a permit for the use of any water resources referred to in subsection (a), except the water resources referred to in section 307(a)(1)(G)(ii)(III) and subject to the Nation's first right of use under section 307(a)(1)(G)(ii)(II);

“(D) provisions for the protection of due process, including—

“(i) a fair procedure for consideration and determination of any request by—

“(I) a member of the Nation, for a permit for use of available water resources granted or confirmed by this title; and

“(II) an allottee, for a permit for use of—

“(aa) the water resources identified in section 307(a)(1)(G)(i) that are subject to a first right of beneficial use; or

“(bb) subject to the first right of use of the Nation, available water resources identified in section 307(a)(1)(G)(i)(II);

“(ii) provisions for—

“(I) appeals and adjudications of denied or disputed permits; and

"(II) resolution of contested administrative decisions; and

"(iii) a waiver by the Nation of the sovereign immunity of the Nation only with respect to proceedings described in clause (ii) for claims of declaratory and injunctive relief; and

"(E) a process for satisfying any entitlement to the water resources referred to in section 307(a)(1)(G)(i) for which fee owners of allotted land have received final determinations under applicable law; and

"(5) submit to the Secretary the comprehensive water code, for approval by the Secretary only of the provisions of the water code (and any amendments to the water code), that implement, with respect to the allottees, the standards described in paragraph (4).

"(c) WATER CODE APPROVAL.—

"(1) IN GENERAL.—On receipt of a comprehensive water code under subsection (b)(5), the Secretary shall—

"(A) issue a written approval of the water code; or

"(B) provide a written notification to the Nation that—

"(i) identifies such provisions of the water code that do not conform to subsection (b) or other applicable Federal law; and

"(ii) recommends specific corrective language for each nonconforming provision.

"(2) REVISION BY NATION.—If the Secretary identifies nonconforming provisions in the water code under paragraph (1)(B)(i), the Nation shall revise the water code in accordance with the recommendations of the Secretary under paragraph (1)(B)(ii).

"(3) INTERIM AUTHORITY.—Until such time as the Nation revises the water code of the Nation in accordance with paragraph (2) and the Secretary subsequently approves the water code, the Secretary may exercise any lawful authority of the Secretary under section 7 of the Act of February 8, 1887 (25 U.S.C. 381).

"(4) LIMITATION.—Except as provided in this subsection, nothing in this title requires the approval of the Secretary of the water code of the Nation (or any amendment to that water code).

"(d) WATER MANAGEMENT PLANS.—

"(1) IN GENERAL.—The Secretary shall establish, for the San Xavier Reservation and the eastern Schuk Toak District, water management plans that meet the requirements described in paragraph (2).

"(2) REQUIREMENTS.—Water management plans established under paragraph (1)—

"(A) shall be developed under contracts executed under section 311 between the Secretary and the San Xavier District for the San Xavier Reservation, and between the Secretary and the Nation for the eastern Schuk Toak District, as applicable, that permit expenditures, exclusive of administrative expenses of the Secretary, of not more than—

"(i) with respect to a contract between the Secretary and the San Xavier District, $891,200; and

"(ii) with respect to a contract between the Secretary and the Nation, $237,200;

"(B) shall, at a minimum—

"(i) provide for the measurement of all groundwater withdrawals, including withdrawals from each well that is not an exempt well;

"(ii) provide for—

"(I) reasonable recordkeeping of water use, including the quantities of water stored underground and recovered each calendar year; and

"(II) a system for the reporting of withdrawals from each well that is not an exempt well;

"(iii) provide for the direct storage and deferred storage of water, including the implementation of underground storage and recovery projects, in accordance with this section;

"(iv) provide for the annual exchange of information collected under clauses (i) through (iii)—

"(I) between the Nation and the Arizona Department of Water Resources; and

"(II) between the Nation and the city of Tucson, Arizona;

"(v) provide for—

"(I) the efficient use of water; and

"(II) the prevention of waste;

"(vi) except on approval of the district council for a district in which a direct storage project is established under subsection (e), provide that no direct storage credits earned as a result of the project shall be recovered at any location at which the recovery would adversely affect surface or groundwater supplies, or lower the water table at any location, within the district; and

"(vii) provide for amendments to the water plan in accordance with this title;

"(C) shall authorize the establishment and maintenance of 1 or more underground storage and recovery projects in accordance with subsection (e), as applicable, within—

"(i) the San Xavier Reservation; or

"(ii) the eastern Schuk Toak District; and

"(D) shall be implemented and maintained by the Nation, with no obligation by the Secretary.

"(e) UNDERGROUND STORAGE AND RECOVERY PROJECTS.—The Nation is authorized to establish direct storage and recovery projects in accordance with the Tohono O'odham settlement agreement. The Secretary shall have no responsibility to fund or otherwise administer such projects.

"(f) GROUNDWATER.—

"(1) SAN XAVIER RESERVATION.—

"(A) IN GENERAL.—In accordance with section 307(a)(1)(A), 10,000 acre-feet of groundwater may be pumped annually within the San Xavier Reservation.

"(B) DEFERRED PUMPING.—

"(i) IN GENERAL.—Subject to clause (ii), all or any portion of the 10,000 acre-feet of water not pumped under subparagraph (A) in a year—

"(I) may be withdrawn in a subsequent year; and

"(II) if any of that water is withdrawn, shall be accounted for in accordance with the Tohono O'odham settlement agreement as a debit to the deferred pumping storage account.

"(ii) LIMITATION.—The quantity of water authorized to be recovered as deferred pumping storage credits under this subparagraph shall not exceed—

"(I) 50,000 acre-feet for any 10-year period; or

"(II) 10,000 acre-feet in any year.

"(C) RECOVERY OF ADDITIONAL WATER.—In addition to the quantity of groundwater authorized to be pumped under subparagraphs (A) and (B), the Nation may annually recover within the San Xavier Reservation all or a portion of the credits for water stored under a project described in subsection (e).

"(2) EASTERN SCHUK TOAK DISTRICT.—

"(A) IN GENERAL.—In accordance with section 307(a)(1)(B), 3,200 acre-feet of groundwater may be pumped annually within the eastern Schuk Toak District.

"(B) DEFERRED PUMPING.—

"(i) IN GENERAL.—Subject to clause (ii), all or any portion of the 3,200 acre-feet of water not pumped under subparagraph (A) in a year—

"(I) may be withdrawn in a subsequent year; and

"(II) if any of that water is withdrawn, shall be accounted for in accordance with the Tohono O'odham settlement agreement as a debit to the deferred pumping storage account.

"(ii) LIMITATION.—The quantity of water authorized to be recovered as deferred pumping storage credits under this subparagraph shall not exceed—

"(I) 16,000 acre-feet for any 10-year period; or

"(II) 3,200 acre-feet in any year.

"(C) RECOVERY OF ADDITIONAL WATER.—In addition to the quantity of groundwater authorized to be pumped under subparagraphs (A) and (B), the Nation may annually recover within the eastern Schuk Toak District all or a portion of the credits for water stored under a project described in subsection (e).

"(3) INABILITY TO RECOVER GROUNDWATER.—

"(A) IN GENERAL.—The authorizations to pump groundwater in paragraphs (1) and (2) neither warrant nor guarantee that the groundwater—

"(i) physically exists; or

"(ii) is recoverable.

"(B) CLAIMS.—With respect to groundwater described in subparagraph (A)—

"(i) subject to paragraph 8.8 of the Tohono O'odham settlement agreement, the inability of any person to pump or recover that groundwater shall not be the basis for any claim by the United States or the Nation against any person or entity withdrawing or using the water from any common supply; and

"(ii) the United States and the Nation shall be barred from asserting any and all claims for reserved water rights with respect to that groundwater.

"(g) EXEMPT WELLS.—Any groundwater pumped from an exempt well located within the San Xavier Reservation or the eastern Schuk Toak District shall be exempt from all pumping limitations under this title.

"(h) INABILITY OF SECRETARY TO DELIVER WATER.—The Nation is authorized to pump additional groundwater in any year in which the Secretary is unable to deliver water required to carry out sections 304(a) and 306(a) in accordance with the Tohono O'odham settlement agreement.

"(i) PAYMENT OF COMPENSATION.—Nothing in this section affects any obligation of the Secretary to pay compensation in accordance with section 305(d).

**"SEC. 309. USES OF WATER.**

"(a) PERMISSIBLE USES.—Subject to other provisions of this section and other applicable law, the Nation may devote all water supplies granted or confirmed under this title, whether delivered by the Secretary or pumped by the Nation, to any use (including any agricultural, municipal, domestic, industrial, commercial, mining, underground storage, instream flow, riparian habitat maintenance, or recreational use).

"(b) USE AREA.—

"(1) USE WITHIN NATION'S RESERVATION.—Subject to subsection (d), the Nation may use at any location within the Nation's Reservation—

"(A) the water supplies acquired under sections 304(a) and 306(a);

"(B) groundwater supplies; and

"(C) storage credits acquired as a result of projects authorized under section 308(e), or deferred storage credits described in section 308(f), except to the extent that use of those storage credits causes the withdrawal of groundwater in violation of applicable Federal law.

"(2) Use outside the Nation's reservation.—

"(A) In general.—Water resources granted or confirmed under this title may be sold, leased, transferred, or used by the Nation outside of the Nation's Reservation only in accordance with this title.

"(B) Use within certain area.—Subject to subsection (c), the Nation may use the Central Arizona Project water supplies acquired under sections 304(a) and 306(a) within the Central Arizona Project service area.

"(C) State law.—With the exception of Central Arizona Project water and groundwater withdrawals under the Asarco agreement, the Nation may sell, lease, transfer, or use any water supplies and storage credits acquired as a result of a project authorized under section 308(e) at any location outside of the Nation's Reservation, but within the State, only in accordance with State law.

"(D) Limitation.—Deferred pumping storage credits provided for in section 308(f) shall not be sold, leased, transferred, or used outside the Nation's Reservation.

"(E) Prohibition on use outside the state.—No water acquired under section 304(a) or 306(a) shall be leased, exchanged, forborne, or otherwise transferred by the Nation for any direct or indirect use outside the State.

"(c) Exchanges and Leases; Conditions on Exchanges and Leases.—

"(1) In general.—With respect to users outside the Nation's Reservation, the Nation may, for a term of not to exceed 100 years, assign, exchange, lease, provide an option to lease, or otherwise temporarily dispose of to the users, Central Arizona Project water to which the Nation is entitled under sections 304(a) and 306(a) or storage credits acquired under section 308(e), if the assignment, exchange, lease, option, or temporary disposal is carried out in accordance with—

"(A) this subsection; and

"(B) subsection (b)(2).

"(2) Limitation on alienation.—The Nation shall not permanently alienate any water right under paragraph (1).

"(3) Authorized uses.—The water described in paragraph (1) shall be delivered within the Central Arizona Project service area for any use authorized under applicable law.

"(4) Contract.—An assignment, exchange, lease, option, or temporary disposal described in paragraph (1) shall be executed only in accordance with a contract that—

"(A) is accepted by the Nation;

"(B) is ratified under a resolution of the Legislative Council of the Nation;

"(C) is approved by the United States as Trustee; and

"(D) with respect to any contract to which the United States or the Secretary is a party, provides that an action may be maintained by the contracting party against the United States and the Secretary for a breach of the contract by the United States or Secretary, as appropriate.

"(5) Terms exceeding 25 years.—The terms and conditions established in paragraph 11 of the Tohono O'odham settlement agreement shall apply to any contract under paragraph (4) that has a term of greater than 25 years.

"(d) Limitations on Use, Exchanges, and Leases.—The rights of the Nation to use water supplies under subsection (a), and to assign, exchange, lease, provide options to lease, or temporarily dispose of the water supplies under subsection (c), shall be exercised on conditions that ensure the availability of water supplies to satisfy the first right of beneficial use under section 307(a)(1)(G)(i).

"(e) Water Service Capital Charges.—In any transaction entered into by the Nation and another person under subsection (c) with respect to Central Arizona Project water of the Nation, the person shall not be obligated to pay to the United States or the Central Arizona Water Conservation District any water service capital charge.

"(f) Water Rights Unaffected by Use or Nonuse.—The failure of the Nation to make use of water provided under this title, or the use of, or failure to make use of, that water by any other person that enters into a contract with the Nation under subsection (c) for the assignment, exchange, lease, option for lease, or temporary disposal of water, shall not diminish, reduce, or impair—

"(1) any water right of the Nation, as established under this title or any other applicable law; or

"(2) any water use right recognized under this title, including—

"(A) the first right of beneficial use referred to in section 307(a)(1)(G)(i); or

"(B) the allottee use rights referred to in section 308(a).

"(g) Amendment to Agreement of December 11, 1980.—The Secretary shall amend the agreement of December 11, 1980, to provide that—

"(1) the contract shall be—

"(A) for permanent service (within the meaning of section 5 of the Boulder Canyon Project Act of 1928 (43 U.S.C. 617d)); and

"(B) without limit as to term;

"(2) the Nation may, with the approval of the Secretary—

"(A) in accordance with subsection (c), assign, exchange, lease, enter into an option to lease, or otherwise temporarily dispose of water to which the Nation is entitled under sections 304(a) and 306(a); and

"(B) renegotiate any lease at any time during the term of the lease if the term of the renegotiated lease does not exceed 100 years;

"(3)(A) the Nation shall be entitled to all consideration due to the Nation under any leases and any options to lease or exchanges or options to exchange the Nation's Central Arizona Project water entered into by the Nation; and

"(B) the United States shall have no trust obligation or other obligation to monitor, administer, or account for any consideration received by the Nation under those leases or options to lease and exchanges or options to exchange;

"(4)(A) all of the Nation's Central Arizona Project water shall be delivered through the Central Arizona Project aqueduct; and

"(B) if the delivery capacity of the Central Arizona Project aqueduct is significantly reduced or is anticipated to be significantly reduced for an extended period of time, the Nation shall have the same Central Arizona Project delivery rights as other Central Arizona Project contractors and Central Arizona Project subcontractors, if the Central Arizona Project contractors or Central Arizona Project subcontractors are allowed to take delivery of water other than through the Central Arizona Project aqueduct;

"(5) the Nation may use the Nation's Central Arizona Project water on or off of the Nation's Reservation for the purposes of the Nation consistent with this title;

"(6) as authorized by subparagraph (A) of section 403(f)(2) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)) (as amended by section 107(a)) and to the extent that funds are available in the Lower Colorado River Basin Development Fund established by section 403 of that Act (43 U.S.C. 1543), the United States shall pay to the Central Arizona Project operating agency the fixed operation, maintenance, and replacement charges associated with the delivery of the Nation's Central Arizona Project water, except for the Nation's Central Arizona Project water leased by others;

"(7) the allocated costs associated with the construction of the delivery and distribution system—

"(A) shall be nonreimbursable; and

"(B) shall be excluded from any repayment obligation of the Nation;

"(8) no water service capital charges shall be due or payable for the Nation's Central Arizona Project water, regardless of whether the Central Arizona Project water is delivered for use by the Nation or is delivered pursuant to any leases or options to lease or exchanges or options to exchange the Nation's Central Arizona Project water entered into by the Nation;

"(9) the agreement of December 11, 1980, conforms with section 104(d) and section 306(a) of the Arizona Water Settlements Act; and

"(10) the amendments required by this subsection shall not apply to the 8,000 acre feet of Central Arizona Project water contracted by the Nation in the agreement of December 11, 1980, for the Sif Oidak District.

"(h) Ratification of Agreements.—

"(1) In general.—Notwithstanding any other provision of law, each agreement described in paragraph (2), to the extent that the agreement is not in conflict with this Act—

"(A) is authorized, ratified, and confirmed; and

"(B) shall be executed by the Secretary.

"(2) Agreements.—The agreements described in this paragraph are—

"(A) the Tohono O'odham settlement agreement, to the extent that—

"(i) the Tohono O'odham settlement agreement is consistent with this title; and

"(ii) parties to the Tohono O'odham settlement agreement other than the Secretary have executed that agreement;

"(B) the Tucson agreement (attached to the Tohono O'odham settlement agreement as exhibit 12.1); and

"(C)(i) the Asarco agreement (attached to the Tohono O'odham settlement agreement as exhibit 13.1 to the Tohono O'odham settlement agreement);

"(ii) lease No. H54-0916-0972, dated April 26, 1972, and approved by the United States on November 14, 1972; and

"(iii) any new well site lease as provided for in the Asarco agreement; and

"(D) the FICO agreement (attached to the Tohono O'odham settlement agreement as Exhibit 14.1).

"(3) Relation to other law.—

"(A) Environmental compliance.—In implementing an agreement described in paragraph (2), the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

"(B) Execution of agreement.—Execution of an agreement described in paragraph (2) by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing an agreement described in paragraph (2).

“(C) Lead agency.—The Bureau of Reclamation shall be the lead agency with respect to environmental compliance under the agreements described in paragraph (2).

“(i) Disbursements From Tucson Interim Water Lease.—The Secretary shall disburse to the Nation, without condition, all proceeds from the Tucson interim water lease.

“(j) Use of Gross Proceeds.—

“(1) Definition of gross proceeds.—In this subsection, the term ‘gross proceeds’ means all proceeds, without reduction, received by the Nation from—

“(A) the Tucson interim water lease;

“(B) the Asarco agreement; and

“(C) any agreement similar to the Asarco agreement to store Central Arizona Project water of the Nation, instead of pumping groundwater, for the purpose of protecting water of the Nation; provided, however, that gross proceeds shall not include proceeds from the transfer of Central Arizona Project water in excess of 20,000 acre feet annually pursuant to any agreement under this subparagraph or under the Asarco agreement referenced in subparagraph (B).

“(2) Entitlement.—The Nation shall be entitled to receive all gross proceeds.

“(k) Statutory Construction.—Nothing in this title establishes whether reserved water may be put to use, or sold for use, off any reservation to which reserved water rights attach.

**“SEC. 310. COOPERATIVE FUND.**

“(a) Reauthorization.—

“(1) In general.—Congress reauthorizes, for use in carrying out this title, the cooperative fund established in the Treasury of the United States by section 313 of the 1982 Act.

“(2) Amounts in cooperative fund.—The cooperative fund shall consist of—

“(A)(i) $5,250,000, as appropriated to the cooperative fund under section 313(b)(3)(A) of the 1982 Act; and

“(ii) such amount, not to exceed $32,000,000, as the Secretary determines, after providing notice to Congress, is necessary to carry out this title;

“(B) any additional Federal funds deposited to the cooperative fund under Federal law;

“(C) $5,250,000, as deposited in the cooperative fund under section 313(b)(1)(B) of the 1982 Act, of which—

“(i) $2,750,000 was contributed by the State;

“(ii) $1,500,000 was contributed by the city of Tucson; and

“(iii) $1,000,000 was contributed by—

“(I) the Anamax Mining Company;

“(II) the Cyprus-Pima Mining Company;

“(III) the American Smelting and Refining Company;

“(IV) the Duval Corporation; and

“(V) the Farmers Investment Company;

“(D) all interest accrued on all amounts in the cooperative fund beginning on October 12, 1982, less any interest expended under subsection (b)(2); and

“(E) all revenues received from—

“(i) the sale or lease of effluent received by the Secretary under the contract between the United States and the city of Tucson to provide for delivery of reclaimed water to the Secretary, dated October 11, 1983; and

“(ii) the sale or lease of storage credits derived from the storage of that effluent.

“(b) Expenditures From Fund.—

“(1) In general.—Subject to paragraph (2), upon request by the Secretary, the Secretary of the Treasury shall transfer from the cooperative fund to the Secretary such amounts as the Secretary determines are necessary to carry out obligations of the Secretary under this title, including to pay—

“(A) the variable costs relating to the delivery of water under sections 304 through 306;

“(B) fixed operation maintenance and replacement costs relating to the delivery of water under sections 304 through 306, to the extent that funds are not available from the Lower Colorado River Basin Development Fund to pay those costs;

“(C) the costs of acquisition and delivery of water from alternative sources under section 305; and

“(D) any compensation provided by the Secretary under section 305(d).

“(2) Expenditure of interest.—Except as provided in paragraph (3), the Secretary may expend only interest income accruing to the cooperative fund, and that interest income may be expended by the Secretary, without further appropriation.

“(3) Expenditure of revenues.—Revenues described in subsection (a)(2)(E) shall be available for expenditure under paragraph (1).

“(c) Investment of Amounts.—

“(1) In general.—The Secretary of the Treasury shall invest such portion of the cooperative fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals determined by the Secretary. Investments may be made only in interest-bearing obligations of the United States.

“(2) Credits to cooperative fund.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the cooperative fund shall be credited to and form a part of the cooperative fund.

“(d) Transfers of Amounts.—

“(1) In general.—The amounts required to be transferred to the cooperative fund under this section shall be transferred at least monthly from the general fund of the Treasury to the cooperative fund on the basis of estimates made by the Secretary of the Treasury.

“(2) Adjustments.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

“(e) Damages.—Damages arising under this title or any contract for the delivery of water recognized by this title shall not exceed, in any given year, the amounts available for expenditure in that year from the cooperative fund.

**“SEC. 311. CONTRACTING AUTHORITY; WATER QUALITY; STUDIES; ARID LAND ASSISTANCE.**

“(a) Functions of Secretary.—Except as provided in subsection (f), the functions of the Secretary (or the Commissioner of Reclamation, acting on behalf of the Secretary) under this title shall be subject to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to the same extent as if those functions were carried out by the Assistant Secretary for Indian Affairs.

“(b) San Xavier District as Contractor.—

“(1) In general.—Subject to the consent of the Nation and other requirements under section 307(a)(1)(E), the San Xavier District shall be considered to be an eligible contractor for purposes of this title.

“(2) Technical assistance.—The Secretary shall provide to the San Xavier District technical assistance in carrying out the contracting requirements under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(c) Groundwater Monitoring Programs.—

“(1) San xavier indian reservation program.—

“(A) In general.—Not later than 180 days after the enforceability date, the Secretary shall develop and initiate a comprehensive groundwater monitoring program (including the drilling of wells and other appropriate actions) to test, assess, and provide for the long-term monitoring of the quality of groundwater withdrawn from exempt wells and other wells within the San Xavier Reservation.

“(B) Limitation on expenditures.—In carrying out this paragraph, the Secretary shall expend not more than $215,000.

“(2) Eastern schuk toak district program.—

“(A) In general.—Not later than 180 days after the enforceability date, the Secretary shall develop and initiate a comprehensive groundwater monitoring program (including the drilling of wells and other appropriate actions) to test, assess, and provide for the long-term monitoring of the quality of groundwater withdrawn from exempt wells and other wells within the eastern Schuk Toak District.

“(B) Limitation on expenditures.—In carrying out this paragraph, the Secretary shall expend not more than $175,000.

“(3) Duties of secretary.—

“(A) Consultation.—In carrying out paragraphs (1) and (2), the Secretary shall consult with representatives of—

“(i) the Nation;

“(ii) the San Xavier District and Schuk Toak District, respectively; and

“(iii) appropriate State and local entities.

“(B) Limitation on obligations of secretary.—With respect to the groundwater monitoring programs described in paragraphs (1) and (2), the Secretary shall have no continuing obligation relating to those programs beyond the obligations described in those paragraphs.

“(d) Water Resources Study.—To assist the Nation in developing sources of water, the Secretary shall conduct a study to determine the availability and suitability of water resources that are located—

“(1) within the Nation’s Reservation; but

“(2) outside the Tucson management area.

“(e) Arid Land Renewable Resources.—If a Federal entity is established to provide financial assistance to carry out arid land renewable resources projects and to encourage and ensure investment in the development of domestic sources of arid land renewable resources, the entity shall—

“(1) give first priority to the needs of the Nation in providing that assistance; and

“(2) make available to the Nation, San Xavier District, Schuk Toak District, and San Xavier Cooperative Association price guarantees, loans, loan guarantees, purchase agreements, and joint venture projects at a level that the entity determines will—

“(A) facilitate the cultivation of such minimum number of acres as is determined by the entity to be necessary to ensure economically successful cultivation of arid land crops; and

“(B) contribute significantly to the economy of the Nation.

“(f) Asarco Land Exchange Study.—

“(1) In general.—Not later than 2 years after the enforceability date, the Secretary, in consultation with the Nation, the San Xavier District, the San Xavier Allottees’ Association, and Asarco, shall conduct and submit to Congress a study on the feasibility of a land exchange or land exchanges with Asarco to provide land for future use by—

“(A) beneficial landowners of the Mission Complex Mining Leases of September 18, 1959; and

“(B) beneficial landowners of the Mission Complex Business Leases of May 12, 1959.

“(2) Components.—The study under paragraph (1) shall include—

“(A) an analysis of the manner in which land exchanges could be accomplished to maintain a contiguous land base for the San Xavier Reservation; and

“(B) a description of the legal status exchanged land should have to maintain the political integrity of the San Xavier Reservation.

“(3) Limitation on expenditures.—In carrying out this subsection, the Secretary shall expend not more than $250,000.

**“SEC. 312. WAIVER AND RELEASE OF CLAIMS.**

“(a) Waiver of Claims by the Nation.—Except as provided in subsection (d), the Tohono O'odham settlement agreement shall provide that the Nation waives and releases—

“(1) any and all past, present, and future claims for water rights (including claims based on aboriginal occupancy) arising from time immemorial and, thereafter, forever, and claims for injuries to water rights arising from time immemorial through the enforceability date, for land within the Tucson management area, against—

“(A) the State (or any agency or political subdivision of the State);

“(B) any municipal corporation; and

“(C) any other person or entity;

“(2) any and all claims for water rights arising from time immemorial and, thereafter, forever, claims for injuries to water rights arising from time immemorial through the enforceability date, and claims for failure to protect, acquire, or develop water rights for land within the San Xavier Reservation and the eastern Schuk Toak District from time immemorial through the enforceability date, against the United States (including any agency, officer, and employee of the United States);

“(3) any and all claims for injury to water rights arising after the enforceability date for land within the San Xavier Reservation and the eastern Schuk Toak District resulting from the off-Reservation diversion or use of water in a manner not in violation of the Tohono O'odham settlement agreement or State law against—

“(A) the United States;

“(B) the State (or any agency or political subdivision of the State);

“(C) any municipal corporation; and

“(D) any other person or entity; and

“(4) any and all past, present, and future claims arising out of or relating to the negotiation or execution of the Tohono O'odham settlement agreement or the negotiation or enactment of this title, against—

“(A) the United States;

“(B) the State (or any agency or political subdivision of the State);

“(C) any municipal corporation; and

“(D) any other person or entity.

“(b) Waiver of Claims by the Allottee Classes.—The Tohono O'odham settlement agreement shall provide that each allottee class waives and releases—

“(1) any and all past, present, and future claims for water rights (including claims based on aboriginal occupancy) arising from time immemorial and, thereafter, forever, claims for injuries to water rights arising from time immemorial through the enforceability date for land within the San Xavier Reservation, against—

“(A) the State (or any agency or political subdivision of the State);

“(B) any municipal corporation; and

“(C) any other person or entity (other than the Nation);

“(2) any and all claims for water rights arising from time immemorial and, thereafter, forever, claims for injuries to water rights arising from time immemorial through the enforceability date, and claims for failure to protect, acquire, or develop water rights for land within the San Xavier Reservation from time immemorial through the enforceability date, against the United States (including any agency, officer, and employee of the United States);

“(3) any and all claims for injury to water rights arising after the enforceability date for land within the San Xavier Reservation resulting from the off-Reservation diversion or use of water in a manner not in violation of the Tohono O'odham settlement agreement or State law against—

“(A) the United States;

“(B) the State (or any agency or political subdivision of the State);

“(C) any municipal corporation; and

“(D) any other person or entity;

“(4) any and all past, present, and future claims arising out of or relating to the negotiation or execution of the Tohono O'odham settlement agreement or the negotiation or enactment of this title, against—

“(A) the United States;

“(B) the State (or any agency or political subdivision of the State);

“(C) any municipal corporation; and

“(D) any other person or entity; and

“(5) any and all past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, and claims for injuries to water rights arising from time immemorial through the enforceability date, against the Nation (except that under section 307(a)(1)(G) and subsections (a) and (b) of section 308, the allottees and fee owners of allotted land shall retain rights to share in the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement with respect to uses within the San Xavier Reservation).

“(c) Waiver of Claims by the United States.—Except as provided in subsection (d), the Tohono O'odham settlement agreement shall provide that the United States as Trustee waives and releases—

“(1) any and all past, present, and future claims for water rights (including claims based on aboriginal occupancy) arising from time immemorial and, thereafter, forever, and claims for injuries to water rights arising from time immemorial through the enforceability date, for land within the Tucson management area against—

“(A) the Nation;

“(B) the State (or any agency or political subdivision of the State);

“(C) any municipal corporation; and

“(D) any other person or entity;

“(2) any and all claims for injury to water rights arising after the enforceability date for land within the San Xavier Reservation and the eastern Schuk Toak District resulting from the off-Reservation diversion or use of water in a manner not in violation of the Tohono O'odham settlement agreement or State law against—

“(A) the Nation;

“(B) the State (or any agency or political subdivision of the State);

“(C) any municipal corporation; and

“(D) any other person or entity;

“(3) on and after the enforceability date, any and all claims on behalf of the allottees for injuries to water rights against the Nation (except that under section 307(a)(1)(G) and subsections (a) and (b) of section 308, the allottees shall retain rights to share in the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement with respect to uses within the San Xavier Reservation); and

“(4) claims against Asarco on behalf of the allottee class for the fourth cause of action in Alvarez v. City of Tucson (Civ. No. 93-039 TUC FRZ (D. Ariz., filed April 21, 1993)), in accordance with the terms and conditions of the Asarco agreement.

“(d) Claims Relating to Groundwater Protection Program.—The Nation and the United States as Trustee—

“(1) shall have the right to assert any claims granted by a State law implementing the groundwater protection program described in paragraph 8.8 of the Tohono O'odham settlement agreement; and

“(2) if, after the enforceability date, the State law is amended so as to have a material adverse effect on the Nation, shall have a right to relief in the State court having jurisdiction over Gila River adjudication proceedings and decrees, against an owner of any nonexempt well drilled after the effective date of the amendment (if the well actually and substantially interferes with groundwater pumping occurring on the San Xavier Reservation), from the incremental effect of the groundwater pumping that exceeds that which would have been allowable had the State law not been amended.

“(e) Supplemental Waivers of Claims.—Any party to the Tohono O'odham settlement agreement may waive and release, prohibit the assertion of, or agree not to assert, any claims (including claims for subsidence damage or injury to water quality) in addition to claims for water rights and injuries to water rights on such terms and conditions as may be agreed to by the parties.

“(f) Rights of Allottees; Prohibition of Claims.—

“(1) In general.—As of the enforceability date—

“(A) the water rights and other benefits granted or confirmed by this title and the Tohono O'odham settlement agreement shall be in full satisfaction of—

“(i) all claims for water rights and claims for injuries to water rights of the Nation; and

“(ii) all claims for water rights and injuries to water rights of the allottees;

“(B) any entitlement to water within the Tucson management area of the Nation, or of any allottee, shall be satisfied out of the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement; and

“(C) any rights of the allottees to groundwater, surface water, or effluent shall be limited to the water rights granted or confirmed under this title and the Tohono O'odham settlement agreement.

“(2) Limitation of certain claims by allottees.—No allottee within the San Xavier Reservation may—

“(A) assert any past, present, or future claim for water rights arising from time immemorial and, thereafter, forever, or any claim for injury to water rights (including future injury to water rights) arising from time immemorial and thereafter, forever, against—

“(i) the United States;

“(ii) the State (or any agency or political subdivision of the State);

“(iii) any municipal corporation; or

“(iv) any other person or entity; or

“(B) continue to assert a claim described in subparagraph (A), if the claim was first asserted before the enforceability date.

"(3) Claims by fee owners of allotted land.—

"(A) In general.—No fee owner of allotted land within the San Xavier Reservation may assert any claim to the extent that—

"(i) the claim has been waived and released in the Tohono O'odham settlement agreement; and

"(ii) the fee owner of allotted land asserting the claim is a member of the applicable allottee class.

"(B) Offset.—Any benefits awarded to a fee owner of allotted land as a result of a successful claim shall be offset by benefits received by that fee owner of allotted land under this title.

"(4) Limitation of claims against the Nation.—

"(A) In general.—Except as provided in subparagraph (B), no allottee may assert against the Nation any claims for water rights arising from time immemorial and, thereafter, forever, claims for injury to water rights arising from time immemorial and thereafter forever.

"(B) Exception.—Under section 307(a)(1)(G) and subsections (a) and (b) of section 308, the allottees shall retain rights to share in the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement.

"(g) Consent.—

"(1) Grant of consent.—Congress grants to the Nation and the San Xavier Cooperative Association under section 305(d) consent to maintain civil actions against the United States in the courts of the United States under section 1346, 1491, or 1505 of title 28, United States Code, respectively, to recover damages, if any, for the breach of any obligation of the Secretary under those sections.

"(2) Remedy.—

"(A) In general.—Subject to subparagraph (B), the exclusive remedy for a civil action maintained under this subsection shall be monetary damages.

"(B) Offset.—An award for damages for a claim under this subsection shall be offset against the amount of funds—

"(i) made available by any Act of Congress; and

"(ii) paid to the claimant by the Secretary in partial or complete satisfaction of the claim.

"(3) No claims established.—Except as provided in paragraph (1), nothing in the subsection establishes any claim against the United States.

"(h) Jurisdiction; Waiver of Immunity; Parties.—

"(1) Jurisdiction.—

"(A) In general.—Except as provided in subsection (i), the State court having jurisdiction over Gila River adjudication proceedings and decrees, shall have jurisdiction over—

"(i) civil actions relating to the interpretation and enforcement of—

"(I) this title;

"(II) the Tohono O'odham settlement agreement; and

"(III) agreements referred to in section 309(h)(2); and

"(ii) civil actions brought by or against the allottees or fee owners of allotted land for the interpretation of, or legal or equitable remedies with respect to, claims of the allottees or fee owners of allotted land that are not claims for water rights, injuries to water rights or other claims that are barred or waived and released under this title or the Tohono O'odham settlement agreement.

"(B) Limitation.—Except as provided in subparagraph (A), no State court or court of the Nation shall have jurisdiction over any civil action described in subparagraph (A).

"(2) Waiver.—

"(A) In general.—The United States and the Nation waive sovereign immunity solely for claims for—

"(i) declaratory judgment or injunctive relief in any civil action arising under this title; and

"(ii) such claims and remedies as may be prescribed in any agreement authorized under this title.

"(B) Limitation on standing.—If a governmental entity not described in subparagraph (A) asserts immunity in any civil action that arises under this title (unless the entity waives immunity for declaratory judgment or injunctive relief) or any agreement authorized under this title (unless the entity waives immunity for the claims and remedies prescribed in the agreement)—

"(i) the governmental entity shall not have standing to initiate or assert any claim, or seek any remedy against the United States or the Nation, in the civil action; and

"(ii) the waivers of sovereign immunity under subparagraph (A) shall have no effect in the civil action.

"(C) Monetary relief.—A waiver of immunity under this paragraph shall not extend to any claim for damages, costs, attorneys' fees, or other monetary relief.

"(3) Nation as a party.—

"(A) In general.—Not later than 60 days before the date on which a civil action under paragraph (1)(A)(ii) is filed by an allottee or fee owner of allotted land, the allottee or fee owner, as the case may be, shall provide to the Nation a notice of intent to file the civil action, accompanied by a request for consultation.

"(B) Joinder.—If the Nation is not a party to a civil action as originally commenced under paragraph (1)(A)(ii), the Nation shall be joined as a party.

"(i) Regulation and Jurisdiction Over Dispute Resolution.—

"(1) Regulation.—The Nation shall have jurisdiction to manage, control, permit, administer, and otherwise regulate the water resources granted or confirmed under this title and the Tohono O'odham settlement agreement—

"(A) with respect to the use of those resources by—

"(i) the Nation;

"(ii) individual members of the Nation;

"(iii) districts of the Nation; and

"(iv) allottees; and

"(B) with respect to any entitlement to those resources for which a fee owner of allotted land has received a final determination under applicable law.

"(2) Jurisdiction.—Subject to a requirement of exhaustion of any administrative or other remedies prescribed under the laws of the Nation, jurisdiction over any disputes relating to the matters described in paragraph (1) shall be vested in the courts of the Nation.

"(3) Applicable law.—The regulatory and remedial procedures referred to in paragraphs (1) and (2) shall be subject to all applicable law.

"(j) Federal Jurisdiction.—The Federal Courts shall have concurrent jurisdiction over actions described in subsection 312(h) to the extent otherwise provided in Federal law.

**"SEC. 313. AFTER-ACQUIRED TRUST LAND.**

"(a) In General.—Except as provided in subsection (b)—

"(1) the Nation may seek to have taken into trust by the United States, for the benefit of the Nation, legal title to additional land within the State and outside the exterior boundaries of the Nation's Reservation only in accordance with an Act of Congress specifically authorizing the transfer for the benefit of the Nation;

"(2) lands taken into trust under paragraph (1) shall include only such water rights and water use privileges as are consistent with State water law and State water management policy; and

"(3) after-acquired trust land shall not include Federal reserved rights to surface water or groundwater.

"(b) Exception.—Subsection (a) shall not apply to land acquired by the Nation under the Gila Bend Indian Reservation Lands Replacement Act (100 Stat. 1798).

**"SEC. 314. NONREIMBURSABLE COSTS.**

"(a) Central Arizona Water Conservation District.—For the purpose of determining the allocation and repayment of costs of any stage of the Central Arizona Project, the costs associated with the delivery of Central Arizona Project water acquired under sections 304(a) and 306(a), whether that water is delivered for use by the Nation or in accordance with any assignment, exchange, lease, option to lease, or other agreement for the temporary disposition of water entered into by the Nation—

"(1) shall be nonreimbursable; and

"(2) shall be excluded from the repayment obligation of the Central Arizona Water Conservation District.

"(b) Claims by United States.—The United States shall—

"(1) make no claim against the Nation or any allottee for reimbursement or repayment of any cost associated with—

"(A) the construction of facilities under the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.);

"(B) the delivery of Central Arizona Project water for any use authorized under this title; or

"(C) the implementation of this title;

"(2) make no claim against the Nation for reimbursement or repayment of the costs associated with the construction of facilities described in paragraph (1)(A) for the benefit of and use on land that—

"(A) is known as the 'San Lucy Farm'; and

"(B) was acquired by the Nation under the Gila Bend Indian Reservation Lands Replacement Act (100 Stat. 1798); and

"(3) impose no assessment with respect to the costs referred to in paragraphs (1) and (2) against—

"(A) trust or allotted land within the Nation's Reservation; or

"(B) the land described in paragraph (2).

**"SEC. 315. TRUST FUND.**

"(a) Reauthorization.—Congress reauthorizes the trust fund established by section 309 of the 1982 Act, containing an initial deposit of $15,000,000 made under that section, for use in carrying out this title.

"(b) Expenditure and Investment.—Subject to the limitations of subsection (d), the principal and all accrued interest and dividends in the trust fund established under section 309 of the 1982 Act may be—

"(1) expended by the Nation for any governmental purpose; and

"(2) invested by the Nation in accordance with such policies as the Nation may adopt.

"(c) Responsibility of Secretary.—The Secretary shall not—

"(1) be responsible for the review, approval, or audit of the use and expenditure of any funds from the trust fund reauthorized by subsection (a); or

"(2) be subject to liability for any claim or cause of action arising from the use or expenditure by the Nation of those funds.

"(d) Conditions of Trust.—

"(1) Reserve for the cost of subjugation.—The Nation shall reserve in the trust fund reauthorized by subsection (a)—

"(A) the principal amount of at least $3,000,000; and

"(B) interest on that amount that accrues during the period beginning on the enforceability date and ending on the earlier of—

"(i) the date on which full payment of such costs has been made; or

"(ii) the date that is 10 years after the enforceability date.

"(2) Payment.—The costs described in paragraph (1) shall be paid in the amount, on the terms, and for the purposes prescribed in section 307(a)(1)(F).

"(3) Limitation on restrictions.—On the occurrence of an event described in clause (i) or (ii) of paragraph (1)(B)—

"(A) the restrictions imposed on funds from the trust fund described in paragraph (1) shall terminate; and

"(B) any of those funds remaining that were reserved under paragraph (1) may be used by the Nation under subsection (b)(1).

**"SEC. 316. MISCELLANEOUS PROVISIONS.**

"(a) In General.—Nothing in this title—

"(1) establishes the applicability or inapplicability to groundwater of any doctrine of Federal reserved rights;

"(2) limits the ability of the Nation to enter into any agreement with the Arizona Water Banking Authority (or a successor agency) in accordance with State law;

"(3) prohibits the Nation, any individual member of the Nation, an allottee, or a fee owner of allotted land in the San Xavier Reservation from lawfully acquiring water rights for use in the Tucson management area in addition to the water rights granted or confirmed under this title and the Tohono O'odham settlement agreement;

"(4) abrogates any rights or remedies existing under section 1346 or 1491 of title 28, United States Code;

"(5) affects the obligations of the parties under the Agreement of December 11, 1980, with respect to the 8,000 acre feet of Central Arizona Project water contracted by the Nation for the Sif Oidak District;

"(6)(A) applies to any exempt well;

"(B) prohibits or limits the drilling of any exempt well within—

"(i) the San Xavier Reservation; or

"(ii) the eastern Schuk Toak District; or

"(C) subjects water from any exempt well to any pumping limitation under this title; or

"(7) diminishes or abrogates rights to use water under—

"(A) contracts of the Nation in existence before the enforceability date; or

"(B) the well site agreement referred to in the Asarco agreement and any well site agreement entered into under the Asarco agreement.

"(b) No Effect on Future Allocations.—Water received under a lease or exchange of Central Arizona Project water under this title does not affect any future allocation or reallocation of Central Arizona Project water by the Secretary.

"(c) Limitation on Liability of United States.—

"(1) In general.—The United States shall have no trust or other obligation—

"(A) to monitor, administer, or account for, in any manner, any of the funds paid to the Nation or the San Xavier District under this Act; or

"(B) to review or approve the expenditure of those funds.

"(2) Indemnification.—The Nation shall indemnify the United States, and hold the United States harmless, with respect to any and all claims (including claims for takings or breach of trust) arising out of the receipt or expenditure of funds described in paragraph (1)(A).

**"SEC. 317. AUTHORIZED COSTS.**

"(a) In General.—There are authorized to be appropriated—

"(1) to construct features of irrigation systems described in paragraphs (1) through (4) of section 304(c) that are not authorized to be constructed under any other provision of law, an amount equal to the sum of—

"(A) $3,500,000; and

"(B) such additional amount as the Secretary determines to be necessary to adjust the amount under subparagraph (A) to account for ordinary fluctuations in the costs of construction of irrigation features for the period beginning on October 12, 1982, and ending on the date on which the construction of the features described in this subparagraph is initiated, as indicated by engineering cost indices applicable to the type of construction involved;

"(2) $18,300,000 in lieu of construction to implement section 304(c)(3)(B), including an adjustment representing interest that would have been earned if this amount had been deposited in the cooperative fund during the period beginning on January 1, 2008, and ending on the date the amount is actually paid to the San Xavier District;

"(3) $891,200 to develop and initiate a water management plan for the San Xavier Reservation under section 308(d);

"(4) $237,200 to develop and initiate a water management plan for the eastern Schuk Toak District under section 308(d);

"(5) $4,000,000 to complete the water resources study under section 311(d);

"(6) $215,000 to develop and initiate a groundwater monitoring program for the San Xavier Reservation under section 311(c)(1);

"(7) $175,000 to develop and implement a groundwater monitoring program for the eastern Schuk Toak District under section 311(c)(2);

"(8) $250,000 to complete the Asarco land exchange study under section 311(f); and

"(9) such additional sums as are necessary to carry out the provisions of this title other than the provisions referred to in paragraphs (1) through (8).

"(b) Treatment of Appropriated Amounts.—Amounts made available under subsection (a) shall be considered to be authorized costs for purposes of section 403(f)(2)(D)(iii) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)(D)(iii)) (as amended by section 107(a) of the Arizona Water Settlements Act).".

**SEC. 302. SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT EFFECTIVE DATE.**

(a) Definitions.—The definitions under section 301 of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301) shall apply to this title.

(b) Effective Date.—This title and the amendments made by this title take effect as of the enforceability date, which is the date the Secretary publishes in the Federal Register a statement of findings that—

(1)(A) to the extent that the Tohono O'odham settlement agreement conflicts with this title or an amendment made by this title, the Tohono O'odham settlement agreement has been revised through an amendment to eliminate those conflicts; and

(B) the Tohono O'odham settlement agreement, as so revised, has been executed by the parties and the Secretary;

(2) the Secretary and other parties to the agreements described in section 309(h)(2) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301) have executed those agreements;

(3) the Secretary has approved the interim allottee water rights code described in section 308(b)(3)(A) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301);

(4) final dismissal with prejudice has been entered in each of the Alvarez case and the Tucson case on the sole condition that the Secretary publishes the findings specified in this section;

(5) the judgment and decree attached to the Tohono O'odham settlement agreement as exhibit 17.1 has been approved by the State court having jurisdiction over the Gila River adjudication proceedings, and that judgment and decree have become final and nonappealable;

(6) implementation costs have been identified and retained in the Lower Colorado River Basin Development Fund, specifically—

(A) $18,300,000 to implement section 304(c)(3);

(B) $891,200 to implement a water management plan for the San Xavier Reservation under section 308(d) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301);

(C) $237,200 to implement a water management plan for the eastern Schuk Toak District under section 308(d) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301);

(D) $4,000,000 to complete the water resources study under section 311(d) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301);

(E) $215,000 to develop and implement a groundwater monitoring program for the San Xavier Reservation under section 311(c)(1) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301);

(F) $175,000 to develop and implement a groundwater monitoring program for the eastern Schuk Toak District under section 311(c)(2) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301); and

(G) $250,000 to complete the Asarco land exchange study under section 311(f) of the Southern Arizona Water Rights Settlement Amendments Act of 2004 (as contained in the amendment made by section 301);

(7) the State has enacted legislation that—

(A) qualifies the Nation to earn long-term storage credits under the Asarco agreement;

(B) implements the San Xavier groundwater protection program in accordance with paragraph 8.8 of the Tohono O'odham settlement agreement;

(C) enables the State to carry out section 306(b); and

(D) confirms the jurisdiction of the State court having jurisdiction over Gila River adjudication proceedings and decrees to carry out the provisions of sections 312(d) and 312(h) of the Southern Arizona Water Rights

Settlement Amendments Act of 2004 (as contained in the amendment made by section 301);

(8) the Secretary and the State have agreed to an acceptable firming schedule referred to in section 105(b)(2)(C); and

(9) a final judgment has been entered in Central Arizona Water Conservation District v. United States (No. CIV 95-625-TUC-WDB(EHC), No. CIV 95-1720-PHX-EHC) (Consolidated Action) in accordance with the repayment stipulation as provided in section 207.

(c) Failure To Publish Statement of Findings.—If the Secretary does not publish a statement of findings under subsection (a) by December 31, 2007—

(1) the 1982 Act shall remain in full force and effect;

(2) this title shall not take effect; and

(3) any funds made available by the State under this title that are not expended, together with any interest on those funds, shall immediately revert to the State.

## TITLE IV—SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT

### SEC. 401. EFFECT OF TITLES I, II, AND III.

None of the provisions of title I, II, or III or the agreements, attachments, exhibits, or stipulations referenced in those titles shall be construed to—

(1) amend, alter, or limit the authority of—

(A) the United States to assert any claim against any party, including any claim for water rights, injury to water rights, or injury to water quality in its capacity as trustee for the San Carlos Apache Tribe, its members and allottees, or in any other capacity on behalf of the San Carlos Apache Tribe, its members, and allottees, in any judicial, administrative, or legislative proceeding; or

(B) the San Carlos Apache Tribe to assert any claim against any party, including any claim for water rights, injury to water rights, or injury to water quality in its own behalf or on behalf of its members and allottees in any judicial, administrative, or legislative proceeding consistent with title XXXVII of Public Law 102-575 (106 Stat. 4600, 4740); or

(2) amend or alter the CAP Contract for the San Carlos Apache Tribe dated December 11, 1980, as amended April 29, 1999.

### SEC. 402. ANNUAL REPORT.

(a) In General.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes the status of efforts to reach a negotiated agreement covering the Gila River water rights claims of the San Carlos Apache Tribe.

(b) Termination.—This section shall be of no effect after the later of—

(1) the date that is 3 years after the date of enactment of this Act; or

(2) the date on which the Secretary submits a third annual report under this section.

### SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

(a) San Carlos Apache Tribe.—There is authorized to be appropriated to assist the San Carlos Apache Tribe in completing comprehensive water resources negotiations leading to a comprehensive Gila River water settlement for the Tribe, including soil and water technical analyses, legal, paralegal, and other related efforts, $150,000 for fiscal year 2006.

(b) White Mountain Apache Tribe.—There is authorized to be appropriated to assist the White Mountain Apache Tribe in completing comprehensive water resources negotiations leading to a comprehensive water settlement for the Tribe, including soil and water technical analyses, legal, paralegal, and other related efforts, $150,000 for fiscal year 2006.

(c) Other Arizona Indian Tribes.—There is authorized to be appropriated to the Secretary to assist Arizona Indian tribes (other than those specified in subsections (a) and (b)) in completing comprehensive water resources negotiations leading to a comprehensive water settlement for the Arizona Indian tribes, including soil and water technical analyses, legal, paralegal, and other related efforts, $300,000 for fiscal year 2006.

(d) No Limitation on Other Funding.—Amounts made available under subsections (a), (b), and (c) shall not limit, and shall be in addition to, other amounts available for Arizona tribal water rights negotiations leading to comprehensive water settlements.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

### GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 437, the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 437, sponsored by Senator JOHN KYLE and supported by a bipartisan group of our House colleagues in Arizona and New Mexico, represents years of negotiations among representatives of the Federal Government, the States of Arizona and New Mexico, the Gila River Indian community, as well as various communities in the region.

This bill offers a comprehensive approach to resolving certain Indian water claims and settles long-standing litigation. It also provides long-term water use certainty for non-Indian water users and allows New Mexico to develop long-promised water supplies.

I commend my colleague, Senator KYL, the sponsor of this bill, and so many others for helping foster the historic agreements in this legislation.

Mr. Speaker, this legislation offers most everyone something, but not everything to anyone. It represents hard-fought compromise that deserves passage. I would urge my colleagues to support this bipartisan bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with pleasure that I join my colleagues in support of S. 437. The bill includes several important revisions, including new language in title 4 that will assist the San Carlos Apache Tribe, the White Mountain Apache Tribe, and other tribes in Arizona, as they work to complete their own comprehensive water settlements. I am grateful for the cooperation shown by everyone who participated in this effort.

As I express my support for S. 437, I also wish to remind my colleagues that this legislation is the most significant and far-reaching water settlement legislation ever considered by this House.

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Certainly, the benefits to all parties including the United States will be significant. But this legislation will also be very expensive, and many of the costs will be off-budget, avoiding the annual appropriations process.

The legislation, in effect, will settle claims of the Gila River Indian Community by dramatically restructuring the payments for the Central Arizona Project. However, I am satisfied that, on balance, the benefits of this legislation will significantly outweigh the costs on the taxpayers.

We support the passage of S. 437.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. GRIJALVA).

Mr. GRIJALVA. Mr. Speaker, I want to thank the ranking member, the gentleman from West Virginia (Mr. RAHALL), and the chairman of the Committee on Resources, my esteemed colleague, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for her support on the Committee on Resources for assuring that we would have an opportunity to consider this legislation today.

This important piece of legislation, S. 437, H.R. 885, will begin the process of settling major issues related to water in Arizona today. While I agree this legislation is not perfect, it does provide the opportunity to resolve Indian water rights claims in Arizona and secure water for their future use.

But the benefits of this legislation are not restricted to Indian tribes. The bill will also provide certainty for municipal governments such as the City of Tucson and my district, which will now have assurances as to water supply.

Under this legislation nearly half of the benefits provided by the Central Arizona Project will be available to support economic development within Indian reservations. Two tribes within my district, the Gila River Indian Community and the Tohono o'Odham, are among the beneficiaries of this enhanced opportunity.

In Indian Country today, one of the most difficult hurdles to tribes utilizing their water rights is the high cost of water project development.

While the Federal government over the years has helped facilitate and pay for non-Indian water projects, Indian tribes have been left without such assistance. This legislation, however, provides a reliable funding source which will help pay the operation, maintenance and replacement costs associated with each acre foot of water.

Funding will also be available to underwrite the cost of two tribal water settlements provided by this legislation, approved by this legislation. In addition, a new source of funding will be available to underwrite the costs of new Indian water rights settlements. By making the CAP water and unappropriated funding available, this legislation makes it much more likely that all the remaining Indian water right disputes in Arizona can and will be resolved in the near future.

Finally, the sponsors and the Resources staff members have worked hard to include language in this bill to protect other tribes' future settlements, in particular, White Mountain Apache and San Carlos Apache Tribes. Title IV of this bill provides funding for these tribes and others to work on their own settlements and also makes it clear that the San Carlos Apache Tribe will not be prejudiced in settling their water claims. In addition, the Secretary of Interior is required to report to us annually on efforts to settle the Apache claims that were not settled by the partial San Carlos water settlement in 1992.

I hope all of my colleagues will support this legislation and the innovative effort it represents to resolve some of the most difficult and pressing water management issues in Arizona.

Mr. HAYWORTH. Mr. Speaker, I yield two minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I rise in support of S. 437. Mr. Speaker, I want to thank the gentleman from California (Mr. POMBO) and the ranking member, the gentleman from West Virginia (Mr. RAHALL), along with the subcommittee chairman, the gentleman from California (Mr. CALVERT), and the ranking member, the gentlewoman from California (Mrs. NAPOLITANO), for their hard work in getting an agreement that allows us to vote on this important water settlement bill today.

I would also like to pay tribute to the gentleman from Arizona (Mr. HAYWORTH) and the Arizona delegation in anticipation of receiving the same from them in this bill.

In the 1968 Colorado River Basin Project Act, New Mexico was apportioned 18,000 acre feet of Gila River water. The Gila River's headwaters are in New Mexico and, therefore, New Mexicans always felt like they had claim to some of this water. However, we had not been able to use any of it, and it has simply been paper water.

New Mexicans have long sought to develop this water and because of their willingness to negotiate in good faith and compromise with the State of Arizona and downstream water users, we have now reached an agreement. That agreement is a bipartisan solution which I feel represents the best interests of both States.

This historic water bill will not only provide a settlement to long-standing Indian water rights in Arizona, but it will also ensure Southwestern New Mexico gets the water it was apportioned in the 1968 Act. New Mexico was not able to develop this water because the 1968 Act required New Mexico to keep whole senior water uses in Arizona. After many long months of negotiation, all the necessary agreements between Arizona and New Mexico are in place to allow this bill to move forward.

It is Congress's role to codify agreed-upon settlements, especially where almost every part has been negotiated in good faith for a number of years on very difficult and contentious issues. Without the agreements negotiated between the two States and which are reflected in the amendments to the 2004 Arizona Water Settlements Act, the New Mexico unit could not be developed. However, with this agreement, after nearly 40 years New Mexico water users will be able to develop water that they were promised in 1968.

Mr. Speaker, I urge all of my colleagues to support S. 437.

Mrs. CHRISTENSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. PASTOR).

Mr. PASTOR. Mr. Speaker, I rise in support of this critical legislation, which is co-sponsored by the entire Arizona delegation.

Since before the founding of Arizona as a State, we have, like most other Western States, struggled to meet the water demands of our inhabitants. It has not been easy. In 1968, in hopes of resolving these problems, the Central Arizona Project was authorized by the Federal Government and charged with distributing water from the Colorado River to communities and tribes in the central and southern parts of Arizona. However, for decades there have been disputes on the appropriate distribution of these waters, resulting in litigation.

I believe this legislation will resolve most of these disputes. The entire Arizona delegation, both my Democratic and Republican colleagues as well as our two senators and our governor, all believe this is the best possible solution to this water issue. The people, municipalities, Native American tribes and nations and agricultural and environmental organizations within the State also agree.

This legislation represents a significant step forward in Arizona's continuing effort to resolve Native American water rights claims for the benefit of all of the people of Arizona. This bill will resolve the claims of the Gila River Indian community and the remaining claims of the Tohono o'Odham Nation, while laying the groundwork for resolving the other outstanding water right claims of Arizona's Native American communities and nations.

The bill approves and ratifies the Gila River Indian Community Water Rights Settlement Act, amends the Southern Arizona Water Rights Settlement Act of 1982, and affirms the right of the San Carlos Apache Tribe to make future claims for water rights. The Senate has approved this bill unanimously and has passed the House Committee on Resources, which I would like to thank the ranking member, the gentleman from West Virginia (Mr. RAHALL), for bringing this bill to the floor.

It is critical to our State that we approve it here today and move it forward to the President for enactment. I urge my colleagues to follow the lead of all eight Arizona representatives and support its passage.

Mr. BACA. Mr. Speaker, today, I rise in support of S. 437, the Arizona Water Settlements Act.

I am a cosponsor of H.R. 885, the House version of this landmark bill that resolves critical water issues facing Arizona and Arizona tribes today.

Congress authorized the Central Arizona project 35 years ago.

Today, S. 347 offers resolution for water use in Arizona, providing additional water supplies to resolve tribal claims and accommodate rapid population growth.

Among other improvements, this bill designs a solid system and infrastructure to provide Arizona tribes with affordable water.

After many years, tribes in this region, such as the Gila River Indian Community, will be able to retain and maintain their water rights without continuous years of court battles.

Everyone has the right to clean, abundant and affordable water—and our first Americans are no exception.

The Arizona Water Settlements Act will be considered the largest Indian water settlement in U.S. history, and this was obviously no small task.

The bill is strongly supported by appropriate state agencies, the entire Arizona delegation, the Gila River Community, the Tohono O'odham tribe, and a number of diverse Arizona interests.

I commend the Arizona delegation and the Democratic and Republican staff for working through their differences for a polished bill.

I look forward to seeing this bill become law, and the positive changes it will make for Arizona's water supply in the future.

Mr. HAYWORTH. Mr. Speaker, I would simply comment that I welcome the statements of my two colleagues from Arizona on the other side of the aisle. I thank my friend from the Virgin Islands for managing on the minority side.

Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the Senate bill, S. 437.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

## LINCOLN COUNTY CONSERVATION, RECREATION, AND DEVELOPMENT ACT OF 2004

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4593) to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

### *SECTION 1. AUTHORIZATION OF APPROPRIATIONS.*

*There are authorized to be appropriated such sums as are necessary to carry out this Act.*

### *SEC. 2. SHORT TITLE.*

*This Act may be cited as the "Lincoln County Conservation, Recreation, and Development Act of 2004".*

### *TITLE I—LAND DISPOSAL*

### *SEC. 101. DEFINITIONS.*

*In this title:*

*(1) COUNTY.—The term "County" means Lincoln County, Nevada.*

*(2) MAP.—The term "map" means the map entitled "Lincoln County Conservation, Recreation, and Development Act Map" and dated October 1, 2004.*

*(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.*

*(4) SPECIAL ACCOUNT.—The term "special account" means the special account established under section 103(b)(3).*

### *SEC. 192. CONVEYANCE OF LINCOLN COUNTY LAND.*

*(a) IN GENERAL.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712), the Secretary, in cooperation with the County, in accordance with that Act, this title, and other applicable law and subject to valid existing rights, shall conduct sales of—*

*(1) the land described in subsection (b)(1) to qualified bidders not later than 75 days after the date of the enactment of this Act; and*

*(2) the land described in subsection (b)(2) to qualified bidders as such land becomes available for disposal.*

*(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of—*

*(1) the land identified on the map as Tract A and Tract B totaling approximately 13,328 acres; and*

*(2) not more than 90,000 acres of Bureau of Land Management managed public land in Lincoln County that is not segregated or withdrawn on the date of enactment of this Act or thereafter, and that is identified for disposal by the BLM either through—*

*(A) the Ely Resource Management Plan (intended to be finalized in 2005); or*

*(B) a subsequent amendment to that land use plan undertaken with full public involvement.*

*(c) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—*

*(1) the Office of the Director of the Bureau of Land Management;*

*(2) the Office of the Nevada State Director of the Bureau of Land Management;*

*(3) the Ely Field Office of the Bureau of Land Management; and*

*(4) the Caliente Field Station of the Bureau of Land Management.*

*(d) JOINT SELECTION REQUIRED.—The Secretary and the County shall jointly select which parcels of land described in subsection (b)(2) to offer for sale under subsection (a).*

*(e) COMPLIANCE WITH LOCAL PLANNING AND ZONING LAWS.—Before a sale of land under subsection (a), the County shall submit to the Secretary a certification that qualified bidders have agreed to comply with—*

*(1) County and city zoning ordinances; and*

*(2) any master plan for the area approved by the County.*

*(f) METHOD OF SALE; CONSIDERATION.—The sale of land under subsection (a) shall be—*

*(1) consistent with section 203(d) and 203(f) of the Federal Land Management Policy Act of 1976 (43 U.S.C. 1713(d) and (f));*

*(2) through a competitive bidding process unless otherwise determined by the Secretary; and*

*(3) for not less than fair market value.*

*(g) WITHDRAWAL.—*

*(1) IN GENERAL.—Subject to valid existing rights and except as provided in paragraph (2), the land described in subsection (b) is withdrawn from—*

*(A) all forms of entry and appropriation under the public land laws, including the mining laws;*

*(B) location, entry, and patent under the mining laws; and*

*(C) operation of the mineral leasing and geothermal leasing laws.*

*(2) EXCEPTION.—Paragraph (1)(A) shall not apply to a competitive sale or an election by the County to obtain the land described in subsection (b) for public purposes under the Act of June 14, 1926 (43 U.S.C. 869 et seq; commonly known as the "Recreation and Public Purposes Act").*

*(h) DEADLINE FOR SALE.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall—*

*(A) notwithstanding the Lincoln County Land Act of 2000 (114 Stat. 1046), not later than 75 days after the date of the enactment of this Act, offer by sale the land described in subsection (b)(1) if there is a qualified bidder for such land; and*

*(B) offer for sale annually lands identified for sale in subsection (b)(2) until such lands are disposed of or unless the county requests a postponement under paragraph (2).*

*(2) POSTPONEMENT; EXCLUSION FROM SALE.—*

*(A) REQUEST BY COUNTY FOR POSTPONEMENT OR EXCLUSION.—At the request of the County, the Secretary shall postpone or exclude from the sale all or a portion of the land described in subsection (b)(2).*

*(B) INDEFINITE POSTPONEMENT.—Unless specifically requested by the County, a postponement under subparagraph (A) shall not be indefinite.*

### *SEC. 103. DISPOSITION OF PROCEEDS.*

*(a) INITIAL LAND SALE.—Section 5 of the Lincoln County Land Act of 2000 (114 Stat. 1047) shall apply to the disposition of the gross proceeds from the sale of land described in section 102(b)(1).*

*(b) DISPOSITION OF PROCEEDS.—Proceeds from sales of lands described in section 102(b)(2) shall be disbursed as follows—*

*(1) 5 percent shall be paid directly to the state for use in the general education program of the State;*

*(2) 10 percent shall be paid to the County for use for fire protection, law enforcement, public safety, housing, social services, and transportation; and*

*(3) the remainder shall be deposited in a special account in the Treasury of the United States and shall be available without further appropriation to the Secretary until expended for—*

*(A) the reimbursement of costs incurred by the Nevada State office and the Ely Field Office of the Bureau of Land Management for preparing for the sale of land described in section 102(b) including surveys appraisals, compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and compliance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712);*

*(B) the inventory, evaluation, protection, and management of unique archaeological resources (as defined in section 3 of the Archaeological Resources Protection Act of 19792 (16 U.S.C. 470bb)) of the County;*

*(C) the development and implementation of a multispecies habitat conservation plan for the County;*

*(D) processing of public land use authorizations and rights-of-way relating to the development of land conveyed under section 102(a) of this Act;*

*(E) processing the Silver State OHV trail and implementing the management plan required by section 151(c)(2) of this Act; and*

*(F) processing wilderness designation, including but not limited to, the costs of appropriate fencing, signage, public education, and enforcement for the wilderness areas designated.*

*(c) INVESTMENT OF SPECIAL ACCOUNT.—Any amounts deposited in the special account shall earn interest in an amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities, and may be expended according to the provisions of this section.*

### *TITLE II—WILDERNESS AREAS*

### *SEC. 111. FINDINGS.*

*Congress finds that—*

*(1) public land in the County contains unique and spectacular natural resources, including—*

*(A) priceless habitat for numerous species of plants and wildlife; and*

*(B) thousands of acres of land that remain in a natural state; and*

*(2) continued preservation of those areas would benefit the County and all of the United States by—*

*(A) ensuring the conservation of ecologically diverse habitat;*

*(B) protecting prehistoric cultural resources;*

*(C) conserving primitive recreational resources; and*

*(D) protecting air and water quality.*

### *SEC. 112. DEFINITIONS.*

*In this title:*

*(1) COUNTY.—The term "County" means Lincoln County, Nevada.*

*(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.*

*(3) STATE.—The term "State" means the State of Nevada.*

### *SEC. 113. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.*

*(a) ADDITIONS.—The following land in the State is designated as wilderness and as components of the National Wilderness Preservation System:*

*(1) MORMON MOUNTAINS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 157,938*

acres, as generally depicted on the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Mormon Mountains Wilderness".

(2) MEADOW VALLEY RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 123,488 acres, as generally depicted on the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Meadow Valley Range Wilderness".

(3) DELAMAR MOUNTAINS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 111,328 acres, as generally depicted on the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Delamar Mountains Wilderness".

(4) CLOVER MOUNTAINS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 85,748 acres, as generally depicted on the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Clover Mountains Wilderness".

(5) SOUTH PAHROC RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 25,800 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "South Pahroc Range Wilderness".

(6) WORTHINGTON MOUNTAINS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 30,664 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Worthington Mountains Wilderness".

(7) WEEPAH SPRING WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 51,480 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Weepah Spring Wilderness".

(8) PARSNIP PEAK WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 43,693 acres, as generally depicted on the map entitled "Northern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Parsnip Peak Wilderness".

(9) WHITE ROCK RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 24,413 acres, as generally depicted on the map entitled "Northern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "White Rock Range Wilderness".

(10) FORTIFICATION RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 30,656 acres, as generally depicted on the map entitled "Northern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Fortification Range Wilderness".

(11) FAR SOUTH EGANS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 36,384 acres, as generally depicted on the map entitled "Northern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Far South Egans Wilderness".

(12) TUNNEL SPRING WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 5,371 acres, as generally depicted on the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Tunnel Spring Wilderness".

(13) BIG ROCKS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 12,997 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Big Rocks Wilderness".

(14) MT. IRISH WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 28,334 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Mt. Irish Wilderness".

(b) BOUNDARY.—The boundary of any portion of a wilderness area designated by subsection (a) that is bordered by a road shall be at least 100 feet from the edge of the road to allow public access.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of each wilderness area designated by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) EFFECT.—Each map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct clerical and typographical errors in the map or legal description.

(3) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the Nevada State Director of the Bureau of Land Management;

(C) the Ely Field Office of the Bureau of Land Management; and

(D) the Caliente Field Station of the Bureau of Land Management.

(d) WITHDRAWAL.—Subject to valid existing rights, the wilderness areas designated by subsection (a) are withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing and geothermal leasing laws.

### SEC. 114. ADMINISTRATION.

(a) MANAGEMENT.—Subject to valid existing rights, each area designated as wilderness by this title shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of the enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(b) LIVESTOCK.—Within the wilderness areas designated under this title that are administered by the Bureau of Land Management, the grazing of livestock in areas in which grazing is established as of the date of enactment of this Act shall be allowed to continue, subject to such reasonable regulations, policies, and practices that the Secretary considers necessary, consistent with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), including the guidelines set forth in Appendix A of House Report 101-405.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest in land within the boundaries of an area designated as wilderness by this title that is acquired by the United States after the date of the enactment of this Act shall be added to and administered as part of the wilderness area within which the acquired land or interest is located.

(d) WATER RIGHTS.—

(1) FINDINGS.—Congress finds that—

(A) the land designated as Wilderness by this title is within the Northern Mojave and Great Basin Deserts, is arid in nature, and includes ephemeral streams;

(B) the hydrology of the land designated as wilderness by this title is predominantly characterized by complex flow patterns and alluvial fans with impermanent channels;

(C) the subsurface hydrogeology of the region is characterized by ground water subject to local and regional flow gradients and unconfined and artesian conditions;

(D) the land designated as wilderness by this title is generally not suitable for use or development of new water resource facilities; and

(E) because of the unique nature and hydrology of the desert land designated as wilderness by this title, it is possible to provide for proper management and protection of the wilderness and other values of lands in ways different from those used in other legislation.

(2) STATUTORY CONSTRUCTION.—Nothing in this title—

(A) shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to the land designated as wilderness by this title;

(B) shall affect any water rights in the State existing on the date of the enactment of this Act, including any water rights held by the United States;

(C) shall be construed as establishing a precedent with regard to any future wilderness designations;

(D) shall affect the interpretation of, or any designation made pursuant to, any other Act; or

(E) shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State and other States.

(3) NEVADA WATER LAW.—The Secretary shall follow the procedural and substantive requirements of the law of the State in order to obtain and hold any water rights not in existence on the date of enactment of this Act with respect to the wilderness areas designated by this title.

(4) NEW PROJECTS.—

(A) WATER RESOURCE FACILITY.—As used in this paragraph, the term "water resource facility"—

(i) means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures; and

(ii) does not include wildlife guzzlers.

(B) RESTRICTION ON NEW WATER RESOURCE FACILITIES.—Except as otherwise provided in this Act, on and after the date of the enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the wilderness areas designated by this Act.

### SEC. 115. ADJACENT MANAGEMENT.

(a) IN GENERAL.—Congress does not intend for the designation of wilderness in the State pursuant to this title to lead to the creation of protective perimeters or buffer zones around any such wilderness area.

(b) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness designated under this title shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

### SEC. 116. MILITARY OVERFLIGHTS.

Nothing in this title restricts or precludes—

*(1) low-level overflights of military aircraft over the areas designated as wilderness by this title, including military overflights that can be seen or heard within the wilderness areas;*

*(2) flight testing and evaluation; or*

*(3) the designation or creation of new units of special use airspace, or the establishment of military flight training routes, over the wilderness areas.*

### *SEC. 117. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.*

*Nothing in this title shall be construed to diminish the rights of any Indian tribe. Nothing in this title shall be construed to diminish tribal rights regarding access to Federal land for tribal activities, including spiritual, cultural, and traditional food-gathering activities.*

### *SEC. 118. RELEASE OF WILDERNESS STUDY AREAS.*

*(a) FINDING.—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), the public land in the County administered by the Bureau of Land Management in the following areas has been adequately studied for wilderness designation:*

*(1) The Table Mountain Wilderness Study Area.*

*(2) Evergreen A, B, and C Wilderness Study Areas.*

*(3) Any portion of the wilderness study areas—*

*(A) not designated as wilderness by section 114(a); and*

*(B) depicted as released on—*

*(i) the map entitled "Northern Lincoln County Wilderness Map" and dated October 1, 2004;*

*(ii) the map entitled "Southern Lincoln County Wilderness Map" and dated October 1, 2004; or*

*(iii) the map entitled "Western Lincoln County Wilderness Map" and dated October 1, 2004.*

*(b) RELEASE.—Any public land described in subsection (a) that is not designated as wilderness by this title—*

*(1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c));*

*(2) shall be managed in accordance with—*

*(A) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and*

*(B) existing cooperative conservation agreements; and*

*(3) shall be subject to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).*

### *SEC. 119. WILDLIFE MANAGEMENT.*

*(a) IN GENERAL.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this title affects or diminishes the jurisdiction of the State with respect to fish and wildlife management, including the regulation of hunting, fishing, and trapping, in the wilderness areas designated by this title.*

*(b) MANAGEMENT ACTIVITIES.—In furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title where consistent with relevant wilderness management plans, in accordance with appropriate policies such as those set forth in Appendix B of House Report 101–405, including the occasional and temporary use of motorized vehicles, if such use, as determined by the Secretary, would promote healthy, viable, and more naturally distributed wildlife populations that would enhance wilderness values and accomplish those purposes with the minimum impact necessary to reasonably accomplish the task.*

*(c) EXISTING ACTIVITIES.—Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)) and in accordance with appropriate policies such as those set forth in Appendix B of House Report 101–405, the State may continue to use aircraft, including helicopters, to survey, capture, transplant, monitor, and provide water for wildlife populations, including bighorn sheep, and feral stock, horses, and burros.*

*(d) WILDLIFE WATER DEVELOPMENT PROJECTS.—Subject to subsection (f), the Secretary shall authorize structures and facilities, including existing structures and facilities, for wildlife water development projects, including guzzlers, in the wilderness areas designated by this Act if—*

*(1) the structures and facilities will, as determined by the Secretary, enhance wilderness values by promoting healthy, viable, and more naturally distributed wildlife populations; and*

*(2) the visual impacts of the structures and facilities on the wilderness areas can reasonably be minimized.*

*(e) HUNTING, FISHING, AND TRAPPING.—In consultation with the appropriate State agency (except in emergencies), the Secretary may designate by regulation areas in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the wilderness areas designated by this Act.*

*(f) COOPERATIVE AGREEMENT.—The terms and conditions under which the State, including a designee of the State, may conduct wildlife management activities in the wilderness areas designated by this title are specified in the cooperative agreement between the Secretary and the State, entitled "Memorandum of Understanding between the Bureau of Land Management and the Nevada Department of Wildlife Supplement No. 9," and signed November and December 2003, including any amendments to that document agreed upon by the Secretary and the State and subject to all applicable laws and regulations. Any references to Clark County in that document shall also be deemed to be referred to and shall apply to Lincoln County, Nevada.*

### *SEC. 120. WILDFIRE MANAGEMENT.*

*Consistent with section 4 of the Wilderness Act (16 U.S.C. 1133), nothing in this title precludes a Federal, State, or local agency from conducting wildfire management operations (including operations using aircraft or mechanized equipment) to manage wildfires in the wilderness areas designated by this title.*

### *SEC. 121. CLIMATOLOGICAL DATA COLLECTION.*

*Subject to such terms and conditions as the Secretary may prescribe, nothing in this title precludes the installation and maintenance of hydrologic, meteorologic, or climatological collection devices in the wilderness areas designated by this title if the facilities and access to the facilities are essential to flood warning, flood control, and water reservoir operation activities.*

## *TITLE III—UTILITY CORRIDORS*

### *SEC. 131. UTILITY CORRIDOR AND RIGHTS-OF-WAY.*

*(a) UTILITY CORRIDOR.—*

*(1) IN GENERAL.—Consistent with title II and notwithstanding sections 202 and 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1763), the Secretary of the Interior (referred to in this section as the "Secretary") shall establish on public land a 2,640-foot wide corridor for utilities in Lincoln County and Clark County, Nevada, as generally depicted on the map entitled "Lincoln County Conservation, Recreation, and Development Act", and dated October 1, 2004.*

*(2) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—*

*(A) the Office of the Director of the Bureau of Land Management;*

*(B) the Office of the Nevada State Director of the Bureau of Land Management;*

*(C) the Ely Field Office of the Bureau of Land Management; and*

*(D) the Caliente Field Station of the Bureau of Land Management.*

*(b) RIGHTS-OF-WAY.—*

*(1) IN GENERAL.—Notwithstanding sections 202 and 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1763), and subject to valid and existing rights, the Secretary shall grant to the Southern Nevada Water Authority and the Lincoln County Water District nonexclusive rights-of-way to Federal land in Lincoln County and Clark County, Nevada, for any roads, wells, well fields, pipes, pipelines, pump stations, storage facilities, or other facilities and systems that are necessary for the construction and operation of a water conveyance system, as depicted on the map.*

*(2) APPLICABLE LAW.—A right-of-way granted under paragraph (1) shall be granted in perpetuity and shall not require the payment of rental.*

*(3) COMPLIANCE WITH NEPA.—Before granting a right-of-way under paragraph (1), the Secretary shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including the identification and consideration of potential impacts to fish and wildlife resources and habitat.*

*(c) WITHDRAWAL.—Subject to valid existing rights, the utility corridors designated by subsection (a) are withdrawn from—*

*(1) all forms of entry, appropriation, and disposal under the public land laws;*

*(2) location, entry, and patent under the mining laws; and*

*(3) operation of the mineral leasing and geothermal leasing laws.*

*(d) STATE WATER LAW.—Nothing in this title shall—*

*(1) prejudice the decisions or abrogate the jurisdiction of the Nevada or Utah State Engineers with respect to the appropriation, permitting, certification, or adjudication of water rights;*

*(2) preempt Nevada or Utah State water law; or*

*(3) limit or supersede existing water rights or interest in water rights under Nevada or Utah State law.*

*(e) WATER RESOURCES STUDY.—*

*(1) IN GENERAL.—The Secretary, acting through the United States Geological Survey, the Desert Research Institute, and a designee from the State of Utah shall conduct a study to investigate ground water quantity, quality, and flow characteristics in the deep carbonate and alluvial aquifers of White Pine County, Nevada, and any groundwater basins that are located in White Pine County, Nevada, or Lincoln County, Nevada, and adjacent areas in Utah. The study shall—*

*(A) focus on a review of existing data and may include new data;*

*(B) determine the approximate volume of water stored in aquifers in those areas;*

*(C) determine the discharge and recharge characteristics of each aquifer system;*

*(D) determine the hydrogeologic and other controls that govern the discharge and recharge of each aquifer system; and*

*(E) develop maps at a consistent scale depicting aquifer systems and the recharge and discharge areas of such systems.*

*(2) TIMING; AVAILABILITY.—The Secretary shall complete a draft of the water resources report required under paragraph (1) not later than 30 months after the date of the enactment of this Act. The Secretary shall then make the draft report available for public comment for a period of not less than 60 days. The final report shall be submitted to the Committee on Resources in the House of Representatives and the*

*Committee on Energy and Natural Resources in the Senate and made available to the public not later than 36 months after the date of the enactment of this Act.*

*(3) AGREEMENT.—Prior to any transbasin diversion from ground-water basins located within both the State of Nevada and the State of Utah, the State of Nevada and the State of Utah shall reach an agreement regarding the division of water resources of those interstate ground-water flow system(s) from which water will be diverted and used by the project. The agreement shall allow for the maximum sustainable beneficial use of the water resources and protect existing water rights.*

*(4) FUNDING.—Section 4(e)(3)(A) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2346; 116 Stat. 2007; 117 Stat. 1317) is amended—*

*(A) in clauses (ii), (iv), and (v), by striking "County" each place it appears and inserting "and Lincoln Counties";*

*(B) in clause (vi), by striking "and" at the end;*

*(C) by redesignating clause (vii) as clause (viii); and*

*(D) by inserting after clause (vi) the following:*

*"(vii) for development of a water study for Lincoln and White Pine Counties, Nevada, in an amount not to exceed $6,000,000; and".*

### *SEC. 132. RELOCATION OF RIGHT-OF-WAY AND UTILITY CORRIDORS LOCATED IN CLARK AND LINCOLN COUNTIES IN THE STATE OF NEVADA.*

*(a) DEFINITIONS.—In this section:*

*(1) AGREEMENT.—The term "Agreement" means the land exchange agreement between Aerojet-General Corporation and the United States, dated July 14, 1988.*

*(2) CORRIDOR.—The term "corridor" means—*

*(A) the right-of-way corridor that is—*

*(i) identified in section 5(b)(1) of the Nevada-Florida Land Exchange Authorization Act of 1988 (102 Stat. 55); and*

*(ii) described in section 14(a) of the Agreement;*

*(B) such portion of the utility corridor identified in the 1988 Las Vegas Resource Management Plan located south of the boundary of the corridor described in subparagraph (A) as is necessary to relocate the right-of-way corridor to the area described in subsection (c)(2); and*

*(C) such portion of the utility corridor identified in the 2000 Caliente Management Framework Plan Amendment located north of the boundary of the corridor described in subparagraph (A) as is necessary to relocate the right-of-way corridor to the area described in subsection (c)(2).*

*(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.*

*(b) RELINQUISHMENT AND FAIR MARKET VALUE.—*

*(1) IN GENERAL.—The Secretary shall, in accordance with this section, relinquish all right, title, and interest of the United States in and to the corridor on receipt of a payment in an amount equal to the fair market value of the corridor (plus any costs relating to the right-of-way relocation described in this title).*

*(2) FAIR MARKET VALUE.—*

*(A) The fair market value of the corridor shall be equal to the amount by which the value of the discount described in the 1988 appraisal of the corridor that was applied to the land underlying the corridor has increased, as determined by the Secretary using the multiplier determined under subparagraph (B).*

*(B) Not later than 60 days after the date of the enactment of this Act, the Appraisal Services Directorate of the Department of the Interior shall determine an appropriate multiplier to reflect the change in the value of the land underlying the corridor between—*

*(i) the date of which the corridor was transferred in accordance with the Agreement; and*

*(ii) the date of enactment of this Act.*

*(3) PROCEEDS.—Proceeds under this subsection shall be deposited in the account established under section 103(b)(3)*

*(c) RELOCATION.—*

*(1) IN GENERAL.—The Secretary shall relocate to the area described in paragraph (2), the portion of IDI–26446 and UTU–73363 identified as NVN–49781 that is located in the corridor relinquished under subsection (b)(1).*

*(2) DESCRIPTION OF AREA.—The area referred to in paragraph (1) is the area located on public land west of United States Route 93.*

*(3) REQUIREMENTS.—The relocation under paragraph (1) shall be conducted in a manner that—*

*(A) minimizes engineering design changes; and*

*(B) maintains a gradual and smooth interconnection of the corridor with the area described in paragraph (2).*

*(4) AUTHORIZED USES.—The Secretary may authorize the location of any above ground or underground utility facility, transmission lines, gas pipelines, natural gas pipelines, fiber optics, telecommunications, water lines, wells (including monitoring wells), cable television, and any related appurtenances in the area described in paragraph (1).*

*(d) EFFECT.—The relocation of the corridor under this section shall not require the Secretary to update the 1998 Las Vegas Valley Resource Management Plan or the 2000 Caliente Management Framework Plan Amendment.*

*(e) WAIVER OF CERTAIN REQUIREMENTS.—The Secretary shall waive the requirements of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) that would otherwise be applicable to the holders of the right-of-way corridor described in subsection (a)(2)(A) with respect to an amendment to the legal description of the right-of-way corridor.*

## *TITLE IV—SILVER STATE OFF-HIGHWAY VEHICLE TRAIL*

### *SEC. 141. SILVER STATE OFF-HIGHWAY VEHICLE TRAIL.*

*(a) DEFINITIONS.—In this section:*

*(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.*

*(2) MAP.—The term "Map" means the map entitled "Lincoln County Conservation, Recreation and Development Act Map" and dated October 1, 2004.*

*(3) TRAIL.—The term "Trail" means the system of trails designated in subsection (b) as the Silver State Off-Highway Vehicle Trail.*

*(b) DESIGNATION.—The trails that are generally depicted on the Map are hereby designated as the "Silver State Off-Highway Vehicle Trail".*

*(c) MANAGEMENT.—*

*(1) IN GENERAL.—The Secretary shall manage the Trail in a manner that—*

*(A) is consistent with motorized and mechanized use of the Trail that is authorized on the date of the enactment of this Act pursuant to applicable Federal and State laws and regulations;*

*(B) ensures the safety of the people who use the Trail; and*

*(C) does not damage sensitive habitat or cultural resources.*

*(2) MANAGEMENT PLAN.—*

*(A) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the Secretary, in consultation with the State, the County, and any other interested persons, shall complete a management plan for the Trail.*

*(B) COMPONENTS.—The management plan shall—*

*(i) describe the appropriate uses and management of the Trail;*

*(ii) authorize the use of motorized and mechanized vehicles on the Trail; and*

*(iii) describe actions carried out to periodically evaluate and manage the appropriate levels of use and location of the Trail to minimize environmental impacts and prevent damage to cultural resources from the use of the Trail.*

*(3) MONITORING AND EVALUATION.—*

*(A) ANNUAL ASSESSMENT.—The Secretary shall annually assess the effects of the use of off-highway vehicles on the Trail and, in consuitation with the Nevada Division of Wildlife, assess the effects of the Trail on wildlife and wildlife habitat to minimize environmental impacts and prevent damage to cultural resources from the use of the Trail.*

*(B) CLOSURE.—The Secretary, in consultation with the State and the County, may temporarily close or permanently reroute, subject to subparagraph (C), a portion of the Trail if the Secretary determines that—*

*(i) the Trail is having an adverse impact on—*

*(I) natural resources; or*

*(II) cultural resources;*

*(ii) the Trail threatens public safety;*

*(iii) closure of the Trail is necessary to repair damage to the Trail; or*

*(iv) closure of the Trail is necessary to repair resource damage.*

*(C) REROUTING.—Portions of the Trail that are temporarily closed may be permanently rerouted along existing roads and trails on public lands currently open to motorized use if the Secretary determines that such rerouting will not significantly increase or decrease the length of the Trail.*

*(D) NOTICE.—The Secretary shall provide information to the public regarding any routes on the Trail that are closed under subparagraph (B), including by providing appropriate signage along the Trail.*

*(4) NOTICE OF OPEN ROUTES.—The Secretary shall ensure that visitors to the Trail have access to adequate notice regarding the routes on the Trail that are open through use of appropriate signage along the Trail and through the distribution of maps, safety education materials, and other information considered appropriate by the Secretary.*

*(d) NO EFFECT ON NON-FEDERAL LAND AND INTERESTS IN LAND.—Nothing in this section shall be construed to affect ownership, management, or other rights related to non-Federal land or interests in land.*

*(e) MAP ON FILE.—The Map shall be kept on file at the appropriate offices of the Secretary.*

## *TITLE V—OPEN SPACE PARKS*

### *SEC. 151. OPEN SPACE PARK CONVEYANCE TO LINCOLN COUNTY, NEVADA.*

*(a) CONVEYANCE.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1171, 1712), not later than 1 year after lands are identified by the County, the Secretary shall convey to the County, subject to valid existing rights, for no consideration, all right title, and interest of the United States in and to the parcels of land described in subsection (b).*

*(b) DESCRIPTION OF LAND.—Up to 15,000 acres of Bureau of Land Management-managed public land in Lincoln County identified by the county in consultation with the Bureau of Land Management.*

*(c) COSTS.—Any costs relating to any conveyance under subsection (a), including costs for surveys and other administrative costs, shall be paid by the County, or in accordance with section 103(b)(2) of this Act.*

*(d) USE OF LAND.—*

*(1) IN GENERAL.—Any parcel of land conveyed to the County under subsection (a) shall be used only for—*

*(A) the conservation of natural resources; or*

*(B) public parks.*

*(2) FACILITIES.—Any facility on a parcel of land conveyed under subsection (a) shall be constructed and managed in a manner consistent with the uses described in paragraph (1).*

*(e) REVERSION.—If a parcel of land conveyed under subsection (a) is used in a manner that is inconsistent with the uses specified in subsection (d), the parcel of land shall, at the discretion of the Secretary, revert to the United States.*

***SEC. 152. OPEN SPACE PARK CONVEYANCE TO THE STATE OF NEVADA.***

*(a) CONVEYANCE.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), the Secretary shall convey to the State of Nevada, subject to valid existing rights, for no consideration, all right, title, and interest of the United States in and to the parcels of land described in subsection (b), if there is a written agreement between the State and Lincoln County, Nevada, supporting such a conveyance.*

*(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are the parcels of land depicted as "NV St. Park Expansion Proposal" on the map entitled "Lincoln County Conservation, Recreation, and Development Act Map" and dated October 1, 2004.*

*(c) COSTS.—Any costs relating to any conveyance under subsection (a), including costs for surveys and other administrative costs, shall be paid by the State.*

*(d) USE OF LAND.—*

*(1) IN GENERAL.—Any parcel of land conveyed to the State under subsection (a) shall be used only for—*

*(A) the conservation of natural resources; or*

*(B) public parks.*

*(2) FACILITIES.—Any facility on a parcel of land conveyed under subsection (a) shall be constructed and managed in a manner consistent with the uses described in paragraph (1).*

*(e) REVERSION.—If a parcel of land conveyed under subsection (a) is used in a manner that is inconsistent with the uses specified in subsection (d), the parcel of land shall, at the discretion of the Secretary, revert to the United States.*

### *TITLE VI—JURISDICTION TRANSFER*

***SEC. 161. TRANSFER OF ADMINISTRATIVE JURISDICTION BETWEEN THE FISH AND WILDLIFE SERVICE AND THE BUREAU OF LAND MANAGEMENT.***

*(a) IN GENERAL.—Administrative jurisdiction over the land described in subsection (b) is transferred from the United States Bureau of Land Management to the United States Fish and Wildlife Service for inclusion in the Desert National Wildlife Range and the administrative jurisdiction over the land described in subsection (c) is transferred from the United States Fish and Wildlife Service to the United States Bureau of Land Management.*

*(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the approximately 8,503 acres of land administered by the United States Bureau of Land Management as generally depicted on the map entitled "Lincoln County Conservation, Recreation, and Development Act Map" and identified as "Lands to be transferred to the Fish and Wildlife Service" and dated October 1, 2004.*

*(c) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the approximately 8,382 acres of land administered by the United States Fish and Wildlife Service as generally depicted on the map entitled "Lincoln County Conservation, Recreation, and Development Act Map" and identified as "Lands to be transferred to the Bureau of Land Management" and dated October 1, 2004.*

*(d) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—*

*(1) the Office of the Director of the Bureau of Land Management;*

*(2) the Office of the Nevada State Director of the Bureau of Land Management;*

*(3) the Ely Field Station of the Bureau of Land Management;*

*(4) the Caliente Field Office of the Bureau of Land Management;*

*(5) the Office of the Director of the United States Fish and Wildlife Service; and*

*(6) the Office of the Desert National Wildlife Complex.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4593.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4593 introduced by me and passed in this House on October 4, 2004, was subsequently amended and passed by the Senate.

H.R. 4593 is a broad and complex piece of legislation that, among other things, responsibly deals with the issues of wilderness in Lincoln County, Nevada, through both codification and release of lands currently being managed as wilderness study areas. The bill would also create a 260-mile off-highway vehicle trail, establish roughly 450 miles of utility corridors within the County, and privatize roughly 90,000 acres of public land deemed disposable by the Bureau of Land Management within the County, while conveying roughly 15,000 acres of public land to the State and Lincoln County for use as parks and open space. It is important to note that this proposal enjoys the support of the entire Nevada Congressional delegation and is the product of exhaustive public participation, which is vital in a comprehensive bill such as this.

I urge my colleagues to adopt this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4593 has been returned to the House with Senate amendments that both add and detract from the bill that originally passed the House last month. The additions to the bill involve modifications that the Senate made to the Lincoln County, Nevada, public land provisions. These changes bring the bill's language more in line with what has been done previously on public land sales in Nevada.

This refinement has been tempered, however, by the fact that the Senate deleted the designation of the Ojito wilderness in New Mexico that was included in the original House-passed version of H.R. 4593. The gentleman from New Mexico (Mr. UDALL), the sponsor of the Ojito wilderness language, had developed a bipartisan proposal that has significant local, State and national support, and it is regrettable that his language is not this bill before us today.

Mr. Speaker, the amendments made by the Senate to the Lincoln County public lands provisions are an improvement, and notwithstanding the dropping of the Ojito wilderness land designation, we have no objection to the consideration of H.R. 4593 by the House today.

Mr. Speaker, I yield such time as she might consume to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I would like to thank the Congresswoman for her courtesy and her help with this legislation.

I rise today in strong support of the Lincoln County Conservation, Recreation, and Development Act of 2004. I would like to thank Senator REID and Senator ENSIGN and my House colleagues, the gentleman from Nevada (Mr. GIBBONS), and the gentleman from Nevada (Mr. PORTER) for their tireless efforts in reaching a compromise on this bipartisan legislation that is important to all Nevadans.

I would also like to thank the gentleman from California (Mr. POMBO) for his leadership and especially acknowledge the gentleman from West Virginia (Mr. RAHALL), a truly good friend who worked with the Nevada delegation to reach this compromise.

The Nevada delegation worked diligently with the people of Lincoln County, the environmental community, wilderness groups, ranchers and officials in southern Nevada to carefully craft this piece of legislation. While every group did not get every provision they wanted in the bill, this is a compromise we are all proud of.

This bill is well-balanced. It will help Lincoln County flourish and create economic opportunities for its citizens. Lincoln County officials and residents will be able to develop their community and expand their financial base. Protecting Nevada's environment is very important to me, and this allows for development without jeopardizing Nevada's precious resources.

The Federal Government owns over 98 percent of the land in Lincoln County. This restricts vital economic growth for the area. Allowing for private development will give the people of Lincoln County a way to increase prosperity for themselves and their children.

The Bureau of Land Management will only auction off approved lands. Lincoln County will use the proceeds from land sales to preserve parks, trails and natural resources Nevadans utilize and the natural beauty Nevadans have grown to love.

Nearly 770,000 acres of land will be designated as wilderness. This will protect treasured sites important to Native Americans in Nevada and rich in archaeological artifacts such as petroglyphs. The Nevada desert is also home to many species of wildlife, such as the sage grouse and desert tortoise.

Nevada is facing an unprecedented challenge as a result of a 5-year drought affecting the Colorado River Basin. This bill provides for additional water resources in southern Nevada which are desperately needed.

I urge all of my colleagues to support this legislation. I appreciate their support and their help.

Mr. PORTER. Mr. Speaker, I rise today to speak in support of H.R. 4593, the Lincoln County Conservation, Recreation, and Development Act of 2004.

I appreciate the opportunity to speak in favor of this valuable legislation and I am proud to be an original co-sponsor.

I applaud the local governments of Clark and Lincoln Counties along with the Nevada Delegation and local officials that have helped with this collaborative legislation.

This is the result of many years of work with many parties and I am proud to be part of this legislation.

H.R. 4593 represents an important compromise between the Department of Interior and the State of Nevada. It enjoys strong bipartisan support from the entire Nevada Congressional Delegation.

Nevada's Third District, located in Clark County, is one of the fastest growing areas in the country. The growth has provided many positive opportunities for jobs and created a strong economic climate, but it has also placed an increased strain on our water supply and resources.

The fact is, the State of Nevada, and my congressional district in particular, continue to lead the Nation in population growth, yet we have access to the smallest water allocation of the seven States using the Colorado River.

As drought continues in the West and our State continues to grow, the development of in-state water resources grows increasingly important.

This new legislation will help the development and economy of both Lincoln and Clark Counties while continuing to preserve and protect Nevada's precious lands.

It will help us maintain a balance between land management and public use.

In Clark County we have enjoyed the benefits of improved parks, trails, and recreational areas using the proceeds from Federal land sales.

H.R. 4593 would provide similar opportunities for Lincoln County, located just north of Clark County. It offers a comprehensive plan that will contribute to the proposed development of Nevada's in-state resources intended to diversify southern Nevada's water supply and supplement the area's water entitlement from the Colorado River.

This legislation will help to expedite a solution to southern Nevada's current water situation without compromising public involvement and environmental compliance.

H.R. 4593 will also create utility corridors, resolve wilderness study issues, provide for competitive Federal land sales, and provide for the conveyance of Federal land to the State of Nevada and Lincoln County for use as public parks.

For the past decade Clark County's use of the Colorado River and an emphasis on water conservation have helped us in southern Nevada balance our growth and our need for water; however, as we plan for the future we realize we need additional water resources and planning.

I would like to urge my colleagues in the House to support this important bipartisan legislation and join with me in voting for this amendment.

Mrs. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4593.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

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## FORT FREDERICA NATIONAL MONUMENT LAND EXCHANGE

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1113) to authorize an exchange of land at Fort Frederica National Monument, and for other purposes.

The Clerk read as follows:

Senate amendment:

Page 2, line 2 strike out "any other provision of law" and insert "section 5(b) of Public Law 90–401 (16 U.S.C. 4601–22(b))".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

### GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1113.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

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Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1113, as amended, was introduced by the gentleman from Georgia (Mr. KINGSTON) and would authorize the Secretary of the Interior to convey 6 acres of land within the boundaries of the Fort Frederica National Monument on St. Simons Island, Georgia, to the Christ Church, also located on St. Simons Island. In return, the National Park Service would receive 8.7 acres of nearby property that would be acquired by the church from the Sea Island Company and then exchanged with the Park Service. The exchange is viewed by all parties as a win-win.

Christ Church has doubled in size in the last 9 years, and the additional land is needed for its expansion. In return, the monument would receive lands that are known to contain valuable archaeological remains from the colonial period.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1113, which authorizes a land exchange at Fort Frederica National Monument in Georgia, has been amended by the Senate to clarify that the proposed land exchange is only exempt from a narrow and specific provision of law.

Even with the passage of this legislation, there is much work left to be done with this proposed exchange. Appraisals and archaeological surveys of the lands in question have not been completed. As such, the value and historic significance of the proposed lands have not been established.

Furthermore, the National Park Service testified that the noncontiguous parcel that would be acquired through the exchange will likely increase the administrative and operational costs of the national monument necessitating an evaluation of this question as well.

It is important to note that H.R. 1113 authorizes but does not require a land exchange at Fort Frederica National Monument. Before any exchange could occur, the National Park Service would be required to complete appraisals and historical surveys, as well as comply with the requirements of NEPA and the National Park Service management standards. These legal and administrative procedures are in place to ensure that the exchange, if it does go forward, is in the public interest.

Mr. Speaker, that being the case, we do not object to consideration of H.R. 1113, as amended.

Mr. Speaker, I have no further speakers at this time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1113.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

## HIGHLANDS CONSERVATION ACT

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1964) to assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Highlands Conservation Act".*

***SEC. 2. PURPOSES.***

*The purposes of this Act are—*

*(1) to recognize the importance of the water, forest, agricultural, wildlife, recreational, and cultural resources of the Highlands region, and the national significance of the Highlands region to the United States;*

*(2) to authorize the Secretary of the Interior to work in partnership with the Secretary of Agriculture to provide financial assistance to the Highlands States to preserve and protect high priority conservation land in the Highlands region; and*

*(3) to continue the ongoing Forest Service programs in the Highlands region to assist the Highlands States, local units of government, and private forest and farm landowners in the conservation of land and natural resources in the Highlands region.*

***SEC. 3. DEFINITIONS.***

*In this Act:*

*(1) HIGHLANDS REGION.—The term "Highlands region" means the area depicted on the map entitled "The Highlands Region", dated June 2004, including the list of municipalities included in the Highlands region, and maintained in the headquarters of the Forest Service in Washington, District of Columbia.*

*(2) HIGHLANDS STATE.—The term "Highlands State" means—*

*(A) the State of Connecticut;*

*(B) the State of New Jersey;*

*(C) the State of New York; and*

*(D) the State of Pennsylvania.*

*(3) LAND CONSERVATION PARTNERSHIP PROJECT.—The term "land conservation partnership project" means a land conservation project—*

*(A) located in the Highlands region;*

*(B) identified by the Forest Service in the Study, the Update, or any subsequent Pennsylvania and Connecticut Update as having high conservation value; and*

*(C) in which a non-Federal entity acquires land or an interest in land from a willing seller to permanently protect, conserve, or preserve the land through a partnership with the Federal Government.*

*(4) NON-FEDERAL ENTITY.—The term "non-Federal entity" means—*

*(A) any Highlands State; or*

*(B) any agency or department of any Highlands State with authority to own and manage land for conservation purposes, including the Palisades Interstate Park Commission.*

*(5) Study.—The term "Study" means the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990.*

*(6) Update.—The term "Update" means the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service.*

*(7) Pennsylvania and Connecticut Update.—The term "Pennsylvania and Connecticut Update" means a report to be completed by the Forest Service that identifies areas having high conservation values in the States of Connecticut and Pennsylvania in a manner similar to that utilized in the Study and Update.*

***SEC. 4. LAND CONSERVATION PARTNERSHIP PROJECTS IN THE HIGHLANDS REGION.***

*(a) Submission of Proposed Projects.—Each year, the governors of the Highlands States, with input from pertinent units of local government and the public, may—*

*(1) jointly identify land conservation partnership projects in the Highlands region from land identified as having high conservation values in the Study, the Update, or the Pennsylvania and Connecticut Update that shall be proposed for Federal financial assistance; and*

*(2) submit a list of those projects to the Secretary of the Interior.*

*(b) Consideration of Projects.—Each year, the Secretary of the Interior, in consultation with the Secretary of Agriculture, shall submit to Congress a list of the land conservation partnership projects submitted under subsection (a)(2) that are eligible to receive financial assistance under this section.*

*(c) Eligibility Conditions.—To be eligible for financial assistance under this section for a land conservation partnership project, a non-Federal entity shall enter into an agreement with the Secretary of the Interior that—*

*(1) identifies the non-Federal entity that shall own or hold and manage the land or interest in land;*

*(2) identifies the source of funds to provide the non-Federal share under subsection (d);*

*(3) describes the management objectives for the land that will ensure permanent protection and use of the land for the purpose for which the assistance will be provided;*

*(4) provides that, if the non-Federal entity converts, uses, or disposes of the land conservation partnership project for a purpose inconsistent with the purpose for which the assistance was provided, as determined by the Secretary of the Interior, the United States—*

*(A) may seek specific performance of the conditions of financial assistance in accordance with paragraph (3) in Federal court; and*

*(B) shall be entitled to reimbursement from the non-Federal entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—*

*(i) the total amount of the financial assistance provided for the project by the Federal Government under this section; or*

*(ii) the amount by which the financial assistance increased the value of the land or interest in land; and*

*(5) provides that land conservation partnership projects will be consistent with areas identified as having high conservation value in—*

*(A) the Important Areas portion of the Study;*

*(B) the Conservation Focal Areas portion of the Update;*

*(C) the Conservation Priorities portion of the Update;*

*(D) land identified as having higher or highest resource value in the Conservation Values Assessment portion of the Update; and*

*(E) land identified as having high conservation value in the Pennsylvania and Connecticut Update.*

*(d) Non-Federal Share Requirement.—The Federal share of the cost of carrying out a land conservation partnership project under this section shall not exceed 50 percent of the total cost of the land conservation partnership project.*

*(e) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary of the Interior $10,000,000 for each of fiscal years 2005 through 2014, to remain available until expended.*

***SEC. 5. FOREST SERVICE AND USDA PROGRAMS IN THE HIGHLANDS REGION.***

*(a) In General.—To meet the land resource goals of, and the scientific and conservation challenges identified in, the Study, Update, and any future study that the Forest Service may undertake in the Highlands region, the Secretary of Agriculture, acting through the Chief of the Forest Service and in consultation with the Chief of the National Resources Conservation Service, shall continue to assist the Highlands States, local units of government, and private forest and farm landowners in the conservation of land and natural resources in the Highlands region.*

*(b) Duties.—The Forest Service shall—*

*(1) in consultation with the Highlands States, undertake other studies and research in the Highlands region consistent with the purposes of this Act, including a Pennsylvania and Connecticut Update;*

*(2) communicate the findings of the Study and Update and maintain a public dialogue regarding implementation of the Study and Update; and*

*(3) assist the Highland States, local units of government, individual landowners, and private organizations in identifying and using Forest Service and other technical and financial assistance programs of the Department of Agriculture.*

*(c) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary of Agriculture to carry out this section $1,000,000 for each of fiscal years 2005 through 2014.*

***SEC. 6. PRIVATE PROPERTY PROTECTION AND LACK OF REGULATORY EFFECT.***

*(a) Access to Private Property.—Nothing in this Act—*

*(1) requires a private property owner to permit public access (including Federal, State, or local government access) to private property; or*

*(2) modifies any provision of Federal, State, or local law with regard to public access to, or use of, private land.*

*(b) Liability.—Nothing in this Act creates any liability, or has any effect on liability under any other law, of a private property owner with respect to any persons injured on the private property.*

*(c) Recognition of Authority To Control Land Use.—Nothing in this Act modifies any authority of Federal, State, or local governments to regulate land use.*

*(d) Participation of Private Property Owners.—Nothing in this Act requires the owner of any private property located in the Highlands region to participate in the land conservation, financial, or technical assistance or any other programs established under this Act.*

*(e) Purchase of Land or Interests in Land From Willing Sellers Only.—Funds appropriated to carry out this Act shall be used to*

*purchase land or interests in land only from willing sellers.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

### GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

H.R. 1964, introduced by the gentleman from New Jersey (Mr. FRELINGHUYSEN), our friend and colleague, passed this House on November 11, 2003. It was subsequently amended and passed by the Senate.

H.R. 1964 would authorize the Secretaries of the Interior and Agriculture to provide financial assistance to the States of New York, New Jersey, Connecticut and Pennsylvania to preserve and protect high-priority conservation lands in the Highlands region. This geographic region encompasses over 3 million acres of land stretching from western Connecticut across the lower Hudson River Valley and northern New Jersey into northeastern Pennsylvania.

Not only has the U.S. Forest Service documented the national significance of the Highlands area in two extensive studies in 1990 and 2002, but the administration in its 2004 budget recognized the New York-New Jersey Highlands forest area as one of nine priority forest areas in the country that are currently threatened by urbanization.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1964 originally passed the House last November and has been returned to the House with amendments by the Senate to clarify the scope of the legislation. Even with the Senate changes, the legislation remains a sweeping conservation and preservation mandate for a large area across four States.

Mr. Speaker, we support the goals of H.R. 1964 and do not object to its consideration by the House today.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield as much time as he may consume to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentleman from Nevada and all members of the House Committee on Resources for their support and guidance on this bill, particularly the gentleman from California (Chairman POMBO) who has been with me every step of the way over the last couple of years, and this has been a work in progress for over 4 years.

I would also like to take this opportunity to thank the gentleman from Virginia (Mr. GOODLATTE), chairman of the Committee on Agriculture, for his support of this legislation, as well as the staffs of both committees and the many cosponsors from the four mentioned States for their hard work and, particularly, the gentleman from California (Mr. RADANOVICH), the chairman of the Subcommittee on National Parks, Recreation and Public Lands, as well.

A special kudos to my colleague from New Jersey (Mr. SAXTON) who is a member of the Committee on Resources, for his particular guidance and support and his ability to articulate with his committee colleagues the case for this bill.

The leadership of all of these individuals has been extremely invaluable.

The Highlands Conservation Act represents a major Federal commitment to preserve more open space and protect water supplies in the northeastern part of these United States. While remaining mindful of property rights, this bill compliments ongoing State, local and private partnerships to preserve open space.

Federal support and the passage of this Act this afternoon presents a unique substantive and symbolic opportunity for our government once again to express its commitment to preserving our natural resources.

Mr. Speaker, the Highlands, as was said earlier, is one of last open space treasures in the most densely populated area of the United States. In New Jersey alone, my home State, it includes more than a million acres of forest, farms, streams, wetlands, lakes, reservoirs and historic sites.

Mr. Speaker, the Highlands Conservation Act is a national priority, as has been mentioned, and a major imperative. Passage of this Act will give the people of New Jersey, New York, Connecticut and Pennsylvania more of the tools they need to preserve and protect these remarkable resources and assets.

I thank the gentleman from California (Mr. POMBO), the chairman, and the gentleman from Nevada (Mr. GIBBONS) for their support and the work of their committee and staff and urge adoption of the bill.

Mrs. CHRISTENSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I rise in strong support of H.R. 1964. I thank the chairs and ranking members of the Committee on Resources who ushered this bill through the process, and I want to thank the author of this bill, the gentleman from New Jersey (Mr. FRELINGHUYSEN) for his stalwart support.

The Highlands is a vast area of land which stretches from Connecticut to Pennsylvania, and my district is smack in the middle of it in New York. The Highlands run through Rockland County, which is home to some of New York's great history, scenic areas and wildlife, too. In fact, 1.4 million people live within the Highlands area. The Highlands adjoin a metropolitan area with a population of more than 20 million people, and more than 11 million people rely on the Highlands drinking water resources, which serves at least half of New York City's water supply.

More than 14 million people visit the Highlands each year for recreational opportunities as well. Over 240 species of birds, mammals, amphibians, and reptiles depend on Highlands habitat. More than 160 historical and cultural sites have been identified in the region. Thus, I thank my colleagues for their support in preserving this important resource for our constituents and visitors as well.

Mr. HOLT. Mr. Speaker, I rise today in support of the Highlands Conservation Act.

My constituents, like most people around the state of New Jersey, have seen the ills of sprawl and the consequences of poor planning and meager preservation efforts. Most of us are surrounded by rampant commercial and industrial development in New Jersey.

Despite the overdevelopment of our state, unique areas of beauty and open space remain. One such tract of land, the Highlands Region, will be saved through today's legislation.

The Highlands is an incredible 2 million acre swath across four states—New Jersey, New York, Connecticut, and Pennsylvania. This tract is home to nearly one and a half million people and is still a quick drive away from New York City and other major metropolitan areas.

Even more importantly, the Highlands provides and protects the drinking water supplies for over 15 million people who live in the Philadelphia-New York-Hartford metropolitan area, which cuts right through my central New Jersey district. Protecting these valuable water sources now will save the Federal government untold millions in future costs associated with building more treatment plants for the nation's most densely populated metropolitan area.

The Highlands Conservation Act authorizes the use of federal Land and Water Conservation Fund money to preserve and protect this area. This legislation fosters community involvement in the future of this region by allowing the governors of the four Highlands states to identify which lands are best eligible for conservation efforts. This act also increases local and state investment in this project by requiring that federal funds be matched dollar for dollar by local, state, and private funding sources. I am confident that the governor and the residents of New Jersey are eager to begin identifying and planning for the future of this green space in New Jersey.

In addition to monetary assistance to preserve the Highlands, this bill will provide technical assistance to communities and organizations involved in conservation efforts in the region. So many people have already done so much to help preserve this area, and they will now get the added benefit of assistance and expertise from the federal government.

I would like to take this opportunity to recognize Mr. FRELINGHUYSEN for his leadership on this issue and his hard work in getting this legislation to the floor. His tireless effort will ensure that future generations will have the opportunity to enjoy the beauty of region.

I am pleased that the House of Representatives is considering this legislation today. This bill means a lot to New Jersey, and I urge my colleagues to support it.

Mrs. CHRISTENSEN. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1964.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

## CALIFORNIA MISSIONS PRESERVATION ACT

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1446) to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "California Missions Preservation Act".*

***SEC. 2. DEFINITIONS.***

*In this Act:*

*(1) CALIFORNIA MISSION.—The term "California mission" means each of the 21 historic Spanish missions and 1 asistencia that—*

*(A) are located in the State;*

*(B) were built between 1769 and 1798; and*

*(C) are designated as California Registered Historic Landmarks.*

*(2) FOUNDATION.—The term "Foundation" means the California Missions Foundation, a nonsectarian charitable corporation that—*

*(A) was established in the State in 1998 to fund the restoration and repair of the California missions; and*

*(B) is operated exclusively for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986.*

*(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.*

*(4) STATE.—The term "State" means the State of California.*

***SEC. 3. COOPERATIVE AGREEMENTS.***

*(a) IN GENERAL.—The Secretary may enter into a cooperative agreement with the Foundation to provide technical and financial assistance to the Foundation to restore and repair—*

*(1) the California missions; and*

*(2) the artwork and artifacts associated with the California missions.*

*(b) FINANCIAL ASSISTANCE.—*

*(1) IN GENERAL.—The cooperative agreement may authorize the Secretary to make grants to the Foundation to carry out the purposes described in subsection (a).*

*(2) ELIGIBILITY.—To be eligible to receive a grant or other form of financial assistance under this Act, a California mission must be listed on the National Register of Historic Places.*

*(3) APPLICATION.—To receive a grant or other form of financial assistance under this Act, the Foundation shall submit to the Secretary an application that—*

*(A) includes a status report on the condition of the infrastructure and associated artifacts of each of the California missions for which the Foundation is seeking financial assistance; and*

*(B) describes a comprehensive program for the restoration, repair, and preservation of the infrastructure and artifacts referred to in subparagraph (A), including—*

*(i) a description of the prioritized preservation activities to be conducted over a 5-year period; and*

*(ii) an estimate of the costs of the preservation activities.*

*(4) APPLICABLE LAW.—Consistent with section 101(e)(4) of the National Historic Preservation Act (16 U.S.C. 470a(e)(4)), the Secretary shall ensure that the purpose of any grant or other financial assistance provided by the Secretary to the Foundation under this Act—*

*(A) is secular;*

*(B) does not promote religion; and*

*(C) seeks to protect qualities that are historically significant.*

*(c) REVIEW AND DETERMINATION.—*

*(1) IN GENERAL.—The Secretary shall submit a proposed agreement to the Attorney General for review.*

*(2) DETERMINATION.—A cooperative agreement entered into under subsection (a) shall not take effect until the Attorney General issues a finding that the proposed agreement submitted under paragraph (1) does not violate the establishment clause of the first amendment of the Constitution.*

*(d) REPORT.—As a condition of receiving financial assistance under this Act, the Foundation shall annually submit to the Secretary and to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes the status of the preservation activities carried out using amounts made available under this Act.*

***SEC. 4. AUTHORIZATION OF APPROPRIATIONS.***

*(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000 for the period of fiscal years 2004 through 2009.*

*(b) MATCHING REQUIREMENT.—Any amounts made available to carry out this Act shall be matched on not less than a 1-to-1 basis by the Foundation.*

*(c) OTHER AMOUNTS.—Any amounts made available to carry out this Act shall be in addition to any amounts made available for preservation activities in the State under the National Historic Preservation Act (16 U.S.C. 470 et seq.).*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

### GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1446, as amended, authorizes the Secretary of the Interior to enter into a cooperative agreement with the California Missions Foundation to support their effort to resolve and repair the California missions and to preserve the artworks and artifacts associated with the California missions.

Currently, the 21 California missions of the El Camino Real, or Royal Highway, have had to rely on nominal entrance fees, sales from gift shops, donations and special events to cover their operating expenses. Unfortunately, these sources of income have not been enough to keep up with the increasing structural needs of these aging missions that date back to 1769, when Fray Junipero Serra founded Alta, California, the first Spanish mission in California.

Today, over 5 million people annually visit the mission system, and it is obvious to many that outside financial help is needed.

The California Missions Foundation, a charitable corporation established in California in 1998, is dedicated to raising funds for the ongoing preservation, restoration and maintenance needs of the California missions to ensure that their historical legacy is kept alive for future generations.

As part of the cooperative agreement process, the Secretary must submit a proposed agreement to the Attorney General for a finding that the agreement does not violate the establishment clause of the First Amendment of the Constitution.

With that, Mr. Speaker, I urge adoption by all our colleagues of this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1446 is a bipartisan proposal which was introduced by the gentleman from California (Mr. FARR), our colleague, which originally passed the House on October 20, 2003.

This bill has been returned to the House with a Senate amendment that makes a number of changes to the bill. These changes do not detract from the overall goal and direction of the legislation, and we do not object to them.

The California missions are important historical and cultural resources that preserve and interpret a rich and varied history of exploration, conquest and settlement. The small grant program authorized by H.R. 1446 will be used for secular purposes which preserve those qualities of the missions that are historically and culturally significant.

Mr. Speaker, we support the passage of H.R. 1446 as amended by the House today.

Mr. Speaker, I reserve the balance of my time.

□ 1615

Mr. GIBBONS. Mr. Speaker, I yield myself 5 minutes to enter into and engage in a colloquy with the author of the bill, the gentleman from California (Mr. FARR).

While I remain very supportive of this legislation and do support its adoption, Mr. Speaker, I believe it is important to remember that we are preserving buildings and structures that bring up uneasy memories for many who live today in California. As was noted in a recent letter to the editor which appeared in the San Francisco Chronicle, with the help of Spain's soldiers, thousands of California's Indians became slaves, directed by the friars to build the missions. After the missions were built, beginning in 1769, the Indians were forbidden to leave the mission boundaries. It is estimated that California's Indian population was about 310,000 at the beginning of Spanish rule. At the close of the 19th century, their population shrunk to approximately 100,000, largely due to the inhumane conditions under which the Indians were forced to live while serving as slaves.

I would encourage the gentleman from California to request that the Department of the Interior not lose sight of these facts when awarding the grants authorized under this legislation. I believe it is important that when the missions are refurbished that it is not just the bricks and mortar which are restored, but also the truth. These facilities are deserving of our help, but they also must be restored with the acknowledgment of all those who suffered so that the missions themselves could survive.

Mr. Speaker, I submit for the RECORD one of the letters to the editor to which I earlier referred:

[From the San Francisco Chronicle, November 8, 2004]

### THE DARK, TERRIBLE SECRET OF CALIFORNIA'S MISSION

(By Elias Castillo)

Sometime soon, the House will give final consideration to the California Mission Preservation Act, sponsored by Sen. Barbara Boxer, D-Calif., providing $10 million to help restore California's Roman Catholic Missions—those historic sites where Franciscan friars and California's Indians supposedly existed in gentle harmony.

In part, the act describes how "the knowledge and cultural influence of native California Indians made a lasting contribution to the early settlements of California and the development of the California missions." What the bill utterly omits is that locked within the missions is a terrible truth—that they were little more than concentration camps where California's Indians were beaten, whipped, maimed, burned, tortured and virtually exterminated by the friars.

The California Indians, as the proposal says, did have a culture, but they never got a chance to contribute it to California. The Spanish crown decreed in the 1760s that the Indians were to be rounded up, baptized into Christianity and their culture destroyed. It was the same policy that Spain had followed in eradicating the complex and advanced cultures of the Mayans, Incas and Aztecs in Latin America.

In 1769, that near-genocidal policy was launched, under the direction of Father Junipero Serra, with the founding of California's first mission. One scholar, Robert Archibald, has written that the missions were akin to the "forced movement of black people from Africa to the American South." With the help of Spain's soldiers, the Indians were herded to the sites of the missions. Once there, they became slaves, directed by the friars to build the missions. Once within the mission boundaries, they were forever forbidden to leave. No less an authority than the U.S. National Park Service has documented and described the hellish and tragic fate of the California Indians, especially the coastal tribes. They were not warring tribes, but instead gentle harvesters who lived in equilibrium with their land and seashore.

Their terrible fate at the hands of the Spanish and friars was described by Jean François de Galaup de la Perouse, a French explorer and sea voyager hired by the French government to report on the western coastal areas of North America. In 1786 he visited Mission San Carlos Borromeo in the Monterey area and described the severe punishments inflicted on the Indians. The friars, he determined, considered the Indians "too much a child, too much a slave, too little a man." California historians Walton Bean and James J. Rawls, described La Perouse as likening the missions to the slave plantations of Santo Domingo.

Yet, the Indians did not easily accede to the cruel mission life. They rebelled several times, in one instance burning nearly all of the buildings of Mission La Purisima in Santa Ynez. Historian Robert F. Heizer attributed the flare-up to the "flogging of a La Purisma neophyte" (as the Indians were called in the missions).

In the late 1820s, Mexico rebelled against Spain and won its independence. Within a decade, it also declared that the missions had to vest half their property to the Indians while the other half went to the friars and government officials. It was the beginning of the end for the missions. By the late 19th century, the missions were in ruins, abandoned by the friars who could not continue operating them without the slave labor of the Indians, whose numbers had been decimated by hard labor, starvation and disease. It is estimated that California's Indian population was about 310,000 at the beginning of Spanish rule. At the close of the 19th century, they had been reduced to approximately 100,000.

Restoration of the missions was started at the beginning of the 20th century by well-meaning persons who either ignored the cruelties inflicted on the Indians or simply were unaware of the horrors that had occurred within them. While enough historians have accurately documented those terrible ordeals, however, their findings are not well known. Visit any of the missions and there is no mention of Indians being put in stocks, whipped or chained. Instead, the usual description is of friars and Indians living side by side in peaceful harmony and happily helping each other.

The California Missions Preservation Act is expected to be voted on soon. Besides the potential and obvious conflict of its violating the constitutional separation of church and state, there is the moral responsibility that if government funds are to be used in restoring the missions, the granting of those funds must be dependent on memorializing the suffering of California's native people in the missions.

This nation has recently opened the National Museum of the American Indian in Washington, D.C. It is a monument to the Native Americans of North, Central and South America. The existence of the museum mandates that the ordeal of California's Indians cannot continue to be largely ignored and forgotten. Too many Native Americans died within the missions, which were supposed to be monuments to God's mercy, forgiveness and benevolence.

The act must require that descriptions of the enslavement of California's Indians within the missions and the horrible ordeals they endured be clearly and visibly provided to all visitors. America has not buried the shameful history of slavery in its Southern states; instead, books have been written and museums opened so that all may forever know of the cruelties of that practice. Why then, should the shameful history of the missions be hidden and ignored?

Additionally, the act must also require that funds be set aside for research to be conducted on mission grounds for the purpose of determining if mass graves of Indians exist within them. While some missions have clearly marked graveyards set aside for the friars, little knowledge exists of what happened to the thousands of deceased Indians who toiled within the missions. If sites are found containing the remains of those Indians, those areas must then be clearly marked for visitors and declared hallowed ground.

California and the nation cannot continue to look the other way at what happened in the missions; it must confront that awful specter and unveil it as a dark chapter of the state's history. It does not matter that those vicious practices occurred during Spanish rule. The missions are now revered as beloved monuments. Their continued restoration must also bring to light the most frightful chamber of their history.

Mr. FARR. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from California.

Mr. FARR. Mr. Speaker, I thank the gentleman for his comments, and I agree with the serious issues raised by the gentleman from Nevada and will contact the Secretary of the Interior by letter requesting that the Department consider these facts when awarding a grant authorized by this bill.

It is a sad fact that slavery has played such a role in our American history, whether it be Native American or imported men and women who were taken from their native lands. I find it refreshing, for example, that the National Museum of the American Indian, our newest addition to the Smithsonian system, is addressing the issue towards Native Americans and making the public aware of what occurred as the United States grew into a Nation. Until we come to grips with the issues and all the various peoples affected by it, slavery will remain a dark cloud in our history.

If the gentleman would indulge me further, I want to make sure that our colleagues understand that there have been many positive editorials in support of rehabilitating the California missions nationwide, and I submit them for inclusion in the RECORD.

[From The Fresno Bee, Sept. 26, 2004]

### SAVING HISTORY: CALIFORNIA'S AGING MISSIONS NEED AND DESERVE FEDERAL ASSISTANCE

(Editorial)

In 1883, Walt Whitman wrote, "We American have yet to really learn our own antecedents. . . . Thus far, impress'd by New England writers and schoolmasters, we tacitly abandon ourselves to the notion that our United States have been fashion'd from the British Islands only . . . which is a very great mistake."

He could have written that with California in mind.

The most obvious symbols of California's early history are the 21 missions stretching from San Diego to Sonoma. The first was founded at San Diego in 1769, the last in 1823. More than 5 million people a year visit the missions, making them California's most visited landmarks.

San Diego, Monterey, Los Angeles, Carmel, San Luis Obispo, San Francisco, Santa Barbara, Santa Cruz, San Jose and others began as missions.

Yet few know the history of Spain's New World venture. Today it is literally crumbling from natural disasters such as earthquakes, neglect and lack of funding, and even thievery. In August 2003, a 205-year-old Indian-made violin disappeared from the 1771 mission at San Antonio de Padua.

If we don't make a public commitment to preserve the national heritage the missions represent, we'll lose them.

In Congress, the California Missions Preservation Act (H.R. 1446 S. 1306) is a start. After emerging from key Senate committee, it appears headed for final approval. (The House passed the bill last October, but it languished in the Senate committee for unknown reasons.) The bill would provide $10 million in matching funds over five years to help restore and repair California's Spanish missions and to preserve artwork and artifacts. So far, the California Missions Foundation has raised $3.4 million of the needed $10 million match.

Spain set about settling California in earnest after 1768 to prevent Russian and English encroachment.

Mountains and deserts made overland access difficult, so the Spanish settled the coast. They raised horses, cattle and sheep and tended orchards, and vineyards. Interaction with Indians was marked by dynamic confrontation, conflict and exchange—different in character from the westward expansion of British eastern colonies.

California became a province of Mexico in 1821. The new government secularized the missions, selling off some and using others as barns and saloons. By the time the Untied States won California in the war with Mexico, the missions were decaying. President Lincoln returned them to the Catholic Church, which still owns 19 of the 21.

Why can't California's 21 missions get status and a public commitment like the San Antonio Missions National Historical Park, established in Texas in 1978? Like California's missions, San Antonio's remain active places of worship, but their significance to the nation's heritage and use by the general public are vital as well.

It's time California's missions are afforded the same respect. Congress, along with private donors in the community, can make that preservation happen—and not a minute too soon.

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[From The Modesto Bee, Oct. 5, 2004]

### STATE'S MISSIONS DESERVE FEDERAL SUPPORT

(Editorial)

The most obvious symbols of California's early history are the 21 missions stretching from San Diego to Sonoma. The first was founded at San Diego in 1769, the last in 1823. More than 5 million people a year visit the missions, making them the most visited historic landmarks in California.

Today, some of that precious history is literally crumbling—damaged by natural disasters, such as earthquakes; neglect and lack of funding; and, worst of all, thievery. In August 2003, a 205-year-old Indian-made violin disappeared from the 1771 mission at San Antonio de Padua. If we don't want to lose the national heritage represented by the missions, we've got to make a public commitment to preserve them.

In Congress, the California Missions Preservation Act (H.R. 1446/S. 1306) is a start. After emerging from a key Senate committee, it appears headed for final approval. The bill would provide $10 million in matching funds over five years to help restore and repair California's Spanish missions and to preserve artwork and artifacts. So far, the California Missions Foundation has raised $3.4 million of the needed $10 million match.

Why can't California's chain of 21 missions get status and a public commitment like the San Antonio Missions National Historical Park, established in Texas in 1978? Like California's missions, San Antonio's mission churches remain active places of worship, but their significance to the nation's heritage and use by the general public are vital as well.

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[From the Sacramento Bee, Sept. 24, 2004]

### RESTORING HISTORY: PASS CALIFORNIA MISSIONS PRESERVATION ACT

(Editorial)

What is California's most defining historic landmark? Sutter's Mill, the site of the gold discovery that led to the 1849 Gold Rush? Perhaps. But think again.

In 1883, Walt Whitman wrote, "We Americans have yet to really learn our own antecedents. . . . Thus far, impress'd by New England writers and schoolmasters, we tacitly abandon ourselves to the notion that our United States have been fashion'd from the British Islands only . . . which is a very great mistake."

He could have written that with California in mind.

The most obvious symbols of California's early history are the 21 missions stretching from San Diego to Sonoma. The first was founded at San Diego in 1769, the last in 1823. More than 5 million people a year visit the missions, making them the most visited historic landmarks in California.

Today's coastal cities, from San Diego, Monterey, Los Angeles, Carmel, San Luis Obispo, San Francisco, Santa Barbara, Santa Cruz, San Jose and others began as Spanish missions.

Yet few know the history of Spain's vast New World venture—begun long before English settlement in America. Today that history is literally crumbling—from natural disasters such as earthquakes, neglect and lack of funding, and, worst of all, thievery. In August 2003, a 205-year-old Indian-made violin disappeared from the 1771 mission at San Antonio de Padua.

If we don't want to lose the national heritage represented by the missions, we've got to make a public commitment to preserve them.

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Spain set about settling California in earnest after 1768 to prevent Russian and English encroachment.

Mountains and deserts made overland access difficult, so the Spanish settled the coast. They raised horses, cattle and sheep and tended fruit orchards and vineyards. The interaction between the Spanish and Indians was marked by dynamic confrontation, conflict and exchange—different in character from the westward expansion of British eastern seabroad colonies.

When Spain lost its empire, California became a province of independent Mexico in 1821. The new government secularized the missions, selling off some of them and using others as barns and saloons. By the time the United States won California in the war with Mexico, the missions were decaying. President Abraham Lincoln returned the missions to the Catholic Church, which still owns 19 of the 21.

Why can't California's chain of 21 missions get status and a public commitment like the San Antonio Missions National Historical Park, established in Texas in 1978? Like California's missions, San Antonio's mission churches remain active places of worship, but their significance to the nation's heritage and use by the general public are vital as well.

It's time California's missions are afforded the same respect. Congress, along with private donors in the community, can make that preservation happen—and not a minute too soon.

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[From the Wall Street Journal, Sept. 9, 2004]

### THE MISSION IS CLEAR

(By Taylor Holliday)

SAN MIGUEL, CA—"Unsafe. Peligroso." This building "has been found to be seriously damaged and is unsafe to occupy, says the sign on the door of Mission San Miguel Arcangel.

A small group of us don our hardhats and tiptoe inside one of the most lovely of the 21

Spanish colonial missions that gave birth to California coastal towns from San Diego to Sonoma. It's the mission with the most authentic, intact interior, its adobe walls adorned with colorful frescoes—trompe l'oeil marble columns and the eye of god—painted by the Salinan Indians in 1821 and untouched through the years due to the mission's remote location 200 miles north of Los Angeles.

It's also the mission—especially since the December earthquake in nearby Paso Robles—most likely to come crashing down at any moment. Chunks of adobe mingle with rat droppings on the floor; water damage mars the painted wood ceiling; centuries-old statues lie in pieces; and, most ominously, makeshift braces hold up windows, archways and walls.

"We were lucky that it didn't collapse," said Tina Foss, museum director of Mission Santa Barbara and vice president of the California Missions Foundation. "Even before the earthquake, [an engineer] told me that the walls were holding up just by force of habit."

San Miguel is the California mission in the worst shape. Each mission must rely on its own resources—parishioner contributions, bake sales—to meet expenses, and they have little left over for major repairs, especially the painstaking kind required for historic preservation. So despite the fact that the missions attract more than five million tourists a year, many have yet to be retrofitted to withstand an earthquake; most operate as historical sites and churches in varying states of disrepair and structural decay; and none have the resources for safeguarding their priceless collections of Spanish colonial and mission-era artworks and artifacts.

Realizing how dire the situation is, a group led by Stephen Hearst first started the nonprofit, nonsectarian California Missions Foundation in 1998. (Great grandfather William Randolph Hearst first came to the aid of the missions a hundred years earlier.) Since then the foundation has been struggling to raise the $50 million needed to rescue, repair and preserve the structures and their art.

Founded between 1769 and 1823, the missions were Spain's effort to colonize Alta California and Christianize the Indians. With the missions came the farming, ranching, winemaking, architecture and Hispanic culture that help define the state to this day. Through two centuries, they have survived disease (which killed many early Indian converts who lived at the missions), earthquakes (which necessitated extensive rebuilding in the early parts of both the 19th and 20th centuries) and heavy use—as well as misuse during a period when they were sold off by the newly independent Mexico and used as barns, homes and saloons. (Not long after California became part of the U.S. in 1848, President Lincoln returned the missions to the Catholic Church, which still owns 19 of them.)

Now they just have to survive the modern American political process.

"The mind of preservation that buildings like this require is so costly that it is beyond the reasonable expectation of private owners, the Catholic Church, or even state parks [which own two missions]," says Ms. Foss. "But if a building is historically important enough to be a landmark—all of the missions are California landmarks and seven are national landmarks—then we are all responsible for its preservation."

"Public funding is critical," adds Knox Mellon, executive director of the foundation, which so far has raised only $3 million from private sources. "It will be the shot in the arm that allows us to bring in matching funds from private donors."

Forty-nine of California's 53 U.S. representatives agreed, sponsoring the bipartisan California Missions Preservation Act, which passed the House in October 2003. In June of that year, Barbara Boxer and Dianne Feinstein introduced the same legislation in the Senate, calling for $10 million in matching grants over five years to be administered by the California Missions Foundation.

But the bill has since faced unexpected hurdles and is now considered a "controversial measure." At an Energy and Natural Resources subcommittee hearing in March, first the Americans United for Separation of Church and State objected on the grounds that 19 of the 21 missions are active churches—even though the bill clearly states that the foundation will ensure that none of the money goes toward religious operations. Then the Bush administration (the National Park Service) went on record saying it does not support earmarking limited historic preservation funds for these specific purposes.

The bill's sponsors came back with an amendment stipulating that the act would not take effect until the attorney general ruled on the constitutionality of providing federal funds to these landmark churches. Still the bill has gone nowhere, unable to get a hearing in the full committee for reasons known only to its chairman, Sen. Pete Domenici. And with this session of Congress scheduled to adjourn Oct. 1, those who care about the missions are holding their breath: If it doesn't pass this Congress, they're back to square one.

And so the missions wait. For San Miguel, the earthquake may turn out to be "a blessing in disguise," says Father Ray Tintle, the parish priest. FEMA did not come to its aid—even though, as he notes, "for every one hour the local parish uses the facilities here, the public uses it 10 [for nonreligious activities]." But Mission San Miguel will at least receive some insurance money—roughly $8 million of the $20 million it needs to restore its church, museum and adjacent quadrangle buildings, including a wing with (mostly) original early 1800s living quarters.

As for other missions, all they can do at the moment is hope for divine intervention. Despite having the "finest collections of Spanish colonial art in California," according to Ms. Foss—mostly Baroque and Neoclassical paintings and statutes imported from Mexico and South America, as well as silk vestments and historical documents—mission museums can't provide the lighting, climate-control or security the items need, much less the art conservation they deserve.

So rare artworks will continue to deteriorate. And treasures, like the 200-year-old Indian-made violin stolen from Mission San Antonio de Padua, or the 30-pound hand-carved tabernacle door taken from San Miguel, or the painting cut out of its frame and the collection of Indian baskets carried off from Mission Santa Barbara, will continue to disappear, taking a little bit of California history with them each time they do.

Mr. GIBBONS. Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentlewoman for yielding me this time.

California's 21 missions, which run along a 600-mile stretch of highway from San Diego to Sonoma, are indeed historically significant and contribute tremendously to the rich historical, cultural, and architectural heritage of California and this country's westward growth. At the same time we strive to preserve these historical landmarks, we must also be careful to preserve religious liberty and honor the establishment clause of the first amendment of the Constitution.

Nineteen of the 21 missions that comprise California's historic mission trail are currently owned by the Roman Catholic Church; they operate as active parishes and hold regularly scheduled religious services. There is a clear line of Supreme Court cases that address government funding of improvement of real property for the direct benefit of buildings used for religious purposes including worship, sectarian service, or instruction.

Three Supreme Court decisions, Tilton v. Richardson in 1971, Hunt v. McNair in 1973, and Committee For Public Education v. Nyquist in 1973, make it clear that no government funds may be used to construct, maintain, restore, or make capital improvements to physical structures that are used as houses of worship, even if religious services are infrequent.

H.R. 1446 contains a provision which requires that the purpose of any grant under this act is secular, does not promote religion, and seeks to protect qualities that are historically significant. It is therefore clear that any grant or assistance provided under this act must also be consistent with the Supreme Court decisions in this area of the law.

Mr. Speaker, I am submitting for inclusion in the RECORD at this point a letter from Americans United for Separation of Church and State, which raises questions about the issue I have just raised.

### PRESERVE RELIGIOUS LIBERTY: OPPOSE THE CALIFORNIA MISSIONS PRESERVATION ACT (H.R. 1446)

NOVEMBER 17, 2004.

DEAR REPRESENTATIVE: Americans United for Separation of Church and State urges you to oppose the California Missions Preservation Act, H.R. 1446, which we understand will be on the floor of the House of Representatives today. Americans United represents more than 70,000 individual members throughout the fifty states and in the District of Columbia, as well as cooperating houses of worship and other religious bodies committed to preservation of religious liberty. This bill is unconstitutional and would significantly erode key church-state separation protections.

H.R. 1446 would authorize the Secretary of the Interior to enter into agreements and make grants to the California Missions Foundation to "restore and repair" the California missions and the religious artwork and artifacts associated with the missions. The bill would authorize a $10,000,000 appropriation for the 2004–2009 period to fund these goals.

The 21 missions comprising California's historic mission trail were founded between 1769 and 1823. 19 of the 21 missions are owned by the Roman Catholic Church, operate as active parishes, and have regularly scheduled religious services. There is no doubt that California's 21 missions are historically significant, and contribute greatly to the rich historical, cultural and architectural heritage of California and the American West. Although we recognize that preservation of these historic buildings is important, we strongly believe that the preservation of Americans' constitutional rights is vital. In short, the California Missions Preservation Act would violate the First Amendment by forcing taxpayers nationwide to pay for church repairs, even repairs and restoration of facilities with active congregations.

Under the bill, government funding will flow to houses of worship for capital improvements in violation of the Constitution. Time after time, the United states Supreme Court has required that no government funds be used to maintain, restore, or make capital improvements to physical structures that are used as houses of worship, even if religious services are infrequent. Three Supreme Court decisions (*Tilton* v. *Richardson*, 403 U.S. 672 (1971), *Hunt* v. *McNair*, 413 U.S. 734 (1973), *Committee for Public Education* v. *Nyquist*, 413 U.S. 756 (1973)) make clear that it is unconstitutional to allow federal grants for capital improvements of structures devoted to worship or religious instruction, and all three of these decisions remain binding law on all government entities.

The illegality of the proposal to fund the California missions is exacerbated when one considers the issue of government directly funding religious icons. Because one of the objectives of the California Missions Foundation is to preserve the Spanish colonial and mission-era artworks and artifacts of the California missions, and because the bill specifically authorizes federal funds to be used to preserve the artworks and artifacts associated with the California missions, the Secretary of the Interior would be empowered to provide government money specifically to maintain or restore religious artifacts and icons associated with devotional and worship activities at the missions, a result that would be clearly unconstitutional.

We are fully aware of the historical and cultural significance of the California missions. However, it is essential for Congress to maintain our nation's commitment to safeguarding religious liberty for all Americans. Nineteen of the 21 California missions are churches, not just museums, and are still used for religious services. The repair and upkeep of the missions, therefore, must be paid for by those who worship there or by other interested individuals or private organizations through voluntary contributions. The House of Representatives should refrain from passing this blatantly unconstitutional bill.

If you have any questions regarding this legislation or would like further information on any other issue of importance to Americans United, please contact Aaron D. Schuham, Legislative Director, at (202) 466–3234, extension 240.

Sincerely,

REV. BARRY W. LYNN,
*Executive Director.*

Mr. GIBBONS. Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield 6 minutes to the gentleman from California (Mr. FARR), the sponsor of the bill.

Mr. FARR. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I thank my colleagues for speaking in support.

I want to respond first of all to the comments of the gentleman from Virginia (Mr. SCOTT). In the bill it says: "The Secretary shall ensure that the purpose of any grant or financial assistance provided by the Secretary to the Foundation under this Act is secular, does not promote religion, and seeks to protect qualities that are historically significant."

This is a private foundation separate from the church and raises money separately from the church, so we are trying to assure here there is no benefit to the church from the restoration efforts.

Let me rise in support of this bill, the California Missions Preservation Act. Interestingly enough, one of the statues in Statuary Hall is that of Father Serra, and in his hand is a replica of the Carmel mission, just a few blocks from my home.

This legislation has been cosponsored by 48 of my California colleagues in the House of Representatives. Both Senators sponsored similar legislation on their side of the Capitol. I again want to thank the efforts of the chairman of the committee, the gentleman from California (Mr. POMBO), and the gentleman from West Virginia (Mr. RAHALL) for moving this legislation today, as well as the principal cosponsors, the gentleman from California (Mr. DREIER).

Mr. Speaker, H.R. 1446 passed the House under suspension by a voice vote on October 20, 2003, and then passed the Senate almost a full year later after it was amended by unanimous consent on October 10, 2004. All 21 missions are California registered historical landmarks. Seven of the missions have Federal status as national historic places. And one of the two changes made by the other body is that the remaining 14 must be recognized before that particular mission would be eligible for receiving funding.

The second change made by the other body was that the Secretary of the Interior must enter into a cooperative agreement with the California Missions Foundation, and the U.S. Attorney General must issue a finding that the proposed agreement does not violate the establishment clause of the first amendment of the Constitution regarding the separation of church and state.

I am fortunate to have five of the 21 missions in my district, extending along the coast of California on the El Camino Real: Santa Cruz; San Juan Bautista; La Soledad; San Antonio de Padua; and in my hometown of Carmel, San Carlos Borromeo del Rio Carmelo, known as the Cathedral in the Wilderness.

The California missions represent a historic vein running through our State from south to north. They also symbolize the east to the west, the exploration that expanded our Nation to its four corners.

Mr. Speaker, as I mentioned when this bill was originally brought to the floor, so much of the west coast's earliest expansion has been overshadowed in history. In 1768, King Carlos III saw Russia and England as threats to Spain's claim of Alta California, and ordered troops and missionaries to colonize new territory. In 1769, Commander Don Gaspar de Portola, Sergeant Jose Francisco de Ortega, and Fray Junipero Serra departed with troops and supplies for San Diego from Baja California, on May 13, and established on July 16 Alta California's first mission, San Diego de Alcala.

Twenty missions followed, with the final missions in the chain established in Sonoma in 1823. Of all the institutions that define California's heritage, none has the historic significance and emotional impact of the chain of Spanish missions that stretches from San Diego to Sonoma.

The missions are an important part of the State's cultural fabric and must be preserved as priceless historic monuments. They are a living link to our past. The missions stand as landmarks of more than 2 centuries and are recognized for the important impact they have had on the development of California, including art, architecture, agriculture, food, music, language, apparel, and recreation.

The missions help drive tourism, the State's third largest industry. These iconic symbols of California are the most visited historic attractions in the State, attracting over 5.3 million visitors a year. They account for a sizable contribution to the State's economy from millions of tourists, including a large number of international visitors.

They have become synonymous with the State's fourth grade curriculum. Students build mission models and write research reports as part of California history lessons. This serves as an important education function in teaching young students about the role of missions in the history of our State and our Nation.

Four 230 years, the missions have stood as symbols of Western exploration and settlement. Time, natural deterioration, and neglect have taken a heavy toll on the missions. Some are crumbling and at risk of full destruction. Most need preservation and seismic work to restore their antique beauty and bring them up to modern safety. Without immediate repairs, these centuries-old structures could be lost. The need is urgent and near crisis proportions.

Mr. Speaker, I rise in support of H.R. 1446, the California Missions Preservation Act. This bipartisan legislation has been cosponsored by 48 of my California colleagues in the House of Representatives and both Senators sponsored similar legislation on their side of the Capitol.

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Mr. Speaker, as I mentioned when this bill was originally brought to the floor so much of the west coast's earliest expansion has been overshadowed in history.

In 1768 King Carlos III saw Russia and England as threats to Spain's claim on Alta California and Ordered troops and missionaries to colonize the new territory.

In 1769 Commander Don Gaspar de Portolá, Sergeant José Francisco de Ortega, and Fray Junipero Serra departed with troops and supplies for San Diego from Baja California May 13 and established on July 16th Alta California's first mission—San Diego de Alcalá.

Twenty missions followed with the final missions in the chain established in Sonoma in 1823.

Of all the institutions that define California's heritage, none has the historic significance and emotional impact of the chain of Spanish missions that stretch from San Diego to Sonoma.

The missions are an important part of the state's cultural fabric and must be preserved as priceless historic monuments; they are a living link to our past.

The missions stand as landmarks of more than two centuries and are recognized for their important impact they have had on the development of California including art, architecture, agriculture, food, music, language, apparel and recreation.

The missions help drive tourism—the state's third largest industry. These iconic symbols of California are the most visited historic attractions in the state, attracting over 5.3 million visitors a year. They account for a sizable contribution to the state economy from millions of tourists, including a large number of international visitors.

And they have become synonymous with the state's fourth grade curriculum: Students build mission models and write research reports as part of California history lessons. This serves as an important education function in teaching young students about the role of the missions in the history of our state and our nation.

For 230 years, the missions have stood as symbols of Western exploration and settlement. Time, natural deterioration and neglect have taken a heavy toll on the missions. Some are Rotting roofs. Cracking tiles. Crumbling adobe. The backlog of needed repairs is long. The price tag is high. And the message is clear. The California missions need our help. Now.

H.R. 1446 will provide an important step toward addressing some of the most severe problems the missions are facing. This legislation provides authorization for funding of $10 million over five years, in partnership with the State of California and the California Missions Foundation's statewide funding campaign.

Under this legislation, the process requires that each mission submit a list to the Foundation of its most urgent preservation needs. All mission repairs and restoration projects are reviewed, approved and supervised by professionals qualified in the disciplines of history, history archeology, architectural history, planning, architecture, folklore, cultural anthropology, curation, conservation, landscape architecture or related fields.

Projects must be accomplished in accordance with the applicable Secretary of Interior's Standards for the Treatment of Historical Properties.

All repairs and capital improvements must have competitive bids which the Foundation's Funding Review Committee reviews. The Foundation Board of Directors assesses the proposals and has final approval of all restoration projects funded. The missions are required to submit timely progress reports and accounting to the Foundation on all projects funded.

Since the Spanish friars and native peoples joined together in the building of these settlements, the land we call California has been shaped and influenced by what they accomplished in that most ambitious undertaking.

From the vineyards of Sonoma to the ranches of Santa Barbara to the adobe arcades and red tile roofs of San Diego, the California missions have left their mark on who we are and what we have become.

Passage today presents us with the opportunity to address the needs of the missions and to preserve an integral part of our nation's history and the heritage of the west that combines with the east to make these truly united states.

Mr. GIBBONS. Mr. Speaker, I continue to reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding me this time, and I rise today to support the California Missions Preservation Act. I also want to thank our colleague, the gentleman from California (Mr. FARR), the gentleman from California (Mr. DREIER), and the gentleman from California (Mr. POMBO) for their assistance, and the leadership of our chairman as well in moving this legislation. I also want to thank our Senators, BARBARA BOXER and DIANE FEINSTEIN, for helping to get this bill successfully through the Senate.

Mr. Speaker, California's missions are instantly recognizable as symbols of our States's rich history and cultural heritage, but they are also some of the oldest structures in North America and an integral part of our Nation's heritage, and so they deserve our Federal support.

Our State's missions are in dire need of structural attention and major rehabilitation. Natural deterioration and neglect have taken a heavy toll on these missions. Some are crumbling and are at risk. Most need preservation and seismic work to restore their antique beauty and to bring them up to modern safety standards. Without immediate repairs, centuries-old buildings and artifacts could be lost to a major earthquake or a flood.

For example, at Mission Santa Barbara in my congressional district, often called the Queen of the Missions, $1.5 million is needed now to repair adobe columns that are turning to salt.

Keeping California's missions together will require about $50 million in structural repair work and another $11 million to renovate art works and accommodate visitors. The primary goal of this legislation is to restore and repair the missions and to preserve the art works and artifacts associated with them.

Mr. Speaker, I thank my colleague, the gentleman from California (Mr. FARR), for giving us the history of what the missions have meant to our State. As every California school child learns, the missions have shaped the future of California. They were among the first European settlements in our region and formed a chain along the coast from San Diego to Sonoma.

With respect to our colleague from Nevada and his concerns about chapters of history that the missions were associated with, I would submit that preserving the missions gives us an opportunity to preserve that sorry chapter of our Nation's history and to learn from those lessons so that we do not repeat them.

The missions are also among the State's most frequently visited historic sites, attracting more than 5.5 million tourists each year, contributing greatly to our State's economy.

Mr. Speaker, I am pleased to be part of this important effort on behalf of California's missions. This long overdue effort is encouraging in that the entire California congressional delegation has responded with such enthusiasm about this bill.

Again, I want to thank my colleagues for supporting it and urge its immediate passage.

Mrs. CHRISTENSEN. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

☐ 1630

Ms. WOOLSEY. Mr. Speaker, I rise in support of H.R. 1446, the California Missions Preservation Act. I would like to thank the gentleman from California (Mr. FARR) for introducing this bill, and I am proud to be an original cosponsor.

The California missions provide an important part of California's past, and their history can be traced to 1493. The Sixth District of California, located across the Golden Gate Bridge from San Francisco, is the district I am so pleased to represent. We are fortunate to have one of these missions, the San Raphael Mission and another, the Sonoma Mission, is just outside of my district.

The San Raphael Mission was originally built in 1817 as an outpost chapel of the San Francisco Mission. Named for Saint Raphael, the angel of bodily healing, it was thought that the sunny hillside on the north side of the bay would be a good place for the sick to convalesce. In only 5 years, it became a healthy settlement, and on October 19, 1822, it became an independent mission. After it was secularized, the mission fell into ruin, and 32 years later the original mission was torn down. But in 1947 a new mission was built near the original site, based on a painting of the old mission.

The San Francisco Solano Mission, founded in 1823 in Sonoma County, was the last and most northerly of the 21 Franciscan missions of Alta California. Sonoma Mission, as it is properly called, was the dedicated goal of the young and zealous Padre Jose Altimira. He headed into the northern wilderness to find a more healthy location for a mission than the crowded San Francisco area. In Sonoma Valley he found his ideal location, with fertile soil and mild, sunny climate.

Secularization of the mission in 1834 was followed by neglect and decay. In 1881, the church and padres' quarters were sold and used as a hay barn, winery and blacksmith shop. However, the mission was rescued from disintegration in 1903 when it was bought by the Historic Landmarks League and turned over to the State. Full restoration began in 1911.

There is still so much more to do to restore these historic treasures. Mr. Speaker, it is important that we save these missions so they can pass on their history to future generations. I urge my colleagues to join me in support of this bill.

Mr. SCHIFF. Mr. Speaker, I rise today in support of the Senate Amendments to the California Missions Preservation Act. I am a co-sponsor of this bill, and I am pleased that we are sending it to the White House before we adjourn.

Because of this legislation, important historical sites in California will be better preserved for future generations of Americans to enjoy and learn about our state's rich heritage.

I am proud to represent in my district the Mission San Gabriel Arcángel. This is the fourth of twenty-one missions established in California during the Spanish colonial era.

Orginally founded in 1771 in present-day Montebello, it was moved in 1776 to what is now San Gabriel. Built by the Franciscans and Native American Gabrielenos, the Mission San Gabriel Arcángel would become what famed Spanish missionary Junipero Serra would call "The Pride of the Missions."

The government eventually changed from Spanish to Mexican, then from Mexican to American. In the early 20th Century, control of the Mission would eventually go to the Claretian Missionaries with the Dominican Sisters of Mission San Jose providing education at the parish school. Yet the Mission would always be an integral part of the community, a jewel of the southland, a wondrous remnant from the first of many who built the greater Los Angeles area into a world-class destination.

Today, the Mission is set amount a large, diverse and gracious community. Local residents still seek spiritual guidance there, and cactus garden. The Mission thrives as a source of pride among residents of the San Gabriel Valley, and I pleased that Congress is recognizing the importance of protecting this and other Missions.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today in strong support of H.R. 1446, the California Missions Protection Act. I thank my colleague from California, Mr. FARR, for his continued role in preserving the Golden State's wonderful treasures. I also thank our distinguished California colleagues in the other chamber for their leadership and support in pushing this bill through the Senate.

The missions inspired by Father Junipero Serra are a favorite destination for millions of people around the world. These historical monuments are a symbol of Catholicism, and the early efforts to unify Native Americans with the Spanish settlers. We admire the missions as a sanctuary, a place of worship, and a symbol of American History.

In 1769, Father Serra erected Mission San Diego Alcala. This would be the first of 21 historic missions built along the beautiful Pacific coastline. The missions have been a significance part of California's culture for over two centuries. Even Pope John Paul II, recognizing the significance of Father Serra, blessed these missions in his visit to the San Carlos Borromeo de Carmelo Mission in 1987.

The citizens of Orange County treasure our local mission, Mission San Juan Capistrano. Created in 1776, it continues to be used as a place of peace and worship. We consider ourselves fortunate to experienced the Serra Chapel, the only building left in which Father Serra gave mass. We watch in delight every year as the world famous swallows return to their summer home.

Unfortunately, after two centuries of wear and tear, as well as numerous earthquakes, much of the infrastructure of these buildings is deteriorating. It is our interest,for the sake of preservinga piece of American History, that we put forth the effort to restore these elegant buildings and artifacts.

Again, I thank the Honorable SAM FARR for his efforts to restore California's treasures. I am proud to support his efforts, and the efforts of so many others to protect and preserve the Missions of California.

Mrs. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1446.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

## KATE MULLANY NATIONAL HISTORIC SITE ACT

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1241) to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes.

The Clerk read as follows:

S. 1241

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Kate Mullany National Historic Site Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) CENTER.—The term "Center" means the American Labor Studies Center.

(2) HISTORIC SITE.—The term "historic site" means the Kate Mullany National Historic Site established by section 3(a).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 3. KATE MULLANY NATIONAL HISTORIC SITE.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established as an affiliated area of the National Park System the Kate Mullany National Historic Site in the State of New York.

(2) COMPONENTS.—The historic site shall consist of the home of Kate Mullany, located at 350 Eighth Street in Troy, New York.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Center shall own, administer, and operate the historic site.

(2) APPLICABILITY OF NATIONAL PARK SYSTEM LAWS.—The historic site shall be administered in accordance with—

(A) this Act; and

(B) the laws generally applicable to units of the National Park System, including—

(i) the Act of August 25, 1916 (commonly known as the "National Park Service Organic Act") (16 U.S.C. 1 et seq.); and

(ii) the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

(c) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with the Center under which the Secretary may provide to the Center technical, planning, interpretive, construction, and preservation assistance for—

(A) the preservation of the historic site; and

(B) educational, interpretive, and research activities relating to the historic site and any related sites.

(2) The Secretary may provide to the Center financial assistance in an amount equal to not more than $500,000 to assist the Center in acquiring from a willing seller the structure adjacent to the historic site, located at 350 Eighth Street in Troy, New York. On acquisition of the structure, the Secretary shall revise the boundary of the historic site to reflect the acquisition. The non-Federal share of the total cost of acquiring the structure shall be at least 50 percent.

(d) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 full fiscal years after the date on which funds are made available to carry out this Act, the Secretary, in cooperation with the Center, shall develop a general management plan for the historic site.

(2) CONTENTS.—The general management plan shall define the role and responsibilities of the Secretary with respect to the interpretation and preservation of the historic site.

(3) APPLICABLE LAW.—The general management plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a-7(b)).

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1241 would authorize the Secretary of the Interior to establish the Kate Mullany National Historic Site as an affiliated site in the State of New York. The site would consist of the home of Kate Mullany, an existing national historic landmark located in Troy, New York.

Kate Mullany organized and led the first all-female labor union at the Nation's first commercial laundry. When employers installed new machinery that stepped up production but made the working conditions worse, Kate Mullany led 300 workers in a week-long labor strike in February, 1864, that resulted in the owners conceding to all of their demands. Unlike many other unions of the day, the "Collar Laundry Union" stayed organized long after their initial battle, helping other unions along the way. I urge my colleagues to support S. 1241.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority has already explained the purpose of S. 1241, and it is altogether fitting that we proceed with this legislative designation.

Kate Mullany was an early female labor organizer and leader. In the 1860s, at a time when there were few labor unions and even fewer women involved in the labor movement, she organized and led the first all-female union for laundry workers. She achieved national recognition in 1868 when she was appointed assistant secretary of the National Labor Union, making her the first woman appointed to a national union office.

I want to commend the gentleman from New York (Mr. MCNULTY) for his sponsorship and tireless work on behalf of the companion legislation he introduced in the House. I would also note the contributions of the ranking member of the Committee on Resources, the gentleman from West Virginia (Mr. RAHALL), who guided this designation through the Committee on Resources both this Congress and last Congress.

Mr. Speaker, the Kate Mullany House is on the National Register of Historic Places and was designated a National Historic Landmark in 1998. Designation as a National Historic Site will enhance the preservation and interpretation of the work of this pioneering woman, and thus I support the passage of S. 1241 by the House today.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. MCNULTY), the sponsor of the bill in the House.

Mr. MCNULTY. Mr. Speaker, I thank my colleagues for their explanation of the bill, and I also thank Senator HILLARY RODHAM CLINTON for her dedication to the memory of Kate Mullany. I also thank the gentleman from California (Chairman RADANOVICH), the gentleman from California (Chairman POMBO), and the ranking members, the gentleman from West Virginia (Mr. RAHALL) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), for their tremendous help.

Special thanks goes to my constituents, Paul Cole, Rachel Bliven, and Paul Bray for their years of work on this project. Most of all, I thank Kate Mullany for her courageous and daring leadership which forever changed the labor movement in America.

Mr. Speaker, I thank the gentleman for yielding me this time to comment on S. 1241, which will establish the Kate Mullany National Historic Site in Troy, New York, in my congressional district.

I was pleased to introduce the House companion to this legislation, H.R. 305. The bill before us today, S. 1241, was introduced by my good friend from New York, Senator HILLARY RODHAM CLINTON. As First Lady of the United States, HILLARY CLINTON came to Troy in 1998 to unveil the National Historic Landmark designation at the Mullany House during her "Save America's Treasures" tour. I am incredibly grateful to Senator CLINTON for her tireless efforts on this legislation, and on behalf of American workers throughout the Nation.

I must thank the gentleman from California, Mr. RADANOVICH, Chairman of the Resources Subcommittee on National Parks, Recreation and Public Lands, and ranking Member CHRISTENSEN, for holding a hearing on this bill.

And I must certainly thank the gentleman from California, Mr. POMBO, Chairman of the Resources Committee, and the Ranking Member, the gentleman from West Virginia, Mr. RAHALL, for receiving this bill and moving it swiftly to the floor today.

Today we will finally and appropriately recognize a remarkable American and her legacy—as a determined immigrant, a tireless working women, a pioneer of the American labor movement, and a central figure in the rich industrial history of our country.

In its heyday, the city of Troy was a prosperous industrial city known around the world for its large iron works and textile factories. It was home to the world's first commercial laundry and had earned the nickname, "The Collar City," for the many thousands of shirts, detachable shirt collars, and cuffs produced there.

Kate Mullany emigrated to America from Ireland in the mid-nineteenth century. She made her way to Upstate New York and settled in the city of Troy, eventually making her home at 350 Eighth Street. Like many women of the time, Kate Mullany found work in one of Troy's shirt factories. On a daily basis, she undertook physically demanding work steaming and pressing collars, earning minimal wages of just 3 to 4 dollars a day.

Kate quickly became a leader among her peers in the factory—among the women who felt as though they had no choice but to endure 12 to 14 hour workdays in awful conditions while receiving very little pay. These women who had no voice soon found one, and it belonged to Kate Mullany. In 1864, Kate led over 200 fellow female workers on strike, demanding better wages and improved working conditions—and they won. Kate secured a 25 percent wage increase—a remarkable figure at the time, particularly for a group of women.

This bargaining success led to the formation of the Collar Laundry Union—the first all-female labor union in the United States—with Kate Mullany in charge.

Kate's record of individual accomplishment continued as well. In 1868, she was elected a

2nd vice president of the National Labor Union—becoming the first woman ever to hold a national position in any labor organization. Kate became a national figure. Her death in 1906 was noted in newspapers around the Nation, a testament to her amazing story and groundbreaking accomplishments.

The bill before us, S. 1241, designates the Mullany House as a national historic site and as an "Affiliated Site," authorizing the National Park Service to provide technical, planning, and financial assistance to the site's local cooperative partners. This approach responds to the concerns of, and relieves any potential burden placed upon, the Park Service.

I am pleased that the relevant House and Senate committees have recognized the great advantages of having the Park Service, the guardian and protector of our Nation's most treasured sites, involved with this project. This plan enjoys broad bipartisan support from our two Senators; my colleagues in the New York delegation, including Mr. SWEENEY, Mr. BOEHLERT, and Mr. QUINN; the Majority Leader of the New York State Senate, Joe Bruno; and the present and past Mayors of the City of Troy.

The Mullany House is now part of the American Labor Studies Center, a not-for-profit corporation which will continue to own, manage, and operate the site on a daily basis. Plans and funding are in place for the establishment of Kate Mullany Park on the adjacent lot.

Today, we ensure that the Mullany Home will continue to serve as a resource for students, researchers, and tourists for decades to come. This site will be an outstanding addition to the National Park System. I am so pleased to see this long effort and the hard work of so many—such as Paul Cole, Paul Bray, and Rachel Bliven come to a successful conclusion.

Mrs. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the Senate bill, S. 1241.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

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## AUTHORIZING ADDITIONAL APPROPRIATIONS FOR RECLAMATION SAFETY OF DAMS ACT OF 1978

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1727) to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978.

The Clerk read as follows:

S. 1727

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR THE RECLAMATION SAFETY OF DAMS ACT OF 1978.**

(a) REIMBURSEMENT OF CERTAIN MODIFICATION COSTS.—Section 4(c) of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 508(c)) is amended by striking "(c) With respect to" and all that follows through "2001" and inserting the following:

"(c) REIMBURSEMENT OF CERTAIN MODIFICATION COSTS.—With respect to the additional amounts authorized to be appropriated by section 5".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 5 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is amended in the first sentence—

(1) by inserting "and, effective October 1, 2003, not to exceed an additional $540,000,000 (October 1, 2003, price levels)," after "(October 1, 2001, price levels),"; and

(2) by striking "$750,000" and inserting "$1,250,000 (October 1, 2003, price levels), as adjusted to reflect any ordinary fluctuations in construction costs indicated by applicable engineering cost indexes,".

**SEC. 2. PARTICIPATION BY PROJECT BENEFICIARIES.**

(a) COST CONTAINMENT; MODIFICATION STATUS.—Section 4 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 508) is amended by adding at the end the following:

"(e)(1) During the construction of the modification, the Secretary shall consider cost containment measures recommended by a project beneficiary that has elected to consult with the Bureau of Reclamation on a modification.

"(2) The Secretary shall provide to project beneficiaries on a periodic basis notice regarding the costs and status of the modification.".

(b) PROJECT BENEFICIARIES.—The Reclamation Safety of Dams Act of 1978 is amended by inserting after section 5 (43 U.S.C. 509) the following:

"SEC. 5A. (a) On identifying a Bureau of Reclamation facility for modification, the Secretary shall provide to the project beneficiaries written notice—

"(1) describing the need for the modification and the process for identifying and implementing the modification; and

"(2) summarizing the administrative and legal requirements relating to the modification.

"(b) The Secretary shall—

"(1) provide project beneficiaries an opportunity to consult with the Bureau of Reclamation on the planning, design, and construction of the proposed modification; and

"(2) in consultation with project beneficiaries, develop and provide timeframes for the consultation described in paragraph (1).

"(c)(1) Prior to submitting the reports required under section 5, the Secretary shall consider any alternative submitted in writing, in accordance with the timeframes established under subsection (b), by a project beneficiary that has elected to consult with the Bureau of Reclamation on a modification.

"(2) The Secretary shall provide to the project beneficiary a timely written response describing proposed actions, if any, to address the recommendation.

"(3) The response of the Secretary shall be included in the reports required by section 5.

"(d) The Secretary may waive 1 or more of the requirements of subsections (a), (b), and (c), if the Secretary determines that implementation of the requirement could have an adverse impact on dam safety or security.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

### GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1727, sponsored by Senator PETE DOMENICI, increases the authorization ceiling on the Federal Safety of Dams Program. This important program allows the U.S. Bureau of Reclamation to make necessary structural modifications on aging dams and helps protect the public and our natural resources. The House companion bill is sponsored by the gentlewoman from California (Mrs. NAPOLITANO) and the gentleman from California (Mr. CALVERT).

Approximately 50 percent of the Bureau of Reclamation's dams were built between 1900 and 1950 before the state-of-the-art design practices were used. With more aging dams needing corrective action, the authorization level for the Safety of Dams Program will soon be exhausted. This bill not only gives the Bureau of Reclamation added financial tools to fix these structural problems for the next 10 years but requires the agency to consult with local beneficiaries on implementing these projects. I urge my colleagues to support this bipartisan bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with pleasure that I join my colleagues in full support of S. 1727.

Farming communities and urban areas who benefit from Bureau of Reclamation projects will now be ensured that ongoing dam safety work will continue. In addition, the Bureau will now be required to consider ways of reducing cost for new dam safety projects.

We support the passage of S. 1727.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the Senate bill, S. 1727.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

## AMENDING RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1284) to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the Federal share of the cost of the San Gabriel Basin demonstration project.

The Clerk read as follows:

Senate amendment:

Page 2, line 15, strike out "$12,500,000" and insert "$6,500,000".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

### GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1284 introduced by the gentlewoman from California (Mrs. NAPOLITANO) increases the authorized Federal cost ceiling for the San Gabriel Demonstration Project by $12.5 million. The bill, as amended, reduces the Federal share from $12.5 million to $6.5 million.

Local project sponsors have expressed a desire to expand the Demonstration Project, which treats contaminated groundwater and then delivers the effluent to nearby localities to justify the Federal cost ceiling increase. I urge my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 1284, legislation to increase the spending cap imposed on the San Gabriel Basin Demonstration Project. The funding level for this program was capped at $38 million in 1996. With the increase authorized by H.R. 1284, communities in southeast Los Angeles County are assured of continued financial support for their groundwater cleanup projects.

I extend my compliments to the gentlewoman from California for her tireless work on this bill and also wish to recognize the gentleman from California (Chairman POMBO), the ranking member, the gentleman from West Virginia (Mr. RAHALL), Senator FEINSTEIN and Senator BOXER for their assistance. I urge my colleagues to support this bill.

Mrs. NAPOLITANO. Mr. Speaker, I rise today in support of H.R. 1284, legislation to increase the spending cap imposed on the San Gabriel Basin Demonstration Project. Funding level for this program authorized in 1992 was capped at $38 million in 1996.

I want to thank my California colleagues on the other side of the aisle—Chairman DREIER, Chairman CALVERT and Chairman POMBO—for their continued assistance to me and other Members who are working to ensure a clean and reliable water supply for their local communities. I would also like to thank Ranking Member RAHALL and Congresswoman SOLIS for their support of this bill.

H.R. 1284, if enacted, would simply allow cities of Industry, El Monte and South El Monte located in and near my district throughout Southeast Los Angeles County to have the ability to request an additional $6.5 million in funding for assistance from the U.S. Bureau of Reclamation for cleanup of volatile organic compounds or VOC's once they are able to secure 75 percent State and local matching fund.

Although the authorizing amount under this bill was decreased from $12.5 million to $6.5 million by the Senate, local water agencies and municipalities serving residents throughout my district in the San Gabriel Valley remain supportive of this bill, and they are eager to continue their aggressive groundwater cleanup efforts with the assurance of continued Federal funding.

I urge my House colleagues to support this bill, and I reserve the balance of my time.

Ms. SOLIS. Mr. Speaker, I rise today in support of H.R. 1284, additional funding for the San Gabriel Valley Basin Demonstration Project.

The San Gabriel Valley is facing serious water quality and public health problems. The aquifer is contaminated with volatile organic compounds and perchlorate, or rocket-fuel. Water providers in the San Gabriel Valley draw water from the Basin, home to Superfund sites that span more than 170 square miles. Despite its contamination, the Basin is needed to provide water to more than 1.5 million people.

Our water agencies have done a wonderful job working to maintain a reliable, dependable and safe source of water, but they can not do it alone. This bill authorizes an additional $6.5 million to expand the Basin Demonstration Project to El Monte, South El Monte, and Puente Valley.

I am proud to represent a community working so diligently to ensure long term reliability of its water supply, and I am proud that, together with Congresswoman NAPOLITANO and Congressman DREIER, that we could secure these funds to help ensure a safe, reliable and dependable source of water for southern California.

Mrs. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1284.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

□ 1645

## IDAHO PANHANDLE NATIONAL FOREST IMPROVEMENT ACT OF 2003

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 434) to authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System purposes.

The Clerk read as follows:

S. 434

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Idaho Panhandle National Forest Improvement Act of 2003".

**SEC. 2. DEFINITION OF SECRETARY.**

In this Act, the term "Secretary" means the Secretary of Agriculture.

**SEC. 3. SALE OR EXCHANGE OF ADMINISTRATIVE SITES.**

(a) IN GENERAL.—The Secretary may, under such terms and conditions as the Secretary may prescribe, sell or exchange any or all right, title, and interest of the United States in and to the following National Forest System land and improvements:

(1) Granite/Reeder Bay, Priest Lake Parcel, T61N, R4E, Boise Principal Meridian, section 17, S½NE¼ (80 acres, more or less).

(2) North South Ski area, T43N, R3W, Boise Principal Meridian, section 13, SE¼SE¼SW¼, S½SW¼SE¼, NE¼SW¼SE¼, and SW¼SE¼SE¼ (50 acres, more or less).

(3) Shoshone work camp (including easements for utilities), T50N, R4E, Boise Principal Meridian, section 5, a portion of the S½SE¼ (19 acres, more or less).

(b) DESCRIPTIONS.—The Secretary may modify the descriptions in subsection (a) to correct errors or to make minor adjustments to the parcels in order to facilitate the conveyance of the parcels.

(c) CONSIDERATION.—Consideration for a sale or exchange of land under subsection (a)—

(1) shall be equal to the fair market value of the land; and

(2) may include cash or improved or unimproved land.

(d) APPLICABLE LAW.—Except as otherwise provided in this Act, any sale or exchange of National Forest System land under subsection (a) shall be subject to the laws applicable to the conveyance and acquisition of land for the National Forest System.

(e) Valuation.—The market value of the land and the improvements to be sold or exchanged under this Act shall be determined by an appraisal that is acceptable to the Secretary and conforms with the Uniform Appraisal Standards for Federal Land Acquisitions.

(f) Cash Equalization.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)), the Secretary may accept a cash equalization payment in excess of 25 percent of the value of land exchanged under subsection (a).

(g) Solicitations of Offers.—

(1) In general.—The Secretary may solicit offers for the sale or exchange of land under this section on such terms and conditions as the Secretary may prescribe.

(2) Rejection of offers.—The Secretary may reject any offer made under this section if the Secretary determines that the offer is not adequate or not in the public interest.

(h) Methods of Sale.—The Secretary may sell land under subsection (a) at public or private sale (including at auction), in accordance with any terms, conditions, and procedures that the Secretary determines to be in the best interests of the United States.

**SEC. 4. DISPOSITION OF FUNDS.**

(a) Deposit of Proceeds.—The Secretary shall deposit the proceeds of a sale or the cash equalization proceeds, if any, from an exchange under section 3(a) in the fund established under Public Law 90–171 (commonly known as the "Sisk Act") (16 U.S.C. 484a).

(b) Use of Proceeds.—Amounts deposited under subsection (a) shall be available to the Secretary, without further appropriation—

(1) for the acquisition of, construction of, or rehabilitation of existing facilities for, a new ranger station in the Silver Valley portion of the Panhandle National Forest; or

(2) to the extent that the amount of funds deposited exceeds the amount needed for the purpose described in paragraph (1), for the acquisition, construction, or rehabilitation of other facilities in the Panhandle National Forest.

(c) Nondistribution of Proceeds.—Proceeds from the sale or exchange of land under this Act shall not be paid or distributed to States or counties under any provision of law, or otherwise treated as money received from a national forest, for purposes of—

(1) the Act of May 23, 1908 (16 U.S.C. 500);

(2) section 13 of the Act of March 1, 1911 (commonly known as the "Weeks Law") (16 U.S.C. 500); or

(3) the Act of March 4, 1913 (16 U.S.C. 501).

**SEC. 5. ADMINISTRATION.**

(a) In General.—Land transferred to or otherwise acquired by the Secretary under this Act shall be managed in accordance with—

(1) the Act of March 1, 1911 (commonly known as the "Weeks Law") (16 U.S.C. 480 et seq.); and

(2) other laws relating to the National Forest System.

(b) Exemption From Property Management Regulations.—Part 1955 of title 7, Code of Federal Regulations (or any successor regulation), shall not apply to any actions taken under this Act.

(c) Withdrawals and Revocations.—

(1) Withdrawal.—Subject to valid existing rights, all land described in section 3(a) is withdrawn from—

(A) location, entry, and patent under the mining laws; and

(B) the operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(2) Revocation of public land orders.—As of the date of this Act, any public land order withdrawing land described in section 3(a) from all forms of appropriation under the public land laws is revoked with respect to any portion of the land conveyed by the Secretary under this section.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore (Mr. Terry). Pursuant to the rule, the gentleman from Nevada (Mr. Gibbons) and the gentlewoman from the Virgin Islands (Mrs. Christensen) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. Gibbons).

### GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate 434, introduced by Senator Larry Craig, would authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for national forest purposes.

This legislation would sell or exchange roughly 150 acres, comprised of three separate parcels, and deposit the proceeds in the fund established under the Sisk Act. The bill promotes good stewardship by consolidating scattered parcels of public land while generating revenue for property improvements rather than using taxpayer dollars.

Additionally, it will finally allow for the construction of a public sewer system in the area that has been contingent on the land acquisition authorized in Senate 434.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to S. 434 and support the passage of this bill by the House today.

Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. Gibbons) that the House suspend the rules and pass the Senate bill, S. 434.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

## ALASKA LAND TRANSFER ACCELERATION ACT

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1466) to facilitate the transfer of land in the State of Alaska, and for other purposes.

The Clerk read as follows:

S. 1466

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) Short Title.—This Act may be cited as the "Alaska Land Transfer Acceleration Act".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—STATE SELECTIONS AND CONVEYANCES

Sec. 101. Community grant selections and conveyances.
Sec. 102. Prioritization of land to be conveyed.
Sec. 103. Selection of certain reversionary interests held by the United States.
Sec. 104. Effect of hydroelectric withdrawals.
Sec. 105. Entitlement for the University of Alaska.
Sec. 106. Settlement of remaining entitlement.
Sec. 107. Effect of Federal mining claims.
Sec. 108. Land mistakenly relinquished or omitted.

TITLE II—ALASKA NATIVE CLAIMS SETTLEMENT ACT

Sec. 201. Land available after selection period.
Sec. 202. Combined entitlements.
Sec. 203. Authority to convey by whole section.
Sec. 204. Conveyance of cemetery sites and historical places.
Sec. 205. Allocations based on population.
Sec. 206. Authority to withdraw land.
Sec. 207. Report on withdrawals.
Sec. 208. Automatic segregation of land for underselected Village Corporations.
Sec. 209. Settlement of remaining entitlement.

TITLE III—NATIVE ALLOTMENTS

Sec. 301. Correction of conveyance documents.
Sec. 302. Title recovery of Native allotments.
Sec. 303. Native allotment revisions on land selected by or conveyed to a Native Corporation.
Sec. 304. Compensatory acreage.
Sec. 305. Reinstatements and reconstructions.
Sec. 306. Amendments to section 41 of the Alaska Native Claims Settlement Act.

TITLE IV—FINAL PRIORITIES; CONVEYANCE AND SURVEY PLANS

Sec. 401. Deadline for establishment of regional plans.
Sec. 402. Deadline for establishment of village plans.
Sec. 403. Final prioritization of ANCSA selections.
Sec. 404. Final prioritization of State selections.

TITLE V—ALASKA LAND CLAIMS HEARINGS AND APPEALS

Sec. 501. Alaska land claims hearings and appeals.

TITLE VI—REPORT AND AUTHORIZATION OF APPROPRIATIONS
Sec. 601. Report.
Sec. 602. Authorization of appropriations.

### SEC. 2. DEFINITIONS.

In this Act:

(1) Native allotment.—The term "Native allotment" means an allotment claimed under the Act of May 17, 1906 (34 Stat. 197, chapter 2469).

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

(3) State.—The term "State" means the State of Alaska.

## TITLE I—STATE SELECTIONS AND CONVEYANCES

### SEC. 101. COMMUNITY GRANT SELECTIONS AND CONVEYANCES.

(a) In General.—Section 6 of Public Law 85–508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340) is amehded by adding at the end the following:

"(n) The minimum tract selection size is waived with respect to a selection made by the State of Alaska under subsection (a) for the following selections:

| National Forest Community Grant Application Number | Area Name | Est. Acres |
|---|---|---|
| 209 | Yakutat Airport Addition | 111 |
| 264 | Bear Valley (Portage) | 120 |
| 284 | Hyder-Fish Creek | 61 |
| 310 | Elfin Cove | 37 |
| 384 | Edna Bay Admin Site | 37 |
| 390 | Point Hilda | 29.". |

(b) Community Grant Selections.—Section 6 of Public Law 85–508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340) (as amended by subsection (a)) is amended by adding at the end the following:

"(o)(1) The State of Alaska may elect to convert a selection filed under subsection (b) to a selection under subsection (a) by notifying the Secretary of the Interior in writing.

"(2) If the State of Alaska makes an election under paragraph (1), the entire selection shall be converted to a selection under subsection (a).

"(3) The Secretary of the Interior shall not convey a total of more than 400,000 acres of public domain land selected under subsection (a) or converted under paragraph (1) to a public domain selection under subsection (a).

"(4) Conversion of a selection under paragraph (1) shall not increase the survey obligation of the United States with respect to the land converted.

"(p) All selection applications of the State of Alaska that are on file with the Secretary of the Interior under the public domain provisions of subsection (a) on the date of enactment of this subsection and any selection applications that are converted to a subsection (a) selection under subsection (o)(1) are approved as suitable for community or recreational purposes.".

### SEC. 102. PRIORITIZATION OF LAND TO BE CONVEYED.

Section 906(h)(2) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(h)(2)) is amended—

(1) by striking "(2) As soon as practicable" and inserting the following:

"(2)(A) As soon as practicable";

(2) by striking "The sequence of" and inserting the following:

"(B)(i) The sequence of"; and

(3) by adding at the end the following:

"(ii) In establishing the priorities for tentative approval under clause (i), the State shall—

"(I) in the case of a selection under section 6(a) of Public Law 85-508 (commonly known as the 'Alaska Statehood Act') (72 Stat. 340), include all land selected; or

"(II) in the case of a selection under section 6(b) of that Act—

"(aa) include at least 5,760 acres; or

"(bb) if a waiver has been granted under section 6(g) of that Act or less than 5,760 acres of the entitlement remains, prioritize the selection in such increments as are available for conveyance.".

### SEC. 103. SELECTION OF CERTAIN REVERSIONARY INTERESTS HELD BY THE UNITED STATES.

(a) In General.—All reversionary interests held by the United States in land owned by the State or any political subdivision of the State and any Federal land leased by the State under the Act of August 23, 1950 (25 U.S.C. 293b), or the Act of June 4, 1953 (25 U.S.C. 293a), that is prioritized for conveyance by the State under section 906(h)(2) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(h)(2))—

(1) are deemed to be selected; and

(2) may, with the concurrence of the Secretary or the head of the Federal agency with administrative jurisdiction over the land, be conveyed under section 6 of Public Law 85–508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340).

(b) Effect on Entitlement.—If, before the date of enactment of this Act, the entitlement of the State has not been charged with respect to a parcel for which a reversionary interest is conveyed under subsection (a), the total acreage of the parcel shall be charged against the remaining entitlement of the State.

(c) Minimum Acreage Requirement Not Applicable.—The minimum acreage requirement under subsections (a) and (b) of section 6 of Public Law 85–508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340) shall not apply to the selection of reversionary interests under subsection (a).

(d) State Waiver.—On conveyance to the State of any reversionary interest selected under subsection (a), the State shall be deemed to have waived all right to any future credit should the reversion not occur.

(e) Limitation.—This section shall not apply to—

(1) reversionary interests in land acquired by the United States through the use of amounts from the Exxon Valdez Oil Spill Trust Fund; or

(2) reversionary interests in any land conveyed to the State as a result of the "Terms and Conditions for Land Consolidation and Management in Cook Inlet Area" as ratified by section 12 of Public Law 94–204 (43 U.S.C. 1611 note).

### SEC. 104. EFFECT OF HYDROELECTRIC WITHDRAWALS.

(a) Land Withdrawn, Reserved, or Classified for Power Site or Power Project Purposes.—If the State has filed a future selection application under section 906(e) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(e)) for land withdrawn, reserved, or classified for power site or power project purposes, notwithstanding the withdrawal, reservation, or classification for power site or power project purposes, the following parcels of land shall be deemed to be vacant, unappropriated, and unreserved within the meaning of Public Law 85–508 (commonly known as the "Alaska Statehood Act") (72 Stat. 339):

| Serial Number | Area Name | General Selection Application Number |
|---|---|---|
| AKAA 058747 ....... | Bradley Lake | GS 5141 |
| AKAA 058848 ....... | Bradley Lake | GS 44 |
| AKAA 058266 ....... | Eagle River/ Ship Creek/ Peters Creek | GS 1429 |
| AKAA 058265 ....... | Eagle River/ Ship Creek/ Peters Creek | GS 1209 |
| AKAA 058374 ....... | Salmon Creek | GS 327 |
| AKF 031321 ......... | Nenana River | GS 2182 |
| AKAA 059056 ....... | Solomon Gulch at Valdez | GS 86 |
| AKFF 085798 ....... | Kruzgamepa River Pass Creek | GS 4096. |

(b) Limitation.—Subsection (a) does not apply to any land that is—

(1) located within the boundaries of a conservation system unit (as defined in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102)); or

(2) otherwise unavailable for conveyance under Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 339).

(c) Requirement Applicable to National Forest System Land.—Any land described in subsection (a) that is in a unit of the National Forest System shall not be conveyed unless the Secretary of Agriculture approved the State selection before January 3, 1994.

(d) Requirements Applicable to Hydroelectric Applications and Licensed Projects.—

(1) Hydroelectric applications.—Any selection of land described in subsection (a) that is included in a hydroelectric application—

(A) shall be subject to the jurisdiction of the Federal Energy Regulatory Commission; and

(B) shall not be conveyed while the hydroelectric application is pending.

(2) Licensed project.—Any selection of land described in subsection (a) that is included in a licensed project shall be subject to—

(A) the jurisdiction of the Federal Energy Regulatory Commission;

(B) the rights of third parties; and

(C) the right of reentry under section 24 of the Federal Power Act (16 U.S.C. 818).

(e) Effect of Section.—Nothing in this section negates or diminishes any right of an applicant to petition for restoration and opening of land withdrawn or classified for power purposes under section 24 of the Federal Power Act (16 U.S.C. 818).

### SEC. 105. ENTITLEMENT FOR THE UNIVERSITY OF ALASKA.

(a) In General.—As of January 1, 2003, the remaining State entitlement for the benefit of the University of Alaska under the Act of January 21, 1929 (45 Stat. 1091, chapter 92), is 456 acres.

(b) Reversionary Interests.—The Act of January 21, 1929 (45 Stat. 1091, chapter 92), is amended by adding at the end the following:

"Sec. 3. (a) The State of Alaska (referred to in this Act as the 'State'), acting on behalf of, and with the approval of, the University of Alaska, may select—

"(1) any mineral interest (including an interest in oil or gas) in land located in the State, the unreserved portion of which is owned by the University of Alaska; or

"(2) any reversionary interest held by the United States in land located in the State, the unreserved portion of which is owned by the University of Alaska.

"(b) The total acreage of any parcel of land for which a partial interest is conveyed under subsection (a) shall be charged against the remaining entitlement of the State under this Act.

"(c) In taking title to a reversionary interest, the State, with the approval of the University of Alaska, waives all right to any future acreage credit if the reversion does not occur.

"SEC. 4. The Secretary may survey any vacant, unappropriated, and unreserved land in the State for purposes of allowing selections under this Act.

"SEC. 5. The authorized outstanding selections under this Act shall be not more than—

"(1) 125 percent of the remaining entitlement; plus

"(2) the number of acres of land that are in conflict with land owned by the University of Alaska, as identified in Native allotment applications on record with the Bureau of Land Management.".

### SEC. 106. SETTLEMENT OF REMAINING ENTITLEMENT.

(a) IN GENERAL.—The Secretary may enter into a binding written agreement with the State with respect to—

(1) the exact number and location of acres of land remaining to be conveyed under each entitlement established or confirmed by Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340), from—

(A) the land selected by the State as of January 3, 1994; and

(B) selections under the Act of January 21, 1929 (45 Stat. 1091, chapter 92);

(2) the priority in which the land is to be conveyed;

(3) the relinquishment of selections which are not to be conveyed; and

(4) the survey of the exterior boundaries of the land to be conveyed.

(b) CONSULTATION.—Before entering into an agreement under subsection (a), the Secretary shall ensure that any concerns or issues identified by any Federal agency potentially affected are given consideration.

(c) ERRORS.—The State, by entering into an agreement under subsection (a), shall receive any gain or bear any loss that results from errors in prior surveys, protraction diagrams, or the computation of the ownership of third parties on any land conveyed under an agreement entered into under subsection (a).

(d) AVAILABILITY OF AGREEMENTS.—Agreements entered into under subsection (a) shall be available for public inspection in the appropriate offices of the Department of the Interior.

(e) EFFECT.—Nothing in this section increases the entitlement provided to the State under Public Law 85–508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340), or the Act of January 21, 1929 (45 Stat. 1091, chapter 92).

### SEC. 107. EFFECT OF FEDERAL MINING CLAIMS.

(a) CONDITIONAL RELINQUISHMENTS.—

(1) IN GENERAL.—To facilitate the conversion of Federal mining claims to State mining claims on land selected or topfiled by the State, a Federal mining claimant may file with the Secretary a voluntary relinquishment of the Federal mining claim conditioned on conveyance of the land to the State.

(2) CONVEYANCE OF RELINQUISHED CLAIM.—The Secretary may convey the land described in the relinquished Federal mining claim to the State if, with respect to the land—

(A) the State has filed as of January 3, 1994—

(i) a selection application under Public Law 85–508 (commonly known as the "Alaska Statehood Act") (72 Stat. 339); or

(ii) a future selection application under section 906(e) of the Alaska National Interest Lands Conservation Act 43 U.S.C. 1635(e)); and

(B) the land addressed by the selection application or future selection application is conveyed to the State.

(3) OBLIGATIONS UNDER FEDERAL LAW.—Until the date on which the land is conveyed under paragraph (2), a Federal mining claimant shall be subject to any obligations relating to the land under Federal law.

(4) NO RELINQUISHMENT.—If the land previously encumbered by the relinquished Federal mining claim is not conveyed to the State under paragraph (2), the relinquishment of land under paragraph (1) shall be of no effect.

(b) RIGHTS-OF-WAY; OTHER INTEREST.—On conveyance to the State of a relinquished Federal mining claim under this section, the State shall assume authority over any leases, licenses, permits, rights-of-way, operating plans, other land use authorizations, or reclamation obligations applicable to the relinquished Federal mining claim on the date of conveyance.

### SEC. 108. LAND MISTAKENLY RELINQUISHED OR OMITTED.

Notwithstanding the selection deadlines under section 6(a) of Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340)—

(1) the State selection application AA-17607 NFCG 75, located in the Chugach National Forest, is reinstated to the parcels of land originally selected in 1978, which are more particularly described as—

(A) S½ sec. 14, T. 11 S., R. 11 W., of the Copper River Meridian;

(B) S½ sec. 15, T. 11 S., R. 11 W., of the Copper River Meridian;

(C) E½SE¼ sec. 16, T. 11 S., R. 11 W., of the Copper River Meridian;

(D) E½, E½W½, SW¼SW¼ sec. 21, T. 11 S., R. 11 W., of the Copper River Meridian;

(E) N½, SW¼, N½SE¼ sec. 22, T. 11 S., R. 11 W., of the Copper River Meridian;

(F) N½, SW¼, N½SE¼ sec. 23, T. 11 S., R. 11 W., of the Copper River Meridian;

(G) NW¼ sec. 27, T. 11 S., R. 11 W., of the Copper River Meridian; and

(H) N½N½, SE¼NE¼ sec. 28, T. 11 S., R. 11 W., of the Copper River Meridian; and

(2) the following parcels of land are considered topfiled under section 906(e) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 1635(e)):

(A) The parcels of land omitted from the State's topfiling of the Utility and Transportation Corridor, and other parcels of land encompassing the Trans-Alaska Pipeline System, withdrawn by Public Land Order No. 5150 (except for any land within the boundaries of a conservation system unit), which are more particularly described as—

(i) secs. 1-30, 32-36, T. 27 N., R. 11 W., of the Fairbanks Meridian;

(ii) secs. 10, 13–18, 21-28, and 33-36, T. 20 N., R. 13 W., of the Fairbanks Meridian;

(iii) secs. 13, 14, and 15, T. 20 N., R. 14 W., of the Fairbanks Meridian;

(iv) secs. 1-5, 8-17, and 20-28, T. 19 N., R. 13 W., of the Fairbanks Meridian;

(v) secs. 29-32, T. 20 N., R. 16 W., of the Fairbanks Meridian;

(vi) secs. 5–11, 14–23, and 25–36, T. 19 N., R. 16 W., of the Fairbanks Meridian;

(vii) secs. 30 and 31, T. 19 N., R. 15 W., of the Fairbanks Meridian;

(viii) secs. 5 and 6, T. 18 N., R. 15 W., of the Fairbanks Meridian;

(ix) secs. 1–2 and 7–34, T. 16 N., R. 14 W., of the Fairbanks Meridian; and

(x) secs. 4-9, T. 15 N., R. 14 W., of the Fairbanks Meridian.

(B) Secs. 1, 2, 11-14, T. 10 S., R. 42 W., of the Seward Meridian.

## TITLE II—ALASKA NATIVE CLAIMS SETTLEMENT ACT

### SEC. 201. LAND AVAILABLE AFTER SELECTION PERIOD.

(a) IN GENERAL.—To make certain Federal land available for conveyance to a Native Corporation that has sufficient remaining entitlement, the Secretary may waive the filing deadlines under sections 12 and 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1615) if—

(1) the Federal land is—

(A) located in a township in which all or any part of a Native Village is located; or

(B) surrounded by—

(i) land that is owned by the Native Corporation; or

(ii) selected land that will be conveyed to the Native Corporation;

(2) the Federal land—

(A) became available after the end of the original selection period;

(B)(i) was not selected by the Native Corporation because the Federal land was subject to a competing claim or entry; and

(ii) the competing claim or entry has lapsed; or

(C) was previously an unavailable Federal enclave within a Native selection withdrawal area;

(3)(A) the Secretary provides the Native Corporation with a specific time period in which to decline the Federal land; and

(B) the Native Corporation does not submit to the Secretary written notice declining the land within the period established under subparagraph (A); and

(4) the State has voluntarily relinquished any valid State selection or top-filing for the Federal land.

(b) CONGRESSIONAL ACTION.—Subsection (a) shall not apply to a parcel of Federal land if Congress has specifically made other provisions for disposition of the parcel of Federal land.

### SEC. 202. COMBINED ENTITLEMENTS.

Section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611) is amended—

(1) in the second sentence of subsection (b), by striking "Regional Corporation shall" and inserting "Regional Corporation shall, not later than October 1, 2005,"; and

(2) by adding at the end the following:

"(f)(1) The entitlements received by any Village Corporation under subsection (a) and the reallocations made to the Village Corporation under subsection (b) may be combined, at the discretion of the Secretary, without—

"(A) increasing or decreasing the combined entitlement; or

"(B) increasing the limitation on selections of Wildlife Refuge System land, National Forest System land, or State-selected land under subsection (a).

"(2) The combined entitlement under paragraph (1) may be fulfilled from selections under subsection (a) or (b) without regard to the entitlement specified in the selection application.

"(3) All selections under a combined entitlement under paragraph (1) shall be adjudicated and conveyed in compliance with this Act.

"(4) Except in a case in which a survey has been contracted for before the date of enactment of this subsection, the combination of entitlements under paragraph (1) shall not require separate patents or surveys, to distinguish between conveyances made to a Village Corporation under subsections (a) and (b).".

### SEC. 203. AUTHORITY TO CONVEY BY WHOLE SECTION.

Section 14(d) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(d)) is amended—

(1) by striking "(d) the Secretary" and inserting the following:

"(d)(1) The Secretary"; and

(2) by adding at the end the following:

"(2) For purposes of applying the rule of approximation under this section, the largest legal subdivision that may be conveyed in excess of the applicable acreage limitation specified in subsection (a) shall be—

"(A) in the case of land managed by the Bureau of Land Management that is not within a conservation system unit, the next whole section;

"(B) in the case of land managed by an agency other than the Bureau of Land Management that is not within a conservation system unit, the next quarter-section and only with concurrence of the agency; or

"(C) in the case of land within a conservation system unit, a quarter of a quarter section, and if the land is managed by an agency other than the Bureau of Land Management, only with the concurrence of that agency.

"(3)(A) If the Secretary determines pursuant to paragraph (2) that an entitlement of a Village Corporation (other than a Village Corporation listed in section 16(a)) or a Regional Corporation may be fulfilled by conveying a specific tract of surveyed or unsurveyed land, the Secretary and the affected Village or Regional Corporation may enter into an agreement providing that all land entitlements under this Act shall be deemed satisfied by conveyance of the specifically identified and agreed upon tract of land.

"(B) An agreement entered into under subparagraph (A) shall be—

"(i) in writing;

"(ii) executed by the Secretary and the Village or Regional Corporation; and

"(iii) authorized by a corporate resolution adopted by the affected Village or Regional Corporation.

"(C) After execution of an agreement under subparagraph (A) and conveyance of the agreed upon tract to the affected Village or Regional Corporation—

"(i) the Secretary shall not make any further adjustments to calculations relating to acreage entitlements of the Village or Regional Corporation; and

"(ii) the Village or Regional Corporation shall not be entitled to any further conveyances under this Act.

"(D) A Village or Regional Corporation shall not be eligible to receive land under subparagraph (A) if the Village or Regional Corporation has received the full land entitlement of the Village or Regional Corporation through—

"(i) an actual conveyance of land; or

"(ii) a previous agreement.

"(E) If the calculations of the Secretary indicate that the final survey boundaries for any Village or Regional Corporation entitlement for which an agreement has not been entered into under this paragraph include acreage in a quantity that exceeds the statutory entitlement of the corporation by $\frac{1}{10}$ of 1 percent or less, but not more than the applicable acreage limitation specified in paragraph (2)—

"(i) the entitlement shall be considered satisfied by the conveyance of the surveyed area; and

"(ii) the Secretary shall not change the survey for the sole purpose of an acreage adjustment.

"(F) This paragraph does not limit or otherwise affect the ability of a Village or Regional Corporation to enter into land exchanges with the United States.".

### SEC. 204. CONVEYANCE OF CEMETERY SITES AND HISTORICAL PLACES.

Section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) is amended—

(1) by striking "(1) The Secretary" and inserting the following:

"(1)(A) The Secretary";

(2) by striking "Only title" and inserting the following:

"(B) Only title"; and

(3) by adding at the end the following:

"(C)(i) Notwithstanding acreage allocations made before the date of enactment of this subparagraph, the Secretary may convey any cemetery site or historical place—

"(I) with respect to which there is an application on record with the Secretary on the date of enactment of this paragraph; and

"(II) that is eligible for conveyance.

"(ii) Clause (i) shall also apply to any of the 188 closed applications that are determined to be eligible and reinstated under Secretarial Order No. 3220 dated January 5, 2001.

"(D) No applications submitted for the conveyance of land under subparagraph (A) that were closed before the date of enactment of this paragraph may be reinstated other than those specified in subparagraph (C)(ii).

"(E) After the date of enactment of this paragraph—

"(i) no application may be filed for the conveyance of land under subparagraph (A); and

"(ii) no pending application may be amended, except as necessary to conform the application to the description in the certification of eligibility of the Bureau of Indian Affairs.

"(F) Unless, not later than 1 year after the date of enactment of this paragraph, a Regional Corporation that has filed an application for a historic place submits to the Secretary a statement on the significance of and the location of the historic place—

"(i) the application shall not be valid; and

"(ii) the Secretary shall reject the application.

"(G) The State and the head of the Federal agency with administrative jurisdiction over the land shall have 30 days to provide written comments to the Secretary—

"(i) identifying any third party interest to which a conveyance under subparagraph (A) should be made subject; and

"(ii) describing any easements recommended for reservation.".

### SEC. 205. ALLOCATIONS BASED ON POPULATION.

Section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)) is amended by adding at the end the following:

"(C)(i) Notwithstanding any other provision of this subsection, as soon as practicable after enactment of this subparagraph, the Secretary shall allocate to a Regional Corporation eligible for an allocation under subparagraph (A) the Regional Corporation's share of 200,000 acres from lands withdrawn under this subsection, to be credited against acreage to be allocated to the Regional Corporation under subparagraph (A).

"(ii) Clause (i) shall apply to Chugach Alaska Corporation pursuant to the terms of the 1982 CNI Settlement Agreement.

"(iii) With respect to Cook Inlet Region, Inc., or Koniag, Inc.—

"(I) clause (i) shall not apply; and

"(II) the portion of the 200,000 acres allocated to Cook Inlet Region Inc. or Koniag, Inc., shall be retained by the United States.

"(iv) This subparagraph shall not affect any prior agreement entered into by a Regional Corporation other than the agreements specifically referred to in this subparagraph.".

### SEC. 206. AUTHORITY TO WITHDRAW LAND.

Section 14(h)(10) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(10)) is amended—

(1) by striking "(10) Notwithstanding" and inserting the following:

"(10)(A) Notwithstanding"; and

(2) by adding at the end the following:

"(B) If a Regional Corporation does not have enough valid selections on file to fulfill the remaining entitlement of the Regional Corporation under paragraph (8), the Secretary may use the withdrawal authority under subparagraph (A) to withdraw land that is vacant, unappropriated, and unreserved on the date of enactment of this subparagraph for selection by, and conveyance to, the Regional Corporation to fulfill the entitlement.".

### SEC. 207. REPORT ON WITHDRAWALS.

Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(1) review the withdrawals made pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)) to determine if any portion of the lands withdrawn pursuant to that provision can be opened to appropriation under the public land laws or if their withdrawal is still needed to protect the public interest in those lands;

(2) provide an opportunity for public notice and comment, including recommendations with regard to lands to be reviewed under paragraph (1); and

(3) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that identifies any portion of the lands so withdrawn that can be opened to appropriation under the public land laws consistent with the protection of the public interest in these lands.

### SEC. 208. AUTOMATIC SEGREGATION OF LAND FOR UNDERSELECTED VILLAGE CORPORATIONS.

Section 22(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)) is amended by adding at the end the following:

"(3) In lieu of withdrawal under paragraph (2), land may be segregated from all other forms of appropriation for the purposes described in that paragraph if—

"(A) the Secretary and the Village Corporation enter into an agreement identifying the land for selection; and

"(B) the Village Corporation files an application for selection of the land.".

### SEC. 209. SETTLEMENT OF REMAINING ENTITLEMENT.

(a) IN GENERAL.—The Secretary may enter into a binding written agreement with a Native Corporation relating to—

(1) the land remaining to be conveyed to the Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) from land selected as of September 1, 2004, or land made available under section 201, 206, or 208 of this Act;

(2) the priority in which the land is to be conveyed;

(3) the relinquishment of selections which are not to be conveyed;

(4) the selection entitlement to which selections are to be charged, regardless of the entitlement under which originally selected;

(5) the survey of the exterior boundaries of the land to be conveyed;

(6) the additional survey to be performed under section 14(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(c)); and

(7) the resolution of conflicts with Native allotment applications.

(b) Requirements.—An agreement under subsection (a)—

(1) shall be authorized by a resolution of the Native Corporation entering into the agreement; and

(2) shall include a statement that the entitlement of the Native Corporation shall be considered complete on execution of the agreement.

(c) Correction of Conveyance Documents.—In an agreement under subsection (a), the Secretary and the Native Corporation may agree to make technical corrections to the legal description in the conveyance documents for easements previously reserved so that the easements provide the access intended by the original reservation.

(d) Consultation.—Before entering into an agreement under subsection (a), the Secretary shall ensure that the concerns or issues identified by the State and all Federal agencies potentially affected by the agreement are given consideration.

(e) Errors.—Any Native Corporation entering into an agreement under subsection (a) shall receive any gain or bear any loss resulting from errors in prior surveys, protraction diagrams, or computation of the ownership of third parties on any land conveyed.

(f) Effect.—

(1) In general.—An agreement under subsection (a) shall not—

(A) affect the obligations of Native Corporations under prior agreements; or

(B) result in a Native Corporation relinquishing valid selections of land in order to qualify for the withdrawal of other tracts of land.

(2) Effect on subsurface rights.—The terms of an agreement entered into under subsection (a) shall be binding on a Regional Corporation with respect to the location and quantity of subsurface rights of the Regional Corporation under section 14(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(f)).

(3) Effect on entitlement.—Nothing in this section increases the entitlement provided to any Native Corporation under—

(A) the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or

(B) the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

(g) Boundaries of a Native Village.—An agreement entered into under subsection (a) may not define the boundaries of a Native Village.

(h) Availability of Agreements.—An agreement entered into under subsection (a) shall be available for public inspection in the appropriate offices of the Department of the Interior.

## TITLE III—NATIVE ALLOTMENTS

### SEC. 301. CORRECTION OF CONVEYANCE DOCUMENTS.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) is amended by adding at the end the following:

"(d)(1) If an allotment application is valid or would have been approved under section 905 of the Alaska National Interests Lands Conservation Act (43 U.S.C. 1634) had the land described in the application been in Federal ownership on December 2, 1980, the Secretary may correct a conveyance to a Native Corporation or to the State that includes land described in the allotment application to exclude the described allotment land with the written concurrence of the Native Corporation or the State.

"(2) A written concurrence shall—

"(A) include a finding that the land description proposed by the Secretary is acceptable; and

"(B) attest that the Native Corporation or the State has not—

"(i) granted any third party rights or taken any other action that would affect the ability of the United States to convey full title under the Act of May 17, 1906 (34 Stat. 197, chapter 2469); and;

"(ii) stored or allowed the deposit of hazardous waste on the land.

"(3) On receipt of an acceptable written concurrence, the Secretary, shall—

"(A) issue a corrected conveyance document to the State or Native Corporation, as appropriate; and

"(B) issue a certificate of allotment to the allotment applicant.

"(4) No documents of reconveyance from the State or an Alaska Native Corporation or evidence of title, other than the written concurrence and attestation described in paragraph (2), are necessary to use the procedures authorized by this subsection.".

### SEC. 302. TITLE RECOVERY OF NATIVE ALLOTMENTS.

(a) In General.—In lieu of the process for the correction of conveyance documents available under subsection (d) of section 18 of the Alaska Native Claims Settlement Act (as added by section 301), any Native Corporation may elect to reconvey all of the land encompassed by an allotment claim or a portion of the allotment claim agreeable to the applicant in satisfaction of the entire claim by tendering a valid and appropriate deed to the United States.

(b) Certificate of Allotment.—If the United States determines that the allotment application is valid or would have been approved under section 905 of the Alaska National Interests Lands Conservation Act (42 U.S.C. 1634) had the land described in the allotment application been in Federal ownership on December 2, 1980, and obtains title evidence acceptable under the Department of Justice title standards, the United States shall accept the deed from the Native Corporation and issue a certificate of allotment to the allotment applicant.

(c) Probate Not Required.—If the Native Corporation reconveys the entire interest of the Native Corporation in the allotment claim of a deceased applicant, the United States may accept the deed and issue the certificate of allotment without waiting for a determination of heirs or the approval of a will.

(d) No Liability.—The United States shall not be subject to liability under Federal or State law for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to, and transfer by, the United States of land or interests in land under this section.

### SEC. 303. NATIVE ALLOTMENT REVISIONS ON LAND SELECTED BY OR CONVEYED TO A NATIVE CORPORATION.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) (as amended by section 301) is amended by adding at the end the following:

"(e)(1) An allotment applicant who had an application pending before the Department of the Interior on December 18, 1971, and whose application is still open on the records of the Department of the Interior as of the date of enactment of this subsection may revise the land description in the application to describe land other than the land that the applicant originally intended to claim if—

"(A) the application—

"(i) describes land selected by or conveyed by interim conveyance or patent to a Native Corporation formed to receive benefits under this Act; or

"(ii) otherwise conflicts with an interest in land granted to a Native Corporation by the United States;

"(B) the revised land description describes land selected by or conveyed by interim conveyance or patent to a Native Corporation of approximately equal acreage in substitution for the land described in the original application;

"(C) the Director of the Bureau of Land Management has not adopted a final plan of survey for the final entitlement of the Native Corporation or its successor in interest; and

"(D) the Native Corporation that selected the land or its successor in interest provides a corporate resolution authorizing reconveyance or relinquishment to the United States of the land, or interest in land, described in the revised application.

"(2) The land description in an allotment application may not be revised under this section unless the Secretary has determined—

"(A) that the allotment application is valid or would have been approved under section 905 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634) had the land in the allotment application been in Federal ownership on December 2, 1980;

"(B) in consultation with the administering agency, that the proposed revision would not create an isolated inholding within a conservation system unit (as defined in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102)); and

"(C) that the proposed revision will facilitate completion of a land transfer in the State.

"(3)(A) On obtaining title evidence acceptable under Department of Justice title standards and acceptance of a reconveyance or relinquishment from a Native Corporation under paragraph (1), the Secretary shall issue a Native allotment certificate to the applicant for the land reconveyed or relinquished by the Native Corporation.

"(B) Any allotment revised under this section shall, when allotted, be made subject to any easement, trail, right-of-way, or any third-party interest (other than a fee interest) in existence on the revised allotment land on the date of revision.".

### SEC. 304. COMPENSATORY ACREAGE.

(a) In General.—The Secretary shall adjust the acreage entitlement computation records for the State or an affected Native Corporation to account for any difference in the amount of acreage between the corrected description and the previous description in any conveyance document as a result of actions taken under section 18(d) of the Alaska Native Claims Settlement Act (as added by section 301) or section 18(e) of the Alaska Native Claims Settlement Act (as added by section 303), or for other voluntary reconveyances to the United States for the purpose of facilitating land transfers in the State.

(b) Limitation.—No adjustment to the acreage conveyance computations shall be made where the State or an affected Native Corporation retains a partial estate in the described allotment land.

(c) Availability of Additional Land.—If, as a result of implementation under section 18(d) of the Alaska Native Claims Settlement

Act (as added by section 301) or any voluntary reconveyance to facilitate a land transfer, a Village Corporation has insufficient remaining selections from which to receive its full entitlement under the Alaska Native Claims Settlement Act, the Secretary may use the authority and procedures available under paragraph (3) of section 22(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)) (as added by section 208) to make additional land available for selection by the Village Corporation.

### SEC. 305. REINSTATEMENTS AND RECONSTRUCTIONS.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) (as amended by section 303) is amended by adding at the end the following:

"(f)(1) If an applicant for a Native allotment filed under the Act of May 17, 1906 (34 Stat. 197, chapter 2469) petitions the Secretary to reinstate a previously closed Native allotment application or to accept a reconstructed copy of an application claimed to have been timely filed with an agency of the Department of the Interior, the United States—

"(A) may seek voluntary reconveyance of any land described in the application that is reinstated or reconstructed after the date of enactment of this subsection; but

"(B) shall not file an action in any court to recover title from a current landowner.

"(2) A certificate of allotment that is issued for any allotment application for which a request for reinstatement or reconstruction is received or accepted after the date of enactment of this subsection shall be made subject to any Federal appropriation, trail, right-of-way, easement, or existing third party interest of record, including third party interests created by the State, without regard to the date on which the Native allotment applicant initiated use and occupancy.".

### SEC. 306. AMENDMENTS TO SECTION 41 OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.

Section 41(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629g(b)) is amended—

(1) in paragraph (1)(A), by inserting before the semicolon at the end the following: "(except that the term 'nonmineral', as used in that Act, shall for the purpose of this subsection be defined as provided in section 905(a)(3) of the Alaska National Interest Lands Conservation Act (42 U.S.C. 1634(a)(3)), except that such definition shall not apply to land within a conservation system unit)"; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and indenting the clauses appropriately;

(B) by inserting "(A)" after "(2)";

(C) in clause (ii) (as redesignated by subparagraph (A)), by inserting after "Department of Veterans Affairs" the following: "or based on other evidence acceptable to the Secretary"; and

(D) by adding at the end the following:

"(B)(i) If the Secretary requests that the Secretary of Veterans Affairs make a determination whether a veteran died as a direct consequence of a wound received in action, the Secretary of Veterans Affairs shall, within 60 days of receipt of the request—

"(I) provide a determination to the Secretary if the records of the Department of Veterans Affairs contain sufficient information to support such a determination; or

"(II) notify the Secretary that the records of the Department of Veterans Affairs do not contain sufficient information to support a determination and that further investigation will be necessary.

"(ii) Not later than 1 year after notification to the Secretary that further investigation is necessary, the Department of Veterans Affairs shall complete the investigation and provide a determination to the Secretary.".

## TITLE IV—FINAL PRIORITIES; CONVEYANCE AND SURVEY PLANS

### SEC. 401. DEADLINE FOR ESTABLISHMENT OF REGIONAL PLANS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary, in coordination and consultation with Native Corporations, other Federal land management agencies, and the State, shall update and revise the 12 preliminary Regional Conveyance and Survey Plans.

(b) INCLUSIONS.—The updated and revised plans under subsection (a) shall identify any conflicts to be resolved and recommend any actions that should be taken to facilitate the finalization of land conveyances in a region by 2009.

### SEC. 402. DEADLINE FOR ESTABLISHMENT OF VILLAGE PLANS.

Not later than 30 months after the date of enactment of this Act, the Secretary, in coordination with affected Federal land management agencies, the State, and Village Corporations, shall complete a final closure plan with respect to the entitlements for each Village Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

### SEC. 403. FINAL PRIORITIZATION OF ANCSA SELECTIONS.

(a) IN GENERAL.—Any Native Corporation that has not received its full entitlement or entered into a voluntary, negotiated settlement of final entitlement shall submit the final, irrevocable priorities of the Native Corporation—

(1) in the case of a Village, Group, or Urban Corporation entitlement, not later than 36 months after the date of enactment of this Act; and

(2) in the case of a Regional Corporation entitlement, not later than 42 months after the date of enactment of this Act.

(b) ACREAGE LIMITATIONS.—The priorities submitted under subsection (a) shall not exceed land that is the greater of—

(1) not more than 125 percent of the remaining entitlement; or

(2) not more than 640 acres in excess of the remaining entitlement.

(c) CORRECTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the priorities submitted under subsection (a) may not be revoked, rescinded, or modified by the Native Corporation.

(2) TECHNICAL CORRECTIONS.—Not later than 90 days after the date of receipt of a notification by the Secretary that there appears to be a technical error in the priorities, the Native Corporation may correct the technical error in accordance with any recommendations of, and in a manner prescribed by or acceptable to, the Secretary.

(d) RELINQUISHMENT.—

(1) IN GENERAL.—As of the date on which the Native Corporation submits its final priorities under subsection (a)—

(A) any unprioritized, remaining selections of the Native Corporation—

(i) are relinquished, but any part of the selections may be reinstated for the purpose of correcting a technical error; and

(ii) have no further segregative effect; and

(B) all withdrawals under sections 11 and 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610, 1615) under the relinquished selections are terminated.

(2) RECORDS.—All relinquishments under paragraph (1) shall be included in Bureau of Land Management land records.

(e) FAILURE TO SUBMIT PRIORITIES.—If a Native Corporation fails to submit priorities by the deadline specified in subsection (a)—

(1) with respect to a Native Corporation that has priorities on file with the Secretary, the Secretary—

(A) shall convey to the Native Corporation the remaining entitlement of the Native Corporation, as determined based on the most recent priorities of the Native Corporation on file with the Secretary and in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

(B) may reject any selections not needed to fulfill the entitlement; or

(2) with respect to a Native Corporation that does not have priorities on file with the Secretary, the Secretary shall satisfy the entitlement by conveying land selected by the Secretary, in consultation with the appropriate Native Corporation, the Federal land managing agency with administrative jurisdiction over the land to be conveyed, and the State, that, to the maximum extent practicable, is—

(A) compact;

(B) contiguous to land previously conveyed to the Native Corporation; and

(C) consistent with the applicable preliminary Regional Conveyance and Survey Plan referred to in section 401.

(f) PLAN OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall—

(A) identify any Native Corporation that does not have sufficient priorities on file;

(B) develop priorities for the Native Corporation in accordance with subsection (e); and

(C) provide to the Native Corporation a plan of conveyance based on the priorities developed under subparagraph (B).

(2) FINALIZED SELECTIONS.—Not later than 180 days after the date on which the Secretary provides a plan of conveyance to the affected Village, Group, or Urban Corporation and the Regional Corporation, the Regional Corporation shall finalize any Regional selections that are in conflict with land selected by the Village, Group, or Urban Corporation that has not been prioritized by the deadline under subsection (a)(1).

(g) DISSOLVED OR LAPSED CORPORATIONS.—

(1)(A) If a Native Corporation is lapsed or dissolved at the time final priorities are required to be filed under this section and does not have priorities on file with the Secretary, the Secretary shall establish a deadline for the filing of priorities that shall be one year from the provisions of notice of the deadline.

(B) To fulfill the notice requirement under paragraph (1), the Secretary shall—

(i) publish notice of the deadline to a lapsed or dissolved Native Corporation in a newspaper of general circulation nearest the locality where the affected land is located; and

(ii) seek to notify in writing the last known shareholders of the lapsed or dissolved corporation.

(C) If a Native Corporation does not file priorities with the Secretary before the deadline set pursuant to subparagraph (A), the Secretary shall notify Congress.

(2) If a Native Corporation with final priorities on file with the Bureau of Land Management is lapsed or dissolved, the United States—

(A) shall continue to administer the prioritized selected land under applicable law; but

(B) may reject any selections not needed to fulfill the lapsed or dissolved Native Corporation's entitlement.

### SEC. 404. FINAL PRIORITIZATION OF STATE SELECTIONS.

(a) Filing of Final Priorities.—

(1) In general.—The State shall, not later than the date that is 4 years after the date of enactment of this Act, in accordance with section 906(f)(1) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(f)(1)), file final priorities with the Secretary for all land grant entitlements to the State which remain unsatisfied on the date of the filing.

(2) Ranking.—All selection applications on file with the Secretary on the date specified in paragraph (1) shall—

(A) be ranked on a Statewide basis in order of priority; and

(B) include an estimate of the acreage included in each selection.

(3) Inclusions.—The State shall include in the prioritized list land which has been top-filed under section 906(e) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(e)).

(4) Acreage limitation.—

(A) In general.—Acreage for top-filings shall not be counted against the 125 percent limitation established under section 906(f)(1) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(f)(1)).

(B) Relinquishment.—

(i) In general.—The State shall relinquish any selections that exceed the 125 percent limitation.

(ii) Failure to relinquish.—If the State fails to relinquish a selection under clause (i), the Secretary shall reject the selection.

(5) Lower-priority selections.—Notwithstanding the prioritization of selection applications under paragraph (1), if the Secretary reserves sufficient entitlements for the top-filed selections, the Secretary may continue to convey lower-priority selections.

(b) Deadline for Prioritization.—

(1) In general.—The State shall irrevocably prioritize sufficient selections to allow the Secretary to complete transfer of 101,000,000 acres by September 30, 2009.

(2) Reprioritization.—Any selections remaining after September 30, 2009, may be reprioritized.

(c) Financial Assistance.—The Secretary may, using amounts made available to carry out this Act, provide financial assistance to other Federal agencies, the State, and Native Corporations and entities to assist in completing the transfer of land by September 30, 2009.

## TITLE V—ALASKA LAND CLAIMS HEARINGS AND APPEALS

### SEC. 501. ALASKA LAND CLAIMS HEARINGS AND APPEALS.

(a) Establishment.—The Secretary may establish a field office of the Office of Hearings and Appeals in the State to decide matters within the jurisdiction of the Department of the Interior involving hearings and appeals, and other review functions of the Secretary regarding land transfer decisions and Indian probates in the State.

(b) Appointments.—For purposes of carrying out subsection (a), the Secretary shall appoint administrative law judges selected in accordance with section 3105 of title 5, United States Code, and members of the Interior Board of Land Appeals.

## TITLE VI—REPORT AND AUTHORIZATION OF APPROPRIATIONS

### SEC. 601. REPORT.

(a) In General.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the status of the implementation of this Act.

(b) Contents.—The report shall—

(1) describe the status of conveyances to Alaska Natives, Native Corporations, and the State; and

(2) include recommendations for completing the conveyances required by this Act.

### SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. Gibbons) and the gentlewoman from the Virgin Islands (Mrs. Christensen) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. Gibbons).

#### GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate 1466 accelerates the process of conveying public land in Alaska under the Native Allotment Act of 1906, the Alaska Statehood Act of 1958, and the Alaska Native Claims Settlement Act of 1971.

Ninety million acres of Federal land entitlements intended for Alaska natives, the State of Alaska, and native corporations under these three acts are yet to be surveyed. While such lands may be selected or conveyed on an interim basis, full ownership of the lands is not enjoyed until the final conveyance. Existing procedures for transferring the lands affected by this bill are highly complex. Lawsuits and delays are inevitable as competing claims attempt to sort out the confusion. Senate 1466 enhances the ability of the Federal Government, the State, and Alaska natives to speed up the conveyance process through a more flexible process of negotiation and through authorization of appropriations to finish the necessary surveys of the land.

Mr. Speaker, I urge my colleagues to adopt this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1466 is intended to accelerate the transfer of millions of acres of Federal lands to Alaska natives, the State of Alaska, and to native corporations. Those individuals and entities are entitled to receive lands from the public domain under past acts of Congress.

As described by the sponsor's floor statement when the bill was introduced in July 2003, the land conveyance program in Alaska is the largest and most complex of any in United States history. Yet notwithstanding the complexity of this subject matter, there is very little legislative history concerning S. 1466. The bill was not reported by the Senate Energy Committee. An amendment was adopted on the Senate floor on October 10, but there is no statement or debate to explain what changes were made. And the House Resources Committee has neither held hearings nor a markup on this legislation.

Despite the curious absence of regular order, the majority has brought S. 1466 before the House today and intends to pass it along to the President without further scrutiny. S. 1466 is exclusively the product of the other body and apparently we have little choice but to hope that they got it right.

Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. Gibbons) that the House suspend the rules and pass the Senate bill, S. 1466.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

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## THREE AFFILIATED TRIBES HEALTH FACILITY COMPENSATION ACT

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1146) to implement the recommendations of the Garrison Unit Joint Tribal Advisory Committee by providing authorization for the construction of a rural health care facility on the Fort Berthold Indian Reservation, North Dakota.

The Clerk read as follows:

S. 1146

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Three Affiliated Tribes Health Facility Compensation Act".

### SEC. 2. FINDINGS.

Congress finds that—

(1) in 1949, the United States assumed jurisdiction over more than 150,000 prime acres on the Fort Berthold Indian Reservation, North Dakota, for the construction of the Garrison Dam and Reservoir;

(2) the reservoir flooded and destroyed vital infrastructure on the reservation, including a hospital of the Indian Health Service;

(3) the United States made a commitment to the Three Affiliated Tribes of the Fort Berthold Indian Reservation to replace the lost infrastructure;

(4) on May 10, 1985, the Secretary of the Interior established the Garrison Unit Joint Tribal Advisory Committee to examine the effects of the Garrison Dam and Reservoir on the Fort Berthold Indian Reservation;

(5) the final report of the Committee issued on May 23, 1986, acknowledged the obligation of the Federal Government to replace the infrastructure destroyed by the Federal action;

(6) the Committee on Indian Affairs of the Senate—

(A) acknowledged the recommendations of the final report of the Committee in Senate Report No. 102-250; and

(B) stated that every effort should be made by the Administration and Congress to provide additional Federal funding to replace the lost infrastructure; and

(7) on August 30, 2001, the Chairman of the Three Affiliated Tribes testified before the Committee on Indian Affairs of the Senate that the promise to replace the lost infrastructure, particularly the hospital, still had not been kept.

**SEC. 3. RURAL HEALTH CARE FACILITY, FORT BERTHOLD INDIAN RESERVATION, NORTH DAKOTA.**

The Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act is amended—

(1) in section 3504 (106 Stat. 4732), by adding at the end the following:

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section."; and

(2) by striking section 3511 (106 Stat. 4739) and inserting the following:

**"SEC. 3511. RURAL HEALTH CARE FACILITY, FORT BERTHOLD INDIAN RESERVATION, NORTH DAKOTA.**

"There are authorized to be appropriated to the Secretary of Health and Human Services $20,000,000 for the construction of, and such sums as are necessary for other expenses relating to, a rural health care facility on the Fort Berthold Indian Reservation of the Three Affiliated Tribes, North Dakota.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate 1146 was sponsored by the gentleman from North Dakota, Senator KENT CONRAD. It was reported by unanimous consent of the House Resources Committee on June 3, 2004.

This legislation fulfills a government commitment to replace a U.S. Public Health Service hospital serving the members of the Three Affiliated Tribes of the Fort Berthold Reservation. In the late 1940s, the hospital was destroyed in a flood resulting from the construction of the Garrison Dam and Reservoir Project by the U.S. Army Corps of Engineers and the Bureau of Reclamation. The flood forced the relocation of many Indian families, and it is long overdue that Congress fulfills all components of its pledge to compensate the tribe. I urge the speedy adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1948, then Chairman George Gillette of the Three Affiliated Tribes of Fort Berthold, North Dakota, wept as a contract was signed to sell over 150,000 acres of tribal land to the U.S. Government to build the Garrison Dam. Through his grief, Chairman Gillette stated, "We will sign this contract with a heavy heart. With a few scratches of the pen, we will sell the best part of our reservation. Right now, the future does not look good for us."

Chairman Gillette was correct as 80 percent of the tribe was forcibly relocated, 94 percent of their agricultural land was destroyed and their hospital flooded. Today, 56 years later, Chairman Gillette can now smile as we finally authorize this health care facility.

Over this period of time, there has been one reason or another not to fulfill this promise made to the tribes. In fact, we are only here today because of the hard work and determined persistence of several people. The North Dakota delegation, led by Senator CONRAD, the sponsor of this bill, has worked tirelessly to get this passed. Senators CONRAD and DORGAN and our colleague, the gentleman from North Dakota (Mr. POMEROY), deserve much of the credit. I also want to thank the gentleman from California (Mr. POMBO) for allowing this bill to come to the floor today.

I would truly be remiss, however, if I did not credit Tex Hall, chairman of the Three Affiliated Tribes of Fort Berthold, and Ranking Member RAHALL of the Committee on Resources for all of their efforts to get us here today. Certainly there is a connection through the years from Chairman Gillette to Chairman Hall which has kept the drumbeat alive and steady not to give up the fight for this facility. Ranking Member RAHALL heard that drum and took heed, making this bill a high priority. You see, Mr. Speaker, the gentleman from West Virginia knows all too well how promises made when resources are desired can quickly turn into devastated lands and broken promises. With that empathy, the gentleman from West Virginia kept pushing to get this bill heard today and I thank him.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. I thank my colleague for yielding me this time.

Mr. Speaker, this bill corrects a long overdue problem. When the Missouri River was dammed in North Dakota as part of the Pick-Sloan water project, the resulting flood created a lake about the size of Rhode Island. The lake is still with us. A number of communities were flooded out in the course of creating the reservoir. One of them, Elbowoods, was a community that was part of the Three Affiliated Tribes Reservation in western North Dakota. Elbowoods had a hospital, a 28-bed, 35,000 square foot hospital, a most significant medical facility in that rural part of North Dakota, certainly the most significant medical facility serving the reservation.

In order to persuade the Three Affiliated Tribes, Mandan, Hidatsa and Arikare nations, to vote in favor of the dam and give up 156,000 acres under this reservoir, the Federal Government made a commitment to replace the hospital. The tribes in western North Dakota are still waiting. This authorization will authorize up to $20 million for the construction of this medical facility.

My colleagues, I am very familiar with this area. I have been there many, many times. I am acquainted with their medical facilities. They are grossly inadequate. This is an area where there are significant health needs and grossly inadequate facilities in which to meet them and a 50-year promise unmet by the Federal Government.

I certainly want to thank those that have made it possible for this bill to come to the floor, the gentleman from California (Mr. POMBO) and, of course, as was mentioned by the preceding speaker, the very aggressive, ongoing efforts by the gentleman from West Virginia (Mr. RAHALL) to get this matter considered.

As I told the gentleman from California (Mr. POMBO), this matter is deeply important to me as a representative of North Dakota because I feel so strongly about the injustice of what was done with the flooding out of this hospital, promising another one and then never getting it done; so I am really deeply grateful that this has been allowed for consideration under the suspension calendar. I urge the unanimous adoption of it in the course of our deliberations.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

It marks a historic point in the Committee on Resources, having just passed its more than 200th piece of legislation under suspension in the House for the year which sets a record for not only the committee but I believe for the House in terms of legislation passed.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the Senate bill, S. 1146.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

## CORRECTING ENROLLMENT OF H.R. 1417

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 145) to correct the enrollment of H.R. 1417.

The Clerk read as follows:

S. CON. RES. 145

*Resolved by the Senate (the House of Representatives concurring),* That in the enrollment of H.R. 1417, an Act to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, and for other purposes (the Copyright Royalty and Distribution Reform Act of 2004), the Clerk of the House of Representatives shall make the following corrections:

(1) In section 801 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—

(A) in subsection (b)(7)(A)—

(i) in clause (i), strike “the other participants” and insert “participants”; and

(ii) in clause (ii), strike “any other participant described in subparagraph (A)” and insert “any participant described in clause (i)”;

(B) in subsection (b)(7)(B), strike “118(b) (2) or (3)” and insert “118(b)(2)”;

(C) in subsection (b)(8), insert a comma after “802(g)”; and

(D) in subsection (c), strike “As provided in section 801(f)(1), the” and insert “The”.

(2) In section 802 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—

(A) in subsection (a)(1), in the second sentence—

(i) strike “two Copyright” and insert “2 Copyright”; and

(ii) strike “one shall” and insert “1 shall”;

(B) in subsection (c)—

(i) strike “appointed the Chief Copyright” and insert “appointed as the Chief Copyright”; and

(ii) strike “appointed Copyright” and insert “appointed as Copyright”; and

(C) in subsection (f)—

(i) in paragraph (1)(A)(ii), strike “14 days of receipt by the Register of Copyrights of all” and insert “14 days after the Register of Copyrights receives all”;

(ii) in paragraph (1)(B)(i)—

(I) strike “The Register shall” and insert “The Register of Copyrights shall”;

(II) strike “30 days of receipt by the Register of Copyrights of all” and insert “30 days after the Register of Copyrights receives all”; and

(III) in the last sentence, insert “to the Copyright Royalty Judges” after “is timely delivered”;

(iii) in paragraph (1)(D)—

(I) insert after the second sentence the following: “The Register of Copyrights shall issue such written decision not later than 60 days after the date on which the final determination by the Copyright Royalty Judges is issued.”;

(II) in the following sentence, insert a comma after “such written decision”;

(III) strike “section 802(f)(1)(D)” and insert “this subparagraph”;

(IV) strike “notification and undertakes to consult with” and insert “notification to, and undertakes to consult with,”; and

(V) strike “fails within reasonable period after receipt of such notification” and insert “fails, within a reasonable period after receiving such notification,”.

(3) In section 803 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—

(A) in subsection (a)(1), strike “Librarian of Congress, copyright arbitration royalty panels,” and insert “the Librarian of Congress,”;

(B) in subsection (b)—

(i) in paragraph (1), amend subparagraph (A)(i) to read as follows:

“(A) CALL FOR PETITIONS TO PARTICIPATE.—(i) The Copyright Royalty Judges shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter, calling for the filing of petitions to participate in a proceeding under this chapter for the purpose of making the relevant determination under section 111, 112, 114, 115, 116, 118, 119, 1004, or 1007, as the case may be—

“(I) promptly upon a determination made under section 804(a);

“(II) by no later than January 5 of a year specified in paragraph (2) of section 804(b) for the commencement of proceedings;

“(III) by no later than January 5 of a year specified in subparagraph (A) or (B) of paragraph (3) of section 804(b) for the commencement of proceedings, or as otherwise provided in subparagraph (A) or (C) of such paragraph for the commencement of proceedings;

“(IV) as provided under section 804(b)(8); or

“(V) by no later than January 5 of a year specified in any other provision of section 804(b) for the filing of petitions for the commencement of proceedings, if a petition has not been filed by that date.”;

(ii) in clause (ii) of paragraph (1)(A)—

(I) strike “proceeding, under clause (i)” and insert “proceeding under clause (i)”; and

(II) strike “section 803(b)(3)” and insert “paragraph (3)”;

(iii) in paragraph (4)(A), strike “a participant in the proceeding asserts a claim in the amount of” and insert “the contested amount of a claim is”;

(iv) in paragraph (6)(C)—

(I) in clause (iv), insert a comma after “orders”;

(II) in clause (v), strike “according to” and insert “in accordance with”; and

(III) in clause (vi)(I), strike “absent the discovery sought” and insert “, absent the discovery sought,”;

(v) in clause (vii), strike “interrogatories and” and insert “interrogatories, and”; and

(vi) in clause (ix)—

(I) in the first sentence, insert a comma after “give testimony” and insert a comma after “inspection of documents or tangible things”; and

(II) in the last sentence, strike “subparagraph” and insert “clause”;

(C) in subsection (c)—

(i) in paragraph (1), strike “(b)(3)(C)(x)” and insert “(b)(6)(C)(x)”;

(ii) in paragraph (2)—

(I) in subparagraph (A)—

(aa) insert “in a proceeding” after “a participant”; and

(bb) strike “a proceeding is issued” and insert “the proceeding is issued”;

(II) in subparagraph (B), strike “their initial determination concerning rates and terms to the participants in the proceeding” and insert “to the participants in the proceeding their initial determination concerning rates and terms”; and

(III) in subparagraph (C), strike “except as provided under subsection (d)(1)” and insert “except that nonparticipation may give rise to the limitations with respect to judicial review provided for in subsection (d)(1)”; and

(iii) in paragraph (6), strike “Following review of the determination by the Register of Copyrights under section 802(f)(1)(D)” and insert “By no later than the end of the 60-day period provided in section 802(f)(1)(D)”; and

(D) in the second sentence of subsection (d)(2)(A), strike “transmission service” and insert “licensee”.

(4) In section 5(b)(1)—

(A) in subparagraph (A), strike “and” at the end;

(B) strike subparagraph (B); and

(C) redesignate subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(5) In the amendment made by section 5(b)(1)(A)—

(A) strike “5-year periods” and insert “5-year period”; and

(B) strike “such other periods” and insert “such other period”.

(6) Strike paragraph (3) of section 5(b) and insert the following:

(3) in paragraph (5), by striking “determination by a copyright arbitration royalty panel or decision by the Librarian of Congress” and inserting “decision by the Librarian of Congress or determination by the Copyright Royalty Judges”;

(7) In the amendment made by section 5(c)(1)(A)(i)—

(A) strike “5-year periods” and insert “the 5-year period”; and

(B) strike “different transitional periods are provided in section 804(b), or such periods” and insert “a different transitional period is provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period”.

(8) In the amendment made by section 5(c)(1)(B)(i), strike “in section 804(b)” and insert “under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004”.

(9) In the amendment made by section 5(c)(2)(A)—

(A) strike “5-year periods” and insert “the 5-year period”; and

(B) strike “different transitional periods are provided in section 804(b), or such periods” and insert “a different transitional period is provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period”.

(10) In the amendment made by section 5(c)(2)(B)(i), strike “in section 804(b)” and insert “under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004”.

(11) Strike paragraph (3) of section 5(c) and insert the following:

(3) in paragraph (3), by striking "determination by a copyright arbitration royalty panel or decision by the Librarian of Congress" and inserting "decision by the Librarian of Congress or determination by the Copyright Royalty Judges"; and

(12) In section 5(c)(4)(B), insert "of subparagraph (A) the following:" after "by adding after the first sentence".

(13) In the amendment made by section 5(d)(3)(A), strike "during periods" and insert "during the period".

(14) In section 5(d)(4)—

(A) strike "and" at the end of subparagraph (B);

(B) add "and" after the semicolon at the end of subparagraph (C); and

(C) add after subparagraph (C) the following:

(D) in the last sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges".

(15) In the amendment made by section 5(d)(5)(A)(i), strike ", Copyright Royalty Judges, or a copyright arbitration royalty panel to the extent those determinations were accepted by the Librarian of Congress" and insert "or Copyright Royalty Judges".

(16) In the amendment made by section 5(f)(1)(B)—

(A) strike ", a copyright arbitration royalty panel,"; and

(B) strike "to the extent that they were accepted by the Librarian of Congress,".

(17) In section 5, insert the following after subsection (g) and redesignate succeeding subsections accordingly:

(h) RATEMAKING FOR SATELLITE CARRIERS.—Section 119(c) of title 17, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(B) in subparagraph (C), by striking "Register of Copyrights shall prescribe" and inserting "Copyright Royalty Judges shall prescribe as provided in section 803(b)(6); and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking "arbitration proceedings" and inserting "proceedings"; and

(ii) by striking "arbitration proceeding" and inserting "proceedings";

(B) in subparagraph (B)—

(i) by striking "copyright arbitration royalty panel appointed under chapter 8" and inserting "Copyright Royalty Judges"; and

(ii) by striking "panel shall base its decision" and inserting "Copyright Royalty Judges shall base their determination"; and

(C) in subparagraph (C)—

(i) in the heading, by striking "DECISION OF ARBITRATION PANEL OR ORDER OF LIBRARIAN" and inserting "DETERMINATION UNDER CHAPTER 8"; and

(ii) by striking clauses (i) and (ii) and inserting the following:

"(i) is made by the Copyright Royalty Judges pursuant to this paragraph and becomes final, or

"(ii) is made by the court on appeal under section 803(d)(3),".

(18) In the first sentence of section 6(b)(1)—

(A) strike "date of enactment of this Act" and insert "effective date provided in subsection (a)"; and

(B) strike "such date of enactment" and insert "such effective date".

(19) Strike paragraph (2) of section 6(b) and insert the following:

(2) CERTAIN ROYALTY RATE PROCEEDINGS.—Notwithstanding paragraph (1), the amendments made by this Act shall not affect proceedings to determine royalty rates pursuant to section 119(c) of title 17, United States Code, that are commenced before January 31, 2006.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on Senate Concurrent Resolution 145 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, prior to our last recess, the other body was frantically applying their finishing touches to H.R. 1417, a bill to reform the copyright royalty arbitration process which we will consider in a few minutes. When we get to that bill, I will describe the core amendments that were developed there. For now, I will just state that they are acceptable to the House Committee on the Judiciary.

Unfortunately, in the rush to send the amended bill back to the House, some inadvertent drafting errors were included in the text. The purpose of this concurrent resolution which passed the other body yesterday is to correct these provisions before the fact in the enrollment of the bill. In other words, the concurrent resolution will automatically make the appropriate changes to H.R. 1417, thereby ensuring that the measure will work as intended.

□ 1700

The most expeditious way to address this matter is by concurring in the Senate concurrent resolution. Because we cannot approve H.R. 1417 conditionally, it is important that we consider and support the enrolling resolution first.

The concurrent resolution is especially important because of the interaction of the present language in H.R. 1417 with that of H.R. 4518, the Satellite Home Viewer Extension and Reauthorization Act of 2004, which passed the House on October 6. Among other things, that measure extends the copyright compulsory license for satellite broadcasts for another 5 years.

As the Committee on the Judiciary moved H.R. 4518 through the legislative process, the major developers of copyrighted programming and the satellite carriers arrived at a voluntary agreement on the use and compensation of this programming.

However, the relevant Senate text in H.R. 1417 inadvertently required ratemaking proceedings under the satellite license to be conducted pursuant to the rules and practices in place prior to the enactment of the CARP performed bill. This conflicts with those provisions in the satellite bill that take into account the voluntary agreement. In other words, unless the error is corrected, the voluntary agreement will not work as intended once the satellite bill is adopted.

Senate Concurrent Resolution 145 will ensure that the voluntary agreement and the text of the satellite bill will operate as intended by Congress and the parties to the rate-making negotiations.

This major fix aside, the concurrent resolution makes other noncontroversial tweaks to additional drafting errors. These tweaks include developing language that clarifies certain definitions; imposing time deadlines on the Copyright Office when reviewing legal matters; and tightening those rules that prevent claimants from "gaming" small-claim proceedings.

Finally, the concurrent resolution eliminates typographical errors and adopts other grammatical and stylistic changes where appropriate.

Mr. Speaker, after 3 years of the excruciating process, it is time to put CARP reform to bed. I urge Members to support this concurrent resolution and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I ask my colleagues to join me in supporting Senate Concurrent Resolution 145. It is a critical adjunct to H.R. 1417, the next bill to be considered on the suspension calendar today. S. Con. Res. 145 will correct a number of drafting errors within H.R. 1417 prior to enrollment of that bill. While many of these drafting errors are purely technical in nature, some may have significant negative repercussions. So it is critical that we concur in S. Con. Res. 145 now and thus ensure these errors will be corrected before H.R. 1417 becomes law.

I am not going to bore my colleagues with an explanation of all the technical changes made by S. Con. Res. 145, but I would like to bore my colleagues with a few of the changes that have the most substantive effect.

S. Con. Res. 145 ensures that H.R. 1417 will not create a major conflict with H.R. 4518, the satellite bill now pending before the Senate. Section 6(b)(2) of H.R. 1417 states that, notwithstanding any other provision of law, satellite license rate-setting proceedings will be conducted pursuant to the law, rules and practices in place prior to enactment of H.R. 1417. Thus, even if H.R. 4518 is enacted after H.R. 1417, section 6(b)(2) would take precedence over the provisions of H.R. 4518. Such an outcome would undo provisions of H.R. 4518 that created an expedited procedure for submitting and adopting voluntary section 119 rate agreements and thus undo language critical to the viability of H.R. 4518. S. Con. Res. 145 fixes this problem by ensuring that the process H.R. 4518 may later establish for determining satellite TV royalties will not be preempted by the terms of H.R. 1417.

S. Con. Res. 145 also addresses the concern that the Senate amendments to H.R. 1417 will render it impossible for decisions of copyright royalty judges to take effect.

The Senate amendments to H.R. 1417 state that the Librarian of Congress shall cause a copyright royalty judge determination to be published in the Federal Register following the Register's review of the CRJ's determination. However, the Register's review is both permissive and unlimited in time. If the Register never undertakes such a review, H.R. 1417 would appear to prohibit the Librarian from publishing the CRJ's determination.

S. Con. Res. 145 addresses this problem by establishing a time frame within which the Register must complete its review for legal error. As a result, the Librarian will, after a date certain, be authorized to publish the determinations of CRJs.

S. Con. Res. 145 addresses concerns that, as structured in Senate-passed H.R. 1417, the small claims process in distribution proceedings would not work. H.R. 1417 allows a distribution proceeding participant, who has a legitimate claim of $6 to avoid being forced into a small claims proceeding if he asserts a claim of $10,005. However, under H.R. 1417, that same participant cannot be sanctioned for bad faith inflation of a claim because the amount in controversy is less than $10,000. This anomaly allows participants to game the system and force full-blown distribution proceedings, exactly the problem small claim proceedings were designed to address.

S. Con. Res. 145 addresses this problem by hewing to the approach taken in the House-passed version of H.R. 1417. This approach ensures that participants are forced into small claims proceedings if the contested amount of their claim is $10,000 or less. Thus, a participant who asserts a claim of $10,005 could still be forced into a small claims proceeding if other participants asserted they were willing to pay $6, and thus the contested amount is less than $10,000. If the participant attempts to game the system by asserting a claim of $10,007, then the participant would face fines for asserting in bad faith an amount in controversy in excess of $10,000.

And, finally, S. Con. Res. 145 addresses one further substantive problem created by the Senate amendments to H.R. 1417. H.R. 1417 unintentionally removed the current legal requirement that voluntary agreements submitted to establish rates and terms under the section 112 compulsory license must include a minimum payment for uses of copyrighted works covered by section 112. S. Con. Res. 145 would ensure that H.R. 1417 does not alter this current legal obligation.

In conclusion, Mr. Speaker, adoption of S. Con. Res. 145 is critical to ensuring that H.R. 1417, which we will take up next, will operate as intended. Thus, I urge its adoption by my colleagues.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from California (Mr. BERMAN), ranking member of this very important Subcommittee on Courts, the Internet, and Intellectual Property, for yielding me this time.

His explanation has been more than sufficient in which we make sure that what we are doing with the Copyright Arbitration Royalty Panel is done correctly. And with H.R. 1417, with which I was pleased to join him and the gentleman from Wisconsin (Chairman SENSENBRENNER) and gentleman from Texas (Mr. SMITH), subcommittee chairman, on, with the gentleman from California (Mr. BERMAN), does it.

Mr. Speaker, I rise in support of this legislation. Those of us in Congress and the private sector who follow how the government sets copyright royalty rates agree that the current system needs change. It is expensive, unwieldy, and too unpredictable. Based on that, subcommittee Chairman SMITH, subcommittee Ranking Member BERMAN, and I introduced legislation, H.R. 1417, that would make substantial procedural changes.

We heard the current system is costly because the copyright owners and users have to pay for the arbitrators. Because copyright law subjects copyright owners and users to a compulsory process, we believe the law should not place this additional financial burden on them. Our bill creates 3 Copyright Royalty Judges who would be paid from appropriated funds to set royalty rates and distribute royalty fees.

Another complaint was that the CARP does not have adequate rules on how to address hearsay evidence. This bill explicitly requires that the judges treat hearsay evidence in the same manner that it is treated in Federal court. This will bring uniformity to the proceedings for parties on both sides of royalty disputes.

This bill also alters the terms for which certain royalty rates are in effect. Rates that are determined by the Judges will be in effect for 5 years. This should create some predictability and uniformity for those who rely on the Judges' determinations.

I urge my colleagues to vote "yes" on this bill as amended.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and concur in the Senate concurrent resolution, S. Con. Res. 145.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

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## COPYRIGHT ROYALTY AND DISTRIBUTION REFORM ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1417) to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Copyright Royalty and Distribution Reform Act of 2004".*

***SEC. 2. REFERENCE.***

*Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 17, United States Code.*

***SEC. 3. COPYRIGHT ROYALTY JUDGE AND STAFF.***

*(a) IN GENERAL.—Chapter 8 is amended to read as follows:*

### *"CHAPTER 8—PROCEEDINGS BY COPYRIGHT ROYALTY JUDGES*

*"Sec.*

*"801. Copyright Royalty Judges; appointment and functions.*
*"802. Copyright Royalty Judgeships; staff.*
*"803. Proceedings of Copyright Royalty Judges.*
*"804. Institution of proceedings.*
*"805. General rule for voluntarily negotiated agreements.*

***"§801. Copyright Royalty Judges; appointment and functions***

*"(a) APPOINTMENT.—The Librarian of Congress shall appoint 3 full-time Copyright Royalty Judges, and shall appoint 1 of the 3 as the Chief Copyright Royalty Judge. The Librarian shall make appointments to such positions after consultation with the Register of Copyrights.*

*"(b) FUNCTIONS.—Subject to the provisions of this chapter, the functions of the Copyright Royalty Judges shall be as follows:*

*"(1) To make determinations and adjustments of reasonable terms and rates of royalty payments as provided in sections 112(e), 114, 115, 116, 118 119 and 1004. The rates applicable under sections 114(f)(1)(B), 115, and 116 shall be calculated to achieve the following objectives:*

*"(A) To maximize the availability of creative works to the public.*

*"(B) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.*

*"(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to*

*relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication.*

*"(D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.*

*"(2) To make determinations concerning the adjustment of the copyright royalty rates under section 111 solely in accordance with the following provisions:*

*"(A) The rates established by section 111(d)(1)(B) may be adjusted to reflect—*

*"(i) national monetary inflation or deflation; or*

*"(ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of October 19, 1976,*

*except that—*

*"(I) if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(1)(B) shall be permitted; and*

*"(II) no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber.*

*The Copyright Royalty Judges may consider all factors relating to the maintenance of such level of payments, including, as an extenuating factor, whether the industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.*

*"(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 15, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(1)(B) may be adjusted to ensure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Judges shall consider, among other factors, the economic impact on copyright owners and users; except that no adjustment in royalty rates shall be made under this subparagraph with respect to any distant signal equivalent or fraction thereof represented by—*

*"(i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal; or*

*"(ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.*

*"(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(1)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.*

*"(D) The gross receipts limitations established by section 111(d)(1) (C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section, and the royalty rate specified therein shall not be subject to adjustment.*

*"(3)(A) To authorize the distribution, under sections 111, 119, and 1007, of those royalty fees collected under sections 111, 119, and 1005, as the case may be, to the extent that the Copyright Royalty Judges have found that the distribution of such fees is not subject to controversy.*

*"(B) In cases where the Copyright Royalty Judges determine that controversy exists, the Copyright Royalty Judges shall determine the distribution of such fees, including partial distributions, in accordance with section 111, 119, or 1007, as the case may be.*

*"(C) The Copyright Royalty Judges may make a partial distribution of such fees during the pendency of the proceeding under subparagraph (B) if all participants under section 803(b)(2) in the proceeding that are entitled to receive those fees that are to be partially distributed—*

*"(i) agree to such partial distribution;*

*"(ii) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the fees made under subparagraph (B);*

*"(iii) file the agreement with the Copyright Royalty Judges; and*

*"(iv) agree that such funds are available for distribution.*

*"(D) The Copyright Royalty Judges and any other officer or employee acting in good faith in distributing funds under subparagraph (C) shall not be held liable for the payment of any excess fees under subparagraph (C). The Copyright Royalty Judges shall, at the time the final determination is made, calculate any such excess amounts.*

*"(4) To accept or reject royalty claims filed under sections 111, 119, and 1007, on the basis of timeliness or the failure to establish the basis for a claim.*

*"(5) To accept or reject rate adjustment petitions as provided in section 804 and petitions to participate as provided in section 803(b) (1) and (2).*

*"(6) To determine the status of a digital audio recording device or a digital audio interface device under sections 1002 and 1003, as provided in section 1010.*

*"(7)(A) To adopt as a basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, an agreement concerning such matters reached among some or all of the participants in a proceeding at any time during the proceeding, except that—*

*"(i) the Copyright Royalty Judges shall provide to those that would be bound by the terms, rates, or other determination set by any agreement in a proceeding to determine royalty rates an opportunity to comment on the agreement and shall provide to the other participants in the proceeding under section 803(b)(2) that would be bound by the terms, rates, or other determination set by the agreement an opportunity to comment on the agreement and object to its adoption as a basis for statutory terms and rates; and*

*"(ii) the Copyright Royalty Judges may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement, if any other participant described in subparagraph (A) objects to the agreement and the Copyright Royalty Judges conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates.*

*"(B) License agreements voluntarily negotiated pursuant to section 112(e)(5), 114(f)(3), 115(c)(3)(E)(i), 116(c), or 118(b) (2) or (3) that do not result in statutory terms and rates shall not be subject to clauses (i) and (ii) of subparagraph (A).*

*"(C) Interested parties may negotiate and agree to, and the Copyright Royalty Judges may adopt, an agreement that specifies as terms notice and recordkeeping requirements that apply in lieu of those that would otherwise apply under regulations.*

*"(8) To perform other duties, as assigned by the Register of Copyrights within the Library of Congress, except as provided in section 802(g) at times when Copyright Royalty Judges are not engaged in performing the other duties set forth in this section.*

*"(c) RULINGS.—As provided in section 802(f)(1), the Copyright Royalty Judges may make any necessary procedural or evidentiary rulings in any proceeding under this chapter and may, before commencing a proceeding under this chapter, make any such rulings that would apply to the proceedings conducted by the Copyright Royalty Judges.*

*"(d) ADMINISTRATIVE SUPPORT.—The Librarian of Congress shall provide the Copyright Royalty Judges with the necessary administrative services related to proceedings under this chapter.*

*"(e) LOCATION IN LIBRARY OF CONGRESS.—The offices of the Copyright Royalty Judges and staff shall be in the Library of Congress.*

### ***"§802. Copyright Royalty Judgeships; staff***

*"(a) QUALIFICATIONS OF COPYRIGHT ROYALTY JUDGES.—*

*"(1) IN GENERAL.—Each Copyright Royalty Judge shall be an attorney who has at least 7 years of legal experience. The Chief Copyright Royalty Judge shall have at least 5 years of experience in adjudications, arbitrations, or court trials. Of the other two Copyright Royalty Judges, one shall have significant knowledge of copyright law, and the other shall have significant knowledge of economics. An individual may serve as a Copyright Royalty Judge only if the individual is free of any financial conflict of interest under subsection (h).*

*"(2) DEFINITION.—In this subsection, the term 'adjudication' has the meaning given that term in section 551 of title 5, but does not include mediation.*

*"(b) STAFF.—The Chief Copyright Royalty Judge shall hire 3 full-time staff members to assist the Copyright Royalty Judges in performing their functions.*

*"(c) TERMS.—The individual first appointed the Chief Copyright Royalty Judge shall be appointed to a term of 6 years, and of the remaining individuals first appointed Copyright Royalty Judges, 1 shall be appointed to a term of 4 years, and the other shall be appointed to a term of 2 years. Thereafter, the terms of succeeding Copyright Royalty Judges shall each be 6 years. An individual serving as a Copyright Royalty Judge may be reappointed to subsequent terms. The term of a Copyright Royalty Judge shall begin when the term of the predecessor of that Copyright Royalty Judge ends. When the term of office of a Copyright Royalty Judge ends, the individual serving that term may continue to serve until a successor is selected.*

*"(d) VACANCIES OR INCAPACITY.—*

*"(1) VACANCIES.—If a vacancy should occur in the position of Copyright Royalty Judge, the Librarian of Congress shall act expeditiously to fill the vacancy, and may appoint an interim Copyright Royalty Judge to serve until another Copyright Royalty Judge is appointed under*

*this section. An individual appointed to fill the vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed shall be appointed for the remainder of that term.*

*"(2) INCAPACITY.—In the case in which a Copyright Royalty Judge is temporarily unable to perform his or her duties, the Librarian of Congress may appoint an interim Copyright Royalty Judge to perform such duties during the period of such incapacity.*

*"(e) COMPENSATION.—*

*"(1) JUDGES.—The Chief Copyright Royalty Judge shall receive compensation at the rate of basic pay payable for level AL–1 for administrative law judges pursuant to section 5372(b) of title 5, and each of the other two Copyright Royalty Judges shall receive compensation at the rate of basic pay payable for level AL–2 for administrative law judges pursuant to such section. The compensation of the Copyright Royalty Judges shall not be subject to any regulations adopted by the Office of Personnel Management pursuant to its authority under section 5376(b)(1) of title 5.*

*"(2) STAFF MEMBERS.—Of the staff members appointed under subsection (b)—*

*"(A) the rate of pay of 1 staff member shall be not more than the basic rate of pay payable for level 10 of GS–15 of the General Schedule;*

*"(B) the rate of pay of 1 staff member shall be not less than the basic rate of pay payable for GS–13 of the General Schedule and not more than the basic rate of pay payable for level 10 of GS–14 of such Schedule; and*

*"(C) the rate of pay for the third staff member shall be not less than the basic rate of pay payable for GS–8 of the General Schedule and not more than the basic rate of pay payable for level 10 of GS–11 of such Schedule.*

*"(3) LOCALITY PAY.—All rates of pay referred to under this subsection shall include locality pay.*

*"(f) INDEPENDENCE OF COPYRIGHT ROYALTY JUDGE.—*

*"(1) IN MAKING DETERMINATIONS.—*

*"(A) IN GENERAL.—(i) Subject to clause (ii) of this subparagraph and subparagraph (B), the Copyright Royalty Judges shall have full independence in making determinations concerning adjustments and determinations of copyright royalty rates and terms, the distribution of copyright royalties, the acceptance or rejection of royalty claims, rate adjustment petitions, and petitions to participate, and in issuing other rulings under this title, except that the Copyright Royalty Judges may consult with the Register of Copyrights on any matter other than a question of fact.*

*"(ii) A Copyright Royalty Judge or Judges, or, by motion to the Copyright Royalty Judge or Judges, any participant in a proceeding may request an interpretation by the Register of Copyrights concerning any material question of substantive law (not including questions of procedure before the Copyright Royalty Judges, the ultimate adjustments and determinations of copyright royalty rates and terms, the ultimate distribution of copyright royalties, or the acceptance or rejection of royalty claims, rate adjustment petitions, or petitions to participate) concerning an interpretation or construction of those provisions of this title that are the subject of the proceeding. Any such request for a written interpretation by the Register of Copyrights shall be on the record. Reasonable provision shall be made for comment by the participants in the proceeding on the material question of substantive law in such a way as to minimize duplication and delay. Except as provided in subparagraph (B), the Register of Copyrights shall deliver to the Copyright Royalty Judges a response within 14 days of receipt by the Register of Copyrights of all of the briefs or comments of the participants. Such decision shall be in writing and shall be included by the Copyright Royalty Judges in the record that accompanies their final determination. If such a decision is timely delivered to the Copyright Royalty Judges, the Copyright Royalty Judges shall apply the legal interpretation embodied in the response of the Register of Copyrights in resolving material questions of substantive law.*

*"(B) NOVEL QUESTIONS.—(i) In any case in which a novel material question of substantive law concerning an interpretation of those provisions of this title that are the subject of the proceeding is presented, the Copyright Royalty Judges shall request a decision of the Register of Copyrights, in writing, to resolve such novel question. Reasonable provision shall be made for comment on such request by the participants in the proceeding, in such a way as to minimize duplication and delay. The Register shall transmit his or her decision to the Copyright Royalty Judges within 30 days of receipt by the Register of Copyrights of all of the briefs or comments of the participants. Such decision shall be in writing and included by the Copyright Royalty Judges in the record that accompanies their final determination. If such a decision is timely delivered, the Copyright Royalty Judges shall apply the legal determinations embodied in the decision of the Register of Copyrights in resolving material questions of substantive law.*

*"(ii) In clause (i), a 'novel question of law' is a question of law that has not been determined in prior decisions, determinations, and rulings described in section 803(a).*

*"(C) CONSULTATION.—Notwithstanding the provisions of subparagraph (A), the Copyright Royalty Judges shall consult with the Register of Copyrights with respect to any determination or ruling that would require that any act be performed by the Copyright Office, and any such determination or ruling shall not be binding upon the Register of Copyrights.*

*"(D) REVIEW OF LEGAL CONCLUSIONS BY THE REGISTER OF COPYRIGHTS.—The Register of Copyrights may review for legal error the resolution by the Copyright Royalty Judges of a material question of substantive law under this title that underlies or is contained in a final determination of the Copyright Royalty Judges. If the Register of Copyrights concludes, after taking into consideration the views of the participants in the proceeding, that any resolution reached by the Copyright Royalty Judges was in material error, the Register of Copyrights shall issue a written decision correcting such legal error, which shall be made part of the record of the proceeding. Additionally, the Register of Copyrights shall cause to be published in the Federal Register such written decision together with a specific identification of the legal conclusion of the Copyright Royalty Judges that is determined to be erroneous. As to conclusions of substantive law involving an interpretation of the statutory provisions of this title, the decision of the Register of Copyrights shall be binding as precedent upon the Copyright Royalty Judges in subsequent proceedings under this chapter. When a decision has been rendered pursuant to section 802(f)(1)(D), the Register of Copyrights may, on the basis of and in accordance with such decision, intervene as of right in any appeal of a final determination of the Copyright Royalty Judges pursuant to section 803(d) in the United States Court of Appeals for the District of Columbia Circuit. If, prior to intervening in such an appeal, the Register of Copyrights gives notification and undertakes to consult with the Attorney General with respect to such intervention, and the Attorney General fails within reasonable period after receipt of such notification to intervene in such appeal, the Register of Copyrights may intervene in such appeal in his or her own name by any attorney designated by the Register of Copyrights for such purpose. Intervention by the Register of Copyrights in his or her own name shall not preclude the Attorney General from intervening on behalf of the United States in such an appeal as may be otherwise provided or required by law.*

*"(E) EFFECT ON JUDICIAL REVIEW.—Nothing in this section shall be interpreted to alter the standard applied by a court in reviewing legal determinations involving an interpretation or construction of the provisions of this title or to affect the extent to which any construction or interpretation of the provisions of this title shall be accorded deference by a reviewing court.*

*"(2) PERFORMANCE APPRAISALS.—*

*"(A) IN GENERAL.—Notwithstanding any other provision of law or any regulation of the Library of Congress, and subject to subparagraph (B), the Copyright Royalty Judges shall not receive performance appraisals.*

*"(B) RELATING TO SANCTION OR REMOVAL.—To the extent that the Librarian of Congress adopts regulations under subsection (h) relating to the sanction or removal of a Copyright Royalty Judge and such regulations require documentation to establish the cause of such sanction or removal, the Copyright Royalty Judge may receive an appraisal related specifically to the cause of the sanction or removal.*

*"(g) INCONSISTENT DUTIES BARRED.—No Copyright Royalty Judge may undertake duties that conflict with his or her duties and responsibilities as a Copyright Royalty Judge.*

*"(h) STANDARDS OF CONDUCT.—The Librarian of Congress shall adopt regulations regarding the standards of conduct, including financial conflict of interest and restrictions against ex parte communications, which shall govern the Copyright Royalty Judges and the proceedings under this chapter.*

*"(i) REMOVAL OR SANCTION.—The Librarian of Congress may sanction or remove a Copyright Royalty Judge for violation of the standards of conduct adopted under subsection (h), misconduct, neglect of duty, or any disqualifying physical or mental disability. Any such sanction or removal may be made only after notice and opportunity for a hearing, but the Librarian of Congress may suspend the Copyright Royalty Judge during the pendency of such hearing. The Librarian shall appoint an interim Copyright Royalty Judge during the period of any such suspension.*

### ***"§803. Proceedings of Copyright Royalty Judges***

*"(a) PROCEEDINGS.—*

*"(1) IN GENERAL.—The Copyright Royalty Judges shall act in accordance with regulations issued by the Copyright Royalty Judges and the Librarian of Congress, and on the basis of a written record, prior determinations and interpretations of the Copyright Royalty Tribunal, Librarian of Congress, copyright arbitration royalty panels, the Register of Copyrights, and the Copyright Royalty Judges (to the extent those determinations are not inconsistent with a decision of the Register of Copyrights that was timely delivered to the Copyright Royalty Judges pursuant to section 802(f)(1) (A) or (B), or with a decision of the Register of Copyrights pursuant to section 802(f)(1)(D)), under this chapter, and decisions of the court of appeals under this chapter before, on, or after the effective date of the Copyright Royalty and Distribution Reform Act of 2004.*

*"(2) JUDGES ACTING AS PANEL AND INDIVIDUALLY.—The Copyright Royalty Judges shall preside over hearings in proceedings under this chapter en banc. The Chief Copyright Royalty Judge may designate a Copyright Royalty Judge to preside individually over such collateral and administrative proceedings, and over such proceedings under paragraphs (1) through (5) of subsection (b), as the Chief Judge considers appropriate.*

*"(3) DETERMINATIONS.—Final determinations of the Copyright Royalty Judges in proceedings under this chapter shall be made by majority vote. A Copyright Royalty Judge dissenting from the majority on any determination under this chapter may issue his or her dissenting opinion, which shall be included with the determination.*

*"(b) PROCEDURES.—*

*"(1) INITIATION.—*

*"(A) CALL FOR PETITIONS TO PARTICIPATE.—(i) Promptly upon a determination made under section 804(a), or no later than January 5 of a year specified in section 804(b) (2) or (3), or as provided under section 804(b)(8), or by no later than January 5 of a year specified in section 804 for the commencement of a proceeding if a petition has not been filed by that date, the Copyright Royalty Judges shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter calling for the filing of petitions to participate in a proceeding under this chapter for the purpose of making the relevant determination under section 111, 112, 114, 115, 116, 118, 119, 1004, or 1007, as the case may be.*

*"(ii) Petitions to participate shall be filed by no later than 30 days after publication of notice of commencement of a proceeding, under clause (i), except that the Copyright Royalty Judges may, for substantial good cause shown and if there is no prejudice to the participants that have already filed petitions, accept late petitions to participate at any time up to the date that is 90 days before the date on which participants in the proceeding are to file their written direct statements. Notwithstanding the preceding sentence, petitioners whose petitions are filed more than 30 days after publication of notice of commencement of a proceeding are not eligible to object to a settlement reached during the voluntary negotiation period under section 803(b)(3), and any objection filed by such a petitioner shall not be taken into account by the Copyright Royalty Judges.*

*"(B) PETITIONS TO PARTICIPATE.—Each petition to participate in a proceeding shall describe the petitioner's interest in the subject matter of the proceeding. Parties with similar interests may file a single petition to participate.*

*"(2) PARTICIPATION IN GENERAL.—Subject to paragraph (4), a person may participate in a proceeding under this chapter, including through the submission of briefs or other information, only if—*

*"(A) that person has filed a petition to participate in accordance with paragraph (1) (either individually or as a group under paragraph (1)(B)), together with a filing fee of $150;*

*"(B) the Copyright Royalty Judges have not determined that the petition to participate is facially invalid; and*

*"(C) the Copyright Royalty Judges have not determined, sua sponte or on the motion of another participant in the proceeding, that the person lacks a significant interest in the proceeding.*

*"(3) VOLUNTARY NEGOTIATION PERIOD.—*

*"(A) IN GENERAL.—Promptly after the date for filing of petitions to participate in a proceeding, the Copyright Royalty Judges shall make available to all participants in the proceeding a list of such participants and shall initiate a voluntary negotiation period among the participants.*

*"(B) LENGTH OF PROCEEDINGS.—The voluntary negotiation period initiated under subparagraph (A) shall be 3 months.*

*"(C) DETERMINATION OF SUBSEQUENT PROCEEDINGS.—At the close of the voluntary negotiation proceedings, the Copyright Royalty Judges shall, if further proceedings under this chapter are necessary, determine whether and to what extent paragraphs (4) and (5) will apply to the parties.*

*"(4) SMALL CLAIMS PROCEDURE IN DISTRIBUTION PROCEEDINGS.—*

*"(A) IN GENERAL.—If, in a proceeding under this chapter to determine the distribution of royalties, a participant in the proceeding asserts a claim in the amount of $10,000 or less, the Copyright Royalty Judges shall decide the controversy on the basis of the filing of the written direct statement by the participant, the response by any opposing participant, and 1 additional response by each such party. The participant asserting the claim shall not be required to pay the filing fee under paragraph (2).*

*"(B) BAD FAITH INFLATION OF CLAIM.—If the Copyright Royalty Judges determine that a participant asserts in bad faith an amount in controversy in excess of $10,000 for the purpose of avoiding a determination under the procedure set forth in subparagraph (A), the Copyright Royalty Judges shall impose a fine on that participant in an amount not to exceed the difference between the actual amount distributed and the amount asserted by the participant.*

*"(5) PAPER PROCEEDINGS.—The Copyright Royalty Judges in proceedings under this chapter may decide, sua sponte or upon motion of a participant, to determine issues on the basis of the filing of the written direct statement by the participant, the response by any opposing participant, and one additional response by each such participant. Prior to making such decision to proceed on such a paper record only, the Copyright Royalty Judges shall offer to all parties to the proceeding the opportunity to comment on the decision. The procedure under this paragraph—*

*"(A) shall be applied in cases in which there is no genuine issue of material fact, there is no need for evidentiary hearings, and all participants in the proceeding agree in writing to the procedure; and*

*"(B) may be applied under such other circumstances as the Copyright Royalty Judges consider appropriate.*

*"(6) REGULATIONS.—*

*"(A) IN GENERAL.—The Copyright Royalty Judges may issue regulations to carry out their functions under this title. All regulations issued by the Copyright Royalty Judges are subject to the approval of the Librarian of Congress. Not later than 120 days after Copyright Royalty Judges or interim Copyright Royalty Judges, as the case may be, are first appointed after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, such judges shall issue regulations to govern proceedings under this chapter.*

*"(B) INTERIM REGULATIONS.—Until regulations are adopted under subparagraph (A), the Copyright Royalty Judges shall apply the regulations in effect under this chapter on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, to the extent such regulations are not inconsistent with this chapter, except that functions carried out under such regulations by the Librarian of Congress, the Register of Copyrights, or copyright arbitration royalty panels that, as of such date of enactment, are to be carried out by the Copyright Royalty Judges under this chapter, shall be carried out by the Copyright Royalty Judges under such regulations.*

*"(C) REQUIREMENTS.—Regulations issued under subparagraph (A) shall include the following:*

*"(i) The written direct statements of all participants in a proceeding under paragraph (2) shall be filed by a date specified by the Copyright Royalty Judges, which may be not earlier than 4 months, and not later than 5 months, after the end of the voluntary negotiation period under paragraph (3). Notwithstanding the preceding sentence, the Copyright Royalty Judges may allow a participant in a proceeding to file an amended written direct statement based on new information received during the discovery process, within 15 days after the end of the discovery period specified in clause (iii).*

*"(ii)(I) Following the submission to the Copyright Royalty Judges of written direct statements by the participants in a proceeding under paragraph (2), the judges shall meet with the participants for the purpose of setting a schedule for conducting and completing discovery. Such schedule shall be determined by the Copyright Royalty Judges.*

*"(II) In this chapter, the term 'written direct statements' means witness statements, testimony, and exhibits to be presented in the proceedings, and such other information that is necessary to establish terms and rates, or the distribution of royalty payments, as the case may be, as set forth in regulations issued by the Copyright Royalty Judges.*

*"(iii) Hearsay may be admitted in proceedings under this chapter to the extent deemed appropriate by the Copyright Royalty Judges.*

*"(iv) Discovery in such proceedings shall be permitted for a period of 60 days, except for discovery ordered by the Copyright Royalty Judges in connection with the resolution of motions, orders and disputes pending at the end of such period.*

*"(v) Any participant under paragraph (2) in a proceeding under this chapter to determine royalty rates may request of an opposing participant nonprivileged documents directly related to the written direct statement or written rebuttal statement of that participant. Any objection to such a request shall be resolved by a motion or request to compel production made to the Copyright Royalty Judges according to regulations adopted by the Copyright Royalty Judges. Each motion or request to compel discovery shall be determined by the Copyright Royalty Judges, or by a Copyright Royalty Judge when permitted under subsection (a)(2). Upon such motion, the Copyright Royalty Judges may order discovery pursuant to regulations established under this paragraph.*

*"(vi)(I) Any participant under paragraph (2) in a proceeding under this chapter to determine royalty rates may, by means of written motion or on the record, request of an opposing participant or witness other relevant information and materials if absent the discovery sought the Copyright Royalty Judges' resolution of the proceeding would be substantially impaired. In determining whether discovery will be granted under this clause, the Copyright Royalty Judges may consider—*

*"(aa) whether the burden or expense of producing the requested information or materials outweighs the likely benefit, taking into account the needs and resources of the participants, the importance of the issues at stake, and the probative value of the requested information or materials in resolving such issues;*

*"(bb) whether the requested information or materials would be unreasonably cumulative or duplicative, or are obtainable from another source that is more convenient, less burdensome, or less expensive; and*

*"(cc) whether the participant seeking discovery has had ample opportunity by discovery in the proceeding or by other means to obtain the information sought.*

*"(II) This clause shall not apply to any proceeding scheduled to commence after December 31, 2010.*

*"(vii) In a proceeding under this chapter to determine royalty rates, the participants entitled to receive royalties shall collectively be permitted to take no more than 10 depositions and secure responses to no more than 25 interrogatories and the participants obligated to pay royalties shall collectively be permitted to take no more than 10 depositions and secure responses to no more than 25 interrogatories. The*

*Copyright Royalty Judges shall resolve any disputes among similarly aligned participants to allocate the number of depositions or interrogatories permitted under this clause.*

*"(viii) The rules and practices in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, relating to discovery in proceedings under this chapter to determine the distribution of royalty fees, shall continue to apply to such proceedings on and after such effective date.*

*"(ix) In proceedings to determine royalty rates, the Copyright Royalty Judges may issue a subpoena commanding a participant or witness to appear and give testimony or to produce and permit inspection of documents or tangible things if the Copyright Royalty Judges' resolution of the proceeding would be substantially impaired by the absence of such testimony or production of documents or tangible things. Such subpoena shall specify with reasonable particularity the materials to be produced or the scope and nature of the required testimony. Nothing in this subparagraph shall preclude the Copyright Royalty Judges from requesting the production by a nonparticipant of information or materials relevant to the resolution by the Copyright Royalty Judges of a material issue of fact.*

*"(x) The Copyright Royalty Judges shall order a settlement conference among the participants in the proceeding to facilitate the presentation of offers of settlement among the participants. The settlement conference shall be held during a 21-day period following the end of the discovery period and shall take place outside the presence of the Copyright Royalty Judges.*

*"(xi) No evidence, including exhibits, may be submitted in the written direct statement or written rebuttal statement of a participant without a sponsoring witness, except where the Copyright Royalty Judges have taken official notice, or in the case of incorporation by reference of past records, or for good cause shown.*

*"(c) DETERMINATION OF COPYRIGHT ROYALTY JUDGES.—*

*"(1) TIMING.—The Copyright Royalty Judges shall issue their determination in a proceeding not later than 11 months after the conclusion of the 21-day settlement conference period under subsection (b)(3)(C)(x), but, in the case of a proceeding to determine successors to rates or terms that expire on a specified date, in no event later than 15 days before the expiration of the then current statutory rates and terms.*

*"(2) REHEARINGS.—*

*"(A) IN GENERAL.—The Copyright Royalty Judges may, in exceptional cases, upon motion of a participant under subsection (b)(2), order a rehearing, after the determination in a proceeding is issued under paragraph (1), on such matters as the Copyright Royalty Judges determine to be appropriate.*

*"(B) TIMING FOR FILING MOTION.—Any motion for a rehearing under subparagraph (A) may only be filed within 15 days after the date on which the Copyright Royalty Judges deliver their initial determination concerning rates and terms to the participants in the proceeding.*

*"(C) PARTICIPATION BY OPPOSING PARTY NOT REQUIRED.—In any case in which a rehearing is ordered, any opposing party shall not be required to participate in the rehearing, except as provided under subsection (d)(1).*

*"(D) NO NEGATIVE INFERENCE.—No negative inference shall be drawn from lack of participation in a rehearing.*

*"(E) CONTINUITY OF RATES AND TERMS.—(i) If the decision of the Copyright Royalty Judges on any motion for a rehearing is not rendered before the expiration of the statutory rates and terms that were previously in effect, in the case of a proceeding to determine successors to rates and terms that expire on a specified date, then—*

*"(I) the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion shall be effective as of the day following the date on which the rates and terms that were previously in effect expire; and*

*"(II) in the case of a proceeding under section 114(f)(1)(C) or 114(f)(2)(C), royalty rates and terms shall, for purposes of section 114(f)(4)(B), be deemed to have been set at those rates and terms contained in the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion, as of the date of that determination.*

*"(ii) The pendency of a motion for a rehearing under this paragraph shall not relieve persons obligated to make royalty payments who would be affected by the determination on that motion from providing the statements of account and any reports of use, to the extent required, and paying the royalties required under the relevant determination or regulations.*

*"(iii) Notwithstanding clause (ii), whenever royalties described in clause (ii) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the motion for rehearing is resolved or, if the motion is granted, within 60 days after the rehearing is concluded, return any excess amounts previously paid to the extent necessary to comply with the final determination of royalty rates by the Copyright Royalty Judges. Any underpayment of royalties resulting from a rehearing shall be paid within the same period.*

*"(3) CONTENTS OF DETERMINATION.—A determination of the Copyright Royalty Judges shall be supported by the written record and shall set forth the findings of fact relied on by the Copyright Royalty Judges. Among other terms adopted in a determination, the Copyright Royalty Judges may specify notice and recordkeeping requirements of users of the copyrights at issue that apply in lieu of those that would otherwise apply under regulations.*

*"(4) CONTINUING JURISDICTION.—The Copyright Royalty Judges may, with the approval of the Register of Copyrights, issue an amendment to a written determination to correct any technical or clerical errors in the determination or to modify the terms, but not the rates, of royalty payments in response to unforeseen circumstances that would frustrate the proper implementation of such determination. Such amendment shall be set forth in a written addendum to the determination that shall be distributed to the participants of the proceeding and shall be published in the Federal Register.*

*"(5) PROTECTIVE ORDER.—The Copyright Royalty Judges may issue such orders as may be appropriate to protect confidential information, including orders excluding confidential information from the record of the determination that is published or made available to the public, except that any terms or rates of royalty payments or distributions may not be excluded.*

*"(6) PUBLICATION OF DETERMINATION.—Following review of the determination by the Register of Copyrights under section 802(f)(1)(D), the Librarian of Congress shall cause the determination, and any corrections thereto, to be published in the Federal Register. The Librarian of Congress shall also publicize the determination and corrections in such other manner as the Librarian considers appropriate, including, but not limited to, publication on the Internet. The Librarian of Congress shall also make the determination, corrections, and the accompanying record available for public inspection and copying.*

*"(7) LATE PAYMENT.—A determination of Copyright Royalty Judges may include terms with respect to late payment, but in no way shall such terms prevent the copyright holder from asserting other rights or remedies provided under this title.*

*"(d) JUDICIAL REVIEW.—*

*"(1) APPEAL.—Any determination of the Copyright Royalty Judges under subsection (c) may, within 30 days after the publication of the determination in the Federal Register, be appealed, to the United States Court of Appeals for the District of Columbia Circuit, by any aggrieved participant in the proceeding under subsection (b)(2) who fully participated in the proceeding and who would be bound by the determination Any participant that did not participate in a rehearing may not raise any issue that was the subject of that rehearing at any stage of judicial review of the hearing determination. If no appeal is brought within that 30-day period, the determination of the Copyright Royalty Judges shall be final, and the royalty fee or determination with respect to the distribution of fees, as the case may be, shall take effect as set forth in paragraph (2).*

*"(2) EFFECT OF RATES.—*

*"(A) EXPIRATION ON SPECIFIED DATE.—When this title provides that the royalty rates and terms that were previously in effect are to expire on a specified date, any adjustment or determination by the Copyright Royalty Judges of successor rates and terms for an ensuing statutory license period shall be effective as of the day following the date of expiration of the rates and terms that were previously in effect, even if the determination of the Copyright Royalty Judges is rendered on a later date. A transmission service shall be obligated to continue making payments under the rates and terms previously in effect until such time as rates and terms for the successor period are established. Whenever royalties pursuant to this section are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the final determination of the Copyright Royalty Judges establishing rates and terms for a successor period or the exhaustion of all rehearings or appeals of such determination, if any, return any excess amounts previously paid to the extent necessary to comply with the final determination of royalty rates. Any underpayment of royalties by a copyright user shall be paid to the entity designated by the Copyright Royalty Judges within the same period.*

*"(B) OTHER CASES.—In cases where rates and terms have not, prior to the inception of an activity, been established for that particular activity under the relevant license, such rates and terms shall be retroactive to the inception of activity under the relevant license covered by such rates and terms. In other cases where rates and terms do not expire on a specified date, successor rates and terms shall take effect on the first day of the second month that begins after the publication of the determination of the Copyright Royalty Judges in the Federal Register, except as otherwise provided in this title, or by the Copyright Royalty Judges, or as agreed by the participants in a proceeding that would be bound by the rates and terms. Except as otherwise provided in this title, the rates and terms, to the extent applicable, shall remain in effect until such successor rates and terms become effective.*

*"(C) OBLIGATION TO MAKE PAYMENTS.—*

*"(i) The pendency of an appeal under this subsection shall not relieve persons obligated to make royalty payments under section 111, 112, 114, 115, 116, 118, 119, or 1003, who would be affected by the determination on appeal, from—*

*"(I) providing the statements of account and any report of use; and*

*"(II) paying the royalties required under the relevant determination or regulations.*

*"(ii) Notwithstanding clause (i), whenever royalties described in clause (i) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the final resolution of the appeal, return any excess amounts previously paid (and interest thereon, if ordered pursuant to paragraph (3)) to the extent necessary to comply with the final determination of royalty rates on appeal. Any underpayment of royalties resulting from an appeal (and interest thereon, if ordered pursuant to paragraph (3)) shall be paid within the same period.*

*"(3) JURISDICTION OF COURT.—If the court, pursuant to section 706 of title 5, modifies or vacates a determination of the Copyright Royalty Judges, the court may enter its own determination with respect to the amount or distribution of royalty fees and costs, and order the repayment of any excess fees, the payment of any underpaid fees, and the payment of interest pertaining respectively thereto, in accordance with its final judgment. The court may also vacate the determination of the Copyright Royalty Judges and remand the case to the Copyright Royalty Judges for further proceedings in accordance with subsection (a).*

*"(e) ADMINISTRATIVE MATTERS.—*

*"(1) DEDUCTION OF COSTS OF LIBRARY OF CONGRESS AND COPYRIGHT OFFICE FROM FILING FEES.—*

*"(A) DEDUCTION FROM FILING FEES.—The Librarian of Congress may, to the extent not otherwise provided under this title, deduct from the filing fees collected under subsection (b) for a particular proceeding under this chapter the reasonable costs incurred by the Librarian of Congress, the Copyright Office, and the Copyright Royalty Judges in conducting that proceeding, other than the salaries of the Copyright Royalty Judges and the 3 staff members appointed under section 802(b).*

*"(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to pay the costs incurred under this chapter not covered by the filing fees collected under subsection (b). All funds made available pursuant to this subparagraph shall remain available until expended.*

*"(2) POSITIONS REQUIRED FOR ADMINISTRATION OF COMPULSORY LICENSING.—Section 307 of the Legislative Branch Appropriations Act, 1994, shall not apply to employee positions in the Library of Congress that are required to be filled in order to carry out section 111, 112, 114, 115, 116, 118, or 119 or chapter 10.*

***"§804. Institution of proceedings***

*"(a) FILING OF PETITION.—With respect to proceedings referred to in paragraphs (1) and (2) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 111, 112, 114, 115, 116, 118, 119, and 1004, during the calendar years specified in the schedule set forth in subsection (b), any owner or user of a copyrighted work whose royalty rates are specified by this title, or are established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests a determination or adjustment of the rate. The Copyright Royalty Judges shall make a determination as to whether the petitioner has such a significant interest in the royalty rate in which a determination or adjustment is requested. If the Copyright Royalty Judges determine that the petitioner has such a significant interest, the Copyright Royalty Judges shall cause notice of this determination, with the reasons for such determination, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter. With respect to proceedings under paragraph (1) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 112 and 114, during the calendar years specified in the schedule set forth in subsection (b), the Copyright Royalty Judges shall cause notice of commencement of proceedings under this chapter to be published in the Federal Register as provided in section 803(b)(1)(A).*

*"(b) TIMING OF PROCEEDINGS.—*

*"(1) SECTION 111 PROCEEDINGS.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (A) or (D) of section 801(b)(2) applies may be filed during the year 2005 and in each subsequent fifth calendar year.*

*"(B) In order to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (B) or (C) of section 801(b)(2) applies, within 12 months after an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests an adjustment of the rate. The Copyright Royalty Judges shall then proceed as set forth in subsection (a) of this section. Any change in royalty rates made under this chapter pursuant to this subparagraph may be reconsidered in the year 2005, and each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(3) (B) or (C), as the case may be. A petition for adjustment of rates established by section 111(d)(1)(B) as a result of a change is the rules and regulations of the Federal Communications Commission shall set forth the change on which the petition is based.*

*"(C) Any adjustment of royalty rates under section 111 shall take effect as of the first accounting period commencing after the publication of the determination of the Copyright Royalty Judges in the Federal Register, or on such other date as is specified in that determination.*

*"(2) CERTAIN SECTION 112 PROCEEDINGS.—Proceedings under this chapter shall be commenced in the year 2007 to determine reasonable terms and rates of royalty payments for the activities described in section 112(e)(1) relating to the limitation on exclusive rights specified by section 114(d)(1)(C)(iv), to become effective on January 1, 2009. Such proceedings shall be repeated in each subsequent fifth calendar year.*

*"(3) SECTION 114 AND CORRESPONDING 112 PROCEEDINGS.—*

*"(A) FOR ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES.—Proceedings under this chapter shall be commenced as soon as practicable after the effective date of the Copyright Royalty and Distribution Reform Act of 2004 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of eligible nonsubscription transmission services and new subscription services, to be effective for the period beginning on January 1, 2006, and ending on December 31, 2010. Such proceedings shall next be commenced in January 2009 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2011. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.*

*"(B) FOR PREEXISTING SUBSCRIPTION AND SATELLITE DIGITAL AUDIO RADIO SERVICES.—Proceedings under this chapter shall be commenced in January 2006 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of preexisting subscription services, to be effective during the period beginning on January 1, 2008, and ending on December 31, 2012, and preexisting satellite digital audio radio services, to be effective during the period beginning on January 1, 2007, and ending on December 31, 2012. Such proceedings shall next be commenced in 2011 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2013. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.*

*"(C)(i) Notwithstanding any other provision of this chapter, this subparagraph shall govern proceedings commenced pursuant to section 114(f)(1)(C) and 114(f)(2)(C) concerning new types of services.*

*"(ii) Not later than 30 days after a petition to determine rates and terms for a new type of service that is filed by any copyright owner of sound recordings, or such new type of service, indicating that such new type of service is or is about to become operational, the Copyright Royalty Judges shall issue a notice for a proceeding to determine rates and terms for such service.*

*"(iii) The proceeding shall follow the schedule set forth in such subsections (b), (c), and (d) of section 803, except that—*

*"(I) the determination shall be issued by not later than 24 months after the publication of the notice under clause (ii); and*

*"(II) the decision shall take effect as provided in subsections (c)(2) and (d)(2) of section 803 and section 114(f)(4)(B)(ii) and (C).*

*"(iv) The rates and terms shall remain in effect for the period set forth in section 114(f)(1)(C) or 114(f)(2)(C), as the case may be.*

*"(4) SECTION 115 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment or determination of royalty rates as provided in section 115 may be filed in the year 2006 and in each subsequent fifth calendar year, or at such other times as the parties have agreed under section 115(c)(3) (B) and (C).*

*"(5) SECTION 116 PROCEEDINGS.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b) concerning the determination of royalty rates and terms as provided in section 116 may be filed at any time within 1 year after negotiated licenses authorized by section 116 are terminated or expire and are not replaced by subsequent agreements.*

*"(B) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another such license agreement which provides permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending March 1, 1989, the Copyright Royalty Judges shall, upon petition filed under paragraph (1) within 1 year after such termination or expiration, commence a proceeding to promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of nondramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the Copyright Royalty Judges, in accordance with section 803, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(b).*

*"(6) SECTION 118 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of royalty payments as provided in section 118 may be filed in the year 2006 and in each subsequent fifth calendar year.*

*"(7) SECTION 1004 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the*

*adjustment of reasonable royalty rates under section 1004 may be filed as provided in section 1004(a)(3).*

*"(8) Proceedings Concerning Distribution of Royalty Fees.—With respect to proceedings under section 801(b)(3) concerning the distribution of royalty fees in certain circumstances under section 111, 119, or 1007, the Copyright Royalty Judges shall, upon a determination that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.*

***"§805. General rule for voluntarily negotiated agreements***

*"Any rates or terms under this title that—*

*"(1) are agreed to by participants to a proceeding under section 803(b)(3),*

*"(2) are adopted by the Copyright Royalty Judges as part of a determination under this chapter, and*

*"(3) are in effect for a period shorter than would otherwise apply under a determination pursuant to this chapter,*

*shall remain in effect for such period of time as would otherwise apply under such determination, except that the Copyright Royalty Judges shall adjust the rates pursuant to the voluntary negotiations to reflect national monetary inflation during the additional period the rates remain in effect.".*

*(b) Conforming Amendment.—The table of chapters for title 17, United States Code, is amended by striking the item relating to chapter 8 and inserting the following:*

***"8. Proceedings by Copyright Royalty Judges ........................................ 801".***

***SEC. 4. DEFINITION.***

*Section 101 is amended by inserting after the definition of "copies" the following:*

*"A 'Copyright Royalty Judge' is a Copyright Royalty Judge appointed under section 802 of this title, and includes any individual serving as an interim Copyright Royalty Judge under such section.".*

***SEC. 5. TECHNICAL AMENDMENTS.***

*(a) Cable Rates.—Section 111(d) is amended—*

*(1) in paragraph (2), in the second sentence, by striking "a copyright arbitration royalty panel" and inserting "the Copyright Royalty Judges."; and*

*(2) in paragraph (4)—*

*(A) in subparagraph (A), by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges";*

*(B) in subparagraph (B)—*

*(i) in the first sentence, by striking "Librarian of Congress shall, upon the recommendation of the Register of Copyrights," and inserting "Copyright Royalty Judges shall";*

*(ii) in the second sentence, by striking "Librarian determines" and inserting "Copyright Royalty Judges determine"; and*

*(iii) in the third sentence—*

*(I) by striking "Librarian" each place it appears and inserting "Copyright Royalty Judges"; and*

*(II) by striking "convene a copyright arbitration royalty panel" and inserting "conduct a proceeding"; and*

*(C) in subparagraph (C), by striking "Librarian of Congress" and inserting "Copyright Royalty Judges".*

*(b) Ephemeral Recordings.—Section 112(e) is amended—*

*(1) in paragraph (3)—*

*(A) by amending the first sentence to read as follows: "Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for the activities specified by paragraph (1) during the 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, or such other periods as the parties may agree."; and*

*(B) by striking the second sentence;*

*(C) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and*

*(D) in the fourth sentence, by striking "negotiation";*

*(2) in paragraph (4)—*

*(A) by amending the first sentence to read as follows: "The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (5), be binding on all copyright owners of sound recordings and transmitting organizations entitled to a statutory license under this subsection during the 5-year period specified in paragraph (3), or such other period as the parties may agree.";*

*(B) by striking "copyright arbitration royalty panel" each subsequent place it appears and inserting "Copyright Royalty Judges";*

*(C) in the fourth sentence, by striking "its decision" and inserting "their decision";*

*(D) in the fifth sentence, by striking "negotiated as provided" and inserting "described"; and*

*(E) in the last sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";*

*(3) in paragraph (5), by striking "or decision by the Librarian of Congress" and inserting ", decision by the Librarian of Congress, or determination by the Copyright Royalty Judges";*

*(4) by striking paragraph (6) and redesignating paragraphs (7), (8), and (9), as paragraphs (6), (7), and (8), respectively; and*

*(5) in paragraph (6)(A), as so redesignated, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges".*

*(c) Scope of Exclusive Rights in Sound Recordings.—Section 114(f) is amended—*

*(1) in paragraph (1)—*

*(A) in subparagraph (A)—*

*(i) by amending the first sentence to read as follows: "Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for subscription transmissions by preexisting subscription services and transmissions by preexisting satellite digital audio radio services specified by subsection (d)(2) during 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, except where different transitional periods are provided in section 804(b), or such periods as the parties may agree.";*

*(ii) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and*

*(iii) in the fourth sentence, by striking "negotiation";*

*(B) in subparagraph (B)—*

*(i) by amending the first sentence to read as follows: "The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (3), be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the 5-year period specified in subparagraph (A), a transitional period provided in section 804(b), or such other period as the parties may agree.";*

*(ii) in the second sentence, by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and*

*(iii) in the second sentence, by striking "negotiated as provided" and inserting "described"; and*

*(C) by amending subparagraph (C) to read as follows:*

*"(C) The procedures under subparagraphs (A) and (B) also shall be initiated pursuant to a petition filed by any copyright owners of sound recordings, any preexisting subscription services, or any preexisting satellite digital audio radio services indicating that a new type of subscription digital audio transmission service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of transmission service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for subscription digital audio transmission services most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.";*

*(2) in paragraph (2)—*

*(A) in subparagraph (A)—*

*(i) by amending the first paragraph to read as follows: "Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for subscription transmissions by eligible nonsubscription transmission services and transmissions by new subscription services specified by subsection (d)(2) during 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, except where different transitional periods are provided in section 804(b), or such periods as the parties may agree.";*

*(ii) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and*

*(iii) in the fourth sentence, by striking "negotiation";*

*(B) in subparagraph (B)—*

*(i) by amending the first sentence to read as follows: "The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (3), be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the 5-year period specified in subparagraph (A), a transitional period provided in section 804(b), or such other period as the parties may agree.";*

*(ii) by striking "copyright arbitration royalty panel" each subsequent place it appears and inserting "Copyright Royalty Judges"; and*

*(iii) in the last sentence by striking "negotiated as provided" and inserting "described in"; and*

*(C) by amending subparagraph (C) to read as follows:*

*"(C) The procedures under subparagraphs (A) and (B) shall also be initiated pursuant to a petition filed by any copyright owners of sound recordings or any eligible nonsubscription service or new subscription service indicating that a new type of eligible nonsubscription service or new subscription service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for preexisting subscription digital audio transmission services or preexisting satellite digital radio audio services, as the case may be, most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.";*

*(3) in paragraph (3), by striking "or decision by the Librarian of Congress" and inserting ", decision by the Librarian of Congress, or determination by the Copyright Royalty Judges"; and*

*(4) in paragraph (4)—*

*(A) by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges"; and*

*(B) by adding after the first sentence "The notice and recordkeeping rules in effect on the*

day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004 shall remain in effect unless and until new regulations are promulgated by the Copyright Royalty Judges. If new regulations are promulgated under this subparagraph, the Copyright Royalty Judges shall take into account the substance and effect of the rules in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004 and shall, to the extent practicable, avoid significant disruption of the functions of any designated agent authorized to collect and distribute royalty fees.".

(d) PHONORECORDS OF NONDRAMATIC MUSICAL WORKS.—Section 115(c)(3) is amended—

(1) in subparagraph (A)(ii), by striking "(F)" and inserting "(E)";

(2) in subparagraph (B)—

(A) by striking "under this paragraph" and inserting "under this section";

(B) by inserting "on a nonexclusive basis" after "common agents"; and

(C) by striking "subparagraphs (C) through (F)" and inserting "this subparagraph and subparagraphs (C) through (E)"; and

(3) in subparagraph (C)—

(A) by amending the first sentence to read as follows: "Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for the activities specified by this section during periods beginning with the effective date of such rates and terms, but not earlier than January 1 of the second year following the year in which the petition requesting the proceeding is filed, and ending on the effective date of successor rates and terms, or such other period as the parties may agree.";

(B) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(C) in the fourth sentence, by striking "negotiation";

(4) in subparagraph (D)—

(A) by amending the first sentence to read as follows: "The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to subparagraph (E), be binding on all copyright owners of nondramatic musical works and persons entitled to obtain a compulsory license under subsection (a)(1) during the period specified in subparagraph (C), such other period as may be determined pursuant to subparagraphs (B) and (C), or such other period as the parties may agree.";

(B) in the third sentence, by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and

(C) in the third sentence, by striking "negotiated as provided in subparagraphs (B) and (C)" and inserting "described";

(5) in subparagraph (E)—

(A) in clause (i)—

(i) in the first sentence, by striking "Librarian of Congress" and inserting "Librarian of Congress, Copyright Royalty Judges, or a copyright arbitration royalty panel to the extent those determinations were accepted by the Librarian of Congress"; and

(ii) in the second sentence, by striking "(C), (D) or (F) shall be given effect" and inserting "(C) or (D) shall be given effect as to digital phonorecord deliveries"; and

(B) in clause (ii)(I), by striking "(C), (D) or (F)" each place it appears and inserting "(C) or (D)"; and

(6) by striking subparagraph (F) and redesignating subparagraphs (G) through (L) as subparagraphs (F) through (K), respectively.

(e) COIN-OPERATED PHONORECORD PLAYERS.—Section 116 is amended—

(1) in subsection (b), by amending paragraph (2) to read as follows:

"(2) CHAPTER 8 PROCEEDING.—Parties not subject to such a negotiation may have the terms and rates and the division of fees described in paragraph (1) determined in a proceeding in accordance with the provisions of chapter 8."; and

(2) in subsection (c)—

(A) in the subsection heading, by striking "COPYRIGHT ARBITRATION ROYALTY PANEL DETERMINATIONS" and inserting "DETERMINATIONS BY COPYRIGHT ROYALTY JUDGES"; and

(B) by striking "a copyright arbitration royalty panel" and inserting "the Copyright Royalty Judges".

(f) USE OF CERTAIN WORKS IN CONNECTION WITH NONCOMMERCIAL BROADCASTING.—Section 118 is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in the first sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(ii) by striking the second and third sentences;

(B) in paragraph (2), by striking "Librarian of Congress:" and all that follows through the end of the sentence and inserting "Librarian of Congress, a copyright arbitration royalty panel, or the Copyright Royalty Judges, to the extent that they were accepted by the Librarian of Congress, if copies of such agreements are filed with the Copyright Royalty Judges within 30 days of execution in accordance with regulations that the Copyright Royalty Judges shall issue."; and

(C) in paragraph (3)—

(i) in the second sentence—

(I) by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and

(II) by striking "paragraph (2)." and inserting "paragraph (2) or (3).";

(ii) in the last sentence, by striking "'Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(iii) by striking "(3) In" and all that follows through the end of the first sentence and inserting the following:

"(3) Voluntary negotiation proceedings initiated pursuant to a petition filed under section 804(a) for the purpose of determining a schedule of terms and rates of royalty payments by public broadcasting entities to copyright owners in works specified by this subsection and the proportionate division of fees paid among various copyright owners shall cover the 5-year period beginning on January 1 of the second year following the year in which the petition is filed. The parties to each negotiation proceeding shall bear their own costs.

"(4) In the absence of license agreements negotiated under paragraph (2) or (3), the Copyright Royalty Judges shall, pursuant to chapter 8, conduct a proceeding to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (2), shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether such copyright owners have submitted proposals to the Copyright Royalty Judges.";

(2) by striking subsection (c) and redesignating subsections (d) through (g) as subsections (c) through (f), respectively;

(3) in subsection (c), as so redesignated, in the matter preceding paragraph (1)—

(A) by striking "(b)(2)" and inserting "(b)(2) or (3)";

(B) by striking "(b)(3)" and inserting "(b)(4)"; and

(C) by striking "a copyright arbitration royalty panel under subsection (b)(3)" and inserting "the Copyright Royalty Judges under subsection (b)(3), to the extent that they were accepted by the Librarian of Congress";

(4) in subsection (d), as so redesignated—

(A) by striking "in the Copyright Office" and inserting "with the Copyright Royalty Judges"; and

(B) by striking "Register of Copyrights shall prescribe" and inserting "Copyright Royalty Judges shall prescribe as provided in section 803(b)(6)"; and

(5) in subsection (f), as so redesignated, by striking "(d)" and inserting "(c)".

(g) SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—Section 119(b) is amended—

(1) in paragraph (3), by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(2) in paragraph (4)—

(A) in subparagraph (A), by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges"; and

(B) by amending subparagraphs (B) and (C) to read as follows:

"(B) DETERMINATION OF CONTROVERSY; DISTRIBUTIONS.—After the first day of August of each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, after deducting reasonable administrative costs under this paragraph, distribute such fees to the copyright owners entitled to receive them, or to their designated agents. If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

"(C) WITHHOLDING OF FEES DURING CONTROVERSY.—During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have the discretion to proceed to distribute any amounts that are not in controversy.".

(h) DIGITAL AUDIO RECORDING DEVICES.—

(1) ROYALTY PAYMENTS.—Section 1004(a)(3) is amended by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges".

(2) ENTITLEMENT TO ROYALTY PAYMENTS.—Section 1006(c) is amended by striking "Librarian of Congress shall convene a copyright arbitration royalty panel which" and inserting "Copyright Royalty Judges".

(3) PROCEDURES FOR DISTRIBUTING ROYALTY PAYMENTS.—Section 1007 is amended—

(A) in subsection (a), by amending paragraph (1) to read as follows:

"(1) FILING OF CLAIMS.—During the first 2 months of each calendar year, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Judges a claim for payments collected during the preceding year in such form and manner as the Copyright Royalty Judges shall prescribe by regulation."; and

(B) by amending subsections (b) and (c) to read as follows:

"(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—After the period established for the filing of claims under subsection (a), in each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a). The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.

*"(c) RESOLUTION OF DISPUTES.—If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.".*

*(4) DETERMINATION OF CERTAIN DISPUTES.—(A) Section 1010 is amended to read as follows:*

***"§1010. Determination of certain disputes***

*"(a) SCOPE OF DETERMINATION.—Before the date of first distribution in the United States of a digital audio recording device or a digital audio interface device, any party manufacturing, importing, or distributing such device, and any interested copyright party may mutually agree to petition the Copyright Royalty Judges to determine whether such device is subject to section 1002, or the basis on which royalty payments for such device are to be made under section 1003.*

*"(b) INITIATION OF PROCEEDINGS.—The parties under subsection (a) shall file the petition with the Copyright Royalty Judges requesting the commencement of a proceeding. Within 2 weeks after receiving such a petition, the Chief Copyright Royalty Judge shall cause notice to be published in the Federal Register of the initiation of the proceeding.*

*"(c) STAY OF JUDICIAL PROCEEDINGS.—Any civil action brought under section 1009 against a party to a proceeding under this section shall, on application of one of the parties to the proceeding, be stayed until completion of the proceeding.*

*"(d) PROCEEDING.—The Copyright Royalty Judges shall conduct a proceeding with respect to the matter concerned, in accordance with such procedures as the Copyright Royalty Judges may adopt. The Copyright Royalty Judges shall act on the basis of a fully documented written record. Any party to the proceeding may submit relevant information and proposals to the Copyright Royalty Judges. The parties to the proceeding shall each bear their respective costs of participation.*

*"(e) JUDICIAL REVIEW.—Any determination of the Copyright Royalty Judges under subsection (d) may be appealed, by a party to the proceeding, in accordance with section 803(d) of this title. The pendency of an appeal under this subsection shall not stay the determination of the Copyright Royalty Judges. If the court modifies the determination of the Copyright Royalty Judges, the court shall have jurisdiction to enter its own decision in accordance with its final judgment. The court may further vacate the determination of the Copyright Royalty Judges and remand the case for proceedings as provided in this section.".*

*(B) The item relating to section 1010 in the table of sections for chapter 10 is amended to read as follows:*

*"1010. Determination of certain disputes.".*

### *SEC. 6. EFFECTIVE DATE AND TRANSITION PROVISIONS.*

*(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect 6 months after the date of enactment of this Act, except that the Librarian of Congress shall appoint 1 or more interim Copyright Royalty Judges under section 802(d) of title 17, United States Code, as amended by this Act, within 90 days after such date of enactment to carry out the functions of the Copyright Royalty Judges under title 17, United States Code, to the extent that Copyright Royalty Judges provided for in section 801(a) of title 17, United States Code, as amended by this Act, have not been appointed before the end of that 90-day period.*

*(b) TRANSITION PROVISIONS.—*

*(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this Act shall not affect any proceedings commenced, petitions filed, or voluntary agreements entered into before the date of enactment of this Act under the provisions of title 17, United States Code, as amended by this Act, and pending on such date of enactment. Such proceedings shall continue, determinations made in such proceedings, and appeals taken therefrom, as if this Act had not been enacted, and shall continue in effect until modified under title 17, United States Code, as amended by this Act. Such petitions filed and voluntary agreements entered into shall remain in effect as if this Act had not been enacted. For purposes of this paragraph, the Librarian of Congress may determine whether a proceeding has commenced. The Librarian of Congress may terminate any proceeding commenced before the date of enactment of this Act pursuant to chapter 8 of title 17, United States Code, and any proceeding so terminated shall become null and void. In such cases, the Copyright Royalty Judges may initiate a new proceeding in accordance with regulations adopted pursuant to section 803(b)(6) of title 17, United States Code.*

*(2) CERTAIN ROYALTY RATES PROCEEDINGS.—Notwithstanding any other provision of law, proceedings to determine royalty rates pursuant to section 119(c) of title 17, United States Code, shall be conducted pursuant to the provisions of title 17, United States Code, and the rules and practices in effect under that chapter on the day before any provision of this Act takes effect.*

*(3) PENDING PROCEEDINGS.—Notwithstanding paragraph (1), any proceedings to establish or adjust rates and terms for the statutory licenses under section 114(f)(2) or 112(e) of title 17, United States Code, for a statutory period commencing on or after January 1, 2005, shall be terminated upon the date of enactment of this Act and shall be null and void. The rates and terms in effect under section 114(f)(2) or 112(e) of title 17, United States Code, on December 31, 2004, for new subscription services, eligible nonsubscription services, and services exempt under section 114(d)(1)(C)(iv) of such title, and the rates and terms published in the Federal Register under the authority of the Small Webcaster Settlement Act of 2002 (17 U.S.C. 114 note; Public Law 107–321) (including the amendments made by that Act) for the years 2003 through 2004, as well as any notice and recordkeeping provisions adopted pursuant thereto, shall remain in effect until the later of the first applicable effective date for successor terms and rates specified in section 804(b) (2) or (3)(A) of title 17, United States Code, or such later date as the parties may agree or the Copyright Royalty Judges may establish. For the period commencing January 1, 2005, an eligible small webcaster or a noncommercial webcaster, as defined in the regulations published by the Register of Copyrights pursuant to the Small Webcaster Settlement Act of 2002 (17 U.S.C. 114 note; Public Law 107–321) (including the amendments made by that Act), may elect to be subject to the rates and terms published in those regulations by complying with the procedures governing the election process set forth in those regulations not later than the first date on which the webcaster would be obligated to make a royalty payment for such period. Until successor terms and rates have been established for the period commencing January 1, 2006, licensees shall continue to make royalty payments at the rates and on the terms previously in effect, subject to retroactive adjustment when successor rates and terms for such services are established.*

*(4) INTERIM PROCEEDINGS.—Notwithstanding subsection (a), as soon as practicable after the date of enactment of this Act, the Copyright Royalty Judges or interim Copyright Royalty Judges shall publish the notice described in section 803(b)(1)(A) of title 17, United States Code, as amended by this Act, to initiate a proceeding to establish or adjust rates and terms for the statutory licenses under section 114(f)(2) or 112(e) of title 17, United States Code, for new subscription services and eligible nonsubscription services for the period commencing January 1, 2006. The Copyright Royalty Judges or Interim Copyright Royalty Judges are authorized to cause that proceeding to take place as provided in subsection (b) of section 803 of that title within the time periods set forth in that subsection. Notwithstanding section 803(c)(1) of that title, the Copyright Royalty Judges shall not be required to issue their determination in that proceeding before the expiration of the statutory rates and terms in effect on December 31, 2004.*

*(c) EXISTING APPROPRIATIONS.—Any funds made available in an appropriations Act to carry out chapter 8 of title 17, United States Code, shall be available to the extent necessary to carry out this section.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 1417, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1417, legislation to reform the rate-making and royalty distribution system for compulsory and statutory licenses. The House passed its version of the bill on March 3 of this year by a vote of 406 to nothing. The other body subsequently passed H.R. 1417 on October 6 with certain amendments incorporated into a committee substitute. These changes are acceptable to both the majority and minority members of our committee with the adoption of the enrolling resolution just considered.

Mr. Speaker, with the adoption of the three copyright compulsory licenses in 1976, Congress contemplated the need for an administrative body charged with periodically adjusting the rates as well as distributing royalties under the respective licenses. The resulting entity was the Copyright Royalty Tribunal or CRT.

Over the next 17 years, however, CRTs were roundly criticized, prompting Congress to reassess the rate-making and royalty distribution construct. This deliberation produced the current system in 1993 that features copyright royalty arbitration panels or CARPs. Eleven years later we are seeking further improvements in response to existing deficiencies in the CARP system.

Among other things, H.R. 1417 addresses the uniform complaint that CARP decisions are unpredictable and inconsistent. This is generally accomplished by changing the structure from one featuring ad hoc arbitration panels to one comprised of three permanent copyright royalty judges or CRJs. To justify the need for these full-time judges and to alleviate overwhelming workloads associated with multiple proceedings that occur simultaneously, the bill staggers the timing during which individual proceedings can be adjudicated.

The bill also addresses the complaint that the process is unnecessarily expensive by eliminating the costs of the arbitrators upon private parties and by creating a specific process to give small claimants a more balanced ability to participate. The bill discourages persons or entities from disrupting the process at the 11th hour by requiring potential participants to show that they have a significant interest in the proceedings. In furtherance of marketplace negotiations, the measure establishes a cooling-off period during which time parties are to focus on reaching their own agreements.

Mr. Speaker, the amendments adopted by the other body that require our further consideration of the bill today concern the scope of discovery in the role of the copyright office under the new construct.

Briefly, the original House version created greater open-ended discovery of relevant material information over a 60-day period. The changes adopted by the other body make it more difficult for a participant to acquire documents and materials other than statements made by stakeholders and witnesses. In addition, another revision specifically limits the number of interrogatories and depositions that each participant may seek. Both of these changes are consistent with the current trend in administrative law that pares the discovery process. This will save participants time and money.

In addition, the other body strengthened the role of the copyright offices relative to the CRJs. This represents a policy preference that deviates somewhat from the House bill which conferred greater autonomy upon the CRJs to make independent decisions.

□ 1715

I am nonetheless satisfied that the changes adopted were born of a legitimate concern that the proceedings would be fairer and more predictable if the Copyright Office retained plenary authority to offer guidance regarding copyright law. This is especially important when novel questions of law arise.

Mr. Speaker, H.R. 1417 was painstakingly negotiated amongst the various congressional, executive, and industry stakeholders. We have worked in a bipartisan manner and developed a consensus product over a 3-year period that will effectively address an arcane, but important, matter. I urge the adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1417. The House passed a substantially identical version of this bill by a vote of 406 to zero on March 3. After making a number of amendments, the Senate passed H.R. 1417 on October 6 by unanimous consent. I think it is safe to say this bill is noncontroversial, and I ask all of my colleagues to once again support it.

Certainly, my colleagues should be aware that the Senate amendments do make some significant changes to the bill as passed by the House. However, I believe those changes are noncontroversial. Further, our passage of Senate Concurrent Resolution 145 just minutes ago ensures that H.R. 1417 will now work as intended.

Since H.R. 1417 already passed the House unanimously, I will spare my colleagues a detailed explanation of the provisions with which they are already familiar. In summary, H.R. 1417 significantly reforms the Copyright Arbitration Royalty Panel, or CARP, system. CARPs establish the rates, terms, and distribution of royalties generated by the half dozen statutory licenses that require copyright owners to make their works available to certain users under government-set rates and terms. There is widespread agreement that the CARP process is broken, and H.R. 1417 is designed to remedy its defects.

After House passage in March, the Senate gave full consideration to H.R. 1417. Following a September markup before the Senate Committee on the Judiciary, the Senate passed its own amendments to H.R. 1417. These amendments largely leave intact the substance and structure of H.R. 1417. Rather than make wholesale changes, the Senate has made a number of focused amendments to several provisions of the House-passed bill. Many of these changes are distinctive improvements to which I can give my wholehearted support. Others may not reflect the exact policy choices I would prefer, but are still acceptable in the context of this bill.

Perhaps the most significant changes made by the Senate amendments involve the interplay between the new Copyright Royalty Judges and the Copyright Office. The Senate opted to give the CRJs less autonomy and independence from the Copyright Office. For instance, the Senate amendments give the Copyright Office the right to review for legal errors CRJ interpretations of the Copyright Act. Further, the Senate amendments require the CRJs to obtain Copyright Office approval before correcting clerical technical errors in their issued determinations. While I reserve the right to revisit some of these changes in future legislation, I do not think they should prove fatal to the bill before us today.

Another major change implemented by the Senate amendments to H.R. 1417 involves the discovery process that will be utilized in rate-making proceedings. In essence, the Senate amendments more severely limit the discovery that will be available to participants in rate-making proceedings. To my mind, these amendments represent a significant improvement over the analogous provisions in the House-passed version of H.R. 1417. These changes will further reduce the cost of participation in rate-making proceedings and thus advance one of the fundamental goals of H.R. 1417. I commend the Senate for making these improvements.

In addition, the Senate amendments altered to a certain degree the ability of affected parties to object to negotiated settlements of royalty rates. In essence, the Senate amendments give all parties bound by proposed rates the ability to comment, but only allows participants in a proceeding to actually object to the proposed rates.

The Senate amendments also make a number of other changes; but as they are primarily technical, they do not merit discussion in the full House.

In conclusion, Mr. Speaker, I think H.R. 1417, as corrected by Senate Concurrent Resolution 145, will substantially improve the CARP process, and I ask my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SMITH), the chairman of the subcommittee.

Mr. SMITH of Texas. Mr. Speaker, I thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for yielding me this time.

Mr. Speaker, H.R. 1417 passed the House unanimously in March. The bill before us today reflects noncontroversial amendments added by the Senate.

As the gentleman from Wisconsin (Chairman SENSENBRENNER) indicated, the Senate included some inadvertent, but serious, drafting errors when it passed the bill with these amendments in October. It is now necessary to adopt a concurrent resolution that reflects the fixes to those errors.

The Senate passed this resolution yesterday.

H.R. 1417 is a bipartisan effort to reform the process of copyright royalty rate-making and distribution in a way that is fair to all participants. It is important to the artists, songwriters, music publishers, and webcasters caught in a long, laborious, and costly royalty system. It will provide an incentive for the creation and distribution of content.

The copyright royalty rate-making and distribution process is one of the most complicated and arcane areas of our legal system, but it affects an expansive universe of people and industries.

This bill addresses two complaints about the current system: cost and lack of stability and accountability.

Work on reforms to this system has been a long and tough process over the past 3 years. I would like to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from Michigan (Ranking Member CONYERS) and the gentleman from California (Ranking Member BERMAN) for their commitment to the process.

This legislation is necessary to ensure an efficient and effective system for copyright royalties.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. BERMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I rise only to congratulate the House leadership of the Committee on the Judiciary for the really tireless efforts that they brought to the negotiation process to get us to where we are. We have come a considerable way, and I want to start out by thanking our ranking member on the subcommittee, who has been absolutely brilliant in negotiating with the other side, and our chairman and subcommittee chairman as well.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Michigan (Ranking Member CONYERS) for those comments. But in all fairness, I have to thank the staff of the committee on both sides of the aisle here who deserve great appreciation because this may not be interesting, but it is complicated, and they spent dozens and perhaps hundreds of hours working through the details of what I think is actually a very significant reform of a process that is very important for a select group of people.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1417.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## IMPROVING ACCESS TO PHYSICIANS IN MEDICALLY UNDERSERVED AREAS

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2302) to improve access to physicians in medically underserved areas.

The Clerk read as follows:

S. 2302

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MODIFICATION OF VISA REQUIREMENTS WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.**

(a) EXTENSION OF DEADLINE.—

(1) IN GENERAL.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) (as amended by section 11018 of Public Law 107–273) is amended by striking "2004." and inserting "2006.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted on May 31, 2004.

(b) EXEMPTION FROM H–1B NUMERICAL LIMITATIONS.—Section 214(l)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(2)(A)) is amended by adding at the end the following: "The numerical limitations contained in subsection (g)(1)(A) shall not apply to any alien whose status is changed under the preceding sentence, if the alien obtained a waiver of the 2-year foreign residence requirement upon a request by an interested Federal agency or an interested State agency.".

(c) LIMITATION ON MEDICAL PRACTICE AREAS.—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)) is amended by striking "agrees to practice medicine" and inserting "agrees to practice primary care or specialty medicine".

(d) EXEMPTIONS.—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)) is further amended—

(1) by striking "except that," and all that follows and inserting "except that—"; and

(2) by adding at the end the following:

"(i) in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary;

"(ii) in the case of a request by an interested State agency, the head of such State agency determines that the alien is to practice medicine under such agreement in a facility that serves patients who reside in one or more geographic areas so designated by the Secretary of Health and Human Services (without regard to whether such facility is located within such a designated geographic area), and the grant of such waiver would not cause the number of the waivers granted on behalf of aliens for such State for a fiscal year (within the limitation in subparagraph (B)) in accordance with the conditions of this clause to exceed 5; and

"(iii) in the case of a request by an interested Federal agency or by an interested State agency for a waiver for an alien who agrees to practice specialty medicine in a facility located in a geographic area so designated by the Secretary of Health and Human Services, the request shall demonstrate, based on criteria established by such agency, that there is a shortage of health care professionals able to provide services in the appropriate medical specialty to the patients who will be served by the alien.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2302, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2302. This legislation will extend the program under which alien doctors can avoid having to return home for 2 years by agreeing to practice in medically underserved areas here in America.

Aliens who participate in medical residencies in the United States on a "J" visa program visa must generally leave the United States after the completion of their residencies to reside abroad for 2 years. The intent behind the policy is to encourage American-trained foreign doctors to return home to improve health conditions that advance the medical profession in their native countries.

In 1994, Congress created a waiver of the 2-year foreign residence requirement. State departments of public health may request a waiver for foreign doctors who commit to practicing medicine for no less than 3 years in geographic areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals. The number of foreign doctors who can receive the waiver is limited to 30 per State each year. The waiver has proven to be an important means of ensuring quality medical care in areas of the United States with physician shortages.

S. 2302 is substantially similar to H.R. 4453, a bill introduced by the gentleman from Kansas (Mr. MORAN) that this body passed by voice vote on October 6. It will extend the waiver program to June 2006. It will also allow each State to place five of the doctors it sponsors each year in areas not designated by HHS as physician shortage areas. The bill continues the practice of allowing foreign doctors receiving waivers to receive H–1B visas regardless of the annual H–1B visa quota. Finally, the bill clarifies that doctors receiving waivers can practice specialty medicine. However, when a doctor works in a specialty, there must exist a shortage of health care professionals able to provide services in that specialty to the patients he or she will serve.

I urge my colleagues to support this bill.

Mr. Speaker, this time I will insert into the RECORD an exchange of jurisdictional letters between the chairman of the Committee on Energy and Commerce, the gentleman from Texas (Mr. BARTON), and myself.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
*Washington, DC, November 16, 2004.*

Hon. F. JAMES SENSENBRENNER, Jr.,
*Chairman, Committee on the Judiciary, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN SENSENBRENNER: This week the House is scheduled to consider S. 2302 under suspension of the rules.

S. 2302, as passed by the Senate, contains language, which provides for exemptions to section 214(l)(1)(D) of the Immigration and Nationality Act, involving the Secretary of Health and Human Services. As you know, Rule X of the Rules of the House of Representatives gives the Committee on Energy and Commerce jurisdiction over public health.

I recognize your desire to bring this legislation before the House in an expeditious manner. Accordingly, I will not exercise my Committee's right to a referral. By agreeing to waive its consideration of the bill, however, the Energy and Commerce Committee does not waive its jurisdiction over S. 2302. In addition, the Energy and Commerce Committee reserves its right to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask for your commitment to support any request by the Energy and Commerce Committee for conferees on S. 2302 or similar legislation.

I request that you include this letter and your response in the RECORD during consideration of the bill. Thank you for your attention to these matters.

Sincerely,

JOE BARTON,
*Chairman.*

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U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, November 17, 2004.*

Hon. JOE BARTON,
*Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.*

DEAR CHAIRMAN BARTON: Thank you for your letter regarding S. 2302, a bill to improve access to physicians in medically underserved areas. Subsection 1(d) of the bill reduces the number of slots assigned to underserved areas that are designated by the Secretary of Health and Human Services. To the extent they affect duties of the Secretary, these provisions fall within the Rule X jurisdiction of the Committee on Energy and Commerce. I appreciate your willingness to forgo consideration of the bill, and I acknowledge that by agreeing to waive its consideration of the bill, the Committee on Energy and Commerce does not waive its jurisdiction over these provisions.

I will include a copy of your letter and this response in the CONGRESSIONAL RECORD during consideration of S. 2032 on the House floor.

Thank you for your assistance in this matter.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
*Chairman.*

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the distinguished chairman. This might be the last time the Subcommittee on Immigration is on the floor, possibly, in the 108th Congress; and I want to thank the full Committee on the Judiciary staff, and I want to particularly offer my appreciation to the Democratic staff of the Committee on the Judiciary for their very fine work during this Congress and their efforts toward bipartisanship, and thank Nolan Rappaport on the Subcommittee on Immigration for his work on this legislation and others dealing with immigration concerns.

Let me share with my colleagues from an Associated Press article dated August 24: "Before doctors like Mircea Rachita from Romania arrived in town, patients in this small town had to wait months for doctors' appointments. Now, underserved communities are finding good doctors easy to come by due to a visa waiver program which creates incentives for foreign-born physicians to work in communities American doctors may shun."

Clearly there is room and need for a bill to improve access to physicians in medically underserved areas, and S. 2302 is the embodiment of that bill, along with a similar House bill.

The purpose of this bill is to make it possible for foreign doctors to provide medical services in geographic areas which have been designated by the Secretary of Health and Human Services as having a shortage of health care professionals. S. 2302 is almost identical to H.R. 4453, which I cosponsored with my colleague, the chairman of the subcommittee, the gentleman from Indiana (Mr. HOSTETTLER).

H.R. 4453 passed the House on October 6 on the Suspension Calendar. The Senate bill has an additional provision which ensures that specialists sponsored by Federal and State agencies are placed in areas that have a shortage in that specialty. The additional provision requires the sponsoring agency to determine criteria for demonstrating a specialist shortage and to meet that criteria in order to sponsor the specialist, a way of broadening access to health care and recognizing the 44 million uninsured Americans who need access to sometimes public facilities that utilize these foreign doctors.

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Aliens who attend medical school in the United States on J exchange program visas are required to leave the country afterward and reside abroad for 2 years before they can receive their visas to work here as physicians.

In 1994, Congress created a new temporary waiver of this 2-year foreign residence requirement which allowed States as well as Federal agencies to sponsor the doctors. It applied to foreign doctors who would commit to practicing medicine for no less than 3 years in a geographic area designated by the Secretary of Health and Human Services as having a shortage of health care professionals.

This program has been successful for 10 years in bringing highly qualified physicians to medically underserved areas. It sunsetted on June 1 of this year and created a chasm between the needs of those who need health care and the regulations of the Federal government. We now have brought those pieces together.

The first physician recommended for a waiver in Texas was Dr. Maria Camacho, a pediatric intensivist. Her services to the residents of Harlingen in Cameron County provide a level of health care to children that was previously unavailable in that county.

Dr. K.M. Moorthi is a nephrologist who was recommended for a waiver to serve at a facility in Pecos, Texas, in Reeves County. He works at a dialysis center. Patients requiring dialysis three times per week in that part of Texas used to have to travel more than 70 miles each way for the treatment. Now it is available in this county.

The bill will provide a 2-year extension for this waiver program. We started out with 1 year. I asked for 5 years. We compromised on 2 years. We have made progress.

It will also establish a pilot flexibility program which will allow a State agency to place a doctor at a location that has not been designated as underserved if the doctor, nevertheless, will serve patients from an underserved area. That is a very effective compromise to ensure that the patients, no matter where they are, get served whether they are in an underserved area or those patients that reflect that community.

The exception is limited to five doctors in each State. It targets rural underserved areas that typically get specialty medical care from a major medical facility that is not itself located within an underserved area.

Finally, the doctors who receive a waiver to come here with H–1B visas will not count toward the H–1B cap.

I urge my colleagues to consider this legislation as a very positive step for good health care in America and support it enthusiastically.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. MORAN), the author of the House counterpart to this bill.

Mr. MORAN of Kansas. Mr. Speaker, I thank the chairman for yielding me time.

I am here only once again in a series, it seems like, of a number of years in which I have been on the floor to support the provisions contained in this legislation. I commend the chairman and the ranking member in the Committee on the Judiciary for their work in getting this resolved this year.

The J-1 visa program expired on May 31 of this year. It is a program that is so important to many areas of the country. Once again, I am here to express my support for the legislation and indicate that in many places across rural America and the core of our cities, absent this program, Americans will not be served with a physician. It is important. It needs to be passed. I thank the chairman for his leadership in seeing that that occurred.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I am so happy that we are working together on a health care issue. They are critical to the United States where we have so many people without the ability to get health care. Against that background and this positive attitude, someone in this body must say, well, why are we bringing doctors in from out of the country to the most affluent nation on planet Earth, and they are providing very important necessary care? I think that is a question that will be taken up in the following upcoming session, but it is one that is troublesome.

Right now I join with the gentlewoman from Texas (Ms. JACKSON-LEE), our ranking member, in proudly supporting the work that has taken place to expand the boards. There are places where, for example, Indian reservations, technically not within the jurisdiction, will now be able to receive help. And even more important is the ability now to bring in specialists, pediatric specialists, diabetes specialists, to work in areas where, without this intervention, patients would be hundreds and hundreds of miles away from the proper medical treatment.

This is an excellent bill. It is a product of bipartisan work in the committee, and I am happy to be a part of it. I thank the gentlewoman for yielding me time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from North Dakota (Mr. POMEROY), who I think understands the need for health care in rural America.

Mr. POMEROY. Mr. Speaker, I thank the gentlewoman for yielding me time.

I am pleased to associate myself with the ranking member on the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), as well as my former co-chairman with the Rural Health Care Coalition, the gentleman from western Kansas (Mr. MORAN).

Truly, we have a growing problem relative to the delivery of rural health care, and that is we do not have enough professionals to deliver the care required. As we look at the pipeline, those coming along compared to those nearing the end of their practice years, we realize that we are working ourselves into a pretty serious problem here and that is especially so when you consider the aging of the population. So I agree with the gentleman from Michigan (Mr. CONYERS). We need to look at this systemically, why this is happening, and address it. But in the near term, we need to take the step that offers a Band-Aid solution but an important Band-Aid at that, and that is the legislation before us.

North Dakota receives about a dozen doctors a year through this important visa waiver provision. Twenty-six cities in the State I represent have participated in this program. We would have a situation where failure to authorize this would create immediate problems in six or seven small towns. They would face the departure of critical medical personnel under the loss of this visa waiver.

With the passage of it, conversely, we will have opportunities to continue to build capacity. I have one city that has been going through an incredibly expensive proposition of hiring an anesthesiologist on a Locum Tenens basis. This is a temporary hire coming in from other parts of the country, and it costs a fortune. We hope to move through a resident hire through the application of this visa waiver provision.

So, bottom line, while this is an immigration bill, it is all about making sure health care services for peoples' needs in rural areas and underserved communities are available, and I urge its adoption.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. POMEROY. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I want to commend the gentleman, because it was the senior Senator from North Dakota that put this program together almost a decade ago, and I commend both of the gentlemen.

Mr. POMEROY. I thank the gentleman very much.

Senator CONRAD has done very good work on this, as has the gentleman from Kansas (Mr. MORAN) in the House and others. I am very pleased, as the gentleman mentioned earlier, a bipartisan moment on health care. This is a good bill. Let us pass it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. STEARNS). The gentlewoman from Texas (Ms. JACKSON-LEE) has 9 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

In conclusion, I am very glad that the point that was made by the distinguished ranking member and the gentleman from North Dakota (Mr. POMEROY) is that this is both a medical bill, a health care bill, and it is an immigration bill. And is it not interesting that we can find an opportunity for bipartisanship around two very key issues.

I think it is also important to reemphasize the fact that we promote and encourage the education and training of individuals here in America in the medical professions, nurses, nurse practitioners, physicians, physician assistants and others that are the cornerstone of our health care system. But we know our hospital systems are overburdened. We know there are many, many people that are underserved. This bill serves a very valuable purpose.

Might I reemphasize the fact that we will give opportunities to hospitals that are located or designated as not an underserved area? It reaches out to serve the underserved, which is something we try to encourage our teaching hospitals to do, who typically are not in areas that can be considered that, so that the individuals get high-quality service. They will be able to utilize this legislation.

Mr. Speaker, in my concluding remarks, I think it is important to note that we do have before us an immigration bill. I was hoping before the conclusion of the 108th Congress we might be in a better position to really attack the question of comprehensive immigration reform. Many of us have had initiatives that have languished for a very long time. I cite for this body the Comprehensive Immigration Fairness Reform Act that really looked at immigration in a very comprehensive manner.

Probably over the next couple of months we will hear a raging debate on immigration, those for it, those against it. The debate on immigration can be a very tense and conflicted debate. It raises some of the most unpleasant aspects of many of those who are pro and con, in many instances, not being able to find common ground. I would encourage my colleagues to look at this forthrightly and understand that we can no longer turn the lights out and close the curtains on this very important issue.

We can no longer have a temporary guest program, albeit how well-intentioned this administration may be, the Flat Earth Theory that allows people to come in for 3 years and then suggest to them that they must then leave the country in order to, if you will, remain in a position to possibly have another job again. The guest worker program proposed by President Vincente Fox and this administration will not work. You will not get 8 million illegal immigrants in this country to accept that philosophy. Nor will you get to a point where you would like to be, a secure America, because we are not focusing on securing our borders. We are focusing on what I think is misdirected in a temporary guest worker program.

Comprehensive reform allows us to allow individuals to earn access to legalization, to document those who are here, and be able to be safe from terrorists by distinguishing those who have come here for economic opportunity as opposed to those who have come to do us harm. Why can we not understand that in a bipartisan way?

Now, let me say also, if we are going to do anything in the last hours of this session, make sure that we do something that helps legal immigrants who are here who for years who have been trying to reunite their families. We have passed out of the House in a bipartisan manner 245–I which would allow legal immigrants to reunite with mothers and fathers, husbands and wives or children. That would be a fair approach, and the Senate needs to help us, the other body, if I might say, needs to help us in that. Any discussion about H–1Bs clearly should be a discussion in recognizing that we must protect American jobs. We must protect American jobs in order to have an open and adequate discussion on immigration.

In conclusion, let me say this, Mr. Speaker, I would hope that our good friends who are dealing in the conference on issues of immigration reform would not pursue these in the 9/11 intelligence bill. Allow us to have a full, comprehensive debate and a full, comprehensive bipartisan approach to immigration reform that will last and will be invested in America and will make America work and comply with our principles of democracy and empowerment and equality.

Putting poison pills on an intelligence bill that deals with fixing the intelligence system is no way to go forward on a vital question of how we bring America together and answer the questions of those who say, what do you do about those illegal immigrants? Are you just going to affirm them for doing the illegal wrong thing? No, we are not. We are going to give them the opportunity to earn access to legalization while they are already here paying taxes, children in school, building houses and contributing to this economy.

□ 1745

Let us wake up America and stop the divisive debate on immigration and stand up for what we believe in.

This country was founded on immigration. How many of us can forget the early pinnings of this Nation; the turn of the century and the 1900s and immigrants coming from Europe? This is the very same.

Protect the borders, respond to those in Arizona and California and Texas who are concerned about the constant flow of illegal immigrants and the large deaths in the deserts. We do that by securing the borders, working with our friends in South and Central America, providing economic opportunity there, and working on a real immigration reform bill.

It saddens me that we come to the close of the 108th Congress when we could have sat down, looked each other in the eye, sat around the table and done the right thing.

I can only say that I applaud the J–1 visa legislation, a good sign of working together. It will help people in America, and I hope it will help us improve our health care system, but we can also heal a broken immigration system by doing the very same thing, looking each other in the eye and sitting around and putting the doctors to work, the political doctors to work, of good mind and good faith and make this country what it is, a country that believes in the Statue of Liberty's words: Bring us your poor and oppressed.

I thank the distinguished Speaker, and I ask my colleagues to support this legislation, and I hope the charge is that we will face immigration the way it should be, in a fair, equitable and balanced way.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, lest anyone be confused as a result of the previous speaker that this is a wide-ranging, overall immigration bill that deals with amnesty and guest workers and all of those very contentious issues, let me lay that impression to rest. This bill does not do that, and I fear that the previous speaker's statement ends up hurting the support for this bill that is broad and bipartisan.

All this bill does is allow a foreign national who is a graduate of an American medical school and who has completed his residency in an American hospital to practice in a medically-underserved area, somewhere in the United States, and the request would have to be made by a State Department of Public Health and limited to no more than 50 doctors per State.

Now, this is not what the gentlewoman from Texas is talking about. We will deal with that in due course, but let us make sure that this bill is not confused with the other more broad and contentious bills.

This bill has to pass because it extends a program that expired in June of this year, and if we vote this legislation down, then we are not going to have those doctors in the medically-underserved areas.

We should keep the discussion and bills like this confined to what is in the bill, rather than a wide-ranging overall debate on immigration policy.

Ms. BORDALLO. Mr. Speaker, I rise today in support of S. 2302, which would reauthorize the "Conrad 30 J–1 Visa Waiver Program." Reauthorization of this important program will help districts that experience shortages with respect to health care professionals, such as Guam, by allowing certain U.S.-trained foreign doctors to remain in the United States to practice medicine in these underserved areas.

Like many rural and insular areas, Guam experiences great difficulty attracting and retaining qualified health professionals. The cost of providing health care is higher in Guam than in many areas on the mainland, and incidents of chronic disease are above national averages. The Conrad 30 J–1 visa Waiver Program is an important tool that allows poor, rural and insular areas to meet the health care needs of their communities by permitting International Medical Graduates to maintain their work visas in the United States if they agree to remain in areas defined by the Department of Health and Human Services as Health Professional Shortage Areas or Medically Underserved Areas or Populations. Normally, these foreign physicians would have to return to their respective home countries for 2 years before they could return to the United States to again practice medicine.

While I believe priority should always be given to American doctors and health professionals for local hiring, it is clear that there are simply not enough health care professionals to meet demand in underserved areas such as Guam. Without the services of skilled foreign physicians from countries such as the Philippines, it would be difficult for Guam's public health care system to meet the medical needs of our community. S. 2302 reauthorizes a program that has been successful in addressing the issues of recruitment and retention of qualified health professionals in these areas, and I urge my colleagues to support its passage.

Mr. DAVIS of Illinois. Mr. Speaker, I rise in support of S. 2302. The state of health care is one of the most critical issues facing this Nation. As the world's most powerful and wealthy country, our health care system is unacceptable. According to the Health Resources and Services Administration, there are 62 designated Health Professional Shortage Areas in Cook County, Illinois, alone. It is unacceptable that 49 out of the 102 counties in Illinois lack hospitals with any obstetrical services. It is unacceptable that 49 of the 102 counties in Illinois lack hospitals with any psychiatric services. S. 2302 would help address the Nation's health care crisis by encouraging qualified medical professionals to serve in medically underserved areas. Increasing access to primary care providers and specialists would benefit the citizens of Illinois and the country as a whole.

Therefore, this bill is a step in the right direction. However, much work remains to be done to reform our health care system as a whole. We need to ensure that no American is left behind in preventative care. We need to ensure equal access to medical treatments. We need to ensure affordable health insurance. We need to erase the vast disparities in the incidents of illness and death among minorities compared to the overall U.S. population. African-American and Native-American babies die at a rate that is 2 to 3 times higher than the rate for white Americans. African Americans are 1.7 times as likely as white Americans to have diabetes; Latino Americans are twice as likely to have diabetes as their white counterparts.

Mr. Speaker, the state of one's health sets the precedent for everything else in our lives. If we are not in good health, we cannot perform our jobs well or do well in school. We must work toward making quality healthcare accessible and available to all regardless of age, race, or economic status.

Ms. CHRISTENSEN. Mr. Speaker, I rise today to join my fellow colleagues in support of S. 2302, also known as H.R. 4156. I first would like to thank Senator CONRAD and Congressman JERRY MORAN for sponsoring this important piece of legislation. I would also like to thank the committees jurisdiction for their quick actions in allowing this bill to come to the floor.

Mr. Speaker, over the tenure of my congressional career I have come to the floor repeatedly to demand that Congress act to address the needs of the medically underserved and to ensure that we do everything possible to eliminate arbitrary barriers which give rise to healthcare disparities.

As there is a vast amount of research on the subject of rural physician recruitment and retention, this bill is by no means a comprehensive policy. Rather, the purpose is to be a temporary stop gap measure to allay the crisis of rural health and healthcare providers.

Mr. Speaker, more than 51 million Americans live in areas classified by the U.S. Office of Management and Budget (OMB) as nonmetropolitan. They comprise one-fifth of the U.S. population. Rural populations are found to be older, poorer, sicker, less educated and to have a perception of worse health status than their urban counterparts.

They also have higher infant mortality and injury-related mortality rates, fewer hospital beds and physicians per capita, and are much less likely than urban residents to have private or public health insurance. Moreover, while the number of individuals living below the poverty line is disproportionately high in rural areas, the number receiving Medicaid benefits is disproportionately low.

In a study of the utilization rates of 28 categories of medical services, found that, with the exception of major surgical procedures, urban residents received between 20 percent and 30 percent more of each type of service than did rural residents.

With at least 20 percent of the population living in rural areas, less than 11 percent of the Nation's physicians are practicing in nonmetropolitan areas. Today, more than 2,500 physicians were needed in nonmetropolitan areas to remove all nonmetropolitan health professional shortage area (HPSA) designations for primary care. More than twice that number are needed to achieve a 2,000–1 ratio in those HPSAs. This is the current situation and does not factor in the aging physician population serving rural areas, nor does it factor in the statistical designation dealing with counties as the main reference point.

As a medical doctor, I understand that nonmetropolitan physicians derive a larger share of their gross practice revenue from Medicare and Medicaid patients than metropolitan physicians. These public programs pay physicians at lower rates than private insurers. There is a decreased ability in nonmetropolitan areas to perform economically enhancing procedures (hospitals with decreasing obstetrical and surgical units, etc.), which further decreases relative reimbursement rates. Thus, nonmetropolitan physicians, on average, work more and earn less than their metropolitan counterparts.

Rural Health Clinics (RHCs), Federally Qualified Health Centers (FQHCs) in designated HPSAs and medically underserved areas (MUAs), and differential Medicare payments to qualifying rural areas have helped to enhance reimbursement. But currently, the mandate that States pay RHCs and FQHCs their reasonable costs under Medicaid is being phased out. Medicare managed care program reimbursement to RHCs has threatened to be lower than the current reimbursement. Both of these payment changes will put providers in jeopardy.

Mr. Speaker, I along with my Congressional Black Caucus counterparts have consistently pushed the Congress for more equitable fee reimbursement and to fully fund Title VII and Title VIII health profession training program. We have also called for the strengthening, expansion, and reauthorization of these programs in our minority health bill H.R. 3459, the Healthcare Equality and Accountability Act, which I look forward to moving on the 109th Congress.

S. 2302/H.R. 4156 acknowledges that international medical graduates, through State initiated J–1 visa programs, have initially met some unmet needs of rural areas. But Mr. Speaker, I would like to highlight a recent study published by the Council on Graduate Medical Education that stated that although international medical graduates have made an important contribution to the provision of medical care in some rural areas, training these graduates is an inefficient way to expand physician supply in rural areas. Although many inner city hospitals are dependent on international medical graduates for providing care to underserved urban populations, more direct avenues exist for meeting the needs of these hospitals. The funds would be better targeted to programs that increase the flow of U.S. health professional graduates to underserved rural areas.

Therefore, Mr. Speaker while I strongly support the underlying bill, I again call on Congress to move legislation in the 109th that will do the following.

Increase ORHP funding for research related to physician recruitment, retention and networking should be supported and enhanced.

Reevaluate how designation of HPSAs and MUAs are given so the designated areas accurately reflect underserved status.

Increasing the Title VII funding for AHECs and health education training centers should be supported and enhanced.

Encourage and mandate that medical schools confront their obligation to target admissions and training to underserved populations, both rural and urban, in the primary care professions.

Encourage medical school environments to encourage individuals into primary care and encourage early and long-term rural exposure to positive rural physician role models, and such educational programs should be adequately funded.

Increase scholarship programs to place medical students with mentoring physicians in rural or remote practices during an elective or vacation period should be encouraged.

Support medical schools' and residencies' efforts to integrate community orientation and a team approach to health care. To achieve the full benefit of this effort, there needs to be further infrastructure building of rural allied health teams and rural communities' commitment to meeting the challenges of a changing health care system.

Encourage family practice residencies to offer rural electives, rural emphasis and rural training tracks.

Direct the Bureau of Health Professions (BHP) funding for residencies that are building rural-based programs and funding for those programs that have a history of producing rural physicians should become a staple rather than be at the mercy of national budget politics. An aggressive plan to increase funding should be sought.

Increase support by the BHP to primary care residencies to be continued and enhanced.

Decrease professional isolation by supporting teleinformatics and outreach education programs of states and by the use of nonphysician providers.

Increase retention through more appropriately rural-trained candidates.

Identify care needs at the community level. Use state and federal funds to assist rural hospitals where access to care would be threatened by hospital closure and physicians would be further deprived of opportunities to utilize their professional skills.

Develop and use innovative delivery systems that emphasize coordination and cooperation among providers, institutions and communities.

Develop programs allowing rural clinicians to undertake periodic rotations through academic hospital services (with locum tenens backup) in order to learn or update procedures.

Provide for those areas that do not qualify for RHC or FQHC status but still are faced with the disproportionate numbers of Medicare and Medicaid patients, there should be enhanced Medicare and Medicaid payments to rural providers.

Evaluate the enhanced reimbursement available through RHC and Community Health Center designations needs to be adequately maintained to retain providers and avoid decertification as the area's needs are met. If the same level of Medicare and Medicaid and uninsured patients persists and the area is decertified because of an adequate supply of physicians, a cycle will develop leading to economic unfeasibility, provider dissatisfaction and lower retention rates.

Mandate the States to pay RHCs and FQHCs reasonable costs under the State's Medicaid program.

Ensure that Medicare managed care reimbursement must equal or exceed the RHC and FQHC Medicare reimbursement.

Increase the supply of primary care providers in rural areas by lessening speciality and geographic differentials in physician income.

Establish relocation grants, especially for remote areas, to defray the costs of moving and setting up a practice.

Mr. Speaker, in the 109th Congress I will introduce a bill that codifies these recommendations among others and will hopefully begin the process of ensuring that we provide healthcare for all Americans within or close to current expenditures.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STEARNS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 2302.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## AUTHORIZATION OF SALARY ADJUSTMENTS FOR FEDERAL JUSTICES AND JUDGES

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5363) to authorize salary adjustments for Justices and judges of the United States for fiscal year 2005.

The Clerk read as follows:

H.R. 5363

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORIZATION OF SALARY ADJUSTMENTS FOR FEDERAL JUSTICES AND JUDGES.**

Pursuant to section 140 of Public Law 97–92, Justices and judges of the United States are authorized during fiscal year 2005 to receive a salary adjustment in accordance with section 461 of title 28, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5363, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5363 to provide a cost-of-living adjustment for Federal judges in fiscal year 2005.

By way of background, Congress enacted the Executive Salary Cost-of-Living Adjustment Act in 1975, which was intended to give judges, Members of Congress and high-ranking executive branch officials automatic COLAs accorded other Federal employees unless rejected by Congress. In 1981, Congress amended the statute by enacting section 140 of Public Law 97–92, which requires specific congressional action to grant judges a COLA.

Mr. Speaker, the legislation before us is based on the template set forth in H.R. 3349, now Public Law 108–167. That law satisfied the section 140 requirement and thereby enabled judges to receive a COLA this past fiscal year. H.R. 5363 accomplishes the same purpose for fiscal year 2005.

H.R. 5363 will ensure that Federal judges receive a COLA when other civil servants, including Members of Congress, receive theirs. The legislation will assist in the administration of justice in our Federal courts and is otherwise noncontroversial. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

This is a great day in the Federal system where we on the Committee on the Judiciary have decided to authorize a COLA for the members of the Federal judicial system in America. Now, there are only a couple of problems here, and I, of course, enthusiastically support H.R. 5363.

The first is that those who work in the administrative office of the courts, those who work for the Federal judges, now enjoy greater salaries than the judges themselves.

The second thing is that, under the system that we are implementing, Article III, section 1 of the Constitution, the fact of the matter is that the failure to provide past cost-of-living adjustments to our Federal judiciary has, in the last decade, resulted in an economic reduction in salary in the equivalent amount of $77,000, and so we are now faced with a crisis of dozens, six dozen, judges having left the judiciary in the past several years.

I think it is obvious to all that it is hard to continue to maintain a qualified and independent judiciary if we are not paying them a just wage.

Having said this, we have brought this measure forward, not a moment too soon, to provide for them a cost-of-living adjustment for the present term.

So I enthusiastically join the gentleman from Wisconsin (Chairman SENSENBRENNER) in supporting this measure.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 5363, a bill authorizing cost-of-living salary adjustments for justices and judges of the federal courts for fiscal year 2005 that has been introduced by Chairman JIM SENSENBRENNER and co-sponsored by Ranking Member JOHN CONYERS of the Judiciary Committee. The bill would provide for a 2.5 percent adjustment of federal judiciary salaries. I thank the Chairman for his leadership in bringing this very important matter to the floor. In 1981, Congress passed a Joint Resolution Making Further Continuing Appropriations for FY 1982, and Section 140 of that legislation read as follows:

Notwithstanding any other provision of law or of this joint resolution [Pub. L. 97–92], none of the funds appropriated by this joint resolution or by any other Act shall be obligated or expended to increase, after the date of enactment of this joint resolution [Dec. 15, 1981], any salary of any Federal judge or Justice of the Supreme Court, *except as may be specifically authorized by Act of Congress* hereafter enacted: Provided, That nothing in this limitation shall be construed to reduce any salary which may be in effect at the time of enactment of this joint resolution nor shall this limitation be construed in any manner to reduce the salary of any Federal judge or of any Justice of the Supreme Court. This section shall apply to fiscal year 1981 and each fiscal year thereafter. (Emphasis added).

This provision placed a severe limitation on the cost-of-living adjustments—and therefore the financial well-being of judges by requiring specific implementing legislation before a salary increase could be made under the current Section 461 of Title 28 in the United States Code.

Article III, Section 1 of the United States Constitution provides that "The Judges . . . shall . . . receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office." Over the past ten years though, this body has failed to provide federal judges with annual cost-of-living adjustments (COLA), and as a result, these officers have faced the economic equivalent of a $77,000 reduction in salary. In the last 30 years, while average pay has increased by 12% for most workers, it has decreased by 25% for federal judges. Federal judges make a lifetime commitment to serve the public. This legislation will help them to plan their financial futures with assurance that their pay is commensurate with the cost-of-living increases for this year.

Under the current pay schedule, federal district court judges earn $150,000 per year. This is far, far less than they could earn in private practice and is even less than an associate right out of law school earns in New York City. Our federal judiciary will not attract the kind of high caliber legal minds that are needed if the compensation is not maintained in a reasonable fashion.

It has gotten so bad that employees of the Administrative Office of Courts—who work for the federal judges—now enjoy greater salaries than the judges themselves. This is the equivalent of congressional staff earning more than

Congressmen. It is no wonder that federal judges are leaving in droves, with nearly six dozen judges leaving over the last several years.

There can be no doubt of the value and importance of ensuring that our federal judges are fairly compensated. The federal judiciary is the crux of our democracy. Without the wisdom of some of the great judicial scholars of the past, many of—women, African-Americans and all minorities, immigrants, disabled, and others, would not enjoy the fundamental civil liberties that we do today. We are a long way from a completely fair and equal society, but without the best and brightest legal minds, we will never make it to that goal.

If there is any single idea in the Constitution that has separated our experiment in democracy from all other nations, it is the concept of an independent judiciary.

The Founding Fathers, in their great wisdom, created a system of checks and balances, granting independent judges not only lifetime tenure, but the right to an undiminished salary. It is no surprise that over the years, the federal judiciary, more than any other branch, has served as the protector of our precious civil rights and civil liberties. I agree with Alexander Hamilton that the "independent spirit of judges" enables them to stand against the "ill humors of passing political majorities."

We cannot have a qualified and independent judiciary if we don't pay them a just wage. Chief Justice Rehnquist has declared that "providing adequate compensation for judges is basic to attracting and retaining experienced, well-qualified and diverse men and women." Justice Breyer was even blunter when he stated, "the gulf that separates judicial pay from compensation in the non-profit sector, in academia, and in the private sector grows larger and larger . . . and threatens irreparable harm both to the institution and the public it serves."

The bill before us responds to that problem granting the judiciary a COLA retroactive to the start of the last fiscal year. I consider this to be a modest down payment in developing a more rationale and fair system of compensating our federal judges.

I urge my colleagues to join this Committee in supporting this important legislation. Mr. Speaker, I ask that my colleagues vote "yes" on H.R. 5363.

Mr. CONYERS. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 5363.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 2986, INCREASING THE PUBLIC DEBT LIMIT

Mr. REYNOLDS (during consideration of H.R. 5363), from the Committee on Rules, submitted a privileged report (Rept. No. 108–778) on the resolution (H. Res. 856) providing for consideration of the Senate bill (S. 2986) to amend title 31 of the United States Code to increase the public debt limit, which was referred to the House Calendar and ordered to be printed.

## FOR THE RELIEF OF ROCCO A. TRECOSTA

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2042) for the relief of Rocco A. Trecosta of Fort Lauderdale, Florida, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2042

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. COMPENSATION OF BACK PAY.**

(a) IN GENERAL.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Mr. Rocco A. Trecosta of Fort Lauderdale, Florida, the sum of $10,000 for compensation for back pay not received as an employee of the Department of Defense Overseas Dependent Schools for service performed during the period beginning April 14, 1966, through June 30, 1975. Payment under this subsection is made after the transmission of the applicable report of the United States Court of Federal Claims under section 2509 of title 28, United States Code.

(b) NO INFERENCE OF LIABILITY.—Nothing in this section shall be construed as an inference of liability on the part of the United States.

(c) FULL SATISFACTION OF CLAIMS.—The payment authorized under subsection (a) shall be in full satisfaction of all claims of Rocco A. Trecosta against the United States for back pay in connection with his service in the Department of Defense Overseas Dependent Schools.

(d) LIMITATION ON AGENTS AND ATTORNEYS FEES.—No more than 10 percent of the payment authorized by this Act may be paid to or received by any agent or attorney for services rendered in connection with obtaining such payment, any contract to the contrary notwithstanding. Any person who violates this subsection shall be guilty of a misdemeanor and shall be subject to a fine in the amount provided in title 18, United States Code.

Mr. SENSENBRENNER. Mr. Speaker, today S. 2042, for the relief of Rocco Trecosta, is being considered by unanimous consent by the House. I have agreed to move this private bill outside the regular private bill process for two reasons: a substantially similar bill passed the House under regular order in the 104th Congress; and this bill only arrived in the House yesterday from the Senate, making it impossible to move the bill through the normal process before this Congress adjourns. It is only because of these unusual circumstances that I am making this exception to the regular order.

In the 104th Congress, a substantially similar bill, H.R. 2765, was introduced by then Chairman of the Subcommittee on Immigration and Claims, Representative LAMAR SMITH. Pursuant to the Meritorious Claims Act, the Comptroller General recommended that Congress enact legislation to treat Mr. Trecosta as a member of the plaintiff class in March v. United States. According to the GAO: "we believe his situation is extraordinary and contains such elements of equity as to be deserving of the consideration of Congress." Because there is generally no controversy on cases referred under the Meritorious Claims Act, the House quickly passed the bill under the normal private bill process, however, it did not pass the Senate.

This bill pays Mr. Trecosta, a former teacher in the Department of Defense Overseas Dependent Schools, backpay he would have been awarded if he had been a member of the March plaintiff class. In that case, the U.S. Court of Appeals held that DOD had not properly implemented pay-setting procedures established under a law requiring the Secretary of each military department to fix the basic compensation for teachers and teaching positions in his department at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the U.S. of 100,000 or more population.

The Court held that DOD violated the statutory requirement and directed DOD to base the salaries on current salaries paid to stateside teachers. The Court also granted the plaintiffs entitlement to recover money damages. A judgment in the District Court on June 30, 1975, provided backpay for the plaintiffs for the period from April 14, 1966, to the date of that judgment.

Out of 23,000 potential plaintiffs, only Mr. Trecosta had previously brought an action in the Court of Claims which was denied. But for his suit, he would have been included in the plaintiff-class in March. Furthermore, he could have been paid administratively. The GAO denied his claim, stating that the matter was res judicata and therefore his final Court of Claims judgment barred any further claim arising out of the matters involved in the case.

No one else is in Mr. Trecosta's position. He was the only teacher who challenged DOD's practices, and was excluded from the class due to that challenge.

When the Senate did not move the House passed bill in the 104th Congress, Mr. Trecosta was encouraged to pursue his bill in the Senate first in subsequent Congresses. In 1999, the Senate referred his claim to the Court of Federal Claims, which determined that he should be paid the back pay as a matter of equity. Only now, after receiving that decision, has the Senate passed S. 2042 for Mr. Trecosta.

First as a private bill objector for many years, and now as the Chairman of the Judiciary Committee, I have always insisted on the processing of private bills through regular order and deviate from that policy in this one instance due to the unique details of the situation. This bill previously passed the House under regular order. It was not only a Meritorious Claims Act referral, but it now also has the blessing of the Court of Federal Claims. This man has already been through a lot, for a long time, to have his claim resolved. I have checked with the Ranking Member of the Judiciary Committee, Mr. CONYERS, and the Republican and Democratic private bill objectors, Mr. COBLE, Mr. CHABOT, Mrs. BLACKBURN, Mr. BOUCHER, Mr. SCHIFF, and Mr. GRIJALVA, and they have all agreed that this procedure is appropriate under these unusual circumstances. I appreciate their cooperation. I urge my colleagues to adopt the bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2042, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed. Votes will be taken in the following order:

Concur in Senate amendment to H.R. 1417, by the yeas and nays; and

S. 2302, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

## COPYRIGHT ROYALTY AND DISTRIBUTION REFORM ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 1417.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1417, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 407, nays 0, not voting 25, as follows:

[Roll No. 532]

### YEAS—407

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NOT VOTING—25

Burgess
Burr
Cannon
Cubin
Dooley (CA)
Dunn
Engel
Feeney
Gephardt
Graves
Hill
John
Kilpatrick
Kleczka
McCarthy (NY)
McDermott
Millender-McDonald
Murtha
Musgrave
Norwood
Ortiz
Stark
Stenholm
Tanner
Toomey

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. RENZI) (during the vote). There are 2 minutes remaining in this vote.

□ 1822

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## IMPROVING ACCESS TO PHYSICIANS IN MEDICALLY UNDERSERVED AREAS

The SPEAKER pro tempore (Mr. RENZI). The pending business is the question of suspending the rules and passing the Senate bill, S. 2302.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 2302, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 4, not voting 21, as follows:

[Roll No. 533]

YEAS—407

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goodlatte
Gordon
Granger
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—4

Duncan
Goode
Jones (NC)
Rohrabacher

NOT VOTING—21

Burgess
Burr
Cannon
Cubin
Dooley (CA)
Dunn
Gephardt
Graves
John
Kilpatrick
Kleczka
McCarthy (NY)
McDermott
Millender-McDonald
Murtha
Musgrave
Norwood
Ortiz
Rothman
Stark
Toomey

□ 1831

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, personal reasons require me to return to my district, and I am unable to be present for legislative business scheduled after 3 p.m., Wednesday, November 17, 2004. Had I been present, I would have voted "aye" on H.R. 1417, the Copyright Royalty and Distribution Reform Act of 2004 (rollcall Vote No. 532), and "aye" on S. 2302, a bill to improve access to physicians in medically underserved areas (rollcall Vote No. 533).

## PERMISSION TO FILE CONFERENCE REPORT ON H.R. 1350, IMPROVING EDUCATION RESULTS FOR CHILDREN WITH DISABILITIES ACT OF 2003

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that the managers on the part of the House on H.R. 1350 be permitted until midnight to file a conference report on H.R. 1350.

The SPEAKER pro tempore (Mr. RENZI). Is there objection to the request of the gentleman from Ohio?

There was no objection.

## APPOINTING DAY FOR THE CONVENING OF THE FIRST SESSION OF THE 109TH CONGRESS

Mr. BOEHNER. Mr. Speaker, I offer a joint resolution (H.J. Res. 111) and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the joint resolution.

The Clerk read as follows:

H.J. RES. 111

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the first regular session of the One Hundred Ninth Congress shall begin at noon on Tuesday, January 4, 2005.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## BENJAMIN FRANKLIN COMMEMORATIVE COIN ACT

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that the Committee on Financial Services be discharged from further consideration of the bill (H.R. 3204) to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3204

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Benjamin Franklin Commemorative Coin Act".

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) Benjamin Franklin made historic contributions to the development of our Nation in a number of fields: government, business, science, communications, and the arts.

(2) Benjamin Franklin was the only Founding Father to sign all of our nation's organizational documents.

(3) Benjamin Franklin spent his career as a successful printer, which included printing the official currency for the colonies of Pennsylvania, Delaware, New Jersey and Maryland.

(4) Franklin's "Essay on Paper Currency" of 1741 proposed methods to fix the rate of exchange between the colonies and Great Britain.

(5) Benjamin Franklin, during the American Revolution, designed the first American coin, the "Continental" penny.

(6) Franklin made "A Penny Saved is A Penny Earned" a household phrase to describe the American virtues of hard work and economical living.

(7) Franklin played a major role in the design of the Great Seal of the United States, which appears on the One Dollar Bill and other major American symbols.

(8) Before 1979 Benjamin Franklin was the only non-president of the United States whose image graced circulating coin and paper currency.

(9) The official United States half dollar from 1948-1963 showed Franklin's portrait, as designed by John Sinnock.

(10) Franklin's "Way to Wealth" has come to symbolize America's commitment to free enterprise.

(11) The Franklin Institute Science Museum in Philadelphia houses the first steam printing machine for coinage, used by the United States Mint, which was placed in service in 1836, the 130th anniversary year of Franklin's birth.

(12) In 1976, Franklin Hall in The Franklin Institute Science Museum in Philadelphia was named the Official National Monument to the great patriot, scientist and inventor.

(13) The Franklin Institute and four other major Franklin-related Philadelphia cultural institutions joined hands in 2000 to organize international programs to commemorate the forthcoming 300th anniversary of Franklin's birth in 2006.

(14) The Congress passed the Benjamin Franklin Tercentenary Act in 2002, creating a panel of distinguished Americans, with its Secretariat in Philadelphia, to work with the private sector in recommending appropriate Tercentenary programs,

**SEC. 3. COIN SPECIFICATIONS.**

(a) DENOMINATIONS.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue the following coins:

(1) $1 SILVER COINS WITH YOUNGER FRANKLIN IMAGE ON OBVERSE.—Not more than 250,000 $1 coins bearing the designs specified in section 4(a)(2), each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) $1 SILVER COINS WITH OLDER FRANKLIN IMAGE ON OBVERSE.—Not more than 250,000 $1 coins bearing the designs specified in section 4(a)(3), each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(d) USE OF THE UNITED STATES MINT AT PHILADELPHIA, PENNSYLVANIA.—It is the sense of the Congress that the coins minted under this Act should be struck at the United States Mint at Philadelphia, Pennsylvania, to the greatest extent possible.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the life and legacy of Benjamin Franklin.

(2) $1 COINS WITH YOUNGER FRANKLIN IMAGE.—

(A) OBVERSE.—The obverse of the coins minted under section 3(a)(1) shall bear the image of Benjamin Franklin as a young man.

(B) REVERSE.—The reverse of the coins minted under section 3(a)(1) shall bear an image related to Benjamin Franklin's role as a patriot and a statesman.

(3) $1 COINS WITH OLDER FRANKLIN IMAGE.—

(A) OBVERSE.—The obverse of the coins minted under section 3(a)(2) shall bear the image of Benjamin Franklin as an older man.

(B) REVERSE.—The reverse of the coins minted under section 3(a)(2) shall bear an image related to Benjamin Franklin's role in developing the early coins and currency of the new country.

(4) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2006"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts; and

(2) reviewed by the Citizens Coin Advisory Committee established under section 5135 of title 31, United States Code.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning January 1, 2006, except that the Secretary may initiate sales of such coins, without issuance, before such date.

(c) TERMINATION OF MINTING AUTHORITY.—No coins shall be minted under this Act after December 31, 2006.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, and marketing).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SALES OF SINGLE COINS AND SETS OF COINS.—Coins of each design specified under section 4 may be sold separately or as a set containing a coin of each such design.

**SEC. 7. SURCHARGES.**

(a) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Benjamin Franklin Tercentenary Commission, to be used to educate people everywhere about the important legacy of Benjamin Franklin.

(c) AUDITS.—The Benjamin Franklin Tercentenary Commission shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CASTLE

Mr. CASTLE. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. CASTLE:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Benjamin Franklin Commemorative Coin Act".

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) Benjamin Franklin made historic contributions to the development of our Nation in a number of fields: government, business, science, communications, and the arts.

(2) Benjamin Franklin was the only Founding Father to sign all of our Nation's organizational documents.

(3) Benjamin Franklin spent his career as a successful printer, which included printing the official currency for the colonies of Pennsylvania, Delaware, New Jersey and Maryland.

(4) Franklin's "Essay on Paper Currency" of 1741 proposed methods to fix the rate of exchange between the colonies and Great Britain.

(5) Benjamin Franklin, during the American Revolution, designed the first American coin, the "Continental" penny.

(6) Franklin made "A Penny Saved is A Penny Earned" a household phrase to describe the American virtues of hard work and economical living.

(7) Franklin played a major role in the design of the Great Seal of the United States, which appears on the One Dollar Bill and other major American symbols.

(8) Before 1979, Benjamin Franklin was the only non-president of the United States whose image graced circulating coin and paper currency.

(9) The official United States half dollar from 1948-1963 showed Franklin's portrait, as designed by John Sinnock.

(10) Franklin's "Way to Wealth" has come to symbolize America's commitment to free enterprise.

(11) The Franklin Institute Science Museum in Philadelphia houses the first steam printing machine for coinage, used by the United States Mint, which was placed in service in 1836, the 130th anniversary year of Franklin's birth.

(12) In 1976, Franklin Hall in The Franklin Institute Science Museum in Philadelphia was named the Official National Monument to the great patriot, scientist and inventor.

(13) The Franklin Institute and four other major Franklin-related Philadelphia cultural institutions joined hands in 2000 to organize international programs to commemorate the forthcoming 300th anniversary of Franklin's birth in 2006.

(14) The Congress passed the Benjamin Franklin Tercentenary Act in 2002, creating

a panel of distinguished Americans, with its Secretariat in Philadelphia, to work with the private sector in recommending appropriate Tercentenary programs,

**SEC. 3. COIN SPECIFICATIONS.**

(a) DENOMINATIONS.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue the following coins:

(1) $1 SILVER COINS WITH YOUNGER FRANKLIN IMAGE ON OBVERSE.—Not more than 250,000 $1 coins bearing the designs specified in section 4(a)(2), each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) $1 SILVER COINS WITH OLDER FRANKLIN IMAGE ON OBVERSE.—Not more than 250,000 $1 coins bearing the designs specified in section 4(a)(3), each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(d) USE OF THE UNITED STATES MINT AT PHILADELPHIA, PENNSYLVANIA.—It is the sense of the Congress that the coins minted under this Act should be struck at the United States Mint at Philadelphia, Pennsylvania, to the greatest extent possible.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the life and legacy of Benjamin Franklin.

(2) $1 COINS WITH YOUNGER FRANKLIN IMAGE.—

(A) OBVERSE.—The obverse of the coins minted under section 3(a)(1) shall bear the image of Benjamin Franklin as a young man.

(B) REVERSE.—The reverse of the coins minted under section 3(a)(1) shall bear an image related to Benjamin Franklin's role as a patriot and a statesman.

(3) $1 COINS WITH OLDER FRANKLIN IMAGE.—

(A) OBVERSE.—The obverse of the coins minted under section 3(a)(2) shall bear the image of Benjamin Franklin as an older man.

(B) REVERSE.—The reverse of the coins minted under section 3(a)(2) shall bear an image related to Benjamin Franklin's role in developing the early coins and currency of the new country.

(4) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2010"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts; and

(2) reviewed by the Citizens Coinage Advisory Committee established under section 5135 of title 31, United States Code.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning January 1, 2006, except that the Secretary may initiate sales of such coins, without issuance, before such date.

(c) TERMINATION OF MINTING AUTHORITY.—No coins shall be minted under this Act after December 31, 2006.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, and marketing).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SALES OF SINGLE COINS AND SETS OF COINS.—Coins of each design specified under section 4 may be sold separately or as a set containing a coin of each such design.

**SEC. 7. SURCHARGES.**

(a) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Franklin Institute for purposes of the Benjamin Franklin Tercentenary Commission.

(c) AUDITS.—The Franklin Institute shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received by the Institute pursuant to subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

Mr. CASTLE (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

The amendment in the nature of a substitute was agreed to.

Mr. OXLEY. Mr. Speaker, I rise in strong support of H.R. 3204, the Benjamin Franklin Commemorative Coin Act of 2004. I want to thank the gentleman from Delaware (Mr. CASTLE) for his efforts on this bill's behalf and the gentleman from Massachusetts (Mr. FRANK) for allowing us to move forward with this legislation.

I also want to thank the gentleman from California (Mr. THOMAS), the Chairman of the Committee on Ways and Means for his efforts in speeding consideration of the bill. Mr. Speaker, I am inserting at this point an exchange of correspondence between myself and the gentleman from California confirming our understanding regarding the jurisdiction of our two committees.

I urge my colleagues to support this bill.

CONGRESS OF THE UNITED STATES,
U.S. HOUSE OF REPRESENTATIVES,
*Washington, DC, October 8, 2004.*

Hon. MICHAEL G. OXLEY,
*Chairman, Committee on Financial Services, Washington, DC.*

DEAR CHAIRMAN OXLEY: I am writing concerning H.R. 3204, the "Benjamin Franklin Commemorative Coin Act," which is scheduled for floor consideration today.

As you know, the Committee on Ways and Means has jurisdiction over matters that concern raising revenue. Section 7 of the bill establishes a surcharge for each sale of the commemorative coins that are minted under the bill, and thus falls within the jurisdiction of the Committee on Ways and Means.

However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 3204, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
*Chairman.*

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U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES
*Washington, DC, October 8, 2004.*

Hon. WILLIAM M. THOMAS,
*Chairman, Committee on Ways and Means, Washington, DC.*

DEAR CHAIRMAN THOMAS: Thank you for your letter regarding your Committee's jurisdictional interest in H.R. 3204, the Benjamin Franklin Commemorative Coin Act.

I acknowledge your committee's jurisdictional interest in this legislation and appreciate your cooperation in moving the bill to the House floor expeditiously. I agree that your decision to forego further action on the bill will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this or similar legislation, and I would support your request for conferees on those provisions within your committee's jurisdiction should this bill be the subject of a House-Senate conference.

I will include a copy of your letter and this response in the Congressional Record when the legislation is considered by the House.

Thank you again for your assistance.

Sincerely,

MICHAEL G. OXLEY,
*Chairman.*

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3204, the measure just passed and to insert extraneous material therein.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

RECORD votes on postponed questions will be taken tomorrow.

## DEPARTMENT OF ENERGY HIGH-END COMPUTING REVITALIZATION ACT OF 2004

Mrs. BIGGERT. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4516) to require the Secretary of Energy to carry out a program of research and development to advance high-end computing.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Department of Energy High-End Computing Revitalization Act of 2004".*

***SEC. 2. DEFINITIONS.***

*In this Act:*

*(1) CENTER.—The term "Center" means a High-End Software Development Center established under section 3(d).*

*(2) HIGH-END COMPUTING SYSTEM.—The term "high-end computing system" means a computing system with performance that substantially exceeds that of systems that are commonly available for advanced scientific and engineering applications.*

*(3) LEADERSHIP SYSTEM.—The term "Leadership System" means a high-end computing system that is among the most advanced in the world in terms of performance in solving scientific and engineering problems.*

*(4) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).*

*(5) SECRETARY.—The term "Secretary" means the Secretary of Energy, acting through the Director of the Office of Science of the Department of Energy.*

***SEC. 3. DEPARTMENT OF ENERGY HIGH-END COMPUTING RESEARCH AND DEVELOPMENT PROGRAM.***

*(a) IN GENERAL.—The Secretary shall—*

*(1) carry out a program of research and development (including development of software and hardware) to advance high-end computing systems; and*

*(2) develop and deploy high-end computing systems for advanced scientific and engineering applications.*

*(b) PROGRAM.—The program shall—*

*(1) support both individual investigators and multidisciplinary teams of investigators;*

*(2) conduct research in multiple architectures, which may include vector, reconfigurable logic, streaming, processor-in-memory, and multithreading architectures;*

*(3) conduct research on software for high-end computing systems, including research on algorithms, programming environments, tools, languages, and operating systems for high-end computing systems, in collaboration with architecture development efforts;*

*(4) provide for sustained access by the research community in the United States to high-end computing systems and to Leadership Systems, including provision of technical support for users of such systems;*

*(5) support technology transfer to the private sector and others in accordance with applicable law; and*

*(6) ensure that the high-end computing activities of the Department of Energy are coordinated with relevant activities in industry and with other Federal agencies, including the National Science Foundation, the Defense Advanced Research Projects Agency, the National Nuclear Security Administration, the National Security Agency, the National Institutes of Health, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institutes of Standards and Technology, and the Environmental Protection Agency.*

*(c) LEADERSHIP SYSTEMS FACILITIES.—*

*(1) IN GENERAL.—As part of the program carried out under this Act, the Secretary shall establish and operate 1 or more Leadership Systems facilities to—*

*(A) conduct advanced scientific and engineering research and development using Leadership Systems; and*

*(B) develop potential advancements in high-end computing system hardware and software.*

*(2) ADMINISTRATION.—In carrying out this subsection, the Secretary shall provide to Leadership Systems, on a competitive, merit-reviewed basis, access to researchers in United States industry, institutions of higher education, national laboratories, and other Federal agencies.*

*(d) HIGH-END SOFTWARE DEVELOPMENT CENTER.—*

*(1) IN GENERAL.—As part of the program carried out under this Act, the Secretary shall establish at least 1 High-End Software Development Center.*

*(2) DUTIES.—A Center shall concentrate efforts to develop, test, maintain, and support optimal algorithms, programming environments, tools, languages, and operating systems for high-end computing systems.*

*(3) PROPOSALS.—In soliciting proposals for the Center, the Secretary shall encourage staffing arrangements that include both permanent staff and a rotating staff of researchers from other institutions and industry to assist in coordination of research efforts and promote technology transfer to the private sector.*

*(4) USE OF EXPERTISE.—The Secretary shall use the expertise of a Center to assess research and development in high-end computing system architecture.*

*(5) SELECTION.—The selection of a Center shall be determined by a competitive proposal process administered by the Secretary.*

***SEC. 4. AUTHORIZATION OF APPROPRIATIONS.***

*In addition to amounts otherwise made available for high-end computing, there are authorized to be appropriated to the Secretary to carry out this Act—*

*(1) $50,000,000 for fiscal year 2005;*

*(2) $55,000,000 for fiscal year 2006; and*

*(3) $60,000,000 for fiscal year 2007.*

***SEC. 5. ASTRONOMY AND ASTROPHYSICS ADVISORY COMMITTEE.***

*(a) AMENDMENTS.—Section 23 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–9) is amended—*

*(1) in subsection (a) and paragraphs (1) and (2) of subsection (b), by striking "and the National Aeronautics and Space Administration" and inserting ", the National Aeronautics and Space Administration, and the Department of Energy";*

*(2) in subsection (b)(3), by striking "Administration, and" and inserting "Administration, the Secretary of Energy, ";*

*(3) in subsection (c)—*

*(A) in paragraphs (1) and (2), by striking "5" and inserting "4";*

*(B) in paragraph (2), by striking "and" at the end;*

*(C) by redesignating paragraph (3) as paragraph (4), and in that paragraph by striking "3" and inserting "2"; and*

*(D) by inserting after paragraph (2) the following:*

*"(3) 3 members selected by the Secretary of Energy; and*

*(4) in subsection (f), by striking "the advisory bodies of other Federal agencies, such as the Department of Energy, which may engage in related research activities" and inserting "other Federal advisory committees that advise Federal agencies that engage in related research activities".*

*(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on March 15, 2005.*

***SEC. 6. REMOVAL OF SUNSET PROVISION FROM SAVINGS IN CONSTRUCTION ACT OF 1996.***

*Section 14 of the Metric Conversion Act of 1975 (15 U.S.C. 205l) is amended by striking subsection (e).*

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Mrs. BIGGERT) and the gentleman from Tennessee (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Illinois (Mrs. BIGGERT).

### GENERAL LEAVE

Mrs. BIGGERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the Senate amendment to H.R. 4516, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when we think of how computers affect our lives, we probably think of the work we do on our office desktop machines, or maybe the Internet surfing we do in our spare time. We do not normally think of the enormous contribution that supercomputers, also called high-performance computers, make to the world around us.

These powerful machines are used in the development of pharmaceuticals, in modeling the earth's climate, and in applications critical to ensuring our national and homeland security and our economic competitiveness. High-performance computers also are central to maintaining U.S. leadership in many scientific fields. Computational science complements theory and experimentation in fields such as plasma physics and fusion, astrophysics, nuclear physics and genomics.

The bill currently under consideration, H.R. 4516, spells out in detail the research and development the Department of Energy should be doing to help ensure that America remains a leader in the development and use of supercomputers. More specifically, H.R. 4516 does three things.

First, it requires the Secretary of Energy to establish and operate high-end computing facilities involving leadership-class machines that are among the most elite in the world.

Second, this bill directs the Secretary to conduct advanced scientific and engineering research and development using these leadership class systems, and to continue to advance the capabilities of high-end computing hardware and software.

Finally, the bill requires that these computing facilities be made available on a competitive, peer-reviewed basis to researchers from U.S. industry, institutions of higher learning, national laboratories and other Federal agencies.

Mr. Speaker, dramatic scientific and commercial breakthroughs will require us to increase computing power by a factor of 100 or, in some cases, by a factor of 1,000. While attaining these increases may seem daunting, the history of computer development has taught us that, with a sustained commitment to research, such gains are within our reach.

That is why Energy Secretary Abraham announced last summer the selection of a team, including Argonne National Laboratory, Oak Ridge National Laboratory, IBM, Cray and other partners, to develop and build a new, high-end computing facility.

H.R. 4516 complements and supports this DOE initiative and ensures that the department can fulfill its responsibility to help lead the Federal Government's supercomputing R&D efforts.

The Senate passed this bill by unanimous consent last month, and in July the House passed a similar version by voice vote. I urge my colleagues to support this legislation again and send it to the President's desk so that the United States can maintain its distinction as home to the world's most powerful computer.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4516, the Department of Energy High-End Computing Revitalization Act of 2004.

I had the pleasure of working on this legislation with my esteemed colleague across the aisle, the gentlewoman from Illinois (Mrs. BIGGERT), who does an excellent job on the Committee on Science, and I look forward to having more opportunities to work with her on other important policy goals that we are able to impact at the Committee on Science.

The bill authorizes research and development activities at the Department of Energy to provide for the design, the development and the deployment of powerful computing systems, including both hardware and software. It will lead to the development of the computational tools needed for solving the most demanding science and engineering problems. The activities authorized will constitute part of the ongoing interagency information technology research and development program established by the High-Performance Computing Act of 1991.

H.R. 4516 will build on the demonstrated expertise of the Department of Energy in advancing the technology needed for designing and building the most powerful scientific computing systems in the world.

Equally important, the bill provides for the development and deployment of leadership-class computing systems, such as the system recently announced for installation at the Oak Ridge National Laboratory, which will provide access on a competitive basis for the research community in the United States.

The effect of the bill will be to put into the hands of researchers the tools they need to attack the most challenging problems in science and engineering, as well as to accelerate the development of the computing tools needed to underpin industrial competitiveness and our national defense.

Finally, H.R. 4516 will help to implement the Federal plan for high-end computing that was released earlier this year by the Office of Science and Technology Policy.

Mr. Speaker, I commend this legislative measure to my colleagues and recommend its passage by the House, as amended by the other body.

Mr. Speaker, I yield back the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

I want to conclude this debate by recognizing the bill's cosponsors, the gentleman from Tennessee (Mr. DAVIS) and the gentleman from Tennessee (Mr. GORDON), and thank them for their efforts in support of this legislation.

I also would like to thank the gentleman from New York (Mr. BOEHLERT) for holding a Science Committee hearing last May to review our Federal investment in high-end computing. The hearing was a success. We received positive feedback on this legislation from a number of experts on high-performance computing who testified before the committee.

I also would like to acknowledge the U.S. supercomputing industry for its impressive accomplishments. I congratulate IBM for its new Blue Gene/L supercomputer, which was recognized just last week as the fastest computer in the world. The Blue Gene/L is faster than Japan's Earth Simulator, which held the world record in computing speed for nearly 3 years. With passage of this bill, the DOE can work closely with IBM and other industry leaders like Cray and Silicon Graphics Incorporated as well as academia to ensure that the United States continues to be home to the world's fastest supercomputer for years to come.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Illinois (Mrs. BIGGERT) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4516.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

## AMENDING LIVESTOCK MANDATORY PRICE REPORTING ACT OF 1999

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2965) to amend the Livestock Mandatory Price Reporting Act of 1999 to modify the termination date for mandatory price reporting.

The Clerk read as follows:

S. 2965

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION.**

Section 942 of the Livestock Mandatory Price Reporting Act of 1999 (7 U.S.C. 1635 note; Public Law 106–78) is amended by striking "terminate" and all that follows and inserting "terminate on September 30, 2005.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Arkansas (Mr. ROSS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation, which extends an important program until September 30, 2005.

As many of my colleagues know, authorization for the U.S. Department of Agriculture's Mandatory Price Reporting Program, which was passed in the 1999 agriculture appropriation, expired on October 23. This program requires USDA to operate a mandatory price reporting system for beef, pork and lamb, which provides useful information for everyone engaged in the buying and selling of these products.

In the absence of authority to enforce mandatory reporting, the USDA has contacted the companies to encourage them to continue reporting data during the gap in program authorization. It is my understanding that everyone has been cooperating. This is because they recognize the important role this data plays in price discovery and in the operation of marketing agreements.

There is also a clear agreement that the current program should be extended for an additional year to provide livestock producers, the packer community and other interested parties additional time to identify and agree upon these technical improvements to the law.

The administration has recently written to the leadership of the House and Senate in support of this simple 1-year extension. In order to extend mandatory price reporting in a timely manner, we need to act today.

Mr. Speaker, I urge the adoption of this measure.

Mr. Speaker, I reserve the balance of my time.

□ 1845

Mr. ROSS. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of S. 2965, a bill to amend the Livestock Mandatory Price Reporting Act of 1999 in order to modify the termination date for mandatory price reporting.

The current authority for the USDA Livestock Mandatory Price Reporting expired on October 23 of this year. It is important to the U.S. livestock markets that we maintain a dependable flow of information to producers to help them price their products in the marketplace. The bill before us today provides for a simple 1-year reauthorization of the existing program, and I am not aware of any serious opposition to this bill.

I do regret that we have not taken the time to consider a more careful revision of the statute prior to this point. We should have taken up this issue much earlier during the 108th Congress and spent the time to consider corrections to the deficiencies various groups have noted in the program as it currently exists. But since that has not been done, this 1-year extension seems like the best alternative available to maintain a stable flow of information to our producers.

It is my hope that, during this 1-year extension, the Committee on Agriculture of this House will hold hearings on this topic and consider ways it might improve the USDA price reporting system. In the meantime, however, a simple extension seems to be the best way to serve the market information needs for our farmers and ranchers.

I encourage all Members to support passage of this Senate bill.

Mr. LATHAM. Mr. Speaker, today I rise to support passage of S. 2965, a bill to extend for one year the Livestock Mandatory Price Reporting Act of 1999. As the author of the original legislation, I am pleased to see that this important program will continue for one additional year. It is my hope that during that time the program will be improved and, if it is proven cost effective, made permanent.

Four major packers slaughter 80 percent of fed cattle and process about 85 percent of boxed beef. According to producer organizations, because of the high level of concentration, it is very important to maintain a level playing field for all producers.

Mandatory price reporting addresses noncontract livestock producers concerns that the increasing use of contracts prevents complete transparency in livestock prices that, in the past, would've been made public at auction. Additionally, independent livestock producers fear that the increasing use of contracts means that there is less of a market for their product, and the price they will receive will remain low through possible packer collusion. Mandatory price reporting provides market transparency, thus ensuring that our producers get the best prices for their livestock.

Mr. Speaker, I am very supportive of this one-year extension. It will give Congress additional time to determine the efficacy of the program, whether the cost of the program outweighs the benefit, and verify price data problems that arose with USDA's implementation of the program have since been fixed.

Mr. ROSS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I urge my colleagues to adopt this important legislation to extend this program for a year.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RENZI). The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the Senate bill, S. 2965.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2965, the Senate bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

## SUPPORTING GOALS AND IDEALS OF NATIONAL TOURETTE SYNDROME AWARENESS MONTH

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 430) recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month.

The Clerk read as follows:

H. CON. RES. 430

Whereas Tourette Syndrome is an inherited neurological disorder characterized by involuntary and sudden movements or repeated vocalizations;

Whereas approximately 200,000 people in the United States have been diagnosed with Tourette Syndrome and many thousands more remain undiagnosed;

Whereas lack of public awareness has increased the social stigma attached to Tourette Syndrome;

Whereas early diagnosis and treatment of Tourette Syndrome can prevent physical and psychological harm;

Whereas there is no known cure for Tourette Syndrome and treatment involves multiple medications and therapies with costs that can be prohibitive;

Whereas the Tourette Syndrome Association is the only national nonprofit membership organization dedicated to identifying the cause, finding the cure, and controlling the effects of Tourette Syndrome; and

Whereas the Tourette Syndrome Association has designated May 15 through June 15 as National Tourette Syndrome Awareness Month, the goal of which is to educate the public about the nature and effects of Tourette Syndrome: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That the Congress—

(1) recognizes the impact that Tourette Syndrome can have on people living with the disorder;

(2) recognizes the importance of an early diagnosis and proper treatment of Tourette Syndrome;

(3) recognizes the need for enhanced public awareness of Tourette Syndrome;

(4) supports the goals and ideals of National Tourette Syndrome Awareness Month, as designated by the Tourette Syndrome Association; and

(5) encourages the President to issue a proclamation calling on the people of the United States and interested organizations to observe National Tourette Syndrome Awareness Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

### GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 430.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Con. Res. 430 introduced by the gentleman from Florida (Mr. YOUNG), my friend and colleague from my home State of Florida.

This resolution recognizes the importance of early diagnosis, proper treatment and enhanced public awareness of Tourette Syndrome and supports the goals and ideals of National Tourette Syndrome Awareness Month.

Tourette Syndrome, or TS, is a neurological disorder that arises during childhood or adolescence. TS is characterized by repeated and involuntary body movements, tics, and uncontrollable vocal sounds. Tics can include eye blinking, repeated throat clearing or sniffing, arm thrusting, kicking movements or jumping. Although the symptoms of TS vary from person to person and range from very mild to severe, the majority of cases fall into the mild category. Some associated conditions can include attention problems, impulsiveness and learning disabilities.

The National Institutes of Health, NIH, estimates that about 2 percent of Americans are affected by TS. However, these numbers are thought to be conservative because individuals with varied mild symptoms may never seek medical attention. TS is also four times as likely to occur in boys as in girls.

Most people with TS lead productive lives and participate in all professions. However, lack of public awareness has increased the social stigma attached to TS. Increased public understanding and tolerance of TS symptoms are of extreme importance to people with Tourette Syndrome. With early diagnosis and treatment, as well as increased social understanding and acceptance, much of the physical and psychological harm of TS can be prevented.

I urge my colleagues to support H. Con. Res. 430 today.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentleman from Florida (Chairman YOUNG) for sponsoring this important resolution and thank the gentleman from Florida (Mr. BILIRAKIS) for yielding me this time this evening.

Tourette Syndrome is a neurological disorder characterized by involuntary actions such as physical and vocal tics, as the gentleman from Florida (Mr. BILIRAKIS) said. It is a spectrum disorder, meaning that it manifests in a range of behaviors that occur with varying frequency and severity.

It is estimated that up to 3 percent of children in regular education classrooms and up to 7 percent of children in special ed classrooms have Tourette Syndrome. Most of these cases go undiagnosed. The media's portrayal of Tourette Syndrome has fueled significant misperceptions and misconceptions about this disorder. For example, most patients do not display the frequent involuntary use of violent language and other vocal tics that actors typically draw upon when they play adults with Tourette's. Physical tics are a far more common symptom.

While physical tics may be less dramatic than violent outbursts, they can have the same disruptive effect on the lives of Tourette patients. The gentleman from Florida's (Chairman YOUNG's) concurrent resolution acknowledges the significant impact that Tourette Syndrome has on patients and on their families. Given Tourette's prevalence, given the importance of early detection and treatment in mitigating its symptoms and given the tragic consequences for patients when Tourette's is exploited or trivialized, it is clearly in the public interest to destigmatize Tourette Syndrome and build the necessary support to find its cure. I think this concurrent resolution takes a small step in doing that.

I thank the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Florida (Mr. YOUNG) for bringing this concurrent resolution to the floor, and I urge my colleagues to support the concurrent resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), the author of this legislation.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman from Florida (Mr. BILIRAKIS) for yielding me this time and for bringing this concurrent resolution to the House floor today and also the gentleman from Ohio (Mr. BROWN), the ranking member, for supporting this bill.

This concurrent resolution has been explained by the gentleman from Florida (Chairman BILIRAKIS) very well, and I introduced this because of a friend that I have, a 17-year-old teenager in my district who suffers from Tourette's and has for most of his life. I have learned his personal story of living with Tourette's and what it is like. And like so many children and adults with Tourette's, he faced difficulties, not only in his life but in his classroom because classmates and teachers did not understand the nature of the illness. He faces daily difficulties with the medication he has to take to reduce the symptoms of Tourette's so that he can work and function. Johnny Loder is one of the thousands of Tourette sufferers who bravely seek to lead a normal life with a disease that tries to make that virtually impossible.

Despite coping with the condition, Johnny has been wonderfully successful in his own endeavors, and I wish that there was some magic cure because this kid is such a great young American, and he and so many others that suffer with this disease really do suffer.

Mr. Speaker, I urge the support of this concurrent resolution, and I include the balance of my statement in the RECORD.

Mr. Speaker, last May I introduced House Concurrent Resolution 430 to support the goals and ideals of a National Tourette Syndrome Awareness Month. This issue is very important to me and the other cosponsors of this resolution; we all have many friends and constituents whose lives are affected by Tourette Syndrome. It is quite clear that our country needs more medical research, education and increased public knowledge about this greatly misunderstood and frequently misdiagnosed disease.

The resolution we consider today recognizes the importance of an early and accurate diagnosis of Tourette Syndrome, appropriate treatment, and educational outreach. The resolution will enhance our collective efforts to encourage new awareness, attention and understanding.

Tourette Syndrome, or TS—is a genetic neurobiological disorder characterized by repeated involuntary movements and sounds that are known as "tics." This complex disorder affects children and adults in all racial and ethnic groups. In a large percentage of cases TS is accompanied by other "co-occurring" disorders, the most common of which are Obsessive-Compulsive Disorder, Attention Deficit Hyperactivity Disorder and nonverbal learning disabilities.

Researchers estimate that about 200,000 Americans have what is called substantially impairing Tourette Syndrome, and even more individuals have milder symptoms of the disorder. Largely due to the nature of the disease and the lack of understanding in our society, many individuals with Tourette Syndrome endure the stigma, isolation, and the psychological impact of this chronic disorder on a daily basis.

Mr. Speaker, I am proud to report that the Appropriations Committee which I chair appropriated funds to the Centers for Disease Control for a new research and educational outreach program on TS. This effort is designed to provide intensive training for the public, physicians, allied healthcare workers and teachers. It is our hope that this new effort will begin to educate the public and remove the stigma and other obstacles associated with living with this complex disorder.

Johnny Loder, a 17-year-old teenager from my Congressional District in Pinellas County, Florida, shared with me his personal story of living with Tourette Syndrome. Like so many children and adults with Tourette's, he faced difficulties in the classroom because his classmates and teachers did not understand the nature of his illness. He faces daily difficulties with the medication he takes to reduce the symptoms so that he can work and function. Johnny is one of the thousands of Tourette's sufferers who bravely seek to lead a normal life with a disease that tries to make that virtually impossible. Despite coping with the condition, Johnny has been wonderfully successful in his own endeavors. He and many others with Tourette Syndrome are leading rich, fulfilling lives despite the challenges that may be present along the way. They each provide outstanding examples of determination, perseverance and hope to their families, and to us all.

Mr. Speaker, the Tourette Syndrome Association has designated National Tourette Syndrome Awareness Month for the purposes I have described. I wholeheartedly support its goals and encourage Members to do the same. Passage of House Concurrent Resolution 430 would give all of us an opportunity to participate in the larger effort to familiarize ourselves and our citizens with the condition and the need for more research. It will help us better understand the impact that Tourette Syndrome can have on people living with the disorder, while recognizing the importance of early diagnosis and proper treatment.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

I, too, want to compliment and thank the gentleman from Ohio (Mr. BROWN) and all of the committee staffers for their work on this and for their cooperation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 430.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

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## EARL B. GILLIAM/IMPERIAL AVENUE POST OFFICE BUILDING

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5364) to designate the facility of the United States Postal Service located at 5505 Stevens Way in San Diego, California, as the "Earl B. Gilliam/Imperial Avenue Post Office Building".

The Clerk read as follows:

H.R. 5364

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EARL B. GILLIAM/IMPERIAL AVENUE POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 5505 Stevens Way in San Diego, California, shall be known and designated as the "Earl B. Gilliam/Imperial Avenue Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Earl B. Gilliam/Imperial Avenue Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

### GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation would establish the Earl B. Gilliam/Imperial Avenue Post Office Building. I want to salute the distinguished gentleman from California (Mr. FILNER), who earned cosponsorship of all 52 of his home State colleagues to comply with a longstanding Committee on Government Reform policy. On behalf of the committee members, I congratulate him on that accomplishment.

Mr. Speaker, Judge Earl Gilliam was appointed to the U.S. District Court for the Southern District of California by President Carter in 1980 and became a senior judge 13 years later in 1993. Prior to joining the Federal bench, Judge Gilliam served as a municipal court judge in San Diego from 1963 to 1975 and as a superior court judge from 1975 to 1980. Judge Gilliam had a long and distinguished judicial record as a prosecutor, private practicing lawyer, and then as a State and Federal judge for over 30 years.

Away from the bench, he mentored many young adults and lawyers. He also taught courses and directed the trial practice at Thomas Jefferson School of Law in San Diego. He was clearly a loved and respected member of his community. Judge Gilliam passed away on January 28, 2001.

I thank the gentleman from California for this bill that commemorates Judge Gilliam's commitment to justice in both our State and Federal courts. Hopefully this post office will be a meaningful tribute to Judge Earl Gilliam's life and career, to his friends, family and the entire San Diego area.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. FILNER), the sponsor of this legislation.

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to thank the gentleman from Connecticut (Chairman SHAYS) and the gentleman from Illinois (Mr. DAVIS), ranking member, for the courtesy rendered to me. This post office is going to open up in 3 days, and I had to try to get this naming on the bill in just the couple days we were here. The committee was very courteous to me.

The 52 members of the California delegation, both Republican and Democrat, were all very prompt in their cosponsorship. The staff that scheduled these things was very accommodating, and I not only want to thank the Democratic staff, but the majority leader and his staff showed me a great deal of courtesy, and I appreciate that very much for getting this on the calendar today.

The gentleman from Connecticut (Mr. SHAYS) highlighted some of the important parts of Judge Gilliam's life. I would just like to add a few things, if I may. He grew up in a very poor section of San Diego, southeast San Diego, where his parents owned a fish market on the very street where this post office will be named after him. He had to work his way all the way through school, whether it was high school or college where he went to San Diego State and then on to law school.

□ 1900

He was appointed deputy district attorney shortly after being admitted to the California bar in 1957, and he became the first African American judge appointed to the San Diego bench just 6 years later in 1963 and was named presiding judge of the San Diego Municipal Court in 1971. Governor Jerry Brown named him a California Superior Court Judge in 1975, and President Jimmy Carter elevated him to the U.S. District Court for the Southern District of California in 1980, where he served for more than 2 decades before passing in 2001.

In his long, distinguished career, Judge Gilliam presided over numerous trials that had regional and even national importance. They dealt with drug trafficking, fraud, tax evasion, bribery, and civil matters; but Judge Gilliam always brought a fair and professional approach to the law and laid the foundation for his solid reputation, both within and outside the legal community.

He made his mark in the classroom also. The Thomas Jefferson School of Law recruited Judge Gilliam as an adjunct professor. With his background in business, economics, and law, he proved to be an inspirational and devoted instructor for the students at the Thomas Jefferson School of Law where he taught for 24 years. The moot courtroom there at the school has been in fact dedicated also to his honor.

Along with being a full-time judge, he gave his time and effort to his community in a whole number of ways. He served on the boards of organizations ranging from the San Diego Urban League to the University of California San Diego to the YMCA; and the community, in turn, honored him with a whole list of awards too numerous to mention here that attest to his unrelenting commitment to making a difference in San Diego.

The San Diego African American Lawyers Organization in 1982 honored the judge by changing its name to the

Earl B. Gilliam Bar Association, and they carry on his legacy by working within our community to defend the rights of African Americans, combating racism and poverty, and fostering integrity in the legal community.

I knew Judge Gilliam for more than 30 years. He was a very big man, almost larger than life, full of energy, full of enthusiasm, love of life, great sense of humor, enjoyed life to its maximum. But he also saw the injustices around him in the community in which he was raised, and in the Nation in which he loved: and he fought to right those injustices, both on the bench and in his many community activities.

So Judge Gilliam truly was a hero who worked for all of us in San Diego. I just am so honored to have the privilege of introducing this legislation to name the post office in his old neighborhood in his honor. I hope my colleagues will support this. I once again thank this House and its staff for giving me the courtesy of allowing this bill to be passed today.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

As a member of the House Committee on Government Reform, I am pleased to join with my colleagues in consideration of H.R. 5364, legislation designating the postal facility in San Diego, California, after the late Earl B. Gilliam. This measure, which was introduced by the gentleman from California (Mr. FILNER) on November 16, 2004, enjoys the support and cosponsorship of the entire California State delegation.

Earl B. Gilliam was born in 1931 in New Mexico. He moved to San Diego with his family when he was in the fifth grade. He attended local public schools and graduated from San Diego State University in 1953. He received his law degree from Hastings College of Law in 1957 and served as a deputy district attorney and private practitioner before joining the State bench.

Judge Gilliam served as a municipal court judge in San Diego from 1963 to 1975, and was a superior court judge from 1975 to 1980. In 1980, President Carter appointed Judge Gilliam to the Federal bench. The honorable Judge Gilliam was the first African American to be appointed as a judge in the San Diego municipal, superior, and district courts.

A noted jurist, Judge Gilliam presided over a number of important cases while serving on the Federal bench. He was the trial judge for the Ponzi scheme fraud trials, a trial judge in cases involving immigration, drug trafficking, and health care fraud.

Judge Gilliam was not only a distinguished jurist; he was also very involved in his community. Beginning in 1965, he was recognized by the San Diego Junior Chamber of Commerce as the Young Man of the Year, Citizen of the Year, and Good Guy Award. In 1981, the Boys' Club of San Diego chose the judge as the Golden Man of the Year. In same year, the San Diego Trial Lawyers Association chose him as the Trial Judge of the Year. He was also awarded the NAACP Civil Rights Pioneer Award, and the San Diego Black Lawyers Organization honored his hard work by changing the name of their organization to the Earl B. Gilliam Bar Association.

Sadly, Judge Gilliam passed away on January 28, 2001, following a long heart-related illness. He is survived by his wife, Rebecca, and son, Derrick.

Mr. Speaker, I commend my colleague for seeking to honor the legacy of the late Judge Earl B. Gilliam and urge swift passage of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

I just want to congratulate the gentleman from California (Mr. FILNER) for such extraordinary work in moving this bill so quickly and just say that I particularly appreciate that we are honoring someone, frankly, who is no longer living who has been so distinguished. We are not honoring someone who is still alive today, but someone who earned this recognition in life and is now being recognized after his death. I would encourage the House to support the passage of H.R. 5364. I would also thank my colleague from Chicago for his work on this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RENZI). The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and pass the bill, H.R. 5364.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## INTERNATIONALLY KNOWN WILDLIFE ARTIST JOHN RUTHVEN RECEIVES NATIONAL MEDAL OF THE ARTS

(Mr. PORTMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTMAN. Mr. Speaker, I rise today to honor a very dear friend and Brown County, Ohio, constituent, John Ruthven, who was selected by President Bush to receive the National Medal of the Arts, the highest award to an artist or patron in the United States. I was honored to join John and his wife, Judy, and members of his family today at the White House for the medal presentation by President Bush.

He is one of the most talented artists in the Nation, and we are proud to know him as one of our neighbors in southern Ohio. We cannot think of anybody more deserving of this honor.

John is an author, lecturer, naturalist, conservationist, and internationally acknowledged master of wildlife art. We consider him a modern day Audubon. His love of nature is infectious. So many, including my own family, have joined John on his naturalist tours of the woods of his beloved farm.

His original paintings have been shown at the White House, the Hermitage Museum in Russia, here at the U.S. Capitol, the Ohio State capitol rotunda, and many other prestigious venues around the world.

The National Medal of Arts, Mr. Speaker, is a very prestigious award. The President may award up to 12 medals per year. There were only seven other individuals to receive the national medal today.

All of us in southern Ohio congratulate John on receiving this most prestigious national award.

## AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND JAPAN ON SOCIAL SECURITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108-234)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

*To the Congress of the United States:*

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95-216, 42 U.S.C. 433(e)(1)), I transmit herewith the Agreement between the United States of America and Japan on Social Security, which consists of two separate instruments: a principal agreement and an administrative agreement. The Agreement was signed at Washington on February 19, 2004.

The United States-Japan Agreement is similar in objective to the social security agreements already in force with Australia, Austria, Belgium, Canada, Chile, Finland, France, Germany, Greece, Ireland, Italy, Korea, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual security coverage and taxation, and to help prevent the lost benefit protection that can occur when workers divide their careers between two countries. The United States-

Japan Agreement contains all provisions mandated by section 233 and other provisions which I deem appropriate to carry out the purposes of section 233, pursuant to section 233(c)(4).

I also transmit for the information of the Congress a report prepared by the Social Security Administration explaining the key points of the Agreement, along with a paragraph-by-paragraph explanation of the provisions of the principal agreement and the related administrative arrangement. Annexed to this report is the report required by section 233(e)(1) of the Social Security Act, a report on the effect of the Agreement on income and expenditures of the United States Social Security program and the number of individuals affected by the Agreement.

The Department of State and the Social Security Administration have recommended the Agreement and related documents to me.

I commend to the Congress the United States-Japan Social Security Agreement and related documents.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 17, 2004.*

## NONSUITABILITY OF THE SQUIRREL RIVER IN ALASKA AS AN ADDITION TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108-235)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Resources and ordered to be printed:

*To The Congress of the United States:*

I transmit herewith the enclosed study, findings, and report for the Squirrel River in Alaska. The report and my recommendations are submitted pursuant to my authority under Article II, section 3, of the Constitution of the United States, and consistent with section 5(a) of the Wild and Scenic Rivers (WSR) Act, Public Law 90-542, as amended. The Squirrel River suitability study was authorized by Public Law 96-487 (Alaska National Interest Lands Conservation Act).

The study conducted by the Bureau of Land Management determined that all 100 miles of the river are nonsuitable for inclusion in the National WSR System. Consistent with the study, I recommend that the Congress take no action to designate the river. The withdrawal provided by section 5(a) of the WSR Act would expire within 3 years of the date of this message (unless other action is taken by the Congress). Approximately 81,501 acres of State-selected lands would be opened to mineral entry although mineral potential has been assessed as very low and there are no past or active mining claims.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 17, 2004.*

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

□ 1915

## SMART SECURITY AND CIA 9/11 REPORT

The SPEAKER pro tempore (Mr. RENZI). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, the worst attacks on this country's soil took place on September 11, 2001, when planes hijacked by terrorists slammed into the World Trade Center towers and the Pentagon. The last plane which crashed into a field in Pennsylvania was likely headed for the very building in which we are now standing, the U.S. Capitol.

Shortly after these devastating attacks, the House and Senate intelligence committees requested that the Office of the Inspector General at the Central Intelligence Agency provide a comprehensive report on the events surrounding 9/11.

In June, 2004, an 11-member team from the CIA's Office of the Inspector General completed its report after a 17-month investigation. Congress, however, still has not received this important report.

According to several intelligence officials, the CIA report is potentially damaging to the White House because it details pre-9/11 failures by members of the Bush administration. According to one official, "What all the other reports on 9/11 did not do is point the finger at individuals and give the how and what of their responsibility. This report does that."

Unfortunately, even though the CIA team finished its exhaustive report in June, it has yet to make its way to the House and Senate intelligence committees here in our Congress.

My colleagues, the gentleman from Michigan (Mr. HOEKSTRA) and the gentlewoman from California (Ms. HARMAN), the chairman and ranking member of the House Permanent Select Committee on Intelligence, wrote to the CIA in early October asking for delivery of this crucial report. They received no reply. Several sources in the intelligence community have stated that the reason for the delay has been the White House itself, which wanted the document released only after the November presidential election.

This should surprise no one.

What should surprise everyone is that the failure to deliver this report on time is unprecedented. The CIA has never failed to submit a report to Congress or delayed a report's submission for purely political reasons.

Mr. Speaker, the truth behind 9/11 is too important for the Bush White House to use for partisan applications. President Bush officially opposed the creation of the independent 9/11 Commission in the first place. Only when public opinion became unwieldy did he relent and allow its creation.

Then, after the Commission was created, the President opposed providing it with enough time to complete its congressionally mandated investigative report. He relented only after public opinion weighed in against him.

President Bush initially refused to allow National Security Advisor Condoleeza Rice to testify before the Commission, then relented under public pressure. Then he refused to testify before the Commission himself but relented under public pressure but only behind closed doors and with Vice President CHENEY by his side the whole time.

Mr. Speaker, there has to be a better way to respond to the threats America faces than by hiding behind closed doors. Instead, our government should depend on openness and transparency. That is why I have introduced H. Con. Res. 3792, a SMART Security Platform for the 21st Century. SMART stands for sensible multi-lateral American response to terrorism. SMART Security embodies a government that is fair, open, and transparent. SMART Security treats war as an absolute last resort. It fights terrorism with stronger intelligence and multi-lateral partnerships, and it controls the spread of weapons of mass destruction with aggressive diplomacy, strong regional security arrangements and vigorous inspection regimes.

SMART Security will defend America from future terrorist attacks by relying on the very best of America, not our nuclear capability but our capacity for multi-national leadership and our commitment to peace and freedom around the world.

If we fail to maintain the democratic principles upon which the country was founded, then we will have lost more than any terrorist could ever have taken away.

SMART Security is tough, pragmatic and safe. It depends on a government that is open, honest and transparent, and it is the right choice to keep Americans truly secure.

## CONVENIENT RULE CHANGING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, earlier today during the one minutes I got up and admonished the House Republican Conference because we heard at the time that there was a possibility that they would adopt a rule change that would overturn a previous and current GOP rule that requires House leaders to automatically relinquish their post if they are indicted on charges that could carry a sentence of 2 or more years in prison.

Now, according to Congress Daily and several other sources, in fact the Republican conference today did agree by voice vote to overturn this GOP rule, which would mean that it is no longer the case that House leaders, whether it be the Speaker, the majority leader, whatever, would automatically relinquish their post if they face such an indictment.

I said before and I will say again, now that we know the House Republican Conference has indeed adopted this rule change, that it really is inappropriate and that they should be admonished, because for many years they had touted this rule as an example of how they were always going to do the right thing and basically show that they were beyond reproach.

Now I wanted to read, if I could, some sections or quote from some sections of the Washington Post today that explain essentially why this rule change is taking place. It says, "GOP Pushes Rule Change to Protect DeLay's Post. House Republicans proposed changing their rules last night," and it in fact has changed, "to allow members indicted by State grand juries to remain in a leadership post.

"The proposed rule change, which several leaders predicted would win approval at a closed meeting today," and it did, "comes as House Republicans return to Washington feeling indebted to" majority leader DELAY for the slightly enhanced majority they won in this month's elections. DELAY led an aggressive redistricting effort in Texas last year that resulted in five Democratic House Members retiring or losing reelection.

"House Republicans adopted the indictment rule in 1993 when they were trying to end four decades of Democratic control of the House . . . They said at the time that they held themselves to higher standards than prominent Democrats."

Well, obviously, Mr. Speaker, their holding themselves to higher standards is no longer the case, because now when they see it might impact one of their leaders, they simply change the rule.

The Washington Post goes on to say in this front-page article that, "The GOP rule drew little notice until this fall, when DELAY's associates were indicted and Republican lawmakers began to worry that their majority leader might be forced to step aside."

"House Republicans recognize that DELAY fought fiercely to widen their majority, and they are eager to protect him from an Austin-based investigation they view as baseless and partisan," said one of the Republican Congressmen. He is quoted as saying, "That's why this (proposed rule change) is going to pass . . . because there is a tremendous recognition that TOM DELAY led on the issue to produce five more seats for the Republicans." After emerging from a meeting of the Republican Conference, it was assumed that in fact the rule would pass.

It did, in fact, pass. I think that it is absolutely disgraceful that it did. And I was very pleased also to see in Congress Daily today that the Democrats, who have a similar rule that requires a ranking member to step down in the event of an indictment, are now working to change the caucus rules to include a provision similar to the one that the GOP just overturned.

So what we will have now is the Republicans saying that they never wanted to do this and that if any of their leadership ever was indicted that they would certainly ask them to step down. Now that they face the possibility, they have decided to change their minds. It does not say much about ethical lapses, and it certainly, I think, will get a lot of scrutiny from the American people who will not want to see this change take place.

## CARING MORAL VALUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, on November 2, Ohio Democrats took our moral values to the polls. For many of us, our faith guided us, too, and our final vote for President was far too close to declare Ohio as a State full of evangelical fundamentalists.

For many of us, moral values are guided in our religious faith. My Lutheran upbringing instructs me and my fellow Christians in the teachings of Jesus to read and to follow as best we can the words of the Beatitudes, to try to live our lives and practice our politics as Jesus would have wanted us to.

For others of us, those moral values take the form of a faith in our country's greatness to solve our most pressing problems of racial inequality, of inaccessible health care, of the poverty of millions of American children, and of the war in Iraq.

For 3 years I have worn a lapel pin depicting a canary in a cage. A century ago, miners took a canary into the mines to warn them of toxic gasses. Miners were forced to provide for their own protection. No mine safety laws, no trade unions able to help, no real support from their government.

A baby born in those days had a life expectancy of about 47 years. Today, because of public health initiatives, worker safety laws, Medicare, Social Security, protections for children and minorities and the disabled, as a result we live decades longer. Every bit of progress in the struggle for economic and social justice often rooted in our Judeo-Christian beliefs, every bit of progress prevailed over the opposition of society's most privileged and most powerful.

Today, those struggles continue. Our fight for seniors who are forced to choose between medicine and food in our fight against the large pharmaceutical companies' greed comes from our understanding of the holy word.

Our opposition to tax cuts for America's most privileged adults and Head Start cuts afflicting our least privileged children follow from the teachings of Christ.

Our opposition to the death penalty, keep in mind George Bush approved an execution every 2 weeks during his 6 years as governor of Texas, our opposition to the death penalty is grounded in the scriptures.

Our belief that government programs like Medicare and Medicaid and Social Security, not privatized imitations of those programs, those programs should serve all Americans. Our belief that they should serve all Americans bespeaks a faith in the greatness of our country and its ability and willingness to lift up all of God's children.

As we have seen over the last 4 years, Republicans campaign to their religious friends on their moral values, mostly opposition to abortion and gay rights, and then govern for and with their corporate allies and contributors.

On the floor of the House of Representatives in the light of day we hear much talk from our Republican friends about moral values. But in the committee rooms and in the cloakrooms and in the back of the Chamber, choices are so often made and deals are cut that run counter to the teachings of Christ and Mohammed and the Jewish prophets and fly in the face of the values upon which our Nation was founded.

This Congress hurts families by underfunding Leave No Child Behind and college student loans, while giving tax cuts to the wealthiest among us.

This Congress hurts the elderly by defeating legislation to bring down the price of prescription drugs and then passing a Medicare bill that further enriches the drug and insurance industry.

This Congress hurts our God's earth when it caves to the energy and chemical companies.

This Congress hurts our communities when it gives tax breaks to encourage the largest corporations to outsource our jobs.

This Congress hurts our grandchildren when it loads huge burdens of debt on future generations.

Those are not the right moral values.

Tens of thousands of Ohioans worked feverishly for months to help change our Nation's course because of our moral values, because of our faith in God and because of our belief in the Nation's history of taking care of the least among us.

In no way do I question the faith of my political opponents, but I am weary of the far right's claim that they are the only ones guided by the hand of God.

My understanding of the teaching of Christ, my religious upbringing calls me to walk a different path and to express and act upon my faith in the cause of social and economic justice.

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## TRIBUTE TO CONGRESSWOMAN DENISE MAJETTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, the gentlewoman from Georgia (Ms. MAJETTE) is a lifelong public servant who has spent her career fighting for our families and our children.

DENISE MAJETTE was born into a working-class family, her mother, a teacher, and her father, a civil servant, who instilled in her the values of hard work, dedication to public service and strong religious beliefs. It is these childhood lessons that guided her life and her rise from these roots against tremendous odds to become one of the first African American women to attend Yale University and Duke University School of Law.

Upon graduation, DENISE MAJETTE answered the call of public service, joining the Legal Aid in Winston-Salem, North Carolina, as a staff attorney. At Legal Aid, DENISE MAJETTE helped hardworking families who were struggling to make ends meet.

After moving to Georgia in 1983, Ms. MAJETTE continued working for her community, serving as a law clerk for the Georgia Court of Appeals, a special assistant attorney general and an administrative law judge. Then in 1993, Ms. MAJETTE was appointed as a judge on the State court of DeKalb County.

In 2002, DENISE resigned from the bench and was elected to Congress, a talented legislator fighting for our children, our seniors, our veterans, and yes, our families.

DENISE lives the lesson her parents taught her, that to whom much is given, much is required. So when it looked like time was running out for Democrats in Georgia, she put it all on the line. When no one else was willing to take a chance and give up what they had, DENISE made that sacrifice, and we thank her for her courage, her determination and for the thousands of new voters in Georgia.

She made history, the first African American woman in Georgia, and that is the deep south, to become the Democratic nominee for the United States Senate. The Democratic nominee for the United States Senate from Georgia, just think about that. There were a lot of little girls watching this race. They saw DENISE's commercials. They saw DENISE debate time and time again and hold her own. They saw a legitimate, professional campaigner. Those little girls now know about a new option, a new path in life that is open to them.

It is rare these days to meet a politician who is willing to make real sacrifices, someone willing to put it all on the line for the greater good. DENISE MAJETTE serves as a reminder to all of us that this position we hold is not really about us. It is not about how many titles we obtain or how many plaques hang on our walls or how many dollars we raise.

We are here to be of service. We are not celebrities, but we are servants, and I thank DENISE for reminding us of that.

So, Mr. Speaker, we are so proud of DENISE MAJETTE and all that she has accomplished, and I do not have to wish her luck because with her faith in God, who is on her side, a strong conscience and an unshakable will, DENISE MAJETTE will never need it. She will be sorely missed in this body. May God bless her.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed bills and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 2986. An act to amend title 31 of the United States Code to increase the public debt limit.

S. 2991. An act to suspend temporarily new shipper bonding privileges.

S. Con. Res. 146. Concurrent Resolution to direct the Secretary of the Senate to make corrections in the enrollment of the bill S. 150.

The message also announced that the Secretary be directed to return to the House of Representatives (S. 1301) "An Act to amend title 18, United States Code, to prohibit video voyeurism in the special maritime and territorial jurisdiction of the United States, and for other purposes.", in compliance with a request of the House for the return thereof.

## EXCHANGE OF SPECIAL ORDER TIME

Mr. LAMPSON. Mr. Speaker, I ask to claim the time of the gentlewoman from the District of Columbia (Ms. NORTON).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## THE HOUSE FACES A GRAVE MORAL CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. LAMPSON) is recognized for 5 minutes.

Mr. LAMPSON. Mr. Speaker, as I reflect on my time as a member of this great institution, my most important concern is to leave the House of Representatives a better place than when I started. Unfortunately, the House faces a grave moral crisis, and we have already heard other Members speak, within the last few speakers, of these morals that we have brought to bear.

Two weeks have barely passed since election day and, the majority party has just perpetrated one of the biggest hypocrisies that this institution and, more importantly, our Nation has seen. Today, just as the Washington Post reported that it would and just as our nightly news reported that it did, the majority amended its own leadership structure, if we can believe it, to allow a Member under felony criminal indictment to hold a position of leadership in this body.

The majority party campaigned on its alleged moral values agenda, but when they got back to Washington, moral values flew right out the window. I am sorely disappointed to see the majority so quickly and so arrogantly turn its back on its biggest promise to America. The proposed leadership rule change is a flagrant and despicable insult to the American public and is firm evidence that the majority party's moral compass is permanently off center.

Indeed, this rule was adopted by the majority in 1993 as an effort to bring accountability to this House's leadership structure, and rightly so. Our elected leaders must be of the highest, utmost moral fiber, and I dare anyone to disagree with that notion.

Now, the majority finds it politically inconvenient to hold congressional leaders accountable and wants to allow Members facing felony criminal charges to continue tarnishing this institution. What sort of moral value does the majority exhibit by allowing those under criminal investigation to infiltrate our highest leadership posts? Can our children ever truly understand moral clarity when the majority allows those facing criminal felony indictments to rule the roost? Has the majority lost so much control of its own moral balance by rewarding Members facing felony criminal indictments with the perquisites of leadership?

Clearly, the majority is struggling, and unsuccessfully at that, to find its own moral balance. The majority is verbally tap dancing around this issue, claiming incredulously that State court criminal indictments carry less weight than Federal court criminal indictments. Instead of supporting State prosecutors, the law enforcement officers who protect our communities against waves of criminal behavior, the majority has attacked them as partisan hacks with hidden agendas.

What sort of moral values does the majority display by declaring local law enforcement efforts irrelevant? Would any of us tell our children to ignore the safety warnings given by our brave police officers, firefighters and other law enforcement figures? For the safety of our Nation, I pray not.

Mr. Speaker, the law is the law, period. If you are suspected of breaking it, then you are the subject of a criminal indictment. This is a simple, basic and fundamental moral lesson anyone can faithfully recite, yet one the majority apparently does not understand.

The Congress is not the place to play fast and loose with the principles of moral clarity nor should any majority exploit its own internal rules and structure for crass political purposes.

When we make excuses to allow anyone under felony indictment to lead Congress, we set ourselves down a slippery slope of immoral activity and scheming. These are not the type of morals and values that the voters thought they were voting for on election day; nor should the majority so brazenly embrace this foundation of corruption.

Absolute power corrupts absolutely. The majority talked about moral values on the campaign trail but clearly blanked on their empty promise once back in Washington. The majority is not about morals. It is not about values but one thing and one thing only, protecting their majority at any or all costs.

Shame, shame on this House of Representatives and the majority for caring more about protecting their majority than about promoting true moral values for the American people.

## EXCHANGE OF SPECIAL ORDER TIME

Mr. HINCHEY. Mr. Speaker, I would like to claim the time of the gentleman from Michigan (Mr. STUPAK).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

## ELECTION RESULTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

Mr. HINCHEY. Mr. Speaker, on November 2, George W. Bush was reelected President of the United States, and the Republicans expanded their majorities in both the House and the Senate. I congratulate President Bush and his party on this victory.

I also congratulate the American people for once again proving the brilliance and foresight of our Founding Fathers who designed a system in which those who hold power are replaced or affirmed, peacefully and according to the rule of law.

Never in my lifetime have the American people expressed more emotion over their choice for President. It is a testament to our Founders and to present-day Americans that this passion did not devolve into violence and lawlessness when the results were finally in and the fervent desires of so many of us were rejected.

I remain deeply disappointed by the result of the 2004 election. This election exacerbated the main problem that has been at the root of all the other problems that we have experienced over the past 4 years; that is that our usual system of checks and balances has been replaced by a monolithic Federal Government.

It is not just that the legislative and executive branches are controlled by the same party that I find disturbing. It is that the leaders of the majority party in Congress refuse to even question the judgment and the policies of the Bush administration. While partisan Republicans would view this as admirable party discipline, I see it as an abdication of constitutional responsibility.

Now President Bush is claiming a mandate, saying that he intends to spend political capital he earned during the campaign. He has stated a willingness to reach across party lines, but all his actions and most of his words belie that sentiment.

The President seems determined now to surround himself only with those who share his ideology. An administration already known for marching lockstep behind its leader will now have even fewer dissenting voices.

Neither will alternative viewpoints be found in the Republican congressional leadership. Witness the attacks on Senator SPECTER by the conservative base of the Republican party. The Senator apparently must agree to act merely as a rubber stamp on President Bush's judicial nominees or be denied the committee chairmanship that would otherwise be his.

Some may look at the Republican electoral majority and this victory and see a much diminished role for the Democrats. On the contrary, never has there been a greater need for a strong and vocal opposition.

Considering the closeness of the election that initially brought George W. Bush to the White House in 2000, this administration's lack of regard for dissenting views has been shocking. We can only imagine how much more arrogant the Bush II administration will be on the strength of its 51 percent victory.

Where some see a mandate, I see a country deeply and passionately divided in its opinion of this administration. While we respect the Office of the President and the system through which its occupant is selected, we in the opposition have a duty to continue making our voices heard more enthusiastically and more effectively.

## STATUS REPORT ON CURRENT SPENDING LEVELS OF ON-BUDGET SPENDING AND REVENUES FOR FY 2004 AND THE 5-YEAR PERIOD FY 2005 THROUGH FY 2009

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 2005 and for the five-year period of fiscal years 2005 through 2009. This report is necessary to facilitate the application of sections 302 and 311 of the Congressional Budget Act and section 401 of the conference report on the concurrent resolution on the budget for fiscal year 2005 (S. Con. Res. 95, which is currently in effect as a concurrent resolution on the budget in the House under H. Res. 649). This status report is current through November 15, 2004.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set forth by S. Con. Res. 95. This comparison is needed to enforce section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 2005 because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority and outlays for discretionary action by each authorizing committee with the "section 302(a)" allocations made under S. Con. Res. 95 for fiscal year 2005 and fiscal years 2005 through 2009. "Discretionary action" refers to legislation enacted after the adoption of the budget resolution. This comparison is needed to enforce section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 302(a) discretionary action allocation of new budget authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 2005 with the "section 302(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. The comparison is also needed to enforce section 302(f) of the Budget Act because the point of order under the section equally applies to measures that would breach the applicable section 302(b) suballocation.

The fourth table gives the current level for 2006 of accounts identified for advance appropriations under section 401 of S. Con. Res. 95. This list is needed to enforce section 401 of the budget resolution, which creates a point of order against appropriation bills that contain advance appropriations that are: (i) not identified in the statement of managers or (ii) would cause the aggregate amount of such appropriations to exceed the level specified in the resolution.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 2005 CONGRESSIONAL BUDGET ADOPTED IN S. CON. RES. 95—REFLECTING ACTION COMPLETED AS OF NOVEMBER 15, 2004

[On-budget amounts, in millions of dollars]

| | Fiscal year 2005 | Fiscal years 2005–2009 |
|---|---|---|
| Appropriate Level: | | |
| Budget Authority | 2,012,726 | n.a. |
| Outlays | 2,010,964 | n.a. |
| Revenues | 1,454,637 | 8,638,287 |

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 2005 CONGRESSIONAL BUDGET ADOPTED IN S. CON. RES. 95—REFLECTING ACTION COMPLETED AS OF NOVEMBER 15, 2004

[On-budget amounts, in millions of dollars]

| | Fiscal year 2005 | Fiscal years 2005–2009 |
|---|---|---|
| Current Level: | | |
| Budget Authority | 1,983,784 | n.a. |
| Outlays | 1,987,695 | n.a. |
| Revenues | 1,450,801 | 8,565,554 |
| Current Level over (+) / under (–) Appropriate Level: | | |
| Budget Authority | –28,942 | n.a. |
| Outlays | –23,269 | n.a. |
| Revenues | –3,836 | –72,733 |

n.a. = Not applicable because annual appropriations Acts for fiscal years 2006 through 2009 will not be considered until future.

### BUDGET AUTHORITY

Enactment of measures providing new budget authority for FY 2005 in excess of $28,942,000,000 (if not already included in the current level estimate) would cause FY 2005 budget authority to exceed the appropriate level set by S. Con. Res. 95.

### OUTLAYS

Enactment of measures providing new outlays for FY 2005 ion excess of $23,269,000,000 (if not already included in the current level estimate) would cause FY 2005 outlays to exceed the appropriate level set by S. Con. Res. 95.

### REVENUES

Enactment of measures that would reduce revenue for FY 2005 (if not already included in the current estimate) would cause revenues to fall further below the appropriate level set by S. Con. Res. 95.

Enactment of measures resulting in revenue reduction for the period of fiscal years 2005 through 2009 (if not already included in the current level estimate) would cause revenues to fall further below the appropriate levels set by S. Con. Res. 95.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(A) ALLOCATIONS FOR DISCRETIONARY ACTION—REFLECTING ACTION COMPLETED AS OF NOVEMBER 15, 2004

[Fiscal years, in millions of dollars]

| House Committee | 2005 | | 2005–2009 Total | |
|---|---|---|---|---|
| | BA | Outlays | BA | Outlays |
| Agriculture: | | | | |
| Allocation | 0 | 0 | 0 | 0 |
| Current Level | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 |
| Armed Services: | | | | |
| Allocation | 0 | 0 | 0 | 0 |
| Current Level | –1,530 | 581 | –17 | 1,659 |
| Difference | –1,530 | 581 | –17 | 1,659 |
| Education and the Workforce: | | | | |
| Allocation | 68 | 56 | 236 | 230 |
| Current Level | –14 | 42 | 230 | 207 |
| Difference | –82 | –14 | –6 | –23 |
| Energy and Commerce: | | | | |
| Allocation | 576 | 483 | 4,350 | 3,381 |
| Current Level | 0 | 0 | 0 | 0 |
| Difference | –576 | –438 | –4,350 | –3,381 |
| Financial Services: | | | | |
| Allocation | 1 | 1 | 17 | 17 |
| Current Level | –6 | –6 | –5 | –5 |
| Difference | –7 | –7 | –22 | –22 |
| Government Reform: | | | | |
| Allocation | 1 | 1 | 19 | 19 |
| Current Level | 21 | 3 | 39 | 29 |
| Difference | 20 | 2 | 20 | 10 |
| House Administration: | | | | |
| Allocation | 0 | 0 | 0 | 0 |
| Current Level | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 |
| International Relations: | | | | |
| Allocation | 0 | 0 | 0 | 0 |
| Current Level | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 |
| Judiciary: | | | | |
| Allocation | 15 | 15 | 35 | 35 |
| Current Level | 0 | 0 | 0 | 0 |
| Difference | –15 | –15 | –35 | –35 |
| Resources: | | | | |
| Allocation | 2 | 2 | 10 | 10 |
| Current Level | 0 | 0 | 4 | 4 |
| Difference | –2 | –2 | –6 | –6 |
| Science: | | | | |
| Allocation | 0 | 0 | 0 | 0 |
| Current Level | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 |
| Small Business: | | | | |
| Allocation | 0 | 0 | 0 | 0 |
| Current Level | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 |
| Transportation and Infrastructure: | | | | |
| Allocation | 1,737 | 4 | 22,070 | 12 |
| Current Level | 4,615 | –2 | 4,623 | 17 |
| Difference | 2,878 | –6 | –17,447 | 5 |
| Veterans' Affairs: | | | | |
| Allocation | 0 | 0 | 0 | 0 |
| Current Level | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | 0 | 0 |
| Ways and Means: | | | | |
| Allocation | 1,368 | 804 | 3,470 | 3,244 |
| Current Level | 3,444 | 3,423 | 19,938 | 19,970 |
| Difference | 2,076 | 2,619 | 16,468 | 16,726 |
| Reconcilation | 0 | 0 | 4,600 | 4,600 |
| Current Level | 0 | 0 | 0 | 0 |
| Difference | 0 | 0 | –4,600 | –4,600 |

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2005—COMPARISON OF CURRENT LEVEL WITH APPROPRIATIONS COMMITTEE 302(A) ALLOCATION AND APPROPRIATIONS SUBCOMMITTEE 302(B) SUBALLOCATIONS

[In millions of dollars]

| Appropriations Subcommittee | 302(b) Suballocations as of July 22, 2004 (H. Rpt. 108–633) | | Current level reflecting action completed as of November 15, 2004 | | Current level minus suballocations | |
|---|---|---|---|---|---|---|
| | BA | OT | BA | OT | BA | OT |
| Agriculture, Rural Development | 16,841 | 18,113 | 17,120 | 18,272 | 279 | 159 |
| Commerce, Justice, State | 39,815 | 40,463 | 38,978 | 39,209 | −837 | −1,254 |
| National Defense | 390,931 | 415,987 | 390,931 | 415,772 | 0 | −215 |
| District of Columbia | 560 | 554 | 560 | 541 | 0 | −13 |
| Energy & Water Development | 27,993 | 27,973 | 27,266 | 27,464 | −727 | −509 |
| Foreign Operations | 19,386 | 26,735 | 38,785 | 31,797 | 19,399 | 5,062 |
| Homeland Security | 32,000 | 29,873 | 32,000 | 29,819 | 0 | −54 |
| Interior | 20,039 | 20,214 | 20,637 | 20,116 | 598 | −98 |
| Labor, HHS & Education | 142,526 | 141,117 | 140,005 | 140,389 | −2,521 | −728 |
| Legislative Branch | 3,575 | 3,696 | 3,559 | 3,597 | −16 | −99 |
| Military Construction | 10,003 | 10,015 | 10,003 | 9,975 | 0 | −40 |
| Transportation Treasury | 25,320 | 68,993 | 28,547 | 70,398 | 3,227 | 1,405 |
| VA–HUD–Independent Agencies | 92,930 | 101,732 | 91,449 | 96,943 | −1,481 | −4,789 |
| Unassigned | 0 | 3 | 0 | 0 | 0 | −283 |
| Total (Section 302(a) Allocation) | 821,919 | 905,748 | 839,840 | 904,292 | 17,921 | −1,456 |

Statement of FY2006 Advance Appropriations Under Section 401 of S. Con. Res. 95 Reflecting Action Completed as of November 15, 2004

[In millions of dollars]

| | Budget Authority |
|---|---|
| Appropriate Level | 23,158 |
| Current Level: | |
| Interior Subcommittee: | |
| Elk Hills | 0 |
| Labor, Health and Human Services, Education Subcommittee: | |
| Employment and Training Administration | 0 |
| Education for the Disadvantaged | 0 |
| School Improvement | 0 |
| Children and Family Services (Head Start) | 0 |
| Special Education | 0 |
| Vocational and Adult Education | 0 |
| Transportation and Treasury Subcommittee: | |
| Payment to Postal Service | 0 |
| Veterans, Housing and Urban Development Subcommittee: | |
| Section 8 Renewals | 0 |
| Total | 0 |
| Current Level over (+)/under (−) Appropriate Level | −23,158 |

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, November 17, 2004.*

Hon. JIM NUSSLE,
*Chairman, Committee on the Budget, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2005 budget and is current through November 15, 2004. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of S. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2005. The budget resolution figures incorporate revisions submitted by the Committee on the Budget to the House to reflect funding for wildland fire suppression and for technical reasons. These revisions are authorized by sections 312 and 313 of S. Con. Res. 95. In addition, under section 402 of S. Con. Res. 95, amounts designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes the Emergency Supplemental Appropriations for Disaster Relief Act of 2004 (Public Law 108-303) since all amounts provided are designated as emergency requirements (see footnote 2 of the report).

Since my last letter, dated September 9, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues for fiscal year 2005:

The Emergency Supplemental Appropriations for Disaster Relief Act of 2004 (Public Law 108-303);

The Welfare Reform Extension Act, Part VIII (Public Law 108-308);

The Continuing Resolution, 2005 (Public Law 108-309);

The Surface Transportation Extension Act of 2004, Part V (Public Law 108-310);

The Working Families Tax Relief Act of 2004 (Public Law 108-311);

The Military Construction Appropriations Act, 2005 (Public Law 108-324);

The Homeland Security Appropriations Act, 2005 (Public Law 108-334);

The District of Columbia Appropriations Act, 2005 (Public Law 108-335);

An act to amend the Lease Lot Conveyance Act of 2002 (Public Law 108-351);

The American Jobs Creation Act of 2004 (Public Law 108-357);

The Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375);

The Provo River Project Transfer Act (Public Law 108-382);

The 2004 District of Columbia Omnibus Authorization Act (Public Law 108-386); and

The Taxpayer-Teacher Protection Act of 2004 (Public Law 108-409).

The effects of the actions listed above are detailed in the accompanying table.

Sincerely,
DOUGLAS HOLTZ-EAKIN,
*Director.*

Enclosure.

FISCAL YEAR 2005 HOUSE CURRENT LEVEL REPORT AS OF NOVEMBER 15, 2004

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| Enacted in previous sessions: | | | |
| Revenues | n.a. | n.a. | 1,482,831 |
| Permanents and other spending legislation | 1,175,519 | 1,129,536 | n.a. |
| Appropriation legislation [1] | 0 | 391,841 | n.a. |
| Offsetting receipts | −398,008 | −398,008 | n.a. |
| Total, enacted in previous sessions | 777,511 | 1,123,369 | 1,482,831 |
| Enacted this session: | | | |
| Authorizing Legislation: | | | |
| TANF and Related Programs Continuation Act of 2004 (P.L. 108–262) | 122 | 138 | 0 |
| Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (P.L. 108–264) | −1 | −1 | 0 |
| Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108–265) | 66 | 57 | 0 |
| GAO Human Capital Reform Act of 2004 (P.L. 108–271) | 1 | 1 | 0 |
| An act to renew import restrictions on Burma (P.L. 108–272) | 0 | 0 | −10 |
| AGOA Acceleration Act of 2004 (P.L. 108–274) | 0 | 0 | −30 |
| Surface Transportation Extension Act of 2004 (P.L. 108–280) | 0 | −11 | 0 |
| United States Australia Free Trade Implementation Act (P.L. 108–286) | 0 | 0 | −29 |
| John Marshall Commemorative Coin Act (P.L. 108–290) | −2 | −2 | 0 |
| Marine Corps 230th Anniversary Commemorative Coin Act (P.L. 108–291) | −3 | −3 | 0 |
| Coast Guard and Maritime Transportation Act (P.L. 108–293) | 2 | 2 | 0 |
| SUTA Dumping Prevention Act of 2004 (P.L. 108–295) | −7 | −7 | 0 |
| Morocco Free Trade Agreement (P.L. 108–302) | 0 | 0 | −5 |
| Welfare Reform Extension Act, Part VIII (P.L. 108–308) | 416 | 379 | 0 |

FISCAL YEAR 2005 HOUSE CURRENT LEVEL REPORT AS OF NOVEMBER 15, 2004—Continued

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| Continuing Resolution, 2005 (P.L. 108–309)[2] | 143 | 24 | 25 |
| Surface Transportation Extension Act of 2004, Part V (P.L. 108–310) | 4,493 | 7 | 0 |
| Working Families Tax Relief Act of 2004 (P.L. 108–311) | 2,126 | 2,126 | −27,054 |
| An act to amend the Lease Lot Conveyance Act of 2002 (P.L. 108–351) | 1 | 1 | 0 |
| American Jobs Creation Act of 2004 (P.L. 108–357) | 764 | 764 | −4,927 |
| Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (P.L. 108–375) | −1,530 | 581 | 0 |
| Provo River Project Transfer Act (P.L. 108–382) | −1 | −1 | 0 |
| 2004 District of Columbia Omnibus Authorization Act (P.L. 108–386) | 20 | 2 | 0 |
| Taxpayer-Teacher Protection Act of 2004 (P.L. 108–409) | −80 | −15 | 0 |
| Total, authorizing legislation | 6,530 | 4,042 | −32,030 |
| Appropriations Acts: | | | |
| Department of Defense Appropriations Act, 2005 (P.L. 108–287)[2] | 391,153 | 266,777 | 0 |
| Military Construction Appropriations Act, 2005 (P.L. 108–324)[2] | 10,003 | 2,447 | 0 |
| Homeland Security Appropriations Act, 2005 (P.L. 108–334) | 30,557 | 18,473 | 0 |
| District of Columbia Appropriations Act, 2005 (P.L. 108–335) | 560 | 481 | 0 |
| Continuing Resolution Authority: | | | |
| Continuing Resolution, 2005 (P.L. 108–309) | 384,910 | 211,130 | 0 |
| Total, enacted this session | 823,713 | 503,350 | −32,030 |
| Entitlements and mandatories: | | | |
| Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs | 382,560 | 360,976 | n.a. |
| Total Current Level[1,2] | 1,983,784 | 1,987,695 | 1,450,801 |
| Total Budget Resolution | 2,012,726 | 2,010,964 | 1,454,637 |
| Current Level Over Budget Resolution | n.a. | n.a. | n.a. |
| current Level Under Budget Resolution | 28,942 | 23,269 | 3,836 |
| Memorandum: | | | |
| Revenues, 2005–2009: | | | |
| House Current Level | n.a. | n.a. | 8,565,554 |
| House Budget Resolution | n.a. | n.a. | 8,638,287 |
| Current Level Over Budget Resolution | n.a. | n.a. | n.a. |
| Current Level Under Budget Resolution | n.a. | n.a. | 72,733 |

[1] For purposes of enforcing section 311 of the Congressional Budget Act in the House, the budget resolution does not include Social Security administrative expenses, which are off-budget. As a result, the current level excludes these items.

[2] Per section 402 of S. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2005, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, current level excludes the following amounts: outlays of $19,902 million from 2004 budget authority provided in the Defense Appropriations Act, 2005 (P.L. 108–287); outlays of $622 million from funds provided in the Emergency Supplemental Appropriations for Disaster Relief Act, 2004 (P.L. 108–303); outlays of $444 million from funds provided in the Continuing Resolution, 2005 (P.L. 108–309); and budget authority of $14,528 million and outlays of $6,995 million from the Military Construction Appropriations Act, 2005 (P.L. 108–324).

Source: Congressional Budget Office.

Notes: n.a. = not applicable; P.L. = Public Law. Numbers may not sum to totals because of rounding.

## TRIBUTE TO CONGRESSMAN WILLIAM O. LIPINSKI

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Illinois (Mr. COSTELLO) is recognized for 60 minutes as the designee of the minority leader.

### GENERAL LEAVE

Mr. COSTELLO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. COSTELLO. Mr. Speaker, as we come to the final days of this session of Congress, I want to recognize the service of our colleague and dear friend, Congressman BILL LIPINSKI from Chicago.

BILL decided not to seek reelection in this past general election after serving the people of his district for 22 years. BILL LIPINSKI has been a tireless advocate for the people of his district and the people of the Chicago area. BILL has been the go-to person to get things done for the City of Chicago.

As a senior member of the Committee on Transportation and Infrastructure, he has delivered for Chicago and for the State of Illinois. BILL has secured funding for every major transportation project in the Chicago area for the past several years. From the southwest transit line to the Central Avenue bypass to the expansion of Midway and O'Hare airports, it was BILL LIPINSKI who was there to move the projects forward.

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BILL has been an effective leader for his district, his city, and his State because he studies the issues and he rolls up his sleeves to get the job done. BILL always worked in a bipartisan manner, and in fact has as many friends on the Republican side of the aisle as he does on his own side of the aisle.

I have been privileged to serve on the Committee on Transportation and Infrastructure with BILL LIPINSKI for the last 16 years. He was always there to help me and to help any other member of the committee seeking his advice and his wisdom.

I have always admired BILL's ability to get things done for his district and the City of Chicago. I appreciate his service not only to the people of his district and the State of Illinois but the people of this great Nation. And, more importantly, I appreciate his friendship.

I wish BILL, his wife, Rose Marie, and their family the very best and know that his successor, his son DAN LIPINSKI, will serve the people of his district very well.

Mr. Speaker, I would now like to yield to my colleague from the City of Chicago, the gentleman from Chicago, Illinois (Mr. RUSH).

Mr. RUSH. Mr. Speaker, I certainly want to concur with the remarks of my friend from the southern part of Illinois (Mr. COSTELLO), and I want to stand here and really speak a few words about a gentleman who comes from a different part of town, of Chicago, but someone who I identify with immeasurably, and someone who has been both a friend and someone who has been a mentor to me since I arrived here in this Congress.

Mr. Speaker, a familiar phrase that sometimes we speak about or we discuss in the city of Chicago, a phrase coined by the first Mayor Richard Daley, Mayor Daley I, Richard J. Daley, went something like: "Don't send me nobody, nobody's sent." And I think that that really kind of captures the attitude, the political attitude of BILL LIPINSKI.

BILL LIPINSKI was a person who cared about people, cared about people not only in his district but about people across this Nation. Even though he rose to heights here in Washington, D.C., in this Congress, he never forgot his role as a Democratic ward committeeman, a ward committeeman who handled the political affairs of the 23rd ward in the City of Chicago. And to a great extent his remarkable career here in this Congress, and the many things he was able to accomplish here not only for his district but for the people of the State of Illinois and also for the City of Chicago, was really a reflection of his true calling as a Democratic ward committeeman there in the City of Chicago. He was an old-time politician who understood how to work a precinct and how to get others to work a precinct and how to deliver a vote in the City of Chicago. And as a result of that, he achieved remarkable success.

Mr. Speaker, BILL LIPINSKI was somebody that was sent. He was sent and he represented the true nature of the people of his district, the Third Congressional District in Illinois. His nickname, which some of us tease him with, was "Bungalow Bill," because he represented the bungalow folks, people who lived in the bungalows in his district. The true grit, or the common, ordinary person. And BILL LIPINSKI never forgot who sent him. So he indeed was somebody who was sent not only to Washington, D.C., but prior to that, he was sent to the Chicago City Council, and prior to that he was sent to work at the Chicago Park District.

When I arrived here in Washington, he befriended me. I did not know what to expect. He and I did not share or come from the same political sector. We competed quite often in terms of local politics. But when I arrived here in Washington, he befriended me, he advised me, he helped me out, he gave me real true counsel, and we shared many stories about our similar activities there in the City of Chicago.

He is somebody who I really call a friend and someone who will always be my friend. Mr. Speaker, I will miss him so much when he retires from this Congress. I will miss him. I will miss his counsel, his friendship, and his advice. I will miss sitting on this floor just reminiscing about some of the good political battles that we engaged in in the inner city of Chicago.

And to BILL: BILL you were sent. You were somebody that was sent, and you made everybody proud. And I am sure your family is proud and DAN is proud and Rose Marie is proud. And I really will miss you and look forward to working with you as a fellow ward committeeman within the City of Chicago.

Mr. Speaker, I yield back to my colleague.

Mr. COSTELLO. Mr. Speaker, I would now like to yield to my friend and colleague, the gentleman from the City of Chicago, Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I am pleased to join with my colleagues as we all come to pay tribute to our good friend, BILL LIPINSKI.

BILL has served as a Member of Congress for over 20 years and is the senior Democratic member of the Illinois delegation. Of course, I first met him when we were both members of the Chicago City Council, although he found that a good place to be away from, and he got away just as quickly as he could and came to Congress.

BILL LIPINSKI has earned the well-deserved reputation for fairness among his colleagues in the Illinois delegation and in the House as a whole. He never hesitates to reach out to his colleagues across the aisle to help serve our Nation's interests. He has done much for Illinois' Third Congressional District, the City of Chicago, and our country as a whole.

As a member of the House Committee on Transportation and Infrastructure, he has ensured that Chicago's area transportation system has gotten the funding it needs to continue to serve the residents of the region. He has also enabled the upgrade of the Chicago Transit Authority's rail lines, as well as the extension and upgrade of a number of metro rail lines.

Mr. LIPINSKI's service on the House Subcommittee on Aviation has been especially important to the residents of Chicago and the area. He has helped to improve the region's currently overburdened airport facilities. He was instrumental in reducing delays at O'Hare International Airport through the elimination of the unnecessary slot rule. Additionally, he has ensured that Chicago's airport facilities remain state-of-the-art.

It is impossible for me to walk through the vastly and beautifully improved terminals at Midway Airport without thinking of BILL LIPINSKI's great contribution to our city.

BILL understands the art and relevance of political organizing and local base-building. As Democrat committeeman of the 23rd ward in Chicago, he leads and commands one of the most loyal and effective political groups in the State. He is a great family man and neighborhood person. He is loyal to both his community and to his family.

BILL, you have been a great friend, and best wishes to you and your wife as you get an opportunity to spend more time together in your beloved southwest side of Chicago. And I also want to take this opportunity to wish your son DAN well as he joins us. And as you go, in the words of an old Irish proverb, let me just say to you: "May the road rise up to meet you, may the wind always be at your back, may the sun shine warmly upon your face, and the rains fall softly upon your fields. And, until we meet again, may the good Lord hold you in the hollow of his hand."

Mr. Speaker, I yield back to my colleague.

Mr. COSTELLO. Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman for organizing this tribute to our friend, BILL LIPINSKI; and I am pleased to join with other members of the Illinois delegation to celebrate the outstanding career of BILL LIPINSKI and to wish him well on his retirement after 22 years in this body.

When I was elected to Congress in 1998, I was fortunate to become part of a delegation that works together in a bipartisan and effective way to meet the needs of our State. BILL LIPINSKI has been the leader and a guiding force in bringing us together in that effort. He has helped us devise ways to make sure that Illinois' interests are protected and that Illinois gets its fair share of Federal dollars.

Over the years, I have attended many meetings where BILL LIPINSKI has kept us focused and shown us opportunities. He has built friendships and coalitions inside the Congress on both sides of the aisle and outside of Congress. He has worked day after day, year after year to make sure that his constituents got the best representation possible.

BILL LIPINSKI has helped me learn about Congress, learn about the government process, and learn how to get things done. He has always been there to give me advice, to give me support, and to answer my questions. And for that, I will always be appreciative.

In particular, BILL has helped me and so many others in this body and around the country learn more about transportation. Whether it is planes, trains, or trucks, BILL LIPINSKI knows transportation. Everyone wants to go somewhere, and BILL LIPINSKI has spent his career making sure that we can get there.

The Chicago Tribune called BILL LIPINSKI the Transit King because of his knowledge and ability to deliver for his district. As a senior member of the Committee on Transportation and Infrastructure, BILL LIPINSKI has worked hard to improve infrastructure, expand the highway system, and modernize the freight rail system. He has helped meet the needs of travelers, commuters, and shippers, creating good jobs at the same time.

Chicago, a transportation hub for the Nation, has benefited tremendously from BILL LIPINSKI's national transportation reputation and experience. He is not just a national expert; he consistently tackles the transportation problems faced by Chicago and surrounding communities. BILL LIPINSKI is the living example of Tip O'Neill's axiom that "all politics are local."

Whether it is the reconstruction of the Stevenson Expressway, airport renovation, the CTA's orange line, or helping communities cope with train whistles, BILL LIPINSKI has a hands-on approach to dealing with local issues. He understands the problems his constituents face, whether it is losing a job because of unfair trade policies, struggling to pay for enormous drug bills, or protecting overtime pay.

A life-long Chicagoan, BILL worked for 17 years at the Chicago Park District and served as a Chicago alderman, which in the eyes of many Chicagoans is believed to be the highest of political achievements. And BILL LIPINSKI continued to serve his community as a local ward committeeman, in addition to his work here in Congress. And on election day, his political organization is something to behold, an operation most elected officials would only dream of.

What some of my colleagues may not know is his expertise goes beyond transportation and government to include an exhaustive knowledge of the White Sox and baseball. BILL LIPINSKI has served the people of the Third Congressional District of Illinois with dedication and skill for 11 terms. Now as BILL prepares to leave the House after 22 years of service, those of us in the Illinois delegation wish him only the very, very best and look forward to welcoming his son DAN as part of our delegation.

Mr. Speaker, I yield back to my colleague from Illinois.

Mr. COSTELLO. Mr. Speaker, I yield to another Illinois colleague, the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, first, I would like to thank my colleague, the gentleman from Illinois (Mr. COSTELLO), for organizing this. I think we will see tonight as other Members speak and those who preceded that we will be bipartisan in our praise. Mo Udall used to say, "Everything that has ever needed to be said on the subject has been said; it just has not been said by everybody that needs to say it." So this is my opportunity.

I want to shed a little light, if I could, on the fact that BILL LIPINSKI has held a series of political and public offices, ward committeeman, alderman, and Congressman. But like all great traditions in Chicago, he also worked at the Chicago Park District, that training ground of great political leaders that has literally been all over our political system in Chicago. Whether it is the county board, whether in the aldermatic or city council, the mayoral office, congressional office, or the U.S. Senate, the Chicago Park District has trained more political leaders than any other position or forum that I know of.

BILL started his career working up from the Park District to where he served as alderman, and also, to this day, as committeeman of the 23rd ward. He also is, obviously, a Congressman for over 20 years. My colleague, the gentleman from Illinois (Mr. RUSH), mentioned he is known as Bungalow BILL. A little over half of the housing stock in Chicago is in bungalows. It is a frame, or an architectural style, that Chicago is known for.

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No other city has so much housing in that type of style. BILL LIPINSKI and his wife live in a bungalow. In fact, one piece of legislation I got was making the bungalow an historic site. BILL wanted to make sure that I got the architectural type of the bungalow correct, it was not just any type of architecture, and he was committed to understanding and respecting not only that architecture, but what he understood was the values of those people that lived in those bungalows.

Those people, when you asked them where they lived, they did not tell you Chicago. They told you what parish they went to. That is where they lived. What park their kids played in, what team they were on in the park district.

No matter where BILL went and however many miles he traveled, he never went very far, but he had a world view. Whenever we were going on a plane back home, BILL would pull out one of these 700, 800-pound books on history. I have a common interest in history, especially World War II history, and we usually swapped reading lists. He always read his history.

What I am trying to get at is the quality of an individual. Because this is a passing in many ways of a generation of a political leader that our city does not produce as it used to. For instance, last year, the gentleman from Illinois (Mr. GUTIERREZ) organized a Congressional Award and recognition for Sammy Sosa. This was at the time Sammy Sosa was, and still is, a hot property. Wrigley Field is in my district. BILL LIPINSKI traveled up for the event. It was the gentleman from Illinois (Mr. DAVIS), the gentleman from Illinois (Mr. GUTIERREZ), myself, and the gentleman from Illinois (Mr. LIPINSKI). BILL said, "This is the first time in my life I have even been to Wrigley Field."

If you know anything about Chicago, Bill was from the Southwest Side, Comiskey Park, and would never set foot, if not for Sammy Sosa. I would say BILL still would never have been in Wrigley Field, and he has lived his whole life in Chicago. That was the type of individual he was. He knew where he was from and who he was.

If I could make one note, it is his son who is going to replace him as a congressman. As I know the 23rd Ward, the 11th Ward, the 19th Ward that make up that congressional district, DAN on his first run got a unique and quite impressive 74 percent. In the great tradition of the 19th Ward, 11th Ward, 10th Ward and 13th Ward and 23rd Ward, I am sure they are looking for those people on the 26 percent and who they are and why they voted the other way, and good luck in getting their garbage picked up for the next 2 years.

I know BILL is probably in his office having a cup of coffee or Diet Coke, his cigarette, pizza, and making sure what we say is correct. Because tomorrow he will be down on the floor to correct us if we make a mistake. If I have, BILL, I apologize.

BILL is truly a person who, when you say "Bungalow Bill" it is a compliment, because he represents the people, values and interests of the people from the Southwest Side and all its strength because it is that period of time that is our greatest generation and our greatest building blocks.

Mr. Speaker, I thank the gentleman from Illinois (Mr. COSTELLO) for organizing this Special Order.

Mr. COSTELLO. Mr. Speaker, I yield to the gentleman from Illinois (Mr. EVANS).

Mr. EVANS. Mr. Speaker, I join in the salute to BILL LIPINSKI and his retirement. We are going to miss him tremendously. Many people do not understand how a progressive member of the Democratic Caucus would have anything to do with a very conservative member of our caucus, but I came to know BILL because he worked incredibly hard for our fellow citizens. He always could be counted on to live up to the highest ideals of the Democratic Party on the issues that count, and we know that he will continue to be involved on these issues in the future.

I enjoyed serving these last 22 years with BILL. I salute the whole Lipinski family. They are a great Democratic family. I think we will find out how good his son is after he is sworn in and gets involved in this committee, because his son is a college professor by background. We need a few more Members from academics and other people who have insights to things that we lawyers do not always have.

I am pleased to have worked with him and salute him for his work with us. He has been a strong advocate for veterans issues. I will tremendously miss Bill in the future.

Mr. COSTELLO. Mr. Speaker, I yield to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, I first had the opportunity to meet my colleague, the gentleman from Illinois (Mr. LIPINSKI), when I became a Member of Congress in 1993. What impressed me is the fact that I could live only 100 miles from the gentleman from Illinois (Mr. LIPINSKI) and he would have an accent and I do not. Some people call that a Chicago accent.

You often wonder why would somebody who lives near Egan, Illinois, a population of 39, very small county, and who raises beef cattle, obviously lives on a farm, what would he have in common with somebody who lives in a big city like Chicago.

I took a look at BILL LIPINSKI when I first came, knew his reputation as somebody very much interested in roads and highways and transportation. BILL and I had a lot of interesting talks, most of them about roads, the significance of highways. In the historical context, BILL would wax eloquent about the significance of commerce, why airports are necessary, why roads are necessary.

In fact, we talked one time that when the convention was called in 1787, it was on adjournment from the Baltimore meeting a year earlier where delegates from the 13 States had met under the Articles of Confederation and in vain could not come up with some kind of a system whereby to standardize the width, length and depth of the locks of the navigable waters. When the delegates met the next year in Philadelphia, the original purpose of the new Constitution, because the Articles of Confederation simply were not strong enough, was to promote commerce by making sure that this Nation had this fluid system of transportation. BILL has always understood that.

Roads do run from Egan, Illinois, to downtown Chicago. BILL always supported whatever road projects we had. I always supported his requests for buses in downtown Chicago because people go from Egan, Illinois, to Chicago.

But most important was the fact that, in the whole area of air transportation, BILL worked with us to help put Rockford, Illinois, on the map with the Greater Rockford Airport, recognizing the fact that here is an airport that needed business and so why not, to the extent possible, use it for transportation to alleviate the congestion in Chicagoland.

He chaired, back when his party was in the majority, several hearings, and I had an opportunity to testify before him. And when the majority changed and he was still on the same subcommittee, I still had an opportunity to testify before him. It really did not make any difference who was in the majority or the minority. BILL was still interested in the fact that roads connect people, they connect towns and, more importantly, they connect lives.

I have never met a person as unusual as BILL LIPINSKI. A Chicago accent? You have to be from rural Illinois to recognize that there is such a thing as a Chicago accent. He in his bungalow in the big city and I in my farmhouse in outside of Egan in the suburbs know this: That the dedication of this man to the people not just in his district but in the entire State, his wisdom in placing emphasis upon infrastructure and transportation as a means to better everybody because of commerce, made him rise above political labels. It was never BILL LIPINSKI, the Democrat. It was always BILL LIPINSKI, my friend.

Mr. COSTELLO. Mr. Speaker, I yield to my friend and neighbor, the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, I thank the gentleman from Illinois (Mr. COSTELLO) for arranging this. He does a lot of work for us throughout the State on transportation issues, but the gentleman's job is about to get a little harder with the departure of the gentleman from Illinois (Mr. LIPINSKI) as the senior ranking member on a subcommittee and one whom we relied upon a lot in Illinois for advice and counsel and to help us fight the fights.

I can speak for the Speaker to thank BILL for his help on those major infrastructure projects in Illinois. To have such a strong ally on the Committee on Transportation and the Infrastructure on the other side of the aisle was critical to us in being able to have the success that we have.

As many people know, we speak from microphones arranged by Democrats on that side and Republicans on this side. Many times, as chairman of the Page Board, I go on the Democrat side as I am talking to the pages and addressing them. But I did not think anything could get the gentleman from Illinois (Mr. MANZULLO) over on the Democratic side, and that is certainly a first, but BILL LIPINSKI did. So if there is ever a credit to BILL LIPINSKI, I think I just saw it tonight.

A lot of stuff has been said about BILL's election to Congress in 1983, serving as a City of Chicago alderman for 8 years and currently the longest-serving Democrat member of the Illinois delegation and has been a leader for Chicago but also for a branch of the Democratic Party, a conservative branch on ideologies and values that I have come to appreciate.

During BILL's 21 years in Congress, he worked tirelessly to rebuild the Nation's transportation infrastructure. He has fought hard to maintain Illinois' status as a transportation hub. He has worked across party lines, an old Illinois tradition, to pass legislation that would be beneficial for the City of Chicago and the State of Illinois. He was willing to go against his party leaders on issues that were important to him, and when push came to shove, Members always knew they could count on BILL to come through for Illinois.

His way of leadership is a dying breed, and he will be sorely missed by this body. It has been an honor to serve with him. In fact, one of the great benefits of coming to Washington is to meet the great leaders of our time and actually call them colleagues and friends and try to work to solve issues that are important to this Nation. I thank him for the friendship he has shown. He has teased and harassed me a lot, but I take that in the spirit given.

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I want to take this time to thank BILL and his wife Rose Marie for their years of service to this Congress and to the State of Illinois. What I like most about BILL, and it was mentioned earlier, was his allegiance to support any baseball team that was playing the Cubs, even rooting for my St. Louis Cardinals at times. That is a true believer. He is a true White Sox fan. Too bad, I understand, that his son will not be carrying on that same tradition when he succeeds his father in the Third Congressional District.

The people of Chicago's south side should be proud to have had a man like BILL serving as their representative here in Congress, and we in Congress were proud to have him here. Thank you, BILL.

Mr. JACKSON of Illinois. Mr. Speaker, I would like to take this opportunity to recognize and honor my colleague from Illinois Congressman WILLIAM LIPINSKI who is retiring from Congress after 21 years of service.

Mr. LIPINSKI—the congressman from the 3d District—grew up on the southwest side of Chicago and he has remained there as a lifelong resident. He began his political career with the Chicago Parks District, was elected 23rd Ward alderman and ward committeeman in 1975. First elected to Congress in 1983, Mr. LIPINSKI is currently the longest serving Democrat in the Illinois delegation.

Since the beginning of his career as a congressman, Mr. LIPINSKI has been a member of the House Committee on Transportation and Infrastructure—formerly the House Committee on Public Works and Transportation. As a member of this committee, he has served as Ranking Member on the Railroads Subcommittee, Ranking Member on Aviation, and is currently Ranking Member on the powerful Highways, Transit and Pipeline Subcommittee.

I'm glad he's on this side of the aisle. It's easier to go to war with Mr. LIPINSKI on your side than on the other side.

BILL LIPINSKI has worked devotedly and passionately on behalf of his constituents. He has made many important contributions to the City of Chicago and the state of Illinois. I'm thankful for his service to our city, state and nation.

And I'm proud to call him my friend.

Mr. Speaker, I join with my colleagues and thank Mr. LIPINSKI for his service and wish him and his family the best in the years to come.

Mr. PETRI. Mr. Speaker, I want to join in this tribute to the many years of public service and the more than 20 years of service here in the House of our colleague BILL LIPINSKI.

I have had the privilege of serving with BILL on the Transportation and Infrastructure Committee for many years. During this Congress, he has served as the ranking Democrat on the Subcommittee on Highways, Transit and Pipelines. Together, we had to navigate through the often frustrating, confusing and twisting course of the transportation bill reauthorization effort this year and last. BILL has always been a steady partner and a strong defender of the program. He certainly hasn't been reluctant to voice his strong support for increased investment in transportation. He is a great fighter, and we have been lucky to have him on our side during this particular fight. I have valued his advice and counsel these past two years as together we have worked to produce a transportation program that moves our country forward.

Beyond our work together on the Subcommittee, we have worked together on other issues, such as the expansion of O'Hare and many years fighting the whistle ban to protect our towns that had developed around the railroad tracks crisscrossing through our districts.

Apart from the Committee activities, BILL has been a tireless advocate for his constituents. He was born on the southwest side of Chicago, and he truly knows and understands his district. Prior to coming to Washington, BILL was a Chicago City alderman and he still is a Ward committeeman—a good education for any member of this House!

So I want to acknowledge BILL's courage, his strength in standing by his convictions, and his love for the City of Chicago. He has had a real impact, and his successes can be seen all over the city—whether riding the "el" or landing on a plane at Midway.

I wish him and his wife, Rose Marie, all the best on his retirement. He has been a valuable member of the House, and we will miss him.

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## CELEBRATING 35-YEAR CONGRESSIONAL CAREER OF THE HONORABLE PHILIP M. CRANE OF ILLINOIS

The SPEAKER pro tempore (Mr. BEAUPREZ). Under the Speaker's announced policy of January 7, 2003, the gentleman from Illinois (Mr. MANZULLO) is recognized for 60 minutes as the designee of the majority leader.

### GENERAL LEAVE

Mr. MANZULLO. Mr. Speaker. I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MANZULLO. Mr. Speaker, it is a real honor to be able to honor my close friend PHIL CRANE, my neighbor, a person with whom I share one of our counties, and others are here to do the same thing. I will reserve my remarks for later.

First I would like to recognize the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman from Illinois (Mr. MANZULLO) for leading this special order tonight that I expect will be well attended as we celebrate 35 years of principled, conservative leadership on Capitol Hill.

I have scarcely been in this institution 4 years, Mr. Speaker. The very thought of arriving at a place 31 years from now in my career and still enjoying a reputation for integrity to principle, for personal integrity that Congressman PHIL CRANE enjoys is a lodestar for me. I rise today to speak on behalf of the gentleman from Illinois. I spoke today as the new incoming chairman of the Republican Study Committee, a 96-member caucus of the House of Representatives, with one of our new freshmen who, when I spoke to her about our plans for this evening, said that one of the great thrills of her life 10 years ago in Washington State at the Republican convention as a brand new freshman member of the State legislature was a chance to introduce PHIL CRANE, the keynote speaker at the Washington State Republican convention. She was thrilled at the thought of being able to spend however few days in the same Congress and call PHIL CRANE a colleague.

I rise today to make sure that the CONGRESSIONAL RECORD remembers this principled, conservative man for who he was in totality. Congressman PHIL CRANE was first elected to Congress in a special election held in November of 1969 to fill a vacancy created by the resignation of another noteworthy Illinoisan by the name of Donald Rumsfeld who has gone on to other productive ventures for his Nation.

PHIL CRANE was born on November 3, 1930, the second of five children. His father, Dr. George Crane, was the author of a nationally syndicated newspaper column entitled "Worry Clinic" which ran in papers for over 40 years. His mother, Cora, reared their children on Chicago's south side where my own family grew up. CRANE received his bachelor's degree from Hillsdale College in Michigan, and with that pedigree, after college, he served in the United States military from 1954 to 1956. He continued his education in history by earning a master's and a doctorate degree from Indiana University in Bloomington, Indiana. The career and the life and the legacy of PHIL CRANE, or Dr. CRANE as we like to call him, continues to be a source of enormous pride for Hoosiers.

After graduation, Dr. CRANE served as a professor at both Indiana University and Bradley University in Peoria, Illinois. He also served as the director of schools at Westminster Academy in Northbrook, Illinois. CRANE also has received three honorary doctorates. In his career, he has authored three books: The Democrats' Dilemma, in 1964; Surrender in Panama, in 1978; and The Sum of Good Government, a classic tome in conservative circles, published in 1976.

He married his wife, Arlene Catherine Johnson, on 14 February 1959. The Cranes have eight children and six grandchildren. In 1997, the Crane family lost Rachel at age 31 following a long battle against non-Hodgkin's disease lymphoma but is blessed by an abundant family that remains.

CRANE also serves as a trustee for Hillsdale College, as a member of the Board of Directors of the Ashbrook Center, as a director of the Intercollegiate Studies Institute, and an advisor to the Young Americans for Freedom. In short, Mr. Speaker, it is impossible to move around even briefly in the landscape of American conservatism or in the American intellectual conservative movement without crossing the shadow and experiencing the wake and wash of the career of Congressman PHIL CRANE. There will be others who will speak about his vice chairmanship of the House Ways and Means Committee, his extraordinary work as a leader expanding the markets all over the globe for American trade and, of course, his extraordinary leadership on taxes.

I choose to focus what remains of my comments tonight, Mr. Speaker, on Congressman PHIL CRANE as a conservative leader. As I said, again, I am the incoming chairman of the largest caucus in the House of Representatives. It is known as the House Republican Study Committee. The relationship of that to PHIL CRANE is personal and poignant because it was in 1974, as a relatively new Member of Congress, that Congressman PHIL CRANE started the Republican Study Committee. And in many respects, as a book written by Ed Feulner, now president of the Heritage Foundation, the most influential conservative think tank in the English-speaking world, as that book indicates, it was the Republican Study Committee that in so many ways created the environment where the ultimate election of Ronald Reagan in 1980 was made more possible and ultimately the Republican revolution manifested itself with the takeover of this institution by a Republican majority governing from a mainstream conservative agenda that was first advocated by a young Congressman PHIL CRANE when he started the Republican Study Committee in 1974.

In fact, as evidence of his impact on the conservative movement, the very first staff level executive director of the Republican Study Committee was the same aforementioned Dr. Ed Feulner who has gone on to lead the Heritage Foundation and himself become an extraordinary leader in our movement.

PHIL CRANE first became active and well known in conservative circles actually earlier in his life, in the 1960s. He campaigned heavily for Barry Goldwater in 1964, and after his election, he became one of the most sought after conservative speakers in the country. It was not just his dashing good looks. It was the soundness of his thinking, advocating free-market values, limited government and traditional moral values with courage and fierceness and compassion.

As I mentioned, he later founded the Republican Study Committee, was involved in other conservative organizations like the American Conservative Union, Americans for Sound Foreign Policy, the Free Congress Foundation, just to name a few. Fearful that Ronald Reagan would not repeat his effort to run for President as 1980 approached, Congressman PHIL CRANE announced in late 1978 his intent to seek the nomination for President of the United States. I will never forget the evening sitting on the House floor when Congressman CRANE told me the story of that night. He said, "We all just figured that one day Governor Reagan would look at Nancy and say, 'I think, Mommy, we should just go and retire to the ranch.'" Ronald Reagan and history had different intentions, but as he has always been throughout his career, PHIL CRANE was ready to stand in the gap. And when Ronald Reagan made his candidacy a reality, PHIL CRANE stayed in the race to honor his delegates from Illinois who had supported their favorite son, but he was one of the strongest supporters of President Reagan in 1980, enabling and assisting in his election and also being one of the great champions of the Reagan revolution from the minority here on Capitol Hill.

I close with simply a personal reflection. As I shared at several venues since learning that Congressman CRANE was not returning to participate in the 109th Congress, I reflected on the fact that as a new conservative in the House of Representatives over the last 2 years, I have made it my practice just a few feet from where I am standing during the course of long votes to sit to the right hand of PHIL CRANE. I have joked many nights as the gentleman knows about wanting to sit on the PHIL CRANE commemorative row. I did it out of affection. I did it out of admiration, and frankly, I did it out of a deep desire in the 2 years that we served, these past 2 and the 4 in totality, to learn as much as I possibly could from this man.

My only consolation, as Congressman PHIL CRANE goes on to be private citizen PHIL CRANE and no doubt in many respects will become, I suspect, with his newer and freer schedule an even wider influence in American conservatism and, we hope, a more prolific author than he has been in the last 15 years, my hope is however long I serve in this Congress that I will ever do so at the right hand of PHIL CRANE; that however long I serve here, that I will be guided by his example of courage, of integrity, of decency and of fealty to conservative principles.

In so many ways, when we talk of the Reagan revolution, and we rightly credit Ronald Reagan, but I suspect if the President were able to speak tonight and he would if he could, were he still among us, I suspect he would rise to say that one of the great generals in the field who won the hearts and minds of the American people by renewing our Nation, bringing us back to the ideals of our Founders, he would rise and extol the 35-year career of principled, conservative leadership that we celebrate tonight in the life and work and service of Congressman PHIL CRANE.

Mr. MANZULLO. I recognize the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. I thank the gentleman from Illinois (Mr. MANZULLO) for arranging this special order. It is an important time to say thanks to a friend who has been helpful to me and one whom I have gotten to know and appreciate serving together.

As I have said earlier this evening, one of the great benefits of being elected to Congress is to say, "Gosh. PHIL CRANE's my colleague. I work with him." I appreciate that. That is one of the great benefits we have.

PHIL, as has been said, was elected to Congress in 1969 to replace Donald Rumsfeld. He is currently the longest-serving Republican Member in the House of Representatives.

PHIL, you will be sorely missed.

During PHIL's 35 years in Congress, he worked tirelessly to reform our Nation's tax system and expand free trade around the world. Whether it has been to reduce the taxes employers pay or lower the tax burden on hardworking Americans or to expand markets for our Nation's manufacturers and, being from southern Illinois, my farmers, PHIL has been a champion for the American taxpayer.

As a leader in the House on trade issues, PHIL has authored legislation signed into law to open trade barriers for countries in Africa and the Caribbean, led the fight to grant China normal trading relations and helped expand duty-free trade with the Andean nations of Bolivia, Peru, Ecuador and Colombia. In recent years, Congressman CRANE has shepherded other major trade policies to successful passage in Congress, and we all know that is not always easy to do. We say it as if it is easy, but it is not, including the 1994 General Agreement on Tariffs and Trade and the North American Free Trade Agreement.

Prior to Congress, PHIL served in the Army and was a professor at a number of colleges. He has always fought the fight for smaller government, and he has written books on the subject and has voted to reduce the size of government every chance he has gotten. Some believe that PHIL is a vanishing breed, but I think that PHIL will find out tonight, as was said so eloquently by MIKE PENCE and I am sure others, that there is a shadow cast on the conservative movement, a wake, a wash, these are great terms, that will have the ideas and values of PHIL CRANE live on long after your official departure from the Chamber.

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But I will say one thing. The gentleman from Illinois (Mr. CRANE) will be sorely missed in this Chamber. It has been an honor to serve with him over the last eight years, as I said before, as a friend and a mentor, helpful in my campaign, being another Illinoisan.

I would like to thank him and his wife Arlene, who has always been by his side. And because he has been helpful to me, I want to thank her for allowing him to spend some time with me away from the family.

Few people know that there were actually three presidential candidates from Illinois in the 1980 presidential race: Ronald Reagan, John Anderson, and the gentleman from Illinois (Mr. CRANE). For those people who thought President Reagan was the true conservative, the gentleman from Illinois (Mr. CRANE) actually ran to the right of him. The people of Northern Illinois should be proud to have had a man like the gentleman from Illinois (Mr. CRANE) serving them in Congress, and we in Congress are proud to have him here. I thank him.

Mr. MANZULLO. Mr. Speaker, I yield to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, I rise today to honor the gentleman from Illinois (Mr. CRANE), a dear personal friend and a great servant to our country and the United States Congress. I am joined tonight in this historic Chamber of the United States House of Representatives in our Nation's Capitol by many colleagues of the 108th Congress. We are all trying to do what is impossible. We want to share with those who listen and with posterity a glimpse of the extraordinary accomplishments of the gentleman from Illinois (Mr. CRANE) as an individual and as a legislator.

The gentleman from Illinois (Mr. CRANE) is a giant. In 40 years of participating in the political life of our country, his ideas, energy and leadership contributed structure, muscle and heart to the ascendancy of conservative philosophy and a Republican majority in the United States Congress. Could this change have been envisioned without the gentleman from Illinois (Mr. CRANE)? I doubt it. Could this change have occurred without the gentleman from Illinois (Mr. CRANE)? I doubt it.

This giant on the American political stage was a mentor and became a friend to me very quickly after I was sworn in as a Member of Congress in January of 1993 as a 66-year-old freshman. That is when I came to know him. This is where I can offer my personal tribute to him.

Indeed, I knew of him and admired him many years before that. I can remember in 1980, in meeting with personal friends and conservatives, when we mentioned the conservative movement and we were looking for an icon, someone who really represented that movement, it was the gentleman from Illinois (Mr. CRANE). I had never seen him. I had never met him. But I knew him through my many friends who had admired him for a number of years before I became politically interested.

And then the gentleman from Illinois (Mr. CRANE) came more than 13 years ago when I was running for Congress. I did not have a chance of winning, but he came anyhow, and he came to a little local town, and he did a fundraiser for me. So I am here partly because of the gentleman from Illinois (Mr. CRANE) and his confidence in me.

For many years here I attended every Wednesday afternoon the ACORNS meetings in his office. What a privilege and an opportunity to meet there some of the Members of Congress, the House and the Senate, who had gone on before and all of the history that they shared, and I remember fondly all of those ACORNS meetings in the gentleman from Illinois's (Mr. CRANE's) big office, and he had an enviable office here in the Congress. He deserved it. He had been here longer than any other Republican Member of the House.

America is different because of the gentleman from Illinois (Mr. CRANE). The most influential think tank in our Nation was started by a protege of the gentleman from Illinois (Mr. CRANE), the Heritage Foundation. His shadow and his legacy is very long indeed. This House will not be the same without the gentleman from Illinois (Mr. CRANE).

My heart has missed a number of friends that I have made here in this House, but I will tell my colleagues I will most fondly remember and most intensely miss my friendship with the gentleman from Illinois (Mr. CRANE). He is indeed a giant. I thank him very much for his service to his country and for his friendship to me.

Mr. MANZULLO. Mr. Speaker, I yield to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman, chairman of the Committee on Small Business, for yielding to me and the chance to again repeat that I hail from the State of Arizona; Arizona and Illinois, with a great symbiotic relationship that extends beyond spring training. I was talking to the gentleman from Illinois (Mr. LIPINSKI), who likewise will leave the Chamber coming up, and we honor his service. And he talked about coming out to be able to watch the White Sox and the Cubs unfettered by the contingencies of the congressional calendar.

Mr. Speaker, I obviously get emotional when I think about the friendship and the example of the gentleman from Illinois (Mr. CRANE). There have been those who have preceded me in the well who have spoken of the gentleman from Illinois' (Mr. CRANE) impressive resume, of the fact that he arrived here as a new Member of Congress to succeed our current Secretary of Defense Don Rumsfeld in 1969, the year which man finally walked on the moon, and at that time, the prevailing sentiment within the body politic was that conservative ideals were almost as distant as the moon to the here and now. And yet the cheerful persistence of this great and good man from the land of Lincoln, offering a clear, constructive example of free minds and free markets and a foreign policy built on freedom was an example day in and day out in this Chamber.

The gentleman from Illinois (Mr. CRANE), a historian, a professor, a citizen, a congressman, a presidential candidate; but always a catalyst, a catalyst for conservatism, an agent for change, yes, only in the sense that change would understand what it is in the American character that made us great, that continues to make us great.

My friend from Illinois (Mr. SHIMKUS) preceded me in the well, as did my friend from Maryland (Mr. BARTLETT). They spoke of 1980, and how I remember that year as a senior in North Carolina State University with more than a casual interest in politics, mindful that in that year no fewer than three Members of the people's House aspired to leave the legislative branch to serve as our chief executive, our friends Jack Kemp of New York and John B. Anderson of Illinois and the gentleman from Illinois (Mr. CRANE), likewise of the land of Lincoln. And as I have shared with the gentleman from Illinois (Chairman CRANE), I remember full well his opening statement in the debate in the Iowa Caucus where he quoted Frederick Douglas and how Frederick Douglas said, "I am a Republican and I will remain a Republican because of the triumph of freedom and the opportunities that this country represents."

And, yes, we think of conservative leaders, and we think of Arizona's favorite son, Barry Goldwater, for whom the gentleman from Illinois (Mr. CRANE) worked tirelessly, and we think of Ronald Reagan. And we understand also the seemingly insurmountable challenges that confront a Member of the people's House who would aspire to an address down Pennsylvania Avenue. Indeed, history records that only one among us, only one sitting Member of Congress was elected from this Chamber to serve in the executive mansion, James A. Garfield of Ohio, in 1888.

But perhaps the lesson is best told by another historical name, John Quincy Adams, who followed his father, John Adams, our second President, into the White House in later years, but who, upon losing a bid for reelection, returned home to Massachusetts. And then the people of Braintree came to him and said, "Mr. President, would you run for Congress?" And so John Quincy Adams, former President of the United States, ran for and was elected to this institution where he served to the end of his days. And what he said upon that election I think is a sentiment shared by all of us but especially by our good friend whom we honor tonight. Quoting Congressman John Quincy Adams, "There is no greater honor than serving in the people's House." And as I see my friend nod in agreement, I know through 3½ decades of public service that truth has been reaffirmed. And for the citizens of the land of Lincoln who sent our friend here, beginning in 1969, time and again, we say thank you.

And to our friend, as I look at this color scheme, I am so glad because I remember the button. It was the reverse of this, "Phil Crane for President." Now we say "Phil Crane for Citizen," in a land without title, without distinction, without peerage. The most honored title is not President, is not congressman. It is citizen.

So, Mr. Speaker, to our good friend, to his bride, Arlene, to a remarkable family that has lived the American Dream, we say, "Thank you, Citizen Crane," for what he has done, but more importantly what he is going to do. There is a reality that many of us fail to recognize and embrace, and it is that life continues. There is a life after Congress, and that life is found with friends and family and fellow citizens and an advocacy that never leaves us though we may leave the well of this House, though we may surrender a voting card in this Chamber. There is always the advocacy and the poetic justice of eternal vigilance and continued involvement in a constitutional republic, and that is the gift that the gentleman from Illinois (Mr. CRANE) over 3½ decades fought to preserve. That is the gift that he will continue to enjoy as he leaves this Chamber. And regardless of political affiliation tonight, that is what we recognize, and that is what we celebrate.

One closing purely personal note.

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It has been said that the true measure of a man is how he treats not those born to great wealth or those who enjoy great titles, but how he treats small children. I will never forget when our middle daughter, Hannah, was much younger. Mr. Speaker, for purposes of full disclosure, I should point out that sometimes Mary and I believe we should lobby Dr. Dobson to put Hannah on the cover of the next edition of "The Strong-Willed Child," and I hope that Hannah will forgive me for that candor tonight. But Hannah has a vivacious, rambunctious personality, and her favorite Member in her first trip to the floor when she really understood this place was one PHIL CRANE who would say, well, there is Hannah Banana, what are you doing? And in that gentle, easygoing way of a man blessed with a great family who understands girls and understands children, there PHIL CRANE, right here on CRANE's Row in the people's House, would put a little girl at ease and enchant her and charm her with no great theories of government, but just an easygoing style that said, honey, I am your friend. You come visit with me.

He has been a friend of the people from the land of Lincoln. He has been a friend to this country. He remains one of the foremost founders of the modern conservative movement. His works have inspired so many, but more than his writings, it has been his call to arms. How many sit back, how many offer the dogma and the doctrine on the printed page and yet fail to have the courage to step into the arena. Theodore Roosevelt wrote to the man in the arena. PHIL CRANE has been that man in the arena.

I thank my friend, the gentleman from Illinois (Mr. MANZULLO), for the time; and I thank PHILIP CRANE for his service.

Mr. MANZULLO. Mr. Speaker, I yield to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, I want to thank my friend from Arizona (Mr. HAYWORTH) for his thoughtful and very emotional eloquence. I have to say that just as was the case for the gentleman from Arizona (Mr. HAYWORTH), PHIL CRANE has been an inspiration to me for a long period of time.

I recalled, hearing some of the things that the gentleman from Arizona (Mr. HAYWORTH) was saying, some of the experiences that we all had in observing PHIL CRANE when he was a Presidential candidate, some of those great events that took place, like that debate. And while the gentleman from Arizona (Mr. HAYWORTH) was quoting some of the Framers, it immediately came to mind one of the Framers who was quoted by Mr. CRANE in one of those debates.

After I saw him in that debate in 1980, I committed to memory the Thomas Jefferson quote, because in fact, one of PHIL's many volumes has centered around that quote. It was Thomas Jefferson who we often like to say was the founder of the Democratic Party, but he clearly outlined what was the real role of government when he said in his first inaugural address in March of 1801, he said, "My fellow citizens, a wise and frugal government shall restrain men from injuring one another and shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government."

And those last words are the title of one of PHIL's volumes. There have been so many great things that PHIL has done as a Member of this body and as a Presidential candidate.

I was talking just a few minutes ago to our staff director on the Committee on Rules, Billy Pitts, and I told him I was coming over here to talk about PHIL. And Billy Pitts immediately said to me, he said, PHIL is a decent man and a fine man. And I have to say that I have never in my life met a nicer, more decent human being than PHIL CRANE.

I have had countless experiences with him, traveling internationally and spending time together here with Arlene and PHIL. And this whole notion of being one of the real, over the last several decades, leaders in the conservative movement. I cannot help but think about this cause of freedom. I know that it is often a controversial issue around here. We have pointed to the fact that as Republicans we totally subscribe to this view of freedom, and we talk about the interdependence of political freedom and economic freedom, and that interdependence is something that is very important to note.

PHIL has been in the forefront, long before he got into this Congress, for the issue of free trade. I continue to this day to use PHIL as my model, and I say what one of our former colleagues, Sam Gibbons, often said. He referred to himself as a blind free trader. And PHIL and I are both blind free traders. We had a tendency to harass a couple of our colleagues, one present colleague, one former colleague, the late Gerald Solomon, my predecessor on the Committee on Rules, and we would refer to the Tariff Act, the Smoot-Holly Tariff Act of the 1930s, and we referred to Jerry Solomon as "Smoot Solomon" and DUNCAN HUNTER, my California colleague, as "Hunter Holly." Because unfortunately, not everyone in the Republican Party embraces this free trade position. But even when it has been unpopular, PHIL has championed it.

I think about the lead that he has provided in ensuring that we blast our Western values into repressive societies around the world, like the People's Republic of China. PHIL has always been at the forefront in our pursuit of what was Most Favored Nation status and ultimately permanent normal trade relations. If we look at what has taken place today with the kind of political liberalization which is on the rise; no one is an apologist in the government of the People's Republic of China, but the political liberalization which has followed the economic liberalization, and PHIL CRANE has been at the forefront for decades of that cause of ensuring that we get economic freedom to as many people in the world as possible. That is why when we look at the prospect of PHIL's retirement, we think about the wonderful things that he has done, inspiring Americans, and he has also done it all over the world.

On repeated occasions we have been together in Latin America as we pursued what was Ronald Reagan's vision that he outlined on November 6 of 1979 when he announced his candidacy for President of the United States, and he envisaged this accord of free trade among all of the Americas. Right now we are in pursuit, as President Bush wants, of this free trade area of the Americas. We also know that we have just been able to see the benefits of things that PHIL worked on for a long period of time when we put into place a free trade agreement with Australia. We have had the chance to visit there with PHIL and Arlene and others in our delegation that PHIL led there to talk about the need for us to make sure that we create even greater economic opportunity in our country.

PHIL is someone who understands that trade is a win-win-win all the way around. We know that some people obviously are displaced, and we know that it is a challenge. My friend from Illinois (Mr. MANZULLO) has talked with us regularly about this. But I do believe passionately that creating greater economic opportunity for people here in the United States and other parts of the world helps us in dealing with everything from simply enhancing the quality of life and the standard of living for peoples, but also in dealing with this global war on terrorism.

Because when one thinks about what it is that has led to terrorism, a part of it, not totally, but an important part of it happens to be the fact that there are societies that are economically devastated. I was talking a few months ago to someone in the Pentagon who said, just think about it, if we had a percentage or two of greater economic growth in Afghanistan or Pakistan, that clearly would have diminished the kind of threat that existed, because people are seeking economic opportunity. So PHIL has done that.

Then, of course, there is, as has been mentioned, the very important human side to PHIL CRANE, and that is why when I mentioned Billy Pitts's statement about PHIL being a decent man and a kind man, I listened to the gentleman from Arizona (Mr. HAYWORTH) talk about his daughter, Hannah, and I think about all of the young children who come in here. It is rare that you see someone have the great interaction with children and young people the way PHIL CRANE interacts with young people.

That is why I will join in saying that his leaving this great institution will create a void, a void for the institution itself, because he has regularly stood right here in this well and here in the House of Representatives fighting for his deeply rooted principles. This is one of the things that is so impressive, is that PHIL has always stood by those principles, no matter what. And I think that that is something that is to be admired.

Mr. Speaker, the Burkean view of representative government is one that I think is very important, and PHIL has always followed that edict of Edmond Burke, the Father of Conservatism, a member of the British Parliament who, a couple of hundred years ago made it clear; more than that, in fact, he made it very clear that he believed passionately that a representative owes his judgment to his constituents. That is why those core beliefs of PHIL CRANE's have always come out in his speeches, in his actions, in his votes, and in the legislation that he has pursued.

That kind of model is one that will continue to be there for me. It will continue to be there because as I cast votes, as I talk about issues, as I think about formulating positions, I will be doing everything that I can to continue to try and follow that great model that PHIL CRANE has provided.

I thank my friend for yielding. I will say that it is going to be a very, very difficult time for a lot of us seeing PHIL leave and seeing Arlene depart as well. But I will say that his spirit will still be alive and well in the greatest deliberative body known to man.

Mr. MANZULLO. Mr. Speaker, I yield to the man of the hour, the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Speaker, let me thank all of my colleagues, but I want to start with my distinguished neighbor, the gentleman from Illinois (Mr. MANZULLO). The gentleman was a dynamic freshman 12 years ago. I remember when he arrived here and we were impressed with his performance then, but it has escalated through the years. He plays a very important leadership role. But to host this event and to listen to these tributes paid by my dear and close friends through the years here in the House is truly moving.

Mr. Speaker, my colleague from Indiana erred; we just had our seventh grandchild yesterday, so we are up to seven. My wife, Arlene, and I had eight to begin with, and that to me was a good start, but I am pleased that she is here tonight, especially to have the opportunity to hear these tributes paid by colleagues that have been very moving to me. I cannot express my appreciation enough.

One of the things that I reflect on most about my years of service in this body is the personal relationships, and it is that feeling of trust and confidence and the commitment of colleagues to basic principles that I have felt are critically important in the service that we perform here.

I have done things consistently along a path that I believe in.

□ 2100

I have embraced politically all the years I have served, and I know that sometimes constituents do not always believe with those things, but at least I have been predictable. Being predictable along certain lines that I embrace based on our history, and I say that as a former history professor, I think are fundamental values that all of us should be embracing, and that is a commitment to limited constitutional government. It is a commitment to free enterprise and the growth of our economy. It is a commitment to a strong national defense. It is a commitment to advancing free trade.

One of the things that I pointed out when I was teaching is, as the gentleman from California (Mr. DREIER) focused on, is the importance of free trade. To me, it has done more to advance civilized values than anything else in the span of recorded history. And I think that personal contact that the gentleman from California (Mr. DREIER) focused on, especially with China, that personal contact with people, and they get the opportunity to see that there is a better way to live and that a better way to live is advancing those free institutions, that we have been in the vanguard of advancing and promoting here in the United States in the span of recorded history and we will continue to do.

I want to focus on one other point that one of our Founding Fathers noted, and that is that the history of liberty is the history of limitation of governmental power, never the increase of it. When we resist concentration of governmental power, we are resisting the powers of death, for the destruction of human liberty has ever been preceded by concentration of governmental power.

All of us have a responsibility in this Chamber and in the other Chamber as well to make sure that we seek to guarantee that we are living within our means, that government is limited in its intrusion into our lives, and simultaneously we are providing the greatest opportunities imaginable for individuals to realize the fulfillment of their talents and ambitions.

I commend my colleagues on our side of the aisle, but I commend some on the other side of the aisle, too, who have joined in this effort. I salute them, and I am going to miss all of you. The personal relationships that I have developed have been very moving to me. Saying good-bye is something that I am not going to do because I do not plan to say good-bye to you folks. I hope that we can continue to stay in touch.

I have no idea what I will do with the remainder of my life, but my birthday was the day after the election, and I told my wife at the time that my defeat may have been God's birthday present. It may have been an opportunity to get back and relax and reflect and decide what I would like to do yet in the remaining time I have and simultaneously try and continue to make positive contributions. I have talents that are in this Chamber, and we heard a lot of those talents tonight, that can continue to carry on that cause here on the House floor. I will try to help in any way that I can in the time I have remaining.

I will only conclude by saying that I have cherished this opportunity, and I cannot tell my colleagues enough how much I have enjoyed our personal relationships through the years in working on objectives that I have cherished. I will continue to try and maintain personal contact with you. I just want to say God bless you all and God bless this institution and the United States of America. It is in good hands. Bless you all.

Mr. MANZULLO. Mr. Speaker, the honor of being elected to Congress is distinct, singular, as the gentleman from Arizona (Mr. HAYWORTH) so eloquently stated. But I never thought in my life I would have the opportunity to serve with PHIL CRANE. There are big shadows in the Illinois delegation, the gentleman from Illinois (Mr. HYDE), the gentleman from Illinois (Mr. HASTERT), and PHIL CRANE.

Mom was living when I was elected to Congress in 1992, and I think that one of reasons she was so excited when I was elected is the fact that she would have the opportunity to meet PHIL CRANE and talk to him on a regular basis.

I first met PHIL when I was given the distinction of being awarded the Freedom Foundation Award. The Freedom Foundation is out of Valley Forge, Pennsylvania. The note that came with that was I could have somebody present this to me. I said, oh, my goodness gracious. I called PHIL, and I said, Would you do me the honor of giving me this award? It was as if I needed an excuse to get in to talk to him.

I drove over to I believe it was Arlington Heights. I have got this picture. We were thinner, younger and had darker hair back then; and I keep that. It is on the refrigerator held by magnets that say "Manzullo for Congress, 1992," in a place of great prominence.

I came here in 1992, actually, January of 1993, and he would ask me a simple question, Now, can you tell me the constitutional basis for that bill?

We do not talk about that anymore. We get tied up in so many issues. People do not talk about the underpinnings of liberty. Members do not get together and have discussions about what the Founders would do.

The sense of history of this place often becomes chewed up by the exogenous of the issues. And yet to this man from the 8th district of Illinois who defied logic in getting elected to Congress, I guess I share that same with him, no one ever thought I would be here. He has always understood how important history is. It makes us who we are. I read when PHIL's dad wrote those articles in the newspaper for years. I always read those articles, always heard of PHIL CRANE.

I was the chairman of Young Americans for Freedom at American University here in Washington, D.C., and he was making noise then as a professor before he was elected to Congress. Then throughout law school and before I was elected to Congress and after, of course, he would always associate the sea change in America, the thinking of this country with getting back to roots of free enterprise to somebody called PHIL CRANE, eternally a professor, always the pedagogue, to me a personal mentor.

The manufacturers in this country who struggle have PHIL CRANE to thank for setting the template that lowers the taxes of everybody who manufactures in this country so that we can keep jobs here and be more competitive.

The other side of the coin that says free trade is fair trade, PHIL always believed in that, too. In fact, he would say things such as. "Corporations do not pay taxes. They collect them."

It took me a while to understand what he was talking about, but what he was saying is it is the consumer that is going to pay the tax in the increased price of the product that the corporations would be collecting from them. No one has ever said that except PHIL CRANE. because he has always understood that the ultimate power in this republic is in the heart of the people who live here. It is the people who started the revolution in 1776. It is the people to whom government must be accountable. that every individual has worth, deep worth, self-worth, value.

I recall another time when I was running in the primary in 1992, I went to see PHIL at a town meeting in Nunda Township in McHenry County. He very adroitly had scheduled that just as the bingo game ended for the senior citizens at that township. and as PHIL came in the door everybody stood up. I said, wow, do they respect this man.

For about 20 minutes, without notes, he talked about the issues of the day, how they impacted the people he represented. The people would nod in agreement, and some of them got up and asked a question. and he would always be very responsive. If the person disagreed with what he had to say, PHIL would smile and with this huge heart, embracing the fact that everybody is important and everybody has great worth. he would say, I welcome the fact that you disagree with me. Now, let me give you an explanation of why that is.

Where do you find people like this? How many institutions are left in America? How many walking history books are left? How many authors on their feet, mentoring Members of Congress and ask questions such as, do you think government should be this big? Why have we gotten here? Is there really a constitutional basis for what you are trying to do?

Sitting in the CRANE role, the role of significance, he would ponder this place and his 35 years of distinct service and look around at all these young people and place himself in that position and have a sense of envy on his face that if he could exchange bodies and take with him that great mind, how magnificent he would be and even more respected by his colleagues.

You do not find people like that. They are just not there any more. Who are the people that remember the greatness of America? Who are the people that take the time to share the basis of the Constitution? Who talks about liberty anymore? Who talks about freedom?

PHIL's legacy is that his insistence on constitutional government, on the principles of freedom, on the integrity of the individual. the wholesomeness of life, of the honesty of one's word, of a principled devotion to this Chamber. Where do you find people like PHIL CRANE?

PHIL will officially be gone when this Congress ends, but his shadow, his influence. his love for me as a person who overcame insurmountable odds to get elected to Congress, who is this guy from Egan, Illinois, population 42, who never held office before?

□ 2115

He had never held office before and he could always relate to him because he had never held office before, and no one ever gave him a chance of being elected to Congress. He is my brother, he is my friend. he is my teacher. he is my mentor.

His words will always ring in my ears, and though I will not see his face every day, his spirit is impressed upon this place. and I am a better man because of him.

Thank you, Phil. God bless you and thank you for your service to America.

Mr. PAUL. Mr. Speaker, I am pleased to take this opportunity to pay tribute to my friend and colleague PHIL CRANE. During his 35 years in Congress, PHIL has been one of the House's most consistent defenders of low taxes, free-markets, limited government, and individual liberty. I count myself among the numerous elected officials and activists in the free-market movement who have been inspired by his example.

As a conservative professor, author, and activist, PHIL was already a nationally known conservative leader before he ran for Congress. Two of his books, "The Democrat's Dilemma" and "The Sum of Good Government" stand out as conservative classics that educated and motivated many conservative activists. Among the attributes that have made PHIL a hero to the free-market movement is his understanding of sound economics. PHIL is one of the few members of Congress who is well versed in the teachings of great free-market teachers such as Ludwig von Misses. This country would be much better off if more representatives understood economics as well as PHIL CRANE.

When PHIL CRANE came to Congress in the late sixties, there were only a handful of members supporting free-markets. This was a time when a "conservative" President imposed wage and price controls and "conservative" Representatives and Senators called for balancing the budget with tax increases rather than spending cuts. Thanks in large part to PHIL's effort; the political and intellectual climate of the Nation became more receptive to free-market ideas. PHIL's work with groups such as the American Conservative Union, the Free Congress Foundation, and the Republican Study Committee, which he founded, played a major role in growing the movement for individual liberty. PHIL's service as an advisor to Young Americans for Freedom and as a director of the Intercollegiate Studies Institute, Hillsdale College, and the Ashbrook Center helped inspire new generations of young people to become active in the movement for liberty.

When I came to Congress in the seventies to fight to limit the size and scope of the Federal Government, I was pleased to find a kindred spirit in the gentleman from Illinois. I had the privilege of working with PHIL on several efforts to cut taxes, reduce regulations, and return the Government to its constitutional size. I also had the privilege of working with PHIL when we where two of only four members to endorse Ronald Reagan's 1976 primary challenge to President Gerald Ford.

As the number of representatives committed to free-markets and low taxes increased, PHIL's status as a congressional leader and accomplished legislator grew. Thanks in large part to PHIL's leadership; Congress has provided tax relief to American families and businesses during each of the last 4 years.

As his distinguished congressional career draws to a close, I hope all who value free-markets, individual liberty, and limited government will join me in thanking PHIL CRANE for his work on behalf of freedom.

Mr. BILIRAKIS. Mr. Speaker, I rise today to pay tribute to our colleague PHIL CRANE, who will be leaving this hallowed institution after nearly 35 years of service to his constituents in Illinois and the citizens of the United States. I honor him as a patriot, a public servant, and a friend.

The longest-serving Republican in the House of Representatives, PHIL CRANE championed conservative ideals before it was popular to do so, and he continues to be a leader to which many Members turn for guidance. As a former college professor and published author, he always brings thoughtful opinions and ideas to the table. Supporters of free trade certainly owe him a debt of gratitude. The institutional knowledge and prosperity for policy he exhibits demonstrate that he is truly a legislator.

PHIL also is a devoted husband to Arlene, a father and grandfather. My wife Evelyn and I have had the privilege of entertaining the Cranes in my Florida congressional district on a couple of occasions. Both of us will miss PHIL and Arlene as this chapter of their lives draws to a close.

Mr. Speaker, it is fitting that we take time today to honor our friend and colleague. May God bless you, PHIL, as you and Arlene pursue new dreams and challenges throughout the coming years.

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## IRAQ WATCH

The SPEAKER pro tempore (Mr. BEAUPREZ). Under the Speaker's announced policy of January 7, 2003, the gentleman from Pennsylvania (Mr. HOEFFEL) is recognized for 60 minutes.

Mr. HOEFFEL. Mr. Speaker, we are here to have another week of the Iraq Watch.

Before I start, I want to add my words of congratulations to the gentleman from Illinois (Mr. CRANE) for his outstanding career and what we just witnessed on the floor, a very warm and rare moment of emotion and friendship between two colleagues. I wish we had more of those moments here, but I want to salute the gentleman from Illinois (Mr. CRANE) for his years of service and his dedication to this House.

A year and a half ago, Mr. Speaker, a number of us started what we call Iraq Watch. We began to come to this floor once a week to talk about Iraq, to talk about the problems that we saw with our policy there, to ask questions and to suggest changes in our national policy. Now, a year and a half later, like the gentleman from Illinois (Mr. CRANE), I will be leaving this House, and yet the questions regarding our policy in Iraq remain.

Things have changed in Iraq over the last year and a half, but some of the fundamental problems that were apparent at the beginning of our involvement remain today and plague us today and challenge our best national interest today.

A number of us involved in Iraq Watch, some like me who voted for the military power that the President sought in October of 2002 and some in Iraq Watch who opposed the President's request for military power, all of us were alarmed in the spring of 2003 when the fighting actually began in Iraq, that the President had used what we thought was such an arrogant approach to this challenge, to the diplomacy, to the need to move forward with as many allies as possible to confront what was surely a murderous tyrant, Saddam Hussein.

We saw an arrogant approach. We saw a go-it-alone foreign policy, what many of us thought was a cowboy diplomacy, where we pushed aside our allies, where we told our international institutions, such as the United Nations and NATO and others, that we did not need their help, that we were happy to go alone into the challenge that faced us in Iraq. A lot of us were raising questions about that a year and a half ago.

Unfortunately, that approach has not changed. The President talks about having the coalition of the willing supporting us in Iraq, but it is not the kind of strong international coalition that we truly need to share the burdens and share the costs and share the sacrifices that we have faced in Iraq and not the kind of strong international coalition that his father put together in the early 1990s for the Persian Gulf War.

What the President is now doing since his reelection this November is making changes in his Cabinet and promoting loyal members of his staff to higher positions and to Cabinet positions in a way that, in my judgment, will limit the options brought to the President for his consideration; that he will begin to hear just what he wants to hear from his Cabinet and top officials; that the advice they give him will be the advice they know he already provides to himself; and that he has, instead of turning in a second term to an independent and vigorous Cabinet of obviously loyal Republicans, which is the President's due, instead of building that kind of working relationship, he has decided to build an echo chamber, to create a foreign policy advice and support system in the State Department and in the CIA and in the National Security Adviser that will tell him what he wants to hear.

Well, what he ought to hear, Mr. Speaker, with due respect to the President and with due respect to his victory and the tough decisions he has to make every day, what he ought to hear is that he still needs international support in Iraq. He still needs to internationalize the challenges, the financial challenges, the security challenges, the military challenges in Iraq, and he still needs to Iraq-tize Iraq. We still need to train up the Iraqis so that they can fight for their own future, so they can provide their own security, so that they can be the tip of the spear.

Currently, we are using American forces, brave American forces, courageously led, and brave troops to battle the insurgency in Iraq, door to door, in Fallujah and other urban settings, and our troops are behaving magnificently, performing magnificently.

But it is my view, and I think shared by my colleagues here in Iraq Watch, that we are doing ourselves more harm than good with the reality that it is American troops fighting the insurgency, instead of Iraqi troops, Arab troops, multinational troops with American support; that the fact that we are having to fight door to door, facing the true horrors of urban warfare. That we are doing this virtually alone, without international help, without very much help from the Iraqis, is generating such ill-will in the Muslim world that while Iraq is better off with Saddam Hussein out of power and Iraq has some hope of moving toward a tolerant and pluralistic society with some version of self-government, hopefully a flourishing democracy sooner rather than later, while Iraq is better off, the way we have gone about this has actually done more harm than good to America; that we have created more terrorists than we have killed; that we have created more ill-will than goodwill in the Muslim world; and that the arrogant and go-it-alone policies that we have pursued, the cowboy diplomacy that we pursue to this day, has set back the relations between this country and the Muslim world, while at the same time we do offer clearly hope to the Iraqi people that they can have a flourishing country, free from the abuses of the tyrant and murderer Saddam Hussein.

There is a lot more I would like to say tonight, but I am joined by two of the stalwarts of Iraq Watch, the gentleman from Washington (Mr. INSLEE) and the gentleman from Ohio (Mr. STRICKLAND) who have been here week after week for a year and a half. So let me turn to the gentleman from Washington (Mr. INSLEE) as he was the first on the floor, and I am happy to yield to him.

Mr. INSLEE. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. HOEFFEL) but not just for this evening.

The Iraq Watch, which has been trying to bring a responsible voice to Iraq policy now for many months, was the brain child of the gentleman from Pennsylvania (Mr. HOEFFEL), and he really did lead this effort, and we are very appreciative of him, and I know his constituents are, too.

I have to tell the gentleman, he has a lot of fans out in the State of Washington that I hear about, why can you not can be as good as Mr. HOEFFEL. I hear that many times.

But seriously, the gentleman from Pennsylvania (Mr. HOEFFEL) did something that does not happen all the time around here. He really led, and he led in an important issue to make sure Americans heard a voice about Iraq other than just from the White House, and that is important we have that debate. This was a creation of his and I think has been useful, and I know a lot of people have appreciated it, and I appreciate his leadership on that. We look forward to when the gentleman is back in public service. So we hope within 2 years, maybe even shorter. Who knows?

But with that, let me turn to the subject here which is a tough one tonight. I have to call a mother and father who lost their 19-year-old Marine in Fallujah this week tomorrow, and it is very difficult because all three of us here this evening voted against this war, and we have all had this experience of talking to families. It is very, very difficult.

What I am going to say is, what I know what we all have said, is no matter what you think of the policy, these are all good Americans who served, and no American has died in vain while serving under the flag of the United States. I am going to do my best to make sure parents appreciate that. No matter what you think of the policy, they died as heroes, and the people who are sitting tonight in Fallujah, that is how I think of them, no matter what you think of the policy. I know we all share that view.

It is difficult because it does inspire some anger sometimes I think in all of us as to what has happened in Iraq, where a war was started based on false assumptions about weapons of mass destruction and false assumptions and statements by the White House about Saddam's connection to 9/11.

The trouble I have tonight is that the same type of source of the mistake was made unfortunately is being perpetuated by the White House. In other words, one would think after the White

House started a war based on two major falsehoods, that was given to him by certain people, that the President would be doubly diligent to endeavor to get people who would not perpetuate that same kind of mistake, but in fact, what we have seen since the election on November 2 is sort of like a green light for hubris, a green light to go ahead and actually make stronger in the administration the very voices that fouled up in giving us bad information about this war and making repeated misjudgments about how to perpetuate it.

Just look at the decisions that have been made in the last week. The man who himself admitted responsibility for putting a false statement into the State of the Union address, where the President told people that Saddam was trying to get uranium to build a nuclear weapon, it was a clear falsehood in the State of the Union address, and the man who himself admitted being responsible for telling Americans and the world that falsehood did not get docked pay, did not get fired. He just got a promotion to the National Security Council. So here we have the guy who is responsible for a major failure of American information that led to a war where 1,200 Americans have died. He gets a promotion. This is a perpetuation of this arrogant attitude that has got us into this pickle in Iraq.

What happens to the Defense Secretary who has had running arguments, as we know, with the Secretary of State Colin Powell about whether to go into this war and how to perpetuate it? Who is the one who leaves? It is the guy who, we are told at least, said let us be scrupulous about this, and the Secretary of Defense stays, the one who has been in charge of this since Abu Ghraib and did not give us accurate information, including the U.S. Congress, leading up to this.

Then what do we see happens at the CIA? Well, here's the capper for me. Here we have a man who left this chamber. He is now heading the CIA. What is the first thing he does, almost first thing he does? He writes a memo to all the CIA employees. I have not seen this memo but it is quoted in the paper. It says, he expects all employees that their job is to support the administration and its policies in our work and as agency employees we do not identify with, identify with, support or champion opposition to the administration or its policies.

□ 2130

He sent a very strong message to CIA employees: what the White House wants, it is going to get. And that is language that people understand.

The last thing this President needs is unanimity from his intelligence agencies. He needs debate. He needs to be told some information that may not square with his preordained view of the world. And, in fact, they are going the wrong way at the CIA and firing people who have deigned to give the President information that is different from information he believes to be true.

Mr. STRICKLAND. Mr. Speaker, if the gentleman from Washington will yield just on that point, the last thing this country needs is for our intelligence, our CIA to be politicized, to have decisions made, conclusions reached that are based on political considerations rather than on factual, objective data.

This memo from a newly appointed CIA director, Mr. Goss, is a blatant attempt to politicize our intelligence operations, to politicize the CIA. What that will do is place this country at great risk. Because if we cannot trust the intelligence to be based on actual fact, actual objective data as best we can collect it, but make decisions based on political considerations, then that will put the American people at risk, and it will put our troops at risk.

That is absolutely almost unthinkable, that a newly appointed director of the CIA would be so insensitive and out of touch that he would actually put such a directive into a written memo and have it circulated.

And I yield back to the gentleman.

Mr. INSLEE. I thank the gentleman for his comments, Mr. Speaker, and let me continue.

Later on in the memo, Goss has language that says "We provide the intelligence as we see it and let the facts alone speak to the policymaker." But when you send a memo to your employees suggesting they dare not ever say anything to challenge the President's preassumptions, that sentence does not bear out this memo. The message was sent and I am sure received by the CIA.

And I am very disturbed about something I saw last night, a show I was watching, and I cannot remember the name of it, but a former CIA person who has now left the agency and who was the person in charge of the unit searching for Osama bin Laden was on this program. This was the gentleman whose professional duty it was, for about 6 years, to lead the hunt for Osama bin Laden. In fact, he was so aggressive about it, for about 2 years they took him off the job because he was driving his superiors nuts because he was raising these red flags about Osama bin Laden. After September 11, they put him back on the post because they realized he was right about how serious this issue was.

He has now left the post, but last night he said there was absolutely no credible evidence of a substantive link between Osama bin Laden and Saddam Hussein. The number one guy in the employment of the Central Intelligence Agency last night told Americans there was no link. And for a year or more, the President, the Vice President, you name it, was running around America trying to create this impression in America's mind that there was a link in order to justify this war. That is disturbing to me.

Here is a guy that ought to be in the CIA challenging the White House's political decisions. He needs to be on the job rather than spit out of the agency like a watermelon seed. That is what they are doing. Anyone down there who is challenging the White House orthodoxy is getting kicked out.

This is not a good thing for our future decisions. We have tough decisions to make with regard to Iraq. This offensive in Fallujah, where heroes died, and they were heroic, but it is not the end of the trail. We have some tough, tough decisions.

I yield back to my colleague from Pennsylvania (Mr. HOEFFEL).

Mr. HOEFFEL. Well, Mr. Speaker, I thank my colleagues, and I am very concerned about the problems we are seeing at the CIA. The reality is that this administration, over the last couple of years, has a very sorry record of spinning the information that the CIA has given them. So we have got a problem with the CIA intelligence not being as accurate as it needs to be for a number of reasons, I guess, listening to each other parroting back what other agencies have said. Not enough human intelligence agencies in Iraq during the Hussein regime. There are a variety of reasons.

The intelligence that they did produce about weapons of mass destruction was incorrect. It was filled with caveats and uncertainties. The reports that were being issued to the White House in the fall of 2002 said we think he has these weapons, we believe he has got these weapons, we have been told he has these weapons. But none of that uncertainty was passed on to the Congress or to the American people.

In fact, I was briefed at the White House with 20 of our colleagues, a bipartisan group, in the Roosevelt Room of the White House on October 2, 2002, by George Tenet, then Director of the CIA, and Condoleezza Rice, then the National Security Adviser to the President, and they spoke with complete certainty: we know that Hussein has weapons of mass destruction, they said to us. We know how many he has got. We know where they are. We know how much those weapons weigh.

It turns out that 7 or 8 months later, when the reports that George Tenet's CIA was giving to him and to Condoleezza Rice in the fall of 2002 finally became public, or actually became available for rank-and-file members to review, those reports were filled with caveats, filled with uncertainties, filled with hesitance; and yet none of that was passed on.

So I would say to the gentleman from Washington (Mr. INSLEE) that there has been spinning at the White House for quite a while. And as my colleague says, the Deputy National Security Adviser has now been promoted and the National Security Adviser is now going to be the Secretary of State. I must say, based upon her intentional misleading of the 20 Members of the Congress who were briefed by her and by George Tenet on October 2, 2002, I do not have confidence in Condoleezza Rice. I am afraid she is going to tell the President what he wants to hear and will not tell the Congress and the American people what we need to hear and will not face up to the President when she needs to.

I yield to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, I thank my friend for yielding to me, and as we stand here and talk this evening, there may be those listening who wonder why are we talking about the past. I think there is a very good reason for us to talk about the past and to remember what has happened, because the very people who are responsible for having made these erroneous decisions in the past are the same people who are in positions of power and even being promoted in the present. That means that they will be in a position to make decisions about the future.

Now, many of the decisions that have been made have been deadly decisions, and lives have been lost as a result of decisions that were based upon false information or distorted or twisted information; quite frankly, I believe information that was purposefully manipulated in such a way as to try to get the support of the American people for carrying out this President's foreign policy.

I just want to share with my colleagues some human consequences of what has happened. About 3 weeks ago, I received nearly 20 letters from various members of a family support group. This family support group consists of family members whose loved ones are part of a transportation reserve unit that has been activated and is now in Iraq. And at the time they wrote me, they told me their loved ones were around the Fallujah area, which is one of the most dangerous places in which to be in Iraq.

The people who wrote me indicated at the time that they wrote that out of this one reserve unit that is headquartered in Cadiz, Ohio, that they had lost three of their loved ones. They have since lost a fourth. So four soldiers have been lost out of that one reserve unit. It is a transportation unit.

The letters told me that they were getting messages from their loved ones, these troops, telling them that they were not being adequately supplied with proper life-saving equipment. They were driving around in vehicles that were not armed, for example. And we know that if you are a member of a transportation unit and you are on patrols and you are delivering supplies and so on, one of the great dangers in Iraq is driving over these explosives that have been placed in the roadways.

So out of this one unit, four have already been lost. And these letters that I received from the loved ones said to me, when we gave our precious soldiers to go fight this war, we trusted our government to provide them with every protection possible. Now they are deeply, deeply disturbed and concerned that their loved ones are not being adequately cared for.

Now, I believe that part of the problem in the execution of this war has been the fact that it was initially based upon these false assumptions and this false information. We were told basically this was going to be a piece of cake; that we were going to be welcomed as heroes; and there was not adequate planning, not adequate preparation. It took the Pentagon, it took this administration, this President, because he is the Commander in Chief, more than a year to be able to say that all of our troops, each of our troops in Iraq was equipped with basic body armor. Now, I think that is absolutely shameful.

I wonder how many of our troops have lost their lives because they were not properly equipped, and how many of our troops right tonight, as we stand here in the Chamber of the people's House, how many of our troops are in danger tonight simply because this administration has failed to properly plan and provide them with adequate materials. There is a consequence to the kind of behavior that we have been describing. There is a consequence when people use false information or distort information or make such unrealistic assumptions, and it is absolutely tragic.

In my congressional district, the Sixth Congressional District in Ohio, we have lost five soldiers, a 20-year-old, a 21-year-old, and three men who were in their late 30s. One of those men left five children ages 3 through 12. We are talking here about real consequences. We are talking about real people, real families. And there are Americans tonight who are worried sick because they have loved ones over there fighting this war, and they are doing the very best they can under very difficult circumstances, and we honor our troops, but that is one of the reasons that we stand here and advocate that they be cared for in a way that is befitting a great Nation.

We should never send one of our soldiers into harm's way without them having proper armor and equipment. And tonight I can say, based on what I have heard from my constituents and some of the soldiers who are currently in the field, we are not doing all that we can to keep them as safe as they can possibly be kept.

I yield back to the gentleman from Pennsylvania.

Mr. HOEFFEL. Mr. Speaker, I thank the gentleman from Ohio. That is a very human account of what is happening in Iraq.

There is no question that this President knows how to use American power, but what I fear is that he is not aware or willing to use the totality of American power, which certainly starts with military power but is much more than that. We are certainly the strongest military in the world, and we need to stay that way. It is a dangerous world. The war on terror is going to be a challenge for years to come, and we must maintain our military strength. But there is more to American power than the military power that we possess, and this President does not seem to appreciate or understand or value the totality of our power, which includes diplomatic power and economic power, our cultural ties, the powers of moral persuasion.

We are the only superpower left in the world, and I am thankful we are. It gives us an opportunity to lead, inspire, cajole, push, advocate, and pressure. We have the ability through diplomacy and trade and economic ties and cultural ties to bend people to our will, up to a point, if we have a good argument and we are right on the facts and it is in their interest too. Obviously, every situation is different from the prior. But this President does not seem to put any value in the totality of American power.

The military strength we have needs to be maintained and nurtured, but it has to be used as a last resort, not a first resort.

□ 2145

As strong as we are, we cannot be the world's policemen. We cannot impose our will through military strength alone, and yet that is the circumstance that we face in Iraq. We are trying to do very good things there, and we all share the President's goals of creating a pluralistic society, a tolerant, democratic society. And yet the unilateral, go-it-alone, arrogant strategy, the cowboy diplomacy, the failure to admit mistakes, the inability to train up the Iraqis for them to do their own fighting and provide their own security, and the mistakes that were made. The first thing we did was dismiss the Iraqi Army and the border patrol, and the second thing was dismiss the Iraqi civil service, and there was nobody left to run the country but Americans.

This President does not seem capable of acknowledging error and fixing it. The people he has been promoting in this echo chamber seem unwilling or incapable of standing up and saying, Mr. President, you have to change these policies.

Mr. INSLEE. Mr. Speaker, I want to follow up on what the gentleman said on the failure to successfully pursue any international involvement.

The bad news is that the President's plan is even unraveling with those who originally made some commitments to him. I read in the paper last week that Hungary has just announced that they will withdraw their troops. This was on top of withdrawals, either actual or announced, by Spain, 1,300 troops; Poland, 2,400 troops; the Netherlands, 1,400 troops; Thailand, 450 troops; the Dominican Republic, 322 troops; Nicaragua, 115 troops; Honduras, 370 troops; the Philippines, 51 troops; Norway, 155 troops; and New Zealand, 60. These are relatively small numbers, but I think it is a symptom of some bad decisionmaking. And the reason we talk about the past is the President is perpetuating his decisionmaking that created these conditions. He sees no reason ever to change.

We had a small coalition to start this, and now the small number of troops sent to help us are being withdrawn so our people are having to bear the burden of the fighting.

In Fallujah, this long after the fight, we had token Iraqis with us, and one of the reasons is the administration did not set up an infrastructure for training the Iraqis. Last month, 4 weeks ago, all that time since the original invasion, we still had only 40 percent of the trainers that the plan called for on day one to train Iraqis troops.

This thing has been botched, and the problem is the President is promoting people who are responsible for it, and we are getting deeper. One thing that bothers me, the gentleman mentioned the President knows how to use power. He should not use it in a way that lets politics dictate military decisions. It is pretty clear to any neutral observer that is what happened in Fallujah, because this spring we had an offensive into Fallujah. It was called off. Everybody knew we were going to have to go back in there, and it would seem to me it would make prudent sense to go back in there before we give thousands of insurgents time to build bunkers, accumulate their communications network. What did the President do? It is pretty clear. Not until after the election because there is going to be American blood flow.

One week after the election, all of a sudden we get the attack on Fallujah. Thirty-eight Americans die in the attack. It is pretty clear, and it is sad to say what happened here. There was a political decision to avoid this assault and, as a result, these insurgents had more and more time to fortify Fallujah. That was wrong by a Republican, a Democrat or anybody, to put our men in harm's way, to allow the enemy to consolidate their position, and we had to walk our people into those dens of fire.

Mr. STRICKLAND. Mr. Speaker, I want to reinforce what the gentleman from Washington (Mr. INSLEE) is saying. It was very obvious this decision and the timetable attached to it was influenced by a political clock. The fact is, we telegraphed to the world and the enemy what we were going to do. We gave them time to prepare, and we waited until a few days after the election and then the decision was made to go in.

That is a troubling thing to conclude. It really troubles me to think that a decision like that that would involve a military operation that was going to likely consume American lives would be in any way influenced by a political clock, but the evidence seems quite clear that is what happened. We had to build up for months and then more intensely in the weeks leading up to the election, and the enemy knew we were coming in. That gave them an opportunity to be ready for us, to have supplies and equipment in place. There was no element of surprise in our going into Fallujah. We basically let them know, as soon as the election was over, it was going to happen. That truly troubles me. I think it should trouble every American.

Mr. INSLEE. Mr. Speaker, it troubles me because I am going to call some parents tomorrow who lost their 19-year-old son in that battle. I am not going to broach this with them. I do not know if the thought has crossed their mind, but I cannot reach any other conclusion. What possible reason was there to wait 6 months to go into Fallujah except the fact that there was an election on November 2, and then do it just a few days after the election. What possible reason could there be other than the fact of the election schedule?

We saw how horrendous the fighting was in Fallujah. Some of these tunnels were reinforced with steel, and we gave them 6 months to do that. People's heads should roll in the administration for that.

Again, what we hear tonight is the people responsible for that have been promoted into higher positions of authority. We are not going in the right direction in Iraq.

Unfortunately, let me note a reality in Iraq, we have to some degree obtained some degree of success over Fallujah, but just read what happened everywhere else.

In Samarra, we had a Fallujah-like assault several months ago, and we thought we were successful there, but this week the Iraqi police stations were raided by the insurgents, and 33 Iraqi soldiers and policemen were killed, injured 48.

In Ramadi, a slew of suicide car bombers wounded 20 U.S. Marines. Guerillas raided three police stations, killing 22 officers.

In Diyala Province, a governor's aide and two members of the Provincial Governing Council were killed, and bombs exploded across Baghdad at a Catholic Church and against U.S. convoys along the main road to the airport.

We still cannot secure the main road to the airport in Baghdad. We still are hiring the people responsible for these debacles and giving them promotions. It is wrong.

Mr. ABERCROMBIE. Mr. Speaker, the gentleman mentioned the main road from Baghdad and the gentleman from Pennsylvania (Mr. HOEFFEL) indicated earlier tonight that we have been holding this Iraq Watch special order for some period of months now. Those who have listened to us before may recall that I have mentioned in the past that I was privileged to be in the first delegation of American Congress Members who were able to get into Iraq, leave the Baghdad airport and go into what is now the Green Zone in May after the initial attack on Baghdad.

We were there in late May on the day that Ambassador Bremer took the reins of control from General Garner. Forgive me for going over some past ground, but, unfortunately, what is being cited by the gentleman from Washington (Mr. INSLEE) and by the gentleman from Ohio (Mr. STRICKLAND) and the gentleman from Pennsylvania (Mr. HOEFFEL) tonight requires this for a very simple reason.

When we hear of standing up or creating this Army, creating these forces, that was the goal that was stated to us the very first day that Ambassador Bremer was there, supposedly based on the work that General Garner was supposed to be doing up to that time. And we continue to have reports in the presses as if this is something suddenly just discovered.

On that day, we sat at the table with Ambassador Bremer and General Garner. I recall very clearly saying to them, we have just been down this road from the airport, the international airport in Baghdad here, and I said to them. You are going to need 10,000 soldiers just to guard that highway. I said. It is a strip of tar going from the airport in the middle of a desert into Baghdad. This is not the Big Dig up in Boston or entering metropolitan Atlanta. This is not finding your way around Philadelphia or New York. This is a strip of tar from another big strip of tar where planes land into Baghdad. I said, there are no lights. There is no possibility of being able to stop people planting mines or coming up with shoulder-held rocket grenade launchers, explosive propellants of all kinds.

And now here we are nearing the end of 2004, and you cannot even go on that road today. This is a debacle. This is a disaster. This is taking place right now in circumstances in which we are observing generals saying to their troops, witnessed by embedded reporters with television cameras, drawing the analogy to Hue in Vietnam.

I am old enough to have been involved in the discussions that took place during the 1960s with what we were doing in Vietnam with a half a million soldiers and an indigenous Army fighting with the South Vietnamese that could fight, that was trained and was equipped. And the analogy was Hue in Vietnam. Fallujah is going to be like Hue. Hue was a disaster for us. A few more wins like that, and we are completely undone.

What we forget is the actual military activity that took place had nothing to do with the war in the sense of whether or not we would be successful politically or militarily. The actual circumstances of the combat and the capabilities of the soldiers, all of which have been cited by us over and over again, that is not the issue. The competency of the American soldier is not the issue. The willingness of the American soldier to fight or the bravery, the professionalism, that is not the issue as such. Whether they are equipped properly, of course, that is an issue for us, but the political reality is this is an unmitigated disaster. We are setting the foundation and groundwork, if you will, for decades, if not centuries, of opposition to us as a result of what is going on right now.

You need only go to look at how it is characterized around the country. I was visiting with my mother in Florida, and I have been to Massachusetts. I have gone all over the country. The Palm Beach Post, the Providence Journal, how is it characterized? Here is what the Providence Journal said on Monday, November 15.

□ 2200

"The absence of insurgent bodies in Fallujah has remained an enduring mystery." It is no mystery. This is a guerilla fight.

In the same paper:

"But much of the city lay in smoking ruins. Isolated bands of rebels still harassed American and Iraqi soldiers." Rebels against what? "The military victory appeared to be nearly overshadowed by insurgent violence elsewhere, particularly in the northern city of Mosul."

Again quoting:

"The Governor of Mosul province, saying he had lost faith in local security forces, called in thousands of Kurdish militiamen for the first time to quell the insurgent uprising there."

Today a hearing was held on the staffing requirements, the personnel requirements for the Guard and the Reserve, testimony at the Committee on Armed Services today. Happy faces, it was characterized to me by a Republican Member here tonight, a stalwart member of the committee. And I reiterate again with respect to the many times we have appeared on the floor, this is not a Republican versus Democratic issue. The Committee on Armed Services tries not to operate in that kind of a context. We try to operate on the basis of the security interests of the United States. One of our colleagues said to us, "They put on happy faces today." What the gentleman from Washington (Mr. INSLEE) has just quoted, what these other two of my colleagues here have been quoting is that we are living in a fantasy. I was asked by a former Member today, What are you doing over at the Capitol? I said, We're organizing our delusions. We are in the midst of organizing our delusions.

Mr. HOEFFEL. Will the gentleman yield?

Mr. ABERCROMBIE. I would yield with one observation, though, as has been stated by our colleagues here tonight. The thing that I most regret about coming back this evening is that shortly we will be taking leave of the gentleman from Pennsylvania (Mr. HOEFFEL). He is the founder of this opportunity that the rest of us have seized upon week after week. He has been the guiding light and the inspiration for this. I deeply regret that he will not be here next year because, unfortunately, I am afraid we are going to have to be here next year. But I can tell him that the fire that he has lit in us and in others who have come here will not go out, and we will try to carry on the legacy that he has established for us to live up to.

Mr. HOEFFEL. Mr. Speaker, that is very kind of the gentleman from Hawaii, a bit overblown and exaggerated, but very kind of him.

Mr. ABERCROMBIE. Not a bit.

Mr. HOEFFEL. Next year I am going to be watching. I am going to be tuning in. I know my colleagues will be fighting the good fight as they have been for the last year and a half.

I wanted to comment upon your views, that what is virtually a purely military approach to our challenge in Iraq is not working, cannot work in the face of a guerilla opposition that melts away when we attack en masse and comes up and attacks us where we least expect it a few days later in another location. It is consistent with my earlier statement that as strong as our military is and as strong as we have to keep it, we have got to use more than just our military power in our dealings with the rest of the world. We have to use the totality of our power, which includes diplomatic power, economic power, cultural ties, the powers of moral suasion.

One of the things I wish this President would talk about and I hope the next Congress will talk about is the need for economic revitalization in the Middle East and in Eurasia. We need a modern day Marshall Plan. We need to address the challenges in Iraq and the rest of that part of the world not just with a military strategy but we have got to give to those young men and women, mostly young men, although there are now suicide bombers who are women, who are so desperate, who are so hopeless that they would believe it is in their best interests to strap a bomb on and kill innocent civilians rather than have some hope that they can build a better life, that they can find a job, they can improve the quality of life for themselves and their families. We have got to address the economic needs. I do not mean by handing out money. I mean by making the kinds of investments, along with Western Europe and other industrialized societies, the kinds of investments that will build some economic strength.

In the Marshall Plan after World War II, over a period of 4 years we invested $13 billion in 14 countries. That in today's dollars would be $100 billion over 4 years, $25 billion a year. Our total foreign aid now is about $20 billion a year. So if we a little bit more than doubled our foreign aid, we could create a similar economic revitalization plan as we did so successfully in the late 1940s.

It is a different challenge. The countries we are trying to help here are frankly much worse off than the Western European countries were after World War II. Those countries had a labor force that was trained. They had been industrial countries. The Afghanistans, all the Stans, Iraq, Iran, those are countries with much greater needs. But if we try to solve the problems of the world with military solutions only, if we try to keep ourselves safe with military solutions only, if we try to win the war on terror with only a military response, we will not succeed. Our military will perform well, as they always do; but there is not a military solution, a purely military solution, to the challenges that face us.

We have got to pay attention to the hopes and aspirations. It is more than just the poverty these people face. It is the grinding helplessness and hopelessness they must feel. We have got to create a sense of opportunity in this part of the world.

Mr. ABERCROMBIE. In that context, then, you have indicated, yes, a Marshall Plan might be in order, but that presumes that the fighting has ended. The fighting has not ended. It is nowhere near ending. You cannot make an investment in somewhere, where again I will quote, most of the city lay in smoking ruins.

Another quote: "Tanks and armored vehicles, their turret guns blazing in all directions, finished the sweep through the city." We are destroying everything in our path. And then the only thing that I see is that, well, we will be responsible, the United States is going to have to be responsible for the rebuilding. Who? Another Halliburton? Another series of projects to be laid out? You cannot guarantee that the people who are going to do the building will be safe.

So all of this is a fantasy. It is a delusion, that somehow we are going to succeed with this. My final point on that is that it is the military itself then at that point that will have difficulties because we are not going to be able to recruit. Despite the happy face that has been put on this, the Reserves are falling behind in their recruitment and retention. The Guard is falling behind in their recruitment and retention, and those strains and those stresses are going to become more apparent in the days and months to come, and the stress and strain in the days and months to come will manifest itself in the inability of the United States to have the kinds of deployments under the circumstances that would be most ideal to maximize the efficiency of the Armed Forces.

It is not that they will not try. It is not that they will not do their best. It is not that they will not give their all. It is that we will be letting them down in the first place by requiring something of them that actually is against the protocols and the standards that we have set up in order to have the best possible military capacity.

Mr. STRICKLAND. If the gentleman will yield, just listening to the gentleman, I am reminded of a fact. The fact is this: that the only people sacrificing for this war are the soldiers and the people who love them. The President is not sacrificing for this war. The corporate world is not sacrificing for this war. Those of us who sit in the safety of this Chamber, we are not sacrificing for this war. We do not have sons and daughters and loved ones in Iraq in harm's way.

So who is sacrificing? The taxpayer is not sacrificing for this war, not the current taxpayer, because the President has decided that the cost of this war is just going to be pushed into the future so the children and the children yet to be born will bear the burden for paying for this war. It is a shame that the President is asking nothing of us as a Nation, save the lives and the time, the service of our soldiers and the grief and the worry of the people who love them. It is just almost beyond belief that we find ourselves where we are tonight.

Our country was attacked as a result of Osama bin Laden, the Taliban. We supported going into Afghanistan, obviously, all of us. Out of 535 members of the House and Senate, only one voted against the war in Afghanistan because it was wholly, totally justified and necessary. And then all of a sudden the President and his advisers decided that we were going to go to Iraq. No connection with the attack upon this country. No weapons of mass destruction. No imminent danger to us. Yet we divert resources and intelligence away from Afghanistan, away from the search for Osama bin Laden, and here we find ourselves in Iraq and we all knew that we were going to win the military battle.

There is not a country on the face of this Earth or a combination of countries on the face of this Earth that can stand up to our military and our fighting men and women. We all knew that. And so there is this quick, so-called end of combat, and the President got on the aircraft carrier, there was that sign up there Mission Accomplished, and look what has followed. Thousands of people injured. Well over 1,000 of our soldiers are now dead. Iraq has become a haven for terrorists. They are coming from throughout the world, gathering in Iraq; and we find ourselves bogged down with no plan, continuing death, continuing injuries, continuing expense. And we have got an administration who is wanting to continue to do the same thing they have been doing for the last several months. It is truly alarming, saddening, that our Nation finds itself in this situation tonight.

Mr. HOEFFEL. I yield to the gentleman from Washington.

Mr. INSLEE. I just want to say that there is a future in Iraq. The one thing we should recognize and we are in it together, Democrats and Republicans, whether we voted for this war or not, and we all have responsibilities to try to make tough decisions about what to do now. Our discussion of the past does not mean to suggest that we can walk away in the next 24 hours from Iraq, but I think what we are saying is that we need people that we can trust with decision-making in Iraq, that we will have a rational, decision-making process that is based on the facts rather than just hopes and wishes.

I remember just even 6, 8 months ago listening to the Vice President talking about how things were going so remarkably well in Iraq and we had the Mission Accomplished incident. We had Ambassador Bremer telling us and Wolfowitz telling us that this entire thing was going to be financed with oil revenues from Iraq. He told us, to Congress, I remember this very well. He said, "There won't be a single taxpayer dollar associated with this project." How many billion are we in it now? It is hard to tell.

As the gentleman from Ohio pointed out, the one thing we know about every billion dollars this President has spent, it has been of my grandchildren's money. He has not asked any sacrifice of us. Winston Churchill said, "All I have to offer you is blood, sweat, toil and tears." This President has said, "Just go shopping." That is how he has approached this. So we are asking this horrific sacrifice of our men and women in Fallujah tonight. But this President wants to keep cutting taxes for the wealthiest folks, his friends. That is how he handles it. He is the only President in American history who has insisted that in the middle of war when our warriors are out there risking their lives, he does not want to risk anything except his tax cuts, and he will not even risk that.

He is the only American President who has ever done major tax cuts in a war. I would assert that he is in the panoply of those who are the most economically and morally irresponsible. This is a moral issue to ask our soldiers to go die in Fallujah and go back here in the homestead and try to boost his popularity by giving tax breaks to the rich.

□ 2215

That is a moral issue. And there has been a lot of talk about moral values in this last election.

I want to say, I look at that as a violation of the values that I hold and I think a majority of my constituents hold. We ought to be in this together as Americans, and this President does not want any American to be in it except those on the frontline because he does not want people to know how costly war is. And it is not cheap. And that is a moral failure.

And if we raise our voices on occasion, it is because there is cause for anger here. And there is cause for anger when I hear in the last week that this President gives promotions. There is not a guy who has lost his extra vacation day in this administration as a result of the debacle in Iraq. What kind of message is that to send on personal accountability when a guy who told us that it was not going to cost the taxpayers a dollar is sitting fat and happy as the Secretary of Defense, has never got his hand even slapped, did not even get a memo in his personnel file, and his buddy takes over the National Security Council and had the President tell us something that was a blatant falsehood to start this war? And now we are going to make calls, all four of us, to family members who lost people in Fallujah. That is a moral insult. It is not just bad public policy.

Mr. HOEFFEL. Mr. Speaker, I thank the gentleman for his comments. I believe we are out of time this evening.

Iraq Watch will be back in January, in February and March, as long as these challenges continue, as long as there is a need for debate and for questions to be asked.

Mr. ABERCROMBIE. Would the gentleman yield?

Mr. HOEFFEL. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Speaker, we may be here a few more days than we expected, and I for one am quite concerned about what is taking place and would be interested in coming back if the time is available to us before we leave.

Mr. HOEFFEL. Excellent. Mr. Speaker, let me just say it has been a long time coming, but change is going to come.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KING of Iowa). Members are reminded to refrain from personal references toward the President.

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## CONFERENCE REPORT ON H.R. 1350

Mr. BOEHNER submitted the following conference report and statement on the bill (H.R. 1350), an Act to reauthorize the Individuals with Disabilities Education Act, and for other purposes.

*CONFERENCE REPORT (H. REPT. 108-779)*

*The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1350), an Act to reauthorize the Individuals with Disabilities Education Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:*

*That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:*

*In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:*

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the "Individuals with Disabilities Education Improvement Act of 2004".*

**SEC. 2. ORGANIZATION OF THE ACT.**

*This Act is organized into the following titles:*

*TITLE I—AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT*

*TITLE II—NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH*

*TITLE III—MISCELLANEOUS PROVISIONS*

### TITLE I—AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

**SEC. 101. AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.**

*Parts A through D of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) are amended to read as follows:*

### "PART A—GENERAL PROVISIONS

**"SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS; PURPOSES.**

*"(a) SHORT TITLE.—This title may be cited as the 'Individuals with Disabilities Education Act'.*

*"(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:*

*"PART A—GENERAL PROVISIONS*

*"Sec. 601. Short title; table of contents; findings; purposes.*
*"Sec. 602. Definitions.*
*"Sec. 603. Office of Special Education Programs.*
*"Sec. 604. Abrogation of State sovereign immunity.*
*"Sec. 605. Acquisition of equipment; construction or alteration of facilities.*
*"Sec. 606. Employment of individuals with disabilities.*
*"Sec. 607. Requirements for prescribing regulations.*
*"Sec. 608. State administration.*
*"Sec. 609. Paperwork reduction.*
*"Sec. 610. Freely associated states.*

*"PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES*

*"Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.*
*"Sec. 612. State eligibility.*
*"Sec. 613. Local educational agency eligibility.*
*"Sec. 614. Evaluations, eligibility determinations, individualized education programs, and educational placements.*
*"Sec. 615. Procedural safeguards.*
*"Sec. 616. Monitoring, technical assistance, and enforcement.*
*"Sec. 617. Administration.*
*"Sec. 618. Program information.*
*"Sec. 619. Preschool grants.*

*"PART C—INFANTS AND TODDLERS WITH DISABILITIES*

*"Sec. 631. Findings and policy.*
*"Sec. 632. Definitions.*
*"Sec. 633. General authority.*
*"Sec. 634. Eligibility.*
*"Sec. 635. Requirements for statewide system.*
*"Sec. 636. Individualized family service plan.*
*"Sec. 637. State application and assurances.*
*"Sec. 638. Uses of funds.*
*"Sec. 639. Procedural safeguards.*
*"Sec. 640. Payor of last resort.*
*"Sec. 641. State interagency coordinating council.*
*"Sec. 642. Federal administration.*
*"Sec. 643. Allocation of funds.*
*"Sec. 644. Authorization of appropriations.*

*"PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES*

*"Sec. 650. Findings.*

*"SUBPART 1—STATE PERSONNEL DEVELOPMENT GRANTS*

*"Sec. 651. Purpose; definition of personnel; program authority.*
*"Sec. 652. Eligibility and collaborative process.*
*"Sec. 653. Applications.*
*"Sec. 654. Use of funds.*
*"Sec. 655. Authorization of appropriations.*

*"SUBPART 2—PERSONNEL PREPARATION, TECHNICAL ASSISTANCE, MODEL DEMONSTRATION PROJECTS, AND DISSEMINATION OF INFORMATION*

*"Sec. 661. Purpose; definition of eligible entity.*
*"Sec. 662. Personnel development to improve services and results for children with disabilities.*
*"Sec. 663. Technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research.*
*"Sec. 664. Studies and evaluations.*
*"Sec. 665. Interim alternative educational settings, behavioral supports, and systemic school interventions.*
*"Sec. 667. Authorization of appropriations.*

*"SUBPART 3—SUPPORTS TO IMPROVE RESULTS FOR CHILDREN WITH DISABILITIES*

*"Sec. 670. Purposes.*
*"Sec. 671. Parent training and information centers.*
*"Sec. 672. Community parent resource centers.*
*"Sec. 673. Technical assistance for parent training and information centers.*
*"Sec. 674. Technology development, demonstration, and utilization; and media services.*
*"Sec. 675. Authorization of appropriations.*

*"SUBPART 4—GENERAL PROVISIONS*

*"Sec. 681. Comprehensive plan for subparts 2 and 3.*
*"Sec. 682. Administrative provisions.*

*"(c) FINDINGS.—Congress finds the following:*

*"(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.*

*"(2) Before the date of enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94-142), the educational needs of millions of children with disabilities were not being fully met because—*

*"(A) the children did not receive appropriate educational services;*

*"(B) the children were excluded entirely from the public school system and from being educated with their peers;*

*"(C) undiagnosed disabilities prevented the children from having a successful educational experience; or*

*"(D) a lack of adequate resources within the public school system forced families to find services outside the public school system.*

*"(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this title has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.*

*"(4) However, the implementation of this title has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.*

*"(5) Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by—*

*"(A) having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom, to the maximum extent possible, in order to—*

*"(i) meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children; and*

*"(ii) be prepared to lead productive and independent adult lives, to the maximum extent possible;*

*"(B) strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;*

*"(C) coordinating this title with other local, educational service agency, State, and Federal school improvement efforts, including improvement efforts under the Elementary and Secondary Education Act of 1965, in order to ensure that such children benefit from such efforts and that special education can become a service for such children rather than a place where such children are sent;*

*"(D) providing appropriate special education and related services, and aids and supports in the regular classroom, to such children, whenever appropriate;*

*"(E) supporting high-quality, intensive preservice preparation and professional development for all personnel who work with children with disabilities in order to ensure that such personnel have the skills and knowledge necessary to improve the academic achievement and functional performance of children with disabilities, including the use of scientifically based instructional practices, to the maximum extent possible;*

*"(F) providing incentives for whole-school approaches, scientifically based early reading programs, positive behavioral interventions and supports, and early intervening services to reduce the need to label children as disabled in order to address the learning and behavioral needs of such children;*

*"(G) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results; and*

*"(H) supporting the development and use of technology, including assistive technology devices and assistive technology services, to maximize accessibility for children with disabilities.*

*"(6) While States, local educational agencies, and educational service agencies are primarily responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government have a supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.*

*"(7) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.*

*"(8) Parents and schools should be given expanded opportunities to resolve their disagreements in positive and constructive ways.*

*"(9) Teachers, schools, local educational agencies, and States should be relieved of irrelevant and unnecessary paperwork burdens that do not lead to improved educational outcomes.*

*"(10)(A) The Federal Government must be responsive to the growing needs of an increasingly diverse society.*

*"(B) America's ethnic profile is rapidly changing. In 2000, 1 of every 3 persons in the United States was a member of a minority group or was limited English proficient.*

*"(C) Minority children comprise an increasing percentage of public school students.*

*"(D) With such changing demographics, recruitment efforts for special education personnel should focus on increasing the participation of minorities in the teaching profession in order to provide appropriate role models with sufficient knowledge to address the special education needs of these students.*

*"(11)(A) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation.*

*"(B) Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education.*

*"(C) Such discrepancies pose a special challenge for special education in the referral of, assessment of, and provision of services for, our Nation's students from non-English language backgrounds.*

*"(12)(A) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.*

*"(B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.*

*"(C) African-American children are identified as having mental retardation and emotional disturbance at rates greater than their White counterparts.*

*"(D) In the 1998–1999 school year, African-American children represented just 14.8 percent of the population aged 6 through 21, but comprised 20.2 percent of all children with disabilities.*

*"(E) Studies have found that schools with predominately White students and teachers have placed disproportionately high numbers of their minority students into special education.*

*"(13)(A) As the number of minority students in special education increases, the number of minority teachers and related services personnel produced in colleges and universities continues to decrease.*

*"(B) The opportunity for full participation by minority individuals, minority organizations, and Historically Black Colleges and Universities in awards for grants and contracts, boards of organizations receiving assistance under this title, peer review panels, and training of professionals in the area of special education is essential to obtain greater success in the education of minority children with disabilities.*

*"(14) As the graduation rates for children with disabilities continue to climb, providing effective transition services to promote successful post-school employment or education is an important measure of accountability for children with disabilities.*

*"(d) PURPOSES.—The purposes of this title are—*

*"(1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;*

*"(B) to ensure that the rights of children with disabilities and parents of such children are protected; and*

*"(C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;*

*"(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;*

*"(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and*

*"(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.*

### *"SEC. 602. DEFINITIONS.*

*"Except as otherwise provided, in this title:*

*"(1) ASSISTIVE TECHNOLOGY DEVICE.—*

*"(A) IN GENERAL.—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.*

*"(B) EXCEPTION.—The term does not include a medical device that is surgically implanted, or the replacement of such device.*

*"(2) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—*

*"(A) the evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;*

*"(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;*

*"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;*

*"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;*

*"(E) training or technical assistance for such child, or, where appropriate, the family of such child; and*

*"(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.*

*"(3) CHILD WITH A DISABILITY.—*

*"(A) IN GENERAL.—The term 'child with a disability' means a child—*

*"(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this title as 'emotional disturbance'), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and*

*"(ii) who, by reason thereof, needs special education and related services.*

*"(B) CHILD AGED 3 THROUGH 9.—The term 'child with a disability' for a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5), may, at the discretion of the State and the local educational agency, include a child—*

*"(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in 1 or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development; and*

*"(ii) who, by reason thereof, needs special education and related services.*

*"(4) CORE ACADEMIC SUBJECTS.—The term 'core academic subjects' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.*

*"(5) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency'—*

*"(A) means a regional public multiservice agency—*

*"(i) authorized by State law to develop, manage, and provide services or programs to local educational agencies; and*

*"(ii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State; and*

*"(B) includes any other public institution or agency having administrative control and direction over a public elementary school or secondary school.*

*"(6) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.*

*"(7) EQUIPMENT.—The term 'equipment' includes—*

*"(A) machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house such machinery, utilities, or equipment; and*

*"(B) all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.*

*"(8) EXCESS COSTS.—The term 'excess costs' means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary school or secondary school student, as may be appropriate, and which shall be computed after deducting—*

*"(A) amounts received—*

*"(i) under part B;*

*"(ii) under part A of title I of the Elementary and Secondary Education Act of 1965; and*

*"(iii) under parts A and B of title III of that Act; and*

*"(B) any State or local funds expended for programs that would qualify for assistance under any of those parts.*

*"(9) FREE APPROPRIATE PUBLIC EDUCATION.—The term 'free appropriate public education' means special education and related services that—*

*"(A) have been provided at public expense, under public supervision and direction, and without charge;*

*"(B) meet the standards of the State educational agency;*

*"(C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and*

*"(D) are provided in conformity with the individualized education program required under section 614(d).*

*"(10) HIGHLY QUALIFIED.—*

*"(A) IN GENERAL.—For any special education teacher, the term 'highly qualified' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965, except that such term also—*

*"(i) includes the requirements described in subparagraph (B); and*

*"(ii) includes the option for teachers to meet the requirements of section 9101 of such Act by meeting the requirements of subparagraph (C) or (D).*

*"(B) REQUIREMENTS FOR SPECIAL EDUCATION TEACHERS.—When used with respect to any public elementary school or secondary school special education teacher teaching in a State, such term means that—*

*"(i) the teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law;*

*"(ii) the teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and*

*"(iii) the teacher holds at least a bachelor's degree.*

*"(C) SPECIAL EDUCATION TEACHERS TEACHING TO ALTERNATE ACHIEVEMENT STANDARDS.—When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards established under the regulations promulgated under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, such term means the teacher, whether new or not new to the profession, may either—*

*"(i) meet the applicable requirements of section 9101 of such Act for any elementary, middle, or secondary school teacher who is new or not new to the profession; or*

*"(ii) meet the requirements of subparagraph (B) or (C) of section 9101(23) of such Act as applied to an elementary school teacher, or, in the case of instruction above the elementary level, has subject matter knowledge appropriate to the level of instruction being provided, as determined by the State, needed to effectively teach to those standards.*

*"(D) SPECIAL EDUCATION TEACHERS TEACHING MULTIPLE SUBJECTS.—When used with respect to a special education teacher who teaches 2 or more core academic subjects exclusively to children with disabilities, such term means that the teacher may either—*

*"(i) meet the applicable requirements of section 9101 of the Elementary and Secondary Education Act of 1965 for any elementary, middle, or secondary school teacher who is new or not new to the profession;*

*"(ii) in the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession under section 9101(23)(C)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects; or*

*"(iii) in the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under section 9101(23)(C)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects, not later than 2 years after the date of employment.*

*"(E) RULE OF CONSTRUCTION.—Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this section or part shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a particular State educational agency or local educational agency employee to be highly qualified.*

*"(F) DEFINITION FOR PURPOSES OF THE ESEA.—A teacher who is highly qualified under this paragraph shall be considered highly qualified for purposes of the Elementary and Secondary Education Act of 1965.*

*"(11) HOMELESS CHILDREN.—The term 'homeless children' has the meaning given the term 'homeless children and youths' in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a).*

*"(12) INDIAN.—The term 'Indian' means an individual who is a member of an Indian tribe.*

*"(13) INDIAN TRIBE.—The term 'Indian tribe' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)).*

*"(14) INDIVIDUALIZED EDUCATION PROGRAM; IEP.—The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 614(d).*

*"(15) INDIVIDUALIZED FAMILY SERVICE PLAN.—The term 'individualized family service plan' has the meaning given the term in section 636.*

*"(16) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability' has the meaning given the term in section 632.*

*"(17) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education'—*

*"(A) has the meaning given the term in section 101 of the Higher Education Act of 1965; and*

*"(B) also includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled College or University Assistance Act of 1978.*

*"(18) LIMITED ENGLISH PROFICIENT.—The term 'limited English proficient' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.*

*"(19) LOCAL EDUCATIONAL AGENCY.—*

*"(A) IN GENERAL.—The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.*

*"(B) EDUCATIONAL SERVICE AGENCIES AND OTHER PUBLIC INSTITUTIONS OR AGENCIES.—The term includes—*

*"(i) an educational service agency; and*

*"(ii) any other public institution or agency having administrative control and direction of a public elementary school or secondary school.*

*"(C) BIA FUNDED SCHOOLS.—The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this title with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.*

*"(20) NATIVE LANGUAGE.—The term 'native language', when used with respect to an individual who is limited English proficient, means the language normally used by the individual or, in the case of a child, the language normally used by the parents of the child.*

*"(21) NONPROFIT.—The term 'nonprofit', as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by 1 or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.*

*"(22) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.*

*"(23) PARENT.—The term 'parent' means—*

*"(A) a natural, adoptive, or foster parent of a child (unless a foster parent is prohibited by State law from serving as a parent);*

*"(B) a guardian (but not the State if the child is a ward of the State);*

*"(C) an individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or*

*"(D) except as used in sections 615(b)(2) and 639(a)(5), an individual assigned under either of those sections to be a surrogate parent.*

*"(24) PARENT ORGANIZATION.—The term 'parent organization' has the meaning given the term in section 671(g).*

*"(25) PARENT TRAINING AND INFORMATION CENTER.—The term 'parent training and information center' means a center assisted under section 671 or 672.*

*"(26) RELATED SERVICES.—*

*"(A) IN GENERAL.—The term 'related services' means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the individualized education program of the child, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.*

*"(B) EXCEPTION.—The term does not include a medical device that is surgically implanted, or the replacement of such device.*

"(27) SECONDARY SCHOOL.—The term 'secondary school' means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

"(28) SECRETARY.—The term 'Secretary' means the Secretary of Education.

"(29) SPECIAL EDUCATION.—The term 'special education' means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including—

"(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

"(B) instruction in physical education.

"(30) SPECIFIC LEARNING DISABILITY.—

"(A) IN GENERAL.—The term 'specific learning disability' means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

"(B) DISORDERS INCLUDED.—Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

"(C) DISORDERS NOT INCLUDED.—Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

"(31) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

"(32) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

"(33) SUPPLEMENTARY AIDS AND SERVICES.—The term 'supplementary aids and services' means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with section 612(a)(5).

"(34) TRANSITION SERVICES.—The term 'transition services' means a coordinated set of activities for a child with a disability that—

"(A) is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

"(B) is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and

"(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

"(35) UNIVERSAL DESIGN.—The term 'universal design' has the meaning given the term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

"(36) WARD OF THE STATE.—

"(A) IN GENERAL.—The term 'ward of the State' means a child who, as determined by the State where the child resides, is a foster child, is a ward of the State, or is in the custody of a public child welfare agency.

"(B) EXCEPTION.—The term does not include a foster child who has a foster parent who meets the definition of a parent in paragraph (23).

### "SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.

"(a) ESTABLISHMENT.—There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal agency in the Department for administering and carrying out this title and other programs and activities concerning the education of children with disabilities.

"(b) DIRECTOR.—The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

"(c) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this title.

### "SEC. 604. ABROGATION OF STATE SOVEREIGN IMMUNITY.

"(a) IN GENERAL.—A State shall not be immune under the 11th amendment to the Constitution of the United States from suit in Federal court for a violation of this title.

"(b) REMEDIES.—In a suit against a State for a violation of this title, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in the suit against any public entity other than a State.

"(c) EFFECTIVE DATE.—Subsections (a) and (b) apply with respect to violations that occur in whole or part after the date of enactment of the Education of the Handicapped Act Amendments of 1990.

### "SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION OR ALTERATION OF FACILITIES.

"(a) IN GENERAL.—If the Secretary determines that a program authorized under this title will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

"(b) COMPLIANCE WITH CERTAIN REGULATIONS.—Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—

"(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the 'Americans with Disabilities Accessibility Guidelines for Buildings and Facilities'); or

"(2) appendix A of subpart 101–19.6 of title 41, Code of Federal Regulations (commonly known as the 'Uniform Federal Accessibility Standards').

### "SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

"The Secretary shall ensure that each recipient of assistance under this title makes positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this title.

### "SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.

"(a) IN GENERAL.—In carrying out the provisions of this title, the Secretary shall issue regulations under this title only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements of this title.

"(b) PROTECTIONS PROVIDED TO CHILDREN.—The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this title that—

"(1) violates or contradicts any provision of this title; or

"(2) procedurally or substantively lessens the protections provided to children with disabilities under this title, as embodied in regulations in effect on July 20, 1983 (particularly as such protections related to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of Congress in legislation.

"(c) PUBLIC COMMENT PERIOD.—The Secretary shall provide a public comment period of not less than 75 days on any regulation proposed under part B or part C on which an opportunity for public comment is otherwise required by law.

"(d) POLICY LETTERS AND STATEMENTS.—The Secretary may not issue policy letters or other statements (including letters or statements regarding issues of national significance) that—

"(1) violate or contradict any provision of this title; or

"(2) establish a rule that is required for compliance with, and eligibility under, this title without following the requirements of section 553 of title 5, United States Code.

"(e) EXPLANATION AND ASSURANCES.—Any written response by the Secretary under subsection (d) regarding a policy, question, or interpretation under part B shall include an explanation in the written response that—

"(1) such response is provided as informal guidance and is not legally binding;

"(2) when required, such response is issued in compliance with the requirements of section 553 of title 5, United States Code; and

"(3) such response represents the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented.

"(f) CORRESPONDENCE FROM DEPARTMENT OF EDUCATION DESCRIBING INTERPRETATIONS OF THIS TITLE.—

"(1) IN GENERAL.—The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this title or the regulations implemented pursuant to this title.

"(2) ADDITIONAL INFORMATION.—For each item of correspondence published in a list under paragraph (1), the Secretary shall—

"(A) identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate; and

"(B) ensure that all such correspondence is issued, where applicable, in compliance with the requirements of section 553 of title 5, United States Code.

### "SEC. 608. STATE ADMINISTRATION.

"(a) RULEMAKING.—Each State that receives funds under this title shall—

"(1) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title;

"(2) identify in writing to local educational agencies located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this title and Federal regulations; and

"(3) minimize the number of rules, regulations, and policies to which the local educational agencies and schools located in the State are subject under this title.

"(b) SUPPORT AND FACILITATION.—State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level system improvement designed to enable children with disabilities to meet the challenging State student academic achievement standards.

### "SEC. 609. PAPERWORK REDUCTION.

"(a) PILOT PROGRAM.—

"(1) PURPOSE.—The purpose of this section is to provide an opportunity for States to identify ways to reduce paperwork burdens and other administrative duties that are directly associated with the requirements of this title, in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities.

"(2) AUTHORIZATION.—

"(A) IN GENERAL.—In order to carry out the purpose of this section, the Secretary is authorized to grant waivers of statutory requirements of, or regulatory requirements relating to, part B for a period of time not to exceed 4 years with respect to not more than 15 States based on proposals submitted by States to reduce excessive paperwork and noninstructional time burdens that do not assist in improving educational and functional results for children with disabilities.

"(B) EXCEPTION.—The Secretary shall not waive under this section any statutory requirements of, or regulatory requirements relating to, applicable civil rights requirements.

"(C) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

"(i) affect the right of a child with a disability to receive a free appropriate public education under part B; and

"(ii) permit a State or local educational agency to waive procedural safeguards under section 615.

"(3) PROPOSAL.—

"(A) IN GENERAL.—A State desiring to participate in the program under this section shall submit a proposal to the Secretary at such time and in such manner as the Secretary may reasonably require.

"(B) CONTENT.—The proposal shall include—

"(i) a list of any statutory requirements of, or regulatory requirements relating to, part B that the State desires the Secretary to waive, in whole or in part; and

"(ii) a list of any State requirements that the State proposes to waive or change, in whole or in part, to carry out a waiver granted to the State by the Secretary.

"(4) TERMINATION OF WAIVER.—The Secretary shall terminate a State's waiver under this section if the Secretary determines that the State—

"(A) needs assistance under section 616(d)(2)(A)(ii) and that the waiver has contributed to or caused such need for assistance;

"(B) needs intervention under section 616(d)(2)(A)(iii) or needs substantial intervention under section 616(d)(2)(A)(iv); or

"(C) failed to appropriately implement its waiver.

"(b) REPORT.—Beginning 2 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, the Secretary shall include in the annual report to Congress submitted pursuant to section 426 of the Department of Education Organization Act information related to the effectiveness of waivers granted under subsection (a), including any specific recommendations for broader implementation of such waivers, in—

"(1) reducing—

"(A) the paperwork burden on teachers, principals, administrators, and related service providers; and

"(B) noninstructional time spent by teachers in complying with part B;

"(2) enhancing longer-term educational planning;

"(3) improving positive outcomes for children with disabilities;

"(4) promoting collaboration between IEP Team members; and

"(5) ensuring satisfaction of family members.

### "SEC. 610. FREELY ASSOCIATED STATES.

"The Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall continue to be eligible for competitive grants administered by the Secretary under this title to the extent that such grants continue to be available to States and local educational agencies under this title.

## "PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

### "SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

"(a) GRANTS TO STATES.—

"(1) PURPOSE OF GRANTS.—The Secretary shall make grants to States, outlying areas, and freely associated States, and provide funds to the Secretary of the Interior, to assist them to provide special education and related services to children with disabilities in accordance with this part.

"(2) MAXIMUM AMOUNT.—The maximum amount of the grant a State may receive under this section—

"(A) for fiscal years 2005 and 2006 is—

"(i) the number of children with disabilities in the State who are receiving special education and related services—

"(I) aged 3 through 5 if the State is eligible for a grant under section 619; and

"(II) aged 6 through 21; multiplied by

"(ii) 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States; and

"(B) for fiscal year 2007 and subsequent fiscal years is—

"(i) the number of children with disabilities in the 2004–2005 school year in the State who received special education and related services—

"(I) aged 3 through 5 if the State is eligible for a grant under section 619; and

"(II) aged 6 through 21; multiplied by

"(ii) 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States; adjusted by

"(iii) the rate of annual change in the sum of—

"(I) 85 percent of such State's population described in subsection (d)(3)(A)(i)(II); and

"(II) 15 percent of such State's population described in subsection (d)(3)(A)(i)(III).

"(b) OUTLYING AREAS AND FREELY ASSOCIATED STATES; SECRETARY OF THE INTERIOR.—

"(1) OUTLYING AREAS AND FREELY ASSOCIATED STATES.—

"(A) FUNDS RESERVED.—From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve not more than 1 percent, which shall be used—

"(i) to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21; and

"(ii) to provide each freely associated State a grant in the amount that such freely associated State received for fiscal year 2003 under this part, but only if the freely associated State meets the applicable requirements of this part, as well as the requirements of section 611(b)(2)(C) as such section was in effect on the day before the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004.

"(B) SPECIAL RULE.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to the outlying areas or the freely associated States under this section.

"(C) DEFINITION.—In this paragraph, the term 'freely associated States' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(2) SECRETARY OF THE INTERIOR.—From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve 1.226 percent to provide assistance to the Secretary of the Interior in accordance with subsection (h).

"(c) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary may reserve not more than ½ of 1 percent of the amounts appropriated under this part for each fiscal year to provide technical assistance activities authorized under section 616(i).

"(2) MAXIMUM AMOUNT.—The maximum amount the Secretary may reserve under paragraph (1) for any fiscal year is $25,000,000, cumulatively adjusted by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

"(d) ALLOCATIONS TO STATES.—

"(1) IN GENERAL.—After reserving funds for technical assistance, and for payments to the outlying areas, the freely associated States, and the Secretary of the Interior under subsections (b) and (c) for a fiscal year, the Secretary shall allocate the remaining amount among the States in accordance with this subsection.

"(2) SPECIAL RULE FOR USE OF FISCAL YEAR 1999 AMOUNT.—If a State received any funds under this section for fiscal year 1999 on the basis of children aged 3 through 5, but does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any subsequent fiscal year, the Secretary shall compute the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children.

"(3) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) for a fiscal year is equal to or greater than the amount allocated to the States under this paragraph for the preceding fiscal year, those allocations shall be calculated as follows:

"(A) ALLOCATION OF INCREASE.—

"(i) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall allocate for the fiscal year—

"(I) to each State the amount the State received under this section for fiscal year 1999;

"(II) 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this part; and

"(III) 15 percent of those remaining funds to States on the basis of the States' relative populations of children described in subclause (II) who are living in poverty.

"(ii) DATA.—For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

"(B) LIMITATIONS.—Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

"(i) PRECEDING YEAR ALLOCATION.—No State's allocation shall be less than its allocation under this section for the preceding fiscal year.

"(ii) MINIMUM.—No State's allocation shall be less than the greatest of—

"(I) the sum of—

"(aa) the amount the State received under this section for fiscal year 1999; and

"(bb) ⅓ of 1 percent of the amount by which the amount appropriated under subsection (i) *for the fiscal year exceeds the amount appropriated for this section for fiscal year 1999;*

*"(II) the sum of—*

*"(aa) the amount the State received under this section for the preceding fiscal year; and*

*"(bb) that amount multiplied by the percentage by which the increase in the funds appropriated for this section from the preceding fiscal year exceeds 1.5 percent; or*

*"(III) the sum of—*

*"(aa) the amount the State received under this section for the preceding fiscal year; and*

*"(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated for this section from the preceding fiscal year.*

*"(iii) MAXIMUM.—Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—*

*"(I) the amount the State received under this section for the preceding fiscal year; and*

*"(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under this section from the preceding fiscal year.*

*"(C) RATABLE REDUCTION.—If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).*

*"(4) DECREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) for a fiscal year is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:*

*"(A) AMOUNTS GREATER THAN FISCAL YEAR 1999 ALLOCATIONS.—If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1999, each State shall be allocated the sum of—*

*"(i) the amount the State received under this section for fiscal year 1999; and*

*"(ii) an amount that bears the same relation to any remaining funds as the increase the State received under this section for the preceding fiscal year over fiscal year 1999 bears to the total of all such increases for all States.*

*"(B) AMOUNTS EQUAL TO OR LESS THAN FISCAL YEAR 1999 ALLOCATIONS.—*

*"(i) IN GENERAL.—If the amount available for allocations under this paragraph is equal to or less than the amount allocated to the States for fiscal year 1999, each State shall be allocated the amount the State received for fiscal year 1999.*

*"(ii) RATABLE REDUCTION.—If the amount available for allocations under this paragraph is insufficient to make the allocations described in clause (i), those allocations shall be ratably reduced.*

*"(e) STATE-LEVEL ACTIVITIES.—*

*"(1) STATE ADMINISTRATION.—*

*"(A) IN GENERAL.—For the purpose of administering this part, including paragraph (3), section 619, and the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities—*

*"(i) each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under this section for fiscal year 2004 or $800,000 (adjusted in accordance with subparagraph (B)), whichever is greater; and*

*"(ii) each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under subsection (b)(1) for the fiscal year or $35,000, whichever is greater.*

*"(B) CUMULATIVE ANNUAL ADJUSTMENTS.—For each fiscal year beginning with fiscal year 2005, the Secretary shall cumulatively adjust—*

*"(i) the maximum amount the State was eligible to reserve for State administration under this part for fiscal year 2004; and*

*"(ii) $800,000,*

*by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.*

*"(C) CERTIFICATION.—Prior to expenditure of funds under this paragraph, the State shall certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(12)(A) are current.*

*"(D) PART C.—Funds reserved under subparagraph (A) may be used for the administration of part C, if the State educational agency is the lead agency for the State under such part.*

*"(2) OTHER STATE-LEVEL ACTIVITIES.—*

*"(A) STATE-LEVEL ACTIVITIES.—*

*"(i) IN GENERAL.—Except as provided in clause (iii), for the purpose of carrying out State-level activities, each State may reserve for each of the fiscal years 2005 and 2006 not more than 10 percent from the amount of the State's allocation under subsection (d) for each of the fiscal years 2005 and 2006, respectively. For fiscal year 2007 and each subsequent fiscal year, the State may reserve the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2006 (cumulatively adjusted by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor).*

*"(ii) SMALL STATE ADJUSTMENT.—Notwithstanding clause (i) and except as provided in clause (iii), in the case of a State for which the maximum amount reserved for State administration is not greater than $850,000, the State may reserve for the purpose of carrying out State-level activities for each of the fiscal years 2005 and 2006, not more than 10.5 percent from the amount of the State's allocation under subsection (d) for each of the fiscal years 2005 and 2006, respectively. For fiscal year 2007 and each subsequent fiscal year, such State may reserve the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2006 (cumulatively adjusted by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor).*

*"(iii) EXCEPTION.—If a State does not reserve funds under paragraph (3) for a fiscal year, then—*

*"(I) in the case of a State that is not described in clause (ii), for fiscal year 2005 or 2006, clause (i) shall be applied by substituting '9.0 percent' for '10 percent'; and*

*"(II) in the case of a State that is described in clause (ii), for fiscal year 2005 or 2006, clause (ii) shall be applied by substituting '9.5 percent' for '10.5 percent'.*

*"(B) REQUIRED ACTIVITIES.—Funds reserved under subparagraph (A) shall be used to carry out the following activities:*

*"(i) For monitoring, enforcement, and complaint investigation.*

*"(ii) To establish and implement the mediation process required by section 615(e), including providing for the cost of mediators and support personnel.*

*"(C) AUTHORIZED ACTIVITIES.—Funds reserved under subparagraph (A) may be used to carry out the following activities:*

*"(i) For support and direct services, including technical assistance, personnel preparation, and professional development and training.*

*"(ii) To support paperwork reduction activities, including expanding the use of technology in the IEP process.*

*"(iii) To assist local educational agencies in providing positive behavioral interventions and supports and appropriate mental health services for children with disabilities.*

*"(iv) To improve the use of technology in the classroom by children with disabilities to enhance learning.*

*"(v) To support the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities.*

*"(vi) Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of children with disabilities to postsecondary activities.*

*"(vii) To assist local educational agencies in meeting personnel shortages.*

*"(viii) To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.*

*"(ix) Alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in State-operated or State-supported schools, and children with disabilities in charter schools.*

*"(x) To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with sections 1111(b) and 6111 of the Elementary and Secondary Education Act of 1965.*

*"(xi) To provide technical assistance to schools and local educational agencies, and direct services, including supplemental educational services as defined in 1116(e) of the Elementary and Secondary Education Act of 1965 to children with disabilities, in schools or local educational agencies identified for improvement under section 1116 of the Elementary and Secondary Education Act of 1965 on the sole basis of the assessment results of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement to meet or exceed the objectives established by the State under section 1111(b)(2)(G) the Elementary and Secondary Education Act of 1965.*

*"(3) LOCAL EDUCATIONAL AGENCY RISK POOL.—*

*"(A) IN GENERAL.—*

*"(i) RESERVATION OF FUNDS.—For the purpose of assisting local educational agencies (including a charter school that is a local educational agency or a consortium of local educational agencies) in addressing the needs of high need children with disabilities, each State shall have the option to reserve for each fiscal year 10 percent of the amount of funds the State reserves for State-level activities under paragraph (2)(A)—*

*"(I) to establish and make disbursements from the high cost fund to local educational agencies in accordance with this paragraph during the first and succeeding fiscal years of the high cost fund; and*

*"(II) to support innovative and effective ways of cost sharing by the State, by a local educational agency, or among a consortium of local educational agencies, as determined by the State in coordination with representatives from local educational agencies, subject to subparagraph (B)(ii).*

*"(ii) DEFINITION OF LOCAL EDUCATIONAL AGENCY.—In this paragraph the term 'local educational agency' includes a charter school that is a local educational agency, or a consortium of local educational agencies.*

*"(B) LIMITATION ON USES OF FUNDS.—*

*"(i) ESTABLISHMENT OF HIGH COST FUND.—A State shall not use any of the funds the State reserves pursuant to subparagraph (A)(i), but may use the funds the State reserves under paragraph (1), to establish and support the high cost fund.*

*"(ii) INNOVATIVE AND EFFECTIVE COST SHARING.—A State shall not use more than 5 percent of the funds the State reserves pursuant to subparagraph (A)(i) for each fiscal year to support innovative and effective ways of cost sharing among consortia of local educational agencies.*

*"(C) STATE PLAN FOR HIGH COST FUND.—*

*"(i) DEFINITION.—The State educational agency shall establish the State's definition of a high need child with a disability, which definition shall be developed in consultation with local educational agencies.*

*"(ii) STATE PLAN.—The State educational agency shall develop, not later than 90 days after the State reserves funds under this paragraph, annually review, and amend as necessary, a State plan for the high cost fund. Such State plan shall—*

*"(I) establish, in coordination with representatives from local educational agencies, a definition of a high need child with a disability that, at a minimum—*

*"(aa) addresses the financial impact a high need child with a disability has on the budget of the child's local educational agency; and*

*"(bb) ensures that the cost of the high need child with a disability is greater than 3 times the average per pupil expenditure (as defined in section 9101 of the Elementary and Secondary Education Act of 1965) in that State;*

*"(II) establish eligibility criteria for the participation of a local educational agency that, at a minimum, takes into account the number and percentage of high need children with disabilities served by a local educational agency;*

*"(III) develop a funding mechanism that provides distributions each fiscal year to local educational agencies that meet the criteria developed by the State under subclause (II); and*

*"(IV) establish an annual schedule by which the State educational agency shall make its distributions from the high cost fund each fiscal year.*

*"(iii) PUBLIC AVAILABILITY.—The State shall make its final State plan publicly available not less than 30 days before the beginning of the school year, including dissemination of such information on the State website.*

*"(D) DISBURSEMENTS FROM THE HIGH COST FUND.—*

*"(i) IN GENERAL.—Each State educational agency shall make all annual disbursements from the high cost fund established under subparagraph (A)(i) in accordance with the State plan published pursuant to subparagraph (C).*

*"(ii) USE OF DISBURSEMENTS.—Each State educational agency shall make annual disbursements to eligible local educational agencies in accordance with its State plan under subparagraph (C)(ii).*

*"(iii) APPROPRIATE COSTS.—The costs associated with educating a high need child with a disability under subparagraph (C)(i) are only those costs associated with providing direct special education and related services to such child that are identified in such child's IEP.*

*"(E) LEGAL FEES.—The disbursements under subparagraph (D) shall not support legal fees, court costs, or other costs associated with a cause of action brought on behalf of a child with a disability to ensure a free appropriate public education for such child.*

*"(F) ASSURANCE OF A FREE APPROPRIATE PUBLIC EDUCATION.—Nothing in this paragraph shall be construed—*

*"(i) to limit or condition the right of a child with a disability who is assisted under this part to receive a free appropriate public education pursuant to section 612(a)(1) in the least restrictive environment pursuant to section 612(a)(5); or*

*"(ii) to authorize a State educational agency or local educational agency to establish a limit on what may be spent on the education of a child with a disability.*

*"(G) SPECIAL RULE FOR RISK POOL AND HIGH NEED ASSISTANCE PROGRAMS IN EFFECT AS OF JANUARY 1, 2004.—Notwithstanding the provisions of subparagraphs (A) through (F), a State may use funds reserved pursuant to this paragraph for implementing a placement neutral cost sharing and reimbursement program of high need, low incidence, catastrophic, or extraordinary aid to local educational agencies that provides services to high need students based on eligibility criteria for such programs that were created not later than January 1, 2004, and are currently in operation, if such program serves children that meet the requirement of the definition of a high need child with a disability as described in subparagraph (C)(ii)(I).*

*"(H) MEDICAID SERVICES NOT AFFECTED.—Disbursements provided under this paragraph shall not be used to pay costs that otherwise would be reimbursed as medical assistance for a child with a disability under the State medicaid program under title XIX of the Social Security Act.*

*"(I) REMAINING FUNDS.—Funds reserved under subparagraph (A) in any fiscal year but not expended in that fiscal year pursuant to subparagraph (D) shall be allocated to local educational agencies for the succeeding fiscal year in the same manner as funds are allocated to local educational agencies under subsection (f) for the succeeding fiscal year.*

*"(4) INAPPLICABILITY OF CERTAIN PROHIBITIONS.—A State may use funds the State reserves under paragraphs (1) and (2) without regard to—*

*"(A) the prohibition on commingling of funds in section 612(a)(17)(B); and*

*"(B) the prohibition on supplanting other funds in section 612(a)(17)(C).*

*"(5) REPORT ON USE OF FUNDS.—As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe how amounts under this section—*

*"(A) will be used to meet the requirements of this title; and*

*"(B) will be allocated among the activities described in this section to meet State priorities based on input from local educational agencies.*

*"(6) SPECIAL RULE FOR INCREASED FUNDS.—A State may use funds the State reserves under paragraph (1)(A) as a result of inflationary increases under paragraph (1)(B) to carry out activities authorized under clause (i), (iii), (vii), or (viii) of paragraph (2)(C).*

*"(7) FLEXIBILITY IN USING FUNDS FOR PART C.—Any State eligible to receive a grant under section 619 may use funds made available under paragraph (1)(A), subsection (f)(3), or section 619(f)(5) to develop and implement a State policy jointly with the lead agency under part C and the State educational agency to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with part C to children with disabilities who are eligible for services under section 619 and who previously received services under part C until such children enter, or are eligible under State law to enter, kindergarten, or elementary school as appropriate.*

*"(f) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—*

*"(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute any funds the State does not reserve under subsection (e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part.*

*"(2) PROCEDURE FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—For each fiscal year for which funds are allocated to States under subsection (d), each State shall allocate funds under paragraph (1) as follows:*

*"(A) BASE PAYMENTS.—The State shall first award each local educational agency described in paragraph (1) the amount the local educational agency would have received under this section for fiscal year 1999, if the State had distributed 75 percent of its grant for that year under section 611(d) as section 611(d) was then in effect.*

*"(B) ALLOCATION OF REMAINING FUNDS.—After making allocations under subparagraph (A), the State shall—*

*"(i) allocate 85 percent of any remaining funds to those local educational agencies on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the local educational agency's jurisdiction; and*

*"(ii) allocate 15 percent of those remaining funds to those local educational agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.*

*"(3) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that local educational agency with State and local funds, the State educational agency may reallocate any portion of the funds under this part that are not needed by that local educational agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other local educational agencies.*

*"(g) DEFINITIONS.—In this section:*

*"(1) AVERAGE PER-PUPIL EXPENDITURE IN PUBLIC ELEMENTARY SCHOOLS AND SECONDARY SCHOOLS IN THE UNITED STATES.—The term 'average per-pupil expenditure in public elementary schools and secondary schools in the United States' means—*

*"(A) without regard to the source of funds—*

*"(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the 50 States and the District of Columbia; plus*

*"(ii) any direct expenditures by the State for the operation of those agencies; divided by*

*"(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.*

*"(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.*

*"(h) USE OF AMOUNTS BY SECRETARY OF THE INTERIOR.—*

*"(1) PROVISION OF AMOUNTS FOR ASSISTANCE.—*

*"(A) IN GENERAL.—The Secretary of Education shall provide amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of such payment for any fiscal year shall be equal to 80 percent of the amount allotted under subsection*

*(b)(2) for that fiscal year. Of the amount described in the preceding sentence—*

*"(i) 80 percent shall be allocated to such schools by July 1 of that fiscal year; and*

*"(ii) 20 percent shall be allocated to such schools by September 30 of that fiscal year.*

*"(B) CALCULATION OF NUMBER OF CHILDREN.—In the case of Indian students aged 3 to 5, inclusive, who are enrolled in programs affiliated with the Bureau of Indian Affairs (referred to in this subsection as the 'BIA') schools and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools have such accreditation prior to the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this part for those children, in accordance with paragraph (2).*

*"(C) ADDITIONAL REQUIREMENT.—With respect to all other children aged 3 to 21, inclusive, on reservations, the State educational agency shall be responsible for ensuring that all of the requirements of this part are implemented.*

*"(2) SUBMISSION OF INFORMATION.—The Secretary of Education may provide the Secretary of the Interior amounts under paragraph (1) for a fiscal year only if the Secretary of the Interior submits to the Secretary of Education information that—*

*"(A) demonstrates that the Department of the Interior meets the appropriate requirements, as determined by the Secretary of Education, of sections 612 (including monitoring and evaluation activities) and 613;*

*"(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this part with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;*

*"(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures related to the requirements described in subparagraph (A);*

*"(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 618;*

*"(E) includes an assurance that the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations (such agreement shall provide for the apportionment of responsibilities and costs, including child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in school or a program); and*

*"(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this part, and will fulfill its duties under this part.*

*"(3) APPLICABILITY.—The Secretary shall withhold payments under this subsection with respect to the information described in paragraph (2) in the same manner as the Secretary withholds payments under section 616(e)(6).*

*"(4) PAYMENTS FOR EDUCATION AND SERVICES FOR INDIAN CHILDREN WITH DISABILITIES AGED 3 THROUGH 5.—*

*"(A) IN GENERAL.—With funds appropriated under subsection (i), the Secretary of Education shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of tribes or tribal organizations to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be equal to 20 percent of the amount allotted under subsection (b)(2).*

*"(B) DISTRIBUTION OF FUNDS.—The Secretary of the Interior shall distribute the total amount of the payment under subparagraph (A) by allocating to each tribe, tribal organization, or consortium an amount based on the number of children with disabilities aged 3 through 5 residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.*

*"(C) SUBMISSION OF INFORMATION.—To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.*

*"(D) USE OF FUNDS.—The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The tribe or tribal organization shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.*

*"(E) BIENNIAL REPORT.—To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall provide to the Secretary of the Interior a biennial report of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.*

*"(F) PROHIBITIONS.—None of the funds allocated under this paragraph may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.*

*"(5) PLAN FOR COORDINATION OF SERVICES.—The Secretary of the Interior shall develop and implement a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this title. Such plan shall provide for the coordination of services benefiting those children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing the plan, the Secretary of the Interior shall consult with all interested and involved parties. The plan shall be based on the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. The plan shall also be distributed upon request to States, State educational agencies and local educational agencies, and other agencies providing services to infants, toddlers, and children with disabilities, to tribes, and to other interested parties.*

*"(6) ESTABLISHMENT OF ADVISORY BOARD.—To meet the requirements of section 612(a)(21), the Secretary of the Interior shall establish, under the BIA, an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils under section 641 in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—*

*"(A) assist in the coordination of services within the BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, and children with disabilities;*

*"(B) advise and assist the Secretary of the Interior in the performance of the Secretary of the Interior's responsibilities described in this subsection;*

*"(C) develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;*

*"(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention services or educational programming for Indian infants, toddlers, and children with disabilities; and*

*"(E) provide assistance in the preparation of information required under paragraph (2)(D).*

*"(7) ANNUAL REPORTS.—*

*"(A) IN GENERAL.—The advisory board established under paragraph (6) shall prepare and submit to the Secretary of the Interior and to Congress an annual report containing a description of the activities of the advisory board for the preceding year.*

*"(B) AVAILABILITY.—The Secretary of the Interior shall make available to the Secretary of Education the report described in subparagraph (A).*

*"(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, other than section 619, there are authorized to be appropriated—*

*"(1) $12,358,376,571 for fiscal year 2005;*

*"(2) $14,648,647,143 for fiscal year 2006;*

*"(3) $16,938,917,714 for fiscal year 2007;*

*"(4) $19,229,188,286 for fiscal year 2008;*

*"(5) $21,519,458,857 for fiscal year 2009;*

*"(6) $23,809,729,429 for fiscal year 2010;*

*"(7) $26,100,000,000 for fiscal year 2011; and*

*"(8) such sums as may be necessary for fiscal year 2012 and each succeeding fiscal year.*

***"SEC. 612. STATE ELIGIBILITY.***

*"(a) IN GENERAL.—A State is eligible for assistance under this part for a fiscal year if the State submits a plan that provides assurances to*

*the Secretary that the State has in effect policies and procedures to ensure that the State meets each of the following conditions:*

*"(1) FREE APPROPRIATE PUBLIC EDUCATION.—*

*"(A) IN GENERAL.—A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.*

*"(B) LIMITATION.—The obligation to make a free appropriate public education available to all children with disabilities does not apply with respect to children—*

*"(i) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in those age ranges; and*

*"(ii) aged 18 through 21 to the extent that State law does not require that special education and related services under this part be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility—*

*"(I) were not actually identified as being a child with a disability under section 602; or*

*"(II) did not have an individualized education program under this part.*

*"(C) STATE FLEXIBILITY.—A State that provides early intervention services in accordance with part C to a child who is eligible for services under section 619, is not required to provide such child with a free appropriate public education.*

*"(2) FULL EDUCATIONAL OPPORTUNITY GOAL.—The State has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal.*

*"(3) CHILD FIND.—*

*"(A) IN GENERAL.—All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.*

*"(B) CONSTRUCTION.—Nothing in this title requires that children be classified by their disability so long as each child who has a disability listed in section 602 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under this part.*

*"(4) INDIVIDUALIZED EDUCATION PROGRAM.—An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with section 614(d).*

*"(5) LEAST RESTRICTIVE ENVIRONMENT.—*

*"(A) IN GENERAL.—To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.*

*"(B) ADDITIONAL REQUIREMENT.—*

*"(i) IN GENERAL.—A State funding mechanism shall not result in placements that violate the requirements of subparagraph (A), and a State shall not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability a free appropriate public education according to the unique needs of the child as described in the child's IEP.*

*"(ii) ASSURANCE.—If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that such mechanism does not result in such placements.*

*"(6) PROCEDURAL SAFEGUARDS.—*

*"(A) IN GENERAL.—Children with disabilities and their parents are afforded the procedural safeguards required by section 615.*

*"(B) ADDITIONAL PROCEDURAL SAFEGUARDS.—Procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities for services under this title will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.*

*"(7) EVALUATION.—Children with disabilities are evaluated in accordance with subsections (a) through (c) of section 614.*

*"(8) CONFIDENTIALITY.—Agencies in the State comply with section 617(c) (relating to the confidentiality of records and information).*

*"(9) TRANSITION FROM PART C TO PRESCHOOL PROGRAMS.—Children participating in early intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with sections 614(d)(2)(B) and 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10).*

*"(10) CHILDREN IN PRIVATE SCHOOLS.—*

*"(A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS.—*

*"(i) IN GENERAL.—To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):*

*"(I) Amounts to be expended for the provision of those services (including direct services to parentally placed private school children) by the local educational agency shall be equal to a proportionate amount of Federal funds made available under this part.*

*"(II) In calculating the proportionate amount of Federal funds, the local educational agency, after timely and meaningful consultation with representatives of private schools as described in clause (iii), shall conduct a thorough and complete child find process to determine the number of parentally placed children with disabilities attending private schools located in the local educational agency.*

*"(III) Such services to parentally placed private school children with disabilities may be provided to the children on the premises of private, including religious, schools, to the extent consistent with law.*

*"(IV) State and local funds may supplement and in no case shall supplant the proportionate amount of Federal funds required to be expended under this subparagraph.*

*"(V) Each local educational agency shall maintain in its records and provide to the State educational agency the number of children evaluated under this subparagraph, the number of children determined to be children with disabilities under this paragraph, and the number of children served under this paragraph.*

*"(ii) CHILD FIND REQUIREMENT.—*

*"(I) IN GENERAL.—The requirements of paragraph (3) (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including religious, elementary schools and secondary schools.*

*"(II) EQUITABLE PARTICIPATION.—The child find process shall be designed to ensure the equitable participation of parentally placed private school children with disabilities and an accurate count of such children.*

*"(III) ACTIVITIES.—In carrying out this clause, the local educational agency, or where applicable, the State educational agency, shall undertake activities similar to those activities undertaken for the agency's public school children.*

*"(IV) COST.—The cost of carrying out this clause, including individual evaluations, may not be considered in determining whether a local educational agency has met its obligations under clause (i).*

*"(V) COMPLETION PERIOD.—Such child find process shall be completed in a time period comparable to that for other students attending public schools in the local educational agency.*

*"(iii) CONSULTATION.—To ensure timely and meaningful consultation, a local educational agency, or where appropriate, a State educational agency, shall consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children, including regarding—*

*"(I) the child find process and how parentally placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;*

*"(II) the determination of the proportionate amount of Federal funds available to serve parentally placed private school children with disabilities under this subparagraph, including the determination of how the amount was calculated;*

*"(III) the consultation process among the local educational agency, private school officials, and representatives of parents of parentally placed private school children with disabilities, including how such process will operate throughout the school year to ensure that parentally placed private school children with disabilities identified through the child find process can meaningfully participate in special education and related services;*

*"(IV) how, where, and by whom special education and related services will be provided for parentally placed private school children with disabilities, including a discussion of types of services, including direct services and alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and*

*"(V) how, if the local educational agency disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a*

*contract, the local educational agency shall provide to the private school officials a written explanation of the reasons why the local educational agency chose not to provide services directly or through a contract.*

*"(iv) WRITTEN AFFIRMATION.—When timely and meaningful consultation as required by clause (iii) has occurred, the local educational agency shall obtain a written affirmation signed by the representatives of participating private schools, and if such representatives do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation of the consultation process to the State educational agency.*

*"(v) COMPLIANCE.—*

*"(I) IN GENERAL.—A private school official shall have the right to submit a complaint to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.*

*"(II) PROCEDURE.—If the private school official wishes to submit a complaint, the official shall provide the basis of the noncompliance with this subparagraph by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency. If the private school official is dissatisfied with the decision of the State educational agency, such official may submit a complaint to the Secretary by providing the basis of the noncompliance with this subparagraph by the local educational agency to the Secretary, and the State educational agency shall forward the appropriate documentation to the Secretary.*

*"(vi) PROVISION OF EQUITABLE SERVICES.—*

*"(I) DIRECTLY OR THROUGH CONTRACTS.—The provision of services pursuant to this subparagraph shall be provided—*

*"(aa) by employees of a public agency; or*

*"(bb) through contract by the public agency with an individual, association, agency, organization, or other entity.*

*"(II) SECULAR, NEUTRAL, NONIDEOLOGICAL.—Special education and related services provided to parentally placed private school children with disabilities, including materials and equipment, shall be secular, neutral, and nonideological.*

*"(vii) PUBLIC CONTROL OF FUNDS.—The control of funds used to provide special education and related services under this subparagraph, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer the funds and property.*

*"(B) CHILDREN PLACED IN, OR REFERRED TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES.—*

*"(i) IN GENERAL.—Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State.*

*"(ii) STANDARDS.—In all cases described in clause (i), the State educational agency shall determine whether such schools and facilities meet standards that apply to State educational agencies and local educational agencies and that children so served have all the rights the children would have if served by such agencies.*

*"(C) PAYMENT FOR EDUCATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS WITHOUT CONSENT OF OR REFERRAL BY THE PUBLIC AGENCY.—*

*"(i) IN GENERAL.—Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.*

*"(ii) REIMBURSEMENT FOR PRIVATE SCHOOL PLACEMENT.—If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary school or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment.*

*"(iii) LIMITATION ON REIMBURSEMENT.—The cost of reimbursement described in clause (ii) may be reduced or denied—*

*"(I) if—*

*"(aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or*

*"(bb) 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in item (aa);*

*"(II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section 615(b)(3), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or*

*"(III) upon a judicial finding of unreasonableness with respect to actions taken by the parents.*

*"(iv) EXCEPTION.—Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement—*

*"(I) shall not be reduced or denied for failure to provide such notice if—*

*"(aa) the school prevented the parent from providing such notice;*

*"(bb) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii)(I); or*

*"(cc) compliance with clause (iii)(I) would likely result in physical harm to the child; and*

*"(II) may, in the discretion of a court or a hearing officer, not be reduced or denied for failure to provide such notice if—*

*"(aa) the parent is illiterate or cannot write in English; or*

*"(bb) compliance with clause (iii)(I) would likely result in serious emotional harm to the child.*

*"(11) STATE EDUCATIONAL AGENCY RESPONSIBLE FOR GENERAL SUPERVISION.—*

*"(A) IN GENERAL.—The State educational agency is responsible for ensuring that—*

*"(i) the requirements of this part are met;*

*"(ii) all educational programs for children with disabilities in the State, including all such programs administered by any other State agency or local agency—*

*"(I) are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities; and*

*"(II) meet the educational standards of the State educational agency; and*

*"(iii) in carrying out this part with respect to homeless children, the requirements of subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.) are met.*

*"(B) LIMITATION.—Subparagraph (A) shall not limit the responsibility of agencies in the State other than the State educational agency to provide, or pay for some or all of the costs of, a free appropriate public education for any child with a disability in the State.*

*"(C) EXCEPTION.—Notwithstanding subparagraphs (A) and (B), the Governor (or another individual pursuant to State law), consistent with State law, may assign to any public agency in the State the responsibility of ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons.*

*"(12) OBLIGATIONS RELATED TO AND METHODS OF ENSURING SERVICES.—*

*"(A) ESTABLISHING RESPONSIBILITY FOR SERVICES.—The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (B) and the State educational agency, in order to ensure that all services described in subparagraph (B)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall include the following:*

*"(i) AGENCY FINANCIAL RESPONSIBILITY.—An identification of, or a method for defining, the financial responsibility of each agency for providing services described in subparagraph (B)(i) to ensure a free appropriate public education to children with disabilities, provided that the financial responsibility of each public agency described in subparagraph (B), including the State medicaid agency and other public insurers of children with disabilities, shall precede the financial responsibility of the local educational agency (or the State agency responsible for developing the child's IEP).*

*"(ii) CONDITIONS AND TERMS OF REIMBURSEMENT.—The conditions, terms, and procedures under which a local educational agency shall be reimbursed by other agencies.*

*"(iii) INTERAGENCY DISPUTES.—Procedures for resolving interagency disputes (including procedures under which local educational agencies may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism.*

*"(iv) COORDINATION OF SERVICES PROCEDURES.—Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in subparagraph (B)(i).*

*"(B) OBLIGATION OF PUBLIC AGENCY.—*

*"(i) IN GENERAL.—If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy pursuant to subparagraph (A), to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in section 602(1) relating to assistive technology devices, 602(2) relating to assistive technology services, 602(26) relating to related services, 602(33) relating to supplementary aids and services, and 602(34) relating to transition services) that are necessary for ensuring a free appropriate public education to*

*children with disabilities within the State, such public agency shall fulfill that obligation or responsibility, either directly or through contract or other arrangement pursuant to subparagraph (A) or an agreement pursuant to subparagraph (C).*

*"(ii) REIMBURSEMENT FOR SERVICES BY PUBLIC AGENCY.—If a public agency other than an educational agency fails to provide or pay for the special education and related services described in clause (i), the local educational agency (or State agency responsible for developing the child's IEP) shall provide or pay for such services to the child. Such local educational agency or State agency is authorized to claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse the local educational agency or State agency pursuant to the terms of the interagency agreement or other mechanism described in subparagraph (A)(i) according to the procedures established in such agreement pursuant to subparagraph (A)(ii).*

*"(C) SPECIAL RULE.—The requirements of subparagraph (A) may be met through—*

*"(i) State statute or regulation;*

*"(ii) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or*

*"(iii) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer and approved by the Secretary.*

*"(13) PROCEDURAL REQUIREMENTS RELATING TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing.*

*"(14) PERSONNEL QUALIFICATIONS.—*

*"(A) IN GENERAL.—The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.*

*"(B) RELATED SERVICES PERSONNEL AND PARAPROFESSIONALS.—The qualifications under subparagraph (A) include qualifications for related services personnel and paraprofessionals that—*

*"(i) are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;*

*"(ii) ensure that related services personnel who deliver services in their discipline or profession meet the requirements of clause (i) and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and*

*"(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services under this part to children with disabilities.*

*"(C) POLICY.—In implementing this section, a State shall adopt a policy that includes a requirement that local educational agencies in the State take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services under this part to children with disabilities.*

*"(D) RULE OF CONSTRUCTION.—Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this paragraph shall be construed to create a right of action on behalf of an individual student for the failure of a particular State educational agency or local educational agency staff person to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications with the State educational agency as provided for under this part.*

*"(15) PERFORMANCE GOALS AND INDICATORS.—The State—*

*"(A) has established goals for the performance of children with disabilities in the State that—*

*"(i) promote the purposes of this title, as stated in section 601(d);*

*"(ii) are the same as the State's definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965;*

*"(iii) address graduation rates and dropout rates, as well as such other factors as the State may determine; and*

*"(iv) are consistent, to the extent appropriate, with any other goals and standards for children established by the State;*

*"(B) has established performance indicators the State will use to assess progress toward achieving the goals described in subparagraph (A), including measurable annual objectives for progress by children with disabilities under section 1111(b)(2)(C)(v)(II)(cc) of the Elementary and Secondary Education Act of 1965; and*

*"(C) will annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A), which may include elements of the reports required under section 1111(h) of the Elementary and Secondary Education Act of 1965.*

*"(16) PARTICIPATION IN ASSESSMENTS.—*

*"(A) IN GENERAL.—All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs.*

*"(B) ACCOMMODATION GUIDELINES.—The State (or, in the case of a districtwide assessment, the local educational agency) has developed guidelines for the provision of appropriate accommodations.*

*"(C) ALTERNATE ASSESSMENTS.—*

*"(i) IN GENERAL.—The State (or, in the case of a districtwide assessment, the local educational agency) has developed and implemented guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments under subparagraph (A) with accommodations as indicated in their respective individualized education programs.*

*"(ii) REQUIREMENTS FOR ALTERNATE ASSESSMENTS.—The guidelines under clause (i) shall provide for alternate assessments that—*

*"(I) are aligned with the State's challenging academic content standards and challenging student academic achievement standards; and*

*"(II) if the State has adopted alternate academic achievement standards permitted under the regulations promulgated to carry out section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, measure the achievement of children with disabilities against those standards.*

*"(iii) CONDUCT OF ALTERNATE ASSESSMENTS.—The State conducts the alternate assessments described in this subparagraph.*

*"(D) REPORTS.—The State educational agency (or, in the case of a districtwide assessment, the local educational agency) makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:*

*"(i) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments.*

*"(ii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(I).*

*"(iii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(II).*

*"(iv) The performance of children with disabilities on regular assessments and on alternate assessments (if the number of children with disabilities participating in those assessments is sufficient to yield statistically reliable information and reporting that information will not reveal personally identifiable information about an individual student), compared with the achievement of all children, including children with disabilities, on those assessments.*

*"(E) UNIVERSAL DESIGN.—The State educational agency (or, in the case of a districtwide assessment, the local educational agency) shall, to the extent feasible, use universal design principles in developing and administering any assessments under this paragraph.*

*"(17) SUPPLEMENTATION OF STATE, LOCAL, AND OTHER FEDERAL FUNDS.—*

*"(A) EXPENDITURES.—Funds paid to a State under this part will be expended in accordance with all the provisions of this part.*

*"(B) PROHIBITION AGAINST COMMINGLING.—Funds paid to a State under this part will not be commingled with State funds.*

*"(C) PROHIBITION AGAINST SUPPLANTATION AND CONDITIONS FOR WAIVER BY SECRETARY.—Except as provided in section 613, funds paid to a State under this part will be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this part and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive, in whole or in part, the requirements of this subparagraph if the Secretary concurs with the evidence provided by the State.*

*"(18) MAINTENANCE OF STATE FINANCIAL SUPPORT.—*

*"(A) IN GENERAL.—The State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.*

*"(B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN SUPPORT.—The Secretary shall reduce the allocation of funds under section 611 for any fiscal year following the fiscal year in which the State fails to comply with the requirement of subparagraph (A) by the same amount by which the State fails to meet the requirement.*

*"(C) WAIVERS FOR EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.—The Secretary may waive the requirement of subparagraph (A) for a State, for 1 fiscal year at a time, if the Secretary determines that—*

*"(i) granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or*

*"(ii) the State meets the standard in paragraph (17)(C) for a waiver of the requirement to supplement, and not to supplant, funds received under this part.*

*"(D) SUBSEQUENT YEARS.—If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State is granted a waiver under subparagraph (C), the financial support required of the State in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.*

*"(19) PUBLIC PARTICIPATION.—Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.*

*"(20) RULE OF CONSTRUCTION.—In complying with paragraphs (17) and (18), a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation.*

*"(21) STATE ADVISORY PANEL.—*

*"(A) IN GENERAL.—The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.*

*"(B) MEMBERSHIP.—Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, be representative of the State population, and be composed of individuals involved in, or concerned with, the education of children with disabilities, including—*

*"(i) parents of children with disabilities (ages birth through 26);*

*"(ii) individuals with disabilities;*

*"(iii) teachers;*

*"(iv) representatives of institutions of higher education that prepare special education and related services personnel;*

*"(v) State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.);*

*"(vi) administrators of programs for children with disabilities;*

*"(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;*

*"(viii) representatives of private schools and public charter schools;*

*"(ix) not less than 1 representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities;*

*"(x) a representative from the State child welfare agency responsible for foster care; and*

*"(xi) representatives from the State juvenile and adult corrections agencies.*

*"(C) SPECIAL RULE.—A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities (ages birth through 26).*

*"(D) DUTIES.—The advisory panel shall—*

*"(i) advise the State educational agency of unmet needs within the State in the education of children with disabilities;*

*"(ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;*

*"(iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618;*

*"(iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and*

*"(v) advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.*

*"(22) SUSPENSION AND EXPULSION RATES.—*

*"(A) IN GENERAL.—The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities—*

*"(i) among local educational agencies in the State; or*

*"(ii) compared to such rates for nondisabled children within such agencies.*

*"(B) REVIEW AND REVISION OF POLICIES.—If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this title.*

*"(23) ACCESS TO INSTRUCTIONAL MATERIALS.—*

*"(A) IN GENERAL.—The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility Standard in the Federal Register.*

*"(B) RIGHTS OF STATE EDUCATIONAL AGENCY.—Nothing in this paragraph shall be construed to require any State educational agency to coordinate with the National Instructional Materials Access Center. If a State educational agency chooses not to coordinate with the National Instructional Materials Access Center, such agency shall provide an assurance to the Secretary that the agency will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.*

*"(C) PREPARATION AND DELIVERY OF FILES.—If a State educational agency chooses to coordinate with the National Instructional Materials Access Center, not later than 2 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, the agency, as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, shall enter into a written contract with the publisher of the print instructional materials to—*

*"(i) require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or*

*"(ii) purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats.*

*"(D) ASSISTIVE TECHNOLOGY.—In carrying out this paragraph, the State educational agency, to the maximum extent possible, shall work collaboratively with the State agency responsible for assistive technology programs.*

*"(E) DEFINITIONS.—In this paragraph:*

*"(i) NATIONAL INSTRUCTIONAL MATERIALS ACCESS CENTER.—The term 'National Instructional Materials Access Center' means the center established pursuant to section 674(e).*

*"(ii) NATIONAL INSTRUCTIONAL MATERIALS ACCESSIBILITY STANDARD.—The term 'National Instructional Materials Accessibility Standard' has the meaning given the term in section 674(e)(3)(A).*

*"(iii) SPECIALIZED FORMATS.—The term 'specialized formats' has the meaning given the term in section 674(e)(3)(D).*

*"(24) OVERIDENTIFICATION AND DISPROPORTIONALITY.—The State has in effect, consistent with the purposes of this title and with section 618(d), policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in section 602.*

*"(25) PROHIBITION ON MANDATORY MEDICATION.—*

*"(A) IN GENERAL.—The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation under subsection (a) or (c) of section 614, or receiving services under this title.*

*"(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under paragraph (3).*

*"(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT SERVICES.—If the State educational agency provides free appropriate public education to children with disabilities, or provides direct services to such children, such agency—*

*"(1) shall comply with any additional requirements of section 613(a), as if such agency were a local educational agency; and*

*"(2) may use amounts that are otherwise available to such agency under this part to serve those children without regard to section 613(a)(2)(A)(i) (relating to excess costs).*

*"(c) EXCEPTION FOR PRIOR STATE PLANS.—*

*"(1) IN GENERAL.—If a State has on file with the Secretary policies and procedures that demonstrate that such State meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the Secretary shall consider such State to have met such requirement for purposes of receiving a grant under this part.*

*"(2) MODIFICATIONS MADE BY STATE.—Subject to paragraph (3), an application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification to an application to the same extent and in the same manner as this section applies to the original plan.*

*"(3) MODIFICATIONS REQUIRED BY THE SECRETARY.—If, after the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the provisions of this title are amended (or the regulations developed to carry out this title are amended), there is a new interpretation of this title by a Federal court or a State's highest court, or there is an official finding of noncompliance with Federal law or regulations, then the Secretary may require a State to modify its application only to the extent necessary to ensure the State's compliance with this part.*

*"(d) APPROVAL BY THE SECRETARY.—*

*"(1) IN GENERAL.—If the Secretary determines that a State is eligible to receive a grant under this part, the Secretary shall notify the State of that determination.*

*"(2) NOTICE AND HEARING.—The Secretary shall not make a final determination that a State is not eligible to receive a grant under this part until after providing the State—*

*"(A) with reasonable notice; and*

*"(B) with an opportunity for a hearing.*

*"(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Nothing in this title permits a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for children with disabilities in the State.*

*"(f) BY-PASS FOR CHILDREN IN PRIVATE SCHOOLS.—*

*"(1) IN GENERAL.—If, on the date of enactment of the Education of the Handicapped Act Amendments of 1983, a State educational agency was prohibited by law from providing for the equitable participation in special programs of children with disabilities enrolled in private elementary schools and secondary schools as required by subsection (a)(10)(A), or if the Secretary determines that a State educational agency, local educational agency, or other entity has substantially failed or is unwilling to provide for such equitable participation, then the Secretary shall, notwithstanding such provision of law, arrange for the provision of services to such children through arrangements that shall be subject to the requirements of such subsection.*

*"(2) PAYMENTS.—*

*"(A) DETERMINATION OF AMOUNTS.—If the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services for a fiscal year an amount per child that does not exceed the amount determined by dividing—*

*"(i) the total amount received by the State under this part for such fiscal year; by*

*"(ii) the number of children with disabilities served in the prior year, as reported to the Secretary by the State under section 618.*

*"(B) WITHHOLDING OF CERTAIN AMOUNTS.—Pending final resolution of any investigation or complaint that may result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State educational agency the amount the Secretary estimates will be necessary to pay the cost of services described in subparagraph (A).*

*"(C) PERIOD OF PAYMENTS.—The period under which payments are made under subparagraph (A) shall continue until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(10)(A).*

*"(3) NOTICE AND HEARING.—*

*"(A) IN GENERAL.—The Secretary shall not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why such action should not be taken.*

*"(B) REVIEW OF ACTION.—If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the Secretary's action, as provided in section 2112 of title 28, United States Code.*

*"(C) REVIEW OF FINDINGS OF FACT.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.*

*"(D) JURISDICTION OF COURT OF APPEALS; REVIEW BY UNITED STATES SUPREME COURT.—Upon the filing of a petition under subparagraph (B), the United States court of appeals shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.*

### "SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

*"(a) IN GENERAL.—A local educational agency is eligible for assistance under this part for a fiscal year if such agency submits a plan that provides assurances to the State educational agency that the local educational agency meets each of the following conditions:*

*"(1) CONSISTENCY WITH STATE POLICIES.—The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 612.*

*"(2) USE OF AMOUNTS.—*

*"(A) IN GENERAL.—Amounts provided to the local educational agency under this part shall be expended in accordance with the applicable provisions of this part and—*

*"(i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities;*

*"(ii) shall be used to supplement State, local, and other Federal funds and not to supplant such funds; and*

*"(iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.*

*"(B) EXCEPTION.—Notwithstanding the restriction in subparagraph (A)(iii), a local educational agency may reduce the level of expenditures where such reduction is attributable to—*

*"(i) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel;*

*"(ii) a decrease in the enrollment of children with disabilities;*

*"(iii) the termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the State educational agency, because the child—*

*"(I) has left the jurisdiction of the agency;*

*"(II) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or*

*"(III) no longer needs such program of special education; or*

*"(iv) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.*

*"(C) ADJUSTMENT TO LOCAL FISCAL EFFORT IN CERTAIN FISCAL YEARS.—*

*"(i) AMOUNTS IN EXCESS.—Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which the allocation received by a local educational agency under section 611(f) exceeds the amount the local educational agency received for the previous fiscal year, the local educational agency may reduce the level of expenditures otherwise required by subparagraph (A)(iii) by not more than 50 percent of the amount of such excess.*

*"(ii) USE OF AMOUNTS TO CARRY OUT ACTIVITIES UNDER ESEA.—If a local educational agency exercises the authority under clause (i), the agency shall use an amount of local funds equal to the reduction in expenditures under clause (i) to carry out activities authorized under the Elementary and Secondary Education Act of 1965.*

*"(iii) STATE PROHIBITION.—Notwithstanding clause (i), if a State educational agency determines that a local educational agency is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a) or the State educational agency has taken action against the local educational agency under section 616, the State educational agency shall prohibit the local educational agency from reducing the level of expenditures under clause (i) for that fiscal year.*

*"(iv) SPECIAL RULE.—The amount of funds expended by a local educational agency under subsection (f) shall count toward the maximum amount of expenditures such local educational agency may reduce under clause (i).*

*"(D) SCHOOLWIDE PROGRAMS UNDER TITLE I OF THE ESEA.—Notwithstanding subparagraph (A) or any other provision of this part, a local educational agency may use funds received under this part for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965, except that the amount so used in any such program shall not exceed—*

*"(i) the number of children with disabilities participating in the schoolwide program; multiplied by*

*"(ii)(I) the amount received by the local educational agency under this part for that fiscal year; divided by*

*"(II) the number of children with disabilities in the jurisdiction of that agency.*

*"(3) PERSONNEL DEVELOPMENT.—The local educational agency shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, subject to the requirements of section 612(a)(14) and section 2122 of the Elementary and Secondary Education Act of 1965.*

*"(4) PERMISSIVE USE OF FUNDS.—*

*"(A) USES.—Notwithstanding paragraph (2)(A) or section 612(a)(17)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities:*

*"(i) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN.—For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if 1 or more nondisabled children benefit from such services.*

*"(ii) EARLY INTERVENING SERVICES.—To develop and implement coordinated, early intervening educational services in accordance with subsection (f).*

*"(iii) HIGH COST EDUCATION AND RELATED SERVICES.—To establish and implement cost or risk sharing funds, consortia, or cooperatives for the local educational agency itself, or for local educational agencies working in a consortium of which the local educational agency is a part, to pay for high cost special education and related services.*

*"(B) ADMINISTRATIVE CASE MANAGEMENT.—A local educational agency may use funds received under this part to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the individualized education program of children with disabilities,*

that is needed for the implementation of such case management activities.

"(5) TREATMENT OF CHARTER SCHOOLS AND THEIR STUDENTS.—In carrying out this part with respect to charter schools that are public schools of the local educational agency, the local educational agency—

"(A) serves children with disabilities attending those charter schools in the same manner as the local educational agency serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the local educational agency has a policy or practice of providing such services on the site to its other public schools; and

"(B) provides funds under this part to those charter schools—

"(i) on the same basis as the local educational agency provides funds to the local educational agency's other public schools, including proportional distribution based on relative enrollment of children with disabilities; and

"(ii) at the same time as the agency distributes other Federal funds to the agency's other public schools, consistent with the State's charter school law.

"(6) PURCHASE OF INSTRUCTIONAL MATERIALS.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, a local educational agency that chooses to coordinate with the National Instructional Materials Access Center, when purchasing print instructional materials, shall acquire the print instructional materials in the same manner and subject to the same conditions as a State educational agency acquires print instructional materials under section 612(a)(23).

"(B) RIGHTS OF LOCAL EDUCATIONAL AGENCY.—Nothing in this paragraph shall be construed to require a local educational agency to coordinate with the National Instructional Materials Access Center. If a local educational agency chooses not to coordinate with the National Instructional Materials Access Center, the local educational agency shall provide an assurance to the State educational agency that the local educational agency will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

"(7) INFORMATION FOR STATE EDUCATIONAL AGENCY.—The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (15) and (16) of section 612(a), information relating to the performance of children with disabilities participating in programs carried out under this part.

"(8) PUBLIC INFORMATION.—The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part.

"(9) RECORDS REGARDING MIGRATORY CHILDREN WITH DISABILITIES.—The local educational agency shall cooperate in the Secretary's efforts under section 1308 of the Elementary and Secondary Education Act of 1965 to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging, among the States, health and educational information regarding such children.

"(b) EXCEPTION FOR PRIOR LOCAL PLANS.—

"(1) IN GENERAL.—If a local educational agency or State agency has on file with the State educational agency policies and procedures that demonstrate that such local educational agency, or such State agency, as the case may be, meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the State educational agency shall consider such local educational agency or State agency, as the case may be, to have met such requirement for purposes of receiving assistance under this part.

"(2) MODIFICATION MADE BY LOCAL EDUCATIONAL AGENCY.—Subject to paragraph (3), an application submitted by a local educational agency in accordance with this section shall remain in effect until the local educational agency submits to the State educational agency such modifications as the local educational agency determines necessary.

"(3) MODIFICATIONS REQUIRED BY STATE EDUCATIONAL AGENCY.—If, after the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the provisions of this title are amended (or the regulations developed to carry out this title are amended), there is a new interpretation of this title by Federal or State courts, or there is an official finding of noncompliance with Federal or State law or regulations, then the State educational agency may require a local educational agency to modify its application only to the extent necessary to ensure the local educational agency's compliance with this part or State law.

"(c) NOTIFICATION OF LOCAL EDUCATIONAL AGENCY OR STATE AGENCY IN CASE OF INELIGIBILITY.—If the State educational agency determines that a local educational agency or State agency is not eligible under this section, then the State educational agency shall notify the local educational agency or State agency, as the case may be, of that determination and shall provide such local educational agency or State agency with reasonable notice and an opportunity for a hearing.

"(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.—

"(1) IN GENERAL.—If the State educational agency, after reasonable notice and an opportunity for a hearing, finds that a local educational agency or State agency that has been determined to be eligible under this section is failing to comply with any requirement described in subsection (a), the State educational agency shall reduce or shall not provide any further payments to the local educational agency or State agency until the State educational agency is satisfied that the local educational agency or State agency, as the case may be, is complying with that requirement.

"(2) ADDITIONAL REQUIREMENT.—Any State agency or local educational agency in receipt of a notice described in paragraph (1) shall, by means of public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

"(3) CONSIDERATION.—In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 615 that is adverse to the local educational agency or State agency involved in that decision.

"(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

"(1) JOINT ESTABLISHMENT.—

"(A) IN GENERAL.—A State educational agency may require a local educational agency to establish its eligibility jointly with another local educational agency if the State educational agency determines that the local educational agency will be ineligible under this section because the local educational agency will not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.

"(B) CHARTER SCHOOL EXCEPTION.—A State educational agency may not require a charter school that is a local educational agency to jointly establish its eligibility under subparagraph (A) unless the charter school is explicitly permitted to do so under the State's charter school law.

"(2) AMOUNT OF PAYMENTS.—If a State educational agency requires the joint establishment of eligibility under paragraph (1), the total amount of funds made available to the affected local educational agencies shall be equal to the sum of the payments that each such local educational agency would have received under section 611(f) if such agencies were eligible for such payments.

"(3) REQUIREMENTS.—Local educational agencies that establish joint eligibility under this subsection shall—

"(A) adopt policies and procedures that are consistent with the State's policies and procedures under section 612(a); and

"(B) be jointly responsible for implementing programs that receive assistance under this part.

"(4) REQUIREMENTS FOR EDUCATIONAL SERVICE AGENCIES.—

"(A) IN GENERAL.—If an educational service agency is required by State law to carry out programs under this part, the joint responsibilities given to local educational agencies under this subsection shall—

"(i) not apply to the administration and disbursement of any payments received by that educational service agency; and

"(ii) be carried out only by that educational service agency.

"(B) ADDITIONAL REQUIREMENT.—Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 612(a)(5).

"(f) EARLY INTERVENING SERVICES.—

"(1) IN GENERAL.—A local educational agency may not use more than 15 percent of the amount such agency receives under this part for any fiscal year, less any amount reduced by the agency pursuant to subsection (a)(2)(C), if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.

"(2) ACTIVITIES.—In implementing coordinated, early intervening services under this subsection, a local educational agency may carry out activities that include—

"(A) professional development (which may be provided by entities other than local educational agencies) for teachers and other school stuff to enable such personnel to deliver scientifically based academic instruction and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and

"(B) providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to limit or create a right to a free appropriate public education under this part.

"(4) REPORTING.—Each local educational agency that develops and maintains coordinated, early intervening services under this subsection shall annually report to the State educational agency on—

*"(A) the number of students served under this subsection; and*

*"(B) the number of students served under this subsection who subsequently receive special education and related services under this title during the preceding 2-year period.*

*"(5) COORDINATION WITH ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Funds made available to carry out this subsection may be used to carry out coordinated, early intervening services aligned with activities funded by, and carried out under, the Elementary and Secondary Education Act of 1965 if such funds are used to supplement, and not supplant, funds made available under the Elementary and Secondary Education Act of 1965 for the activities and services assisted under this subsection.*

*"(g) DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY.—*

*"(1) IN GENERAL.—A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that local educational agency, or for whom that State agency is responsible, if the State educational agency determines that the local educational agency or State agency, as the case may be—*

*"(A) has not provided the information needed to establish the eligibility of such local educational agency or State agency under this section;*

*"(B) is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a);*

*"(C) is unable or unwilling to be consolidated with 1 or more local educational agencies in order to establish and maintain such programs; or*

*"(D) has 1 or more children with disabilities who can best be served by a regional or State program or service delivery system designed to meet the needs of such children.*

*"(2) MANNER AND LOCATION OF EDUCATION AND SERVICES.—The State educational agency may provide special education and related services under paragraph (1) in such manner and at such locations (including regional or State centers) as the State educational agency considers appropriate. Such education and services shall be provided in accordance with this part.*

*"(h) STATE AGENCY ELIGIBILITY.—Any State agency that desires to receive a subgrant for any fiscal year under section 611(f) shall demonstrate to the satisfaction of the State educational agency that—*

*"(1) all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that those children and their parents are provided all the rights and procedural safeguards described in this part; and*

*"(2) the agency meets such other conditions of this section as the Secretary determines to be appropriate.*

*"(i) DISCIPLINARY INFORMATION.—The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from 1 school to another, the transmission of any of the child's records shall include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.*

*"(j) STATE AGENCY FLEXIBILITY.—*

*"(1) ADJUSTMENT TO STATE FISCAL EFFORT IN CERTAIN FISCAL YEARS.—For any fiscal year for which the allotment received by a State under section 611 exceeds the amount the State received for the previous fiscal year and if the State in school year 2003–2004 or any subsequent school year pays or reimburses all local educational agencies within the State from State revenue 100 percent of the non-Federal share of the costs of special education and related services, the State educational agency, notwithstanding paragraphs (17) and (18) of section 612(a) and section 612(b), may reduce the level of expenditures from State sources for the education of children with disabilities by not more than 50 percent of the amount of such excess.*

*"(2) PROHIBITION.—Notwithstanding paragraph (1), if the Secretary determines that a State educational agency is unable to establish, maintain, or oversee programs of free appropriate public education that meet the requirements of this part, or that the State needs assistance, intervention, or substantial intervention under section 616(d)(2)(A), the Secretary shall prohibit the State educational agency from exercising the authority in paragraph (1).*

*"(3) EDUCATION ACTIVITIES.—If a State educational agency exercises the authority under paragraph (1), the agency shall use funds from State sources, in an amount equal to the amount of the reduction under paragraph (1), to support activities authorized under the Elementary and Secondary Education Act of 1965 or to support need based student or teacher higher education programs.*

*"(4) REPORT.—For each fiscal year for which a State educational agency exercises the authority under paragraph (1), the State educational agency shall report to the Secretary the amount of expenditures reduced pursuant to such paragraph and the activities that were funded pursuant to paragraph (3).*

*"(5) LIMITATION.—Notwithstanding paragraph (1), a State educational agency may not reduce the level of expenditures described in paragraph (1) if any local educational agency in the State would, as a result of such reduction, receive less than 100 percent of the amount necessary to ensure that all children with disabilities served by the local educational agency receive a free appropriate public education from the combination of Federal funds received under this title and State funds received from the State educational agency.*

**"SEC. 614. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.**

*"(a) EVALUATIONS, PARENTAL CONSENT, AND REEVALUATIONS.—*

*"(1) INITIAL EVALUATIONS.—*

*"(A) IN GENERAL.—A State educational agency, other State agency, or local educational agency shall conduct a full and individual initial evaluation in accordance with this paragraph and subsection (b), before the initial provision of special education and related services to a child with a disability under this part.*

*"(B) REQUEST FOR INITIAL EVALUATION.—Consistent with subparagraph (D), either a parent of a child, or a State educational agency, other State agency, or local educational agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.*

*"(C) PROCEDURES.—*

*"(i) IN GENERAL.—Such initial evaluation shall consist of procedures—*

*"(I) to determine whether a child is a child with a disability (as defined in section 602) within 60 days of receiving parental consent for the evaluation, or, if the State establishes a timeframe within which the evaluation must be conducted, within such timeframe; and*

*"(II) to determine the educational needs of such child.*

*"(ii) EXCEPTION.—The relevant timeframe in clause (i)(I) shall not apply to a local educational agency if—*

*"(I) a child enrolls in a school served by the local educational agency after the relevant timeframe in clause (i)(I) has begun and prior to a determination by the child's previous local educational agency as to whether the child is a child with a disability (as defined in section 602), but only if the subsequent local educational agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent local educational agency agree to a specific time when the evaluation will be completed; or*

*"(II) the parent of a child repeatedly fails or refuses to produce the child for the evaluation.*

*"(D) PARENTAL CONSENT.—*

*"(i) IN GENERAL.—*

*"(I) CONSENT FOR INITIAL EVALUATION.—The agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability as defined in section 602 shall obtain informed consent from the parent of such child before conducting the evaluation. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.*

*"(II) CONSENT FOR SERVICES.—An agency that is responsible for making a free appropriate public education available to a child with a disability under this part shall seek to obtain informed consent from the parent of such child before providing special education and related services to the child.*

*"(ii) ABSENCE OF CONSENT.—*

*"(I) FOR INITIAL EVALUATION.—If the parent of such child does not provide consent for an initial evaluation under clause (i)(I), or the parent fails to respond to a request to provide the consent, the local educational agency may pursue the initial evaluation of the child by utilizing the procedures described in section 615, except to the extent inconsistent with State law relating to such parental consent.*

*"(II) FOR SERVICES.—If the parent of such child refuses to consent to services under clause (i)(II), the local educational agency shall not provide special education and related services to the child by utilizing the procedures described in section 615.*

*"(III) EFFECT ON AGENCY OBLIGATIONS.—If the parent of such child refuses to consent to the receipt of special education and related services, or the parent fails to respond to a request to provide such consent—*

*"(aa) the local educational agency shall not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide such child with the special education and related services for which the local educational agency requests such consent; and*

*"(bb) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child for the special education and related services for which the local educational agency requests such consent.*

*"(iii) CONSENT FOR WARDS OF THE STATE.—*

*"(I) IN GENERAL.—If the child is a ward of the State and is not residing with the child's parent, the agency shall make reasonable efforts to obtain the informed consent from the parent (as defined in section 602) of the child for an initial evaluation to determine whether the child is a child with a disability.*

*"(II) EXCEPTION.—The agency shall not be required to obtain informed consent from the parent of a child for an initial evaluation to determine whether the child is a child with a disability if—*

*"(aa) despite reasonable efforts to do so, the agency cannot discover the whereabouts of the parent of the child;*

*"(bb) the rights of the parents of the child have been terminated in accordance with State law; or*

*"(cc) the rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.*

*"(E) RULE OF CONSTRUCTION.—The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.*

*"(2) REEVALUATIONS.—*

*"(A) IN GENERAL.—A local educational agency shall ensure that a reevaluation of each child with a disability is conducted in accordance with subsections (b) and (c)—*

*"(i) if the local educational agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or*

*"(ii) if the child's parents or teacher requests a reevaluation.*

*"(B) LIMITATION.—A reevaluation conducted under subparagraph (A) shall occur—*

*"(i) not more frequently than once a year, unless the parent and the local educational agency agree otherwise; and*

*"(ii) at least once every 3 years, unless the parent and the local educational agency agree that a reevaluation is unnecessary.*

*"(b) EVALUATION PROCEDURES.—*

*"(1) NOTICE.—The local educational agency shall provide notice to the parents of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 615, that describes any evaluation procedures such agency proposes to conduct.*

*"(2) CONDUCT OF EVALUATION.—In conducting the evaluation, the local educational agency shall—*

*"(A) use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining—*

*"(i) whether the child is a child with a disability; and*

*"(ii) the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general education curriculum, or, for preschool children, to participate in appropriate activities;*

*"(B) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and*

*"(C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.*

*"(3) ADDITIONAL REQUIREMENTS.—Each local educational agency shall ensure that—*

*"(A) assessments and other evaluation materials used to assess a child under this section—*

*"(i) are selected and administered so as not to be discriminatory on a racial or cultural basis;*

*"(ii) are provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer;*

*"(iii) are used for purposes for which the assessments or measures are valid and reliable;*

*"(iv) are administered by trained and knowledgeable personnel; and*

*"(v) are administered in accordance with any instructions provided by the producer of such assessments;*

*"(B) the child is assessed in all areas of suspected disability;*

*"(C) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided; and*

*"(D) assessments of children with disabilities who transfer from 1 school district to another school district in the same academic year are coordinated with such children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.*

*"(4) DETERMINATION OF ELIGIBILITY AND EDUCATIONAL NEED.—Upon completion of the administration of assessments and other evaluation measures—*

*"(A) the determination of whether the child is a child with a disability as defined in section 602(3) and the educational needs of the child shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and*

*"(B) a copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent.*

*"(5) SPECIAL RULE FOR ELIGIBILITY DETERMINATION.—In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is—*

*"(A) lack of appropriate instruction in reading, including in the essential components of reading instruction (as defined in section 1208(3) of the Elementary and Secondary Education Act of 1965);*

*"(B) lack of instruction in math; or*

*"(C) limited English proficiency.*

*"(6) SPECIFIC LEARNING DISABILITIES.—*

*"(A) IN GENERAL.—Notwithstanding section 607(b), when determining whether a child has a specific learning disability as defined in section 602, a local educational agency shall not be required to take into consideration whether a child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.*

*"(B) ADDITIONAL AUTHORITY.—In determining whether a child has a specific learning disability, a local educational agency may use a process that determines if the child responds to scientific, research-based intervention as a part of the evaluation procedures described in paragraphs (2) and (3).*

*"(c) ADDITIONAL REQUIREMENTS FOR EVALUATION AND REEVALUATIONS.—*

*"(1) REVIEW OF EXISTING EVALUATION DATA.—As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team and other qualified professionals, as appropriate, shall—*

*"(A) review existing evaluation data on the child, including—*

*"(i) evaluations and information provided by the parents of the child;*

*"(ii) current classroom-based, local, or State assessments, and classroom-based observations; and*

*"(iii) observations by teachers and related services providers; and*

*"(B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—*

*"(i) whether the child is a child with a disability as defined in section 602(3), and the educational needs of the child, or, in case of a reevaluation of a child, whether the child continues to have such a disability and such educational needs;*

*"(ii) the present levels of academic achievement and related developmental needs of the child;*

*"(iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and*

*"(iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general education curriculum.*

*"(2) SOURCE OF DATA.—The local educational agency shall administer such assessments and other evaluation measures as may be needed to produce the data identified by the IEP Team under paragraph (1)(B).*

*"(3) PARENTAL CONSENT.—Each local educational agency shall obtain informed parental consent, in accordance with subsection (a)(1)(D), prior to conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the local educational agency can demonstrate that it had taken reasonable measures to obtain such consent and the child's parent has failed to respond.*

*"(4) REQUIREMENTS IF ADDITIONAL DATA ARE NOT NEEDED.—If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the local educational agency—*

*"(A) shall notify the child's parents of—*

*"(i) that determination and the reasons for the determination; and*

*"(ii) the right of such parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs; and*

*"(B) shall not be required to conduct such an assessment unless requested to by the child's parents.*

*"(5) EVALUATIONS BEFORE CHANGE IN ELIGIBILITY.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), a local educational agency shall evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.*

*"(B) EXCEPTION.—*

*"(i) IN GENERAL.—The evaluation described in subparagraph (A) shall not be required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for a free appropriate public education under State law.*

*"(ii) SUMMARY OF PERFORMANCE.—For a child whose eligibility under this part terminates under circumstances described in clause (i), a local educational agency shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.*

*"(d) INDIVIDUALIZED EDUCATION PROGRAMS.—*

*"(1) DEFINITIONS.—In this title:*

*"(A) INDIVIDUALIZED EDUCATION PROGRAM.—*

*"(i) IN GENERAL.—The term 'individualized education program' or 'IEP' means a written*

statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes—

"(I) a statement of the child's present levels of academic achievement and functional performance, including—

"(aa) how the child's disability affects the child's involvement and progress in the general education curriculum;

"(bb) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and

"(cc) for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

"(II) a statement of measurable annual goals, including academic and functional goals, designed to—

"(aa) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

"(bb) meet each of the child's other educational needs that result from the child's disability;

"(III) a description of how the child's progress toward meeting the annual goals described in subclause (II) will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

"(IV) a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

"(aa) to advance appropriately toward attaining the annual goals;

"(bb) to be involved in and make progress in the general education curriculum in accordance with subclause (I) and to participate in extracurricular and other nonacademic activities; and

"(cc) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this subparagraph;

"(V) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in subclause (IV)(cc);

"(VI)(aa) a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16)(A); and

"(bb) if the IEP Team determines that the child shall take an alternate assessment on a particular State or districtwide assessment of student achievement, a statement of why—

"(AA) the child cannot participate in the regular assessment; and

"(BB) the particular alternate assessment selected is appropriate for the child;

"(VII) the projected date for the beginning of the services and modifications described in subclause (IV), and the anticipated frequency, location, and duration of those services and modifications; and

"(VIII) beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter—

"(aa) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills;

"(bb) the transition services (including courses of study) needed to assist the child in reaching those goals; and

"(cc) beginning not later than 1 year before the child reaches the age of majority under State law, a statement that the child has been informed of the child's rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(m).

"(ii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require—

"(I) that additional information be included in a child's IEP beyond what is explicitly required in this section; and

"(II) the IEP Team to include information under 1 component of a child's IEP that is already contained under another component of such IEP.

"(B) INDIVIDUALIZED EDUCATION PROGRAM TEAM.—The term 'individualized education program team' or 'IEP Team' means a group of individuals composed of—

"(i) the parents of a child with a disability;

"(ii) not less than 1 regular education teacher of such child (if the child is, or may be, participating in the regular education environment);

"(iii) not less than 1 special education teacher, or where appropriate, not less than 1 special education provider of such child;

"(iv) a representative of the local educational agency who—

"(I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

"(II) is knowledgeable about the general education curriculum; and

"(III) is knowledgeable about the availability of resources of the local educational agency;

"(v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi);

"(vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

"(vii) whenever appropriate, the child with a disability.

"(C) IEP TEAM ATTENDANCE.—

"(i) ATTENDANCE NOT NECESSARY.—A member of the IEP Team shall not be required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the local educational agency agree that the attendance of such member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

"(ii) EXCUSAL.—A member of the IEP Team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if—

"(I) the parent and the local educational agency consent to the excusal; and

"(II) the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

"(iii) WRITTEN AGREEMENT AND CONSENT REQUIRED.—A parent's agreement under clause (i) and consent under clause (ii) shall be in writing.

"(D) IEP TEAM TRANSITION.—In the case of a child who was previously served under part C, an invitation to the initial IEP meeting shall, at the request of the parent, be sent to the part C service coordinator or other representatives of the part C system to assist with the smooth transition of services.

"(2) REQUIREMENT THAT PROGRAM BE IN EFFECT.—

"(A) IN GENERAL.—At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in the agency's jurisdiction, an individualized education program, as defined in paragraph (1)(A).

"(B) PROGRAM FOR CHILD AGED 3 THROUGH 5.—In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2-year-old child with a disability who will turn age 3 during the school year), the IEP Team shall consider the individualized family service plan that contains the material described in section 636, and that is developed in accordance with this section, and the individualized family service plan may serve as the IEP of the child if using that plan as the IEP is—

"(i) consistent with State policy; and

"(ii) agreed to by the agency and the child's parents.

"(C) PROGRAM FOR CHILDREN WHO TRANSFER SCHOOL DISTRICTS.—

"(i) IN GENERAL.—

"(I) TRANSFER WITHIN THE SAME STATE.—In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in the same State, the local educational agency shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency adopts the previously held IEP or develops, adopts, and implements a new IEP that is consistent with Federal and State law.

"(II) TRANSFER OUTSIDE STATE.—In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in another State, the local educational agency shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency conducts an evaluation pursuant to subsection (a)(1), if determined to be necessary by such agency, and develops a new IEP, if appropriate, that is consistent with Federal and State law.

"(ii) TRANSMITTAL OF RECORDS.—To facilitate the transition for a child described in clause (i)—

"(I) the new school in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school in which the child was enrolled, pursuant to section 99.31(a)(2) of title 34, Code of Federal Regulations; and

"(II) the previous school in which the child was enrolled shall take reasonable steps to promptly respond to such request from the new school.

"(3) DEVELOPMENT OF IEP.—

"(A) IN GENERAL.—In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider—

"(i) the strengths of the child;

"(ii) the concerns of the parents for enhancing the education of their child;

"(iii) the results of the initial evaluation or most recent evaluation of the child; and

"(iv) the academic, developmental, and functional needs of the child.

"(B) CONSIDERATION OF SPECIAL FACTORS.—The IEP Team shall—

"(i) in the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;

"(ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;

"(iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

"(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

"(v) consider whether the child needs assistive technology devices and services.

"(C) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—A regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and supports, and other strategies, and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(i)(IV).

"(D) AGREEMENT.—In making changes to a child's IEP after the annual IEP meeting for a school year, the parent of a child with a disability and the local educational agency may agree not to convene an IEP meeting for the purposes of making such changes, and instead may develop a written document to amend or modify the child's current IEP.

"(E) CONSOLIDATION OF IEP TEAM MEETINGS.—To the extent possible, the local educational agency shall encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

"(F) AMENDMENTS.—Changes to the IEP may be made either by the entire IEP Team or, as provided in subparagraph (D), by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP with the amendments incorporated.

"(4) REVIEW AND REVISION OF IEP.—

"(A) IN GENERAL.—The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team—

"(i) reviews the child's IEP periodically, but not less frequently than annually, to determine whether the annual goals for the child are being achieved; and

"(ii) revises the IEP as appropriate to address—

"(I) any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;

"(II) the results of any reevaluation conducted under this section;

"(III) information about the child provided to, or by, the parents, as described in subsection (c)(1)(B);

"(IV) the child's anticipated needs; or

"(V) other matters.

"(B) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—A regular education teacher of the child, as a member of the IEP Team, shall, consistent with paragraph (1)(C), participate in the review and revision of the IEP of the child.

"(5) MULTI-YEAR IEP DEMONSTRATION.—

"(A) PILOT PROGRAM.—

"(i) PURPOSE.—The purpose of this paragraph is to provide an opportunity for States to allow parents and local educational agencies the opportunity for long-term planning by offering the option of developing a comprehensive multi-year IEP, not to exceed 3 years, that is designed to coincide with the natural transition points for the child.

"(ii) AUTHORIZATION.—In order to carry out the purpose of this paragraph, the Secretary is authorized to approve not more than 15 proposals from States to carry out the activity described in clause (i).

"(iii) PROPOSAL.—

"(I) IN GENERAL.—A State desiring to participate in the program under this paragraph shall submit a proposal to the Secretary at such time and in such manner as the Secretary may reasonably require.

"(II) CONTENT.—The proposal shall include—

"(aa) assurances that the development of a multi-year IEP under this paragraph is optional for parents;

"(bb) assurances that the parent is required to provide informed consent before a comprehensive multi-year IEP is developed;

"(cc) a list of required elements for each multi-year IEP, including—

"(AA) measurable goals pursuant to paragraph (1)(A)(i)(II), coinciding with natural transition points for the child, that will enable the child to be involved in and make progress in the general education curriculum and that will meet the child's other needs that result from the child's disability; and

"(BB) measurable annual goals for determining progress toward meeting the goals described in subitem (AA); and

"(dd) a description of the process for the review and revision of each multi-year IEP, including—

"(AA) a review by the IEP Team of the child's multi-year IEP at each of the child's natural transition points;

"(BB) in years other than a child's natural transition points, an annual review of the child's IEP to determine the child's current levels of progress and whether the annual goals for the child are being achieved, and a requirement to amend the IEP, as appropriate, to enable the child to continue to meet the measurable goals set out in the IEP;

"(CC) if the IEP Team determines on the basis of a review that the child is not making sufficient progress toward the goals described in the multi-year IEP, a requirement that the local educational agency shall ensure that the IEP Team carries out a more thorough review of the IEP in accordance with paragraph (4) within 30 calendar days; and

"(DD) at the request of the parent, a requirement that the IEP Team shall conduct a review of the child's multi-year IEP rather than or subsequent to an annual review.

"(B) REPORT.—Beginning 2 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, the Secretary shall submit an annual report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate regarding the effectiveness of the program under this paragraph and any specific recommendations for broader implementation of such program, including—

"(i) reducing—

"(I) the paperwork burden on teachers, principals, administrators, and related service providers; and

"(II) noninstructional time spent by teachers in complying with this part;

"(ii) enhancing longer-term educational planning;

"(iii) improving positive outcomes for children with disabilities;

"(iv) promoting collaboration between IEP Team members; and

"(v) ensuring satisfaction of family members.

"(C) DEFINITION.—In this paragraph, the term 'natural transition points' means those periods that are close in time to the transition of a child with a disability from preschool to elementary grades, from elementary grades to middle or junior high school grades, from middle or junior high school grades to secondary school grades, and from secondary school grades to post-secondary activities, but in no case a period longer than 3 years.

"(6) FAILURE TO MEET TRANSITION OBJECTIVES.—If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(i)(VIII), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

"(7) CHILDREN WITH DISABILITIES IN ADULT PRISONS.—

"(A) IN GENERAL.—The following requirements shall not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

"(i) The requirements contained in section 612(a)(16) and paragraph (1)(A)(i)(VI) (relating to participation of children with disabilities in general assessments).

"(ii) The requirements of items (aa) and (bb) of paragraph (1)(A)(i)(VIII) (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this part will end, because of such children's age, before such children will be released from prison.

"(B) ADDITIONAL REQUIREMENT.—If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections 612(a)(5)(A) and paragraph (1)(A) if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

"(e) EDUCATIONAL PLACEMENTS.—Each local educational agency or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

"(f) ALTERNATIVE MEANS OF MEETING PARTICIPATION.—When conducting IEP team meetings and placement meetings pursuant to this section, section 615(e), and section 615(f)(1)(B), and carrying out administrative matters under section 615 (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a local educational agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.

**"SEC. 615. PROCEDURAL SAFEGUARDS.**

"(a) ESTABLISHMENT OF PROCEDURES.—Any State educational agency, State agency, or local educational agency that receives assistance under this part shall establish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education by such agencies.

"(b) TYPES OF PROCEDURES.—The procedures required by this section shall include the following:

"(1) An opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child.

*"(2)(A) Procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual to act as a surrogate for the parents, which surrogate shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child. In the case of—*

*"(i) a child who is a ward of the State, such surrogate may alternatively be appointed by the judge overseeing the child's care provided that the surrogate meets the requirements of this paragraph; and*

*"(ii) an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)), the local educational agency shall appoint a surrogate in accordance with this paragraph.*

*"(B) The State shall make reasonable efforts to ensure the assignment of a surrogate not more than 30 days after there is a determination by the agency that the child needs a surrogate.*

*"(3) Written prior notice to the parents of the child, in accordance with subsection (c)(1), whenever the local educational agency—*

*"(A) proposes to initiate or change; or*

*"(B) refuses to initiate or change,*

*the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child.*

*"(4) Procedures designed to ensure that the notice required by paragraph (3) is in the native language of the parents, unless it clearly is not feasible to do so.*

*"(5) An opportunity for mediation, in accordance with subsection (e).*

*"(6) An opportunity for any party to present a complaint—*

*"(A) with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child; and*

*"(B) which sets forth an alleged violation that occurred not more than 2 years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the complaint, or, if the State has an explicit time limitation for presenting such a complaint under this part, in such time as the State law allows, except that the exceptions to the timeline described in subsection (f)(3)(D) shall apply to the timeline described in this subparagraph.*

*"(7)(A) Procedures that require either party, or the attorney representing a party, to provide due process complaint notice in accordance with subsection (c)(2) (which shall remain confidential)—*

*"(i) to the other party, in the complaint filed under paragraph (6), and forward a copy of such notice to the State educational agency; and*

*"(ii) that shall include—*

*"(I) the name of the child, the address of the residence of the child (or available contact information in the case of a homeless child), and the name of the school the child is attending;*

*"(II) in the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child and the name of the school the child is attending;*

*"(III) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and*

*"(IV) a proposed resolution of the problem to the extent known and available to the party at the time.*

*"(B) A requirement that a party may not have a due process hearing until the party, or the attorney representing the party, files a notice that meets the requirements of subparagraph (A)(ii).*

*"(8) Procedures that require the State educational agency to develop a model form to assist parents in filing a complaint and due process complaint notice in accordance with paragraphs (6) and (7), respectively.*

*"(c) NOTIFICATION REQUIREMENTS.—*

*"(1) CONTENT OF PRIOR WRITTEN NOTICE.—The notice required by subsection (b)(3) shall include—*

*"(A) a description of the action proposed or refused by the agency;*

*"(B) an explanation of why the agency proposes or refuses to take the action and a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;*

*"(C) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;*

*"(D) sources for parents to contact to obtain assistance in understanding the provisions of this part;*

*"(E) a description of other options considered by the IEP Team and the reason why those options were rejected; and*

*"(F) a description of the factors that are relevant to the agency's proposal or refusal.*

*"(2) DUE PROCESS COMPLAINT NOTICE.—*

*"(A) COMPLAINT.—The due process complaint notice required under subsection (b)(7)(A) shall be deemed to be sufficient unless the party receiving the notice notifies the hearing officer and the other party in writing that the receiving party believes the notice has not met the requirements of subsection (b)(7)(A).*

*"(B) RESPONSE TO COMPLAINT.—*

*"(i) LOCAL EDUCATIONAL AGENCY RESPONSE.—*

*"(I) IN GENERAL.—If the local educational agency has not sent a prior written notice to the parent regarding the subject matter contained in the parent's due process complaint notice, such local educational agency shall, within 10 days of receiving the complaint, send to the parent a response that shall include—*

*"(aa) an explanation of why the agency proposed or refused to take the action raised in the complaint;*

*"(bb) a description of other options that the IEP Team considered and the reasons why those options were rejected;*

*"(cc) a description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and*

*"(dd) a description of the factors that are relevant to the agency's proposal or refusal.*

*"(II) SUFFICIENCY.— A response filed by a local educational agency pursuant to subclause (I) shall not be construed to preclude such local educational agency from asserting that the parent's due process complaint notice was insufficient where appropriate.*

*"(ii) OTHER PARTY RESPONSE.—Except as provided in clause (i), the non-complaining party shall, within 10 days of receiving the complaint, send to the complaint a response that specifically addresses the issues raised in the complaint.*

*"(C) TIMING.—The party providing a hearing officer notification under subparagraph (A) shall provide the notification within 15 days of receiving the complaint.*

*"(D) DETERMINATION.—Within 5 days of receipt of the notification provided under subparagraph (C), the hearing officer shall make a determination on the face of the notice of whether the notification meets the requirements of subsection (b)(7)(A), and shall immediately notify the parties in writing of such determination.*

*"(E) AMENDED COMPLAINT NOTICE.—*

*"(i) IN GENERAL.—A party may amend its due process complaint notice only if—*

*"(I) the other party consents in writing to such amendment and is given the opportunity to resolve the complaint through a meeting held pursuant to subsection (f)(1)(B); or*

*"(II) the hearing officer grants permission, except that the hearing officer may only grant such permission at any time not later than 5 days before a due process hearing occurs.*

*"(ii) APPLICABLE TIMELINE.—The applicable timeline for a due process hearing under this part shall recommence at the time the party files an amended notice, including the timeline under subsection (f)(1)(B).*

*"(d) PROCEDURAL SAFEGUARDS NOTICE.—*

*"(1) IN GENERAL.—*

*"(A) COPY TO PARENTS.—A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents only 1 time a year, except that a copy also shall be given to the parents—*

*"(i) upon initial referral or parental request for evaluation;*

*"(ii) upon the first occurrence of the filing of a complaint under subsection (b)(6); and*

*"(iii) upon request by a parent.*

*"(B) INTERNET WEBSITE.—A local educational agency may place a current copy of the procedural safeguards notice on its Internet website if such website exists.*

*"(2) CONTENTS.—The procedural safeguards notice shall include a full explanation of the procedural safeguards, written in the native language of the parents (unless it clearly is not feasible to do so) and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to—*

*"(A) independent educational evaluation;*

*"(B) prior written notice;*

*"(C) parental consent;*

*"(D) access to educational records;*

*"(E) the opportunity to present and resolve complaints, including—*

*"(i) the time period in which to make a complaint;*

*"(ii) the opportunity for the agency to resolve the complaint; and*

*"(iii) the availability of mediation;*

*"(F) the child's placement during pendency of due process proceedings;*

*"(G) procedures for students who are subject to placement in an interim alternative educational setting;*

*"(H) requirements for unilateral placement by parents of children in private schools at public expense;*

*"(I) due process hearings, including requirements for disclosure of evaluation results and recommendations;*

*"(J) State-level appeals (if applicable in that State);*

*"(K) civil actions, including the time period in which to file such actions; and*

*"(L) attorneys' fees.*

*"(e) MEDIATION.—*

*"(1) IN GENERAL.—Any State educational agency or local educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter, including matters arising prior to the filing of a complaint pursuant to subsection (b)(6), to resolve such disputes through a mediation process.*

*"(2) REQUIREMENTS.—Such procedures shall meet the following requirements:*

*"(A) The procedures shall ensure that the mediation process—*

*"(i) is voluntary on the part of the parties;*

*"(ii) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this part; and*

"(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

"(B) OPPORTUNITY TO MEET WITH A DISINTERESTED PARTY.—A local educational agency or a State agency may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with—

"(i) a parent training and information center or community parent resource center in the State established under section 671 or 672; or

"(ii) an appropriate alternative dispute resolution entity,

to encourage the use, and explain the benefits, of the mediation process to the parents.

"(C) LIST OF QUALIFIED MEDIATORS.—The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

"(D) COSTS.—The State shall bear the cost of the mediation process, including the costs of meetings described in subparagraph (B).

"(E) SCHEDULING AND LOCATION.—Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

"(F) WRITTEN AGREEMENT.—In the case that a resolution is reached to resolve the complaint through the mediation process, the parties shall execute a legally binding agreement that sets forth such resolution and that—

"(i) states that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding;

"(ii) is signed by both the parent and a representative of the agency who has the authority to bind such agency; and

"(iii) is enforceable in any State court of competent jurisdiction or in a district court of the United States.

"(G) MEDIATION DISCUSSIONS.—Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding.

"(f) IMPARTIAL DUE PROCESS HEARING.—

"(1) IN GENERAL.—

"(A) HEARING.—Whenever a complaint has been received under subsection (b)(6) or (k), the parents or the local educational agency involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency or by the local educational agency, as determined by State law or by the State educational agency.

"(B) RESOLUTION SESSION.—

"(i) PRELIMINARY MEETING.—Prior to the opportunity for an impartial due process hearing under subparagraph (A), the local educational agency shall convene a meeting with the parents and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the complaint—

"(I) within 15 days of receiving notice of the parents' complaint;

"(II) which shall include a representative of the agency who has decisionmaking authority on behalf of such agency;

"(III) which may not include an attorney of the local educational agency unless the parent is accompanied by an attorney; and

"(IV) where the parents of the child discuss their complaint, and the facts that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint,

unless the parents and the local educational agency agree in writing to waive such meeting, or agree to use the mediation process described in subsection (e).

"(ii) HEARING.—If the local educational agency has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing may occur, and all of the applicable timelines for a due process hearing under this part shall commence.

"(iii) WRITTEN SETTLEMENT AGREEMENT.—In the case that a resolution is reached to resolve the complaint at a meeting described in clause (i), the parties shall execute a legally binding agreement that is—

"(I) signed by both the parent and a representative of the agency who has the authority to bind such agency; and

"(II) enforceable in any State court of competent jurisdiction or in a district court of the United States.

"(iv) REVIEW PERIOD.—If the parties execute an agreement pursuant to clause (iii), a party may void such agreement within 3 business days of the agreement's execution.

"(2) DISCLOSURE OF EVALUATIONS AND RECOMMENDATIONS.—

"(A) IN GENERAL.—Not less than 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations completed by that date, and recommendations based on the offering party's evaluations, that the party intends to use at the hearing.

"(B) FAILURE TO DISCLOSE.—A hearing officer may bar any party that fails to comply with subparagraph (A) from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

"(3) LIMITATIONS ON HEARING.—

"(A) PERSON CONDUCTING HEARING.—A hearing officer conducting a hearing pursuant to paragraph (1)(A) shall, at a minimum—

"(i) not be—

"(I) an employee of the State educational agency or the local educational agency involved in the education or care of the child; or

"(II) a person having a personal or professional interest that conflicts with the person's objectivity in the hearing;

"(ii) possess knowledge of, and the ability to understand, the provisions of this title, Federal and State regulations pertaining to this title, and legal interpretations of this title by Federal and State courts;

"(iii) possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and

"(iv) possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

"(B) SUBJECT MATTER OF HEARING.—The party requesting the due process hearing shall not be allowed to raise issues at the due process hearing that were not raised in the notice filed under subsection (b)(7), unless the other party agrees otherwise.

"(C) TIMELINE FOR REQUESTING HEARING.—A parent or agency shall request an impartial due process hearing within 2 years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the complaint, or, if the State has an explicit time limitation for requesting such a hearing under this part, in such time as the State law allows.

"(D) EXCEPTIONS TO THE TIMELINE.—The timeline described in subparagraph (C) shall not apply to a parent if the parent was prevented from requesting the hearing due to—

"(i) specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint; or

"(ii) the local educational agency's withholding of information from the parent that was required under this part to be provided to the parent.

"(E) DECISION OF HEARING OFFICER.—

"(i) IN GENERAL.—Subject to clause (ii), a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education.

"(ii) PROCEDURAL ISSUES.—In matters alleging a procedural violation, a hearing officer may find that a child did not receive a free appropriate public education only if the procedural inadequacies—

"(I) impeded the child's right to a free appropriate public education;

"(II) significantly impeded the parents' opportunity to participate in the decisionmaking process regarding the provision of a free appropriate public education to the parents' child; or

"(III) caused a deprivation of educational benefits.

"(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to preclude a hearing officer from ordering a local educational agency to comply with procedural requirements under this section.

"(F) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect the right of a parent to file a complaint with the State educational agency.

"(g) APPEAL.—

"(1) IN GENERAL.—If the hearing required by subsection (f) is conducted by a local educational agency, any party aggrieved by the findings and decision rendered in such a hearing may appeal such findings and decision to the State educational agency.

"(2) IMPARTIAL REVIEW AND INDEPENDENT DECISION.—The State educational agency shall conduct an impartial review of the findings and decision appealed under paragraph (1). The officer conducting such review shall make an independent decision upon completion of such review.

"(h) SAFEGUARDS.—Any party to a hearing conducted pursuant to subsection (f) or (k), or an appeal conducted pursuant to subsection (g), shall be accorded—

"(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

"(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;

"(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and

"(4) the right to written, or, at the option of the parents, electronic findings of fact and decisions, which findings and decisions—

"(A) shall be made available to the public consistent with the requirements of section 617(b) (relating to the confidentiality of data, information, and records); and

"(B) shall be transmitted to the advisory panel established pursuant to section 612(a)(21).

"(i) ADMINISTRATIVE PROCEDURES.—

"(1) IN GENERAL.—

"(A) DECISION MADE IN HEARING.—A decision made in a hearing conducted pursuant to subsection (f) or (k) shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (g) and paragraph (2).

"(B) DECISION MADE AT APPEAL.—A decision made under subsection (g) shall be final, except that any party may bring an action under paragraph (2).

"(2) RIGHT TO BRING CIVIL ACTION.—

"(A) IN GENERAL.—Any party aggrieved by the findings and decision made under subsection (f) or (k) who does not have the right to an appeal under subsection (g), and any party aggrieved by the findings and decision made under *this subsection, shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States, without regard to the amount in controversy.*

*"(B) LIMITATION.—The party bringing the action shall have 90 days from the date of the decision of the hearing officer to bring such an action, or, if the State has an explicit time limitation for bringing such action under this part, in such time as the State law allows.*

*"(C) ADDITIONAL REQUIREMENTS.—In any action brought under this paragraph, the court—*

*"(i) shall receive the records of the administrative proceedings;*

*"(ii) shall hear additional evidence at the request of a party; and*

*"(iii) basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.*

*"(3) JURISDICTION OF DISTRICT COURTS; ATTORNEYS' FEES.—*

*"(A) IN GENERAL.—The district courts of the United States shall have jurisdiction of actions brought under this section without regard to the amount in controversy.*

*"(B) AWARD OF ATTORNEYS' FEES.—*

*"(i) IN GENERAL.—In any action or proceeding brought under this section, the court, in its discretion, may award reasonable attorneys' fees as part of the costs—*

*"(I) to a prevailing party who is the parent of a child with a disability;*

*"(II) to a prevailing party who is a State educational agency or local educational agency against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or*

*"(III) to a prevailing State educational agency or local educational agency against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.*

*"(ii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to affect section 327 of the District of Columbia Appropriations Act, 2005.*

*"(C) DETERMINATION OF AMOUNT OF ATTORNEYS' FEES.—Fees awarded under this paragraph shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.*

*"(D) PROHIBITION OF ATTORNEYS' FEES AND RELATED COSTS FOR CERTAIN SERVICES.—*

*"(i) IN GENERAL.—Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under this section for services performed subsequent to the time of a written offer of settlement to a parent if—*

*"(I) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;*

*"(II) the offer is not accepted within 10 days; and*

*"(III) the court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.*

*"(ii) IEP TEAM MEETINGS.—Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection (e).*

*"(iii) OPPORTUNITY TO RESOLVE COMPLAINTS.—A meeting conducted pursuant to subsection (f)(1)(B)(i) shall not be considered—*

*"(I) a meeting convened as a result of an administrative hearing or judicial action; or*

*"(II) an administrative hearing or judicial action for purposes of this paragraph.*

*"(E) EXCEPTION TO PROHIBITION ON ATTORNEYS' FEES AND RELATED COSTS.—Notwithstanding subparagraph (D), an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.*

*"(F) REDUCTION IN AMOUNT OF ATTORNEYS' FEES.—Except as provided in subparagraph (G), whenever the court finds that—*

*"(i) the parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;*

*"(ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;*

*"(iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding; or*

*"(iv) the attorney representing the parent did not provide to the local educational agency the appropriate information in the notice of the complaint described in subsection (b)(7)(A),*

*the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this section.*

*"(G) EXCEPTION TO REDUCTION IN AMOUNT OF ATTORNEYS' FEES.—The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of this section.*

*"(j) MAINTENANCE OF CURRENT EDUCATIONAL PLACEMENT.—Except as provided in subsection (k)(4), during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents otherwise agree, the child shall remain in the then-current educational placement of the child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been completed.*

*"(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—*

*"(1) AUTHORITY OF SCHOOL PERSONNEL.—*

*"(A) CASE-BY-CASE DETERMINATION.—School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.*

*"(B) AUTHORITY.—School personnel under this subsection may remove a child with a disability who violates a code of student conduct from their current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives are applied to children without disabilities).*

*"(C) ADDITIONAL AUTHORITY.—If school personnel seek to order a change in placement that would exceed 10 school days and the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to subparagraph (E), the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner and for the same duration in which the procedures would be applied to children without disabilities, except as provided in section 612(a)(1) although it may be provided in an interim alternative educational setting.*

*"(D) SERVICES.—A child with a disability who is removed from the child's current placement under subparagraph (G) (irrespective of whether the behavior is determined to be a manifestation of the child's disability) or subparagraph (C) shall—*

*"(i) continue to receive educational services, as provided in section 612(a)(1), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and*

*"(ii) receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.*

*"(E) MANIFESTATION DETERMINATION.—*

*"(i) IN GENERAL.—Except as provided in subparagraph (B), within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the local educational agency, the parent, and relevant members of the IEP Team (as determined by the parent and the local educational agency) shall review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine—*

*"(I) if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or*

*"(II) if the conduct in question was the direct result of the local educational agency's failure to implement the IEP.*

*"(ii) MANIFESTATION.—If the local educational agency, the parent, and relevant members of the IEP Team determine that either subclause (I) or (II) of clause (i) is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.*

*"(F) DETERMINATION THAT BEHAVIOR WAS A MANIFESTATION.—If the local educational agency, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team shall—*

*"(i) conduct a functional behavioral assessment, and implement a behavioral intervention plan for such child, provided that the local educational agency had not conducted such assessment prior to such determination before the behavior that resulted in a change in placement described in subparagraph (C) or (G);*

*"(ii) in the situation where a behavioral intervention plan has been developed, review the behavioral intervention plan if the child already has such a behavioral intervention plan, and modify it, as necessary, to address the behavior; and*

*"(iii) except as provided in subparagraph (G), return the child to the placement from which the child was removed, unless the parent and the local educational agency agree to a change of placement as part of the modification of the behavioral intervention plan.*

*"(G) SPECIAL CIRCUMSTANCES.—School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, in cases where a child—*

*"(i) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or local educational agency;*

*"(ii) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at*

a school function under the jurisdiction of a State or local educational agency; or

"(iii) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency.

"(H) NOTIFICATION.—Not later than the date on which the decision to take disciplinary action is made, the local educational agency shall notify the parents of that decision, and of all procedural safeguards accorded under this section.

"(2) DETERMINATION OF SETTING.—The interim alternative educational setting in subparagraphs (C) and (G) of paragraph (1) shall be determined by the IEP Team.

"(3) APPEAL.—

"(A) IN GENERAL.—The parent of a child with a disability who disagrees with any decision regarding placement, or the manifestation determination under this subsection, or a local educational agency that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request a hearing.

"(B) AUTHORITY OF HEARING OFFICER.—

"(i) IN GENERAL.—A hearing officer shall hear, and make a determination regarding, an appeal requested under subparagraph (A).

"(ii) CHANGE OF PLACEMENT ORDER.—In making the determination under clause (i), the hearing officer may order a change in placement of a child with a disability. In such situations, the hearing officer may—

"(I) return a child with a disability to the placement from which the child was removed; or

"(II) order a change in placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of such child is substantially likely to result in injury to the child or to others.

"(4) PLACEMENT DURING APPEALS.—When an appeal under paragraph (3) has been requested by either the parent or the local educational agency—

"(A) the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(C), whichever occurs first, unless the parent and the State or local educational agency agree otherwise; and

"(B) the State or local educational agency shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

"(5) PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES.—

"(A) IN GENERAL.—A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violates a code of student conduct, may assert any of the protections provided for in this part if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

"(B) BASIS OF KNOWLEDGE.—A local educational agency shall be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred—

"(i) the parent of the child has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;

"(ii) the parent of the child has requested an evaluation of the child pursuant to section 614(a)(1)(B); or

"(iii) the teacher of the child, or other personnel of the local educational agency, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education of such agency or to other supervisory personnel of the agency.

"(C) EXCEPTION.—A local educational agency shall not be deemed to have knowledge that the child is a child with a disability if the parent of the child has not allowed an evaluation of the child pursuant to section 614 or has refused services under this part or the child has been evaluated and it was determined that the child was not a child with a disability under this part.

"(D) CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE.—

"(i) IN GENERAL.—If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B) or (C)) prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).

"(ii) LIMITATIONS.—If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under this subsection, the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with this part, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

"(6) REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES.—

"(A) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

"(B) TRANSMITTAL OF RECORDS.—An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

"(7) DEFINITIONS.—In this subsection:

"(A) CONTROLLED SUBSTANCE.—The term 'controlled substance' means a drug or other substance identified under schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

"(B) ILLEGAL DRUG.—The term 'illegal drug' means a controlled substance but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

"(C) WEAPON.—The term 'weapon' has the meaning given the term 'dangerous weapon' under section 930(g)(2) of title 18, United States Code.

"(D) SERIOUS BODILY INJURY.—The term 'serious bodily injury' has the meaning given the term 'serious bodily injury' under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

"(l) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this part, the procedures under subsections (f) and (g) shall be exhausted to the same extent as would be required had the action been brought under this part.

"(m) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY.—

"(1) IN GENERAL.—A State that receives amounts from a grant under this part may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—

"(A) the agency shall provide any notice required by this section to both the individual and the parents;

"(B) all other rights accorded to parents under this part transfer to the child;

"(C) the agency shall notify the individual and the parents of the transfer of rights; and

"(D) all rights accorded to parents under this part transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.

"(2) SPECIAL RULE.—If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this part.

"(n) ELECTRONIC MAIL.—A parent of a child with a disability may elect to receive notices required under this section by an electronic mail (e-mail) communication, if the agency makes such option available.

"(o) SEPARATE COMPLAINT.—Nothing in this section shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.

**"SEC. 616. MONITORING, TECHNICAL ASSISTANCE, AND ENFORCEMENT.**

"(a) FEDERAL AND STATE MONITORING.—

"(1) IN GENERAL.—The Secretary shall—

"(A) monitor implementation of this part through—

"(i) oversight of the exercise of general supervision by the States, as required in section 612(a)(11); and

"(ii) the State performance plans, described in subsection (b);

"(B) enforce this part in accordance with subsection (e); and

"(C) require States to—

"(i) monitor implementation of this part by local educational agencies; and

"(ii) enforce this part in accordance with paragraph (3) and subsection (e).

"(2) FOCUSED MONITORING.—The primary focus of Federal and State monitoring activities described in paragraph (1) shall be on—

"(A) improving educational results and functional outcomes for all children with disabilities; and

"(B) ensuring that States meet the program requirements under this part, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

"(3) MONITORING PRIORITIES.—The Secretary shall monitor the States, and shall require each State to monitor the local educational agencies located in the State (except the State exercise of general supervisory responsibility), using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in the following priority areas:

"(A) Provision of a free appropriate public education in the least restrictive environment.

"(B) State exercise of general supervisory authority, including child find, effective monitoring, the use of resolution sessions, mediation, voluntary binding arbitration, and a system of transition services as defined in sections 602(34) and 637(a)(9).

"(C) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

"(4) PERMISSIVE AREAS OF REVIEW.—The Secretary shall consider other relevant information and data, including data provided by States under section 618.

"(b) STATE PERFORMANCE PLANS.—

"(1) PLAN.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, each State shall have in place a performance plan that evaluates that State's efforts to implement the requirements and purposes of this part and describes how the State will improve such implementation.

"(B) SUBMISSION FOR APPROVAL.—Each State shall submit the State's performance plan to the Secretary for approval in accordance with the approval process described in subsection (c).

"(C) REVIEW.—Each State shall review its State performance plan at least once every 6 years and submit any amendments to the Secretary.

"(2) TARGETS.—

"(A) IN GENERAL.—As a part of the State performance plan described under paragraph (1), each State shall establish measurable and rigorous targets for the indicators established under the priority areas described in subsection (a)(3).

"(B) DATA COLLECTION.—

"(i) IN GENERAL.—Each State shall collect valid and reliable information as needed to report annually to the Secretary on the priority areas described in subsection (a)(3).

"(ii) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this part.

"(C) PUBLIC REPORTING AND PRIVACY.—

"(i) IN GENERAL.—The State shall use the targets established in the plan and priority areas described in subsection (a)(3) to analyze the performance of each local educational agency in the State in implementing this part.

"(ii) REPORT.—

"(I) PUBLIC REPORT.—The State shall report annually to the public on the performance of each local educational agency located in the State on the targets in the State's performance plan. The State shall make the State's performance plan available through public means, including by posting on the website of the State educational agency, distribution to the media, and distribution through public agencies.

"(II) STATE PERFORMANCE REPORT.—The State shall report annually to the Secretary on the performance of the State under the State's performance plan.

"(iii) PRIVACY.—The State shall not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children or where the available data is insufficient to yield statistically reliable information.

"(c) APPROVAL PROCESS.—

"(1) DEEMED APPROVAL.—The Secretary shall review (including the specific provisions described in subsection (b)) each performance plan submitted by a State pursuant to subsection (b)(1)(B) and the plan shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the plan, that the plan does not meet the requirements of this section, including the specific provisions described in subsection (b).

"(2) DISAPPROVAL.—The Secretary shall not finally disapprove a performance plan, except after giving the State notice and an opportunity for a hearing.

"(3) NOTIFICATION.—If the Secretary finds that the plan does not meet the requirements, in whole or in part, of this section, the Secretary shall—

"(A) give the State notice and an opportunity for a hearing; and

"(B) notify the State of the finding, and in such notification shall—

"(i) cite the specific provisions in the plan that do not meet the requirements; and

"(ii) request additional information, only as to the provisions not meeting the requirements, needed for the plan to meet the requirements of this section.

"(4) RESPONSE.—If the State responds to the Secretary's notification described in paragraph (3)(B) during the 30-day period beginning on the date on which the State received the notification, and resubmits the plan with the requested information described in paragraph (3)(B)(ii), the Secretary shall approve or disapprove such plan prior to the later of—

"(A) the expiration of the 30-day period beginning on the date on which the plan is resubmitted; or

"(B) the expiration of the 120-day period described in paragraph (1).

"(5) FAILURE TO RESPOND.—If the State does not respond to the Secretary's notification described in paragraph (3)(B) during the 30-day period beginning on the date on which the State received the notification, such plan shall be deemed to be disapproved.

"(d) SECRETARY'S REVIEW AND DETERMINATION.—

"(1) REVIEW.—The Secretary shall annually review the State performance report submitted pursuant to subsection (b)(2)(C)(ii)(II) in accordance with this section.

"(2) DETERMINATION.—

"(A) IN GENERAL.—Based on the information provided by the State in the State performance report, information obtained through monitoring visits, and any other public information made available, the Secretary shall determine if the State—

"(i) meets the requirements and purposes of this part;

"(ii) needs assistance in implementing the requirements of this part;

"(iii) needs intervention in implementing the requirements of this part; or

"(iv) needs substantial intervention in implementing the requirements of this part.

"(B) NOTICE AND OPPORTUNITY FOR A HEARING.—For determinations made under clause (iii) or (iv) of subparagraph (A), the Secretary shall provide reasonable notice and an opportunity for a hearing on such determination.

"(e) ENFORCEMENT.—

"(1) NEEDS ASSISTANCE.—If the Secretary determines, for 2 consecutive years, that a State needs assistance under subsection (d)(2)(A)(ii) in implementing the requirements of this part, the Secretary shall take 1 or more of the following actions:

"(A) Advise the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies, and require the State to work with appropriate entities. Such technical assistance may include—

"(i) the provision of advice by experts to address the areas in which the State needs assistance, including explicit plans for addressing the area for concern within a specified period of time;

"(ii) assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

"(iii) designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers to provide advice, technical assistance, and support; and

"(iv) devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under part D, and private providers of scientifically based technical assistance.

"(B) Direct the use of State-level funds under section 611(e) on the area or areas in which the State needs assistance.

"(C) Identify the State as a high-risk grantee and impose special conditions on the State's grant under this part.

"(2) NEEDS INTERVENTION.—If the Secretary determines, for 3 or more consecutive years, that a State needs intervention under subsection (d)(2)(A)(iii) in implementing the requirements of this part, the following shall apply:

"(A) The Secretary may take any of the actions described in paragraph (1).

"(B) The Secretary shall take 1 or more of the following actions:

"(i) Require the State to prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within 1 year.

"(ii) Require the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, if the Secretary has reason to believe that the State cannot correct the problem within 1 year.

"(iii) For each year of the determination, withhold not less than 20 percent and not more than 50 percent of the State's funds under section 611(e), until the Secretary determines the State has sufficiently addressed the areas in which the State needs intervention.

"(iv) Seek to recover funds under section 452 of the General Education Provisions Act.

"(v) Withhold, in whole or in part, any further payments to the State under this part pursuant to paragraph (5).

"(vi) Refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.

"(3) NEEDS SUBSTANTIAL INTERVENTION.—Notwithstanding paragraph (1) or (2), at any time that the Secretary determines that a State needs substantial intervention in implementing the requirements of this part or that there is a substantial failure to comply with any condition of a State educational agency's or local educational agency's eligibility under this part, the Secretary shall take 1 or more of the following actions:

"(A) Recover funds under section 452 of the General Education Provisions Act.

"(B) Withhold, in whole or in part, any further payments to the State under this part.

"(C) Refer the case to the Office of the Inspector General at the Department of Education.

*"(D) Refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.*

*"(4) OPPORTUNITY FOR HEARING.—*

*"(A) WITHHOLDING FUNDS.—Prior to withholding any funds under this section, the Secretary shall provide reasonable notice and an opportunity for a hearing to the State educational agency involved.*

*"(B) SUSPENSION.—Pending the outcome of any hearing to withhold payments under subsection (b), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate funds under this part, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate funds under this part should not be suspended.*

*"(5) REPORT TO CONGRESS.—The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate within 30 days of taking enforcement action pursuant to paragraph (1), (2), or (3), on the specific action taken and the reasons why enforcement action was taken.*

*"(6) NATURE OF WITHHOLDING.—*

*"(A) LIMITATION.—If the Secretary withholds further payments pursuant to paragraph (2) or (3), the Secretary may determine—*

*"(i) that such withholding will be limited to programs or projects, or portions of programs or projects, that affected the Secretary's determination under subsection (d)(2); or*

*"(ii) that the State educational agency shall not make further payments under this part to specified State agencies or local educational agencies that caused or were involved in the Secretary's determination under subsection (d)(2).*

*"(B) WITHHOLDING UNTIL RECTIFIED.—Until the Secretary is satisfied that the condition that caused the initial withholding has been substantially rectified—*

*"(i) payments to the State under this part shall be withheld in whole or in part; and*

*"(ii) payments by the State educational agency under this part shall be limited to State agencies and local educational agencies whose actions did not cause or were not involved in the Secretary's determination under subsection (d)(2), as the case may be.*

*"(7) PUBLIC ATTENTION.—Any State that has received notice under subsection (d)(2) shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the State.*

*"(8) JUDICIAL REVIEW.—*

*"(A) IN GENERAL.—If any State is dissatisfied with the Secretary's action with respect to the eligibility of the State under section 612, such State may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.*

*"(B) JURISDICTION; REVIEW BY UNITED STATES SUPREME COURT.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.*

*"(C) STANDARD OF REVIEW.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall be conclusive if supported by substantial evidence.*

*"(f) STATE ENFORCEMENT.—If a State educational agency determines that a local educational agency is not meeting the requirements of this part, including the targets in the State's performance plan, the State educational agency shall prohibit the local educational agency from reducing the local educational agency's maintenance of effort under section 613(a)(2)(C) for any fiscal year.*

*"(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to restrict the Secretary from utilizing any authority under the General Education Provisions Act to monitor and enforce the requirements of this title.*

*"(h) DIVIDED STATE AGENCY RESPONSIBILITY.—For purposes of this section, where responsibility for ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons is assigned to a public agency other than the State educational agency pursuant to section 612(a)(11)(C), the Secretary, in instances where the Secretary finds that the failure to comply substantially with the provisions of this part are related to a failure by the public agency, shall take appropriate corrective action to ensure compliance with this part, except that—*

*"(1) any reduction or withholding of payments to the State shall be proportionate to the total funds allotted under section 611 to the State as the number of eligible children with disabilities in adult prisons under the supervision of the other public agency is proportionate to the number of eligible individuals with disabilities in the State under the supervision of the State educational agency; and*

*"(2) any withholding of funds under paragraph (1) shall be limited to the specific agency responsible for the failure to comply with this part.*

*"(i) DATA CAPACITY AND TECHNICAL ASSISTANCE REVIEW.—The Secretary shall—*

*"(1) review the data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of this section is collected, analyzed, and accurately reported to the Secretary; and*

*"(2) provide technical assistance (from funds reserved under section 611(c)), where needed, to improve the capacity of States to meet the data collection requirements.*

***"SEC. 617. ADMINISTRATION.***

*"(a) RESPONSIBILITIES OF SECRETARY.—The Secretary shall—*

*"(1) cooperate with, and (directly or by grant or contract) furnish technical assistance necessary to, a State in matters relating to—*

*"(A) the education of children with disabilities; and*

*"(B) carrying out this part; and*

*"(2) provide short-term training programs and institutes.*

*"(b) PROHIBITION AGAINST FEDERAL MANDATES, DIRECTION, OR CONTROL.—Nothing in this title shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction.*

*"(c) CONFIDENTIALITY.—The Secretary shall take appropriate action, in accordance with section 444 of the General Education Provisions Act, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State educational agencies and local educational agencies pursuant to this part.*

*"(d) PERSONNEL.—The Secretary is authorized to hire qualified personnel necessary to carry out the Secretary's duties under subsection (a), under section 618, and under subpart 4 of part D, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, except that no more than 20 such personnel shall be employed at any time.*

*"(e) MODEL FORMS.—Not later than the date that the Secretary publishes final regulations under this title, to implement amendments made by the Individuals with Disabilities Education Improvement Act of 2004, the Secretary shall publish and disseminate widely to States, local educational agencies, and parent and community training and information centers—*

*"(1) a model IEP form;*

*"(2) a model individualized family service plan (IFSP) form;*

*"(3) a model form of the notice of procedural safeguards described in section 615(d); and*

*"(4) a model form of the prior written notice described in subsections (b)(3) and (c)(1) of section 615 that is consistent with the requirements of this part and is sufficient to meet such requirements.*

***"SEC. 618. PROGRAM INFORMATION.***

*"(a) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary of Education and the public on the following:*

*"(1)(A) The number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are in each of the following separate categories:*

*"(i) Receiving a free appropriate public education.*

*"(ii) Participating in regular education.*

*"(iii) In separate classes, separate schools or facilities, or public or private residential facilities.*

*"(iv) For each year of age from age 14 through 21, stopped receiving special education and related services because of program completion (including graduation with a regular secondary school diploma), or other reasons, and the reasons why those children stopped receiving special education and related services.*

*"(v)(I) Removed to an interim alternative educational setting under section 615(k)(1).*

*"(II) The acts or items precipitating those removals.*

*"(III) The number of children with disabilities who are subject to long-term suspensions or expulsions.*

*"(B) The number and percentage of children with disabilities, by race, gender, and ethnicity, who are receiving early intervention services.*

*"(C) The number and percentage of children with disabilities, by race, gender, and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons.*

*"(D) The incidence and duration of disciplinary actions by race, ethnicity, limited English proficiency status, gender, and disability category, of children with disabilities, including suspensions of 1 day or more.*

*"(E) The number and percentage of children with disabilities who are removed to alternative educational settings or expelled as compared to children without disabilities who are removed to alternative educational settings or expelled.*

"(F) The number of due process complaints filed under section 615 and the number of hearings conducted.

"(G) The number of hearings requested under section 615(k) and the number of changes in placements ordered as a result of those hearings.

"(H) The number of mediations held and the number of settlement agreements reached through such mediations.

"(2) The number and percentage of infants and toddlers, by race, and ethnicity, who are at risk of having substantial developmental delays (as defined in section 632), and who are receiving early intervention services under part C.

"(3) Any other information that may be required by the Secretary.

"(b) DATA REPORTING.—

"(1) PROTECTION OF IDENTIFIABLE DATA.—The data described in subsection (a) shall be publicly reported by each State in a manner that does not result in the disclosure of data identifiable to individual children.

"(2) SAMPLING.—The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) through sampling.

"(c) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to States to ensure compliance with the data collection and reporting requirements under this title.

"(d) DISPROPORTIONALITY.—

"(1) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local educational agencies of the State with respect to—

"(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3);

"(B) the placement in particular educational settings of such children; and

"(C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

"(2) REVIEW AND REVISION OF POLICIES, PRACTICES, AND PROCEDURES.—In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall—

"(A) provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this title;

"(B) require any local educational agency identified under paragraph (1) to reserve the maximum amount of funds under section 613(f) to provide comprehensive coordinated early intervening services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph (1); and

"(C) require the local educational agency to publicly report on the revision of policies, practices, and procedures described under subparagraph (A).

**"SEC. 619. PRESCHOOL GRANTS.**

"(a) IN GENERAL.—The Secretary shall provide grants under this section to assist States to provide special education and related services, in accordance with this part—

"(1) to children with disabilities aged 3 through 5, inclusive; and

"(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

"(b) ELIGIBILITY.—A State shall be eligible for a grant under this section if such State—

"(1) is eligible under section 612 to receive a grant under this part; and

"(2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State.

"(c) ALLOCATIONS TO STATES.—

"(1) IN GENERAL.—The Secretary shall allocate the amount made available to carry out this section for a fiscal year among the States in accordance with paragraph (2) or (3), as the case may be.

"(2) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) for a fiscal year is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

"(A) ALLOCATION.—

"(i) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall—

"(I) allocate to each State the amount the State received under this section for fiscal year 1997;

"(II) allocate 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 5; and

"(III) allocate 15 percent of those remaining funds to States on the basis of the States' relative populations of all children aged 3 through 5 who are living in poverty.

"(ii) DATA.—For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

"(B) LIMITATIONS.—Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

"(i) PRECEDING YEARS.—No State's allocation shall be less than its allocation under this section for the preceding fiscal year.

"(ii) MINIMUM.—No State's allocation shall be less than the greatest of—

"(I) the sum of—

"(aa) the amount the State received under this section for fiscal year 1997; and

"(bb) ⅓ of 1 percent of the amount by which the amount appropriated under subsection (j) for the fiscal year exceeds the amount appropriated for this section for fiscal year 1997;

"(II) the sum of—

"(aa) the amount the State received under this section for the preceding fiscal year; and

"(bb) that amount multiplied by the percentage by which the increase in the funds appropriated under this section from the preceding fiscal year exceeds 1.5 percent; or

"(III) the sum of—

"(aa) the amount the State received under this section for the preceding fiscal year; and

"(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated under this section from the preceding fiscal year.

"(iii) MAXIMUM.—Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

"(I) the amount the State received under this section for the preceding fiscal year; and

"(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under this section from the preceding fiscal year.

"(C) RATABLE REDUCTIONS.—If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

"(3) DECREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) for a fiscal year is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

"(A) ALLOCATIONS.—If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of—

"(i) the amount the State received under this section for fiscal year 1997; and

"(ii) an amount that bears the same relation to any remaining funds as the increase the State received under this section for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.

"(B) RATABLE REDUCTIONS.—If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State shall be allocated the amount the State received for fiscal year 1997, ratably reduced, if necessary.

"(d) RESERVATION FOR STATE ACTIVITIES.—

"(1) IN GENERAL.—Each State may reserve not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f).

"(2) AMOUNT DESCRIBED.—For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

"(A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

"(B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(e) STATE ADMINISTRATION.—

"(1) IN GENERAL.—For the purpose of administering this section (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities) a State may use not more than 20 percent of the maximum amount the State may reserve under subsection (d) for any fiscal year.

"(2) ADMINISTRATION OF PART C.—Funds described in paragraph (1) may also be used for the administration of part C.

"(f) OTHER STATE-LEVEL ACTIVITIES.—Each State shall use any funds the State reserves under subsection (d) and does not use for administration under subsection (e)—

"(1) for support services (including establishing and implementing the mediation process required by section 615(e)), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;

"(2) for direct services for children eligible for services under this section;

"(3) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(15);

"(4) to supplement other funds used to develop and implement a statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not more than 1 percent of the amount received by the State under this section for a fiscal year;

"(5) to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with part C to children with disabilities who are eligible for services under this section and who previously received services under part C until such children enter, or are eligible under State law to enter, kindergarten; or

*"(6) at the State's discretion, to continue service coordination or case management for families who receive services under part C.*

*"(g) Subgrants to Local Educational Agencies.—*

*"(1) Subgrants Required.—Each State that receives a grant under this section for any fiscal year shall distribute all of the grant funds that the State does not reserve under subsection (d) to local educational agencies in the State that have established their eligibility under section 613, as follows:*

*"(A) Base Payments.—The State shall first award each local educational agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as such section was then in effect.*

*"(B) Allocation of Remaining Funds.—After making allocations under subparagraph (A), the State shall—*

*"(i) allocate 85 percent of any remaining funds to those local educational agencies on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the local educational agency's jurisdiction; and*

*"(ii) allocate 15 percent of those remaining funds to those local educational agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.*

*"(2) Reallocation of Funds.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by the local educational agency with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local educational agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas the other local educational agencies serve.*

*"(h) Part C Inapplicable.—Part C does not apply to any child with a disability receiving a free appropriate public education, in accordance with this part, with funds received under this section.*

*"(i) State Defined.—In this section, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.*

*"(j) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary.*

## "PART C—INFANTS AND TODDLERS WITH DISABILITIES

### "SEC. 631. FINDINGS AND POLICY.

*"(a) Findings.—Congress finds that there is an urgent and substantial need—*

*"(1) to enhance the development of infants and toddlers with disabilities, to minimize their potential for developmental delay, and to recognize the significant brain development that occurs during a child's first 3 years of life;*

*"(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;*

*"(3) to maximize the potential for individuals with disabilities to live independently in society;*

*"(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and*

*"(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of all children, particularly minority, low-income, inner city, and rural children, and infants and toddlers in foster care.*

*"(b) Policy.—It is the policy of the United States to provide financial assistance to States—*

*"(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;*

*"(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);*

*"(3) to enhance State capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and*

*"(4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.*

### "SEC. 632. DEFINITIONS.

*"In this part:*

*"(1) At-Risk Infant or Toddler.—The term 'at-risk infant or toddler' means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.*

*"(2) Council.—The term 'council' means a State interagency coordinating council established under section 641.*

*"(3) Developmental Delay.—The term 'developmental delay', when used with respect to an individual residing in a State, has the meaning given such term by the State under section 635(a)(1).*

*"(4) Early Intervention Services.—The term 'early intervention services' means developmental services that—*

*"(A) are provided under public supervision;*

*"(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;*

*"(C) are designed to meet the developmental needs of an infant or toddler with a disability, as identified by the individualized family service plan team, in any 1 or more of the following areas:*

*"(i) physical development;*

*"(ii) cognitive development;*

*"(iii) communication development;*

*"(iv) social or emotional development; or*

*"(v) adaptive development;*

*"(D) meet the standards of the State in which the services are provided, including the requirements of this part;*

*"(E) include—*

*"(i) family training, counseling, and home visits;*

*"(ii) special instruction;*

*"(iii) speech-language pathology and audiology services, and sign language and cued language services;*

*"(iv) occupational therapy;*

*"(v) physical therapy;*

*"(vi) psychological services;*

*"(vii) service coordination services;*

*"(viii) medical services only for diagnostic or evaluation purposes;*

*"(ix) early identification, screening, and assessment services;*

*"(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services;*

*"(xi) social work services;*

*"(xii) vision services;*

*"(xiii) assistive technology devices and assistive technology services; and*

*"(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in this paragraph;*

*"(F) are provided by qualified personnel, including—*

*"(i) special educators;*

*"(ii) speech-language pathologists and audiologists;*

*"(iii) occupational therapists;*

*"(iv) physical therapists;*

*"(v) psychologists;*

*"(vi) social workers;*

*"(vii) nurses;*

*"(viii) registered dietitians;*

*"(ix) family therapists;*

*"(x) vision specialists, including ophthalmologists and optometrists;*

*"(xi) orientation and mobility specialists; and*

*"(xii) pediatricians and other physicians;*

*"(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and*

*"(H) are provided in conformity with an individualized family service plan adopted in accordance with section 636.*

*"(5) Infant or Toddler with a Disability.—The term 'infant or toddler with a disability'—*

*"(A) means an individual under 3 years of age who needs early intervention services because the individual—*

*"(i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in 1 or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or*

*"(ii) has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; and*

*"(B) may also include, at a State's discretion—*

*"(i) at-risk infants and toddlers; and*

*"(ii) children with disabilities who are eligible for services under section 619 and who previously received services under this part until such children enter, or are eligible under State law to enter, kindergarten or elementary school, as appropriate, provided that any programs under this part serving such children shall include—*

*"(I) an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills; and*

*"(II) a written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under this part or participate in preschool programs under section 619.*

### "SEC. 633. GENERAL AUTHORITY.

*"The Secretary shall, in accordance with this part, make grants to States (from their allotments under section 643) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.*

### "SEC. 634. ELIGIBILITY.

*"In order to be eligible for a grant under section 633, a State shall provide assurances to the Secretary that the State—*

*"(1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State, infants and toddlers with disabilities who are homeless children and their families, and infants and toddlers with disabilities who are wards of the State; and*

*"(2) has in effect a statewide system that meets the requirements of section 635.*

### *"SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.*

*"(a) IN GENERAL.—A statewide system described in section 633 shall include, at a minimum, the following components:*

*"(1) A rigorous definition of the term 'developmental delay' that will be used by the State in carrying out programs under this part in order to appropriately identify infants and toddlers with disabilities that are in need of services under this part.*

*"(2) A State policy that is in effect and that ensures that appropriate early intervention services based on scientifically based research, to the extent practicable, are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State and infants and toddlers with disabilities who are homeless children and their families.*

*"(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to assist appropriately in the development of the infant or toddler.*

*"(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 636, including service coordination services in accordance with such service plan.*

*"(5) A comprehensive child find system, consistent with part B, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources and that ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for services under this part that will reduce the need for future services.*

*"(6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information to be given to parents, especially to inform parents with premature infants, or infants with other physical risk factors associated with learning or developmental complications, on the availability of early intervention services under this part and of services under section 619, and procedures for assisting such sources in disseminating such information to parents of infants and toddlers with disabilities.*

*"(7) A central directory that includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State.*

*"(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State that—*

*"(A) shall include—*

*"(i) implementing innovative strategies and activities for the recruitment and retention of early education service providers;*

*"(ii) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part; and*

*"(iii) training personnel to coordinate transition services for infants and toddlers served under this part from a program providing early intervention services under this part and under part B (other than section 619), to a preschool program receiving funds under section 619, or another appropriate program; and*

*"(B) may include—*

*"(i) training personnel to work in rural and inner-city areas; and*

*"(ii) training personnel in the emotional and social development of young children.*

*"(9) Policies and procedures relating to the establishment and maintenance of qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including the establishment and maintenance of qualifications that are consistent with any State-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing early intervention services, except that nothing in this part (including this paragraph) shall be construed to prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with State law, regulation, or written policy, to assist in the provision of early intervention services under this part to infants and toddlers with disabilities.*

*"(10) A single line of responsibility in a lead agency designated or established by the Governor for carrying out—*

*"(A) the general administration and supervision of programs and activities receiving assistance under section 633, and the monitoring of programs and activities used by the State to carry out this part, whether or not such programs or activities are receiving assistance made available under section 633, to ensure that the State complies with this part;*

*"(B) the identification and coordination of all available resources within the State from Federal, State, local, and private sources;*

*"(C) the assignment of financial responsibility in accordance with section 637(a)(2) to the appropriate agencies;*

*"(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families under this part in a timely manner pending the resolution of any disputes among public agencies or service providers;*

*"(E) the resolution of intra- and interagency disputes; and*

*"(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination.*

*"(11) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements.*

*"(12) A procedure for securing timely reimbursements of funds used under this part in accordance with section 640(a).*

*"(13) Procedural safeguards with respect to programs under this part, as required by section 639.*

*"(14) A system for compiling data requested by the Secretary under section 618 that relates to this part.*

*"(15) A State interagency coordinating council that meets the requirements of section 641.*

*"(16) Policies and procedures to ensure that, consistent with section 636(d)(5)—*

*"(A) to the maximum extent appropriate, early intervention services are provided in natural environments; and*

*"(B) the provision of early intervention services for any infant or toddler with a disability occurs in a setting other than a natural environment that is most appropriate, as determined by the parent and the individualized family service plan team, only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.*

*"(b) POLICY.—In implementing subsection (a)(9), a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subsection (a)(9).*

*"(c) FLEXIBILITY TO SERVE CHILDREN 3 YEARS OF AGE UNTIL ENTRANCE INTO ELEMENTARY SCHOOL.—*

*"(1) IN GENERAL.—A statewide system described in section 633 may include a State policy, developed and implemented jointly by the lead agency and the State educational agency, under which parents of children with disabilities who are eligible for services under section 619 and previously received services under this part, may choose the continuation of early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) for such children under this part until such children enter, or are eligible under State law to enter, kindergarten.*

*"(2) REQUIREMENTS.—If a statewide system includes a State policy described in paragraph (1), the statewide system shall ensure that—*

*"(A) parents of children with disabilities served pursuant to this subsection are provided annual notice that contains—*

*"(i) a description of the rights of such parents to elect to receive services pursuant to this subsection or under part B; and*

*"(ii) an explanation of the differences between services provided pursuant to this subsection and services provided under part B, including—*

*"(I) types of services and the locations at which the services are provided;*

*"(II) applicable procedural safeguards; and*

*"(III) possible costs (including any fees to be charged to families as described in section 632(4)(B)), if any, to parents of infants or toddlers with disabilities;*

*"(B) services provided pursuant to this subsection include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills;*

*"(C) the State policy will not affect the right of any child served pursuant to this subsection to instead receive a free appropriate public education under part B;*

*"(D) all early intervention services outlined in the child's individualized family service plan under section 636 are continued while any eligibility determination is being made for services under this subsection;*

*"(E) the parents of infants or toddlers with disabilities (as defined in section 632(5)(A)) provide informed written consent to the State, before such infants or toddlers reach 3 years of age, as to whether such parents intend to choose the continuation of early intervention services pursuant to this subsection for such infants or toddlers;*

*"(F) the requirements under section 637(a)(9) shall not apply with respect to a child who is receiving services in accordance with this subsection until not less than 90 days (and at the discretion of the parties to the conference, not more than 9 months) before the time the child will no longer receive those services; and*

*"(G) there will be a referral for evaluation for early intervention services of a child who experiences a substantiated case of trauma due to exposure to family violence (as defined in section 320 of the Family Violence Prevention and Services Act).*

*"(3) REPORTING REQUIREMENT.—If a statewide system includes a State policy described in paragraph (1), the State shall submit to the Secretary, in the State's report under section 637(b)(4)(A), a report on the number and percentage of children with disabilities who are eligible for services under section 619 but whose parents choose for such children to continue to receive early intervention services under this part.*

*"(4) AVAILABLE FUNDS.—If a statewide system includes a State policy described in paragraph (1), the policy shall describe the funds (including an identification as Federal, State, or local funds) that will be used to ensure that the option described in paragraph (1) is available to eligible children and families who provide the consent described in paragraph (2)(E), including fees (if any) to be charged to families as described in section 632(4)(B).*

*"(5) RULES OF CONSTRUCTION.—*

*"(A) SERVICES UNDER PART B.—If a statewide system includes a State policy described in paragraph (1), a State that provides services in accordance with this subsection to a child with a disability who is eligible for services under section 619 shall not be required to provide the child with a free appropriate public education under part B for the period of time in which the child is receiving services under this part.*

*"(B) SERVICES UNDER THIS PART.—Nothing in this subsection shall be construed to require a provider of services under this part to provide a child served under this part with a free appropriate public education.*

### "SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.

*"(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—A statewide system described in section 633 shall provide, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive—*

*"(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;*

*"(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler; and*

*"(3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e), including a description of the appropriate transition services for the infant or toddler.*

*"(b) PERIODIC REVIEW.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).*

*"(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parents' consent, early intervention services may commence prior to the completion of the assessment.*

*"(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—*

*"(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;*

*"(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability;*

*"(3) a statement of the measurable results or outcomes expected to be achieved for the infant or toddler and the family, including pre-literacy and language skills, as developmentally appropriate for the child, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the results or outcomes is being made and whether modifications or revisions of the results or outcomes or services are necessary;*

*"(4) a statement of specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;*

*"(5) a statement of the natural environments in which early intervention services will appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;*

*"(6) the projected dates for initiation of services and the anticipated length, duration, and frequency of the services;*

*"(7) the identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part) who will be responsible for the implementation of the plan and coordination with other agencies and persons, including transition services; and*

*"(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.*

*"(e) PARENTAL CONSENT.—The contents of the individualized family service plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then only the early intervention services to which consent is obtained shall be provided.*

### "SEC. 637. STATE APPLICATION AND ASSURANCES.

*"(a) APPLICATION.—A State desiring to receive a grant under section 633 shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain—*

*"(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 633;*

*"(2) a certification to the Secretary that the arrangements to establish financial responsibility for services provided under this part pursuant to section 640(b) are current as of the date of submission of the certification;*

*"(3) information demonstrating eligibility of the State under section 634, including—*

*"(A) information demonstrating to the Secretary's satisfaction that the State has in effect the statewide system required by section 633; and*

*"(B) a description of services to be provided to infants and toddlers with disabilities and their families through the system;*

*"(4) if the State provides services to at-risk infants and toddlers through the statewide system, a description of such services;*

*"(5) a description of the uses for which funds will be expended in accordance with this part;*

*"(6) a description of the State policies and procedures that require the referral for early intervention services under this part of a child under the age of 3 who—*

*"(A) is involved in a substantiated case of child abuse or neglect; or*

*"(B) is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure;*

*"(7) a description of the procedure used to ensure that resources are made available under this part for all geographic areas within the State;*

*"(8) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this part, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;*

*"(9) a description of the policies and procedures to be used—*

*"(A) to ensure a smooth transition for toddlers receiving early intervention services under this part (and children receiving those services under section 635(c)) to preschool, school, other appropriate services, or exiting the program, including a description of how—*

*"(i) the families of such toddlers and children will be included in the transition plans required by subparagraph (C); and*

*"(ii) the lead agency designated or established under section 635(a)(10) will—*

*"(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law;*

*"(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency not less than 90 days (and at the discretion of all such parties, not more than 9 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and*

*"(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under part B, to discuss the appropriate services that the child may receive;*

*"(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and*

*"(C) to establish a transition plan, including, as appropriate, steps to exit from the program;*

*"(10) a description of State efforts to promote collaboration among Early Head Start programs under section 645A of the Head Start Act, early education and child care programs, and services under part C; and*

*"(11) such other information and assurances as the Secretary may reasonably require.*

*"(b) ASSURANCES.—The application described in subsection (a)—*

*"(1) shall provide satisfactory assurance that Federal funds made available under section 643 to the State will be expended in accordance with this part;*

*"(2) shall contain an assurance that the State will comply with the requirements of section 640;*

*"(3) shall provide satisfactory assurance that the control of funds provided under section 643, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property;*

*"(4) shall provide for—*

*"(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part; and*

*"(B) keeping such reports and affording such access to the reports as the Secretary may find necessary to ensure the correctness and verification of those reports and proper disbursement of Federal funds under this part;*

*"(5) provide satisfactory assurance that Federal funds made available under section 643 to the State—*

*"(A) will not be commingled with State funds; and*

*"(B) will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds;*

*"(6) shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under section 643 to the State;*

*"(7) shall provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the State, in the planning and implementation of all the requirements of this part; and*

*"(8) shall contain such other information and assurances as the Secretary may reasonably require by regulation.*

*"(c) STANDARD FOR DISAPPROVAL OF APPLICATION.—The Secretary may not disapprove such an application unless the Secretary determines, after notice and opportunity for a hearing, that the application fails to comply with the requirements of this section.*

*"(d) SUBSEQUENT STATE APPLICATION.—If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under this part (as in effect before the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004), the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this part.*

*"(e) MODIFICATION OF APPLICATION.—An application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification of an application to the same extent and in the same manner as this section applies to the original application.*

*"(f) MODIFICATIONS REQUIRED BY THE SECRETARY.—The Secretary may require a State to modify its application under this section, but only to the extent necessary to ensure the State's compliance with this part, if—*

*"(1) an amendment is made to this title, or a Federal regulation issued under this title;*

*"(2) a new interpretation of this title is made by a Federal court or the State's highest court; or*

*"(3) an official finding of noncompliance with Federal law or regulations is made with respect to the State.*

### *"SEC. 638. USES OF FUNDS.*

*"In addition to using funds provided under section 633 to maintain and implement the statewide system required by such section, a State may use such funds—*

*"(1) for direct early intervention services for infants and toddlers with disabilities, and their families, under this part that are not otherwise funded through other public or private sources;*

*"(2) to expand and improve on services for infants and toddlers and their families under this part that are otherwise available;*

*"(3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year;*

*"(4) with the written consent of the parents, to continue to provide early intervention services under this part to children with disabilities from their 3rd birthday until such children enter, or are eligible under State law to enter, kindergarten, in lieu of a free appropriate public education provided in accordance with part B; and*

*"(5) in any State that does not provide services for at-risk infants and toddlers under section 637(a)(4), to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of—*

*"(A) identifying and evaluating at-risk infants and toddlers;*

*"(B) making referrals of the infants and toddlers identified and evaluated under subparagraph (A); and*

*"(C) conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.*

### *"SEC. 639. PROCEDURAL SAFEGUARDS.*

*"(a) MINIMUM PROCEDURES.—The procedural safeguards required to be included in a statewide system under section 635(a)(13) shall provide, at a minimum, the following:*

*"(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.*

*"(2) The right to confidentiality of personally identifiable information, including the right of parents to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.*

*"(3) The right of the parents to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this part in accordance with State law without jeopardizing other early intervention services under this part.*

*"(4) The opportunity for parents to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.*

*"(5) Procedures to protect the rights of the infant or toddler whenever the parents of the infant or toddler are not known or cannot be found or the infant or toddler is a ward of the State, including the assignment of an individual (who shall not be an employee of the State lead agency, or other State agency, and who shall not be any person, or any employee of a person, providing early intervention services to the infant or toddler or any family member of the infant or toddler) to act as a surrogate for the parents.*

*"(6) Written prior notice to the parents of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or placement of the infant or toddler with a disability, or the provision of appropriate early intervention services to the infant or toddler.*

*"(7) Procedures designed to ensure that the notice required by paragraph (6) fully informs the parents, in the parents' native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.*

*"(8) The right of parents to use mediation in accordance with section 615, except that—*

*"(A) any reference in the section to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10);*

*"(B) any reference in the section to a local educational agency shall be considered to be a reference to a local service provider or the State's lead agency under this part, as the case may be; and*

*"(C) any reference in the section to the provision of a free appropriate public education to children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.*

*"(b) SERVICES DURING PENDENCY OF PROCEEDINGS.—During the pendency of any proceeding or action involving a complaint by the parents of an infant or toddler with a disability, unless the State agency and the parents otherwise agree, the infant or toddler shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.*

### *"SEC. 640. PAYOR OF LAST RESORT.*

*"(a) NONSUBSTITUTION.—Funds provided under section 643 may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of this part, except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by an infant, toddler, or family in a timely fashion, funds provided under section 643 may be used to pay the provider of services pending reimbursement from the agency that has ultimate responsibility for the payment.*

*"(b) OBLIGATIONS RELATED TO AND METHODS OF ENSURING SERVICES.—*

*"(1) ESTABLISHING FINANCIAL RESPONSIBILITY FOR SERVICES.—*

*"(A) IN GENERAL.—The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency and the designated lead agency, in order to ensure—*

*"(i) the provision of, and financial responsibility for, services provided under this part; and*

*"(ii) such services are consistent with the requirements of section 635 and the State's application pursuant to section 637, including the provision of such services during the pendency of any such dispute.*

*"(B) CONSISTENCY BETWEEN AGREEMENTS OR MECHANISMS UNDER PART B.—The Chief Executive Officer of a State or designee of the officer shall ensure that the terms and conditions of such agreement or mechanism are consistent with the terms and conditions of the State's agreement or mechanism under section 612(a)(12), where appropriate.*

*"(2) REIMBURSEMENT FOR SERVICES BY PUBLIC AGENCY.—*

*"(A) IN GENERAL.—If a public agency other than an educational agency fails to provide or pay for the services pursuant to an agreement required under paragraph (1), the local educational agency or State agency (as determined by the Chief Executive Officer or designee) shall provide or pay for the provision of such services to the child.*

*"(B) REIMBURSEMENT.—Such local educational agency or State agency is authorized to claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse the local educational agency or State agency pursuant to the terms of the interagency agreement or other mechanism required under paragraph (1).*

"(3) SPECIAL RULE.—The requirements of paragraph (1) may be met through—

"(A) State statute or regulation;

"(B) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

"(C) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer and approved by the Secretary through the review and approval of the State's application pursuant to section 637.

"(c) REDUCTION OF OTHER BENEFITS.—Nothing in this part shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to medicaid for infants or toddlers with disabilities) within the State.

### "SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—A State that desires to receive financial assistance under this part shall establish a State interagency coordinating council.

"(2) APPOINTMENT.—The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State.

"(3) CHAIRPERSON.—The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member. Any member of the council who is a representative of the lead agency designated under section 635(a)(10) may not serve as the chairperson of the council.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The council shall be composed as follows:

"(A) PARENTS.—Not less than 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. Not less than 1 such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

"(B) SERVICE PROVIDERS.—Not less than 20 percent of the members shall be public or private providers of early intervention services.

"(C) STATE LEGISLATURE.—Not less than 1 member shall be from the State legislature.

"(D) PERSONNEL PREPARATION.—Not less than 1 member shall be involved in personnel preparation.

"(E) AGENCY FOR EARLY INTERVENTION SERVICES.—Not less than 1 member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

"(F) AGENCY FOR PRESCHOOL SERVICES.—Not less than 1 member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

"(G) STATE MEDICAID AGENCY.—Not less than 1 member shall be from the agency responsible for the State medicaid program.

"(H) HEAD START AGENCY.—Not less than 1 member shall be a representative from a Head Start agency or program in the State.

"(I) CHILD CARE AGENCY.—Not less than 1 member shall be a representative from a State agency responsible for child care.

"(J) AGENCY FOR HEALTH INSURANCE.—Not less than 1 member shall be from the agency responsible for the State regulation of health insurance.

"(K) OFFICE OF THE COORDINATOR OF EDUCATION OF HOMELESS CHILDREN AND YOUTH.—Not less than 1 member shall be a representative designated by the Office of Coordinator for Education of Homeless Children and Youths.

"(L) STATE FOSTER CARE REPRESENTATIVE.—Not less than 1 member shall be a representative from the State child welfare agency responsible for foster care.

"(M) MENTAL HEALTH AGENCY.—Not less than 1 member shall be a representative from the State agency responsible for children's mental health.

"(2) OTHER MEMBERS.—The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs (BIA), or where there is no BIA-operated or BIA-funded school, from the Indian Health Service or the tribe or tribal council.

"(c) MEETINGS.—The council shall meet, at a minimum, on a quarterly basis, and in such places as the council determines necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

"(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this part to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

"(e) FUNCTIONS OF COUNCIL.—

"(1) DUTIES.—The council shall—

"(A) advise and assist the lead agency designated or established under section 635(a)(10) in the performance of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements;

"(B) advise and assist the lead agency in the preparation of applications and amendments thereto;

"(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to preschool and other appropriate services; and

"(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

"(2) AUTHORIZED ACTIVITY.—The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

"(f) CONFLICT OF INTEREST.—No member of the council shall cast a vote on any matter that is likely to provide a direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

### "SEC. 642. FEDERAL ADMINISTRATION.

"Sections 616, 617, and 618 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—

"(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10);

"(2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this part; and

"(3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

### "SEC. 643. ALLOCATION OF FUNDS.

"(a) RESERVATION OF FUNDS FOR OUTLYING AREAS.—

"(1) IN GENERAL.—From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve not more than 1 percent for payments to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs for assistance under this part.

"(2) CONSOLIDATION OF FUNDS.—The provisions of Public Law 95-134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this part.

"(b) PAYMENTS TO INDIANS.—

"(1) IN GENERAL.—The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act), or consortia of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for such fiscal year.

"(2) ALLOCATION.—For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided by the total of such children served by all tribes, tribal organizations, or consortia.

"(3) INFORMATION.—To receive a payment under this subsection, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be distributed under paragraph (2).

"(4) USE OF FUNDS.—The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children under 3 years of age and for parent training. Such funds may also be used to provide early intervention services in accordance with this part. Such activities may be carried out directly or through contracts or cooperative agreements with the Bureau of Indian Affairs, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

*"(5) Reports.—To be eligible to receive a payment under paragraph (2), a tribe, tribal organization, or consortium shall make a biennial report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of infants and toddlers contacted and receiving services for each year, and the estimated number of infants and toddlers needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.*

*"(6) Prohibited uses of funds.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.*

*"(c) State Allotments.—*

*"(1) In general.—Except as provided in paragraphs (2) and (3), from the funds remaining for each fiscal year after the reservation and payments under subsections (a), (b), and (e), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.*

*"(2) Minimum allotments.—Except as provided in paragraph (3), no State shall receive an amount under this section for any fiscal year that is less than the greater of—*

*"(A) ½ of 1 percent of the remaining amount described in paragraph (1); or*

*"(B) $500,000.*

*"(3) Ratable reduction.—*

*"(A) In general.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allotments to such States for such year.*

*"(B) Additional funds.—If additional funds become available for making payments under this subsection for a fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis the allotments were reduced.*

*"(4) Definitions.—In this subsection—*

*"(A) the terms 'infants' and 'toddlers' mean children under 3 years of age; and*

*"(B) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.*

*"(d) Reallotment of Funds.—If a State elects not to receive its allotment under subsection (c), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.*

*"(e) Reservation for State Incentive Grants.—*

*"(1) In general.—For any fiscal year for which the amount appropriated pursuant to the authorization of appropriations under section 644 exceeds $460,000,000, the Secretary shall reserve 15 percent of such appropriated amount to provide grants to States that are carrying out the policy described in section 635(c) in order to facilitate the implementation of such policy.*

*"(2) Amount of grant.—*

*"(A) In general.—Notwithstanding paragraphs (2) and (3) of subsection (c), the Secretary shall provide a grant to each State under paragraph (1) in an amount that bears the same ratio to the amount reserved under such paragraph as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States receiving grants under such paragraph.*

*"(B) Maximum amount.—No State shall receive a grant under paragraph (1) for any fiscal year in an amount that is greater than 20 percent of the amount reserved under such paragraph for the fiscal year.*

*"(3) Carryover of amounts.—*

*"(A) 1st succeeding fiscal year.—Pursuant to section 421(b) of the General Education Provisions Act, amounts under a grant provided under paragraph (1) that are not obligated and expended prior to the beginning of the first fiscal year succeeding the fiscal year for which such amounts were appropriated shall remain available for obligation and expenditure during such first succeeding fiscal year.*

*"(B) 2d succeeding fiscal year.—Amounts under a grant provided under paragraph (1) that are not obligated and expended prior to the beginning of the second fiscal year succeeding the fiscal year for which such amounts were appropriated shall be returned to the Secretary and used to make grants to States under section 633 (from their allotments under this section) during such second succeeding fiscal year.*

### *"SEC. 644. AUTHORIZATION OF APPROPRIATIONS.*

*"For the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2005 through 2010.*

## *"PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES*

### *"SEC. 650. FINDINGS.*

*"Congress finds the following:*

*"(1) The Federal Government has an ongoing obligation to support activities that contribute to positive results for children with disabilities, enabling those children to lead productive and independent adult lives.*

*"(2) Systemic change benefiting all students, including children with disabilities, requires the involvement of States, local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations to develop and implement comprehensive strategies that improve educational results for children with disabilities.*

*"(3) State educational agencies, in partnership with local educational agencies, parents of children with disabilities, and other individuals and organizations, are in the best position to improve education for children with disabilities and to address their special needs.*

*"(4) An effective educational system serving students with disabilities should—*

*"(A) maintain high academic achievement standards and clear performance goals for children with disabilities, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that all children with disabilities have the opportunity to achieve those standards and goals;*

*"(B) clearly define, in objective, measurable terms, the school and post-school results that children with disabilities are expected to achieve; and*

*"(C) promote transition services and coordinate State and local education, social, health, mental health, and other services, in addressing the full range of student needs, particularly the needs of children with disabilities who need significant levels of support to participate and learn in school and the community.*

*"(5) The availability of an adequate number of qualified personnel is critical—*

*"(A) to serve effectively children with disabilities;*

*"(B) to assume leadership positions in administration and direct services;*

*"(C) to provide teacher training; and*

*"(D) to conduct high quality research to improve special education.*

*"(6) High quality, comprehensive professional development programs are essential to ensure that the persons responsible for the education or transition of children with disabilities possess the skills and knowledge necessary to address the educational and related needs of those children.*

*"(7) Models of professional development should be scientifically based and reflect successful practices, including strategies for recruiting, preparing, and retaining personnel.*

*"(8) Continued support is essential for the development and maintenance of a coordinated and high quality program of research to inform successful teaching practices and model curricula for educating children with disabilities.*

*"(9) Training, technical assistance, support, and dissemination activities are necessary to ensure that parts B and C are fully implemented and achieve high quality early intervention, educational, and transitional results for children with disabilities and their families.*

*"(10) Parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and transitional services and results at the State and local levels for children with disabilities and their families.*

*"(11) Parent training and information activities assist parents of a child with a disability in dealing with the multiple pressures of parenting such a child and are of particular importance in—*

*"(A) playing a vital role in creating and preserving constructive relationships between parents of children with disabilities and schools by facilitating open communication between the parents and schools; encouraging dispute resolution at the earliest possible point in time; and discouraging the escalation of an adversarial process between the parents and schools;*

*"(B) ensuring the involvement of parents in planning and decisionmaking with respect to early intervention, educational, and transitional services;*

*"(C) achieving high quality early intervention, educational, and transitional results for children with disabilities;*

*"(D) providing such parents information on their rights, protections, and responsibilities under this title to ensure improved early intervention, educational, and transitional results for children with disabilities;*

*"(E) assisting such parents in the development of skills to participate effectively in the education and development of their children and in the transitions described in section 673(b)(6);*

*"(F) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results for children with disabilities and their families; and*

*"(G) supporting such parents who may have limited access to services and supports, due to economic, cultural, or linguistic barriers.*

*"(12) Support is needed to improve technological resources and integrate technology, including universally designed technologies, into the lives of children with disabilities, parents of children with disabilities, school personnel, and others through curricula, services, and assistive technologies.*

## *"Subpart 1—State Personnel Development Grants*

### *"SEC. 651. PURPOSE; DEFINITION OF PERSONNEL; PROGRAM AUTHORITY.*

*"(a) Purpose.—The purpose of this subpart is to assist State educational agencies in reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services in order to improve results for children with disabilities.*

"(b) DEFINITION OF PERSONNEL.—In this subpart the term 'personnel' means special education teachers, regular education teachers, principals, administrators, related services personnel, paraprofessionals, and early intervention personnel serving infants, toddlers, preschoolers, or children with disabilities, except where a particular category of personnel, such as related services personnel, is identified.

"(c) COMPETITIVE GRANTS.—

"(1) IN GENERAL.—Except as provided in subsection (d), for any fiscal year for which the amount appropriated under section 655, that remains after the Secretary reserves funds under subsection (e) for the fiscal year, is less than $100,000,000, the Secretary shall award grants, on a competitive basis, to State educational agencies to carry out the activities described in the State plan submitted under section 653.

"(2) PRIORITY.—In awarding grants under paragraph (1), the Secretary may give priority to State educational agencies that—

"(A) are in States with the greatest personnel shortages; or

"(B) demonstrate the greatest difficulty meeting the requirements of section 612(a)(14).

"(3) MINIMUM AMOUNT.—The Secretary shall make a grant to each State educational agency selected under paragraph (1) in an amount for each fiscal year that is—

"(A) not less than $500,000, nor more than $4,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(B) not less than $80,000 in the case of an outlying area.

"(4) INCREASE IN AMOUNT.—The Secretary may increase the amounts of grants under paragraph (4) to account for inflation.

"(5) FACTORS.—The Secretary shall determine the amount of a grant under paragraph (1) after considering—

"(A) the amount of funds available for making the grants;

"(B) the relative population of the State or outlying area;

"(C) the types of activities proposed by the State or outlying area;

"(D) the alignment of proposed activities with section 612(a)(14);

"(E) the alignment of proposed activities with the State plans and applications submitted under sections 1111 and 2112, respectively, of the Elementary and Secondary Education Act of 1965; and

"(F) the use, as appropriate, of scientifically based research activities.

"(d) FORMULA GRANTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), for the first fiscal year for which the amount appropriated under section 655, that remains after the Secretary reserves funds under subsection (e) for the fiscal year, is equal to or greater than $100,000,000, and for each fiscal year thereafter, the Secretary shall allot to each State educational agency, whose application meets the requirements of this subpart, an amount that bears the same relation to the amount remaining as the amount the State received under section 611(d) for that fiscal year bears to the amount of funds received by all States (whose applications meet the requirements of this subpart) under section 611(d) for that fiscal year.

"(2) MINIMUM ALLOTMENTS FOR STATES THAT RECEIVED COMPETITIVE GRANTS.—

"(A) IN GENERAL.—The amount allotted under this subsection to any State educational agency that received a competitive multi-year grant under subsection (c) for which the grant period has not expired shall be not less than the amount specified for that fiscal year in the State educational agency's grant award document under that subsection.

"(B) SPECIAL RULE.—Each such State educational agency shall use the minimum amount described in subparagraph (A) for the activities described in the State educational agency's competitive grant award document for that year, unless the Secretary approves a request from the State educational agency to spend the funds on other activities.

"(3) MINIMUM ALLOTMENT.—The amount of any State educational agency's allotment under this subsection for any fiscal year shall not be less than—

"(A) the greater of $500,000 or ½ of 1 percent of the total amount available under this subsection for that year, in the case of each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(B) $80,000, in the case of an outlying area.

"(4) DIRECT BENEFIT.—In using grant funds allotted under paragraph (1), a State educational agency shall, through grants, contracts, or cooperative agreements, undertake activities that significantly and directly benefit the local educational agencies in the State.

"(e) CONTINUATION AWARDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, from funds appropriated under section 655 for each fiscal year, the Secretary shall reserve the amount that is necessary to make a continuation award to any State educational agency (at the request of the State educational agency) that received a multi-year award under this part (as this part was in effect on the day before the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004), to enable the State educational agency to carry out activities in accordance with the terms of the multi-year award.

"(2) PROHIBITION.—A State educational agency that receives a continuation award under paragraph (1) for any fiscal year may not receive any other award under this subpart for that fiscal year.

### "SEC. 652. ELIGIBILITY AND COLLABORATIVE PROCESS.

"(a) ELIGIBLE APPLICANTS.—A State educational agency may apply for a grant under this subpart for a grant period of not less than 1 year and not more than 5 years.

"(b) PARTNERS.—

"(1) IN GENERAL.—In order to be considered for a grant under this subpart, a State educational agency shall establish a partnership with local educational agencies and other State agencies involved in, or concerned with, the education of children with disabilities, including—

"(A) not less than 1 institution of higher education; and

"(B) the State agencies responsible for administering part C, early education, child care, and vocational rehabilitation programs.

"(2) OTHER PARTNERS.—In order to be considered for a grant under this subpart, a State educational agency shall work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, which may include—

"(A) the Governor;

"(B) parents of children with disabilities ages birth through 26;

"(C) parents of nondisabled children ages birth through 26;

"(D) individuals with disabilities;

"(E) parent training and information centers or community parent resource centers funded under sections 671 and 672, respectively;

"(F) community based and other nonprofit organizations involved in the education and employment of individuals with disabilities;

"(G) personnel as defined in section 651(b);

"(H) the State advisory panel established under part B;

"(I) the State interagency coordinating council established under part C;

"(J) individuals knowledgeable about vocational education;

"(K) the State agency for higher education;

"(L) public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice;

"(M) other providers of professional development that work with infants, toddlers, preschoolers, and children with disabilities; and

"(N) other individuals.

"(3) REQUIRED PARTNER.—If State law assigns responsibility for teacher preparation and certification to an individual, entity, or agency other than the State educational agency, the State educational agency shall—

"(A) include that individual, entity, or agency as a partner in the partnership under this subsection; and

"(B) ensure that any activities the State educational agency will carry out under this subpart that are within that partner's jurisdiction (which may include activities described in section 654(b)) are carried out by that partner.

### "SEC. 653. APPLICATIONS.

"(a) IN GENERAL.—

"(1) SUBMISSION.—A State educational agency that desires to receive a grant under this subpart shall submit to the Secretary an application at such time, in such manner, and including such information as the Secretary may require.

"(2) STATE PLAN.—The application shall include a plan that identifies and addresses the State and local needs for the personnel preparation and professional development of personnel, as well as individuals who provide direct supplementary aids and services to children with disabilities, and that—

"(A) is designed to enable the State to meet the requirements of section 612(a)(14) and section 635(a) (8) and (9);

"(B) is based on an assessment of State and local needs that identifies critical aspects and areas in need of improvement related to the preparation, ongoing training, and professional development of personnel who serve infants, toddlers, preschoolers, and children with disabilities within the State, including—

"(i) current and anticipated personnel vacancies and shortages; and

"(ii) the number of preservice and inservice programs; and

"(C) is integrated and aligned, to the maximum extent possible, with State plans and activities under the Elementary and Secondary Education Act of 1965, the Rehabilitation Act of 1973, and the Higher Education Act of 1965.

"(3) REQUIREMENT.—The State application shall contain an assurance that the State educational agency will carry out each of the strategies described in subsection (b)(4).

"(b) ELEMENTS OF STATE PERSONNEL DEVELOPMENT PLAN.—Each State personnel development plan under subsection (a)(2) shall—

"(1) describe a partnership agreement that is in effect for the period of the grant, which agreement shall specify—

"(A) the nature and extent of the partnership described in section 652(b) and the respective roles of each member of the partnership, including the partner described in section 652(b)(3) if applicable; and

"(B) how the State educational agency will work with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of the persons and organizations;

"(2) describe how the strategies and activities described in paragraph (4) will be coordinated with activities supported with other public resources (including part B and part C funds retained for use at the State level for personnel *and professional development purposes) and private resources;*

*"(3) describe how the State educational agency will align its personnel development plan under this subpart with the plan and application submitted under sections 1111 and 2112, respectively, of the Elementary and Secondary Education Act of 1965;*

*"(4) describe those strategies the State educational agency will use to address the professional development and personnel needs identified under subsection (a)(2) and how such strategies will be implemented, including—*

*"(A) a description of the programs and activities to be supported under this subpart that will provide personnel with the knowledge and skills to meet the needs of, and improve the performance and achievement of, infants, toddlers, preschoolers, and children with disabilities; and*

*"(B) how such strategies will be integrated, to the maximum extent possible, with other activities supported by grants funded under section 662;*

*"(5) provide an assurance that the State educational agency will provide technical assistance to local educational agencies to improve the quality of professional development available to meet the needs of personnel who serve children with disabilities;*

*"(6) provide an assurance that the State educational agency will provide technical assistance to entities that provide services to infants and toddlers with disabilities to improve the quality of professional development available to meet the needs of personnel serving such children;*

*"(7) describe how the State educational agency will recruit and retain highly qualified teachers and other qualified personnel in geographic areas of greatest need;*

*"(8) describe the steps the State educational agency will take to ensure that poor and minority children are not taught at higher rates by teachers who are not highly qualified; and*

*"(9) describe how the State educational agency will assess, on a regular basis, the extent to which the strategies implemented under this subpart have been effective in meeting the performance goals described in section 612(a)(15).*

*"(c) PEER REVIEW.—*

*"(1) IN GENERAL.—The Secretary shall use a panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications for grants under section 651(c)(1).*

*"(2) COMPOSITION OF PANEL.—A majority of a panel described in paragraph (1) shall be composed of individuals who are not employees of the Federal Government.*

*"(3) PAYMENT OF FEES AND EXPENSES OF CERTAIN MEMBERS.—The Secretary may use available funds appropriated to carry out this subpart to pay the expenses and fees of panel members who are not employees of the Federal Government.*

*"(d) REPORTING PROCEDURES.—Each State educational agency that receives a grant under this subpart shall submit annual performance reports to the Secretary. The reports shall—*

*"(1) describe the progress of the State educational agency in implementing its plan;*

*"(2) analyze the effectiveness of the State educational agency's activities under this subpart and of the State educational agency's strategies for meeting its goals under section 612(a)(15); and*

*"(3) identify changes in the strategies used by the State educational agency and described in subsection (b)(4), if any, to improve the State educational agency's performance.*

***"SEC. 654. USE OF FUNDS.***

*"(a) PROFESSIONAL DEVELOPMENT ACTIVITIES.—A State educational agency that receives a grant under this subpart shall use the grant funds to support activities in accordance with the State's plan described in section 653, including 1 or more of the following:*

*"(1) Carrying out programs that provide support to both special education and regular education teachers of children with disabilities and principals, such as programs that—*

*"(A) provide teacher mentoring, team teaching, reduced class schedules and case loads, and intensive professional development;*

*"(B) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement and functional standards and with the requirements for professional development, as defined in section 9101 of the Elementary and Secondary Education Act of 1965; and*

*"(C) encourage collaborative and consultative models of providing early intervention, special education, and related services.*

*"(2) Encouraging and supporting the training of special education and regular education teachers and administrators to effectively use and integrate technology—*

*"(A) into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability;*

*"(B) to enhance learning by children with disabilities; and*

*"(C) to effectively communicate with parents.*

*"(3) Providing professional development activities that—*

*"(A) improve the knowledge of special education and regular education teachers concerning—*

*"(i) the academic and developmental or functional needs of students with disabilities; or*

*"(ii) effective instructional strategies, methods, and skills, and the use of State academic content standards and student academic achievement and functional standards, and State assessments, to improve teaching practices and student academic achievement;*

*"(B) improve the knowledge of special education and regular education teachers and principals and, in appropriate cases, paraprofessionals, concerning effective instructional practices, and that—*

*"(i) provide training in how to teach and address the needs of children with different learning styles and children who are limited English proficient;*

*"(ii) involve collaborative groups of teachers, administrators, and, in appropriate cases, related services personnel;*

*"(iii) provide training in methods of—*

*"(I) positive behavioral interventions and supports to improve student behavior in the classroom;*

*"(II) scientifically based reading instruction, including early literacy instruction;*

*"(III) early and appropriate interventions to identify and help children with disabilities;*

*"(IV) effective instruction for children with low incidence disabilities;*

*"(V) successful transitioning to postsecondary opportunities; and*

*"(VI) using classroom-based techniques to assist children prior to referral for special education;*

*"(iv) provide training to enable personnel to work with and involve parents in their child's education, including parents of low income and limited English proficient children with disabilities;*

*"(v) provide training for special education personnel and regular education personnel in planning, developing, and implementing effective and appropriate IEPs; and*

*"(vi) provide training to meet the needs of students with significant health, mobility, or behavioral needs prior to serving such students;*

*"(C) train administrators, principals, and other relevant school personnel in conducting effective IEP meetings; and*

*"(D) train early intervention, preschool, and related services providers, and other relevant school personnel, in conducting effective individualized family service plan (IFSP) meetings.*

*"(4) Developing and implementing initiatives to promote the recruitment and retention of highly qualified special education teachers, particularly initiatives that have been proven effective in recruiting and retaining highly qualified teachers, including programs that provide—*

*"(A) teacher mentoring from exemplary special education teachers, principals, or superintendents;*

*"(B) induction and support for special education teachers during their first 3 years of employment as teachers; or*

*"(C) incentives, including financial incentives, to retain special education teachers who have a record of success in helping students with disabilities.*

*"(5) Carrying out programs and activities that are designed to improve the quality of personnel who serve children with disabilities, such as—*

*"(A) innovative professional development programs (which may be provided through partnerships that include institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, which professional development shall be consistent with the definition of professional development in section 9101 of the Elementary and Secondary Education Act of 1965; and*

*"(B) the development and use of proven, cost effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning.*

*"(6) Carrying out programs and activities that are designed to improve the quality of early intervention personnel, including paraprofessionals and primary referral sources, such as—*

*"(A) professional development programs to improve the delivery of early intervention services;*

*"(B) initiatives to promote the recruitment and retention of early intervention personnel; and*

*"(C) interagency activities to ensure that early intervention personnel are adequately prepared and trained.*

*"(b) OTHER ACTIVITIES.—A State educational agency that receives a grant under this subpart shall use the grant funds to support activities in accordance with the State's plan described in section 653, including 1 or more of the following:*

*"(1) Reforming special education and regular education teacher certification (including recertification) or licensing requirements to ensure that—*

*"(A) special education and regular education teachers have—*

*"(i) the training and information necessary to address the full range of needs of children with disabilities across disability categories; and*

*"(ii) the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach;*

*"(B) special education and regular education teacher certification (including recertification) or licensing requirements are aligned with challenging State academic content standards; and*

*"(C) special education and regular education teachers have the subject matter knowledge and teaching skills, including technology literacy, necessary to help students with disabilities meet challenging State student academic achievement and functional standards.*

*"(2) Programs that establish, expand, or improve alternative routes for State certification of special education teachers for highly qualified*

*individuals with a baccalaureate or master's degree, including mid-career professionals from other occupations, paraprofessionals, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective special education teachers.*

*"(3) Teacher advancement initiatives for special education teachers that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.*

*"(4) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified special education teachers.*

*"(5) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965.*

*"(6) Funding projects to promote reciprocity of teacher certification or licensing between or among States for special education teachers, except that no reciprocity agreement developed under this paragraph or developed using funds provided under this subpart may lead to the weakening of any State teaching certification or licensing requirement.*

*"(7) Assisting local educational agencies to serve children with disabilities through the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.*

*"(8) Developing, or assisting local educational agencies in developing, merit based performance systems, and strategies that provide differential and bonus pay for special education teachers.*

*"(9) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement and functional standards, and State assessments for all children with disabilities, to improve instructional practices and improve the academic achievement of children with disabilities.*

*"(10) When applicable, coordinating with, and expanding centers established under, section 2113(c)(18) of the Elementary and Secondary Education Act of 1965 to benefit special education teachers.*

*"(c) CONTRACTS AND SUBGRANTS.—A State educational agency that receives a grant under this subpart—*

*"(1) shall award contracts or subgrants to local educational agencies, institutions of higher education, parent training and information centers, or community parent resource centers, as appropriate, to carry out its State plan under this subpart; and*

*"(2) may award contracts and subgrants to other public and private entities, including the lead agency under part C, to carry out the State plan.*

*"(d) USE OF FUNDS FOR PROFESSIONAL DEVELOPMENT.—A State educational agency that receives a grant under this subpart shall use—*

*"(1) not less than 90 percent of the funds the State educational agency receives under the grant for any fiscal year for activities under subsection (a); and*

*"(2) not more than 10 percent of the funds the State educational agency receives under the grant for any fiscal year for activities under subsection (b).*

*"(e) GRANTS TO OUTLYING AREAS.—Public Law 95-134, permitting the consolidation of grants to the outlying areas, shall not apply to funds received under this subpart.*

### *"SEC. 655. AUTHORIZATION OF APPROPRIATIONS.*

*"There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 2005 through 2010.*

### *"Subpart 2—Personnel Preparation, Technical Assistance, Model Demonstration Projects, and Dissemination of Information*

### *"SEC. 661. PURPOSE; DEFINITION OF ELIGIBLE ENTITY.*

*"(a) PURPOSE.—The purpose of this subpart is—*

*"(1) to provide Federal funding for personnel preparation, technical assistance, model demonstration projects, information dissemination, and studies and evaluations, in order to improve early intervention, educational, and transitional results for children with disabilities; and*

*"(2) to assist State educational agencies and local educational agencies in improving their education systems for children with disabilities.*

*"(b) DEFINITION OF ELIGIBLE ENTITY.—*

*"(1) IN GENERAL.—In this subpart, the term 'eligible entity' means—*

*"(A) a State educational agency;*

*"(B) a local educational agency;*

*"(C) a public charter school that is a local educational agency under State law;*

*"(D) an institution of higher education;*

*"(E) a public agency not described in subparagraphs (A) through (D);*

*"(F) a private nonprofit organization;*

*"(G) an outlying area;*

*"(H) an Indian tribe or a tribal organization (as defined under section 4 of the Indian Self-Determination and Education Assistance Act); or*

*"(I) a for-profit organization, if the Secretary finds it appropriate in light of the purposes of a particular competition for a grant, contract, or cooperative agreement under this subpart.*

*"(2) SPECIAL RULE.—The Secretary may limit which eligible entities described in paragraph (1) are eligible for a grant, contract, or cooperative agreement under this subpart to 1 or more of the categories of eligible entities described in paragraph (1).*

### *"SEC. 662. PERSONNEL DEVELOPMENT TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.*

*"(a) IN GENERAL.—The Secretary, on a competitive basis, shall award grants to, or enter into contracts or cooperative agreements with, eligible entities to carry out 1 or more of the following objectives:*

*"(1) To help address the needs identified in the State plan described in section 653(a)(2) for highly qualified personnel, as defined in section 651(b), to work with infants or toddlers with disabilities, or children with disabilities, consistent with the qualifications described in section 612(a)(14).*

*"(2) To ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined, through scientifically based research, to be successful in serving those children.*

*"(3) To encourage increased focus on academics and core content areas in special education personnel preparation programs.*

*"(4) To ensure that regular education teachers have the necessary skills and knowledge to provide instruction to students with disabilities in the regular education classroom.*

*"(5) To ensure that all special education teachers are highly qualified.*

*"(6) To ensure that preservice and in-service personnel preparation programs include training in—*

*"(A) the use of new technologies;*

*"(B) the area of early intervention, educational, and transition services;*

*"(C) effectively involving parents; and*

*"(D) positive behavioral supports.*

*"(7) To provide high-quality professional development for principals, superintendents, and other administrators, including training in—*

*"(A) instructional leadership;*

*"(B) behavioral supports in the school and classroom;*

*"(C) paperwork reduction;*

*"(D) promoting improved collaboration between special education and general education teachers;*

*"(E) assessment and accountability;*

*"(F) ensuring effective learning environments; and*

*"(G) fostering positive relationships with parents.*

*"(b) PERSONNEL DEVELOPMENT; ENHANCED SUPPORT FOR BEGINNING SPECIAL EDUCATORS.—*

*"(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities—*

*"(A) for personnel development, including activities for the preparation of personnel who will serve children with high incidence and low incidence disabilities, to prepare special education and general education teachers, principals, administrators, and related services personnel (and school board members, when appropriate) to meet the diverse and individualized instructional needs of children with disabilities and improve early intervention, educational, and transitional services and results for children with disabilities, consistent with the objectives described in subsection (a); and*

*"(B) for enhanced support for beginning special educators, consistent with the objectives described in subsection (a).*

*"(2) PERSONNEL DEVELOPMENT.—In carrying out paragraph (1)(A), the Secretary shall support not less than 1 of the following activities:*

*"(A) Assisting effective existing, improving existing, or developing new, collaborative personnel preparation activities undertaken by institutions of higher education, local educational agencies, and other local entities that incorporate best practices and scientifically based research, where applicable, in providing special education and general education teachers, principals, administrators, and related services personnel with the knowledge and skills to effectively support students with disabilities, including—*

*"(i) working collaboratively in regular classroom settings;*

*"(ii) using appropriate supports, accommodations, and curriculum modifications;*

*"(iii) implementing effective teaching strategies, classroom-based techniques, and interventions to ensure appropriate identification of students who may be eligible for special education services, and to prevent the misidentification, inappropriate overidentification, or underidentification of children as having a disability, especially minority and limited English proficient children;*

*"(iv) effectively working with and involving parents in the education of their children;*

*"(v) utilizing strategies, including positive behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom;*

*"(vi) effectively constructing IEPs, participating in IEP meetings, and implementing IEPs;*

*"(vii) preparing children with disabilities to participate in statewide assessments (with or without accommodations) and alternate assessments, as appropriate, and to ensure that all children with disabilities are a part of all accountability systems under the Elementary and Secondary Education Act of 1965; and*

*"(viii) working in high need elementary schools and secondary schools, including urban schools, rural schools, and schools operated by an entity described in section 7113(d)(1)(A)(ii) of the Elementary and Secondary Education Act of 1965, and schools that serve high numbers or percentages of limited English proficient children.*

*"(B) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of new, highly qualified teachers to reduce teacher shortages, especially from groups that are underrepresented in the teaching profession, including individuals with disabilities.*

*"(C) Providing continuous personnel preparation, training, and professional development designed to provide support and ensure retention of special education and general education teachers and personnel who teach and provide related services to children with disabilities.*

*"(D) Developing and improving programs for paraprofessionals to become special education teachers, related services personnel, and early intervention personnel, including interdisciplinary training to enable the paraprofessionals to improve early intervention, educational, and transitional results for children with disabilities.*

*"(E) In the case of principals and superintendents, providing activities to promote instructional leadership and improved collaboration between general educators, special education teachers, and related services personnel.*

*"(F) Supporting institutions of higher education with minority enrollments of not less than 25 percent for the purpose of preparing personnel to work with children with disabilities.*

*"(G) Developing and improving programs to train special education teachers to develop an expertise in autism spectrum disorders.*

*"(H) Providing continuous personnel preparation, training, and professional development designed to provide support and improve the qualifications of personnel who provide related services to children with disabilities, including to enable such personnel to obtain advanced degrees.*

*"(3) ENHANCED SUPPORT FOR BEGINNING SPECIAL EDUCATORS.—In carrying out paragraph (1)(B), the Secretary shall support not less than 1 of the following activities:*

*"(A) Enhancing and restructuring existing programs or developing preservice teacher education programs to prepare special education teachers, at colleges or departments of education within institutions of higher education, by incorporating an extended (such as an additional 5th year) clinical learning opportunity, field experience, or supervised practicum into such programs.*

*"(B) Creating or supporting teacher-faculty partnerships (such as professional development schools) that—*

*"(i) consist of not less than—*

*"(I) 1 or more institutions of higher education with special education personnel preparation programs;*

*"(II) 1 or more local educational agencies that serve high numbers or percentages of low-income students; or*

*"(III) 1 or more elementary schools or secondary schools, particularly schools that have failed to make adequate yearly progress on the basis, in whole and in part, of the assessment results of the disaggregated subgroup of students with disabilities;*

*"(ii) may include other entities eligible for assistance under this part; and*

*"(iii) provide—*

*"(I) high-quality mentoring and induction opportunities with ongoing support for beginning special education teachers; or*

*"(II) inservice professional development to beginning and veteran special education teachers through the ongoing exchange of information and instructional strategies with faculty.*

*"(c) LOW INCIDENCE DISABILITIES; AUTHORIZED ACTIVITIES.—*

*"(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit children with low incidence disabilities.*

*"(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:*

*"(A) Preparing persons who—*

*"(i) have prior training in educational and other related service fields; and*

*"(ii) are studying to obtain degrees, certificates, or licensure that will enable the persons to assist children with low incidence disabilities to achieve the objectives set out in their individualized education programs described in section 614(d), or to assist infants and toddlers with low incidence disabilities to achieve the outcomes described in their individualized family service plans described in section 636.*

*"(B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with low incidence disabilities.*

*"(C) Preparing personnel in the innovative uses and application of technology, including universally designed technologies, assistive technology devices, and assistive technology services—*

*"(i) to enhance learning by children with low incidence disabilities through early intervention, educational, and transitional services; and*

*"(ii) to improve communication with parents.*

*"(D) Preparing personnel who provide services to visually impaired or blind children to teach and use Braille in the provision of services to such children.*

*"(E) Preparing personnel to be qualified educational interpreters, to assist children with low incidence disabilities, particularly deaf and hard of hearing children in school and school related activities, and deaf and hard of hearing infants and toddlers and preschool children in early intervention and preschool programs.*

*"(F) Preparing personnel who provide services to children with significant cognitive disabilities and children with multiple disabilities.*

*"(G) Preparing personnel who provide services to children with low incidence disabilities and limited English proficient children.*

*"(3) DEFINITION.—In this section, the term 'low incidence disability' means—*

*"(A) a visual or hearing impairment, or simultaneous visual and hearing impairments;*

*"(B) a significant cognitive impairment; or*

*"(C) any impairment for which a small number of personnel with highly specialized skills and knowledge are needed in order for children with that impairment to receive early intervention services or a free appropriate public education.*

*"(4) SELECTION OF RECIPIENTS.—In selecting eligible entities for assistance under this subsection, the Secretary may give preference to eligible entities submitting applications that include 1 or more of the following:*

*"(A) A proposal to prepare personnel in more than 1 low incidence disability, such as deafness and blindness.*

*"(B) A demonstration of an effective collaboration between an eligible entity and a local educational agency that promotes recruitment and subsequent retention of highly qualified personnel to serve children with low incidence disabilities.*

*"(5) PREPARATION IN USE OF BRAILLE.—The Secretary shall ensure that all recipients of awards under this subsection who will use that assistance to prepare personnel to provide services to visually impaired or blind children that can appropriately be provided in Braille, will prepare those individuals to provide those services in Braille.*

*"(d) LEADERSHIP PREPARATION; AUTHORIZED ACTIVITIES.—*

*"(1) IN GENERAL.—In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in subsection (a).*

*"(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:*

*"(A) Preparing personnel at the graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services to improve results for children with disabilities.*

*"(B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, related services faculty, administrators, researchers, supervisors, principals, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities, including children with disabilities who are limited English proficient children.*

*"(e) APPLICATIONS.—*

*"(1) IN GENERAL.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.*

*"(2) IDENTIFIED STATE NEEDS.—*

*"(A) REQUIREMENT TO ADDRESS IDENTIFIED NEEDS.—An application for assistance under subsection (b), (c), or (d) shall include information demonstrating to the satisfaction of the Secretary that the activities described in the application will address needs identified by the State or States the eligible entity proposes to serve.*

*"(B) COOPERATION WITH STATE EDUCATIONAL AGENCIES.—An eligible entity that is not a local educational agency or a State educational agency shall include in the eligible entity's application information demonstrating to the satisfaction of the Secretary that the eligible entity and 1 or more State educational agencies or local educational agencies will cooperate in carrying out and monitoring the proposed project.*

*"(3) ACCEPTANCE BY STATES OF PERSONNEL PREPARATION REQUIREMENTS.—The Secretary may require eligible entities to provide in the eligible entities' applications assurances from 1 or more States that such States intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards or other requirements in State law or regulation for serving children with disabilities or serving infants and toddlers with disabilities.*

*"(f) SELECTION OF RECIPIENTS.—*

*"(1) IMPACT OF PROJECT.—In selecting eligible entities for assistance under this section, the Secretary shall consider the impact of the proposed project described in the application in meeting the need for personnel identified by the States.*

*"(2) REQUIREMENT FOR ELIGIBLE ENTITIES TO MEET STATE AND PROFESSIONAL QUALIFICATIONS.—The Secretary shall make grants and enter into contracts and cooperative agreements under this section only to eligible entities that meet State and professionally recognized qualifications for the preparation of special education and related services personnel, if the purpose of the project is to assist personnel in obtaining degrees.*

*"(3) PREFERENCES.—In selecting eligible entities for assistance under this section, the Secretary may give preference to eligible entities that are institutions of higher education that are—*

*"(A) educating regular education personnel to meet the needs of children with disabilities in integrated settings;*

*"(B) educating special education personnel to work in collaboration with regular educators in integrated settings; and*

*"(C) successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which the institution of higher education is preparing individuals.*

"(g) SCHOLARSHIPS.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), and (d).

"(h) SERVICE OBLIGATION.—

"(1) IN GENERAL.—Each application for assistance under subsections (b), (c), and (d) shall include an assurance that the eligible entity will ensure that individuals who receive a scholarship under the proposed project agree to subsequently provide special education and related services to children with disabilities, or in the case of leadership personnel to subsequently work in the appropriate field, for a period of 2 years for every year for which the scholarship was received or repay all or part of the amount of the scholarship, in accordance with regulations issued by the Secretary.

"(2) SPECIAL RULE.—Notwithstanding paragraph (1), the Secretary may reduce or waive the service obligation requirement under paragraph (1) if the Secretary determines that the service obligation is acting as a deterrent to the recruitment of students into special education or a related field.

"(3) SECRETARY'S RESPONSIBILITY.—The Secretary—

"(A) shall ensure that individuals described in paragraph (1) comply with the requirements of that paragraph; and

"(B) may use not more than 0.5 percent of the funds appropriated under subsection (i) for each fiscal year, to carry out subparagraph (A), in addition to any other funds that are available for that purpose.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2005 through 2010.

**"SEC. 663. TECHNICAL ASSISTANCE, DEMONSTRATION PROJECTS, DISSEMINATION OF INFORMATION, AND IMPLEMENTATION OF SCIENTIFICALLY BASED RESEARCH.**

"(a) IN GENERAL.—The Secretary shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities to provide technical assistance, support model demonstration projects, disseminate useful information, and implement activities that are supported by scientifically based research.

"(b) REQUIRED ACTIVITIES.—Funds received under this section shall be used to support activities to improve services provided under this title, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through—

"(1) implementing effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services;

"(2) improving the alignment, compatibility, and development of valid and reliable assessments and alternate assessments for assessing adequate yearly progress, as described under section 1111(b)(2)(B) of the Elementary and Secondary Education Act of 1965;

"(3) providing training for both regular education teachers and special education teachers to address the needs of students with different learning styles;

"(4) disseminating information about innovative, effective, and efficient curricula designs, instructional approaches, and strategies, and identifying positive academic and social learning opportunities, that—

"(A) provide effective transitions between educational settings or from school to post school settings; and

"(B) improve educational and transitional results at all levels of the educational system in which the activities are carried out and, in particular, that improve the progress of children with disabilities, as measured by assessments within the general education curriculum involved; and

"(5) applying scientifically based findings to facilitate systemic changes, related to the provision of services to children with disabilities, in policy, procedure, practice, and the training and use of personnel.

"(c) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this section include activities to improve services provided under this title, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through—

"(1) applying and testing research findings in typical settings where children with disabilities receive services to determine the usefulness, effectiveness, and general applicability of such research findings in such areas as improving instructional methods, curricula, and tools, such as textbooks and media;

"(2) supporting and promoting the coordination of early intervention and educational services for children with disabilities with services provided by health, rehabilitation, and social service agencies;

"(3) promoting improved alignment and compatibility of general and special education reforms concerned with curricular and instructional reform, and evaluation of such reforms;

"(4) enabling professionals, parents of children with disabilities, and other persons to learn about, and implement, the findings of scientifically based research, and successful practices developed in model demonstration projects, relating to the provision of services to children with disabilities;

"(5) conducting outreach, and disseminating information, relating to successful approaches to overcoming systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services to personnel who provide services to children with disabilities;

"(6) assisting States and local educational agencies with the process of planning systemic changes that will promote improved early intervention, educational, and transitional results for children with disabilities;

"(7) promoting change through a multistate or regional framework that benefits States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic-change outcomes;

"(8) focusing on the needs and issues that are specific to a population of children with disabilities, such as providing single-State and multi-State technical assistance and in-service training—

"(A) to schools and agencies serving deaf-blind children and their families;

"(B) to programs and agencies serving other groups of children with low incidence disabilities and their families;

"(C) addressing the postsecondary education needs of individuals who are deaf or hard-of-hearing; and

"(D) to schools and personnel providing special education and related services for children with autism spectrum disorders;

"(9) demonstrating models of personnel preparation to ensure appropriate placements and services for all students and to reduce disproportionality in eligibility, placement, and disciplinary actions for minority and limited English proficient children; and

"(10) disseminating information on how to reduce inappropriate racial and ethnic disproportionalities identified under section 618.

"(d) BALANCE AMONG ACTIVITIES AND AGE RANGES.—In carrying out this section, the Secretary shall ensure that there is an appropriate balance across all age ranges of children with disabilities.

"(e) LINKING STATES TO INFORMATION SOURCES.—In carrying out this section, the Secretary shall support projects that link States to technical assistance resources, including special education and general education resources, and shall make research and related products available through libraries, electronic networks, parent training projects, and other information sources, including through the activities of the National Center for Education Evaluation and Regional Assistance established under part D of the Education Sciences Reform Act of 2002.

"(f) APPLICATIONS.—

"(1) IN GENERAL.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(2) STANDARDS.—To the maximum extent feasible, each eligible entity shall demonstrate that the project described in the eligible entity's application is supported by scientifically valid research that has been carried out in accordance with the standards for the conduct and evaluation of all relevant research and development established by the National Center for Education Research.

"(3) PRIORITY.—As appropriate, the Secretary shall give priority to applications that propose to serve teachers and school personnel directly in the school environment.

**"SEC. 664. STUDIES AND EVALUATIONS.**

"(a) STUDIES AND EVALUATIONS.—

"(1) DELEGATION.—The Secretary shall delegate to the Director of the Institute of Education Sciences responsibility to carry out this section, other than subsections (d) and (f).

"(2) ASSESSMENT.—The Secretary shall, directly or through grants, contracts, or cooperative agreements awarded to eligible entities on a competitive basis, assess the progress in the implementation of this title, including the effectiveness of State and local efforts to provide—

"(A) a free appropriate public education to children with disabilities; and

"(B) early intervention services to infants and toddlers with disabilities, and infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to the infants and toddlers.

"(b) ASSESSMENT OF NATIONAL ACTIVITIES.—

"(1) IN GENERAL.—The Secretary shall carry out a national assessment of activities carried out with Federal funds under this title in order—

"(A) to determine the effectiveness of this title in achieving the purposes of this title;

"(B) to provide timely information to the President, Congress, the States, local educational agencies, and the public on how to implement this title more effectively; and

"(C) to provide the President and Congress with information that will be useful in developing legislation to achieve the purposes of this title more effectively.

"(2) SCOPE OF ASSESSMENT.—The national assessment shall assess activities supported under this title, including—

"(A) the implementation of programs assisted under this title and the impact of such programs on addressing the developmental needs of, and improving the academic achievement of, children with disabilities to enable the children to reach challenging developmental goals and challenging State academic content standards based on State academic assessments;

"(B) the types of programs and services that have demonstrated the greatest likelihood of helping students reach the challenging State *academic content standards and developmental goals;*

*“(C) the implementation of the professional development activities assisted under this title and the impact on instruction, student academic achievement, and teacher qualifications to enhance the ability of special education teachers and regular education teachers to improve results for children with disabilities; and*

*“(D) the effectiveness of schools, local educational agencies, States, other recipients of assistance under this title, and the Secretary in achieving the purposes of this title by—*

*“(i) improving the academic achievement of children with disabilities and their performance on regular statewide assessments as compared to nondisabled children, and the performance of children with disabilities on alternate assessments;*

*“(ii) improving the participation of children with disabilities in the general education curriculum;*

*“(iii) improving the transitions of children with disabilities at natural transition points;*

*“(iv) placing and serving children with disabilities, including minority children, in the least restrictive environment appropriate;*

*“(v) preventing children with disabilities, especially children with emotional disturbances and specific learning disabilities, from dropping out of school;*

*“(vi) addressing the reading and literacy needs of children with disabilities;*

*“(vii) reducing the inappropriate overidentification of children, especially minority and limited English proficient children, as having a disability;*

*“(viii) improving the participation of parents of children with disabilities in the education of their children; and*

*“(ix) resolving disagreements between education personnel and parents through alternate dispute resolution activities, including mediation.*

*“(3) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and Congress—*

*“(A) an interim report that summarizes the preliminary findings of the assessment not later than 3 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004; and*

*“(B) a final report of the findings of the assessment not later than 5 years after the date of enactment of such Act.*

*“(c) STUDY ON ENSURING ACCOUNTABILITY FOR STUDENTS WHO ARE HELD TO ALTERNATIVE ACHIEVEMENT STANDARDS.—The Secretary shall carry out a national study or studies to examine—*

*“(1) the criteria that States use to determine—*

*“(A) eligibility for alternate assessments; and*

*“(B) the number and type of children who take those assessments and are held accountable to alternative achievement standards;*

*“(2) the validity and reliability of alternate assessment instruments and procedures;*

*“(3) the alignment of alternate assessments and alternative achievement standards to State academic content standards in reading, mathematics, and science; and*

*“(4) the use and effectiveness of alternate assessments in appropriately measuring student progress and outcomes specific to individualized instructional need.*

*“(d) ANNUAL REPORT.—The Secretary shall provide an annual report to Congress that—*

*“(1) summarizes the research conducted under part E of the Education Sciences Reform Act of 2002;*

*“(2) analyzes and summarizes the data reported by the States and the Secretary of the Interior under section 618;*

*“(3) summarizes the studies and evaluations conducted under this section and the timeline for their completion;*

*“(4) describes the extent and progress of the assessment of national activities; and*

*“(5) describes the findings and determinations resulting from reviews of State implementation of this title.*

*“(e) AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may support objective studies, evaluations, and assessments, including studies that—*

*“(1) analyze measurable impact, outcomes, and results achieved by State educational agencies and local educational agencies through their activities to reform policies, procedures, and practices designed to improve educational and transitional services and results for children with disabilities;*

*“(2) analyze State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with disabilities;*

*“(3) assess educational and transitional services and results for children with disabilities from minority backgrounds, including—*

*“(A) data on—*

*“(i) the number of minority children who are referred for special education evaluation;*

*“(ii) the number of minority children who are receiving special education and related services and their educational or other service placement;*

*“(iii) the number of minority children who graduated from secondary programs with a regular diploma in the standard number of years; and*

*“(iv) the number of minority children who drop out of the educational system; and*

*“(B) the performance of children with disabilities from minority backgrounds on State assessments and other performance indicators established for all students;*

*“(4) measure educational and transitional services and results for children with disabilities served under this title, including longitudinal studies that—*

*“(A) examine educational and transitional services and results for children with disabilities who are 3 through 17 years of age and are receiving special education and related services under this title, using a national, representative sample of distinct age cohorts and disability categories; and*

*“(B) examine educational results, transition services, postsecondary placement, and employment status for individuals with disabilities, 18 through 21 years of age, who are receiving or have received special education and related services under this title; and*

*“(5) identify and report on the placement of children with disabilities by disability category.*

*“(f) STUDY.—The Secretary shall study, and report to Congress regarding, the extent to which States adopt policies described in section 635(c)(1) and on the effects of those policies.*

### “SEC. 665. INTERIM ALTERNATIVE EDUCATIONAL SETTINGS, BEHAVIORAL SUPPORTS, AND SYSTEMIC SCHOOL INTERVENTIONS.

*“(a) PROGRAM AUTHORIZED.—The Secretary may award grants, and enter into contracts and cooperative agreements, to support safe learning environments that support academic achievement for all students by—*

*“(1) improving the quality of interim alternative educational settings; and*

*“(2) providing increased behavioral supports and research-based, systemic interventions in schools.*

*“(b) AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may support activities to—*

*“(1) establish, expand, or increase the scope of behavioral supports and systemic interventions by providing for effective, research-based practices, including—*

*“(A) training for school staff on early identification, prereferral, and referral procedures;*

*“(B) training for administrators, teachers, related services personnel, behavioral specialists, and other school staff in positive behavioral interventions and supports, behavioral intervention planning, and classroom and student management techniques;*

*“(C) joint training for administrators, parents, teachers, related services personnel, behavioral specialists, and other school staff on effective strategies for positive behavioral interventions and behavior management strategies that focus on the prevention of behavior problems;*

*“(D) developing or implementing specific curricula, programs, or interventions aimed at addressing behavioral problems;*

*“(E) stronger linkages between school-based services and community-based resources, such as community mental health and primary care providers; or*

*“(F) using behavioral specialists, related services personnel, and other staff necessary to implement behavioral supports; or*

*“(2) improve interim alternative educational settings by—*

*“(A) improving the training of administrators, teachers, related services personnel, behavioral specialists, and other school staff (including ongoing mentoring of new teachers) in behavioral supports and interventions;*

*“(B) attracting and retaining a high quality, diverse staff;*

*“(C) providing for referral to counseling services;*

*“(D) utilizing research-based interventions, curriculum, and practices;*

*“(E) allowing students to use instructional technology that provides individualized instruction;*

*“(F) ensuring that the services are fully consistent with the goals of the individual student's IEP;*

*“(G) promoting effective case management and collaboration among parents, teachers, physicians, related services personnel, behavioral specialists, principals, administrators, and other school staff;*

*“(H) promoting interagency coordination and coordinated service delivery among schools, juvenile courts, child welfare agencies, community mental health providers, primary care providers, public recreation agencies, and community-based organizations; or*

*“(I) providing for behavioral specialists to help students transitioning from interim alternative educational settings reintegrate into their regular classrooms.*

*“(c) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term “eligible entity” means—*

*“(1) a local educational agency; or*

*“(2) a consortium consisting of a local educational agency and 1 or more of the following entities:*

*“(A) Another local educational agency.*

*“(B) A community-based organization with a demonstrated record of effectiveness in helping children with disabilities who have behavioral challenges succeed.*

*“(C) An institution of higher education.*

*“(D) A community mental health provider.*

*“(E) An educational service agency.*

*“(d) APPLICATIONS.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall—*

*“(1) submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require; and*

*“(2) involve parents of participating students in the design and implementation of the activities funded under this section.*

*“(e) REPORT AND EVALUATION.—Each eligible entity receiving a grant under this section shall*

*prepare and submit annually to the Secretary a report on the outcomes of the activities assisted under the grant.*

### “SEC. 667. AUTHORIZATION OF APPROPRIATIONS.

*“(a) In General.—There are authorized to be appropriated to carry out this subpart (other than section 662) such sums as may be necessary for each of the fiscal years 2005 through 2010.*

*“(b) Reservation.—From amounts appropriated under subsection (a) for fiscal year 2005, the Secretary shall reserve $1,000,000 to carry out the study authorized in section 664(c). From amounts appropriated under subsection (a) for a succeeding fiscal year, the Secretary may reserve an additional amount to carry out such study if the Secretary determines the additional amount is necessary.*

### “Subpart 3—Supports To Improve Results for Children With Disabilities

### “SEC. 670. PURPOSES.

*“The purposes of this subpart are to ensure that—*

*“(1) children with disabilities and their parents receive training and information designed to assist the children in meeting developmental and functional goals and challenging academic achievement goals, and in preparing to lead productive independent adult lives;*

*“(2) children with disabilities and their parents receive training and information on their rights, responsibilities, and protections under this title, in order to develop the skills necessary to cooperatively and effectively participate in planning and decision making relating to early intervention, educational, and transitional services;*

*“(3) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist such personnel in improving early intervention, educational, and transitional services and results for children with disabilities and their families; and*

*“(4) appropriate technology and media are researched, developed, and demonstrated, to improve and implement early intervention, educational, and transitional services and results for children with disabilities and their families.*

### “SEC. 671. PARENT TRAINING AND INFORMATION CENTERS.

*“(a) Program Authorized.—*

*“(1) In general.—The Secretary may award grants to, and enter into contracts and cooperative agreements with, parent organizations to support parent training and information centers to carry out activities under this section.*

*“(2) Definition of parent organization.—In this section, the term ‘parent organization’ means a private nonprofit organization (other than an institution of higher education) that—*

*“(A) has a board of directors—*

*“(i) the majority of whom are parents of children with disabilities ages birth through 26;*

*“(ii) that includes—*

*“(I) individuals working in the fields of special education, related services, and early intervention; and*

*“(II) individuals with disabilities; and*

*“(iii) the parent and professional members of which are broadly representative of the population to be served, including low-income parents and parents of limited English proficient children; and*

*“(B) has as its mission serving families of children with disabilities who—*

*“(i) are ages birth through 26; and*

*“(ii) have the full range of disabilities described in section 602(3).*

*“(b) Required Activities.—Each parent training and information center that receives assistance under this section shall—*

*“(1) provide training and information that meets the needs of parents of children with disabilities living in the area served by the center, particularly underserved parents and parents of children who may be inappropriately identified, to enable their children with disabilities to—*

*“(A) meet developmental and functional goals, and challenging academic achievement goals that have been established for all children; and*

*“(B) be prepared to lead productive independent adult lives, to the maximum extent possible;*

*“(2) serve the parents of infants, toddlers, and children with the full range of disabilities described in section 602(3);*

*“(3) ensure that the training and information provided meets the needs of low-income parents and parents of limited English proficient children;*

*“(4) assist parents to—*

*“(A) better understand the nature of their children's disabilities and their educational, developmental, and transitional needs;*

*“(B) communicate effectively and work collaboratively with personnel responsible for providing special education, early intervention services, transition services, and related services;*

*“(C) participate in decisionmaking processes and the development of individualized education programs under part B and individualized family service plans under part C;*

*“(D) obtain appropriate information about the range, type, and quality of—*

*“(i) options, programs, services, technologies, practices and interventions based on scientifically based research, to the extent practicable; and*

*“(ii) resources available to assist children with disabilities and their families in school and at home;*

*“(E) understand the provisions of this title for the education of, and the provision of early intervention services to, children with disabilities;*

*“(F) participate in activities at the school level that benefit their children; and*

*“(G) participate in school reform activities;*

*“(5) in States where the State elects to contract with the parent training and information center, contract with State educational agencies to provide, consistent with subparagraphs (B) and (D) of section 615(e)(2), individuals who meet with parents to explain the mediation process to the parents;*

*“(6) assist parents in resolving disputes in the most expeditious and effective way possible, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in section 615(e);*

*“(7) assist parents and students with disabilities to understand their rights and responsibilities under this title, including those under section 615(m) upon the student's reaching the age of majority (as appropriate under State law);*

*“(8) assist parents to understand the availability of, and how to effectively use, procedural safeguards under this title, including the resolution session described in section 615(e);*

*“(9) assist parents in understanding, preparing for, and participating in, the process described in section 615(f)(1)(B);*

*“(10) establish cooperative partnerships with community parent resource centers funded under section 672;*

*“(11) network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 663 and the Institute of Education Sciences, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities described in section 602(3); and*

*“(12) annually report to the Secretary on—*

*“(A) the number and demographics of parents to whom the center provided information and training in the most recently concluded fiscal year;*

*“(B) the effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities; and*

*“(C) the number of parents served who have resolved disputes through alternative methods of dispute resolution.*

*“(c) Optional Activities.—A parent training and information center that receives assistance under this section may provide information to teachers and other professionals to assist the teachers and professionals in improving results for children with disabilities.*

*“(d) Application Requirements.—Each application for assistance under this section shall identify with specificity the special efforts that the parent organization will undertake—*

*“(1) to ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served are effectively met; and*

*“(2) to work with community based organizations, including community based organizations that work with low-income parents and parents of limited English proficient children.*

*“(e) Distribution of Funds.—*

*“(1) In general.—The Secretary shall—*

*“(A) make not less than 1 award to a parent organization in each State for a parent training and information center that is designated as the statewide parent training and information center; or*

*“(B) in the case of a large State, make awards to multiple parent training and information centers, but only if the centers demonstrate that coordinated services and supports will occur among the multiple centers.*

*“(2) Selection requirement.—The Secretary shall select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.*

*“(f) Quarterly Review.—*

*“(1) Meetings.—The board of directors of each parent organization that receives an award under this section shall meet not less than once in each calendar quarter to review the activities for which the award was made.*

*“(2) Continuation award.—When a parent organization requests a continuation award under this section, the board of directors shall submit to the Secretary a written review of the parent training and information program conducted by the parent organization during the preceding fiscal year.*

### “SEC. 672. COMMUNITY PARENT RESOURCE CENTERS.

*“(a) Program Authorized.—*

*“(1) In general.—The Secretary may award grants to, and enter into contracts and cooperative agreements with, local parent organizations to support community parent resource centers that will help ensure that underserved parents of children with disabilities, including low income parents, parents of limited English proficient children, and parents with disabilities, have the training and information the parents need to enable the parents to participate effectively in helping their children with disabilities—*

*“(A) to meet developmental and functional goals, and challenging academic achievement goals that have been established for all children; and*

*“(B) to be prepared to lead productive independent adult lives, to the maximum extent possible.*

*“(2) Definition of local parent organization.—In this section, the term ‘local parent organization’ means a parent organization, as defined in section 671(a)(2), that—*

*‘‘(A) has a board of directors the majority of whom are parents of children with disabilities ages birth through 26 from the community to be served; and*

*‘‘(B) has as its mission serving parents of children with disabilities who—*

*‘‘(i) are ages birth through 26; and*

*‘‘(ii) have the full range of disabilities described in section 602(3).*

*‘‘(b) REQUIRED ACTIVITIES.—Each community parent resource center assisted under this section shall—*

*‘‘(1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement;*

*‘‘(2) carry out the activities required of parent training and information centers under paragraphs (2) through (9) of section 671(b);*

*‘‘(3) establish cooperative partnerships with the parent training and information centers funded under section 671; and*

*‘‘(4) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support.*

### ‘‘SEC. 673. TECHNICAL ASSISTANCE FOR PARENT TRAINING AND INFORMATION CENTERS.

*‘‘(a) PROGRAM AUTHORIZED.—*

*‘‘(1) IN GENERAL.—The Secretary may, directly or through awards to eligible entities, provide technical assistance for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers receiving assistance under section 671 and community parent resource centers receiving assistance under section 672.*

*‘‘(2) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ has the meaning given the term in section 661(b).*

*‘‘(b) AUTHORIZED ACTIVITIES.—The Secretary may provide technical assistance to a parent training and information center or a community parent resource center under this section in areas such as—*

*‘‘(1) effective coordination of parent training efforts;*

*‘‘(2) dissemination of scientifically based research and information;*

*‘‘(3) promotion of the use of technology, including assistive technology devices and assistive technology services;*

*‘‘(4) reaching underserved populations, including parents of low-income and limited English proficient children with disabilities;*

*‘‘(5) including children with disabilities in general education programs;*

*‘‘(6) facilitation of transitions from—*

*‘‘(A) early intervention services to preschool;*

*‘‘(B) preschool to elementary school;*

*‘‘(C) elementary school to secondary school; and*

*‘‘(D) secondary school to postsecondary environments; and*

*‘‘(7) promotion of alternative methods of dispute resolution, including mediation.*

*‘‘(c) COLLABORATION WITH THE RESOURCE CENTERS.—Each eligible entity receiving an award under subsection (a) shall develop collaborative agreements with the geographically appropriate regional resource center and, as appropriate, the regional educational laboratory supported under section 174 of the Education Sciences Reform Act of 2002, to further parent and professional collaboration.*

### ‘‘SEC. 674. TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION; MEDIA SERVICES; AND INSTRUCTIONAL MATERIALS.

*‘‘(a) PROGRAM AUTHORIZED.—*

*‘‘(1) IN GENERAL.—The Secretary, on a competitive basis, shall award grants to, and enter into contracts and cooperative agreements with, eligible entities to support activities described in subsections (b) and (c).*

*‘‘(2) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ has the meaning given the term in section 661(b).*

*‘‘(b) TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND USE.—*

*‘‘(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities to promote the development, demonstration, and use of technology.*

*‘‘(2) AUTHORIZED ACTIVITIES.—The following activities may be carried out under this subsection:*

*‘‘(A) Conducting research on and promoting the demonstration and use of innovative, emerging, and universally designed technologies for children with disabilities, by improving the transfer of technology from research and development to practice.*

*‘‘(B) Supporting research, development, and dissemination of technology with universal design features, so that the technology is accessible to the broadest range of individuals with disabilities without further modification or adaptation.*

*‘‘(C) Demonstrating the use of systems to provide parents and teachers with information and training concerning early diagnosis of, intervention for, and effective teaching strategies for, young children with reading disabilities.*

*‘‘(D) Supporting the use of Internet-based communications for students with cognitive disabilities in order to maximize their academic and functional skills.*

*‘‘(c) EDUCATIONAL MEDIA SERVICES.—*

*‘‘(1) IN GENERAL.—In carrying out this section, the Secretary shall support—*

*‘‘(A) educational media activities that are designed to be of educational value in the classroom setting to children with disabilities;*

*‘‘(B) providing video description, open captioning, or closed captioning, that is appropriate for use in the classroom setting, of—*

*‘‘(i) television programs;*

*‘‘(ii) videos;*

*‘‘(iii) other materials, including programs and materials associated with new and emerging technologies, such as CDs, DVDs, video streaming, and other forms of multimedia; or*

*‘‘(iv) news (but only until September 30, 2006);*

*‘‘(C) distributing materials described in subparagraphs (A) and (B) through such mechanisms as a loan service; and*

*‘‘(D) providing free educational materials, including textbooks, in accessible media for visually impaired and print disabled students in elementary schools and secondary schools.*

*‘‘(2) LIMITATION.—The video description, open captioning, or closed captioning described in paragraph (1)(B) shall be provided only when the description or captioning has not been previously provided by the producer or distributor, or has not been fully funded by other sources.*

*‘‘(d) APPLICATIONS.—*

*‘‘(1) IN GENERAL.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under subsection (b) or (c) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.*

*‘‘(2) SPECIAL RULE.—For the purpose of an application for an award to carry out activities described in subsection (c)(1)(D), such eligible entity shall—*

*‘‘(A) be a national, nonprofit entity with a proven track record of meeting the needs of students with print disabilities through services described in subsection (c)(1)(D);*

*‘‘(B) have the capacity to produce, maintain, and distribute in a timely fashion, up-to-date textbooks in digital audio formats to qualified students; and*

*‘‘(C) have a demonstrated ability to significantly leverage Federal funds through other public and private contributions, as well as through the expansive use of volunteers.*

*‘‘(e) NATIONAL INSTRUCTIONAL MATERIALS ACCESS CENTER.—*

*‘‘(1) IN GENERAL.—The Secretary shall establish and support, through the American Printing House for the Blind, a center to be known as the ‘National Instructional Materials Access Center’ not later than 1 year after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004.*

*‘‘(2) DUTIES.—The duties of the National Instructional Materials Access Center are the following:*

*‘‘(A) To receive and maintain a catalog of print instructional materials prepared in the National Instructional Materials Accessibility Standard, as established by the Secretary, made available to such center by the textbook publishing industry, State educational agencies, and local educational agencies.*

*‘‘(B) To provide access to print instructional materials, including textbooks, in accessible media, free of charge, to blind or other persons with print disabilities in elementary schools and secondary schools, in accordance with such terms and procedures as the National Instructional Materials Access Center may prescribe.*

*‘‘(C) To develop, adopt and publish procedures to protect against copyright infringement, with respect to the print instructional materials provided under sections 612(a)(23) and 613(a)(6).*

*‘‘(3) DEFINITIONS.—In this subsection:*

*‘‘(A) BLIND OR OTHER PERSONS WITH PRINT DISABILITIES.—The term ‘blind or other persons with print disabilities’ means children served under this Act and who may qualify in accordance with the Act entitled ‘An Act to provide books for the adult blind’, approved March 3, 1931 (2 U.S.C. 135a; 46 Stat. 1487) to receive books and other publications produced in specialized formats.*

*‘‘(B) NATIONAL INSTRUCTIONAL MATERIALS ACCESSIBILITY STANDARD.—The term ‘National Instructional Materials Accessibility Standard’ means the standard established by the Secretary to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats.*

*‘‘(C) PRINT INSTRUCTIONAL MATERIALS.—The term ‘print instructional materials’ means printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a State educational agency or local educational agency for use by students in the classroom.*

*‘‘(D) SPECIALIZED FORMATS.—The term ‘specialized formats’ has the meaning given the term in section 121(d)(3) of title 17, United States Code.*

*‘‘(4). APPLICABILITY.—This subsection shall apply to print instructional materials published after the date on which the final rule establishing the National Instructional Materials Accessibility Standard was published in the Federal Register.*

*‘‘(5) LIABILITY OF THE SECRETARY.—Nothing in this subsection shall be construed to establish a private right of action against the Secretary for failure to provide instructional materials directly, or for failure by the National Instructional Materials Access Center to perform the duties of such center, or to otherwise authorize a private right of action related to the performance by such center, including through the application of the rights of children and parents established under this Act.*

*‘‘(6) INAPPLICABILITY.—Subsections (a) through (d) shall not apply to this subsection.*

### "SEC. 675. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 2005 through 2010.

## "Subpart 4—General Provisions

### "SEC. 681. COMPREHENSIVE PLAN FOR SUBPARTS 2 AND 3.

"(a) COMPREHENSIVE PLAN.—

"(1) IN GENERAL.—After receiving input from interested individuals with relevant expertise, the Secretary shall develop and implement a comprehensive plan for activities carried out under subparts 2 and 3 in order to enhance the provision of early intervention services, educational services, related services, and transitional services to children with disabilities under parts B and C. To the extent practicable, the plan shall be coordinated with the plan developed pursuant to section 178(c) of the Education Sciences Reform Act of 2002 and shall include mechanisms to address early intervention, educational, related service and transitional needs identified by State educational agencies in applications submitted for State personnel development grants under subpart 1 and for grants under subparts 2 and 3.

"(2) PUBLIC COMMENT.—The Secretary shall provide a public comment period of not less than 45 days on the plan.

"(3) DISTRIBUTION OF FUNDS.—In implementing the plan, the Secretary shall, to the extent appropriate, ensure that funds awarded under subparts 2 and 3 are used to carry out activities that benefit, directly or indirectly, children with the full range of disabilities and of all ages.

"(4) REPORTS TO CONGRESS.—The Secretary shall annually report to Congress on the Secretary's activities under subparts 2 and 3, including an initial report not later than 12 months after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004.

"(b) ASSISTANCE AUTHORIZED.—The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, eligible entities to enable the eligible entities to carry out the purposes of such subparts in accordance with the comprehensive plan described in subsection (a).

"(c) SPECIAL POPULATIONS.—

"(1) APPLICATION REQUIREMENT.—In making an award of a grant, contract, or cooperative agreement under subpart 2 or 3, the Secretary shall, as appropriate, require an eligible entity to demonstrate how the eligible entity will address the needs of children with disabilities from minority backgrounds.

"(2) REQUIRED OUTREACH AND TECHNICAL ASSISTANCE.—Notwithstanding any other provision of this title, the Secretary shall reserve not less than 2 percent of the total amount of funds appropriated to carry out subparts 2 and 3 for either or both of the following activities:

"(A) Providing outreach and technical assistance to historically Black colleges and universities, and to institutions of higher education with minority enrollments of not less than 25 percent, to promote the participation of such colleges, universities, and institutions in activities under this subpart.

"(B) Enabling historically Black colleges and universities, and the institutions described in subparagraph (A), to assist other colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities, if the historically Black colleges and universities and the institutions of higher education described in subparagraph (A) meet the criteria established by the Secretary under this subpart.

"(d) PRIORITIES.—The Secretary, in making an award of a grant, contract, or cooperative agreement under subpart 2 or 3, may, without regard to the rulemaking procedures under section 553 of title 5, United States Code, limit competitions to, or otherwise give priority to—

"(1) projects that address 1 or more—

"(A) age ranges;

"(B) disabilities;

"(C) school grades;

"(D) types of educational placements or early intervention environments;

"(E) types of services;

"(F) content areas, such as reading; or

"(G) effective strategies for helping children with disabilities learn appropriate behavior in the school and other community based educational settings;

"(2) projects that address the needs of children based on the severity or incidence of their disability;

"(3) projects that address the needs of—

"(A) low achieving students;

"(B) underserved populations;

"(C) children from low income families;

"(D) limited English proficient children;

"(E) unserved and underserved areas;

"(F) rural or urban areas;

"(G) children whose behavior interferes with their learning and socialization;

"(H) children with reading difficulties;

"(I) children in public charter schools;

"(J) children who are gifted and talented; or

"(K) children with disabilities served by local educational agencies that receive payments under title VIII of the Elementary and Secondary Education Act of 1965;

"(4) projects to reduce inappropriate identification of children as children with disabilities, particularly among minority children;

"(5) projects that are carried out in particular areas of the country, to ensure broad geographic coverage;

"(6) projects that promote the development and use of technologies with universal design, assistive technology devices, and assistive technology services to maximize children with disabilities' access to and participation in the general education curriculum; and

"(7) any activity that is authorized in subpart 2 or 3.

"(e) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—No State or local educational agency, or other public institution or agency, may receive a grant or enter into a contract or cooperative agreement under subpart 2 or 3 that relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, inclusive, unless the State is eligible to receive a grant under section 619(b).

### "SEC. 682. ADMINISTRATIVE PROVISIONS.

"(a) APPLICANT AND RECIPIENT RESPONSIBILITIES.—

"(1) DEVELOPMENT AND ASSESSMENT OF PROJECTS.—The Secretary shall require that an applicant for, and a recipient of, a grant, contract, or cooperative agreement for a project under subpart 2 or 3—

"(A) involve individuals with disabilities or parents of individuals with disabilities ages birth through 26 in planning, implementing, and evaluating the project; and

"(B) where appropriate, determine whether the project has any potential for replication and adoption by other entities.

"(2) ADDITIONAL RESPONSIBILITIES.—The Secretary may require a recipient of a grant, contract, or cooperative agreement under subpart 2 or 3 to—

"(A) share in the cost of the project;

"(B) prepare any findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities;

"(C) disseminate such findings and products; and

"(D) collaborate with other such recipients in carrying out subparagraphs (B) and (C).

"(b) APPLICATION MANAGEMENT.—

"(1) STANDING PANEL.—

"(A) IN GENERAL.—The Secretary shall establish and use a standing panel of experts who are qualified, by virtue of their training, expertise, or experience, to evaluate each application under subpart 2 or 3 that requests more than $75,000 per year in Federal financial assistance.

"(B) MEMBERSHIP.—The standing panel shall include, at a minimum—

"(i) individuals who are representatives of institutions of higher education that plan, develop, and carry out high quality programs of personnel preparation;

"(ii) individuals who design and carry out scientifically based research targeted to the improvement of special education programs and services;

"(iii) individuals who have recognized experience and knowledge necessary to integrate and apply scientifically based research findings to improve educational and transitional results for children with disabilities;

"(iv) individuals who administer programs at the State or local level in which children with disabilities participate;

"(v) individuals who prepare parents of children with disabilities to participate in making decisions about the education of their children;

"(vi) individuals who establish policies that affect the delivery of services to children with disabilities;

"(vii) individuals who are parents of children with disabilities ages birth through 26 who are benefiting, or have benefited, from coordinated research, personnel preparation, and technical assistance; and

"(viii) individuals with disabilities.

"(C) TERM.—No individual shall serve on the standing panel for more than 3 consecutive years.

"(2) PEER-REVIEW PANELS FOR PARTICULAR COMPETITIONS.—

"(A) COMPOSITION.—The Secretary shall ensure that each subpanel selected from the standing panel that reviews an application under subpart 2 or 3 includes—

"(i) individuals with knowledge and expertise on the issues addressed by the activities described in the application; and

"(ii) to the extent practicable, parents of children with disabilities ages birth through 26, individuals with disabilities, and persons from diverse backgrounds.

"(B) FEDERAL EMPLOYMENT LIMITATION.—A majority of the individuals on each subpanel that reviews an application under subpart 2 or 3 shall be individuals who are not employees of the Federal Government.

"(3) USE OF DISCRETIONARY FUNDS FOR ADMINISTRATIVE PURPOSES.—

"(A) EXPENSES AND FEES OF NON-FEDERAL PANEL MEMBERS.—The Secretary may use funds available under subpart 2 or 3 to pay the expenses and fees of the panel members who are not officers or employees of the Federal Government.

"(B) ADMINISTRATIVE SUPPORT.—The Secretary may use not more than 1 percent of the funds appropriated to carry out subpart 2 or 3 to pay non-Federal entities for administrative support related to management of applications submitted under subpart 2 or 3, respectively.

"(c) PROGRAM EVALUATION.—The Secretary may use funds made available to carry out subpart 2 or 3 to evaluate activities carried out under subpart 2 or 3, respectively.

"(d) MINIMUM FUNDING REQUIRED.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall ensure that, for each fiscal *year, not less than the following amounts are provided under subparts 2 and 3 to address the following needs:*

*"(A) $12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deaf-blindness.*

*"(B) $4,000,000 to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals with deafness.*

*"(C) $4,000,000 to address the educational, related services, and transitional needs of children with an emotional disturbance and those who are at risk of developing an emotional disturbance.*

*"(2) RATABLE REDUCTION.—If the sum of the amount appropriated to carry out subparts 2 and 3, and part E of the Education Sciences Reform Act of 2002 for any fiscal year is less than $130,000,000, the amounts listed in paragraph (1) shall be ratably reduced for the fiscal year.".*

### ***TITLE II—NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH***

#### ***SEC. 201. NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH.***

*(a) AMENDMENT.—The Education Sciences Reform Act of 2002 (20 U.S.C. 9501 et seq.) is amended—*

*(1) by redesignating part E as part F; and*

*(2) by inserting after part D the following:*

### ***"PART E—NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH***

#### ***"SEC. 175. ESTABLISHMENT.***

*"(a) ESTABLISHMENT.—There is established in the Institute a National Center for Special Education Research (in this part referred to as the 'Special Education Research Center').*

*"(b) MISSION.—The mission of the Special Education Research Center is—*

*"(1) to sponsor research to expand knowledge and understanding of the needs of infants, toddlers, and children with disabilities in order to improve the developmental, educational, and transitional results of such individuals;*

*"(2) to sponsor research to improve services provided under, and support the implementation of, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and*

*"(3) to evaluate the implementation and effectiveness of the Individuals with Disabilities Education Act in coordination with the National Center for Education Evaluation and Regional Assistance.*

*"(c) APPLICABILITY OF EDUCATION SCIENCES REFORM ACT OF 2002.—Parts A and F, and the standards for peer review of applications and for the conduct and evaluation of research under sections 133(a) and 134, respectively, shall apply to the Secretary, the Director, and the Commissioner in carrying out this part.*

#### ***"SEC. 176. COMMISSIONER FOR SPECIAL EDUCATION RESEARCH.***

*"The Special Education Research Center shall be headed by a Commissioner for Special Education Research (in this part referred to as the 'Special Education Research Commissioner') who shall have substantial knowledge of the Special Education Research Center's activities, including a high level of expertise in the fields of research, research management, and the education of children with disabilities.*

#### ***"SEC. 177. DUTIES.***

*"(a) GENERAL DUTIES.—The Special Education Research Center shall carry out research activities under this part consistent with the mission described in section 175(b), such as activities that—*

*"(1) improve services provided under the Individuals with Disabilities Education Act in order to improve—*

*"(A) academic achievement, functional outcomes, and educational results for children with disabilities; and*

*"(B) developmental outcomes for infants or toddlers with disabilities;*

*"(2) identify scientifically based educational practices that support learning and improve academic achievement, functional outcomes, and educational results for all students with disabilities;*

*"(3) examine the special needs of preschool aged children, infants, and toddlers with disabilities, including factors that may result in developmental delays;*

*"(4) identify scientifically based related services and interventions that promote participation and progress in the general education curriculum and general education settings;*

*"(5) improve the alignment, compatibility, and development of valid and reliable assessments, including alternate assessments, as required by section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b));*

*"(6) examine State content standards and alternate assessments for students with significant cognitive impairment in terms of academic achievement, individualized instructional need, appropriate education settings, and improved post-school results;*

*"(7) examine the educational, developmental, and transitional needs of children with high incidence and low incidence disabilities;*

*"(8) examine the extent to which overidentification and underidentification of children with disabilities occurs, and the causes thereof;*

*"(9) improve reading and literacy skills of children with disabilities;*

*"(10) examine and improve secondary and postsecondary education and transitional outcomes and results for children with disabilities;*

*"(11) examine methods of early intervention for children with disabilities, including children with multiple or complex developmental delays;*

*"(12) examine and incorporate universal design concepts in the development of standards, assessments, curricula, and instructional methods to improve educational and transitional results for children with disabilities;*

*"(13) improve the preparation of personnel, including early intervention personnel, who provide educational and related services to children with disabilities to increase the academic achievement and functional performance of students with disabilities;*

*"(14) examine the excess costs of educating a child with a disability and expenses associated with high cost special education and related services;*

*"(15) help parents improve educational results for their children, particularly related to transition issues;*

*"(16) address the unique needs of children with significant cognitive disabilities; and*

*"(17) examine the special needs of limited English proficient children with disabilities.*

*"(b) STANDARDS.—The Special Education Research Commissioner shall ensure that activities assisted under this section—*

*"(1) conform to high standards of quality, integrity, accuracy, validity, and reliability;*

*"(2) are carried out in accordance with the standards for the conduct and evaluation of all research and development established by the National Center for Education Research; and*

*"(3) are objective, secular, neutral, and nonideological, and are free of partisan political influence, and racial, cultural, gender, regional, or disability bias.*

*"(c) PLAN.—The Special Education Research Commissioner shall propose to the Director a research plan, developed in collaboration with the Assistant Secretary for Special Education and Rehabilitative Services, that—*

*"(1) is consistent with the priorities and mission of the Institute and the mission of the Special Education Research Center;*

*"(2) is carried out, updated, and modified, as appropriate;*

*"(3) is consistent with the purposes of the Individuals with Disabilities Education Act;*

*"(4) contains an appropriate balance across all age ranges and types of children with disabilities;*

*"(5) provides for research that is objective and uses measurable indicators to assess its progress and results; and*

*"(6) is coordinated with the comprehensive plan developed under section 681 of the Individuals with Disabilities Education Act.*

*"(d) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—*

*"(1) IN GENERAL.—In carrying out the duties under this section, the Director may award grants to, or enter into contracts or cooperative agreements with, eligible applicants.*

*"(2) ELIGIBLE APPLICANTS.—Activities carried out under this subsection through contracts, grants, or cooperative agreements shall be carried out only by recipients with the ability and capacity to conduct scientifically valid research.*

*"(3) APPLICATIONS.—An eligible applicant that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.*

*"(e) DISSEMINATION.—The Special Education Research Center shall—*

*"(1) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance, the findings and results of special education research conducted or supported by the Special Education Research Center; and*

*"(2) assist the Director in the preparation of a biennial report, as described in section 119.*

*"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 2005 through 2010.".*

*(b) CONFORMING AMENDMENTS.—*

*(1) AMENDMENTS TO THE TABLE OF CONTENTS.—The table of contents in section 1 of the Act entitled "An Act to provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, and for other purposes", approved November 5, 2002 (116 Stat. 1940; Public Law 107-279), is amended—*

*(A) by redesignating the item relating to part E as the item relating to part F; and*

*(B) by inserting after the item relating to section 174 the following:*

***"Part E—National Center for Special Education Research***

*"Sec. 175. Establishment.*
*"Sec. 176. Commissioner for Special Education Research.*
*"Sec. 177. Duties.".*

*(2) EDUCATION SCIENCES REFORM ACT OF 2002.—The Education Sciences Reform Act of 2002 (20 U.S.C. 9501 et seq.) is amended—*

*(A) in section 111(b)(1)(A) (20 U.S.C. 9511(b)(1)(A)), by inserting "and special education" after "early childhood education";*

*(B) in section 111(c)(3) (20 U.S.C. 9511(c)(3))—*

*(i) in subparagraph (B), by striking "and" after the semicolon;*

*(ii) in subparagraph (C), by striking the period and inserting "; and"; and*

*(iii) by adding at the end the following:*

*"(D) the National Center for Special Education Research (as described in part E).";*

*(C) in section 115(a) (20 U.S.C. 9515(a)), by striking "including those" and all that follows through "such as" and inserting "including those associated with the goals and requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), such as"; and*

*(D) in section 116(c)(4)(A)(ii) (20 U.S.C. 9516(c)(4)(A)(ii), by inserting "special education experts," after "early childhood experts,".*

*(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 1117(a)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6317(a)(3)) is amended by striking "part E" and inserting "part D".*

### *SEC. 202. NATIONAL BOARD FOR EDUCATION SCIENCES.*

*Section 116(c)(9) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9516(c)(9)) is amended by striking the third sentence and inserting the following: "Meetings of the Board are subject to section 552b of title 5, United States Code (commonly referred to as the Government in the Sunshine Act).".*

### *SEC. 203. REGIONAL ADVISORY COMMITTEES.*

*Section 206(d)(3) of the Educational Technical Assistance Act of 2002 (20 U.S.C. 9605(d)(3)) is amended by striking "Academy" and inserting "Institute".*

## *TITLE III—MISCELLANEOUS PROVISIONS*

### *SEC. 301. AMENDMENT TO CHILDREN'S HEALTH ACT OF 2000.*

*Section 1004 of the Children's Health Act of 2000 (42 U.S.C. 285g note) is amended—*

*(1) in subsection (b), by striking "Agency" and inserting "Agency, and the Department of Education"; and*

*(2) in subsection (c)—*

*(A) in paragraph (2), by striking "and" after the semicolon;*

*(B) in paragraph (3), by striking the period at the end and inserting "; and"; and*

*(C) by adding at the end the following:*

*"(4) be conducted in compliance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g), including the requirement of prior parental consent for the disclosure of any education records, except without the use of authority or exceptions granted to authorized representatives of the Secretary of Education for the evaluation of Federally-supported education programs or in connection with the enforcement of the Federal legal requirements that relate to such programs.".*

### *SEC. 302. EFFECTIVE DATES.*

*(a) PARTS A, B, AND C, AND SUBPART 1 OF PART D.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), parts A, B, and C, and subpart 1 of part D, of the Individuals with Disabilities Education Act, as amended by title I, shall take effect on July 1, 2005.*

*(2) HIGHLY QUALIFIED DEFINITION.—Subparagraph (A), and subparagraphs (C) through (F), of section 602(10) of the Individuals with Disabilities Education Act, as amended by title I, shall take effect on the date of enactment of this Act for purposes of the Elementary and Secondary Education Act of 1965.*

*(b) SUBPARTS 2, 3, AND 4 OF PART D.—Subparts 2, 3, and 4 of part D of the Individuals with Disabilities Education Act, as amended by title I, shall take effect on the date of enactment of this Act.*

*(c) EDUCATION SCIENCES REFORM ACT OF 2002.—*

*(1) NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH.—Sections 175, 176, and 177 (other than section 177(c)) of the Education Sciences Reform Act of 2002, as enacted by section 201(a)(2) of this Act, shall take effect on the date of enactment of this Act.*

*(2) PLAN.—Section 177(c) of the Education Sciences Reform Act of 2002, as enacted by section 201(a)(2) of this Act, shall take effect on October 1, 2005.*

### *SEC. 303. TRANSITION.*

*(a) ORDERLY TRANSITION.—*

*(1) IN GENERAL.—The Secretary of Education (in this section referred to as "the Secretary") shall take such steps as are necessary to provide for the orderly transition from the Individuals with Disabilities Education Act, as such Act was in effect on the day preceding the date of enactment of this Act, to the Individuals with Disabilities Education Act and part E of the Education Sciences Reform Act of 2002, as amended by this Act.*

*(2) LIMITATION.—The Secretary's authority in paragraph (1) shall terminate 1 year after the date of enactment of this Act.*

*(b) MULTI-YEAR AWARDS.—Notwithstanding any other provision of law, the Secretary may use funds appropriated under part D of the Individuals with Disabilities Education Act to make continuation awards for projects that were funded under section 618, and part D, of the Individuals with Disabilities Education Act (as such section and part were in effect on September 30, 2004), in accordance with the terms of the original awards.*

*(c) RESEARCH.—Notwithstanding section 302(b) or any other provision of law, the Secretary may award funds that are appropriated under the Department of Education Appropriations Act, 2005 for special education research under either of the headings "SPECIAL EDUCATION" or "INSTITUTE OF EDUCATION SCIENCES" in accordance with sections 672 and 674 of the Individuals with Disabilities Education Act, as such sections were in effect on October 1, 2004.*

### *SEC. 304. REPEALER.*

*Section 644 of the Individuals with Disabilities Education Act, as such section was in effect on the day before the enactment of this Act, is repealed.*

### *SEC. 305. IDEA TECHNICAL AMENDMENTS TO OTHER LAWS.*

*(a) TITLE 10.—Section 2164(f) of title 10, United States Code is amended—*

*(1) in paragraph (1)(B)—*

*(A) by striking "infants and toddlers" each place the term appears and inserting "infants or toddlers";*

*(B) by striking "part H" and inserting "part C"; and*

*(C) by striking "1471" and inserting "1431"; and*

*(2) in paragraph (3)—*

*(A) in subparagraph (A)—*

*(i) by striking "602(a)(1)" and inserting "602"; and*

*(ii) by striking "1401(a)(1)" and inserting "1401";*

*(B) by striking subparagraph (B);*

*(C) by redesignating subparagraph (C) as subparagraph (B); and*

*(D) in subparagraph (B) (as so redesignated)—*

*(i) by striking "and toddlers" and inserting "or toddlers";*

*(ii) by striking "672(1)" and inserting "632"; and*

*(iii) by striking "1472(1)" and inserting "1432".*

*(b) DEFENSE DEPENDENTS EDUCATION ACT OF 1978.—Section 1409(c)(2) of the Defense Dependents Education Act of 1978 (20 U.S.C. 927(c)(2)) is amended—*

*(1) by striking "677" and inserting "636"; and*

*(2) by striking "part H" and inserting "part C".*

*(c) HIGHER EDUCATION ACT OF 1965.—The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—*

*(1) in section 465(a)(2)(C) (20 U.S.C. 1087ee(a)(2)(C), by striking "Individuals With" and inserting "Individuals with" and;*

*(2) in section 469(c) (20 U.S.C. 1087ii(c)), by striking "602(a)(1) and 672(1)" and inserting "602 and 632".*

*(d) EDUCATION OF THE DEAF ACT.—The matter preceding subparagraph (A) of section 104(b)(2) of the Education of the Deaf Act (20 U.S.C. 4304(b)(2)) is amended by striking "618(a)(1)(A)" and inserting "618(a)(1)".*

*(e) GOALS 2000: EDUCATE AMERICA ACT.—Section 3(a)(9) of the Goals 2000: Educate America Act (20 U.S.C. 5802(a)(9)) is amended by striking "602(a)(17)" and inserting "602".*

*(f) SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994.—Section 4(15) of the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6103(15)) is amended—*

*(1) by striking "602(a)(17)" and inserting "602"; and*

*(2) by striking "1401(17)" and inserting "1401".*

*(g) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—*

*(1) in section 1111(b)(2)(I)(ii) (20 U.S.C. 6311(b)(2)(I)(ii)), by striking "612(a)(17)(A)" and inserting "612(a)(16)(A)";*

*(2) in section 5208 (20 U.S.C. 7221g), by striking "602(11)" and inserting "602"; and*

*(3) in section 5563(b)(8)(C) (20 U.S.C. 7273b(b)(8)(C)), by striking "682" and inserting "671".*

*(h) REHABILITATION ACT OF 1973.—The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) is amended—*

*(1) in section 101(a)(11)(D)(ii) (29 U.S.C. 721(a)(11)(D)(ii)), by striking "(as added by section 101 of Public Law 105-17)";*

*(2) in section 105(b)(1)(A)(ii) (29 U.S.C. 725(b)(1)(A)(ii)), by striking "682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17)" and inserting "671 of the Individuals with Disabilities Education Act";*

*(3) in section 105(c)(6) (29 U.S.C. 725(c)(6))—*

*(A) by striking "612(a)(21)" and inserting "612(a)(20)";*

*(B) by striking "Individual with" and inserting "Individuals with"; and*

*(C) by striking "(as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17)";*

*(4) in section 302(f)(1)(D)(ii) (29 U.S.C. 772 (f)(1)(D)(ii)), by striking "(as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105–17))";*

*(5) in section 303(c)(6) (29 U.S.C. 773(c)(6))—*

*(A) by striking "682(a)" and inserting "671"; and*

*(B) by striking "(as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17)"; and*

*(6) in section 303(c)(4)(A)(ii) (29 U.S.C. 773(c)(4)(A)(ii)), by striking "682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17)" and inserting "671 of the Individuals with Disabilities Education Act".*

*(i) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—*

*(1) in section 399A(f) (42 U.S.C. 280d(f), by striking "part H" and inserting "part C";*

*(2) in section 399(n)(3) (42 U.S.C. 280c–6(n)(3)), by striking "part H" and inserting "part C";*

*(3) in section 399A(b)(8) (42 U.S.C. 280d(b)(8)), by striking "part H" and inserting "part C";*

*(4) in section 562(d)(3)(B) (42 U.S.C. 290ff-1(d)(3)(B)), by striking "and H" and inserting "and C"; and*

*(5) in section 563(d)(2) (42 U.S.C. 290ff-2(d)(2)), by striking "602(a)(19)" and inserting "602".*

*(j) SOCIAL SECURITY ACT.—The Social Security Act (42 U.S.C. 301 et seq.) is amended—*

*(1) in section 1903(c) (42 U.S.C. 1396b(c)), by striking "part H" and inserting "part C"; and*

*(2) in section 1915(c)(5)(C)(i) (42 U.S.C. 1396n(c)(5)(C)(i)), by striking "(as defined in section 602(16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401(16), (17))" and inserting "(as such terms are defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401))".*

*(k) DOMESTIC VOLUNTEER SERVICE ACT OF 1973.—Section 211(a) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5011(a)) is amended—*

*(1) by striking "part H" and inserting "part C"; and*

*(2) by striking "1471" and inserting "1431".*

*(l) HEAD START ACT.—The Head Start Act (42 U.S.C. 9831 et seq.) is amended—*

*(1) in section 640(a)(5)(C)(iv) (42 U.S.C. 9835(a)(5)(C)(iv)), by striking "1445" and inserting "1444";*

*(2) in section 640(d) (42 U.S.C. 9835(d))—*

*(A) by striking "U.S.C" and inserting "U.S.C."; and*

*(B) by striking "1445" and inserting "1444";*

*(3) in section 641(d)(3) (42 U.S.C. 9836(d)(3)), by striking "U.S.C 1431–1445" and inserting "U.S.C. 1431–1444"; and*

*(4) in section 642(c) (42 U.S.C. 9837(c)), by striking "1445" and inserting "1444".*

*(m) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Section 101(21)(B) of the National and Community Service Act of 1990 (42 U.S.C. 12511(21)(B)) is amended—*

*(1) by striking "602(a)(1)" and inserting "602"; and*

*(2) by striking "1401(a)(1)" and inserting "1401".*

*(n) DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT OF 2000.—The Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.) is amended—*

*(1) in section 125(c)(5)(G)(i) (42 U.S.C. 15025(c)(5)(G)(i)), by striking "subtitle C" and inserting "part C"; and*

*(2) in section 154(a)(3)(E)(ii)(VI) (42 U.S.C. 15064(a)(3)(E)(ii)(VI))—*

*(A) by striking "682 or 683" and inserting "671 or 672"; and*

*(B) by striking "(20 U.S.C. 1482, 1483)".*

*(o) DISTRICT OF COLUMBIA SCHOOL REFORM ACT OF 1995.—The District of Columbia School Reform Act of 1995 (Public Law 104–134) is amended—*

*(1) in section 2002(32)—*

*(A) by striking "602(a)(1)" and inserting "602"; and*

*(B) by striking "1401(a)(1)" and inserting "1401";*

*(2) in section 2202(19), by striking "Individuals With" and inserting "Individuals with"; and*

*(3) in section 2210—*

*(A) in the heading for subsection (c), by striking "WITH DISABILITIES" and inserting "WITH DISABILITIES"; and*

*(B) in subsection (c), by striking "Individuals With" and inserting "Individuals with".*

***SEC. 306. COPYRIGHT.***

*Section 121 of title 17, United States Code, is amended—*

*(1) by redesignating subsection (c) as subsection (d);*

*(2) by inserting after subsection (b) the following:*

*"(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a publisher of print instructional materials for use in elementary or secondary schools to create and distribute to the National Instructional Materials Access Center copies of the electronic files described in sections 612(a)(23)(C), 613(a)(6), and section 674(e) of the Individuals with Disabilities Education Act that contain the contents of print instructional materials using the National Instructional Material Accessibility Standard (as defined in section 674(e)(3) of that Act), if—*

*"(1) the inclusion of the contents of such print instructional materials is required by any State educational agency or local educational agency;*

*"(2) the publisher had the right to publish such print instructional materials in print formats; and*

*"(3) such copies are used solely for reproduction or distribution of the contents of such print instructional materials in specialized formats."; and*

*(3) in subsection (d), as redesignated by this section—*

*(A) in paragraph (2), by striking "and" after the semicolon; and*

*(B) by striking paragraph (3) and inserting the following:*

*"(3) 'print instructional materials' has the meaning given under section 674(e)(3)(C) of the Individuals with Disabilities Education Act; and*

*"(4) 'specialized formats' means—*

*"(A) braille, audio, or digital text which is exclusively for use by blind or other persons with disabilities; and*

*"(B) with respect to print instructional materials, includes large print formats when such materials are distributed exclusively for use by blind or other persons with disabilities.".*

And the Senate agree to the same.

From the Committee on Education and the Workforce, of reconsideration of the House bill and the Senate amendment, and modifications committed to conference:

John Boehner,
Michael N. Castle,
Vernon J. Ehlers,
Ric Keller,
Joe Wilson,
George Miller,
Lynn C. Woolsey,
Major R. Owens,

From the Committee on Energy and Commerce, for consideration of sec. 101 and title V of the Senate amendment, and modifications committed to conference:

Joe Barton,
Michael Bilirakis,
John D. Dingell,

From the Committee on the Judiciary, for consideration of sec. 205 of the House bill, and sec. 101 of the Senate amendment, and modifications committed to conference:

F. James Sensenbrenner, Jr.,
Lamar Smith,
John Conyers,

*Managers on the Part of the House.*

Judd Gregg,
Bill Frist,
Michael B. Enzi,
Lamar Alexander,
Christopher Bond,
Mike DeWine,
Pat Roberts,
Jeff Sessions,
John Ensign,
Lindsey Graham,
John Warner,
Edward Kennedy,
Christopher J. Dodd,
Tom Harkin,
Barbara A. Mikulski,
Jeff Bingaman,
Pat Murray,
Jack Reed,
John Edwards,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1350), an Act to reauthorize the Individuals with Disabilities Education Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by managers and recommended in the accompanying conference report:

### RECOMMENDATIONS

*Enacting Clause, Short Title, and Organization*

(1) The House bill and Senate amendment have different titles and different organization systems.

HR

(2) The House bill includes this technical language as part of its structure to keep section 604 as current law. The Senate amendment replaces the entire existing law.

HR/LC

*Title I, Part A*

(3) There are no significant differences between the House bill and Senate amendment.

HR/LC

(4) The House bill and Senate amendment have different sections and headings in Part A and Part D. In Part D the Senate amendment has a subpart IV that is not in the House bill.

LC

(5) There are no significant differences between House (c)(1) and Senate (c)(1).

LC

(6) The Senate amendment goes into greater detail on how the needs of special education students were not being met prior to PL 94–142.

HR

(7) The House bill does not include the Senate findings on implementation or providing services.

HR

(8) There are no significant differences between the House bill and Senate amendment.

LC

(9) The House bill does not include these Senate findings.

HR

(10) There are no significant differences between the House bill and Senate amendment.

LC

(11) There are no significant differences between the House and Senate amendments.

LC

(12) There are minor wording differences between the House bill and the Senate amendment regarding full participation of minority individuals.

SR

(13) The House bill does not include this Senate finding.

HR

(14) The House bill refers to "system improvement activities" while the Senate bill refers to "systemic-change activities."

SR

(15) The Senate amendment, but not the House bill, includes a clarification that certain medical devices are not required to be provided under the Act.

HR

(16) There are no significant differences between the House bill and Senate amendment.

LC

(17) The Senate amendment, but not the House bill, adds this new definition.

HR

(18) There are no differences between the House bill and Senate amendment.

LC

(19) The Senate amendment, not the House bill, has greater detail in citing ESEA programs. There are also minor wording differences between the bills in describing the impact of State or local funds.

HR

(20) The House bill and Senate amendment are largely similar except the House bill includes language designed to place a limitation on the extent of the services provided under the Act. The Senate amendment does not include this provision.

HR

(21) The House bill applies the requirements for a highly qualified teacher in NCLB to special education teachers. The Senate amendment mirrors the NCLB definition of a highly qualified teacher, with these exceptions:

1. Requires all special education teachers to be certified as special education teachers.

2. Exempts teachers who only provide consultative services from demonstrating subject knowledge/competency.

3. Requires middle/high school teachers, who primarily teach children with significant cognitive disabilities to demonstrate knowledge of elementary curriculum rather than high level competition in each of the subjects they teach.

HR with an amendment to read as follows:

"(10) HIGHLY QUALIFIED.—

"(A) IN GENERAL.—For any special education teacher, the term "highly qualified" has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965, except that such term also—

"(i) includes the requirements described in subparagraph (B); and

"(ii) includes the option for teachers to meet the requirements of section 9101 of such Act by meeting the requirements of subparagraph (C) or (D).

"(B) REQUIREMENTS FOR SPECIAL EDUCATION TEACHERS.—When used with respect to any public elementary school or secondary school special education teacher teaching in a State, such term means that—

"(i) the teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law;

"(ii) the teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

"(iii) the teacher holds at least a bachelor's degree.

"(C) SPECIAL EDUCATION TEACHERS TEACHING TO ALTERNATE ACHIEVEMENT STANDARDS.—When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards established under the regulations promulgated under section 1111(b)(1) of such Act, such term means the teacher, whether new or not new to the profession, may either—

"(i) meet the applicable requirements of section 9101 of such Act for any elementary, middle, or secondary school teacher who is new or not new to the profession; or

"(ii) meet the requirement of subparagraph (B) or (C) of section 9101(23) of such Act as applied to an elementary school teacher, or, in the case of instruction above the elementary level, has subject matter knowledge appropriate to the level of instruction being provided, as determined by the State, needed to effectively teach to those standards.

"(D) SPECIAL EDUCATION TEACHERS TEACHING MULTIPLE SUBJECTS.—When used with respect to a special education teacher who teaches 2 or more core academic subjects exclusively to children with disabilities, such term means that the teacher may—

"(i) meet the applicable requirements of section 9101 of the Elementary and Secondary Education Act of 1965 for any elementary, middle, or secondary school teacher who is new or not new to the profession;

"(ii) in the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession under section 9101(23)(C)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects; or

"(iii) in the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate competence in the additional core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under section 9101(23)(C)(ii) of such Act, which may include a single, high objective uniform state standard of evaluation covering multiple subjects, not later than 2 years after the date of employment.

"(E) RULE OF CONSTRUCTION.—Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this section or part shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a particular State educational agency or local educational agency employee to be highly qualified.

"(F) DEFINITION FOR PURPOSES OF THE ESEA.—A teacher who is highly qualified under this paragraph shall be considered highly qualified for purposes of the Elementary and Secondary Education Act of 1965."

Report language: "The Conference Committee intends to clarify that, for the purposes of the Elementary and Secondary Education Act of 1965 and the Individuals with Disabilities Education Act, a special education teacher who provides only consultative services to a highly qualified teacher (as such term is defined in section 9101 (23) of the Elementary and Secondary Education Act of 1965) should be considered a highly qualified special education teacher if such teacher meets the requirements of section 602(10)(A) of this legislation. Such consultative services do not include instruction in core academic subjects, but may include adjustments to the learning environment, modifications of instructional methods, adaptation of curricula, the use of positive behavioral supports and interventions, or the use of appropriate accommodations to meet the needs of individual children."

Report language: "Under the Elementary and Secondary Education Act of 1965, each state was charged with developing a 'high, objective, uniform state standard of evaluation' (HOUSSE) to provide teachers with another avenue through which to demonstrate the subject mastery requirements of the "highly qualified" definition. Some states have developed HOUSSE standards for special education teachers. With the passage of this legislation, the Conference committee intends to clarify that under the Elementary and Secondary Education Act of 1965, states may allow special education teachers to utilize a HOUSSE which applies to all teachers or adapt a HOUSSE to accommodate special education teachers, including a HOUSSE that consists of a single evaluation to cover multiple subjects. Such adaptations or accommodations must not, however, establish a lesser standard for the content knowledge requirements of special education teachers compared to the standards for general education teachers. The Conference committee encourages all states to explore these options."

Report language: "It is the conferees' intent that any new special education teacher teaching one core academic subject shall demonstrate competency by passing a rigorous State academic subject test in that subject, or successful completion in that subject of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing. Any special education teacher who is not new to the profession and who teaches one core academic subject must, by the end of the 2005–2006 school year, pass a rigorous State academic subject test in that subject, complete in that subject an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing, or complete a high objective uniform State standard of evaluation."

Report language: "The bill requires special education teachers to have obtained full State certification as special education teachers, but it does not prevent general education and other teachers who are highly qualified in particular subjects from providing instruction in core academic subjects to children with disabilities in those subjects. For example, a reading specialist who is highly qualified in reading instruction, but who is not certified as a special education teacher, would not be prohibited by this provision from providing reading instruction to children with disabilities."

Report language: "In special cases where such children also receive instruction in one or more core academic subjects at an instructional level above the basic elementary school curriculum, the Conferees fully intend for such instruction to be provided by a highly qualified teacher demonstrating a high level of competency in each of the core academic subjects taught. Such instruction could be provided by a highly qualified teacher in the general education classroom or by such teacher providing instruction in a self-contained classroom. Such competency shall be demonstrated consistent with the requirements of this section and with those of section 9101 of the Elementary and Secondary Education Act of 1965."

(22) There are no significant differences between the House bill and the Senate amendment.

LC

(23) The Senate amendment, but not the House bill, adds this new definition.

HR

(24) There are no significant differences between the House bill and the Senate amendment.

LC

(25) There are no significant differences between the House bill and the Senate amendment. Both the House bill and the Senate amendment include this definition of outlying area.

LC

(26) The Senate amendment, but not the House bill, includes extensive language regarding the different types of people that can be deemed a parent of a child with a disability.

SR with an amendment to read as follows:

"(22) PARENT.—The term 'parent' means—

"(i) a natural, adoptive or foster parent of a child (unless prohibited by State law);

"(ii) a guardian (but not the State if the child is a ward of the State)

"(iii) an individual acting in the place of a natural or adoptive parents, including a grandparent, stepparent or other relative with whom the child lives or an individual who is legally responsible for the child's welfare; or

"(iv) except as used in sections 615(b)(2) and 639(a)(5), an individual assigned under either of those sections to be a surrogate parent."

(27) The House bill and Senate amendment are largely similar except the Senate amendment includes an exception regarding certain medical devices and the Senate amendment includes interpreting services, school health services, and travel training instruction as listed related services. The Senate amendment, but not the House bill, includes an exception for medical devices that are surgically implemented or its replacement.

HR with an amendment:

Strike "school health services" and insert "school nurse services designed to enable the child to receive FAPE as described in the IEP" and strike "travel training instruction,".

Report language: "The Conferees intend that 'orientation and mobility services' include travel training instruction."

(28) There are no significant differences between the House bill and the Senate amendment.

LC

(29) There are no differences between the House bill and the Senate amendment.

LC

(30) There are no significant differences between the House bill and the Senate amendment.

LC

(31) The House bill focuses on "academic and developmental achievement" and the Senate amendment focuses on "academic and functional achievement."

HR

(32) The Senate amendment, but not the House bill, includes these definitions for military children, homeless children, and wards of the State.

SR with an amendment to read as follows:

"(34) HOMELESS CHILDREN.—The term 'homeless children' has the meaning given the term 'homeless children and youths' in section 725 of the McKinney-Vento Homeless Assistance Act.

"(35) WARD OF THE STATE.—

"(A) The term 'ward of the state' means a child who, as defined by the State where the child resides, is a foster child, a ward of the State or is in the custody of a public child welfare agency; and

"(B) Not withstanding subparagraph (A), the term does not include a foster child who has a foster parent covered by the definition of "parent" in section 602 (22)."

(33) There are no differences between the House bill and the Senate amendment.

LC

(34) Neither the House bill nor Senate amendment make changes to current law.

HR

(35) The House bill includes this technical language as part of its structure to keep section 604 as current law. The Senate amendment replaces the entire existing law.

LC

(36) There are no differences between the House bill and the Senate amendment.

LC

(37) The House bill, but not the Senate amendment, provides examples of jobs in which recipients of funds should try to employ people with disabilities.

HR

(38) There are minor wording differences between the House bill and the Senate amendment.

HR

(39) The House bill requires a public comment period of 60 days while the Senate amendment limits the comment period to 90 days.

SR with an amendment:

Strike "60" and insert "75".

(40) There are minor wording differences between the House bill and the Senate amendment, but the content is the same.

HR

(41) The House and Senate have the same language, but the Senate amendment places this in (f) (see note 43).

HR

(42) The House bill and Senate amendment are similar with minor wording differences, except that the Senate amendment and not the House bill includes a provision that any letters are provided as guidance and are not legally binding.

HR

(43) The House and Senate have similar language, but the House bill places this in (e) (see note 41).

HR

(44) The House bill includes this technical language as part of its structure to keep parts of current law. The Senate amendment replaces the entire existing law.

LC

(45) The House bill and Senate amendment contain similar provisions regarding State support and facilitation of regulations. But the House bill, not the Senate amendment, requires States to minimize the number of regulations under the Act while the Senate amendment, not the House bill, requires States to identify in writing any rule, regulation, or policy that is generated by the State, not the Act or its regulations.

HR with an amendment:

Insert paragraph (2) of House bill.

(46) The Senate amendment allows up to 15 States to participate in a paperwork reduction pilot. The House bill allows the participation of up to 10 States in note 263.

HR

(47) The House bill contains a request for GAO to report on the paperwork burden of the Act every 2 years, with an initial 2 year deadline.

HR

(48) The House bill also includes requests for GAO to report on disability definitions in the States, distance learning for professional development programs, and the impact of the Act on limited English proficient students. The Senate amendment does not include these reports.

HR

(49a) The Senate amendment, but not the House bill, specifies that the Freely Associated States shall continue to be eligible for competitive grants administered by the Secretary.

HR

*Part B*

(49) The House bill includes this technical language as part of its structure to keep parts of current law. The Senate amendment replaces the entire existing law.

LC

(50) There are no differences between the House bill and the Senate amendment.

LC

(51) The House bill places a cap on the maximum grant that is based on the number of students in the State. The Senate amendment bases the formula for the maximum total cap on the number of children with disabilities in the 02–03 school year and adjusts the formula by the change in the population and poverty rates in the State.

SR with an amendment:

Rewrite (a)(2) to read as follows:

"(2) MAXIMUM AMOUNTS.—The maximum amount of the grant a State may receive under this section for any fiscal year is—

"(A) for fiscal years 2005 and 2006 is—

"(i) the number of children with disabilities in the State who are receiving special education and related services—

"(I) aged 3 through 5 if the State is eligible for a grant under section 619; and

"(II) aged 6 through 21; multiplied by—

"(ii) 40 percent of the APPE in public elementary and secondary schools in the United States; and

"(B) for fiscal year 2007 and subsequent fiscal years—

"(i) the number of children with disabilities in the 2004–2005 school year in the State who received special education and related services—

"(I) aged 3 through 5 if the State is eligible for a grant under section 619; and

"(II) aged 6 through 21; multiplied by—

"(ii) 40 percent of the APPE in public elementary and secondary schools in the United States; adjusted by:

"(iii) the rate of annual change in the sum of—

"(I) 85 percent of such State's population described in subsection (d)(3)(A)(i)(II); and

"(II) 15 percent of such State's population described in subsection (d)(3)(A)(i)(III)."

(52) The Senate amendment includes the Freely Associated States as eligible entities under this Act. The House bill does not.

HR

(53) There are no differences between the House bill and Senate amendment.

LC

(54) The Senate amendment allows funds to be allocated to the Freely Associated States and for studies and evaluations under Part B. The FAS's are not eligible entities under the House bill, and the House bill allocates funds for studies and evaluations in Part D.

HR with amendment:

Insert:

"(i) TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—The Secretary may reserve not more than ½ of 1 percent of the amounts appropriated under this Part for each fiscal year to provide technical assistance activities authorized under section 616.

"(B) MAXIMUM AMOUNT.—The maximum amount the Secretary may reserve under (A) for any fiscal year is $25,000,000, increased by the cumulative rate of inflation since fiscal year 2004."

(55) The House bill and Senate amendment have different language to recalculate the 1999 base amount if a State that served 3-5 year olds in that year does not serve them in a subsequent year.

HR

(56) There are minor technical differences between the House and Senate amendments, but the content is the same.

HR

(57) There are minor technical and wording differences between the House and Senate amendments, but the content is the same.

HR

(58) There are no differences between the House bill and Senate amendment.

HR/LC

(59) There are minor technical and wording differences between the House and Senate amendments, but the content is the same.

HR/LC

(60) The House bill limits the amount of funds for State-level activities to 25% of its FY 97 State grant, adjusted by inflation or the percent increase of the Federal appropriation, and allows these funds to be used without regard to commingling or supplantation requirements. The Senate amendment allows States in FY 04 and 05 to reserve 10% off their State grant for State-level activities, after reserving funds for administration. After FY 05, this figure is then increased by the inflation rate. Small States are allowed to reserve 12% until FY 05, and then adjust that level by inflation (see note (62)). Both House and Senate allow commingling. See note (66).

HR

(61) The House bill allows States to use up to 20% of its State set-aside for administration, or $750,000. The Senate amendment allows States to use their FY 03 level for administration, or $800,000, adjusted for inflation each year.

The Senate amendment, but not the House bill, also requires States to certify that they meet the requirements of designating financial responsibilities for services.

SR with an amendment to read as follows:

"(1) STATE ADMINISTRATION.—

"(A) IN GENERAL.—For the purpose of administering this part, including paragraph (3), section 619, and the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities—

"(i) each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under this part for fiscal year 2004 or $800,000 (adjusted in accordance with subparagraph (B)), whichever is greater; and

"(ii) each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under subsection (b) for the fiscal year or $35,000, whichever is greater.

"(B) CUMULATIVE ANNUAL ADJUSTMENTS.—For each fiscal year beginning with fiscal year 2005, the Secretary shall cumulatively adjust (i) the maximum amount the State was eligible to reserve for State administration under this part for fiscal year 2004, and (ii) $800,000, by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

"(C) PART C.—Funds reserved under subparagraph (A) may be used for the administration of part C, if the State educational agency is the lead agency for the State under that part.

"(D) CERTIFICATION.—Prior to expenditure of funds under this paragraph, the State shall provide assurances to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(12(A) are current."

(62) The Senate amendment allows States in FY 04 and 05 to reserve 10% off their State grant for State-level activities, after reserving funds for administration. After FY 05, this figure is then increased by the inflation rate. Small States are allowed to reserve 12% until FY 05, and then adjust that level by inflation. The House bill limits the amount of funds for State-level activities to 25% of its FY 97 State grant, adjusted by inflation or the percent increase of the Federal appropriation, and allows these funds to be used without regard to commingling or supplantation requirements. See note (66).

SR with an amendment to read as follows:

"(2) OTHER STATE-LEVEL ACTIVITIES.—

"(A) STATE-LEVEL ACTIVITIES.—

"(i) IN GENERAL.—For the purpose of carrying out State-level activities, each State may reserve for each of the fiscal years 2005 and 2006 not more than 10 percent from the amount of the State's allocation under subsection (d) for fiscal year 2005 and 2006, respectively. For fiscal year 2007 and each subsequent fiscal year, the State may reserve the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2006 (adjusted by the cumulative rate of inflation since fiscal year 2006 as measured by the percentage increase, if any in the Consumer Price Index For Al' Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

"(ii) SMALL STATE ADJUSTMENT.—Notwithstanding clause (i), in the case of a state for which the maximum amount reserved for State administration is not greater than $850,000 the State may reserve for the purpose of carrying out State-level activities for each of the fiscal years 2005 and 2006, not more than 10.5 percent from the amount of the State's allocation under subsection (d) for fiscal year 2005 and 2006, respectively. For fiscal year 2007 and each subsequent fiscal year, such State may reserve the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2006 (adjusted by the cumulative rate of inflation since fiscal year 2006 as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor).".

(63) The Senate amendment establishes a list of required activities that States must support with their State-level funds to support. The House bill has no similar requirement.

SR with an amendment to read as follows:

"(B) REQUIRED ACTIVITIES.—Funds reserved under subparagraph (A) shall be used to carry out the following activities:

"(i) For monitoring, enforcement and complaint investigation.

"(ii) To establish and implement the mediation, processes required by section 615(e)(1), including providing for the costs of mediators, support personnel."

(64) The Senate amendment establishes a list of authorized activities that States may conduct with State-level funds. The House bill includes Senate activities (i), (ii), (vii), and (viii) in note 67 and adds monitoring and complaint investigation, mediation and voluntary binding arbitration, support to meet State goals in 612(a)(15), prereferral services, and subgrants to LEAs designated as in need of improvement due to the scores of students with disabilities. Activities (iii)-(vi), (ix), and (x) in the Senate amendment are not included in the House bill.

SR with an amendment to read as follows:

"(C) AUTHORIZED ACTIVITIES.—Funds reserved under subparagraph (A) may be used to carry out the following activities:

"(i) For support and direct services, including technical assistance, personnel preparation, and professional development and training.

"(ii) To support paperwork reduction activities, including expanding the use of technology in the IEP process.

"(iii) To assist local educational agencies in providing positive behavioral interventions and supports and mental health services for children with disabilities.

"(iv) To improve the use of technology in the classroom by children with disabilities to enhance learning.

"(v) To support the use of technology, including universally designed technology and assistive technology devices, to maximize accessibility to the general curriculum for children with disabilities.

"(vi) Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of students with disabilities to post-secondary activities.

"(vii) To assist local educational agencies in meeting personnel shortages.

"(viii) To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.

"(ix) Alternative programming for children who have been expelled from school, and services for children in correctional facilities, children enrolled in State-operated or State-supported schools, and children in charter schools.

"(x) To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with sections 1111(b) and 6111 of the Elementary and Secondary Education Act of 1965.

"(xi) To provide technical assistance to schools and local educational agencies, and direct services, including supplemental educational services, to students with disabilities, in schools or local educational agencies identified as being in need of improvement under section 1116 of the Elementary and Secondary Education Act of 1965 on the basis, in whole, of the assessment results of the disaggregated subgroup of students with disabilities, including providing professional development to special and regular education teachers, that teach students with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement to meet the goals in section 1111."

(65) The House bill allows States to reserve up to 40% of its state-level funds to establish a fund for high cost special education services. The Senate requires States to reserve 2% of their State grant (after reserving funds for administration) to establish a LEA risk pool and distribute those funds to LEAs. The Senate requires the State to pay 75% of the costs that exceed 4 times the national APPE for every student in each LEA that applies. This amount is ratably reduced if there are not sufficient funds. The Senate amendment requires LEA applications to ensure that the State funds do not supplant State medicaid payments for appropriate services. The Senate amendment also allows pre-existing State programs to override the required elements established in the Senate amendment.

HR with an amendment to read as follows:

"(3) LOCAL EDUCATIONAL AGENCY RISK POOL.—

"(A) IN GENERAL.—For the purpose of assisting local educational agencies (and charter schools that are local educational agencies, and consortia of local educational agencies) in addressing the needs of high-need children, each State shall reserve for each fiscal year 10 percent from the amount of the State's reservation for state-level activities under paragraph (2)(A), to—

"(i) establish a high-cost fund, but only during the initial fiscal year of the fund;

"(ii) make disbursements from the high-cost fund to local educational agencies in accordance with this paragraph; and

"(iii) support innovative and effective ways of cost-sharing by the State, by a local educational agency, or among a consortia of local educational agencies, as determined by the State in coordination with representatives from local educational agencies (including charter schools that are local educational agencies, and consortia of local educational agencies).

"(B) LIMITATION ON USES OF FUNDS.—

"(i) The funds used pursuant to subparagraph (A)(i) to establish a high-cost fund shall not exceed five percent of the reservation in the initial fiscal year of the fund.

"(ii) The funds used pursuant to subparagraph (A)(iii) to support the innovative and effective ways of cost-sharing among a consortia of local educational agencies shall be not more than five percent of the reservation.

"(C) STATE PLAN FOR HIGH-COST FUND.—

"(i) The State educational agency shall establish a plan, including the State's definition of a 'high need' child with a disability, which is developed in consultation with local educational agencies (including charter schools that are local educational agencies, and consortia of local educational agencies) within 90 days of the reservation of funds under this subsection.

"(ii) Such plan shall—

"(I) Establish, in coordination with representatives from local educational agencies (including charter schools that are local educational agencies, and consortia of local educational agencies), the definition of a 'high need' child with a disability that, at a minimum—

"(aa) addresses the financial impact the specific 'high need' child with a disability has on that child's local educational agency budget, and

"(bb) ensures that the cost of any such 'high need' child with a disability is greater than three times the average per pupil expenditure (as defined in ESEA) in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate;

"(II) Establish eligibility criteria for the participation of local educational agencies (including charter schools that are local educational agencies, and consortia of local educational agencies) that, at a minimum, takes into account the number and percentage of 'high need' children with disabilities in a local educational agency;

"(III) Develop a funding mechanism that provides distributions each fiscal year to eligible local educational agencies (including charter schools that are local educational agencies, and consortia of local educational agencies) that meet the criteria developed by the State under subclause (II); and

"(IV) Establish an annual schedule by which the State educational agency shall make its distributions from the fund each fiscal year.

"(iii) The State shall make its final plan publicly available at least 30 days prior to the beginning of the school year, including dissemination of such information on the State website.

"(D) DISBURSEMENTS FROM THE HIGH-COST FUND.—

"(i) IN GENERAL.—Each State educational agency shall make all annual disbursements from the fund established under subparagraph (A)(i) in accordance with the plan published pursuant to subparagraph (C).

"(ii) USE OF DISBURSEMENTS.—Each State educational agency shall make annual disbursements to eligible local educational agencies in accordance with its plan under (C)(ii).

"(iii) APPROPRIATE COSTS.—The costs associated with educating a high need child under clause (ii) are only those costs associated with providing direct special education and related services to such child that are identified in such child's IEP.

"(E). LEGAL FEES.—The disbursements under subparagraph (D) shall not support legal fees, court costs, or other costs associated with a cause of action brought on behalf of such child to ensure a free appropriate public education for such child.

"(F) ASSURANCE OF A FREE APPROPRIATE PUBLIC EDUCATION.—Nothing in this section shall be construed—

"(i) to limit or condition the right of a child with a disability who is assisted under this part to receive a free appropriate public education pursuant to section 612(a)(1) in a least restrictive environment pursuant to section 612(a)(5); or

"(ii) to authorize a State educational agency or local educational agency to establish a limit on what may be spent on the education of a child with a disability.

"(G) MEDICAID SERVICES NOT AFFECTED.—Disbursements provided under this subsection shall not be used to pay costs that otherwise would be reimbursed as medical assistance for a child with a disability under the State medicaid program under title XIX of the Social Security Act.

"(H) SPECIAL RULE FOR RISK POOL AND HIGH-NEED ASSISTANCE PROGRAMS IN EFFECT AS OF JANUARY 1, 2004.—Notwithstanding the provisions of subparagraphs (A) through (G), a State may use funds reserved pursuant to this paragraph for implementing a placement neutral cost-sharing and reimbursement program of high-need, low-incidence, catastrophic, or extraordinary aid to local educational agencies that provides services to students eligible under this part based on eligibility criteria for such programs that were created not later than January 1, 2004 and are currently in operation, provided such program meets the minimum definition of a 'high need' child with a disability in subparagraph (C)(2)(I).

"(I) REMAINING FUNDS.—Funds reserved under subparagraph (A) in any fiscal year but not expended in that fiscal year pursuant to subparagraph (D) or subparagraph (F) shall be allocated to local educational agencies in the same manner as funds are allocated to local educational agencies under subsection (f)."

(66) The Senate amendment allows State-level funds to be used without regard to commingling or supplantation requirements. See note (60), which includes identical language from the House bill.

HR with an amendment:

Strike ", and (3)" and insert "and" before (2) in paragraph (4).

(67) The House bill establishes a list of authorized activities that States may conduct with State-level funds. The Senate amendment only includes House activities (A), (D), (F), and (H) in note 64 and adds positive behavioral supports and mental health services, use of technology, transition programs, alternative programming for expelled students, and support for appropriate accommodations and alternate assessments.

HR

(68) The House bill, but not the Senate amendment, requires States to use any increase in State-level funds that exceeds the rate of inflation to be used to provide subgrants to LEAs designated as in need of improvement due to the scores of students with disabilities to improve results for students with disabilities in those LEAs.

HR

(69) There are minor wording differences between the House and Senate amendments, and the House bill includes a requirement that the report include information on the percentage of funds distributed by formula to LEAs.

HR

(70) The Senate amendment allows States to use State-level funds under Part B and the 619 program to support a State policy to allow children to remain in Part C instead of moving to the 619 program until kindergarten. The House bill does not include this provision.

HR

(71) There are minor wording differences between the House and Senate amendments, but the content is the same.

LC

(72) There are minor wording differences between the House and Senate amendments. Note: the reference to subsection (e) in (2) of the House bill should be a reference to subsection (d).

LC

(73) There are no differences between the House bill and Senate amendment.

LC

(74) The House bill places a cap on the amount of funds for State-level activities to the FY 03 level, except that the amount may increase by the rate of inflation for the purpose of making subgrants to LEAs designated as in need of improvement due to the assessment scores of students with disabilities.

HR with an amendment:

Add the following language to section 611(e) as paragraph (5):

"(5) SPECIAL RULE FOR INCREASED FUNDS.—The State may use funds it reserves as a result of inflationary increases under section 611 (e)(1)(B) to carry out activities authorized by sections 611(e)(2)(C)(i), (iii), (vii), and (viii)."

(75) There are no differences between the House bill and Senate amendment.

LC

(76) The House bill and the Senate amendment are the same, except the House bill includes a requirement that the BIA distribute 80% of its funds to BIA schools by July 1 of the fiscal year and 20% of the funds by September 30 of the fiscal year.

SR

(77) There are minor wording differences between the House bill and Senate amendment, but the content is the same.

LC

(78) There are no significant differences between the House and Senate amendments, except the House bill requires an annual report from the Secretary of the Interior while the Senate amendment requires a biennial report.

HR

(79) There are minor wording differences between the House and Senate amendments but the content is the same.

LC

(80) There are no significant differences between the House and Senate amendments, except for differences in section numbers between the two bills.

LC

(81) There are no significant differences between the House and Senate amendments, except for differences in section numbers between the two bills.

LC

(82) The House bill and Senate amendment establish slightly different patterns toward reaching the 40% goal.

HR

(83) There are no differences between the House bill and Senate amendment.

LC

(84) The House bill requires State plans to "reasonably demonstrate" that the plan meets the requirements of the law. The Senate amendment requires States to "provide assurances" that the plan meets the requirements of the law.

HR

(85) The House bill includes this technical language as part of its structure to keep section 612(a)(12) as current law. The Senate amendment replaces the entire existing law.

LC

(86) There are no differences between the House bill and Senate amendment.

LC

(87) The Senate amendment exempts States from FAPE requirements if the State provides services to children through the part C program that are eligible for the 619 program. The House bill has similar language as part C.

HR

(88) The Senate amendment, but not the House bill, includes language regarding children with disabilities who are homeless or are wards of the State.

HR

(89) The House bill and Senate amendment have the same definition of least restrictive environment. The House bill requires that if a State distributes funds through a mechanism based on the child's setting, such formula cannot result in violations of the LRE requirements. The House bill also requires States to modify funding mechanisms that do not comply with that requirement. The Senate amendment prohibits a funding mechanism that violates the LRE requirements and requires States to revise any funding mechanism that violates that requirement.

HR

Report language: The conferees are concerned that some States continue to use funding mechanisms that provide financial incentives for, and disincentives against, certain placements. It is the intent of the changes to Section 612(a)(5)(B) to prevent State funding mechanisms from affecting appropriate placement decisions for students with disabilities.

"The law requires that each public agency shall ensure that a continuum of alternative placements (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions) is available to meet the needs of children with disabilities for special education and related services. State funding mechanisms are in place to ensure funding is available to support the requirements of this provision, not to provide an incentive or disincentive for placement. Part B's LRE principle is intended to ensure that a child with a disability is served in a setting where the child can be educated successfully in the least restrictive environment. Through the Individual Education Plan (IEP) process the Team shall make placement decisions that are individually determined on the basis of each child's abilities and needs. The new provisions in this section were added to prohibit States from maintaining funding mechanisms that violate appropriate placement decisions, not to require States to change funding mechanisms that support appropriate placements decisions."

(90) The House bill and Senate amendment are substantially the same except the House bill, but not the Senate amendment, requires that children with disabilities also be evaluated in accordance with section 614 (c).

SR

(91) The House bill and Senate amendment are similar, with the Senate amendment adding a clause referring to the Senate language allowing a child to stay in the Part C program until kindergarten, instead of moving to the Section 619 program at age 3.

HR

(92) The House bill and Senate amendment include similar requirement, except the Senate amendment requires a written explanation by LEAs when they disagree with private school officials, a written affirmation from private school officials about consultation, and the provision of direct services (to the extent practicable) private schools. Also, the Senate amendment does not include the supplement, not supplant language included in the House bill. The House bill also contains specific sections regarding thorough child find when calculating the proportionate share of Federal funds and regarding services to be provided by employees of a public agency or through a contract by a public agency.

SR with an amendment to read as follows:

"(10) CHILDREN IN PRIVATE SCHOOLS.—

"(A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS.—

"(i) IN GENERAL.—To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):

"(I) Amounts to be expended for the provision of those services (including direct services to parentally-placed children) by the local educational agency shall be equal to a proportionate amount of Federal funds made available under this part.

"(II) In calculating the proportionate share of Federal funds, the local educational Agency, after timely and meaningful consultation with representatives of private schools as described in clause (iii), shall conduct a thorough and complete child-find process to determine the number of parentally-placed children with disabilities attending private schools located in the district.

"(III) Such services to children with disabilities parentally-placed may be provided to children with disabilities on the premises of private, including religious, schools, to the extent consistent with law.

"(IV) State and local funds may supplement and in no case shall supplant the proportionate amount of Federal funds required to be expended under this paragraph.

"(V) Each local educational agency shall maintain in its records and provide to the State educational agency the number of children evaluated under this paragraph, the number of children determined to be children with disabilities, and the number of children served under this subsection.

"(ii) CHILD-FIND REQUIREMENT.—

"(I) IN GENERAL.—The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including religious, elementary and secondary schools.

"(II) EQUITABLE PARTICIPATION.—The child-find process shall be designed to ensure the equitable participation of parentally-placed private school children and an accurate count of such children.

"(III) ACTIVITIES.—In carrying out this clause, the local educational agency, or where applicable, the State educational agency, shall undertake activities similar to those activities undertaken for its public school children.

"(IV) COST.—The cost of carrying out this clause, including individual evaluations, may not be considered in determining whether a local educational agency has met its obligations under clause (i).

"(V) COMPLETION PERIOD.—Such child-find process shall be completed in a time period comparable to that for other students attending public schools in the local educational agency.

"(iii) CONSULTATION.—To ensure timely and meaningful consultation, a local educational agency, or where appropriate, a state educational agency, shall consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for these children including—

"(I) the child-find process and how parentally-placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;

"(II) the determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under this paragraph, including the determination of how those funds were calculated;

"(III) the consultation process among the local educational agency private school officials, and representatives of parents of parentally-placed private school children with disabilities including how such process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services;

"(IV) how, where, and by whom special education and related services will be provided for parentally-placed private school children, including a discussion of types of services, including direct services and alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and

"(V) how, if the local educational agency disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the local educational agency shall provide to the private school officials a written explanation of the reasons why the local educational agency chose not to provide services directly or through a contract.

"(iv) WRITTEN AFFIRMATION.—When timely and meaningful consultation as required by this section has occurred, the local educational agency shall obtain a written affirmation signed by the representatives of participating private schools, and if such representatives do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation of the consultation process to the State educational agency.

"(v) COMPLIANCE.—

"(I) IN GENERAL.—A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

"(II) PROCEDURE.—If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency. If the private school official is dissatisfied with the decision of the State educational agency, such official may complain to the Secretary by providing the basis of the noncompliance with this section by the local educational agency to the Secretary, and the State educational agency shall forward the appropriate documentation to the Secretary.

"(vi) PROVISION OF EQUITABLE SERVICES.—

"(I) DIRECTLY OR THROUGH CONTRACTS. The provision of services under this Act shall be provided—

"(aa) by employees of a public agency; or

"(bb) through contract by the public agency with an individual, association, agency, organization, or other entity.

"(II) SECULAR, NEUTRAL, NONIDEOLOGICAL.—Special education and related services provided to children with disabilities attending private schools, including materials and equipment, shall be secular, neutral, and nonideological.

"(vii) PUBLIC CONTROL OF FUNDS.—The control of funds used to provide special education and related services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

"(B) CHILDREN PLACED IN, OR REFERRED TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES.—

"(i) IN GENERAL.—Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State.

"(ii) STANDARDS.—In all cases described in clause (i), the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies.

"(C) PAYMENT FOR EDUCATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS WITHOUT CONSENT OF OR REFERRAL BY THE PUBLIC AGENCY.—

"(i) IN GENERAL.—Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

"(ii) REIMBURSEMENT FOR PRIVATE SCHOOL PLACEMENT.—If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment.

"(iii) LIMITATION ON REIMBURSEMENT.—The cost of reimbursement described in clause (ii) may be reduced or denied—

"(I) if—

"(aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

"(bb) 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in division (aa);

"(II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section [615(b)(7)], of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or

"(III) upon a judicial finding of unreasonableness with respect to actions taken by the parents.

"(iv) EXCEPTION.—Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement—

"(I) shall not be reduced or denied for failure to provide such notice if—

"(aa) the school prevented the parent from providing such notice; or

"(bb) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii)(I); or

"(cc) compliance with clause (iii)(I) would likely result in physical harm to the child; and

"(II) may, in the discretion of a court or a hearing officer, not be reduced or denied for failure to provide such notice if—

"(aa) the parent is illiterate or cannot write in English; or

"(bb) compliance with clause (iii)(I) would likely result in serious emotional harm to the child."

(93) There are no differences between the House bill and Senate amendment.

SR with an amendment:

Add an (11)(A)(iii):

"(iii) in carrying out this part with respect to homeless children and youth, the requirements of subtitle B of the McKinney-Vento Homeless Assistance Act are met."

(94) The House bill did not make any changes to current law in this section. The Senate amendment includes minor technical changes to current law regarding authority to claim reimbursement, methods of determining responsibility, and updated section numbers.

HR

(95) The House bill includes this technical language as part of its structure to keep section 612(a)(12) as current law. The Senate amendment replaces the entire existing law.

LC

(96) There are no differences between the House bill and Senate amendment.

LC

(97) The House bill requires the State plan to include standards to ensure that all special education teachers are highly qualified in core academic subjects; that standards for all related services personnel and paraprofessionals are set to ensure the providers are qualified to provide services, and that the SEA develops innovative strategies for professional development. The Senate amendment requires all special education teachers to be highly qualified by the end of the 2006-2007 school year, requires States to inform parents about the qualifications of the teachers, requires States to adopt policies to recruit, train, and retain highly qualified personnel, and establishes that those requirements do not create a right to action.

HR with an amendment:

Strike references to "standards" and replace with "qualifications" throughout and strike "not later than the end of the 2006-2007 school year." in (C)(i) and in (ii)(II).

Report language: "Conferees are cognizant of the difficulties that some local educational agencies have experienced in recruiting and retaining qualified related services providers and have provided greater flexibility to State educational agencies to establish appropriate personnel standards.

"Conferees are concerned that language in current law regarding the qualifications of related services providers has established an unreasonable standard for State educational agencies to meet, and as a result, has led to a shortage of the availability of related services for students with disabilities.

"Conferees intend for State educational agencies to establish rigorous qualifications for related services providers to ensure that students with disabilities receive the appropriate quality and quantity of care. State educational agencies are encouraged to consult with local educational agencies, other State agencies, the disability community, and professional organizations to determine the appropriate qualifications for related service providers, including the use of consultative, supervisory, and collaborative models to ensure that students with disabilities receive the services described in their individual IEP's."

(98) The House bill and Senate amendment are the same except the Senate amendment adds a requirement that States establish performance goals for graduation rates.

HR with an amendment:

Insert "which may include elements of the reports required under section 1111(h) of the Elementary and Secondary Education act of 1965." at the end of subparagraph (C).

(99) The House bill and Senate amendment include similar requirements except the Senate amendment adds requirements for alternate assessments, reporting requirements relating to students with disabilities taking alternate assessments, and requirements regarding universal design. Both the House bill and Senate amendment require that alternate assessments have been developed and conducted.

HR with an amendment:

Strike "accountability systems" throughout.

(100) The House bill requires States to develop voluntary binding arbitration system. The Senate amendment does not include this requirement.

HR

(101) There are no significant differences between the House bill and Senate amendment.

HR/LC

(102) There are no significant differences between the House bill and Senate amendment.

HR/LC with an amendment:

Strike paragraph (20) and insert the following, and renumber subsequent paragraphs:

"(20) RULE OF CONSTRUCTION.—In complying with paragraphs 612(a)(18) and (19), a state may not use funds paid to it under this part to satisfy state-law mandated funding obligations for local educational agencies, including funding based on student attendance or enrollment, or inflation."

(103) There are no significant differences between the House bill and Senate amendment.

HR/LC

(104) The House bill requires the panel to be comprised of a majority of individuals with disabilities or parents of children with disabilities ages birth through 26. The Senate amendment requires the panel to be comprised of a majority of individuals with disabilities ages birth through 26 or parents of children with disabilities ages birth through 26.

The Senate amendment, but not the House bill, adds requirements of the types of parents that must be on the panel.

The Senate amendment, but not the House bill, adds additional parties that must be represented on the panel.

SR with an amendment:

Strike clause (v) from the House bill and insert clause (v) from the Senate amendment. Insert "(xi) a representative from the State child welfare agency responsible for foster care."

(105) The House bill, but not the Senate amendment, requires suspension and expulsion rates to be disaggregated by race and ethnicity.

SR

(106) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(107) The House bill and Senate amendment include similar language requiring States to adopt the national instructional materials accessibility standard and requiring States to modify their contracts to obtain accessible materials.

The House bill, but not the Senate amendment, hàs a definition of instructional materials.

The Senate amendment, not the House bill, includes a requirement for the establishment of a national center for instructional materials.

HR with an amendment as follows:

Strike "675(a)" and insert "674(d)(3)(A)" in subparagraph (A).

HR with an amendment as follows:

Insert subparagraph (B) to read as follows, and redesignate the other paragraphs accordingly:

"(B) RIGHTS OF STATE EDUCATIONAL AGENCY.—Nothing in this paragraph shall be construed to require any State educational agency to participate in the National Instructional Materials Access Center. If a State educational agency chooses not to participate, such agency shall provide an assurance to the Secretary that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner."

HR with an amendment to strike the new (C) and insert the following:

"(C) PREPARATION AND DELIVERY OF FILES.—If a State educational agency chooses to participate in the National Instructional Materials Access Center, not later than 2 years after the date of enactment [of the Individuals with Disabilities Education Improvement Act of 2004-not sure we need since we have an enactment clause?], such agency, as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, enters into a written contract with the publisher of the print instructional materials to—

"(i) prepare, and on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, established pursuant to section 674(d), electronic files containing the contents of the print instructional materials using the Instructional Materials Accessibility Standard; or

"(ii) purchase instructional materials from a publisher that are produced in or may be rendered in the specialized formats described in section 674(d)(3)(C)."

(108) The House bill, but not the Senate amendment, requires States to adopt policies to prevent overidentification by race or ethnicity.

SR with an amendment:

Insert "(c)" after "618" and strike "the identification of children as".

(109) The House bill, but not the Senate amendment, requires States to adopt policies regarding psychotropic medication.

HR with an amendment to read as follows:

"(25) Prohibition on mandatory medication.

"(a) IN GENERAL.—The State educational agency shall prohibit State and local educational personnel from requiring a child to obtain a prescription for substances covered by the Controlled Substances Act as a condition of attending school, receiving an evaluation under section 614 (a) and (c) or receiving services.

"(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under section 612(a)(3)."

(110) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(111) There are no differences between the House bill and Senate amendment.

HR/LC

(112) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(113) There are no significant differences between the House bill and Senate amendment.

LC

(114) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(115) There are no differences between the House bill and Senate amendment.

LC

(116) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

LC

(117) There are no differences between the House bill and Senate amendment.

LC

(118) The House bill makes no changes to current law in this section. The Senate amendment largely follows current law, except that the Senate amendment makes changes to require the Secretary to determine whether the State has failed or is unwilling to provide for the equitable participation of private school students.

HR

(119) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

LC

(120) The House bill requires the LEA to "reasonably demonstrate" that the LEA meets the conditions, while the Senate amendment requires the LEA to "provide assurances" that the LEA meets the conditions.

HR

(121) There are no differences between the House bill and Senate amendment.

LC

(122) The House bill allows LEAs to treat 20% of the increase from one year to the next as local funds to be used for educational programs authorized under ESEA, unless the SEA determines that the LEA has not provided FAPE to its students with disabilities. The Senate amendment allows LEAs to treat 8% of their funds as local funds each year. The Senate amendment allows LEAs to treat not more than 40% of their funds as local funds in any year that the maximum amount for State grants is provided under 611. The Senate amendment requires any LEA that exercises this authority to include that in its calculation of funds reserved for prereferral services.

SR with an amendment to read as follows:

"(C) ADJUSTMENT TO LOCAL FISCAL EFFORT IN CERTAIN FISCAL YEARS.—

"(i) AMOUNTS IN EXCESS.—Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which the allocation received by a local educational agency under section 611(f) exceeds the amount the local educational agency received for the previous fiscal year, the local educational agency may reduce the level of expenditures otherwise required by subparagraph (A)(iii) by not more than 50 percent of the amount of such excess.

"(ii) USE OF AMOUNTS TO CARRY OUT ACTIVITIES UNDER ESEA.—If a local educational agency exercises the authority under clause (i), the agency shall use an amount of local funds equal to the reduction in expenditures under clause (i) to carry out activities authorized under the Elementary and Secondary Education Act of 1965.

"(iii) STATE PROHIBITION.—Notwithstanding clause (i), if a State educational agency determines that a local educational agency is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a) or the State educational agency has taken action against the local educational agency under section 616, the State educational agency shall prohibit the local educational agency from reducing the level of expenditures under clause (i) for that fiscal year.

"(iv) SPECIAL RULE.—The amount of funds expended by a local educational agency under subsection (f) shall count toward the maximum amount of expenditures such local educational agency may reduce under clause (i)."

Report language: "The Conferees intend for school districts to have meaningful flexibility to use local funds that are generated from their reduction in the maintenance of effort. The Conferees do not intend that school districts have to use these local funds for programs exclusively authorized under the Elementary and Secondary Act of 1965. The conferees recognize that most state and local education programs are consistent with the broad flexibility that is provided in Sec 5131 of the Elementary and Secondary Education Act of 1965.

"The Conferees intend that in any fiscal year in which the local educational agency or State educational agency reduces expenditures pursuant to section 613(a)(2)(C) or section 613(j), the reduced level of effort shall be considered the new base for purposes of determining the required level of fiscal effort for the succeeding year."

(123) The Senate amendment, but not the House bill, allows these Federal funds to be treated as local funds in calculating local shares under Medicaid.

The Senate amendment also requires LEAs to report to SEAs on the amount of funds treated as local funds each year.

SR

(124) The House bill and Senate amendment refer to different sections of ESEA regarding programs of personnel development.

HR

(125) The House bill and Senate amendment include similar allowable uses of funds for LEAs, except the House bill also allows funds to be used for high cost reserve funds and supplemental services provided under ESEA.

HR with an amendment:

Insert subparagraph (C) from House bill.

(126) The House bill and Senate amendment are essentially the same.

HR with an amendment:

Rewrite subparagraph (B) to read as follows:

"(B) provides funds under this part to those charter schools on the same basis as it provides those funds to its other public schools, including proportional distribution based on relative enrollment of children with disabilities, and at the same time as such agency distributes other Federal funds to its other schools, consistent with State's charter school law."

(127) The House bill and Senate amendment include a similar requirement requiring LEAs to use the national instructional materials accessibility standard when purchasing instructional materials.

HR with an amendment to read as follows:

"(6) Instructional Materials.—"(A) Purchase.—Not later than 2 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, a local educational agency that chooses to participate in the National Instructional Materials Access Center, such agency, when purchasing print instructional materials, acquires these instructional materials in the same manner as a State educational agency described in section 612(a)(22).

(B) Rights of local educational agency.—Nothing in this paragraph shall be construed to require any local educational agency to participate in the National Instructional Materials Access Center. If a local educational agency chooses not to participate, such agency shall provide an assurance to the State educational agency that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner."

(128) There are no significant differences between the House and Senate amendments.

LC

(129) There are no significant differences between the House bill and Senate amendment.

LC

(130) There are no differences between the House bill and Senate amendment.

HR/LC

(131) There are no differences between the House bill and Senate amendment.

LC

(132) There are no differences between the House bill and Senate amendment.

LC

(133) There are no differences between the House bill and Senate amendment.

LC

(134) Using different names and different methods of identifying children as eligible for these activities, both the House bill and Senate amendment allow LEAs to use up to 15% of their funds to provide services to students before they are identified with a disability.

HR with an amendment:

Strike "who do not meet the definition of a child with a disability under section 602(3)" and insert "who have not been identified as needing special education or related services".

(135) The House bill and Senate amendment allow similar activities such as professional development evaluations, and behavioral supports. The Senate amendment also allows LEAs to use funds to develop and implement interagency financing structures.

HR with an amendment:

Strike paragraph (C)

(136) There are no differences between the House bill and Senate amendment.

LC

(137) The House bill and Senate amendment require similar reporting requirements, with the House bill adding a requirement that LEAs report on children served for two years.

SR

Report language: "The Conferees want to ensure that information is provided on the impact that the early intervening services have on children to determine if these activities have reduced the numbers of referrals to special education. Local educational agencies are required to report on the number of students who are served under this activity for two years to determine if the provision of services under this activity reduces the number of overall referrals to special education and related services. The Conferees intend that the two-year period apply to the two years after the child has received services under this activity."

(138) The House bill and Senate amendment allow funds used in the section to be aligned with ESEA activities so long as the IDEA funds supplement, but not supplant, other Federal funds for those activities.

HR with an amendment:

Strike "Certain Projects Under" from heading.

(139) The House bill does not include this GAO study.

SR

(140) There are no differences between the House bill and Senate amendment.

LC

(141) There are no differences between the House bill and Senate amendment.

LC

(142) The Senate amendment, but not the House bill, gives States that are the providers of special education or pay for 80% or more of the non-federal share of special education costs, the same options that LEAs have to treat a certain portion of its IDEA funds if the State adheres to the requirements of the Act.

SR with an amendment to read as follows:

"(j) STATE AGENCY FLEXIBILITY.—

"(1) Adjustment to state fiscal effort in certain fiscal years.—For any fiscal year for which the allotment received by a State under section 611 exceeds the amount the State received for the previous fiscal year and if the State in school year 2003-2004 or any subsequent school year pays or reimburses all local educational agencies within the State from State revenue 100 percent of the non-Federal share of the costs of special education and related services, the State educational agency, notwithstanding paragraphs (17) and (18) of section 612(a) and section 612(b), may reduce the level of expenditures from State sources for the education of children with disabilities by not more than 50 percent of the amount of such excess.

"(2) PROHIBITION.—Notwithstanding paragraph (1), if the Secretary determines that a State educational agency is unable to establish, maintain, or oversee programs of free appropriate public education that meet the requirements of this part, or that the State needs assistance, intervention, or substantial intervention under section 616(d)(2)(A), the Secretary shall prohibit the State educational agency from exercising the authority in paragraph (1).

"(3) EDUCATION ACTIVITIES.—If a State educational agency exercises the authority under paragraph (1), the agency shall use funds from State sources, in an amount equal to the amount of the reduction under paragraph (1), to support activities authorized under the Elementary and Secondary Education Act of 1965 or to support need based student or teacher higher education programs.

"(4) REPORT.—For each fiscal year for which a State educational agency exercises the authority under paragraph (1), the State educational agency shall report to the Secretary the amount of expenditures reduced pursuant to such paragraph and the activities that were funded pursuant to paragraph (3).

"(5) LIMITATION.—Notwithstanding paragraph (1), a State educational agency may not reduce the level of expenditures described in paragraph (1) if any local educational agency in the State would, as a result of such reduction, receive less than 100 percent of the amount necessary to ensure that all children with disabilities served by the local educational agency receive a free appropriate public education from the combination of Federal funds received under this title and State funds received from the State educational agency."

(143) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR

(144) The House bill and Senate amendment are similar, with the House bill adding parental consent in the heading.

SR

(145) The House bill and Senate amendment have similar language regarding initial evaluations, with the Senate amendment requiring that such evaluations take place within 60 days unless the State has an existing established time frame.

HR with an amendment to read as follows:

"(C) Procedures.—

"(i) In general.—Such initial evaluation shall consist of procedures—

"(I) to determine whether a child is a child with a disability (as defined in section 602(3)) within 60 days of receiving parental consent for the evaluation, or, if the State establishes a timeframe within which the evaluation must be conducted, within such timeframe; and

"(II) to determine the educational needs of such child.

"(ii) EXCEPTION.—The relevant timeframe in subparagraph (i)(I) shall not apply to a local educational agency if—

"(I) a child enrolls at a local educational agency after the relevant timeframe in subparagraph (i)(I) has begun and prior to a determination by the child's previous local educational agency as to whether a child is a child with a disability (as defined in section 602(3)), provided that the local educational agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and local educational agency agree to a specific time when the evaluation will be completed; or

"(II) the parent of a child repeatedly fails or refuses to produce the child for the evaluation."

(146a) The House bill provides guidance to parents and LEAs if the parent refuses consent for evaluation or initial services. The Senate amendment provides that the LEA is not in violation of FAPE if the parent refuses services.

SR with an amendment to read as follows:

"(ii) Absence of consent.—

"(I) FOR INITIAL EVALUATION.—If the parent of such child does not provide consent for an initial evaluation under clause (i)(I), or the parent fails to respond to a request to provide the consent, the local educational agency may pursue the initial evaluation of the child by utilizing the procedures described in section 615, except to the extent inconsistent with State law relating to such parental consent.

"(II) FOR SERVICES.—If the parent of such child refuses to consent to services under clause (i)(II), the local educational agency shall not provide special education and related services to the child by utilizing the procedures described in section 615.

"(III) EFFECT ON AGENCY OBLIGATIONS.—If the parent of a child refuses to consent to the receipt of special education and related services, or the parent fails to respond to a request to provide the consent—

"(aa) the local educational agency shall not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide the special education and related services for which the local educational agency requests such consent; and

"(bb) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child for services for which the local educational agency requests such consent."

(146b) The Senate amendment, but not the House bill, allows the school district to not seek parental consent for wards of the State if consent has been given by an appropriate official.

SR with an amendment to read as follows:

"(iv) EXCEPTION FOR WARDS OF THE STATE.—If the child is a ward of the state and is not residing with the child's parent, the agency shall make reasonable efforts to obtain the informed consent from the parents, as defined in section 602(22), of a child for an initial evaluation to determine whether the child is a child with a disability. In cases where—

"(I) despite reasonable efforts to do so, the agency cannot discover the whereabouts of the parents of such child;

"(II) the rights of the parents have been terminated in accordance with State law; or

"(III) the rights of the parents to make educational decisions have been subrogated by a judge in accordance with State law and consent has been given by an individual appointed by the judge to represent the child the agency shall not be required to obtain informed consent from the parents of a child for an initial evaluation to determine whether the child is a child with a disability."

Report language: "The conferees intend that in the case of children who are wards of the State, consent may be provided by individuals legally responsible for the child's welfare or appointed by the judge to protect the rights of the child."

(147) The House bill, but not the Senate amendment, provides that the screening of a child by a teacher or specialist shall not be considered an evaluation.

SR

(148) The House bill and Senate amendment have similar language regarding reevaluations, except the Senate amendment also allows that related services needs to factor in to the need for evaluation.

HR

(149) There are no differences between the House bill and Senate amendment.

HR

(150) The House bill and Senate amendment have similar requirements regarding the assessments used for evaluations. The House bill requires multiple up-to-date measures, while the Senate amendment requires a variety of assessment tools and strategies.

The Senate amendment also requires that the LEA not use any single procedure, measure or assessment as the sole criteria, while the House bill requires that the LEA not use any single measure or assessment.

HR with an amendment:

Strike "procedure" in 2(B).

(151) The House bill and Senate amendment have similar requirements with the House bill focusing on "assessments" and the Senate amendment focusing on "tests".

The Senate amendment, but not the House bill, adds additional requirements for homeless children, wards of the State, and military children.

HR with an amendment:

Strike "tests" and insert "assessments" throughout.

Strike (D) and insert a new (D) to read as follows:

"(D) assessments of children with disabilities who transfer from 1 school district to another school district in the same academic year, are coordinated with such children's prior and subsequent schools as necessary and as expeditiously as possible to ensure prompt completion of full evaluations."

Report language: "The Conferees recognize that the high mobility rates of some children, including homeless children and youth and children and youth in the custody of a state child welfare agency, may cause delays in the assessment process and in the provision of a free appropriate public education. In order to minimize such delays, the Conferees intend that local education agencies ensure that assessments for these children and youth be completed expeditiously, taking into consideration the date on which such children and youth were first referred for assessment in any local educational agency. Such assessments shall be made in collaboration with parents (including foster parents) and, where applicable, surrogate parents, homeless liaisons designated under Section 723(g)(1)(j)(ii) of the McKinney-Vento Homeless Assistance Act, court appointed special advocates, a guardian ad litem, or a judge."

(152) The House bill and Senate amendment have similar language except the House bill adds the requirement that the evaluation team and the parents determine the educational needs of the child.

SR

Report language: "Conferees intend the evaluation process for determining eligibility of a child under this Act to be a comprehensive process that determines whether the child has a disability, and as a result of that disability, whether the child has a need for special education and related services. As part of the evaluation process, conferees expect the multi-disciplinary evaluation team to address the educational needs of the child in order to fully inform the decisions made by the IEP Team when developing the educational components of the child's IEP. Conferees expect the IEP Team to independently review any determinations made by the evaluation team, and that the IEP Team will utilize the information gathered during the evaluation to appropriately inform the development of the IEP for the child."

(153) The House bill and Senate amendment have the similar language except the House bill expands on the definition of reading by referring to ESEA definition of scientifically based reading practices.

SR with an amendment:

Strike (A) and insert a new (A) to read as follows:

"(A) lack of appropriate instruction in reading, including in the essential components of reading as defined in Sec. 1208(3) of ESEA of 1965."

(154) The Senate amendment, but not the House bill, requires that the determination of the diagnosis of specific learning disability falls under the evaluation procedures.

HR

(156) The House bill specifies that classroom-based assessments should be local or State assessments and requires the evaluation to determine whether the child continues to have educational needs based on the child's academic achievement. The Senate amendment requires the reevaluation to determine the particular category of disability.

SR with an amendment:

Insert comma before "local" in (c)(1)(A).

(157) The House bill and Senate amendment have similar language, except for the difference in referring to assessments in the House bill and tests in the Senate amendment, and the inclusion of procedures in the Senate amendment.

SR

(158) There are no differences between the House bill and Senate amendment.

LC

(159) The House bill and Senate amendment have similar language, except for the House bill requiring the evaluation to determine the educational need of the child.

SR

(160) The House bill requires a reevaluation prior to graduation and before determining the child no longer has a disability only if the IEP Team is not in agreement regarding that decision. The Senate amendment requires a reevaluation prior to determining the child no longer has a disability. The Senate amendment requires the LEA to provide a summary of the child's performance to a student that is graduating or exceeding the age eligibility under State law.

HR

(161) The House bill and Senate amendment have similar language except the Senate amendment also requires functional performance to be part of the present levels of performance.

HR

(162) The House bill establishes requirements for the inclusion of benchmarks or short-term objectives in the child's IEP for students taking alternate assessments aligned to alternate standards.

SR with an amendment:

Strike (d)(1)(A)(I)(cc) and replace with new (d)(1)(A)(I)(cc) to read as follows: "for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives."

(163) The House bill and Senate amendment include similar language regarding annual goals, with the Senate amendment also requiring that the IEP include quarterly reporting on progress towards those annual goals. The House bill includes a regular reporting requirement in (VII), see note 166.

HR

(164) The House bill and Senate amendment have similar requirements, with the House bill including a requirement that related services be based on peer-reviewed research to the extent practicable.

SR

(165) The House bill requires the IEP team to explain why the regular assessment is not appropriate and how the child will be assessed. The Senate amendment requires the IEP team to explain why the child cannot participate in the regular assessment and why the alternate assessment is appropriate.

HR

(166) The House bill requires the IEP team to plan for transition at age 14 and implement a transition plan by age 16. The Senate amendment requires all transition planning and services to start at age 14.

HR with an amendment:

Strike "14" and insert "16".

(167) The House bill requires the IEP to report progress toward the annual goals in the same frequency as LEAs report progress on non-disabled students. Senate has similar requirement in earlier provision (see note 163).

HR

(168) There are no significant differences between the House and Senate amendments.

HR

(169) There are no differences between the House bill and Senate amendment.

LC

(170) Both the House bill and Senate amendment require a regular education teacher to be on the IEP team, but the House bill, and not the Senate amendment, allows the regular education teacher flexibility in which parts of the meetings they attend. The House bill also allows one regular education teacher to serve as a representative if the child has multiple regular education teachers. See note 172 for similar Senate provision.

HR

(171) The House bill refers to the general education curriculum while the Senate amendment refers to the general curriculum. The Senate amendment, but not the House bill, specifies that a child who is a ward of the State may have an appropriate official at the IEP Team meeting.

SR

(172) The Senate amendment allows an IEP team member flexibility in which parts of the meetings they attend so long as the parent and LEA agree and so long as the excused member submits input prior to the IEP meeting. See note 170 and 177 for similar House provision.

HR with an amendment:

Insert "to the IEP team" after "submits" in (C)(ii)(II).

HR with an amendment:

Strike "that member," in (C)(i) and (C)(ii)(I), and the "," after "parent" in (C)(ii)(I), and insert "in writing to the parent and IEP team" after "input" in (C)(ii)(II).

HR with an amendment:

Insert (D) to read as follows:

"(D) IEP TEAM TRANSITION.—In the case of a child who was previously served under Part C, an invitation to the initial IEP meeting to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services."

Report language: "The Conferees recognize that ensuring that a smooth transition from the Part C system to the Preschool Program or to school is vital for a child's educational success. It is the Conferees' intent that during the initial IEP meeting for a child transferring from the Part C program the types of services the child received as part of the IFSP are discussed. The Conferees understand that services provided through the Part B program may differ in frequency, duration, and environment, however, the IEP Team should explain the changes in services in the initial IEP meeting. The Conferees do not intend that a State or district reduce any service a child would be otherwise eligible for under Part B."

(173) The House bill, but not the Senate amendment, requires the IEP team to consider the IFSP when developing an IEP.

The Senate amendment, but not the House bill, requires that IEPs transfer with a child from one district to another, or State to State.

SR with an amendment:

Insert (C) to read as follows:

"(C) PROGRAM FOR CHILDREN WHO TRANSFER SCHOOL DISTRICTS.—

"(i) IN GENERAL.—

"(I) In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school and who had an IEP that was in effect in the same State, the local educational agency shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency adopts the previously held IEP or develops, adopts, and implements a new IEP that is consistent with Federal and State law.

"(II) In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school and who had an IEP that was in effect in another State, the local educational agency shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency conducts an evaluation pursuant to section 614(a)(1), if determined to be necessary by such agency, and develops a new IEP, if appropriate, that is consistent with Federal and State law.

"(ii) TRANSMITTAL OF RECORDS.—To facilitate the transition for a child described in clause (i)—

"(I) the new school in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school in which the child was enrolled pursuant to 34 CFR 99.31(a)(2), and

"(II) the previous school in which the child was enrolled shall take reasonable steps to promptly respond to such request from the new school."

(174) The House bill and Senate amendment have similar language, in different order, and the Senate amendment adds a requirement that the functional needs of the child are considered.

HR

Report language: "The Conferees understand that the development of a child's IEP involves many considerations and decisions on how best to create an education program that serves the needs of the individual child. The Conferees intend that the uniqueness of each child help guide these decisions, including the child's strengths, characteristics, and background when developing the IEP."

(175) The Senate amendment, but not the House bill, requires that IEPs provide behavioral interventions for children whose behavior impedes their own learning or that of others. The Senate amendment also requires the IEP team to consider a larger list of services for blind students.

SR

(176) The House bill, but not the Senate amendment, allows for the possibility that the regular education teacher may not be part of the IEP team if appropriately determined.

HR

(177) The House bill allows an IEP team member flexibility in which parts of the meetings they attend so long as the parent and LEA agree and so long as the excused member submits written input prior to the IEP meeting. See note 172 for similar Senate provision.

HR

(178) The House bill encourages consolidation of IEP meetings while the Senate amendment encourages consolidation of reevaluations with the IEP Team meeting.

HR with an amendment:

Strike (E) and insert new (E) to read as follows:

"(E) CONSOLIDATION OF IEP TEAM MEETINGS.—To the extent possible, the local educational agency shall encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child."

(179) The House bill, but not the Senate amendment, specifies that changes to the IEP can be done by amendment, instead of rewriting the entire IEP.

SR with an amendment:

Insert "Upon request, a parent shall be provided an executed copy of the IEP." at the end of subparagraph (G).

(180) The House bill, but not the Senate amendment, allows for the possibility that the regular education teacher may not be part of the IEP team if appropriately determined.

HR

(181) Both the House bill and the Senate amendment allow the LEA to offer to parents the ability to develop a comprehensive 3-year IEP, if the parents choose to develop such an IEP. The House bill allows this to be done for all children that receive special education. The Senate amendment restricts this option to students age 18 that stay within the educational system.

SR with an amendment to read as follows:

"(5) MULTI-YEAR IEP DEMONSTRATION.—

"(A) PILOT PROGRAM.—

"(i) PURPOSE.—The purpose of this subsection is to provide an opportunity for States to allow parents and local educational agencies the opportunity for long-term planning by offering the option of developing a comprehensive multi-year IEP, not to exceed 3 years, that is designed to coincide with the natural transition points for the child.

"(ii) AUTHORIZATION.—In order to carry out the purpose of this subsection, the Secretary is authorized to approve not more than 15 States based on proposals submitted by States to allow parents and local educational agencies the opportunity for long-term planning by offering the option of developing a comprehensive multi-year IEP, not to exceed 3 years, that is designed to coincide with the natural transition points for the child.

"(iii) PROPOSAL.—

"(I) IN GENERAL.—A State desiring to participate in the program under this subsection shall submit a proposal to the Secretary at such time and in such manner as the Secretary may reasonably require.

"(II) CONTENT.—The proposal shall include—

"(aa) assurances that the parent must consent to the option of developing a comprehensive multi-year IEP;

"(bb) a list of required elements for each multi-year IEP, including—

"(AA) measurable goals pursuant to paragraph (1)(A)(i)(II), coinciding with natural transition points for the child, that will enable the child to be involved in and make progress in the general education curriculum and that will meet the child's other needs that result from the child's disability; and

"(BB) measurable annual goals for determining progress toward meeting the goals described in subitem (AA); and

"(cc) a description of the process for the review and revision of each multi-year IEP, including—

"(AA) a review by the IEP Team of the child's multi-year IEP at each of the child's natural transition points;

"(BB) in years other than a child's natural transition points, an annual review of the child's IEP to determine the child's current levels of progress and whether the annual goals for the child are being achieved; and to amend the IEP, as appropriate, to enable the child to continue to meet the measurable goals set out in the IEP;

"(CC) if the IEP Team determines on the basis of a review that the child is not making sufficient progress toward the goals described in the multi-year IEP, a local educational agency will ensure that the IEP Team reviews the IEP within 30 calendar days; and

"(DD) at the request of the parent, the IEP Team shall conduct a review of the child's multi-year IEP rather than or subsequent to an annual review.

"(B) REPORT.—Beginning 2 years after the date of enactment, the Secretary shall submit an annual report to the Committee on Education and the Workforce in the House of Representatives and the Health, Education, Labor and Pensions Committee in the Senate regarding the effectiveness of the program and any specific recommendations for broader implementation of such program including

"(i) reducing—

"(I) the paperwork burden on teachers, principals, administrators, and related service providers; and

"(II) noninstructional time spent by teachers in complying with this part;

"(ii) enhancing longer-term educational planning;

"(iii) improving positive outcomes for children with disabilities;

"(iv) promoting collaboration between IEP Team members; and

"(v) ensuring satisfaction of family members."

"(C) DEFINITION.—As used in this paragraph, the term 'natural transition points' means those periods that are close in time to the transition of a child with a disability from preschool to elementary grades, from elementary grades to middle or junior high school grades, from middle or junior high school grades to high school grades, and from high school grades to post-secondary activities, but in no case longer than 3 years."

(182) There are no significant differences between the House bill and Senate amendment.

LC

(183) The Senate amendment, but not the House bill, requires that placements of homeless children with disabilities comply with the McKinney-Vento Homeless Assistance Act.

The House bill, but not the Senate amendment, allows for alternative means of meeting participation for meetings under section 615.

SR with an amendment:

Strike "and 615" in (f) and insert ", 615(e) and (f)(1)(B), and administrative matters under 615 (such as scheduling, exchange of witness lists and status conferences)".

(184) The House bill includes a Sense of Congress regarding the need to have a disability diagnosis performed by a physician or licensed health care professional. The Senate amendment does not include this provision.

HR

(185) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR

(186) The Senate amendment, but not the House bill, includes language regarding children who are wards of the State.

SR

(187) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(188) The House bill and Senate amendment include similar language, except the House bill modifies the need for an independent evaluation to be done as appropriate.

HR

(189) The Senate amendment, but not the House bill, includes language regarding homeless children and children who are wards of the State.

SR with an amendment:

Rewrite (b)(2) to read as follows:

"(b)(2)(A) In General.—procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, the local educational agency or any other agency that is involved in the education or care of the child) to act as a surrogate for the parents. In the case of—

"(i) a child who is a ward of the State, such surrogate may alternatively be appointed by the judge overseeing the child's care provided that the surrogate meets the requirements of this paragraph;

"(ii) an unaccompanied homeless youth as defined in Sec 725(6) of the McKinney-Vento Homeless Assistance Act, the LEA shall appoint a surrogate in accordance with this paragraph.

"(B) Time requirement.—The State shall make reasonable efforts to ensure the assignment of the surrogate not more than 30 days after there is a determination made by the agency that the child needs a surrogate."

Report language: "In light of the fact that unaccompanied homeless youth are a particularly mobile population, once the school district has made a determination that such youth require a surrogate, the Conferees encourage States or local educational agencies where allowed by law to quickly appoint a surrogate or refer the child to the child welfare system if consistent with State law. The Conferees recognize that, because the parents of homeless unaccompanied youth may be unavailable or unwilling to participate in the youth's education, homeless unaccompanied youth face unique problems in obtaining a free appropriate public education. Accordingly, the Conferees intend that the surrogate parent process be available for such youth, to ensure that they are provided with a free appropriate public education. Furthermore, the Conferees intend that appropriate staff members of emergency shelters, transitional shelters, independent living programs, and street outreach programs not be considered to be employees of agencies involved in the education or care of youth, for purposes of the prohibition of certain agency employees from acting as surrogates for parents as set forth in Sec. (b)(2)(A), provided that a such role is temporary until a surrogate can be appointed that meets the requirements and such role in no way conflicts with, or is in derogation of, the provision of a free appropriate public education to these youth."

(190) There are minor wording differences between the House and Senate amendments, but the content is the same.

LC

(191) There are no differences between the House bill and Senate amendment.

LC

(192) The House bill adds a requirement for voluntary binding arbitration that the Senate amendment does not include.

HR

(193) The House bill and Senate amendment have similar language regarding the opportunity to present complaints, but the House bill, not the Senate amendment, includes language establishing a 1 year statute of limitations on the right to present complaints. Senate has a 2 year timeline for filing complaints at note 221.

SR with an amendment to read as follows:

"(6) an opportunity to present complaints—

"(A) with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child; and

"(B) which set forth an alleged violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the complaint."

(194) The Senate amendment, but not the House bill, allows for either party to file a due process complaint.

The House bill requires the complaint to have a description of the specific issues while the Senate amendment requires a description of the nature of the problem.

HR

(195) The Senate amendment, but not the House bill, requires the LEA to send a prior written notice to a parent if the LEA has not already done so, after a parent has filed a due process complaint.

SR

(196) The Senate amendment, but not the House bill, requires the SEA to develop model forms for the complaint notice.

HR

(197) The Senate amendment, but not the House bill, includes procedures for children who are wards of the State.

SR

(198) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(199) The Senate amendment, but not the House bill, requires the notice to include what options the agency considered but did not include, and why. The Senate amendment, but not the House bill, requires a description of any other factors relevant to the agency's proposal or refusal.

SR with an amendment:

Insert (C) as amended by striking "any other options that the agency considered" and inserting "other options considered by the IEP team" and insert (E) as amended by striking "any other" and inserting "the".

(200) The Senate amendment, but not the House bill, presumes that the complaint is sufficient unless a party submits an objection to the notice, establishes timelines and procedures to support this rule, and requires the other party to receive the notice.

The Senate amendment, but not the House bill, also allows parents to amend their complaint if the hearing officer or other party consents, with timelines restarting at the time the amendment is filed.

HR with an amendment:

Strike "only" and insert "not later than 5 days" in (2)(D)(i)(II).

HR with an amendment:

Insert ", including the timeline under subsection (f)(1)(B)" after "notice" in (2)(D)(ii).

HR with an amendment:

Strike "20" and insert "15" in paragraph (B).

HR with an amendment:

Modify (2)(A) as follows:

"(2) Due process complaint notice.—

"(A)(i) Parent complaint.—The due process complaint notice required under subsection (b)(7)(A) shall be deemed to be sufficient unless the party receiving the notice notifies the hearing officer and the other party in writing that the receiving party believes the notice has not met the requirements of that subsection.

"(ii) Response.—If the local educational agency has not sent a prior written notice to the parent regarding the subject matter contained in the parent's due process complaint notice, such local educational agency shall within 10 days send to the parent a response that shall include—

"(I) an explanation of why the agency proposed or refused to take the action raised in the complaint;

"(II) a description of other options that the IEP team considered and the reasons why those options were rejected;

"(III) a description of each evaluation procedure, test, record or report the agency used as the basis for the proposed or refused action; and

(IV) a description of the factors that are relevant to the agency's proposal or refusal.

"(iii) Sufficiency.—A response filed by a local educational agency pursuant to clause (ii) shall not be construed to preclude such local educational agency from asserting that the parent's due process complaint notice was insufficient, where appropriate."

(201) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(202) The Senate amendment, but not the House bill, requires a notice whenever a due process complaint is filed.

HR with an amendment:

Rewrite (d)(1) to read as follows:

"(d) Procedural Safeguards Notice.—

"(1) In general.—

"(A) A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents only 1 time a year, except that a copy also shall be given to the parents—

"(i) upon initial referral or parental request for evaluation;

"(ii) upon the first occurrence of the registration of a complaint under subsection (b)(6); and

(iii) upon request by a parent.

"(B) The local educational agency may place a current copy of the procedural safeguards notice on its Internet website, if such website exists."

(203) The House bill and Senate amendment contain similar language, except the House bill requires a description of the safeguards while the Senate amendment requires a full explanation.

HR

(204) The Senate amendment, but not the House bill, requires the notice to include time period requirements and a description of the State-level appeal. The House bill does not include a State-level appeal system.

HR

(205) The House bill, but not the Senate amendment, requires a description of the voluntary binding arbitration system. The Senate amendment does not include that option.

HR

(206) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(207) The House bill, but not the Senate amendment, creates a Voluntary Binding Arbitration system in the title of this section.

HR

(208) Senate amendment, but not House bill, specifies that a mediation agreement is enforceable in court.

HR with an amendment:

Strike (F) and (G) and insert the following (F) and (G):

"(F) WRITTEN AGREEMENT.—In the case that a resolution is reached to resolve the complaint through the mediation process, the parties shall execute a legally binding agreement that—

"(I) states that all discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings;

"(II) is signed by both the parent and a representative of the public agency who has the authority to bind such agency; and

"(III) is enforceable in any State court of competent jurisdiction or in a district court of the United States.

"(G) MEDIATION DISCUSSIONS.—Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings."

Report language: "The conferees intend that the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process to ensure that all discussions that occur during the mediation process remain confidential irrespective of whether the mediation results in a resolution."

(209) The House bill, but not the Senate amendment, requires States to develop a voluntary binding arbitration system for the resolution of disputes.

HR

(210) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(211) The House bill does not provide for a State-level appeal system, so eliminates the dual-tier language. The Senate amendment maintains the State-level appeal.

HR

(212) Both the House bill and Senate amendment require the LEA and parent of a child with a disability to meet within 15 days of a parent's complaint being filed to attempt to resolve the complaint. The Senate amendment requires the meeting to include the IEP team and a person with decision making authority on behalf of the LEA. The House bill requires a meeting with the LEA and the parents. The House bill, but not the Senate amendment, operates within the regulatory 45 day timeline.

HR with an amendment:

Strike "Opportunity to Resolve Complaint" and insert "Resolution Session" in the heading.

HR with an amendment:

Strike "and the IEP Team" and replace with "and the relevant member or members of the IEP team with specific knowledge of the facts identified in the complaint" in (B)(i).

HR with an amendment:

Strike "specific issues" and insert "facts" in subparagraph (B)(i)(IV).

Report language: "The Committee intends that the relevant members be determined by the parents and LEA."

(216) The Senate amendment, but not the House bill, prevents the LEA from bringing an attorney to the preliminary meeting unless the parent brings their attorney. The House bill defines the resolution session as a non-administrative or judicial meeting, and the Senate amendment requires a written agreement to be signed by both parties if agreement is reached, and such agreement is to be enforceable in court.

HR with an amendment:

Strike (iii) and insert the following (iii) and (iv):

"(iii) WRITTEN SETTLEMENT AGREEMENT.—In the case that a resolution is reached to resolve the complaint at such meeting, the parties shall execute a legally binding agreement that is—

"(I) signed by both the parent and a representative of the public agency who has the authority to bind such agency; and

"(II) enforceable in any State court of competent jurisdiction or in a district court of the United States.

"(iv) REVIEW PERIOD.—If the parties execute an agreement pursuant to clause (iii), each party has the opportunity to void such agreement within 3 business days of its execution."

(217) The House bill and Senate amendment contain similar timeline requirements with the House bill requiring notice 'at least 5 business days prior' and the Senate amendment requiring 'not less than 5 business days prior.'

HR

(218) The House bill and Senate amendment include similar language regarding who cannot conduct a hearing. The Senate amendment, but not the House bill, adds additional requirements regarding the qualifications of hearing officers.

HR with an amendment:

Rewrite (3)(A)(ii) to read as follows:

"(ii) possess knowledge of, and the ability to understand, the provisions of this Act, Federal and State regulations pertaining to this Act, and legal interpretations of this Act by Federal and State courts;"

(219) Both the House bill and Senate amendment include similar requirements about the subject matters that may be brought up during a hearing, but the Senate amendment, not the House bill, clarifies that either the parent or the LEA may request a due process hearing.

HR

(220) The Senate amendment, but not the House bill, includes a rule of construction allowing parents to file separate due process hearings on separate issues.

HR

Report language: "The Conferees intend to encourage the consolidation of multiple issues into a single complaint where such issues are known at the time of the filing of the initial complaint."

(221) The Senate amendment establishes a 2-year statute of limitations unless State law already has a statute of limitations. The House bill includes a 1-year statute of limitations (see note 193).

HR/LC

(222) The Senate amendment, but not the House bill, includes several exceptions to the requirements of a statue of limitations.

HR with an amendment to read as follows:

"(E) EXCEPTION TO THE TIMELINE.—The timeline described in subparagraph (D) shall not apply if the parent was prevented from requesting the hearing due to—

"(i) specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint; or

"(ii) the local educational agency's withholding of information from parents that was required to be provided to parents under this part."

(223) The Senate amendment, but not the House bill, requires hearing officer decisions to be based on substantive grounds.

HR with an amendment:

Strike "compromised" and insert "impeded" in (F)(ii)(I) and strike "seriously hampered" and insert "significantly impeded" in (F)(ii)(II).

(224) The Senate amendment, but not the House bill, allows procedural violations to rise to the level of a substantive violation under certain circumstances.

HR with an amendment:

Strike "compromised" and insert "impeded" in(F)(ii)(I) and strike "seriously hampered" and insert "significantly impeded" in (F)(ii)(II).

(225) The Senate amendment, but not the House bill, allows for the existence of a State-level appeal system for due process hearings.

HR with an amendment:

Strike (G) and insert the following:

"(G) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the right of a parent to file a complaint with the State educational agency, if such agency offers and conducts such appeals."

HR with an amendment:

Insert "if the State educational agency offers a state level appeals process" at the end of the first sentence in (g).

(226) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(227) The House bill, not the Senate amendment, allows for non-attorney advocates to represent parents at due process hearings. The Senate amendment, but not the House bill, allows for individuals with special knowledge to accompany and advise parents at due process hearings.

HR

(228) The Senate amendment, but not the House bill, allows for a State-level appeal system, and requires the transmittal of records to the State advisory panel.

HR

(229) The House bill includes technical changes to update language after removing the State-level appeal system. The Senate amendment replaces the entire existing law, but makes no changes in this section, except to add a 90 day limit for filing an appeal to court, unless State law provides for a different timeline.

HR

(230) The House bill includes technical changes to update language after removing the State-level appeal system.

HR

(231) The House bill requires the Governor to establish rates for attorney's fees and make those rates public. The Senate amendment places limitations on whether attorneys' fees can be awarded.

The Senate amendment clarifies that meetings conducted under the opportunity to resolve provision are not eligible for reimbursement for attorney's fees.

HR

(232) The Senate amendment clarifies that the parent's attorney's conduct may result in reduction of attorney's fees.

HR

(233) The Senate amendment allows parents to represent their child in court.

SR

(234) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(235) There are minor technical differences between the House bill and Senate amendment, but the content is the same.

LC

(236) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(237)-(245)

HR with an amendment to read as follows:

"(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—

"(1) AUTHORITY OF SCHOOL PERSONNEL.—

"(A) CASE-BY-CASE DETERMINATION.—School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.

"(B) AUTHORITY.—School personnel under this section may remove a child with a disability who violates a code of student conduct from their current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives are applied to children without disabilities).

"(C) ADDITIONAL AUTHORITY.—If school personnel seek to order a change in placement that would exceed 10 school days and the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to subparagraph (E), the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner and for the same duration in which the procedures would be applied to children without disabilities, except as provided in section 612(a)(1) although it may be provided in an interim alternative educational setting.

"(D) SERVICES.—A child with a disability who is removed from the child's current placement under subparagraph (G) (irrespective of whether the behavior is determined to be a manifestation of the child's disability) or (C) shall—

"(i) continue to receive educational services, as provided in section 612(a)(1), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

"(ii) receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

"(E) MANIFESTATION DETERMINATION.—

"(i) IN GENERAL.—Except as provided in subparagraph (B), within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the local educational agency, the parent and relevant members of the IEP Team (as determined by the parent and the local educational agency) shall review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine—

"(I) if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

"(II) if the conduct in question was the direct result of the local educational agency's failure to implement the IEP.

"(ii) MANIFESTATION.—If the local educational agency, the parent and relevant members of the IEP Team determine that either subclause (I) or (II) of clause (i) is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.

"(F) DETERMINATION THAT BEHAVIOR WAS A MANIFESTATION.—If the local educational agency, the parent and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team shall—

"(i) conduct a functional behavioral assessment, and implement a behavioral intervention plan for such child, provided that the local educational agency had not conducted such assessment prior to such determination before the behavior that resulted in the change in placement described in subparagraph (C) or (G);

"(ii) in the situation where a behavioral intervention plan has been developed, review the behavioral intervention plan if the child already has such a behavioral intervention plan, and modify it, as necessary, to address the behavior; and

"(iii) except as provided in subparagraph (G), return the child to the placement from which the child was removed, unless the parent and the local educational agency agree to a change of placement as part of the modification of the behavioral intervention plan.

"(G) SPECIAL CIRCUMSTANCES.—School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, in cases where a child—

"(i) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or local educational agency; or

"(ii) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or a school function under the jurisdiction of a State or local educational agency; or

"(iii) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency.

"(H) NOTIFICATION.—Not later than the date on which the decision to take disciplinary action is made, the local educational agency shall notify the parents of that decision, and of all procedural safeguards accorded under this section.

(2) DETERMINATION OF SETTING.—The interim alternative educational setting in subparagraph (C) and (G) of paragraph (1) shall be determined by the IEP Team.

(3) APPEAL.—

"(A) IN GENERAL.—The parent of a child with a disability who disagrees with any decision regarding placement, or the manifestation determination under this subsection, or a local educational agency that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request a hearing.

"(B) AUTHORITY OF HEARING OFFICER.—

"(i) IN GENERAL.—A hearing officer shall hear, and make a determination regarding, an appeal requested under subparagraph (A).

"(ii) CHANGE OF PLACEMENT ORDER.—In making the determination under clause (i), the hearing officer may order a change in placement of a child with a disability. In such situations, the hearing officer may—

"(I) return a child with a disability to the placement from which the child was removed; or

"(II) order a change in placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of such child is substantially likely to result in injury to the child or to others.

"(4) PLACEMENT DURING APPEALS.—When an appeal under paragraph (3) has been requested by either the parent or the local educational agency—

"(A) the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(C), whichever occurs first, unless the parent and the State or local educational agency agree otherwise; and

"(B) the State or local educational agency shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

"(5) PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES.—

"(A) IN GENERAL.—A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violates a code of student conduct, may assert any of the protections provided for in this part if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

"(B) BASIS OF KNOWLEDGE.—A local educational agency shall be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred—

"(i) the parent of the child has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;

"(ii) the parent of the child has requested an evaluation of the child pursuant to section 614(a)(1)(B); or

"(iii) the teacher of the child, or other personnel of the local educational agency, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education of such agency or to other supervisory personnel of the agency.

"(C) EXCEPTION.—A local educational agency shall not be deemed to have knowledge that the child is a child with a disability if the parent of the child has not allowed an evaluation of the child pursuant to section 614 or has refused services under this part or the child has been evaluated and it was determined that the child was not a child with a disability under this part.

"(D) CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE.—

"(i) In General.—If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B) or (C)) prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).

"(ii) Limitations.—If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under this subsection, the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with this part, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities."

Report language: "The Conferees intend to assure that the manifestation determination is done carefully and thoroughly with consideration of any rare or extraordianry circumstances presented. Additionally, it is the intention of the Conferees that when a student has violated a code of conduct school personnel may consider any unique circumstances on a case-by-case basis to determine to whether a change of placement for discipline purposes is appropriate. The Conferees intend that if a change in placement is proposed, the manifestation determination will analyze the child's behavior as demonstrated across settings and across time when determining whether the conduct in question is a direct result of the disability. The Conferees intend that in situations where the local educational agency, the parent and the relevant members of the IEP team determine that the conduct was the direct result of the child's disability, a child with a disability should not be subject to discipline in the same manner as a non-disabled child.

"The Conferees intend that in order to determine that the conduct in question was a manifestation of the child's disability, the local educational agency, the parent and the relevant members of the IEP team must determine the conduct in question be the direct result of the child's disability. It is intention of the Conferees that the conduct in question was caused by, or has a direct and substantial relationship to, the child's disability, and is not an attenuated association, such as low self-esteem, to the child's disability."

(246) There are no significant differences between the House bill and Senate amendment.

HR

(247) The House bill does not include these definitions.

HR

(248) The House bill includes this technical language as part of its structure. The Senate amendment adds language regarding the McKinney-Vento Act.

HR with an amendment:

Strike "or under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act or parts B and E of title IV of the Social Security Act".

(249) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(250) There are no significant differences between the House bill and Senate amendment.

HR/LC

(251) The Senate amendment allows parents to receive notices through email. The House bill does not include this provision.

HR

(252) The Senate amendment, but not the House bill, includes language requiring the appointment of a surrogate parent if determined necessary by the LEA.

SR

(253)-(258):

SR with an amendment to read as follows:

**"SEC. 616. MONITORING, TECHNICAL ASSISTANCE, AND ENFORCEMENT.**

"(a) Federal and State Monitoring.—

"(1) In general.—The secretary shall—

"(A) monitor implementation of this part through—

"(i) oversight of the exercise of general supervision by the States, as required in section 612(a)(11); and

"(ii) the State performance plans, described in subsection (b)

"(B) enforce this part in accordance with subsection (e); and

"(C) require States to—

"(i) monitor implementation of this part by local educational agencies; and

"(ii) enforce this part in accordance with paragraph (3) and subsection (e).

"(2) Focused monitoring.—The primary focus of Federal and State monitoring activities described in paragraph (1) shall be on—

"(A) improving educational results and functional outcomes for all children with disabilities; and

"(B) ensuring that States meet the program requirements under this part, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

"(3) Monitoring priorities.—The Secretary shall monitor the States, and shall require each State to monitor its local educational agencies located in the State (except the State exercise of general supervisory responsibility), using quantifiable indicators, in the following priority areas and using such qualitative indicators as are needed to adequately measure performance in the following priority areas:

"(A) Provision of a free appropriate public education in the least restrictive environment.

"(B) State exercise of general supervisory authority, including child find, effective monitoring, the use of resolution sessions, mediation, voluntary binding arbitration, and a system of transition services as defined in section 602(33) and 637(a)(9).

"(C) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

"(4) Permissive areas of review.—The Secretary shall consider other relevant information and data, including data provided by States under section 618.

"(b) State Performance Plans.—

"(1) Plan.—

"(A) In general.—Not later than 1 year after the date of the enactment of the Individuals with Disabilities Education Improvement Act of 2004, each State shall have in place a performance plan that evaluates that State's efforts to implement the requirements and purposes of this Act and describes how the State will improve such implementation.

"(B) Submission for approval.—Each State shall submit the State's performance plan to the Secretary for approval in accordance with the approval process described in subsection (c).

"(C) Review.—Each State shall review its State performance plan at least once every 6 years and submit any amendments to the Secretary.

"(2) Targets.—

"(A) In general.—As a part of the plan described under paragraph (1), each State shall establish measurable and rigorous targets for the indicators established under the priority areas described in subsection (a)(3).

"(B) Data collection.—

"(i) In general.—Each State shall collect valid and reliable information as needed to report annually to the Secretary on the priority areas described in subsection (a)(3).

"(ii) Rule of construction.—Nothing in this Act shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this Act.

"(C) Public reporting and privacy.—

"(i) In general.—The State shall use the targets established in the plan and priority areas described in subsection (a)(3) to analyze the performance of each local educational agency in the State in implementing this part.

"(ii) Report.—

"(I) Public report.—The State shall report annually to the public on the performance of each local educational agency located in the State on the targets in the State's performance plan. The State shall make the State's performance plan available through public means, including posting on the website of the State educational agency, distribution to the media, and distribution through public agencies.

"(II) State performance report.—The State shall report annually to the Secretary on the performance of the State under the State's performance plan.

"(iii) Privacy.—The State shall not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children or where the available data is insufficient to yield statistically reliable information.

"(c) Approval Process.—

"(1) Deemed approval.—The Secretary shall review (including the specific provisions described in subsection (b)) each performance plan submitted by a State pursuant to subsection (b)(1)(B) and the plan shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the plan, that the plan does not meet the requirements of this section, including the specific provisions described in subsection (b).

"(2) Disapproval.—The Secretary shall not finally disapprove the plan, except after giving the State educational agency notice and an opportunity for a hearing.

"(3) Notification.—If the Secretary finds that the plan does not meet the requirements, in whole or in part, of this section, the Secretary shall—

"(A) give the State notice and an opportunity for a hearing; and

"(B) notify the State of the finding, and in such notification shall—

"(i) cite the specific provisions in the plan that do not meet the requirements; and

"(ii) request additional information, only as to the provisions not meeting the requirements, needed to make the plan meet the requirements of this section.

"(4) RESPONSE.—If the State educational agency responds to the Secretary's notification described in paragraph (3)(B) during the 30-day period beginning on the date on which the agency received the notification, and resubmits the plan with the requested information described in paragraph (3)(B)(ii), the Secretary shall approve or disapprove such plan prior to the later of—

"(A) the expiration of the 30-day period beginning on the date on which the plan is resubmitted; or

"(B) the expiration of the 120-day period described in paragraph (1).

"(5) FAILURE TO RESPOND.—If the State educational agency does not respond to the Secretary's notification described in paragraph (3)(B) during the 30-day period beginning on the date on which the agency received the notification, such plan shall be deemed to be disapproved.

"(d) SECRETARY'S REVIEW AND DETERMINATION.—

"(1) REVIEW.—The Secretary shall annually review the State performance report submitted pursuant to subsection (b)(2)(C)(ii)(II) in accordance with this section.

"(2) DETERMINATION.—

"(A) IN GENERAL.—Based on the information provided by the State in the State performance report, information obtained through monitoring visits, and any other public information made available, the Secretary shall determine if the State—

"(i) meets the requirements and purposes of this part;

"(ii) needs assistance in implementing the requirements of this part;

"(iii) needs intervention in implementing the requirements of this part; or

"(iv) needs substantial intervention in implementing the requirements of this part.

"(B) NOTICE AND OPPORTUNITY FOR A HEARING.—For any determinations made under subparagraph (A), the Secretary shall provide reasonable notice and an opportunity for a hearing on such determination.

"(e) ENFORCEMENT.—

"(1) NEEDS ASSISTANCE.—If the Secretary determines, for 2 consecutive years, that a State needs assistance under subsection (d)(2)(ii) in implementing the requirements of this Act, the Secretary shall take 1 or more of the following actions:

"(A) Advise the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies, and require the State to partner with appropriate entities. Such technical assistance may include—

"(i) the provision of advice by experts to address the areas in which the State needs assistance, including explicit plans for addressing the area for concern within a specified period of time;

"(ii) assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

"(iii) designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers to provide advice, technical assistance, and support; and

"(iv) devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under part D, and private providers of scientifically based technical assistance.

"(B) Direct the use of State level funds under section 611(e) on the area or areas in which the State needs assistance.

"(C) Identify the State as a high-risk grantee and impose special conditions on the State's grant under this part.

"(2) NEEDS INTERVENTION.—If the Secretary determines, for 3 or more consecutive years, that a State needs intervention under subsection (d)(2)(iii) in implementing the requirements of this Act, the following shall apply:

"(A) The Secretary may take any of the actions in (1), and

"(B) The Secretary shall take 1 or more of the following actions:

"(i) Require the State to prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within 1 year.

"(ii) Require the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, if the Secretary has reason to believe that the State cannot correct the problem within 1 year.

"(iii) Each year of the determination withhold not less than 20 and not more than 50 percent of the State's funds under section 611(e), until the Secretary determines the State has sufficiently addressed the areas in which the State needs intervention.

"(iv) Seek to recover funds under section 452 of the General Education Provisions Act.

"(v) Withhold, in whole or in part, any further payments to the State under this part pursuant to paragraph (5).

"(vi) Refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.

"(3) NEEDS SUBSTANTIAL INTERVENTION.—Notwithstanding paragraph (1) or (2), at any time that the Secretary determines that a State needs substantial intervention in implementing the requirements of this Act or that there is a substantial failure to comply with any condition of a State educational agency's or local educational agency's eligibility under this part, the Secretary shall take 1 or more of the following actions:

"(A) Recover funds under section 452 of the General Education Provisions Act.

"(B) Withhold, in whole or in part, any further payments to the State under this part.

"(C) Refer the case to the Office of the Inspector General at the Department of Education.

"(D) Refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.

"(4) OPPORTUNITY FOR HEARING.—

"(A) WITHHOLDING OF FUNDS.—Prior to withholding any funds under this section, the Secretary shall provide reasonable notice and an opportunity for a hearing to the State educational agency involved.

"(B) SUSPENSION.—Pending the outcome of any hearing to withhold payments under subsection (b), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate funds under this part, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate funds under this part should not be suspended.

"(5) REPORT TO CONGRESS.—The Secretary shall report to the Committee on Education and the Workforce in the House of Representatives and the Committee on Health, Education, Labor, and Pensions in the Senate within 30 days of taking enforcement action pursuant to paragraph (1), (2) or (3), on the specific action taken and the reasons why enforcement action was taken.

"(6) NATURE OF WITHHOLDING.—

"(A) LIMITATION.—If the Secretary withholds further payments pursuant to paragraphs (2) or (3), the Secretary may determine—

"(i) that such withholding will be limited to programs or projects, or portions thereof, that affected the Secretary's determination in (d)(2); or

"(ii) that the State educational agency shall not make further payments under this part to specified State agencies or local educational agencies that caused or were involved in the Secretary's determination in subsection (d)(2).

"(B) WITHHOLDING UNTIL RECTIFIED.—Until the Secretary is satisfied that the conditions that caused the initial withholding has been substantially rectified—

"(i) payments to the State under this part shall be withheld in whole or in part; and

"(ii) payments by the State educational agency under this part shall be limited to State agencies and local educational agencies whose actions did not cause or were not involved in the Secretary's determination in (d)(2), as the case may be.

"(7) PUBLIC ATTENTION.—Any State educational agency that has received notice under subsection (d)(2) shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the State.

"(8) JUDICIAL REVIEW.—

"(A) IN GENERAL.—If any State is dissatisfied with the Secretary's action with respect to the eligibility of the State under section 612, such State may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

"(B) JURISDICTION; REVIEW BY UNITED STATES SUPREME COURT.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(C) STANDARD OF REVIEW.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall be conclusive if supported by substantial evidence.

"(f) STATE ENFORCEMENT.—If a State educational agency determines that a local educational agency is not meeting the requirements of this part, including the targets in the State's performance plan, the State educational agency shall prohibit the local educational agency from reducing the local educational agency's maintenance of effort under this part as local funds under section 613(a)(2)(C) for any fiscal year.

"(g) RULE OF CONSTRUCTION.—Nothing under this section shall be construed to restrict the Secretary from utilizing any authority under the General Education Provisions Act to monitor and enforce the requirements of this Act."

Report language: "The Conferees believe that accurate decision making with regard to enforcement of the IDEA is required in order to: (1) ensure that federal dollars are being spent productively on education, and, (2) to ensure that monitoring and enforcement is administered fairly. It is our expectation that state performance plans, indicators, and targets will be developed with broad stakeholder input and public dissemination.

"The Secretary is directed to monitor states using rigorous targets and to request such information from states and stakeholders as is necessary to implement the purposes of IDEA, including the use of onsite monitoring visits and student file reviews, and to enforce the requirements of the IDEA.

"Conferees strongly encourage the Secretary to review all relevant and publicly available data, including the data gathered under Section 618, related to the targets and priority areas established for reviewing the efforts of States and local educational agencies to implement the requirements and purposes of IDEA. The Secretary is also authorized to use qualitative measures to inform his decision-making process in determining the efforts of the State or LEA in implementing IDEA.

"Conferees recommend that the Secretary diligently investigate any root causes prior to selecting enforcement options, so that enforcement options are appropriately selected and have the greatest likelihood in yielding improvement in that state. However, investigations must not unduly delay the enforcement action."

(259) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR

(260) There are no differences between the House bill and Senate amendment.

HR

(261) The House bill prohibits the Federal Government from dictating the content of curriculum or instruction. The Senate amendment does not include that provision.

SR

(262) The Senate amendment, but not the House bill, includes authorization for the Secretary to hire personnel to carry out the Secretary's duties under section 664.

SR

(263) The House bill allows the Secretary to grant waivers to 10 States to reduce paperwork. The Senate amendment includes this provision in note 46.

HR

(264) The Senate amendment requires the development of a model IFSP form, the House bill does not include that provision.

HR

(265) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR

(266) The House bill and Senate amendment contain similar requirements regarding data collection, except the House bill, and not the Senate amendment requires LEAs to submit the same data as States, and requires data on voluntary binding arbitration and children served with early intervening funds under 613(f). The Senate amendment, but not the House bill, requires disaggregation by gender, and by LEP status and gender on several indicators, data collection on students suspended for one day or more, the numbers of students sent to alternate settings due to discipline violations, the number of due process complaints and hearings held, and other data regarding discipline provisions.

HR with an amendment:

Strike (L).

(267) The House bill allows the Secretary to obtain information through sampling. The Senate amendment requires that the data not be able to identify individual children.

HR with an amendment:

Include both.

(268) The Senate amendment allows the Secretary to provide technical assistance to States to collect data. The House bill does not include this provision.

HR

(269) The House bill and Senate amendment contain similar language, except the House bill requires data to be examined on ethnicity as well.

The House bill also requires States to use funds for prereferral services to address disproportionality if any is found and requires the LEA to publicly report on any revisions.

SR with an amendment:

Strike "preferral" and insert "early intervening" in (2)(B).

Report language: "The Conferees believe that early intervening services should make use of supplemental instructional materials, where appropriate, to support student learning. Children targeted for early intervening services under IDEA are the very students who are most likely to need additional reinforcement to the core curriculum used in the regular classroom. These are in fact the additional instructional materials that have been developed to supplement and therefore strengthen the efficacy of comprehensive core curriculum. Per the requirements of NCLB, core curriculum must meet standards of scientific rigor. As supplementary materials to these core programs, they are aligned with and designed to reinforce the skills taught in these comprehensive research-based texts."

(270) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(271) There are no differences between the House bill and Senate amendment.

LC

(272) There are no significant differences between the House bill and Senate amendment.

LC

(273) There are no significant differences between the House bill and Senate amendment.

LC

(274) There are no differences between the House bill and Senate amendment.

SR with an amendment:

Strike ", if the State educational agency is the lead agency for the State under that part" in (e)(2).

(275) The House bill, but not the Senate amendment, allows funds to support the implementation of a State plan under Part D if the State receives a grant. The Senate amendment, but not the House bill, allows funds to be used to provide services to children with disabilities under the Part C program until the child attends kindergarten.

HR with an amendment:

LC on "it retains" versus "the State reserves".

HR with an amendment:

Insert new paragraph (6) to read as follows:

"(6) at the State's discretion, to continue service coordination or case management for families who receive services under part C."

(276) There are no significant differences between the House bill and Senate amendment.

LC

(277) There are no differences between the House bill and Senate amendment.

LC

(278) The House bill authorizes $500 million for FY 04 and such sums thereafter, while the Senate amendment authorizes such sums.

HR

*Part C*

(279) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR

(280) The House bill and Senate amendment have virtually the same findings, but the Senate amendments contains additional language on brain development.

HR

(281) There are no significant differences between the House and Senate amendments.

LC

(282) There are no differences between the House bill and Senate amendment.

LC

(283) The House bill requires services to be designed to address family-identified priorities, while the Senate amendment requires services to be designed to meet the developmental needs of the infant or toddler.

HR with an amendment to read as follows:

"(C) are designed to meet the developmental needs of an infant or toddler with a disability as identified by the individualized family service plan team in any 1 or more of the following areas:".

(284) The House bill and Senate amendment include minor differences in the services provided with the House bill adding family therapy and the Senate amendment adding sign language and cued language services.

HR

Report language: "Conferees commend the Office of Special Education & Rehabilitative Services for developing updated early intervention materials that set out the full range of options for families with deaf and hard of hearing children who now have the potential to develop age appropriate language in whatever modality their parents choose. Dramatic improvements in hearing technology, both hearing aids and cochlear implants, provide new opportunities for families who wish to pursue spoken language for their child with hearing loss. These new materials and efforts further the goals of the IDEA that early intervention personnel actively provide comprehensive and bias-free information on the range of language options available to a child with hearing loss, including the benefits of early amplification and/or early implantation of a cochlear implant."

(285) The House bill and Senate amendment include minor differences in the personnel authorized to provide services with the House bill authorizing registered dietitians and the Senate amendment authorizing nutritionists. The Senate amendment also adds teachers of the deaf as a listed provider while the House bill does not.

SR

Report Language: "The conferees intend that the term 'special educators' includes teachers of the deaf. The conferees recognize that with the recent dramatic rise in newborn hearing screening, more infants are being identified with hearing loss early and they need the services of teachers of the deaf who can meet their language and communication needs."

(286) The House bill allows the State to use the Part C program to provide services to infants and toddlers up through age 5 if the services include an educational component and parents are advised of their rights to choose to move to the Section 619 program. The Senate amendment contains a similar program for children ages 3–5. See Section 635(b) of the Senate amendment.

HR with an amendment:

HR on structure of (5)(B) with an amendment to (5)(B)(ii) to read as follows:

"(ii) children with disabilities who are eligible for services under section 619 and who previously received services under this part until such children enter, or are eligible under state law to enter, kindergarten; provided that any programs under this part serving these children shall include—

"(I) an educational component that promotes school readiness and incorporates preliteracy, language and numeracy skills, and

"(II) a written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under this part or participate in preschool programs under section 619."

(287) The Senate amendment, but not the House bill, includes language regarding homeless children, wards of the State, and military children.

SR with an amendment:

Insert ", infants or toddlers with disabilities who are homeless children, infants or toddlers with disabilities who are wards of the State," after "including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State,".

(288) The Senate amendment establishes minimum levels of developmental delay that States must cover. The House bill does not include this language.

SR with an amendment:

Amend section 635(a)(1) to read "A rigorous definition of the term developmental delay that will be used for the state in carrying out programs under this part in order to appropriately identify infants and toddlers that are in need of services under this part".

Report language: "The Conferees intend that States establish rigorous standards for identifying and serving infants and toddlers with developmental delays. The Conferees believe that these standards should encompass a sufficient scope of developmental delays to ensure that these infants and toddlers receive the benefit of Part C services designed to lessen the infant or toddler's need for future or more extensive services."

(289) The House bill, but not the Senate amendment, requires that early intervention services be based on scientifically based research.

SR with an amendment:

Rewrite (2) to read as follows:

"(2) A State policy that is in effect and that ensures that appropriate early intervention services based on scientifically based research, to the extent practicable, are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities and their families and homeless infants and toddlers with disabilities and their families."

SR with an amendment:

Add at the end of (5) "and that ensures rigorous standards for appropriately identifying infants and toddlers for services under this part that will reduce the need for future services"

(290) The House bill, but not the Senate amendment, requires an emphasis on informing parents of infants with risk factors on the availability of early intervention services.

The Senate amendment, but not the House bill, expands the list of places the public awareness program should focus on delivering information.

SR

Report Language: "The Conferees intend that the public awareness program include a broad range of referral sources such as homeless family shelters, clinics and other health service related offices, public schools and officials and staff in the child welfare system."

(291) There are no differences between the House bill and Senate amendment.

LC

(292) The House bill requires States to focus on three areas of personnel and allows States to focus on rural and inner city areas and emotional and social development areas. The Senate amendment permits States to focus on these areas and rural/urban areas.

SR

(293) The Senate amendment, but not the House bill, includes a provision allowing States to allow paraprofessionals to provide services in accordance with State law, regulation, or written policy.

HR

(294) There are no differences between the House bill and Senate amendment.

LC

(295a) The House bill requires that services be provided in a setting other than the natural environment only when intervention cannot be achieved satisfactorily in that setting. The Senate amendment requires that services be provided in the natural setting unless a specific outcome cannot be met.

SR with an amendment to read as follows:

"(B) the provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment that is most appropriate, as determined by the parent and the individualized family service plan team, only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment."

Report language: "The legislation amends current law to recognize that there may be instances when a child's individualized family service plan cannot be implemented satisfactorily in the natural environment. The Conferees intend that in these instances, the child's parents and the other members of the individualized family service plan team will together make this determination and then identify the most appropriate setting in which early intervention services can be provided."

(295b) The Senate amendment, but not the House bill, requires procedures for homeless children and wards of the State.

SR

(296) The Senate amendment does not include this requirement.

SR with an amendment to strike "consistent with State law within 3 years."

(297) Both the House bill and the Senate amendment allow States to continue to provide services to children aged 3–5 in the Part C program, if the parent chooses to keep their child in that system. The Senate amendment consolidates its language in this section. The House bill incorporates language in multiple areas.

HR with an amendment to read as follows:

"(b) FLEXIBILITY TO SERVE CHILDREN 3 YEARS OF AGE UNTIL ENTRANCE INTO ELEMENTARY SCHOOL.—

"(1) IN GENERAL.—A statewide system described in section 633 may include a State policy, developed and implemented jointly by the lead agency and the State educational agency, under which parents of children with disabilities who are eligible for services under section 619 and previously received services under this part, may choose the continuation of early intervention services (which shall include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills) for such children under this part until such children enter, or are eligible under State law to enter, kindergarten.

"(2) REQUIREMENTS.—If a statewide system includes a State policy described in paragraph (1), the statewide system shall ensure—

"(A) that parents of children served pursuant to this subsection are provided with annual notice that provides—

"(i) a description of such parents' right to elect services pursuant to this subsection or under part B; and

"(ii) an explanation of the differences between receiving services pursuant to this subsection and receiving services under part B, including—

"(I) the types and location of services available under both provisions;

"(II) applicable procedural safeguards under both provisions; and

"(III) the possible costs, if any (including any fees to be charged to families as described in section 632(4)(B)) to parents under both provisions;

"(B) that services provided pursuant to this subsection include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills;

"(C) that the State policy will not affect the right of any child served pursuant to this subsection to instead receive a free appropriate public education under part B;

"(D) the continuance of all early intervention services outlined in the child's individualized family service plan under section 636 while any eligibility determination is being made for services under this subsection;

"(E) that parents of infants or toddlers with disabilities (as defined in section 632(5)(A)) provide informed written consent to the State, before such infants and toddlers reach 3 years of age, as to whether such parents intend to choose the continuation of early intervention services pursuant to the subsection for such infants or toddlers; and

"(F) that the requirements under section 637(a)(9) are deferred if the child is receiving services in accordance with this subsection until not less than 90 days (and at the discretion of the parties to the conference under section 637(a)(9)(A), not more than 9 months) before, the time the child will no longer receive services under this subsection.

"(G) the referral for evaluation for early intervention services of a child who experiences a substantiated case of trauma due to exposure to family violence, as defined in section 309(1) of the Family Violence and Protection Services Act.

"(3) REPORTING REQUIREMENT.—If a statewide system includes a State policy described in paragraph (1), the State shall submit to the Secretary, in the State's report under section 637(b)(4)(A), a report on the number and percentage of children with disabilities who are eligible for services under section 619 but whose parents choose for such children to continue to receive early intervention services under this part; and

"(4) RULES OF CONSTRUCTION.—

"(A) If a statewide system includes a State policy described in paragraph (1), a State that provides services in accordance with this subsection to a child who is eligible for services under section 619, shall not be required to provide such child with a free appropriate public education under part B for the length of time in which such children are receiving services under this part.

"(B) Nothing in this subsection shall be construed to require a provider of services under this part to provide a child served under this part with a free appropriate public education.

"(5) AVAILABLE FUNDS.—If a Statewide system includes a State policy described in paragraph (1), the policy shall describe the funds (including an identification as Federal, State, or local funds) that will be used to ensure that the option described in paragraph (1) is available to eligible children and families who provide the consent described in paragraph (2)(E), including fees (if any) to be charged to families as described in section 632(4)(B)."

(298) The Senate amendment, but not the House bill, includes this rule of construction regarding payment for certain procedures.

SR

(299) There are no differences between the House bill and Senate amendment.

HR

(300) There are no differences between the House bill and Senate amendment.

LC

(301) There are no significant differences between the House bill and Senate amendment, except the House bill refers to major goals while the Senate amendment refers to measurable outcomes.

SR with an amendment:

In paragraph (3), strike "major" and insert "measurable", and strike all references to "goals" and insert "results or outcomes"

(302) There are no differences between the House bill and Senate amendment.

LC

(303) The Senate amendment, but not the House bill requires States to demonstrate that they have in effect the statewide system required in section 633.

The House bill specifically references effects of fetal exposure to alcohol, the Senate amendment does not.

The House bill, but not the Senate amendment, requires a description of collaboration efforts with other early childhood programs in the State.

HR with an amendment:

Strike "for evaluation" after "require the referral" and insert "under this part" after "intervention services" in (6) and insert:

"(11) a description of State efforts to promote collaboration between Early Head Start programs, early education and child care programs, and services under part C of this Act."

Report language: "The Conferees intend that every child described in 637(a)(6)(A) and (B) will be screened by a Part C provider or designated primary referral source to determine whether a referral for an evaluation for early intervention services under Part C is warranted. If the screening indicates the need for a referral, the Conferees expect a referral to be made. However, the Conferees do not intend this provision to require every child described in Section 637 (a)(6)(A) and (B) to receive an evaluation or early intervention services under Part C."

(304) The House bill gives discretion of up to 6 months to develop a transition plan. The Senate amendment provides up to 9 months.

HR

(305) Senate transition plan includes reference to "as appropriate, steps to exit from the program."

HR

The Senate amendment, but not the House bill, includes a requirement for policies and procedures regarding homeless children and wards of the State.

SR

(306) The Senate amendment, but not the House bill, requires assurances regarding homeless children and wards of the State.

HR

(307) There are no significant differences between the House bill and Senate amendment.

LC

(308) Both the House bill and the Senate amendment allow States to continue to provide services to children aged 3-5 in the Part C program, if the parent chooses to keep their child in that system. The Senate amendment requires the written consent of parents to continue to provide early intervention services.

HR with an amendment to (4) to read as follows:

"(4) with the written consent of the parents, to continue to provide early intervention services under this part to children with disabilities from their 3rd birthday until such children enter, or are eligible under State law to enter, kindergarten, in lieu of a free appropriate public education provided in accordance with part B; and".

(309) Neither the House bill nor the Senate amendment make any changes in this section to current law.

HR

(310) The House bill makes no changes to current law. The Senate amendment adds a provision requiring States to ensure that interagency agreements are in place to ensure that services are paid for by appropriate State agencies.

HR with an amendment to (b) to read as follows:

"(b) OBLIGATIONS RELATED TO AND METHODS OF ENSURING SERVICES.—

"(1) ESTABLISHING FINANCIAL RESPONSIBILITY FOR SERVICES.—

"(A) IN GENERAL.—The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency and the designated lead agency, in order to ensure—

"(i) the provision of, and financial responsibility for, services provided under this part; and

"(ii) such services are consistent with the requirements of section 635 and the State's application pursuant to section 637, including the provision of such services during the pendency of any such dispute.

"(B) CONSISTENCY BETWEEN AGREEMENTS OR MECHANISMS UNDER PART B.—The Chief Executive Officer of a State or designee of the officer shall ensure that the terms and conditions of such agreement or mechanism are consistent with the terms and conditions of the State's agreement or mechanism under Section 612(a)(12), where appropriate.

"(2) REIMBURSEMENT FOR SERVICES BY PUBLIC AGENCY.—

"(A) IN GENERAL.—If a public agency other than an educational agency fails to provide or pay for the services pursuant to an agreement required under paragraph (1) the local educational agency or State agency (as determined by the Chief Executive Officer or designee) shall provide or pay for the provision of such services to the child.

"(B) REIMBURSEMENT.—Such local educational agency or State agency is authorized to claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse the local educational agency or State agency pursuant to the terms of the interagency agreement or other mechanism required under paragraph (1).

"(3) SPECIAL RULE.—The requirements of paragraph (1) may be met through—

"(A) State statute or regulation;

"(B) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

"(C) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer and approved by the Secretary through the review and approval of the State's application pursuant to section 637."

(311) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR

(312) There are no differences between the House bill and Senate amendment.

LC

(313) The House bill, but not the Senate amendment, requires the addition of representatives from the State mental health agency, child welfare agency, and the Office of the Coordinator of homeless children and youth to the State council.

The Senate amendment, but not the House bill, requires parents of homeless children and representatives of wards of the State to be on the panel.

The Senate amendment, but not the House bill, requires the addition of representatives from the State Medicaid agency to the State council, homeless children, the welfare agency, and foster children.

HR with an amendment:

Strike 1(A) and replace with 1(A) from House bill and strike 1(M) and insert 1(J) from House bill.

(314) There are no differences between the House bill and Senate amendment.

LC

(315) There are no differences between the House bill and Senate amendment.

LC

(316) There are no differences between the House bill and Senate amendment.

LC

(317) There are no differences between the House bill and Senate amendment.

LC

(318) The House bill requires the BIA to submit an annual report and the Senate amendment requires a biennial report.

HR

(319) The Senate amendment includes the authorization of a new State bonus grant to States that develop birth -6 programs, otherwise the State formulas are the same.

HR with an amendment:

Amend (e) to read as follows:

"(e) RESERVATION FOR STATE INCENTIVE GRANTS.—

"(1) The Secretary shall reserve 15 percent of the amount appropriated under section 644 for any fiscal year that such amount exceeds $460,000,000 to make allotments to States that are carrying out the policy described in section 635(b), by allotting to each State an amount that bears the same ratio to the amount of such reservation as the number of infants and toddlers in the State bears to the number of infants and toddlers in all participating States, without regard to subsections (c)(2) and (3).

"(2) MAXIMUM.—No State may receive an allotment greater than 20 percent of the reservation pursuant to this subsection.

"(3) CARRYOVER OF FUNDS BY STATES.—Notwithstanding section 421(b) of the General Education Provisions Act or any other provision of law, a State may carryover funds received from the Secretary under this for one additional fiscal year."

(320) The House bill establishes a specific authorization level for the first year and such sums for the life of the authorization. The Senate amendment authorizes such sums for the entire authorization.

HR

*Part D*

(321) The House bill includes this technical language as part of its structure. The Senate amendment replaces the entire existing law.

HR/LC

(322) Except for minor wording differences, there are no differences between the House bill and Senate amendment.

HR

(323) The House bill focuses on training for existing personnel while the Senate amendment also allows for education of future personnel and defines the term personnel.

HR with an amendment:

Amend title to "State Personnel Development Grants".

(324) The Senate amendment authorizes a formula grant program if the appropriation exceeds $100 million. The House bill keeps the program as a competitive grant.

HR with an amendment:

Insert new (4) as follows and renumber accordingly:

"(4) DIRECT BENEFIT.—In utilizing the amount provided under paragraph (1) and not reserved pursuant to subsection (e), a State educational agency shall, through grants, contracts, or cooperative agreements, undertake activities that significantly and directly benefit the local educational agencies in the State."

(325) The Senate amendment, but not the House bill, requires the inclusion as a partner of a State agency for teacher preparation and certification, if it is outside of the SEA. The Senate amendment also requires the inclusion of the State agency responsible for administering Part C, child care, and VR programs.

HR with an amendment:

Strike "institutions of higher education" and insert "at least one institution of higher education" in (b)(1).

HR with an amendment:

Strike "child care" and insert "early education, child care" in (b)(1).

Report language: "This provision requires State educational agencies to establish partnerships with local educational agencies and other State agencies involved in, or concerned with, the education of children with disabilities, including at least one institution of higher education and the State agencies responsible for administering part C, child care, and vocational rehabilitation programs. The Conferees encourage State educational agencies, when establishing such partnerships and where feasible, to establish partnerships with multiple institutions of higher education."

(326) The House bill and Senate amendment have similar, but differing descriptions of PTIs (E), the State advisory panel, and personnel.

HR

(327) Current law in Senate amendment lists other partners, the House bill lists optional partners.

HR

(328) The Senate amendment includes a requirement that the plan assess vacancies and shortages, and the existence of preservice programs.

HR with an amendment:

Insert "and inservice" after "preservice" in (a)(2)(B)(ii).

(329) The House bill specifically mentions related services personnel, while the Senate amendment does not.

HR

(330) The Senate amendment references meeting personnel requirements of Part C, while the House bill does not.

HR

(331) The Senate amendment includes a requirement that the State will carry out each of the strategies in the plan. The House bill includes this requirement in (b)(5).

HR

(332) The Senate amendment, but not the House bill, includes requirements relating to highly qualified teachers and teacher qualifications for poor and minority students.

HR with an amendment:

Amend heading to "Elements of State Personnel Development Plan".

(333) The House bill and Senate amendment have differing provisions on coordination of other public and private resources.

HR

(334) The Senate amendment, but not the House bill, requires State plans to include information on integration with other activities (4)(B), provide technical assistance (5) and (6), recruit and retain highly qualified teachers (7), teachers of poor and minority children (8), and meeting performance goals in Section 612(a)(15).

HR with an amendment:

Strike "preservice and inservice".

(335) The House bill maintains this program as a competitive grant program. The Senate amendment converts this to a formula grant program if funds exceed $100 million.

HR

(336) There are no significant differences between the House bill and Senate amendment, except the Senate language only applies if the program is competitive.

HR

(337) The House bill, but not the Senate amendment, includes a requirement that the annual report identify necessary changes to the State plan to improve performance.

SR with an amendment to read as follows:

"(3) identify changes in such strategies, if any, to improve its performance".

(338) Similar provisions with the Senate amendment adding as an allowable activity the ability to improve personnel preparation programs, and including functional standards. The Senate amendment also includes principals as eligible personnel, while the House bill includes early intervention and related services personnel. The Senate amendment also includes training in implementing effective IEPs.

HR

(339) The House bill and Senate amendment are similar except the Senate amendment refers to "1 or more" of the activities while the House bill does not.

HR

(340) There are no significant differences between the House and Senate amendments.

HR/LC

(341) The House bill requires that 90% of funds be spent on professional development, while the Senate amendment requires 75% be spent on professional development.

SR

(342) There are no differences between the House bill and Senate amendment.

LC

(343) The House bill maintains this as a competitive grant program and establishes a lower maximum grant award.

HR

(344) The House bill authorizes $44 million for the first year while the Senate amendment authorizes "such sums."

HR

(345) The Senate amendment, but not the House bill, includes a purpose to help SEAs and LEAs improve their educational systems.

HR with an amendment:

Add term "personnel prep" to paragraph (1) and the term "for children with disabilities" in paragraph (2).

Report language: "The committee believes that information and assistance to States and LEAs on the effective implementation of responsiveness to intervention models must be developed and made widely available as quickly as possible. Large-scale implementation of improved methodologies for the determination of and appropriate intervention for specific learning disabilities will be crucial to making needed reforms in this area. The Secretary is strongly encouraged to collaborate with leading organizations and researchers in the field of learning disabilities to assist with development and dissemination activities, including information and assistance for educators and parents. Such an entity would have existing capacity for national dissemination activities, proven effectiveness and efficiency in developing and delivering large-scale research-based informational and assistance programs, and have well established relationships with the education and parent communities.”

(346) The Senate amendment requires the comprehensive plan be coordinated with the ESRA plan and that the Secretary solicit input from interested individuals. The House bill does not include these provisions.

The Senate amendment also allows public comment of 60 days, while the House bill requires 30 days for public comment.

HR with an amendment:

Strike “60” and insert “45” in paragraph (2).

(347) The House bill, but not the Senate amendment, allows the Secretary to determine whether to include for-profit entities in the competition.

HR

(348) The House bill requires 2% of funds to be reserved for HBCU's, while the Senate amendment requires 1% of funds to be reserved. The Senate amendment, but not the House bill, expands the pool of funds that are eligible to include subparts 3 and 4.

SR

(349) The Senate amendment, but not the House bill, adds priorities for geographic diversity universal design and assistive technology, and gifted and talented children.

SR with an amendment:

Insert the following definition at note 32:

“(34) UNIVERSAL DESIGN.—The term ‘universal design’ has the meaning given that term under paragraph (1) of section 3 of the Assistive Technology Act of 1998, (29 USC Sec. 3002).”

The Senate amendment, but not the House bill, includes homeless children and wards of the State and Impact Aid children as being included in the list of children the Department can address the needs with projects under Part D.

SR on Senate 3(L) and (8)

(350) There are no differences between the House bill and Senate amendment.

LC

(351) The Senate amendment, but not the House bill, requires the Secretary to ensure that products are available in accessible formats for people with disabilities.

SR

Report language: “The Conferees intend that the Secretary shall ensure that recipients of grants under this part make products available in alternate formats, including electronically.”

(352) The Senate amendment, but not the House bill, expands the pool of funds considered as part of the amount for a ratable reduction, if necessary.

HR

(353) The House bill and Senate amendment contain similar provisions creating a National Center for Special Education Research at the Institute for Education Science. However, the Senate amendment contains this language in Title III.

HR

(354) The House bill and Senate amendment include similar provisions regarding authorized research activities with the House bill adding a focus on limited English proficient children with disabilities and the Senate amendment adding a focus on transition services. The Senate language is in Title III.

HR/SR to accept both new activities

(355) The House bill and Senate amendment contain similar provisions regarding a research plan, with the House bill adds implementation criteria to ensure the plan is carried out. The Senate language is in Title III.

HR

(356) The House bill and Senate amendment include similar provisions with the House bill adding as an allowable activity the ability to test and apply research findings in typical classroom settings.

SR with an amendment:

Strike “service” and insert “where children with disabilities receive services” after “settings” in (c)(1).

Report language: “The conferees recognize that research-based structured learning systems that are capable of using fine grained diagnostics to generate prescriptions, and incorporate community members and parents as mentors are highly effective in preventing school failure for children with disabilities. These programs are particularly effective as an early intervention strategy for children with disabilities, especially in reading and mathematics. When aligned to state standards such programs create a high level of accountability for local programs serving children with disabilities.

“The HOSTS Language Arts program, which is used widely in Texas, Ohio, Florida, Delaware, Michigan, Louisiana, and other states, is an example of such a program. HOSTS Learning programs have assisted schools in significantly improving student achievement and test results for all children, including children with disabilities. Research conducted by Bowling Green University has specifically demonstrated the efficacy of HOSTS Learning with children with disabilities and with children whose low achievement might otherwise cause them to be mislabeled as disabled.

“It has been demonstrated that these programs reduce academic failure, promote the integration of children with disabilities into the mainstream of educational success, decrease the incidence of school dropout, substance abuse, teen pregnancy, crime, and unemployment. This is instrumental in restoring trust in America's schools. Specifically, the conferees believe these intensive, research-based learning systems, that utilize teacher oversight, diagnostic and prescriptive tools, and community engagement, dramatically increase student achievement and implement the recommendations of the National Reading Panel for all children.”

(357) The House bill and Senate amendment contain similar provisions with the Senate amendment adding activities to ensure the training of highly qualified teachers, and training on technology and transition services.

HR with an amendment:

Move Sec. 664 to Note 353 and renumber Sections accordingly.

(358) The House bill and Senate amendment include similar provisions with the Senate amendment adding activities to allow programs to support continuous personnel preparation, parental involvement, rural and high poverty schools, and highly qualified teachers.

HR with an amendment to read as follows:

“(b) PERSONNEL DEVELOPMENT; ENHANCED SUPPORT FOR BEGINNING SPECIAL EDUCATORS.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities

“(A) for personnel development, including activities for the preparation of personnel who will serve children with high-incidence and low-incidence disabilities, to prepare special education and general education teachers, principals, administrators, and related services personnel (and school board members, when appropriate) to meet the diverse and individualized instructional needs of children with disabilities and improve early intervention, educational, and transitional services and results for children with disabilities, consistent with the objectives described in subsection (a); and

“(B) for enhanced support for beginning special educators, consistent with the objectives described in subsection (a).

“(2) PERSONNEL DEVELOPMENT.—In carrying out paragraph (1)(A) the Secretary shall support not less than 1 of the following activities:

“(A) Support effective existing, improve existing, or develop new collaborative personnel preparation activities undertaken by institutions of higher education, local educational agencies, and other local entities that incorporate best practices and scientifically based research, where applicable, in providing special education and general education teachers, principals, administrators, and related services personnel with the knowledge and skills to effectively support students with disabilities, including—

“(i) Working collaboratively in regular classroom settings.

“(ii) Using appropriate supports, accommodations, and curriculum modifications.

“(iii) Implementing effective teaching strategies, classroom-based techniques, and interventions to ensure appropriate identification of students who may be eligible for special education services, and to prevent the misidentification, overidentification, or underidentification of children as having a disability, especially minority and limited English proficient children.

“(iv) Effectively working with and involving parents in the education of such parents' children.

“(v) Utilizing strategies, including positive behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom.

“(vi) Effectively constructing IEPs, participating in IEP meetings, and implementing IEPs.

“(vii) Preparing children with disabilities to participate in statewide assessments (with or without accommodations) and alternate assessments, as appropriate, and to ensure that all children with disabilities are a part of all accountability systems under the Elementary and Secondary Education Act of 1965.

“(viii) Working in high need elementary schools and secondary schools, including urban schools, rural schools, and schools operated by an entity described in section 7113(d)(1)(A)(ii) of the Elementary and Secondary Education Act of 1965, and schools that serve high numbers or percentages of limited English proficient children.

"(B) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of new, highly qualified teachers to reduce teacher shortages, especially from groups that are underrepresented in the teaching profession, including individuals with disabilities.

"(C) Providing continuous personnel preparation, training, and professional development designed to provide support and ensure retention of special education and general education teachers and personnel who teach and provide related services to children with disabilities.

"(D) Developing and improving programs for paraprofessionals to become special education teachers, related services personnel, and early intervention personnel, including interdisciplinary training to enable the paraprofessionals to improve early intervention, educational, and transitional results for children with disabilities.

"(E) In the case of principals and superintendents, providing activities to promote instructional leadership and improved collaboration between general educators, special education teachers, and related services personnel.

"(F) Supporting institutions of higher education with minority enrollments of at least 25 percent for the purpose of preparing personnel to work with children with disabilities.

"(G) Developing and improving programs to train special education teachers to develop an expertise in autism spectrum disorders.

"(3) ENHANCED SUPPORT FOR BEGINNING SPECIAL EDUCATORS.—In carrying out paragraph (1)(B) the Secretary shall support not less than 1 of the following activities:

"(A) Enhancing and restructuring existing programs or developing preservice teacher education programs to prepare special education teachers, at colleges or departments of education within institutions of higher education, by incorporating an extended (such as an additional 5th year) clinical learning opportunity, field experience, or supervised practicum into such programs; or

"(B) Creating or supporting teacher-faculty partnerships (such as professional development schools) that—

"(i) consist of at least—

"(I) 1 or more institutions of higher education with special education personnel preparation programs;

"(II) 1 or more local educational agencies that serve high numbers or percentages of low-income students;

"(III) 1 or more elementary or secondary schools, particularly schools that have failed to make adequate yearly progress on the basis, in whole and in part, of the assessment results of the disaggregated subgroup of students with disabilities; and

"(ii) may include other entities eligible for assistance under this part; and

"(iii) provide—

"(I) high-quality mentoring and induction opportunities with ongoing support for beginning special education teachers; or

"(II) inservice professional development to beginning and veteran special education teachers through the ongoing exchange of information and instructional strategies with faculty."

(359) The House bill and Senate amendment include similar provisions with the House bill adding as an allowable activity to focus on LEP students with low-incidence disabilities and the Senate amendment adding a new emphasis on communication and significant cognitive disabilities and multiple disabilities.

HR/SR to accept both

(360) The House bill, but not the Senate amendment, adds as an allowable activity services that benefit leadership personnel that serve LEP students.

SR

(361) The Senate amendment adds a new program to provide funds to colleges and universities to support and train special education teachers.

SR

(362) The Senate amendment adds a new program to provide funds to colleges and universities to support and train general education teachers to work with students with disabilities.

SR

(363) The House bill, but not the Senate amendment, adds a required assurance that the State needs personnel in the area of support.

SR with an amendment:

Strike (3)(B).

(364) The Senate amendment but not House bill allows the Secretary to give preferences to underrepresented groups.

HR

(365) The House bill requires a service obligation of 2 years for every year of assistance provided while the Senate amendment requires 1 year of service for one year of support. The House bill also contains a provision on leadership preparation. The Senate amendment, but not the House bill, allows scholarships for its new general educator program.

HR with an amendment to read as follows:

"(i) SERVICE OBLIGATION.—

"(I) IN GENERAL.—Each application for funds under subsections (b), (c), and (d) shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently provide special education and related services to children with disabilities for a period of 2 years for every year for which assistance was received or repay all or part of the cost of that assistance, in accordance with regulations issued by the Secretary.

"(II) SPECIAL RULE.—Notwithstanding paragraph (1) of this subsection, the Secretary may reduce or waive the service obligation requirement if the Secretary determines that the service obligation is acting as a deterrent to the recruitment of students into special education or a related field.

"(III) OVERSIGHT.—The Secretary shall be responsible for ensuring that individuals participating in these programs fulfill their service obligations."

(366) The Senate amendment includes a separate authorization for this section, while the House bill contains an authorization for the entire subpart.

HR

(367) The House bill and Senate amendment include similar provisions, except the Senate's list of authorized activities falls in subsection (e).

HR

(368) The House bill and Senate amendment contain similar provisions, with the House bill requiring a comprehensive plan to be published for public comment and the Senate amendment requiring consultation with specified groups.

The House bill requires an interim report be published in 2 and ½ years while the Senate amendment requires the interim report in 3 years.

SR with an amendment:

Amend heading of (b) to "Assessment of National Activities".

HR on 3 years for interim report

(369) The Senate amendment, but not the House bill, requires a study on alternate assessments and alternative achievement standards.

HR

(370) There are no differences between the House bill and Senate amendment.

LC

(371) The House bill and Senate amendment include similar provisions, except the House's list of authorized activities is in (b).

The Senate amendment, but not the House bill, requires a study on the 0-6 program in Part C.

HR

(372) The Senate amendment allows the Secretary to reserve funds under Parts B and C to pay for the studies and evaluations, while the House bill requires studies and evaluations to be paid out of the authorizations of appropriations for this subpart.

SR

(373) The House bill includes one authorization of appropriations for this subpart, while the Senate amendment included authorizations for each section.

HR

(374) There are no significant differences between the House and Senate amendments.

HR with an amendment:

Insert a new paragraph (1) to read as follows and renumber accordingly:

"(1) children with disabilities and their parents receive training and information designed to assist the children in meeting developmental and functional goals and challenging academic achievement goals, and in preparing to lead productive independent adult lives;".

(375) The House bill and Senate amendment contain similar provisions with the House bill adding as a required activity to meet the needs of low-income and limited English proficient students and the Senate amendment adding requirements for the center to explain mediation requirements to parents, assist parents and children of their rights upon reaching their majority, partner with community parent resource centers, and report on the number of parents served through alternative dispute resolution.

HR with an amendment:

Insert as a new paragraph (3) to read as follows and renumber accordingly:

"(3) ensure that the training and information provided meets the needs of low-income parents and parents of children with limited English proficiency;".

HR with an amendment:

Strike "research based practices and interventions" and insert "practices and interventions based on scientifically based research, to the extent practicable," in (3)(D).

HR with an amendment:

Insert as a new (F) to read as follows and reorder accordingly:

"(F) participate in activities at the school level that benefit their children;".

HR with an amendment:

Insert in paragraph (10) [not renumbered]: "and the Institute of Education Sciences" after "section 663".

HR with an amendment:

Add "as appropriate under state law" after "majority" in paragraph (6).

HR with an amendment:

Insert at the end of paragraph (7) [not renumbered]: ", including the resolution session described in section 615(e);".

(376) The House bill allows as an optional activity information to assist parents and children of their rights upon reaching their majority.

HR

(377) The Senate amendment, but not the House bill, requires coordination of grantees in a large State.

HR with an amendment:

Insert ", including those that work with low-income parents and parents of children with limited English proficiency" at the end of (d)(2).

(378) The House bill, but not the Senate amendment, requires the advising board to advise the governing board of the organization.

HR

(379) The House bill, but not the Senate amendment, requires that the board ensure that members' include low-income parents and parents of limited English proficient students.

The Senate amendment, but not the House bill, eliminates special governing committees. The House bill, but not the Senate amendment, requires the development of a memorandum explaining the role of the board and the center while the Senate amendment requires the center to develop a specific mission.

HR with an amendment:

Insert ", including low-income parents and parents of children with limited English proficiency" at the end of (g)(1)(C).

(380) The Senate amendment, but not the House bill, includes functional goals, and requires that a majority of members are parents of children with disabilities age birth through 26.

HR

(381) The Senate amendment limits the national technical assistance grantee to one parent organization while the House bill allows multiple grants and a variety of eligible agencies.

SR

(382) The Senate amendment, but not the House bill, includes extra requirements for a national and regional network of parent training and information technical assistance centers.

SR with amendment:

Add Senate (d) to House bill.

(383) The House bill, but not the Senate amendment, adds the support of implementation of research and the uses of technology and the Senate amendment, but not the House bill, adds support of internet based communications for students with cognitive disabilities.

HR with an amendment as follows:

Strike "and" and insert ", (c) and (d)" after "subsections (b)" in subsection (a).

(384) The House bill allows the Secretary to support these activities and the Senate amendment requires the Secretary to support these activities. The Senate amendment also limits the captioning of programs only if captioning has not previously been provided or paid for.

HR with an amendment as follows:

Insert "; AND INSTRUCTIONAL MATERIALS" after "ACTIVITIES" in the heading of subsection (c).

HR with an amendment as follows:

Strike (1)(D).

HR with an amendment as follows:

Insert subsection (e) to read as follows:

"(e) NATIONAL INSTRUCTIONAL MATERIALS ACCESS CENTER.—

"(1) IN GENERAL.—Notwithstanding subsection (d), in carrying out this section, the Secretary shall support, through the American Printing House for the Blind, a center known as the Instructional Materials Access Center not later than one year after the date of enactment.

"(2) RESPONSIBILITIES.—The duties of the National Instructional Materials Access Center are the following:

"(A) To receive and maintain a catalog of print instructional materials prepared in the national instructional materials accessibility standard, as established by the Secretary, made available to the center by the textbook publishing industry, State educational agencies, and local educational agencies;

"(B) To provide access to print instructional materials, including textbooks, in accessible media, free of charge, to visually impaired and print disabled students in elementary schools and secondary schools, in accordance with such terms and procedures as the National Instructional Materials Access Center may prescribe; and

"(C) To develop, adopt and publish procedures to protect against copyright infringement, with respect to the print instructional materials provided under 612(a)(22) and section 613(a)(6).

"(3) DEFINITIONS.—In this section—

"(A) NATIONAL INSTRUCTIONAL MATERIALS ACCESSIBILITY STANDARD.—The term 'National Instructional Materials Accessibility Standard' means the technical standards described in paragraph (2), to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats.

"(B) BLIND OR OTHER PERSONS WITH PRINT DISABILITIES.—The term 'blind or other persons with print disabilities' means children served under this Act and who may qualify in accordance with the Act entitled 'An Act to provide books for the adult blind,' approved March 3, 1931 (2 U.S.C. 135a; 46 Stat. 1487) to receive books and other publications produced in specialized formats.

"(C) SPECIALIZED FORMATS.—The term 'specialized formats' has the meaning given the term in section 121 (c) (3) of title 17, United States Code.

"(D) PRINT INSTRUCTIONAL MATERIALS.—The term 'print instructional materials' means printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a State educational agency or local educational agency for use by students in the classroom.

"(4) APPLICABILITY.—This section shall apply to print instructional materials published after the date on which the final rule establishing the National Instructional Materials Accessibility Standard is published in the Federal Register.

"(5) LIABILITY OF THE SECRETARY.—Nothing in this subsection shall be construed to establish a private right of action against the Secretary of Education for failure to provide instructional materials directly, or for failure by the National Instructional Materials Access Center to perform the functions of such Center, or to otherwise authorize a private right of action related to the performance by the Center, including through the application of the rights of children and parents established under this Act."

HR with an amendment as follows:

Insert "not" before "been fully funded by other sources" in paragraph (2).

(385) The House bill, but not the Senate amendment, contains more specific requirements for eligible entities of the distributors of textbooks.

HR with an amendment as follows:

Redesignate subsection (e) as subsection (f).

(386) The House bill lays out set figures for authorizations for the subpart and for each section, while the Senate authorizes such sums for the section.

HR

(387) The Senate amendment requires the Secretary to establish an electronic standard for the preparation of electronic files for instructional materials and creates a national center to disseminate instructional materials to some students with disabilities. The House bill does not include this provision.

SR with an amendment:

Add at the end of this Act the following technical amendments in the miscellaneous provisions section to amend 17 U.S.C. §121 as follows:

Redesignate subsection (c) to (d)

Insert new paragraph (c) to read as follows:

"(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a publisher of print instructional materials for use in elementary and secondary schools to create and distribute to the National Instructional Materials Access Center copies of the electronic files described in sections 612(a)(22)(B), 613(a)(6), and section 674(d) of the Individuals with Disabilities Education Reform Act of 2004, containing the contents of print instructional materials using the Instructional Material Accessibility Standard (as defined in section 674(d) of said Act, when required to do so by any State or local educational agency, if the publisher had the right to publish such print instructional materials in print formats and if such copies are used solely for reproduction or distribution of the contents of such print instructional materials in specialized formats."

SR with amendment as follows:

Amend the definition of "specialized formats" in subsection (d) (currently subsection (c)) and add the definition from "print instructional materials" as follows:

"'Specialized formats' means braille, audio, or digital text which is exclusively for use by blind or other persons with disabilities. With respect to instructional materials, 'specialized formats' also means large print formats when they are distributed exclusively for use by blind or other persons with disabilities.

"PRINT INSTRUCTIONAL MATERIALS.—The term 'print instructional materials' has the meaning given to it under section 674(d)(3)((D) of the Individuals with Disabilities Education Reform Act of 2004.

(388) The Senate amendment creates a new $50 million competitive program to make grants to LEAs to establish alternative educational settings and provide behavioral supports to students with disabilities. The House bill does not include this program.

HR with amendment:

Insert the following at the end of Subpart 2:

"*SEC. 674. INTERIM ALTERNATIVE EDUCATIONAL SETTINGS, BEHAVIORAL SUPPORTS, AND SYSTEMIC SCHOOL INTERVENTIONS.*

"(a) PROGRAM AUTHORIZED.—The Secretary may award grants to, and enter into contracts and cooperative agreements to support safe learning environments that support academic achievement for all students by improving the quality of interim alternative educational settings, and providing increased behavioral supports and research-based, systemic interventions in schools.

"(b) AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may support activities to

"(1) establish, expand or increase the scope of behavioral supports and systemic interventions by providing for effective, research-based practices, including—

"(A) training for school staff on early identification, prereferral, and referral procedures;

"(B) training for administrators, teachers, related services personnel, behavioral specialists, and other school staff in positive behavioral interventions and supports, behavioral intervention planning, and classroom and student management techniques;

"(C) joint training for administrators, parents, teachers, related services personnel, behavioral specialists, and other school staff on effective strategies for positive behavioral interventions and behavior management strategies that focus on the prevention of behavior problems;

"(D) developing or implementing specific curricula, programs, or interventions aimed at addressing behavioral problems;

"(E) stronger linkages between school based services and community-based resources, such as community mental health and primary care providers; or

"(F) using behavioral specialists, related services personnel, and other staff necessary to implement behavioral supports; or

"(2) to improve interim alternative educational settings by—

"(A) improving the training of administrators, teachers, related services personnel, behavioral specialists, and other school staff (including ongoing mentoring of new teachers) in behavioral supports and interventions;

"(B) attracting and retaining a high quality, diverse staff;

"(C) providing for referral to counseling services;

"(D) utilizing research-based interventions, curriculum, and practices;

"(E) allowing students to use instructional technology that provides individualized instruction;

"(F) ensuring that the services are fully consistent with the goals of the individual student's IEP;

"(G) promoting effective case management and collaboration among parents, teachers, physicians, related services personnel, behavioral specialists, principals, administrators, and other school staff;

"(H) promoting interagency coordination and coordinated service delivery among schools, juvenile courts, child welfare agencies, community mental health providers, primary care providers, public recreation agencies, and community-based organizations; or

"(I) providing for behavioral specialists to help students transitioning from interim alternative educational settings reintegrate into their regular classrooms.

"(c) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

"(1) a local educational agency; or

"(2) a consortium consisting of a local educational agency and 1 or more of the following entities:

"(A) another local educational agency;

"(B) a community-based organization with a demonstrated record of effectiveness in helping children with disabilities who have behavioral challenges succeed;

"(C) an institution of higher education;

"(D) a community mental health provider; or

"(E) an educational service agency.

"(d) APPLICATIONS.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall

"(1) submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require; and

"(2) involve parents of participating students in the design and implementation of the activities funded under this section.

"(e) REPORT AND EVALUATION.—Each eligible entity receiving a grant under this Act shall prepare and submit annually to the Secretary of Education a report on the outcomes of the activities assisted under the grant."

Report language: "The Conferees intend for this program to have a systemic impact on a school environment rather than provide isolated assistance to children with disabilities. The Conferees believe a systemic, research-based approach can greatly benefit special needs children while also providing an incidental benefit to non-disabled children, school staff, parents and others in the school community.

"The Conferees instruct the Department of Education to establish an easily accessible website with information on best practices for interim alternative educational settings, behavior supports, and systemic school interventions to help children with behavioral and emotional disabilities."

*Title II*

(389) The Senate amendment includes a new $50 million reservation of Rehabilitation Act State grants for States to provide transition services to students with disabilities through the VR system (beginning in the first year the amount appropriated exceeds the FY04 amount by $100,000,000). The House bill does not include this provision.

SR

*Title V (House bill)*

(390) The House bill includes a sense of Congress that safe and drug free schools are essential for the learning and development of children with disabilities. The Senate amendment does not include this provision.

HR

(391) The House bill requires a study on the costs to States of complying with IDEA. The Senate amendment does not include this provision.

HR

*Title III*

(392) The House bill and Senate amendment contain similar provisions creating a National Center for Special Education Research at the Institute for Education Science. However, the House bill contains this language in Section 663.

HR

(393) The Senate amendment, but not the House bill, contains a separate provision on the mission of the NCSER. The House bill and Senate amendment have differing language on the grant application process.

HR

(394) The House bill lists similar authorized activities as the Senate amendment, which contains those activities under the "duties" section.

HR

(395) The Senate amendment, but not the House bill, contains a "standards" section.

HR

(396) The Senate amendment contains more detailed plan provisions than the House bill, and contains an implementation provision while the House does not.

HR

*Title IV*

(397) The Senate amendment creates a commission on universal design and requires reports to be submitted to Congress on universal design and accessibility of instructional materials. The House bill does not include this provision.

SR

*Title V*

(399) The Senate amendment, but not the House bill, includes an amendment to the Children's Health Act to include the Secretary of Education as a required partner in the longitudinal study and requires that the study be in compliance with FERPA requirements.

HR

(398) The Senate amendment, but not the House bill, includes this required study on medication.

SR

*General*

(400) Add enactment clause

LC

From the Committee on Education and the Workforce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

JOHN BOEHNER,
MICHAEL N. CASTLE,
VERNON J. EHLERS,
RIC KELLER,
JOE WILSON,
GEORGE MILLER,
LYNN C. WOOLSEY,
MAJOR R. OWENS,

From the Committee on Energy and Commerce, for consideration of sec. 101 and title V of the Senate amendment, and modifications committed to conference:

JOE BARTON,
MICHAEL BILIRAKIS,
JOHN D. DINGELL,

From the Committee on the Judiciary, for consideration of sec. 205 of the House bill, and sec. 101 of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER, Jr.,
LAMAR SMITH,
JOHN CONYERS,

*Managers on the Part of the House.*

JUDD GREGG,
BILL FRIST,
MICHAEL B. ENZI,
LAMAR ALEXANDER,
CHRISTOPHER BOND,
MIKE DEWINE,
PAT ROBERTS,
JEFF SESSIONS,
JOHN ENSIGN,
LINDSEY GRAHAM,
JOHN WARNER,

EDWARD KENNEDY,
CHRISTOPHER J. DODD,
TOM HARKIN,
BARBARA A. MIKULSKI,
JEFF BINGAMAN,
PATTY MURRAY,
JACK REED,
JOHN EDWARDS,
*Managers on the Part of the Senate.*

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. KILPATRICK (at the request of Ms. PELOSI) for today after 3:00 p.m. on account of personal business.

Mr. ORTIZ (at the request of Ms. PELOSI) for today on account of attending a funeral in the district.

Mr. BURGESS (at the request of Mr. DELAY) for today on account of attending a friend's funeral.

Mrs. MUSGRAVE (at the request of Mr. DELAY) for today and the balance of the week on account of a death in the family.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FILNER) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. FRANK of Massachusetts, for 5 minutes, today.

Mr. LAMPSON, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

(The following Members (at the request of Mr. SHAYS) to revise and extend their remarks and include extraneous material:)

Mr. BALLENGER, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, November 18.

Mr. NUSSLE, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, November 18 and 19.

## ADJOURNMENT

Mr. HOEFFEL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 17 minutes p.m.), the House adjourned until tomorrow, Thursday, November 18, 2004, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

10827. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Hexythiazox; Pesticide Tolerance for Emergency Exemptions [OPP-2004-0329; FRL-7684-2] received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10828. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Thifensulfuron-methyl; Tolerance Actions [OPP-2004-0206; FRL-7683-2] received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10829. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pyraclostrobin; Pesticide Tolerances [OPP-2004-0325; FRL-7681-9] received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10830. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Deltamethrin; Pesticide Tolerance [OPP-2004-0331; FRL-7683-5] received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10831. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Bacillus pumilus strain QST 2808; Exemption from the Requirement of a Tolerance [OPP-2004-0215; FRL-7684-4] received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10832. A letter from the Assistant General Counsel for Legislative and Regulatory Law, Department of Energy, transmitting the Department's final rule — Energy Efficiency Program for Certain Commercial and Industrial Equipment: Test Procedures and Efficiency Standards for Commercial Water Heaters, Hot Water Supply Boilers and Unfired Hot Water Storage Tanks [Docket No. EE-RM/TP-99-480] (RIN: 1904-AA95) received November 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10833. A letter from the Director, Regulations Policy Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Antiperspirant Drug Products for Over-the-Counter Human Use; Final Monograph; Partial Stay; Reopening of the Administrative Record [Docket No. 1978N-0064] (RIN: 0910-AC89) received November 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10834. A letter from the Director, Regulations Policy Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Listing of Color Additives Subject to Certification; D&C Black No. 2; Confirmation of Effective Date [Docket No. 1987C-0023] received October 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10835. A letter from the Director, Regulations Policy Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; Clinical Chemistry and Clinical Toxicology Devices; Classification of Sirolimus Test System Devices [Docket No. 2004P-0354] received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10836. A letter from the Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting the Department's final rule — Schedule of Fees Authorized by 49 U.S.C. 30141 [Docket No. NHTSA 2004-17987; Notice 2] (RIN: 2127-AJ34) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10837. A letter from the Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting the Department's final rule — List of Nonconforming Vehicles Decided to be Eligible for Importation [Docket No. NHTSA-2004-19143] (RIN: 2127-AJ35) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10838. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Maine: Final Authorization of State Hazardous Waste Manament Program Revision [FRL-7835-9] received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10839. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Department's final rule — Approval of Section 112(I) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry; State of Georgia [GA-112L-2004-1-FRL-7832-7] received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10840. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Implementation Plans; State of Iowa [R07-PAR-2004-IA-0005; FRL-7836-4] received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10841. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Municipal Waste Combustor Emissions from Large Existing Municipal Solid Waste Combustor Units [R03-OAR-2004-VA-0002a; FRL-7831-5] received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10842. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Iowa [R07-OAR-2004-IA-0004; FRL-7833-7] received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10843. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Determination of Attainment and Redesignation of City of Weirton PM10 Nonattainment Area to Attainment and Approval of the Maintenance Plan; Correction [R03-OAR-2004-WV-0001; FRL-7836-5] received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10844. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implemantation Plans; Wisconsin [R05-OAR-2004-WI-0001; FRL-7829-4] received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10845. A letter from the Deputy Associate Administrator, Environmental Protection

Agency, transmitting the Agency's final rule — Revisions to the Arizona State Implementation Plan, Arizona Department of Environmental Quality [AZ 120-0063; FRL-7820-2] received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10846. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Indiana: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7832-2] received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10847. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — NRC Enforcement Policy [NUREG-1600] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10848. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Industry Codes and Standards; Amendment Requirements (RIN: 3150-AH24) received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10849. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Medical Use of Byproduct Material Minor Amendments: Extending Expiration Date for Subpart J (RIN: 3150-AH47) received September 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10850. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Criminal History Check: Assessment of Application Fee (RIN: 3150-AH53) received September 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10851. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions — received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10852. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Termination of Certain Emergencies with Respect to Yugoslavia and Related Removal of Restrictions on Transactions with Persons Identified by the Bracketed Initials [FRYM] under the Export Administration Regulations [Docket No. 041004276-4276-01] (RIN: 0694-AC98) received Novmeber 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

10853. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Revisions to the Export Administration Regulations: Removal of the List of Missile Projects and Expansion of Missile-related End-Use and End-User Controls [Docket No. 040818241-4241-01] (RIN: 0694-AC46) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

10854. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Update to Equal Employment Opportunity Policy [Docket No. FR 4929-F-01] (RIN: 2501-AD04) received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

10855. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Circular 2001-25; Introduction — received October 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

10856. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Notification of Post-Employment Restrictions (RIN: 3206-AK60) received October 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

10857. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Amistad National Recreation Area, Personal Watercraft Use (RIN: 1024-AD00) received November 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10858. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Lake Meredith National Recreation Area, Personal Watercraft Use (RIN: 1024-AC97) received November 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10859. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Lake Roosevelt National Recreation Area, Personal Watercraft Use (RIN: 1024-AD01) received November 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10860. A letter from the Federal Register Certifying Officer, Department of the Treasury, transmitting the Department's final rule — Indorsement and Payment of Checks Drawn on the United States Treasury (RIN: 1510-AA99) received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10861. A letter from the Assistant Secretary for Administration and Management, Department of Labor, transmitting the Department's final rule — Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor (RIN: 1291-AA21) received May 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

10862. A letter from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Adjustment of Civil Penalties for Inflation (RIN: 3150-AH55) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10863. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations; Columbus Day Regatta, Biscayne Bay, Miami, FLorida [CGD07-04-120] (RIN: 1625-AA08) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10864. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulation for Marine Events; Southern Branch, Elizabeth River, Portsmouth, VA [CGD05-04-138] (RIN: 1625-AA08) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10865. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Mandatory Ballast Water Management Program for U.S. Waters; Corrections [USCG-2002-14273] (RIN: 1625-AA52) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10866. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Tensas River, Clayton, LA [CGD08-04-034] (RIN: 1625-AA09) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10867. A letter from the Chief; Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Alternate Hull Examinations Program for Certain Passenger Vessels, and Underwater Surveys for Nautical School, Offshore Supply, Passenger and Sailing School Vessels [USCG-2000-6858] (RIN: 1625-AA57) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10868. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model DHC-8-101, -102, -103, -106, -201, -202, -301, -311, and -315 Airplanes [Docket No. 2002-NM-126-AD; Amendment 39-13808; AD 2004-20-03] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10869. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cessna Aircraft Company 120, 140, 140A,150, F150, 170, 172, F172, FR172, P172D, 175, 177, 180, 182, 185, A185E, 190, 195, 206, P206, U206, TP206, TU206, 207, T207, 210, T210, 336, 337, and T337 Series Airplanes [Docket No. 2003-CE-40-AD; Amendment 39-13795; AD 2004-19-04] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10870. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 707 and 720 Series Airplanes [Docket No. 2003-NM-44-AD; Amendment 39-13807; AD 2004-20-02] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10871. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes [Docket No. FAA-2004-19184; Directorate Identifier 2004-NM-159-AD; Amendment 39-13811; AD 2004-20-06] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10872. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Series Airplanes [Docket No. FAA-2004-19183; Directorate Identifier 2004-NM-158-AD; Amendment 39-13810; AD 2004-20-05] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A);

to the Committee on Transportation and Infrastructure.

10873. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Valentin GmbH & Co. Taifun 17E Sailplanes [Docket No. 2003-CE-56-AD; Amendment 39-13815; AD 2004-20-10] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10874. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airwothiness Directives: MD Helicopters, Inc. (MDHI) Model 500N and 600N Helicopters [Docket No. FAA-2004-19223; Directorate Identifier 2004-SW-20-AD; Amendment 39-13813; AD 2004-20-08] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10875. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, 737-700, 737-700C, 737-800, and 737-900 Series Airplanes [Docket No. 2002-NM-327-AD; Amendment 39-13779; AD 2004-18-02] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10876. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airwothiness Directives; Dassault Model Fan Jet Falcon Series Airplanes and Model Mystere-Falcon 20 Series Airplanes [Docket No. 200-NM-227-AD; Amendment 39-13796; AD 2004-19-02] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10877. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727 Series Airplanes Modified in Accordance with Supplemental Type Certificate SA1444SO, SA1509SO, SA1543SO, or SA1896SO [Docket No. 97-NM-235-AD; Amendment 39-12861; AD 2002-16-22] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10878. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Robinson Helicopter Company Model R22-series Helicopters [Docket No. 2004-SW-15-AD; Amendment 39-13803; AD 2004-19-09] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10879. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cessna Aircraft Company 120, 140, 140A, 150, F150, 170, 172, F172, FR172, P172D, 195, 206, P206, U206, TP206, TU206, 207, T207, 210, T210, 336, 337, and T337 Series Airplanes [Docket No. 2003-CE-40-AD; Amendment 39-13795; AD 2004-19-01] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10880. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727, 727C, 727-100, -100C, and -200 Series Airplanes [Docket No. 2003-NM-131-AD; Amendment 39-13786; AD 2004-18-08] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10881. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-200, -200C, -300, -400, and -500 Series Airplanes [Docket No. 2001-NM-246-AD; Amendment 39-13784; AD 2004-18-06] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10882. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ Series Airplanes [Docket No. 2002-NM-90-AD; Amendment 39-13785; AD 2004-18-07] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10883. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hartzell Propeller Inc. (formerly Hartzell Propeller Products Division) Model HC-B5MP-3( )/M10282A( )6 Five Bladed Propellers [Docket No. 86-ANE-7; Amendment 39-13822; AD 2004-21-01] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10884. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; CFM International (CFMI) CFM56-5C Series Turbofan Engines [Docket No. 95-ANE-64-AD; Amendment 39-13791; AD 97-09-02R3] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10885. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211-22B, RB211-524, and RB211-535 Series Turbofan Engines [Docket No. 2003-NE-57-AD; Amendment 39-13798; AD 2004-19-04] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10886. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-6002B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. FAA-2004-19229; Directorate Identifier 2004-NM-195-AD; Amendment 39-13814; AD 2004-20-09] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10887. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2C10 (Regional Jet Series 700 & 701), and CL-600-2D24 (Regional Jet Series 900) Series Airplanes [Docket No. FAA-2004-18993; Directorate Identifier 2004-NM-125-AD; Amendment 39-13781; AD 2004-18-03] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10888. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; DG Flugzeugbau GmbH, Model DG-500MB Sailplanes [Docket No. 2004-CE-06-AD; Amendment 39-13790; AD 2004-18-12] (RIN: 2120-AA64) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10889. A letter from the Chairman, Surface Transportation Board, Department of Transportation, transmitting the Department's final rule -- Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services — 2004 Update [STB Ex Parte No. 542 (Sub-No. 11)] received November 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10890. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Restricted Areas 5802C, D, and E; Fort Indiantown Gap, PA [Docket No. FAA-2003-13850; Airspace Docket No. 02-AEA-19] (RIN: 2120-AA66) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10891. A letter from the Attorney-Advisor, NHTSA, Department of Transportation, transmitting the Department's final rule — Federal Motor Vehicle Safety Standards; Rear Impact Guards [Docket No. NHTSA-2004-19523] (RIN: 2127-AH75) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10892. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Water Quality Standards; Withdrawal of Certain Federal Water Quality Criteria Applicable to Alaska, Arkansas, and Puerto Rico [OW-2004-0006; FRL-7825-1] received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10893. A letter from the Regulations Coordinator, ACF, Department of Health and Human Services, transmitting the Department's final rule — Child Support Enforcement Program Federal Tax Refund Offset (RIN: 0970-AC09) received October 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10894. A letter from the Acting Director, International Trade Compliance, Customs and Border Protection, Department of Homeland Security, transmitting the Department's final rule — Prototypes used solely for product development, testing, evaluation, or quality control purposes [CBP Dec. 04-36] (RIN: 1505-AB32) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10895. A letter from the Administrator, Office of Workforce Security, Department of Labor, transmitting the Department's final rule — Unemployment Insurance Program Letter No. 30-04 Change 1 — received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10896. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Low-Income Housing Credit (Rev. Rul. 2004-100) received November 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10897. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule -- Information reporting and other guidance regarding distributions with respect to securities issued by foreign corporations [Notice 2004-71] received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10898. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2004-102) received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10899. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Special Rules for Certain Transactions Where Stated Principal Amount Does Not Exceed $2,800,000 (Rev. Rul. 2004-107) received November 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10900. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Treatment of Loans with Below-Market Interest Rates (Rev. Rul. 2004-108) received November 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10901. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Modification of Rev. Rul. 95-63, 1995-2 C.B. 85, with respect to countries described in section 901(j)(2)(A) of the Internal Revenue Code (Rev. Rul. 2004-103) received October 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10902. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Information Reporting Under Section 6050P for Discharges of Indebtedness [TD 9160] (RIN: 1545-AY35) received October 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10903. A letter from the Regulations Officer, Social Security Administration, transmitting the Administration's final rule — Representative Payment Under Titles II, VIII and XVI of the Social Security Act [Regulation Nos. 4, 8, and 16] (RIN: 0960-AF83) received October 12, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POMBO: Committee on Resources. H.R. 4908. A bill to transfer certain land in Riverside County, California, from the Bureau of Land Management to the United States to be held in trust for the Pechanga Band of Luiseno Mission Indians, and for other purposes; with an amendment (Rept. 108–777). Referred to the Committee of the Whole House on the State of the Union.

Mr. REYNOLDS: Committee on Rules. House Resolution 856. Resolution providing for consideration of the bill (S. 2986) to amend title 31 of the United States Code to increase the public debt limit (Rept. 108–778). Referred to the House Calendar.

Mr. BOEHNER: Committee of Conference. Conference report on H.R. 1350. A bill to reauthorize the Individuals with Disabilities Education Act, and for other purposes (Rept. 108–779). Ordered to be printed.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 710. A bill for the relief of Mrs. Florence Narusewicz of Erie, Pennsylvania (Rept. 108–776). Referred to the Private Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BEAUPREZ (for himself and Mr. Tancredo):

H.R. 5373. A bill to authorize the Secretary of the Interior to enter into contracts for the use of excess storage and conveyance capacity of the Fryingpan-Arkansas Project, Colorado, and for other purposes; to the Committee on Resources.

By Mr. ISSA (for himself, Mr. Filner, Mr. Wilson of South Carolina, Mrs. Bono, Mr. Calvert, Mr. Cox, Mr. Pombo, Mr. Gary G. Miller of California, Mr. Gallegly, Mr. Hunter, Mr. Cunningham, Mr. McKeon, Mr. Dreier, Mr. Lewis of California, Mr. Ose, Mr. Radanovich, Mr. Rohrabacher, Mr. Royce, Mr. Nunes, Mr. Herger, Mr. Doolittle, Mr. Thomas, Mr. Baca, Mr. Berman, Mr. Matsui, Ms. Woolsey, Ms. Pelosi, Mrs. Tauscher, Mr. Lantos, Ms. Lofgren, Mr. Farr, Mr. Cardoza, Mrs. Capps, Mr. Schiff, Mr. Waxman, Mr. Becerra, Ms. Roybal-Allard, and Ms. Eshoo):

H.R. 5374. A bill to designate the facility of the United States Postal Service located at 30777 Rancho California Road in Temecula, California, as the "Dalip Singh Saund Post Office Building"; to the Committee on Government Reform.

By Mr. HYDE (for himself and Mr. Lantos):

H.R. 5375. A bill to provide for increased accountability and transparency in the United Nations; to the Committee on International Relations.

By Mr. COLLINS:

H.R. 5376. A bill for the relief of Nancy P. Gilbert; to the Committee on Education and the Workforce.

By Mr. GARRETT of New Jersey (for himself, Mr. Smith of New Jersey, Mr. Pallone, Mr. Ferguson, Mr. Payne, Mr. Pascrell, and Mr. Menendez):

H.R. 5377. A bill to establish the Thomas Edison National Historical Park in the State of New Jersey as the successor to the Edison National Historic Site; to the Committee on Resources.

By Mr. PORTMAN (for himself, Mr. Jefferson, Mrs. Johnson of Connecticut, Mr. Neal of Massachusetts, Mr. Houghton, Mr. McCrery, Mrs. Jones of Ohio, Mr. English, Mr. Turner of Ohio, and Mr. Miller of North Carolina):

H.R. 5378. A bill to amend the Internal Revenue Code of 1986 to modify the rehabilitation credit and the low-income housing credit; to the Committee on Ways and Means.

By Mr. STUPAK:

H.R. 5379. A bill to amend the Immigration and Nationality Act to limit the timing of issuance of H-2B visas during a fiscal year; to the Committee on the Judiciary.

By Mr. WEINER:

H.R. 5380. A bill to improve the safe operation of aircraft; to the Committee on Transportation and Infrastructure.

By Mr. BOEHNER:

H.J. Res. 111. A joint resolution appointing the day for convening of the first session of the One Hundred Ninth Congress; considered and passed.

By Mr. McDERMOTT (for himself, Mr. Inslee, Mr. Dicks, Mr. Larsen of Washington, Mr. Smith of Washington, Ms. Dunn, Mr. Hastings of Washington, Mr. Nethercutt, and Mr. Baird):

H. Res. 857. A resolution congratulating the Seattle Storm for winning the 2004 Women's National Basketball Association Championship; to the Committee on Government Reform.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. WILSON of South Carolina introduced a bill (H.R. 5381) for the relief of Griselda Lopez Negrete; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 121: Mr. Filner.
H.R. 375: Mrs. Davis of California.
H.R. 621: Mr. McDermott.
H.R. 677: Mr. Weller.
H.R. 713: Mr. Gutierrez.
H.R. 814: Mr. Sweeney and Mr. Abercrombie.
H.R. 832: Mr. Gonzalez.
H.R. 857: Mr. Price of North Carolina.
H.R. 1043: Mr. Hensarling.
H.R. 1205: Mr. Andrews and Mr. Rahall.
H.R. 1336: Mr. Goodlatte.
H.R. 1359: Mr. Andrews, Mr. Kind, and Mr. Rahall.
H.R. 1434: Ms. Millender-McDonald.
H.R. 1435: Mr. Lewis of Georgia.
H.R. 1563: Mrs. Davis of California, Mr. Rahall, Mr. Jefferson, Mr. Fattah, Mr. Kennedy of Rhode Island, and Mr. Smith of Washington.
H.R. 1701: Mr. Fattah, Mr. Green of Texas, Mrs. Maloney, Mr. Frost, Mr. Snyder, Mr. McNulty, Mr. Reyes, Mrs. Christensen, Mr. McHugh, and Mr. Owens.
H.R. 1776: Mr. Carter.
H.R. 1811: Mr. Bradley of New Hampshire.
H.R. 1824: Mr. Bass.
H.R. 1995: Mr. Paul.
H.R. 2096: Mrs. Lowey.
H.R. 2151: Ms. Millender-McDonald and Mr. Nadler.
H.R. 2379: Mr. Burton of Indiana.
H.R. 2490: Mr. Jefferson.
H.R. 2505: Mr. Israel.
H.R. 2569: Mr. Wexler.
H.R. 2702: Mr. Filner.
H.R. 2821: Mr. Bishop of Utah, Mr. Whitfield, and Mr. Chandler.
H.R. 2823: Mr. Cramer.
H.R. 3058: Mrs. Napolitano.
H.R. 3103: Mr. Bishop of Georgia, Mr. Moore, and Mr. Miller of Florida.
H.R. 3178: Mr. Hall.
H.R. 3350: Mr. Payne.
H.R. 3361: Mr. Peterson of Minnesota and Mr. Honda.

H.R. 3412: Mr. FRANK of Massachusetts and Ms. CARSON of Indiana.

H.R. 3450: Mr. DAVIS of Alabama.

H.R. 3635: Mr. CUMMINGS.

H.R. 3716: Mrs. NAPOLITANO.

H.R. 3729: Ms. BORDALLO, Mr. ROSS, Mrs. NAPOLITANO, Mr. BONNER, Mr. COOPER, and Mr. OSBORNE.

H.R. 3758: Mrs. MALONEY.

H.R. 3953: Mr. CHABOT.

H.R. 4116: Mr. CONYERS and Ms. HERSETH.

H.R. 4202: Mr. WOLF.

H.R. 4252: Mr. DAVIS of Alabama.

H.R. 4367: Mr. PAYNE.

H.R. 4374: Mr. PAYNE.

H.R. 4423: Mr. ROTHMAN.

H.R. 4433: Ms. LOFGREN, Mr. HYDE, Mr. JACKSON of Illinois, and Mr. BLUMENAUER.

H.R. 4434: Mr. DAVIS of Alabama.

H.R. 4491: Mr. GINGREY, Mr. BISHOP of Georgia, and Mr. RAHALL.

H.R. 4499: Mr. COX.

H.R. 4578: Ms. ROYBAL-ALLARD, Mr. PAYNE, Ms. DEGETTE, and Mr. MOORE.

H.R. 4585: Mr. PAYNE, Ms. JACKSON-LEE of Texas, and Ms. MILLENDER-MCDONALD.

H.R. 4591: Ms. LINDA T. SÁNCHEZ of California, Mr. HINCHEY, and Mr. STARK.

H.R. 4622: Mr. MCCOTTER.

H.R. 4633: Mr. LEWIS of Georgia.

H.R. 4662: Mr. COX.

H.R. 4676: Ms. JACKSON-LEE of Texas, Mr. PLATTS, Mr. TURNER of Ohio, and Mr. MENENDEZ.

H.R. 4694: Mr. NADLER.

H.R. 4706: Ms. SOLIS, Mr. RANGEL, Mr. BROWN of Ohio, Ms. JACKSON-LEE of Texas, Mr. CLYBURN, Mr. FATTAH, Mr. LEVIN, Mr. HASTINGS of Florida, and Ms. LINDA T. SÁNCHEZ of California.

H.R. 4769: Mr. DAVIS of Alabama.

H.R. 4826: Mr. SHAYS.

H.R. 4880: Mrs. CHRISTENSEN.

H.R. 4902: Mr. PAYNE.

H.R. 4965: Mr. MCCOTTER.

H.R. 4976: Mr. PASTOR and Mr. ANDREWS.

H.R. 5068: Mrs. TAUSCHER.

H.R. 5114: Mr. HEFLEY.

H.R. 5155: Mrs. CHRISTENSEN.

H.R. 5173: Mr. JENKINS.

H.R. 5190: Ms. KILPATRICK.

H.R. 5197: Mr. RAHALL.

H.R. 5206: Mr. SHAW, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. WEXLER, Mr. BILIRAKIS, Mr. STEARNS, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 5210: Mr. WOLF and Mr. KING of New York.

H.R. 5211: Mr. WOLF.

H.R. 5242: Mr. OLVER and Mr. WAXMAN.

H.R. 5243: Mr. ALLEN, Mr. FROST, Mr. OLVER, Mr. NADLER, Mr. KUCINICH, and Mr. LUCAS of Kentucky.

H.R. 5261: Mr. KING of New York and Mr. FARR.

H.R. 5304: Mr. ROHRABACHER.

H.R. 5320: Mr. JEFFERSON and Mr. TOWNS.

H.R. 5322: Mr. LANGEVIN, Mr. PAYNE, and Mr. RANGEL.

H.R. 5339: Ms. VELÁZQUEZ, Ms. SOLIS, and Mr. FILNER.

H.R. 5364: Mr. GARY G. MILLER of California and Mr. HUNTER.

H.R. 5365: Mr. ANDREWS.

H.J. Res. 28: Mr. RYAN of Ohio, Ms. KAPTUR, Mr. MEEKS of New York, and Mr. STARK.

H.J. Res. 29: Mr. RYAN of Ohio and Mr. MEEKS of New York.

H.J. Res. 30: Mr. RYAN of Ohio and Mr. MEEKS of New York.

H.J. Res. 109: Ms. SCHAKOWSKY.

H. Con. Res. 74: Mr. VAN HOLLEN.

H. Con. Res. 210: Ms. MCCARTHY of Missouri and Mr. MCDERMOTT.

H. Con. Res. 325: Mr. DUNCAN.

H. Con. Res. 384: Ms. MCCARTHY of Missouri and Mrs. CHRISTENSEN.

H. Con. Res. 491: Mrs. CAPPS and Mrs. MCCARTHY of New York.

H. Con. Res. 502: Mr. GOODLATTE.

H. Con. Res. 503: Mr. MCGOVERN and Mr. WEXLER.

H. Con. Res. 521: Mr. STARK.

H. Res. 466: Mr. DICKS.

H. Res. 514: Mr. DELAHUNT.

H. Res. 720: Mr. GOODLATTE.

H. Res. 853: Mr. WILSON of South Carolina, Mr. BISHOP of Georgia, Mr. ROHRABACHER, and Mr. SESSIONS.

# EXTENSIONS OF REMARKS

## TRIBUTE TO COACH WILLIE JEFFRIES

### HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a trailblazer, an athletic legend and a dear friend—Coach Willie Jeffries. Coach Jeffries has dedicated much of his extraordinary career to my alma mater, South Carolina State University in Orangeburg, South Carolina. But his impact has been felt far beyond that campus.

Coach Jeffries is a man of humble beginnings. He was born in Union, South Carolina. His widowed mother raised him in a two-room house in this segregated Southern town. Earning money by working various jobs at the local white-only country club, he got to see how the other side lived.

He graduated from South Carolina State University with a bachelor's degree in civil engineering and a master's degree in guidance and counseling. Having played football and baseball for the historically black college, Coach Jeffries secured coaching jobs at segregated high schools in Lancaster and Gaffney, South Carolina. After compiling a 6-year 65–7–2 record with three consecutive State AAA championships, North Carolina A&T came calling with an assistant coach's job, which started Coach Jeffries in college coaching. He was next lured to Pittsburgh as an assistant coach. There he tasted coaching against big-time college football schools such as Florida State, UCLA and West Virginia.

But when his alma mater sought him out, the 36-year-old Coach Jeffries jumped at the chance to come home and lead his beloved Bulldogs. In six seasons as his alma mater's head coach, he compiled a 50–13–4 record and became a hot prospect for other head coaching positions. It was an offer from Wichita State in Kansas that enticed Coach Jeffries to leave S.C. State. It was historic. Coach Jeffries became the first African American to serve as the head football coach of a predominantly white university. At Wichita State, he led a team that had lost 14 of its last 15 seasons to an 8–3 season after 4 years of rebuilding. After 5 years, he left the program, which later folded, and became the head coach for Howard University, where he spent another 5 years.

In 1989, another tug from S.C. State brought Coach Jeffries back to the place where his love of football began. He coached another 13 years, before retiring following the 2001 season to become the director of athletic fund raising for the Bulldogs. During his 29-year coaching career, Coach Jeffries amassed a 179–132–6 record. This tremendous record included six Mid-Eastern Athletic Conference (MEAC) championships, two national titles, several post-season appearances, and numerous coaching awards. He holds the title for the most wins of any S.C. State coach and the most MEAC victories.

Coach Jeffries has been inducted into the South Carolina State University Athletic Hall of Fame, the South Carolina Athletic Hall of Fame and the MEAC Hall of Fame. He has been honored with South Carolina's Order of the Silver Crescent, the State's highest award for community service. He has received the Black Coaches' Association Lifetime Achievement Award and is enshrined in the Palmetto State's Black Hall of Fame. Since 2002, he has served on the NCAA Football Rules Committee.

Mr. Speaker, I ask you and my colleagues to join me in commending Coach Willie Jeffries for his extraordinary contributions and courage. He is a legendary football coach that has touched many lives on and off the playing field. He is an inspiration to young people who aspire to rise above their current circumstances and even break barriers. This humble man from humble beginnings is a role model, a resilient leader, and a renowned motivator. In short, Coach Willie Jeffries is a national treasure.

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## IN HONOR OF TOM DAY'S BEING INDUCTED AS PRESIDENT OF THE NATIONAL APARTMENT ASSOCIATION

### HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. SESSIONS. Mr. Speaker, I rise today to pay tribute to Mr. Tom Day on the occasion of his being named President of the National Apartment Association (NAA). I join my colleagues in honoring his accomplishment and commitment to service.

This fellow North Texan has risen through the ranks of the NAA to serve in this illustrious leadership position. NAA is a federation of 164 state and local affiliates, comprised of more than 30,000 multifamily housing companies representing more than five million apartment homes throughout the United States and Canada.

Locally, Tom has allowed his love for profession to carry over into his advocacy for his cause. Mr. Day has held many local and state positions in the Apartment Association of Greater Dallas and the Texas Apartment Association. Recently, Tom has held the position of President of both of these organizations. His qualifications to lead such an expansive organization are tremendous.

I wish Mr. Day all the best for great success with his new induction as President of the NAA, and I am confident of the continued good works of the association and its members.

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## RESOLUTION HONORING THE LIFE AND CONTRIBUTIONS OF YOGI BHAJAN

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 16, 2004*

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to introduce a resolution honoring the life and numerous contributions of Yogi Bhajan, the chief religious and administrative authority for Sikhism in the West. Yogi Bhajan passed away in Española, New Mexico on October 6th.

A native of India, Yogi Bhajan introduced thousands around the world to Sikhism, a religion that carries the message of truthful living and the fundamental unity of humanity, and reaches out to people of all backgrounds to work together for world peace. When he came to the United States in 1968, Yogi Bhajan recognized immediately that the experience sought by many young people through drugs could be alternatively achieved through Kundalini yoga, which stimulates individual growth through breath, chanting, and meditation among other components. Soon after, he founded the Healthy, Happy, Holy Organization (3110), a nonprofit private educational and scientific foundation with 300 centers in 35 countries, dedicated to improving physical well-being, deepening spiritual awareness, and offering guidance on matters of health and heart. He later also founded a successful drug rehabilitation program that blends ancient yogic wisdom of the East with modern technology of the West.

In 1971, the president of the governing body of Sikh Temples in India gave Yogi Bhajan the title of chief religious and administrative authority for Sikhism in the Western Hemisphere. That same year, the Sikh Dharma was legally incorporated and recognized as a religion in the U.S., and soon after Yogi Bhajan founded the Sikh ashram that still thrives in Espanola, New Mexico in my district. Yogi Bhajan wrote 30 books and inspired 200 more through his teaching, and inspired the founding of several businesses including Akal Security Inc., one of the fastestgrowing security companies in the nation. Throughout his lifetime, he traveled the world and met with world leaders such as Pope John Paul II and the Dalai Lama to discuss world peace and religious unity. He also served as informal counsel to numerous political and spiritual leaders. As the resolution states, Yogi Bhajan's teachings and the businesses formed under his inspiration, improved personal, political, spiritual and professional relations between citizens of the United States and citizens of the nation of India.

After the terrorist attacks on U.S. soil on September 11th, Yogi Bhajan reached out to Sikhs across America, encouraging and helping them to educate their fellow citizens about

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Sikhs, and to work with law enforcement and community leaders to help them protect Sikh populations. He established links to human rights advocates nationwide to ensure that the issue of Sikh identity was understood and respected. When a Sikh man named Balbir Singh Sodhi was murdered in Arizona five days after 9/11, Yogi Bhajan worked with community and government leaders in Arizona to help raise awareness about the Sikh community there, and to honor Balbir Singh with a major memorial event.

I had the privilege of Yogi Bhajan's friendship and support for more than 20 years. He was a dynamic, powerful person with a strong devotion to human rights, religious freedom, and good health. Whatever one's faith, he had the right words, the right lesson, and the right message. He spoke to us all, and he inspired us. Around the world he was a powerful voice for peace.

The resolution I am introducing today recognizes Yogi Bhajan as a wise teacher and mentor, an outstanding pioneer, a champion of peace and compassionate human being, and extends condolences on his passing. I would like to thank Representatives Joe Wilson and Joe Crowley, the Co-Chairs of the House India Caucus who have helped build support for this resolution, as well as Senators Jeff Bingaman and Pete Domenici, who will introduce the Senate companion. I also thank the bipartisan groups of original cosponsors who join me in urging my colleagues to support this important resolution.

## IN HONOR OF THE THIRD ANNUAL DAY OF REMEMBRANCE FOR VICTIMS OF GUN VIOLENCE

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of every victim of gun violence within our Greater Cleveland community. We gather in honor, support and hope for each family member and friend, whose lives have been forever altered in the wake of gun violence.

We also stand in honor of the members of the Million Mom March, Greater Cleveland Chapter; InterAct Cleveland, Ohio Coalition Against Gun Violence; Black on Black Crime, Inc.; Survivors/Victims of Tragedy; VOICES; and the National Council of Jewish Women, for their collective efforts and dedication focused on preventing gun violence.

Today, on the Third Annual Day of Remembrance of Victims of Gun Violence, we honor and recognize the dedicated residents of our Cleveland neighborhoods. The unwavering commitment of our neighborhood activists and leaders continues to raise up our community, one avenue at a time. The work of our neighborhood leaders, young and old, serves to build strength, hope and creates the power to eradicate violent crime within our homes and along our streets.

Mr. Speaker and Colleagues, please join me in honor and remembrance of the victims of gun violence. Our thoughts and prayers are with every family member and friend of loved ones lost. Let us remember that our unified energy, focused on peace and security within our neighborhoods, provides light and hope to the families touched by gun violence, and radiates outward, offering the promise of peace for us all.

## RECOGNIZING BUCKNER CHRISTIAN CHURCH

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize the Buckner Christian Church. On November 14, 2004, the Buckner Christian Church celebrated 120 years of service. In 1884, after much thought and prayer, twenty-six devout Christians in or near Buckner Hill, most members of Sibley Christian Church, elected a building committee of four. Together they founded the church. They organized themselves "into a congregation of worshiping Disciples, by renewing our covenant with our Heavenly Father, and pledging our mutual faith to each other, promising thereby to take the Word of God as our only rule of faith."

On November 8, 1884, the trustees purchased four lots for $100 in the town of Buckner Hill. Despite many weather disasters and set-backs, a simple, almost austere, building was erected and the congregation was able to attend church in their own sanctuary. In 1923, plans were made to build a new church. On March 24, 1924, the old building was moved to the lots at the back of the site where services continued while a new church was built. The cornerstone of the new building was laid on June 15, 1924, and on Sunday, May 3, 1925, the new church was dedicated debt-free, with services in the morning, a basket dinner at noon, and an afternoon formal dedication service. The Independence Christian Church loaned an old pulpit to the church which is still in use today. This pulpit was once used by Alexander Campbell during one of his visits to Independence. In 1957, city water was installed and the baptistery remodeled. In 1963, the first telephone was installed. In 1995, the stained glass windows were replaced and a new wooden window-sash was made. In 1997, a new slate roof replaced the old one.

Mr. Speaker, I proudly ask you to join me in congratulating the Buckner Christian Church on 120 years of service. I honor the early members of the church as they tried to keep their Christian commitment in their community. Today, I honor the young people of the church and those who will lead it in the future. May the Buckner Christian Church grow and prosper in this new century.

## A PROCLAMATION IN MEMORY OF MARY F. PARSONS

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. NEY. Mr. Speaker, Whereas:

I hereby offer my heartfelt condolences to the family and friends of Mary F. Parsons; and

Whereas, Mary F. Parsons was a loving sister, wife, mother, and grandmother to the members of her family; and

Whereas, Mary F. Parsons will certainly be remembered by all those who knew her because of her compassionate nature towards her family, friends, and community; and

Whereas, the understanding and caring to which Mary F. Parsons gave to others will stand as a monument to a truly fine person. Her life and love gave joy to all who knew her.

Therefore, while I understand how words cannot express our grief at this most trying of times, I offer this token of profound sympathy to the family and friends of Mary F. Parsons.

## TRIBUTE TO EDWARDSVILLE TIGERS GIRLS' GOLF TEAM

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. SHIMKUS. Mr. Speaker, I rise today to pay tribute to the Edwardsville Girls' Golf Team. The Tigers recently won their first state championship in golf, finishing their season with a perfect record. This outstanding southern Illinois sports team is the first girls' golf team south of the state capitol to capture a state title.

The Tigers' hard work and dedication to the sport this season has allowed them to capture this title. The Tigers performed twenty-three strokes better than all other teams in competition for the state title.

My congratulations go to the Edwardsville Tigers Girls' Golf Team and retiring Coach Gary Bair on an outstanding season!

## TRIBUTE TO JUDITH AND LARRY MOORE

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Ms. DELAURO. Mr. Speaker, I rise today to pay tribute to two individuals from my state who have played a major role in the war in Iraq. Judith and Larry Moore, both civilians from Somers, Connecticut, played a very special role in the war effort.

As everyone knows, it happens rarely but occasionally that military spouses are simultaneously deployed. Christopher and Bryony Soltis, both Army doctors, were sent to Iraq last year with the Army's 1st Armored Division. With a new child in tow, it was a difficult time. The entire family was separated for over a year as Christopher and Bryony cared for wounded soldiers and civilians in Baghdad. They turned to Christopher's mother and stepfather to care for their 7-month-old daughter, Madeline.

Judy and Larry Moore were up to the task. Together, Judith and Larry provided an environment in which Maddie thrived. They cared for Madeline every day from August 2003 to

July 2004 while her parents were deployed. They put photos of her parents throughout the house, read her letters from afar, and reminded her daily that her parents would come home soon. Christopher and Bryony came home in late July 2004 to find their baby had grown into a loving, well-adjusted, beautiful toddler. I am told that Maddie recognized them immediately and ran to their arms when they arrived home.

Judy Moore knows full well the toll that deployment can take. She is a remarkable woman who has contributed enormously to her country. She served as a U.S. Air Force nurse from 1958–1960 and cared for Turkish prisoners while living abroad with her late husband, Lt. Colonel Ronald Soltis, a U.S. Air Force pilot. After more than 19 years of active duty service, LTC Soltis died suddenly in a tragic training accident, leaving behind Mrs. Moore and their three children.

Larry Moore is a retired small businessman who ran his own auto repair shop before retiring. Although he has considerable back pain from spinal stenosis, Larry provided "sole care" for Maddie when Judy broke her arm after a fall on an icy road during the winter. By all accounts, he succeeded fantastically.

Mr. Speaker, all Americans should share the pride that I feel for the Moore and Soltis families. They represent the best of American military service, our responsibility to our children, and our willingness to sacrifice in times of national need.

## HONORING OAKLAND POLICE CHIEF RICHARD L. WORD

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Ms. LEE. Mr. Speaker, I rise today to honor the contributions of Chief Richard L. Word of the Oakland Police Department in Oakland, California. After more than two decades of dedicated service, Chief Word will be leaving the Oakland area, and I would like to take this opportunity to recognize his contributions not only to the Police Department, but to the community as a whole.

Born and reared in San Francisco's Ingleside District, Chief Word graduated from Riordan High School in 1980. Following his time at Riordan, where he excelled academically and was a valued leader in the campus' Black Student Union, Chief Word attended San Francisco State University as well as the University of San Francisco. He then devoted two years to the San Francisco Sheriff's Department as a cadet and subsequently entered the Oakland Police Academy, where he would go on to become the valedictorian of the 1984 recruiting class.

Following his graduation, Chief Word rose quickly through the ranks of Sergeant and Lieutenant before being promoted to Captain in 1997 and was later sworn in as Oakland's Chief of Police on July 2, 1999. As the Chief of Police for the past five years, Chief Word has been a distinguished leader in many ways. Not only was he the youngest Chief in the Oakland Police Department's history, but his selection was also one of the first steps taken by Mayor Jerry Brown as part of his plan to dramatically reduce crime rates in the City of Oakland. In working to reach this goal, Chief Word employed a number of methods and strategies, such as strengthening the Department's Crime Analysis Section, assigning more officers to the field, and building closer ties to Oakland's neighborhoods through community policing, the use of joint problem-solving programs by community policing officers and neighborhood residents, and the establishment of the Youth Citizens Police Academy, which is comprised of youth from all of Oakland's high schools.

In addition to his work within the Police Department, Chief Word is involved with a number of community and professional organizations. He sits on the Board of Directors of the Oakland Chapter of the American Red Cross, the Boys and Girls Clubs of Oakland, and the California Police Chiefs Association. He also serves as Vice President of the Alameda County Police Chiefs' and Sheriffs' Association, and is a member of both the International Association of Chiefs of Police and the National Black Forum of Black Public Administrators. In addition to his accomplishments within the police force, Chief Word also earned a bachelor's degree in business administration from John F. Kennedy University, from which he graduated cum laude, and a master's degree in public administration from Golden Gate University. Furthermore, he completed the FBI National Academy, and recently graduated from the FBI National Executive Institute.

On November 12, 2004, Chief Word will be honored in Oakland, California for twenty years of outstanding service to the Oakland Police Department and the City of Oakland. This occasion is an opportunity for us to recognize him not only for his service within the Police Department, but also for his outstanding leadership on the issues of crime prevention and the development of community partnerships between law enforcement officers and neighborhood residents. By remaining active in and dedicated to these vital areas, Chief Word has contributed enormously to the City of Oakland and California's 9th Congressional District. I salute and congratulate Chief Word for his many years of invaluable service.

## RECOGNIZING ADMIRAL RICHARD TRULY ON HIS RETIREMENT AS DIRECTOR OF THE NATIONAL RENEWABLE ENERGY LABORATORY

### HON. BOB BEAUPREZ

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. BEAUPREZ. Mr. Speaker, I rise today to pay tribute to a great American. At the end of this year, after a lifetime of dedicated service to his country, Admiral Richard Truly will be stepping down as Director of the National Renewable Energy Laboratory (NREL) located in Golden, Colorado.

As many of you know, NREL is the U.S. Department of Energy's premier laboratory for renewable energy research and development and a leading laboratory for energy efficiency research. Since first being elected to Congress two years ago, I have had the distinct pleasure of representing NREL and the many talented and dedicated employees that work at the lab. Through the leadership of Admiral Truly, NREL has continued to be at the forefront of new scientific discoveries, developing new energy technologies to benefit both the environment and the economy.

I first became acquainted with Richard Truly through his position as Director of NREL, but as I later learned this is but one of the many great contributions he has made to his country in his storied career as a public servant. Prior to his service at NREL, Admiral Truly served as NASA's eighth Administrator under President Bush from 1989–92, and his career in aviation and space programs of the U.S. Navy and NASA spanned 35 years. He retired as a Vice Admiral after a Navy career of more than 30 years. As a naval aviator, test pilot and astronaut, he logged over 7,500 hours and made over 300 carrier arrested landings, day and night.

Under his leadership, NASA matured the Space Shuttle, solidified Space Station plans and initiated new space science and aeronautics programs. He initiated major acquisition reforms and significantly streamlined the agency. He continually placed a very strong emphasis on NASA's math and science educational programs. In recognition of these accomplishments, President Reagan awarded the Presidential Citizen's Medal to Admiral Truly in 1989.

While I am quite certain that the great works that Admiral Truly and his staff have been able to accomplish since he began serving as Director of NREL in May of 1997 will continue under new leadership, the next Director will certainly have big shoes to fill.

Again, I want to congratulate him for his many outstanding years of public service. I wish both him and his wife many years of happiness as they move into this new stage of their lives.

## HONORING NEW JERSEY BLOOD SERVICES

### HON. MIKE FERGUSON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. FERGUSON. Mr. Speaker, I rise today to honor the members of New Jersey's Blood Services on their 30th Anniversary.

Since September 1973, New Jersey Blood Services has been serving the residents of New Jersey by collecting blood, holding blood drives and recruiting donors. NJBS has collected more than 2.2 million blood donations throughout its 30-year history, has developed important relationships with the American Red Cross and fostered several partnerships to provide health services throughout the State of New Jersey.

NJBS has pioneered efforts in mobile aphaeresis collections that have gained the attention of collection organizations throughout the country. The group also has piloted several programs to ensure the safety of both blood donors and recipients. Its efforts, combined with those of New Jersey-based businesses, have lead to tremendous success in local blood drives to provide for New Jerseys' blood needs.

Mr. Speaker, I commend all Americans who work hard to support the blood supply needs of the United States. These men and women work tirelessly to protect and preserve the lives and health of their fellow citizens.

I ask my colleagues to join with me in congratulating the New Jersey Blood Service for its 30 years of service to our communities.

## HONORING STAFF SERGEANT THEODORE "SAM" HOLDER II

### HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. TANCREDO. Mr. Speaker, it is with deep regret and heartfelt admiration that I rise today honor a fallen Marine from my district, Staff Sergeant Theodore "Sam" Holder II of Littleton. Sadly, Staff Sergeant Holder was killed in the line of duty during combat operations on Veterans Day in the Al Anbar Province of Iraq.

Staff Sergeant Holder was an Infantry Unit Leader with Company A, 1st Light Armored Recon, 1st Battalion, 3rd Marine Regiment, Regimental Combat Team 7, 1st Marine Division, I Marine Expeditionary Force based in Camp Pendleton, California.

His unit was fighting terrorists in Fallujah. He was just 27 years old.

"Sam" was a graduate of Green Mountain High School in Lakewood, and served his country for 8 years with distinction including tours protecting American diplomats and interests abroad at our Embassies. He also guarded Secretary of State Colin Powell at one time, and met both President George W. Bush and former Secretary of State Henry Kissinger. His friends described him as "a special person," and "the ultimate Marine."

He was an accomplished soldier whose awards include the Navy and Marine Corps Achievement Medal, the Marine Corps Good Conduct Medal, the Navy and Marine Corps Overseas Service Ribbon, the Marine Security Guard Ribbon and the National Service Defense Medal.

Mr. Speaker, my deepest sympathies go out to the family of Staff Sergeant Holder. He served his country honorably and with distinction in the War on Terror, making the ultimate sacrifice fighting for freedom and democracy in defense of a grateful Nation. He will be missed by all who knew and loved him.

Americans owe him a great debt of gratitude. His dedication and bravery will not be forgotten.

## IN HONOR OF GOLDIE MALONE

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of my dear friend, Goldie Malone, as she is being honored by the Croation Fraternal Union, (CFU) for her remarkable service to the Union, and for her outstanding and continued service to our community.

Born to Nicholas and Helen Strahinic in Cleveland, Ohio, Goldie learned the significance of family, faith community, heritage and hard work from an early age. While attending Jane Addams High School in Cleveland, Goldie worked at the White Dove Mattress Company. After high school graduation, she continued working at Dove Mattress for another 13 years. In 1952, Goldie married James Malone, and together they raised their daughter, Jamie, who now resides in Illinois. Beyond caring for her family, Goldie Malone has always reached out into the community, sharing her time and talents with those around her. She joined Zumberak Lodge nearly 60 years ago, and became Fraternal Secretary in October of 1953, a position she still holds today. Throughout the years, Goldie has consistently reflected a spark of energy and joy within every CFU project and event.

Ahead of her time, Goldie organized CFU's first Ladies Basketball Team in 1952—a division of the CFU. The league still exists today. She has organized numerous youth basketball teams and projects, and initiated countless fundraisers in support of community youth activities. Her abilities as a leader were evidenced during her 8 year tenure as President of the Board of the CFU, and as the past President of the Ohio Fraternal Congress in the late seventies. Moreover, Goldie actively worked to preserve and promote the culture and history of Croatia. She directed her energies toward the youth of the CFU, so that they would gain a deep understanding and appreciation of their Croation heritage. She led the efforts to raise funds for costumes, musical instruments and other materials reflective of their Eastern European homeland.

Mr. Speaker and Colleagues, please join me in tribute and recognition of Goldie Malone, as she is honored by the Croation Fraternal Union for her outstanding dedication, clear vision, hard work and unequalled leadership within this historic organization. Goldie Malone continues to be an inspiration to everyone in her life—especially to her family and friends. Her loyalty, friendship, convictions, boundless energy and good works are invaluable gifts to all of us who know her well, and her dedication and work has uplifted the Croation Fraternal Union, and has uplifted our entire Greater Cleveland community.

## RECOGNIZING DAVID HITE FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize David Hite of Liberty, Missouri, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 388, and in earning the most prestigious award of Eagle Scout.

David has been very active with his troop, participating in many scout activities. Over the many years David has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending David Hite for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

## TRIBUTE TO CONGRESSMAN JACK QUINN

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. TOWNS. Mr. Speaker, I rise in honor of the gentleman from New York, my colleague in the New York delegation JACK QUINN. After 12 years of distinguished service, JACK has chosen to leave the Chamber. But he can do so knowing that he was an effective and tireless representative for his constituents in the Buffalo area. JACK has successfully opened and closed over 10,000 cases on behalf of the people in his district, which I believe speaks volumes about the type of care and concern he showed his constituents.

JACK is the only New York State Member of the Veterans' Affairs Committee, and has been a vital resource for our veterans in New York and across the country. In April 1996, he was awarded the prestigious AMVETS Silver Helmet Award for his work on behalf of our Nation's veterans.

As chairman of the Railroads Subcommittee, JACK has been a strong and consistent voice in fighting hard for preserving Amtrak. Amtrak remains a critical part of our transportation infrastructure, especially in New York and along the Northeast corridor. JACK's leadership on this issue has greatly benefited all of us who rely on this important national passenger rail system. In fact, his commitment to this issue earned him the "Golden Spike Award" from the National Association of Railroad Passengers. Safety on railways is another key issue for Representative QUINN.

Mr. Speaker, JACK QUINN will be missed by his constituents as well as all of us who had the pleasure of working with him during the last 12 years. We wish you all of the best in the future.

## A TRIBUTE TO MAGGIE KATIE BROWN KIDD

### HON. DAVID SCOTT

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. SCOTT of Georgia. Mr. Speaker, I rise today to pay tribute to Mrs. Maggie Katie Brown Kidd, a loyal and loving wife and mother who has devoted her long and wonderfully blessed life to her family. Mrs. Kidd will be celebrating her 100th birthday with her family on November 26th in my congressional district.

Maggie was born on December 8, 1904 to Lucy and William "Doc" Brown of Stephens, Georgia; the eleventh of twelve children. William received the nickname "Doc" from his neighbors because of his reputation for helping anyone in need. His neighbors used to tell everyone to "go see Doc" if they were ever in trouble. Maggie began to develop a similar reputation as she grew up as she never hesitated from sharing whatever she had, even when she had little.

Lucy and Doc owned a farm in Stephens where the whole family was welcomed when they needed a place to live. Maggie continued this tradition when she took over the farm, offering a home to all of her relatives that needed one. She even helped raise her grandniece. The people who lived close to her farm knew her as a good neighbor. Her parents joined Mt. Zion Baptist Church in Stephens where Rosalyn worshipped and studied when she was a child. She still maintains a membership at the church today.

On November 30, 1940, Maggie married Willie Kidd. They had two children, Rosalyn and John and continued to work on her parent's farm. Maggie and Willie worked the farm until 1961, when she and Willie decreased the size of their farm and began gardening. Willie passed away in 1962 from complications due to diabetes. She lived on the same land until 1989. Now she lives with Rosalyn in Riverdale, GA where she continues to make beautiful quilts when her health permits. She is blessed to have four grandchildren and three great-grandchildren.

Mr. Speaker, I ask my colleagues to join me and Maggie's family in wishing her a happy 100th birthday.

## IN HONOR OF COLONEL BOB LARGENT'S AND COMMAND CHIEF MASTER SERGEANT JACK STEED'S SERVICE TO THE UNITED STATES AIR FORCE ASSOCIATION

### HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. KINGSTON. Mr. Speaker, recently, Colonel Bob Largent, United States Air Force (retired) was elected President of the Air Force Association (AFA). Mr. Largent will be responsible for expressing the concerns of the Association, to Congress and other entities on a national level. He has dedicated his life to serving our country, and now he will lead the Air Forces premiere service organization with distinction. I would like to express enthusiasm about Mr. Largent's newly elected position and wish him Godspeed.

Mr. Speaker, I would also like to enter in to the CONGRESSIONAL RECORD the election of another able bodied Georgian, Command Chief Master Sergeant Jack Steed, United States Air Force retired as a regional president of the Air Force Association (AFA). Command Master Chief Steed will serve over a region covering three states—Georgia, South Carolina, and North Carolina. He is eminently well qualified to serve in this position. He has a passion for service to our airmen and their families. The Air Force Association and the United States Air Force will benefit immeasurably from his leadership.

## THE 100TH ANNIVERSARY OF BETHLEHEM LUTHERAN CHURCH

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the leaders and members of Bethlehem Lutheran Church of Parma, Ohio, as they celebrate one hundred years of faith, guidance and support, embracing generations of citizens within our Parma community and beyond.

Bethlehem Lutheran Church was established at the turn of the century to serve the spiritual needs of farming families of German heritage, who settled in the Parma area. On November 13, 2004, the official name of Bethlehem Evangelical Lutheran Church was adopted and celebrated at the original church at State and Pleasant Valley Roads. Since that time, Bethlehem Lutheran Church has evolved into a multifaceted congregation that continues to provide an array of services.

Along with the rich tradition of faith and family, the leaders and members of Bethlehem Lutheran Church have consistently planned to meet the present and future needs of the congregation. In 1967, a new, contemporary church was built on fourteen acres along State Road. Over the years, the Extended Family Daycare Center was opened, along with many additions, including an Educational Room and the Garden of Prayer.

Mr. Speaker and Colleagues, please join me in honor and recognition of every past and present leader and member of Bethlehem Lutheran Church of Parma, Ohio, as they celebrate one hundred years of fostering faith and hope for generations of families within our western Cleveland community. The services and guidance offered here continue to strengthen the lives of countless families and individuals, and thereby serve to strengthen our entire community.

## RECOGNIZING KURTIS R. MORRISON FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Kurtis R. Morrison of Parkville, Missouri, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 260, and in earning the most prestigious award of Eagle Scout. On November 6, Kurtis will receive his Eagle Scout Award at an Eagle Scout Court of Honor.

Kurtis has been very active with his troop, participating in many scout activities. Over the many years Kurtis has been involved with scouting, he has not only earned numerous merit badges, but the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Kurtis R. Morrison for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

## A PROCLAMATION HONORING MR. AND MRS. WHITE

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. NEY. Mr. Speaker:

Whereas, Bill and Mona White were united in marriage November 19, 1954, and are celebrating 50 years of marriage; and

Whereas, Bill and Mona have demonstrated a firm commitment to each other; and

Whereas, Bill and Mona must be commended for their loyalty and dedication to their family and friends; and

Whereas, Bill and Mona have proven, by their example, to be a model for all married couples.

Therefore, I join with their family, friends, the residents of Sugar Grove, and the entire 18th Congressional District of Ohio in congratulating Bill and Mona White as they celebrate their 50th Wedding Anniversary.

## RECOGNITION OF LANCE CORPORAL AARON PICKERING

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the life of Lance Corporal Aaron Clayton Pickering, who was recently killed during combat operations in the Al Anbar Province.

Lance Cpl. Pickering was a 20 year old native of Marion, Illinois. He died Nov. 10 as a result of enemy action in Al Anbar Province, Iraq. He was assigned to 1st Battalion, 3rd Marine Regiment, 3rd Marine Division, III Marine Expeditionary Force, Marine Corps Base Hawaii.

Lance Cpl. Pickering was a 2003 graduate of Harrisburg High School, in Harrisburg, Illinois. He also lived several years in Marion Illinois. Not enough can be said about the great sacrifice this man made for his country, he made the ultimate sacrifice. He is survived by his father and stepmother, Carl and Teresa Pickering and his mother and stepfather, Sam and Lisa Short. My thoughts and prayers go out to his family and loved ones.

Lance Cpl. Pickering gave his life in an effort to improve the lives of others. This sacrifice should never be forgotten. Pickering, along with so many other brave men and women, put their lives on the line day in and day out. My sincere thanks goes out to them all. God bless them, and may God continue to bless America.

## HONORING THE KERITE COMPANY AS THEY CELEBATE THEIR 150TH ANNIVERSARY

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Ms. DELAURO. Mr. Speaker, it gives me great pleasure to rise today to join the Greater Valley Chamber of Commerce and the entire Valley community in extending my sincere congratulations to the Kerite Company of Seymour, Connecticut as they celebrate their 150th Anniversary. One of the oldest wire and cable companies in the United States, this is a remarkable milestone for this company which has become a true community landmark.

Founded in 1854 by Austin Goodyear Day, Kerite has long been a leader in the development and production of utility transmission and distribution power cables as well as industrial power cables. The innovations credited to Kerite have marked unparalleled technological advancements—with each new technology bringing the dawn of a new era, not only in the industry but in our society as well. The 1865 invention of the crosshead extruder by A.G. DeWolfe Kerite resulted in the first insulated telegraph wire. Kerite introduced the signal cable for railroads and was responsible for the first submarine power cable as well as for cable supplied to the Panama Canal. As the needs of industry changed, Kerite has adapted itself to provide quality products to its consumers. In modern history, the Kerite Company introduced the first 69 kilovolt and the first 138 kilovolt power cables and are responsible for the longest and deepest submarine power cable project in North America.

I had the opportunity to visit the Kerite Company in August of last year. Nestled in the Seymour community, the company has preserved much of its history in an onsite museum. While touring the facility, I was also able to develop a better understanding of the technology they are employing today. Through their continued commitment to providing quality and superior performance, the Kerite Company has developed an international reputation for service and value. It is this dedication that has allowed them to withstand the toughest test of all—the test of time.

For a century and a half, Kerite has been a pioneer in its industry and with its distinguished reputation has been a source of pride for the Seymour and Valley communties. Today, as the Kerite Company celebrates its past and looks ahead to the future, I am proud to stand and congratulate them on their 150th Anniversary and extend my very best wishes to them for many more years of success.

## HONORING CANTOR PAMELA SAWYER

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Ms. LEE. Mr. Speaker, I rise today to honor the extraordinary contributions of Cantor Pamela Sawyer of Berkeley, California for ten years of dedicated service as Hazzan at Temple Israel of Alameda.

Cantor Sawyer has been a resident of California since early childhood, and the study and performance of music has been a central component of her life since that time. After completing undergraduate and graduate studies in performance and composition, Cantor Sawyer began performing professionally in the Bay Area in local orchestras, pop, jazz, and salsa groups, and was a member of the Oakland Symphony Chorus. In addition, she has appeared on numerous pop and classical music recordings, and currently performs with her own ensemble, the Bay Area Women's Quartet.

Cantor Sawyer began serious Jewish and Hebrew studies in 1992. After studying under various local cantors, she began serving Temple Israel as its Cantorial Soloist. In the years that followed, she went on not only to become the Temple's Cantor, but also to lead the Temple's B'nei Mitvah training as well as its religious studies for seventh graders. In addition to her role as an educator and mentor at Temple Israel, Cantor Sawyer has served as an educator at Congregation Netivot Shalom in Berkeley, B'nei Torah in Antioch, Kol Shofar in Tiburon, and at various other Bay Area congregations. Furthermore, she is currently a member of the Guild of Temple Musicians, the Cantors' Assembly, the Women Cantor's Network, the Northern California Board of Cantors, the National Association of Jewish Chaplaincy and the Alameda Ministerial Association. Finally, in addition to her service to congregations within the United States, Cantor Sawyer has worked with various congregations and presented at scholarly conferences in Germany, where she continues to give workshops and consult with clergy from various communities.

On November 13, 2004, Cantor Sawyer will be honored in Oakland, California for her ten years of outstanding service to Temple Israel. I would like to take this opportunity to commend her for her exceptional contributions not only to the Jewish community, but also for her role as a leader and mentor in the areas of musical education and community service. By remaining active in and dedicated to these important areas, Cantor Sawyer has contributed immeasurably to Alameda County and the East Bay. The 9th Congressional District salutes and congratulates her for her many years of invaluable service.

## IN HONOR OF THE CUYAHOGA VALLEY CAREER CENTER

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. KUCINICH. Mr. Speaker, I rise today in honor of the Cuyahoga Valley Career Center (CVCC), as students, instructors, administrators and members of the community gather today to dedicate the expansion of the new building addition at the Center—the largest expansion in the thirty-two year history of the Career Center.

Although CVCC's structure has evolved, the core mission has remained constant for more than three decades—to prepare all students, regardless of their age, to achieve their professional goals and dreams. In order to successfully navigate through the changing tides of today's society and economy, the CVCC is a critical resource and guide for students either choosing the the path that leads to a career, or students on the path to higher education.

The services, instruction and guidance offered by the CVCC is multi-layered and varied. Since its inception thirty-two years ago, the CVCC has assisted thousands of high school and adult students advance and succeed in numerous business, technical, civic, service and trades careers. The School-to-Career program provided by the CVCC has offered more than 24, 000 students, grades K through 12, the opportunity to acquire first-hand knowledge regarding future career choices.

Mr. Speaker and Colleagues, please join me in honor and celebration of the Dedication Ceremony for the newly completed expansion of the Cuyahoga Valley Career Center. As in the past, the Center promises to continue the vital work of preparing our students for professional achievement within today's workforce. We honor the leadership and vision of the CVCC administrators. And moreover, we honor the dedicated work of every teacher, counselor, and every staff member of the CVCC, whose day-to-day impact, guidance, encouragement and instruction gives every student the power to embrace and capture their dreams, and thereby strengthening the hope and promise of our entire community.

## RECOGNIZING MACKENZIE T. GLAZER FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize MacKenzie T. Glazer, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 260, and in earning the most prestigious award of Eagle Scout. On November 6, MacKenzie will receive his Eagle Scout Award at an Eagle Scout Court of Honor in Kansas City, Missouri.

MacKenzie has been very active with his troop, participating in many scout activities. Over the many years MacKenzie has been involved with scouting, he has not only earned numerous merit badges, but the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending MacKenzie T. Glazer for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

## RECOGNIZING THE CONTRIBUTIONS AND SERVICE OF ADAMS COUNTY, COLORADO, COMMISSIONER ELAINE T. VALENTE

### HON. BOB BEAUPREZ

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. BEAUPREZ. Mr. Speaker, I rise today to voice my appreciation for the many years of dedicated service that Commissioner Elaine T. Valente has provided to the residents of Adams County, CO. Her many years of service as a County Commissioner have truly made an impact on Adams County.

Commissioner Valente, a Colorado native, served on many boards and commissions before running for public office. She was elected to the Adams County Board of Commissioners in 1988 and is the first and only female commissioner elected during the first 100 years of Adams County's existence. Commissioner Valente was re-elected to the board for three additional terms.

Noted for her steel-trap mind, her leadership was instrumental in improving the financial stability of the county. Many qualities distinguish her service to the county, but in particular her commitment to open space and protecting the county's interests are notable. Leading by example, she worked tirelessly to improve the reputation and credibility of the county.

Again, Mr. Speaker, I want to thank Elaine for her distinguished service on behalf of the citizens of Adams County and wish her all the best on her future endeavors.

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## HONORING CRANFORD HIGH SCHOOL

### HON. MIKE FERGUSON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, November 17, 2004*

Mr. FERGUSON. Mr. Speaker, I rise today to honor Cranford High School in Cranford, New Jersey, for being named a 2004 National School of Character at the Character Education Partnership's Annual Forum. Cranford is receiving this award in recognition of its exemplary work to encourage the ethical, social and academic development of its students through character education.

Suffering from growing disciplinary problems and other challenges 1990s, Cranford High School began to focus on educating its students on character qualities such as respect for others and responsibility. The school aimed to "create a caring community through service learning by the year 2006." Through peer facilitation, a mentoring program, a focus on service education and character education, Cranford has reached its important goal ahead of schedule.

Cranford is one of only 10 schools in the country selected as a 2004 National School of Character. I commend all the students, teachers, administrators and parents of Cranford High School for their hard work and for setting such an excellent example for all those involved in educating the youth of America.